

See report on East Timor's Refugees in West Timor, page 10.

## Reviewing the East Timor Commission for Reception, Truth and Reconciliation (CAVR)

The Commission for Reception, Truth and Reconciliation (CAVR), although temporary, is one of East Timor's largest institutions. Many people hope that CAVR, together with the formal justice system, can play a critical role in the transition of East Timor from war to peace, from foreign occupation to independent democracy. Although all the commissioners are East Timorese, many key staff, all funding, and the basic structure and methodology come from overseas. CAVR is trying to establish the truth about events from 1974 to 1999, to negotiate reconciliation agreements between victims and perpetrators of minor crimes, and to provide a mechanism to recognize and appreciate the suffering of the victims during the 1975 civil war and subsequent Indonesian occupation of East Timor. CAVR is most of the way through its work, and plans to finish by October 2004.

*La'ó Hamutuk's* mandate is to report on international institutions, and the CAVR is primarily East Timorese, with East Timorese commissioners and more than 90% East Timorese staff. However, it has relied heavily on international consultants, advisors, and leadership. Furthermore, CAVR is funded by international donors, and its work relates to crimes committed here by Indonesian

forces with broader international support. As we have said before, justice for crimes against humanity committed in East Timor remains an international responsibility. This article explores the structure, work and mandate of CAVR, as well as some decisions and controversies which it has to deal with. *La'ó Hamutuk* has reported on the Commission before (see *La'ó Hamutuk Bulletin Vol. 2 No. 6-7*), and this is a good time to see how well it is fulfilling the expectations and hopes placed on it by the international community and the East Timorese people.

### Background to CAVR

CAVR was established by UNTAET Regulation No. 10/2001, issued on 13 July 2001. CAVR has three areas of activity, with the objective of promoting human rights in East Timor. CAVR was originally to operate for two years, and has been extended for an additional six months. When CAVR finishes its work during 2004, it will make recommendations to the government. One possible recommendation, which *La'ó Hamutuk* would support, would be the creation of a system of alternative dispute resolution for minor crimes and grievances, perhaps similar to the community reconciliation processes used by CAVR.



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The mandate of CAVR includes

1. **Truth Seeking:** CAVR will seek the truth regarding human rights violations in East Timor within the context of the political conflicts between 25 April 1974 and 25 October 1999. CAVR will establish a truth-telling mechanism for victims and perpetrators to describe, acknowledge, and record human rights abuses of the past.
2. **Community Reconciliation:** CAVR will facilitate community reconciliation by dealing with past cases of lesser crimes such as looting, burning and minor assault. In each case, a panel comprised of a Regional Commissioner and local community leaders will mediate between victims and perpetrators to reach agreement on an act of reconciliation to be carried out by the perpetrator.
3. **Recommendations to Government:** CAVR will report on its findings and make recommendations to the government for further action on reconciliation and the promotion of human rights.

The idea to establish CAVR was discussed in the CNRT Congress in 2000, and at that time, the commission was known as the Commission for Acceptance and Reconciliation. The United Nations had already been discussing a truth and reconciliation commission for East Timor, and the U.N. was heavily involved from the beginning, bringing in consultations from the International Center for Transitional Justice and elsewhere. The CNRT workshop included participants from Association of Former Political Prisoners (ASEPOL), ET-WAVE, FOKUPERS, Yayasan HAK, PAS-Justice, UNHCR, UNTAET Legal Affairs, UNTAET Human Rights Unit and CNRT.

According to Jacinto Alves, one of the national commissioners, CAVR is important because it will help solve the problem of minor violations, via the process of community reconciliation. The courts alone do not have the capacity to deal with all the minor violations, and if there were no CAVR these cases might never be resolved.

### *La'o Hamutuk Editorial: CAVR and Justice*

According to Patrick Burgess, former UNTAET Director for Human Rights and currently legal advisor for the CAVR national commissioners, "we must seek justice for the past human rights violations in East Timor wherever it is possible. There are a number of avenues for seeking this justice. They include the possibility of an international tribunal, the ad hoc Tribunal in Jakarta, the Serious Crimes Process and the CAVR. In my personal opinion we need to pursue every possible avenue for attaining the justice we seek." Patrick points out that there are political difficulties with the establishment of an international tribunal, and that the ad hoc Tribunal in Indonesia is a sham. Serious Crimes has had problems and is now more effective, but has no access to major perpetrators in Indonesia. On the other hand, he sees the Community Reconciliation process of CAVR as relatively successful, although it only deals with less-serious perpetrators, whose victims also deserve a voice and an opportunity to restore their dignity. The truth-seeking part of CAVR's work is investigating serious crimes as well as other human rights abuses, and Patrick expects that its final report will include recommendations about these violations and offences against international law, and the responsibility for these violations.

*La'o Hamutuk* believes that an international tribunal to try crimes against humanity committed in East Timor should still be established. (See Editorial, *LH Bulletin Vol. 4, No. 2.*) The question is, do the members of the United Nations have the will to initiate an international tribunal? An international tribunal is not the responsibility of East Timor alone, but also of the international community, particularly the United Nations, not least because crimes against humanity transgress universal human rights, and because crimes committed during the 1999 referendum period were in direct violation of an agreement Indonesia had signed with the United Nations.

In 2000, while CAVR was being proposed and discussed, there was much stronger support for an international tribunal than there is now, but the CAVR and the Indonesian *ad hoc* human rights court in Indonesia

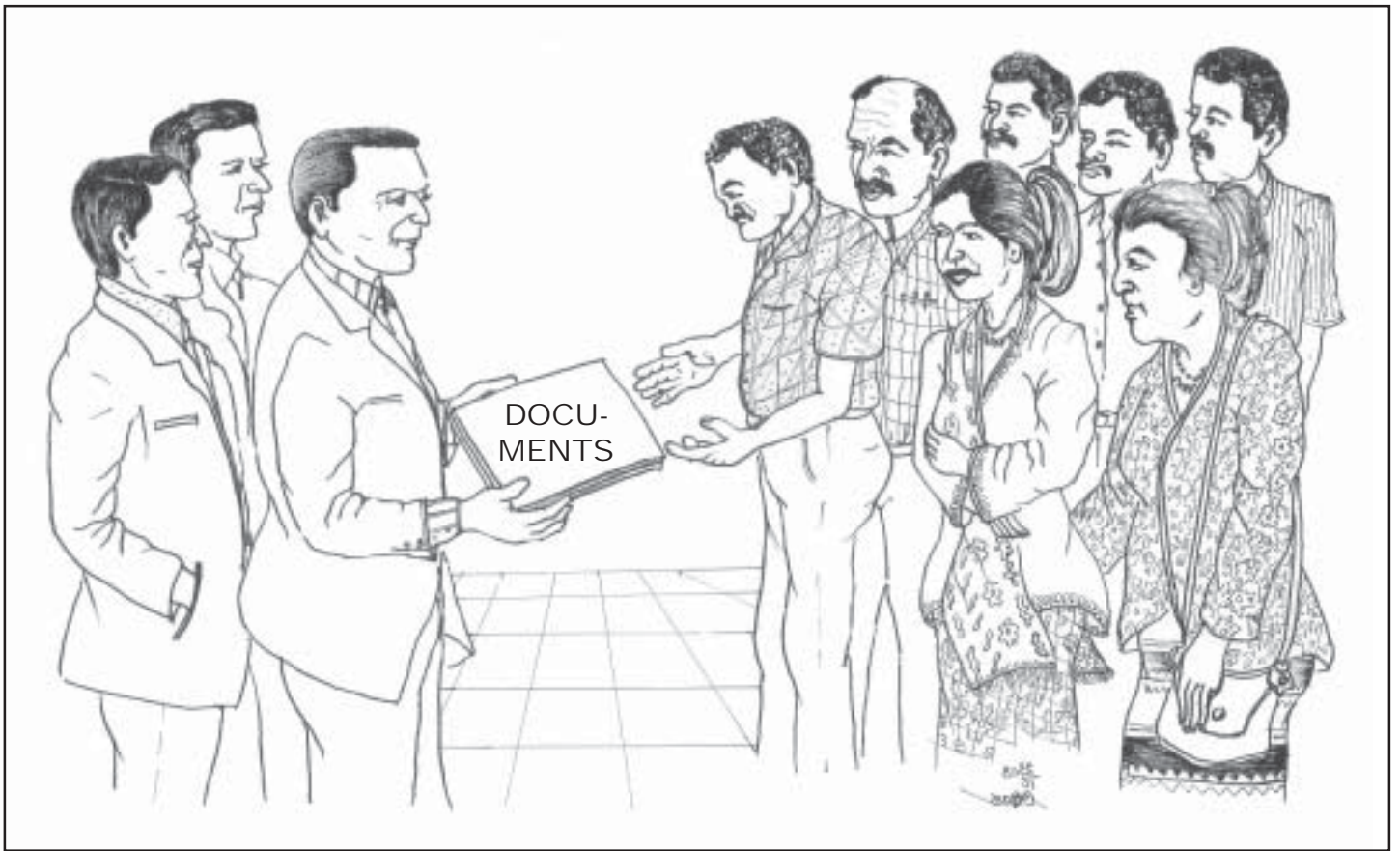
allowed the international community to delay. Politicians and diplomats claimed that these processes were, in some way, dealing with the pressing need for justice. Now, three years later, the possibilities for international justice are weaker, although most of the major perpetrators still enjoy impunity in Indonesia.

Many people feel that the CAVR's minor-crimes reconciliation process is diverting attention from victims' demand for justice for crimes against humanity. Although restorative justice involving minor perpetrators is worthwhile, it does not end impunity for those who committed and directed major crimes, many of whom are repeating this criminal behavior in Aceh, West Papua, and elsewhere in Indonesia.

We are concerned that the United Nations, foreign governments and East Timorese political leaders, have been and will use the CAVR as an excuse for not pushing for legal action against those that have committed serious crimes, even though serious crimes are outside the scope of the Commission. A new government, faced with budgetary concerns and other national and international pressures could be persuaded to downplay conventional justice, particularly due to limited resources and experience.

In its July 2001 report about justice, Amnesty International applauded CAVR's authority to refer cases of serious crimes to the General Prosecutor. However, Amnesty "very much doubted the current capacity to be able to process these cases effectively and in an adequate time frame." In this sense, there is a concern that CAVR is using political and financial resources that could have been allocated to the justice system, even though reducing the burden on the courts was one of the reasons for establishing the Commission. (see *La'o Hamutuk Bulletin Vol. 2 No. 6-7.*)

*La'o Hamutuk* hopes that CAVR's final report will strongly support justice by providing new information and renewed pressure on the international community to fulfill its legal and moral obligation by holding perpetrators of serious crimes accountable, thereby providing some relief for thousands of victims.



Truth commissions have become a popular recipe for reconciliation in several post-conflict societies; East Timor's CAVR is the 21<sup>st</sup> of its kind. In July, CAVR staff and a Commissioner participated in a conference in Peru, exchanging experiences with commissions from Peru, Sierra Leone and Ghana, to help improve the management of CAVR in East Timor.

Many of the commissions elsewhere have had mixed results, often because perpetrators didn't fully cooperate, or because findings were uncomfortable for government officials who then suppressed their reports or refused to implement their recommendations. In some countries, commissioners or staff have been brutalized or terrorized in an effort to prevent the commission from doing its work. East Timor's CAVR, fortunately, has suffered no such intimidation, and we remain hopeful that its work will be completed successfully, and its findings widely publicized and followed.

Most of the international advisors and consultants involved in establishing East Timor's CAVR have had little experience with other countries' commissions. Some of those who have, worked with South Africa's Truth and Reconciliation Commission (TRC). But every country's situation is unique, and South Africa's differs from East Timor's in several ways:

- The main perpetrators of serious crimes were still in South Africa, but had been removed from power. In East Timor, the main perpetrators are receiving sanctuary in Indonesia, and many still hold high-level government and military positions.
- The TRC was established to implement an amnesty program that had already been agreed between the former white rulers of the country and the liberation movement. Under the TRC, amnesty was given to anyone, including perpetrators of serious crimes, who made a full and honest confession. The CAVR has no jurisdiction over people who committed serious crimes.

- South Africa has about fifty times as many people as East Timor and a much larger land area. Yet the duration and size of both commissions is similar, two-three years and 300 staff.

The establishment of CAVR in East Timor is based upon the assumption that making the truth known to everyone, regarding who did what to whom in terms of serious human rights violations, can be a basis for long-term reconciliation in a society that is recovering from war and widespread serious human rights abuses.

One of the most important functions of the truth commission is to investigate past human rights violations and to write a detailed report that presents and explains not only individual violations, but also the patterns and policies that underlay those violations. The report will be primarily based on victims' testimonies and research conducted in East Timor, supplemented by some research in other countries. Although CAVR is trying to gather information from Indonesian military and government offices, there has been very little cooperation. Although the report will be useful, it will not be a complete truth, as the commission has no access to information or viewpoints held only by the commanders or major perpetrators.

In addition to this report, CAVR tries to promote and facilitate apologies to the victims – both individually, person-to-person, as well as to whole communities – by the perpetrators of brutality. In this way, they are implementing restorative justice and helping to make it possible for former enemies to live peacefully side-by-side.

#### **The Structure and Work Processes of the CAVR**

The highest decision-making mechanism, for issues of a political nature, are the seven national commissioners Aniceto Guterres Lopes (Chair), Father Jovito de Araújo

(Deputy-Chair), Jacinto Alves (Truth-Seeking), Ms Olandina Caeiro (Treasurer), Ms Isabel Guterres (Reception/Victim Support), José Estêvão Soares (Truth-Seeking), and Rev Agostinho de Vasconcelos (Reconciliation). Some of the commissioners work full-time for CAVR, and some are part-time. Each commissioner is also responsible for CAVR activities in two districts, so they often have to travel outside of Dili.

For the Commission to make a decision, five of the seven commissioners must be present. Several commissioners have admitted that in certain matters they are only asked to handle important political policies, making it difficult for them to know about program implementation. However, some CAVR staff feel that some commissioners should be more pro-active regarding finding out about implementation in the field. Some local CAVR staff also told us that the national commissioners are often late in approving salary increases, and are slow in making decisions regarding public hearings.

The implementation of decisions and coordination of activities in the field is handled by the Senior Management Team (SMT), which consists of the coordinators of each division, executive director Lucio dos Santos and program manager Galuh Wandita.

### Community Reconciliation Division (CRP)

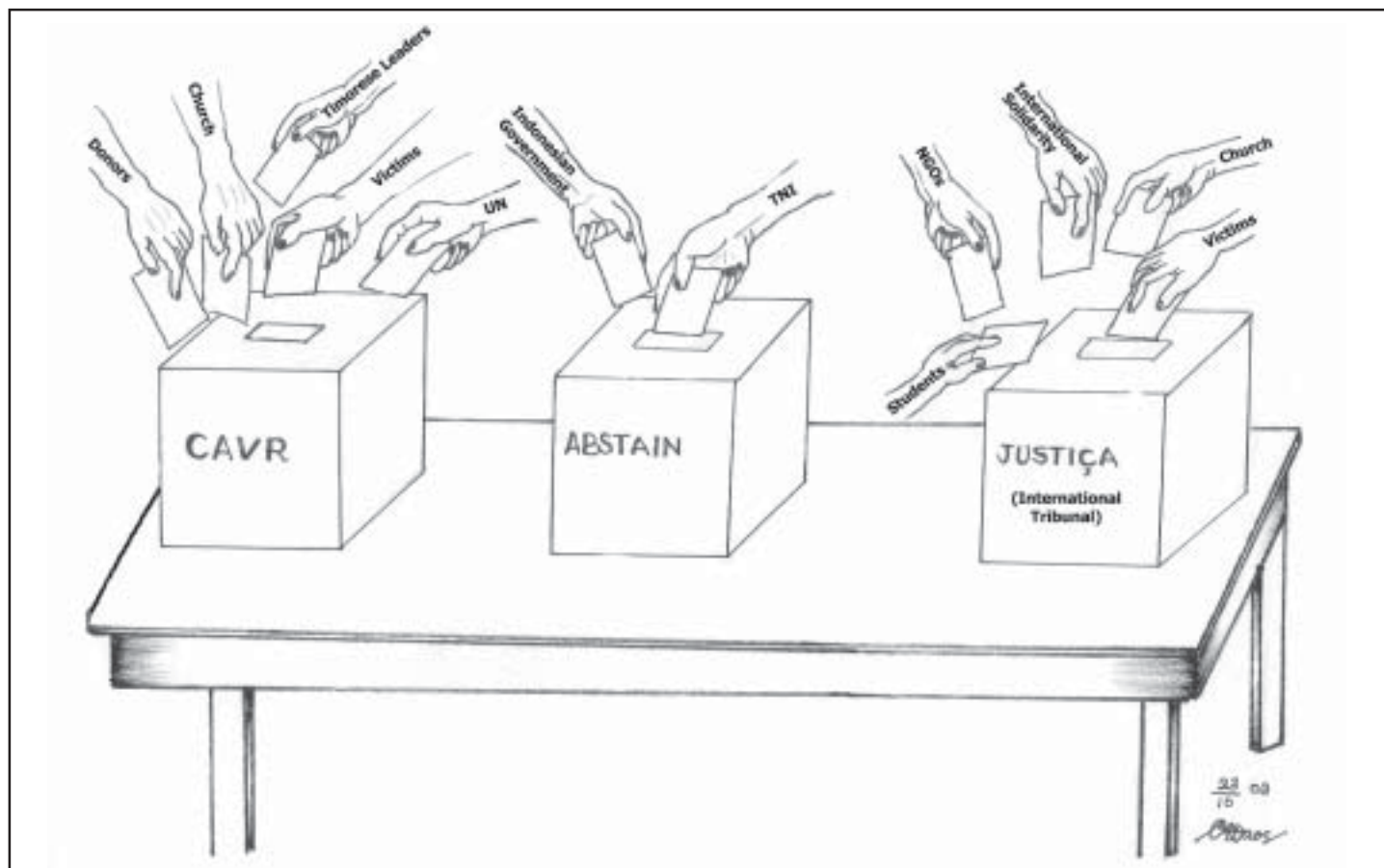
Via this division, CAVR promotes reconciliation within communities, by “promoting acceptance and re-integration of those people that have caused suffering to their communities” by committing non-serious crimes such as theft, minor attacks, burning and killing of livestock. This makes the perpetrators of these kinds of crimes accountable to the victims, as a form of restorative justice. CAVR implements this through the CRP, by finding out whether the perpetrator wants to make reparations by doing something meaningful for the victim and the community. For example, a crime of

burning a house can be solved by asking the perpetrator to rebuild the house. “Community Reconciliation Agreements” are registered at the district court as a guarantee that the reconciliation process will be implemented, that the punishment is in accordance or on the same scale as the crime committed, and that it does not violate human rights. CAVR is responsible to refer serious crimes (such as murder, rape, large scale destruction and planning to carry out such crimes) to the General Prosecutor for handling via the court process.

The SCU (Serious Crimes Unit) checks the deponent statements that are received by CAVR against its files of suspects who are believed to have been involved in serious crimes in 1999. By late October, CAVR had sent 1115 deponent statements to the SCU, which has exercised its exclusive jurisdiction in 69 cases. The SCU would not tell *La’o Hamutuk* if any of these alleged perpetrators of serious crimes have been indicted or are being pursued actively, but only that all these cases are “under investigation.”

For minor crimes, CRP makes efforts to bring the perpetrator to a reconciliation agreement with the victims and/or the community. By mid-October 2003, the CRP division had received requests for CRPs from more than 1,100 perpetrators of minor crimes. Of these, 454 have participated in 82 hearings, 89% of which have resulted in community reconciliation agreements. All the CRP processes are entered into the CAVR database as documentation. Although this is an impressive number of cases in a short time, it is a small fraction of the minor political crimes committed in East Timor. In the last month of Indonesia’s quarter century of occupation, for example, TNI and militia burned tens of thousands of buildings, and forced hundreds of thousands of people to flee.

In principle, people give testimony on a voluntary basis, although one of the incentives for perpetrators to come forward is that entering a CRP agreement guarantees immunity from prosecution for the minor crimes which are the subject



of the agreement. However, some victims do not want to give testimony, because they feel that they have no legal security. This situation occurs because victims and perpetrators know that CAVR can refer information that it obtains to the courts, which could prosecute if the case is classified as a serious crime. Former pro-autonomy supporters also often feel frightened to give testimony because they feel that this will only re-open old wounds, and that this is dangerous for them in the middle of a community that is pro-independence. *La'o Hamutuk* also learned that some perpetrators of minor crimes testified because they incorrectly believed that if they did not, the police would come to their houses and arrest them. Many people are confused and do not realize that the court system does not have the capacity to prosecute these crimes even if no CRP is reached.

There are concerns in this division that there are not enough staff members in CRP, and that the workload in the districts is very high. The staff from the CRP division complain that often they do not receive enough logistical support. For example, the staff in the districts have to walk to different villages, without motor transportation. We have also learned that the CRP process in Baucau has had many problems in part because CRP staff there are not working as a team.

### **Truth-Seeking Division**

This division of CAVR investigates human rights violations that occurred between 1974 and 1999, and will write a report on these violations and the factors that contributed to them. In this respect, CAVR not only looks into human rights violations on a case-by-case basis, but also examines whether these violations were part of a systematic pattern. For this reason, alleged cases of war crimes and crimes against humanity are part of the investigative functions of CAVR.

The Statement-Taking Unit of this division interviews victims and witnesses, and plans to collect up to 8000 statements. They have already taken approximately 5,900 in 51 of East Timor's 65 subdistricts.

Each district has four statement-takers, two men and two women. Each staff member is provided with a statement form and a tape recorder. They also write a narrative of the story that they listen to. The Public Relations Unit disseminates information about the role of CAVR and identifies who will be asked to make a statement. Statement giving is voluntary.

The Truth-Seeking Division also includes the research unit and the Data Processing Unit, which is further divided into two teams: statement readers who read and assign code numbers to statements, and data entry staff who enter the information into the database. The research is divided into ten investigative themes: forced displacement and famine, massacres, killings and disappearance, political imprisonment and torture, women and conflict, children and conflict, party conflict, TNI, Fretilin/Falintil, and international actors.

Of the 5,900 statements collected so far, more than 2,000 have been entered into the database. Database delays and other problems have made it difficult for the research part of the Truth-Seeking Division to use the statements for their analyses of trends and patterns; similar problems have arisen in truth commissions all over the world.

Through the truth-seeking division, CAVR conducts research about cases related to mass murder, genocide and other politically motivated killing between 1974 and 1999. This research also includes international actors, both civilian and military, that were involved both directly and indirectly in East Timor, although most statements will not include details on international involvement. To gather information on international actors, the CAVR research team has asked foreign governments for information and documents, but it has been slow in coming. This research process is continuing, and the data is still being kept confidential. The research is being done by researchers from academic institutions and from NGO's.

One of the goals of the research is to accurately estimate the number of people who were killed during the 24 years of Indonesian occupation. This is being done with a "Retrospective Mortality Survey" that combines information from cemetery surveys, interviews, demographic data and other sources. Questions have been raised about the accuracy of the raw data, and about the resources that will be required to carry out such a difficult task properly, given other needs. Some people believe that counting the number of people killed is not as important as identifying the strategies, policies, killers and masterminds that took their lives.

CAVR has held public hearings in East Timor on "Political Imprisonment", "Women in Conflict," and "Famine and Forced Displacement." Victims and experts presented testimonies, which were widely covered on television and other media, relating facts and experiences to help the broader public understand the reality faced by the people of East Timor during the Indonesian occupation. Over the next year, additional hearings are planned on "Political Conflict 1974-76", "International Actors", "Massacres" and perhaps other topics.

The CAVR was considering holding public hearings overseas (in the United States, Australia and perhaps Indonesia) to provide an opportunity for policy-makers and experts from the U.N. and these countries to give testimony about their and their governments' role in human rights violations in East Timor between 1974 and 1999. Unfortunately, this project has been essentially cancelled, ostensibly due to lack of human and financial resources. But some worry that CAVR's priorities are influenced by political considerations, perhaps including reluctance by CAVR and others to embarrass international supporters of Indonesia's occupation.

Concerns have also been raised about the overall results of the truth-seeking research, and whether the final report might be edited to meet domestic or international political concerns. Many of the international donors and agencies who are making CAVR's work possible were complicit in Indonesia's occupation of East Timor, either actively or passively, and they may not want the full story told. Although some perpetrators, especially the Indonesian military, will reject the report as based on research solely from pro-independence researchers and witnesses, it is still important to try to be as objective and accurate as possible. This research is costing a lot of money, and should not just end up in a file cabinet or wastebasket, without serving victims' need for justice and recognition.



**Financial Division**

CAVR invited the Inspector General of RDTL to perform an audit and so far this has been done twice, and has found that in general things were in order, although there were a few technical problems. In order to avoid technical problems in the future, CAVR has begun to list all their large and small assets. Apart from that, the finance division recently decided to decrease spending by limiting phone cards and vehicle refueling. In addition, two CAVR staff in Baucau had their contracts terminated after \$1,145 disappeared.

Another problem in this division is that local staff do not have enough experience in financial administration. Recently, skills transfer from international staff to local staff has begun to improve.

**Planned expenditures during the 2½-year life of CAVR**

Salaries .....	\$1,685,669
Pre-Commission Costs .....	\$31,770
Office & Program .....	\$836,703
Property Expenses .....	\$80,000
Vehicle Expenses .....	\$214,000
Training & Public Education .....	\$250,130
Research .....	\$102,800
Buildings (mostly renovating prison) ..	\$426,000
Vehicles .....	\$302,000
Furniture & Equipment .....	\$238,000
Victim Support .....	\$166,400
Final Report .....	\$96,300
Contingency .....	\$120,900
<b>Total expenses .....</b>	<b>\$4,550,672</b>

Source: CAVR

Not included in the budget is the cost of eleven full-time international staff seconded from the United Nations and its agencies. If these people receive, on average, the same salaries as UNMISSET international civilian staff, this support is worth approximately two million dollars. Also not included are the costs of some consultants and staff paid directly by bilateral donors such as USAID, nor expenses related to newly-undertaken programs such as the Retrospective Mortality Survey.

**Funds already received**

<b>Donor</b>	<b>Amount</b>
Australia .....	\$160,711
Britain (4 grants) .....	\$516,347
Canada .....	\$190,076
European Comm. (via UNHCR) .....	\$316,982
Finland .....	\$19,995
Germany (2 grants) .....	\$218,956
Hivos .....	\$34,249
Ireland (3 grants) .....	\$311,829
Japan (2 grants) .....	\$764,681
New Zealand .....	\$292,091
Norway .....	\$252,838
UNDP-Sweden .....	\$191,250
USAID .....	\$5,191
USAID (in kind) .....	\$117,547
U.S. Institute for Peace (2 grants) ..	\$40,000
World Bank Community Empowerment Project .....	\$80,000
<b>Total receipts .....</b>	<b>\$3,512,743</b>

Source: CAVR

## Funds promised but not yet received

Donor	Amount
Ireland .....	\$136,300
Japan .....	\$235,000
UNDP-Sweden .....	\$100,295
USAID .....	\$12,009
USAID (in kind) .....	\$99,661
World Bank-CEP .....	\$86,400
<b>TOTAL .....</b>	<b>\$669,665</b>

Source: CAVR

Of the \$3.5 million in donations already received by CAVR, approximately 63% was designated for specific parts of CAVR's work. Of the \$670,000 pledged but not yet received, 72% is for specific projects. Most of the non-earmarked donations, which CAVR is free to use for any of their work, were given by Australia, Canada, Ireland, New Zealand, Norway and Sweden.

### Victim Support Division

The Victim Support Division facilitates activities to contribute to the rehabilitation of victims of human rights violations. It organizes village level support to those who give statements and participate in community reconciliation, as well as sub-district victims' hearings, community-based discussions on the impact of violence, and healing workshops for some survivors of serious human rights abuses. The Victim Support Division also tries to link survivors with urgent needs with organizations which can provide services to them, including to CEP's vulnerable person's program. A working group which involves Fokupers, Carmelite Nuns, HAK Association is involved in the implementation of this referral program for victims with urgent needs.

In order to ease the difficulties experienced by victims, CAVR received approximately \$166,000 from the Community Empowerment Project (CEP), to be given to victims. According to information obtained by *La'o Hamutuk*, each supported victim receives \$200, but many people are concerned that allocation of the funds has not been transparent. CAVR asks victims who receive money not to tell other victims, which adds to the perception that the distribution of these funds is discriminatory or nepotistic.

At the end of its mandate, CAVR will develop recommendations around reparations and rehabilitation of victims.

### Program Support Division (formerly External/ Public Relations Division)

This division has three units: Media and Public Information, Public Relations, and Institutional Development. The first unit carries out information dissemination in the community, including activities like:

- Radio program "CAVR Dalan ba Dame" (CAVR, the road to peace), which is broadcast on Radio Timor-Leste and other stations;
- Brochures and posters, explaining CAVR's mission, vision, and activities;

- Press conferences, releases, and other relations with national and international media.

The Public Relations Unit develops relationships with groups in East Timorese society, including NGOs, political parties, churches, youth and women's organizations. There is one public relations staff in each district to socialize CAVR's work, and help identify victims and perpetrators who will be asked to give statements, participate in public hearings, or take part in community reconciliation processes.

The Institutional Development Unit identifies problems and needs within CAVR. It focuses on capacity building, holds trainings, and helps evaluate staff capacity and quality of work.

### Role of International Staff

The CAVR proposal circulated for public consultation in late 2000 said that "all permanent staff will be nationals. A few international consultants are likely to be contracted to assist the commission for relatively short periods, especially on technical matters." At present, the commission has fifteen international staff, including eleven paid by other organizations, and several other international consultants contracted for one or two months. The international staff hired directly by CAVR include two translators, one researcher and one advisor.

Unlike most international staff and advisors working in East Timor, many of the internationals working in CAVR have long supported East Timor's struggle for independence as volunteer activists in the international solidarity movement. Their knowledge of East Timor's history, empathy for the East Timorese people, and skills in Tetum and Bahasa Indonesia are far better than most internationals here. Given this context, we were surprised to learn that CAVR experiences many of the same problems between locals and internationals that are pervasive in this new country. This shows just how difficult it is to build an equitable working environment when people have widely varying pay scales, levels of experience, expectations, and conditions of work.

The majority of the international staff who are currently working for CAVR are paid by voluntary contributions through UNDP for the 200 development "posts" identified by UNDP for government administration and capacity building of civil servants. As such, they do not submit to the personnel policies and work rules of CAVR, causing some resentment among their East Timorese colleagues, including commissioners. Several of the commissioners did not know about new international staff working at CAVR, even though a recently-formed recruitment team for international staff includes two national commissioners. Even after this team was established, many feel that international advisors already at CAVR have the main role in deciding about new international staff, because they already know the people who apply for the jobs.

The Program Manager is an international advisor under contract with UNDP. As a result, many CAVR staff do not understand the functions of the international advisors; are they decision-makers or advisors to East Timorese staff and commissioners?

*La'ó Hamutuk* learned that the evaluation process for international advisors contracted by UNDP is questionable, with evaluation forms sometimes being seen by the people being evaluated, which makes it difficult to give an independent and transparent evaluation.

Many of the East Timorese CAVR staff contacted for this article felt that some of the international advisors make decisions without discussing them first with the relevant division coordinator, who is a national staff member. As a result, there appears to be widespread feeling among CAVR national staff that the institution is dominated by international staff. Rather than acting as the mentors they are hired to be under UNDP regulations, some international staff perform line functions. On the other hand, some national staff feel that the advisors should be doing the difficult line-work, considering that they receive very large salaries from international agencies.

It is clear that better cooperation and communication is needed between the national staff and the advisors to identify how the advisors can truly help and prepare the national staff to work on their own. This process of communication is important because many national staff still feel like their work is being interfered with. Although international staff language skills are better than in other agencies, national staff sometimes complain about difficulties in communicating with international advisors although they recognize that the fluent English of many international staff is very helpful in relating to donors and international agencies.

The role of international staff is further confused by the temporary nature of CAVR; both international and local staff will lose their jobs when CAVR ends in 2004. Although on-the-job training will benefit local staff and East Timor as a whole, it may not add much to CAVR's efficiency during its limited mandate.

Some also say that the national staff do not possess adequate capacity or are not pro-active enough in gaining skills that international staff already have, although others feel that the hiring process for national staff, especially executives, could have chosen people with more experience.

## Conclusion

After *La'ó Hamutuk* had begun interviewing people at CAVR, CAVR management apparently told CAVR national staff below the level of heads of division not to speak with *La'ó Hamutuk* researchers. Although we understand the need for CAVR staff to focus on their primary work, this directive raises questions about transparency and openness. We hope it is not a sign of institutional defensiveness that could make it more difficult for CAVR to serve its primary constituency — East Timor's people, especially victims of human rights violations — effectively, using all available information and human resources, both inside and outside CAVR.

When CAVR publishes its final report a year from now, it will have taken on many difficult problems, assimilating diverse and sometimes subjective information, working in multiple languages, and navigating between real and potential political pressures. We hope the report will be well-researched and well-accepted, and that it will shed new light not only on what was done to people in East Timor between 1974 and 1999, but how it was done, why, and by whom. We also look forward to CAVR's recommendations for continuing work in justice, reconciliation, reparations and truth-seeking, as well as follow-up actions and policies. We encourage CAVR's report-writers to think boldly and broadly, and to discuss potential recommendations with a broad range of people in East Timor. In the long run, this can be the most valuable and important result of CAVR's work.

CAVR has and will continue to perform valuable services in acknowledging victims' experiences, implementing restorative justice at the community level, and uncovering and publicizing information about human rights violations committed in East Timor since 1974. However, there are questions about whether it is truly directed by East Timorese people, appropriate to the needs of this nation and serving the priorities of the East Timorese population. And how much has it cost this country in lost opportunities to hold major perpetrators accountable for their crimes? ❖

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# In Brief ...

## Workshop on Gender and Poverty Reduction

**The World Bank's Second Regional Workshop on Gender and Poverty Reduction Strategies was held in Siem Reap, Cambodia, from September 17-18, 2003.** Participants came from Laos, Mongolia, Vietnam, Indonesia, Timor-Leste and Cambodia. This workshop was held to review and exchange experiences on the preparation of gender-sensitive poverty reduction strategies, to discuss the significance of gender-sensitive indicators in implementing and monitoring these strategies, and to improve understanding of budgeting and advocacy for priority gender-related policies.

The Timor Leste delegation to Siem Reap included Adelina dos Reis Caldeira Noronha, Directorate Assistant for Yearly Childhood Education, Ministry of Education; Maria Jose Sanches, Deputy of the Office of Gender Promotion and Equality; Ivonia da Costa Goncalves, Secretary to the Vice Minister of Agriculture; Odete da Silva Viegas Araújo, Ministry of Health; Judit Dias Ximenes, Member of Parliament; Maria Manuela Leong Pereira, Fokupers; Keryn Clark, Oxfam Australia, and Tomas Freitas, *La'ó Hamutuk*.

The Timor-Leste delegation presented their paper on monitoring implementation of poverty reduction strategies in Timor-Leste. Tomas Freitas from *La'ó Hamutuk* then discussed experiences of monitoring three poverty reduction strategies in East Timor: TFET, TSP, and the National Development Plan. In monitoring the Trust Fund for East Timor (TFET), the ADB and World Bank used project-based monitoring of infrastructure reconstruction, agriculture, health and education projects. There was little involvement by government or civil society and poor gender analysis, with few gender indicators or recommendations on gender programs and policies.

Budgetary support to the Government of RDTL, as described in the National Development Plan (NDP), is managed by the World Bank through the Transition Support Program (TSP) (See *LH Bulletin Vol. 4, No. 2*). Monitoring was carried out through Donor Assessment Missions, which took input from of Government but not from civil society. A system for monitoring the NDP is currently being developed - government and civil society are in dialogue, and the international community has been invited as observers. Civil society groups have also been involved in monitoring the programs of donors, international financial institutions, the UN and the government. Earlier this year, NGOs in cooperation with the Ministry of Planning and Finance also conducted independent monitoring of the World Bank's Community Empowerment Program.

## Expo Popular

**On 25-30 of August, HASATIL (*Hametin Sustenavel Agrikultura Timor Lorosa'e*), a network of local organizations and farmers' groups working for the development of sustainable agriculture in East Timor, together with other local and international NGOs, held the Second Expo-Popular at Borja da Costa Park, Farol, Dili. The Expo-Popular tries to increase East Timorese awareness about local agriculture products, and to build co-operation among government, business, farmers and the society. It also works for alternative agriculture oriented to the interests of small local farmers.**

In addition to exhibiting local East Timorese agriculture products, the Expo held several discussions involving small farmers, businessmen and the government, based on the principle that the entire development process, especially agriculture, is the responsibility of all East Timorese. One of Expo's achievements was an agreement between HASATIL and the CCTL (*East Timor Chamber of Commerce*). The agreement has the following five points:

1. National businessman should prioritize local agricultural products;
2. National businessman should provide information about market opportunities to farmers and non-governmental organizations which support people's agriculture;
3. NGOs should support technical capacity building of farmers and improving the quality of local products;
4. Farmers should work to improve the quality and quantity of local agriculture;
5. The government should highlight development of an agricultural sector built on increasing the capacity of East Timorese farmers, preserving the environment and protecting local products and farmers from competition from imported products.

## Cuba Exchange

On 1 October, nine **East Timorese popular educators from different local NGOs went to Cuba** to participate in a three-week intercambio (exchange) about popular education in health, agriculture and community issues. In Cuba, the group was hosted by the Martin Luther King Center, an NGO with wide experience in popular education and community organizing. Their program included seminars and discussions about Cuba's history and its experience with popular education, as well as visits to several popular cooperatives and community projects where popular education is used to develop alternatives for health, agriculture and economic development. The group included representatives of *La'ó Hamutuk*, Sa'he Institute for Liberation, Perkumpulan HAK, Fokupers, Haburas, Men's Association Against Violence, Naroman Bucoli and Feccu from Viqueque.

Now that they have returned to East Timor, the group will hold two workshops to share the experience acquired during the intercambio with other local activists and NGOs. The East Timor-Cuba exchange was organized by *La'ó Hamutuk* and Dai Popular (East Timorese Popular Educators Network). ❖

## Job Announcement

*La'ó Hamutuk* is looking for a half-time East Timorese staff member to be responsible for finances and accounting. Qualifications: at least one year accounting experience, good English and computer skills. Interested applicants should bring CV, a letter explaining why you want to work with us, and two references to *La'ó Hamutuk's* office. Application deadline 30 November 2003.

# East Timor's Refugees in West Timor

In 1999 more than 250,000 East Timorese were deported or fled to West Timor, where most of them stayed in the refugee camps in Belu and Kupang Districts. Since then most of the refugees have returned to East Timor, but according to the United Nations High Commissioner for Refugees (UNHCR) and Indonesian government figures, there are still around 28,000 in the camps in West Timor.

On 31 December 2002, UNHCR terminated refugee status for these people, which means that East Timorese remaining in West Timor are no longer regarded as refugees under international law, and therefore they no longer have the international protection afforded by refugee status. However, the international community is still responsible for the refugee problem and should help to find proper solutions for the tens of thousands of people remaining in the camps. This article reports on the current situation of the refugees based on an investigation by *La'o Hamutuk* in July and August 2003, including field work in West Timor.

## Repatriation

From 1999 to 2003 UNHCR and IOM (International Organization for Migration) have assisted with the repatriation of refugees to East Timor, facilitating transport from all parts of Indonesia. If the refugees return to East Timor by vehicle, ship, or airplane, IOM and UNHCR provide transportation to their places of origin. Most of the refugee returns to East Timor were organized by UNHCR, however some refugees returned on their own initiative, without support from UNHCR or IOM (see Table 1).

In 2003, refugee returns have been significantly low. For the first four months of the year there was no clear repatriation procedure and no funds allocated by the central government of Indonesia for administrative and operational costs of the East Nusa Tenggara (NTT) government's Refugee Coordination Unit (*Satkorlak*). This made it difficult for refugees wanting to return to East Timor. In May IOM and *Satkorlak* agreed to keep assisting the refugees willing to

return. IOM assists with transport, administrative and operational costs for NTT government district level refugee coordination unit (*Satlak* PBP).

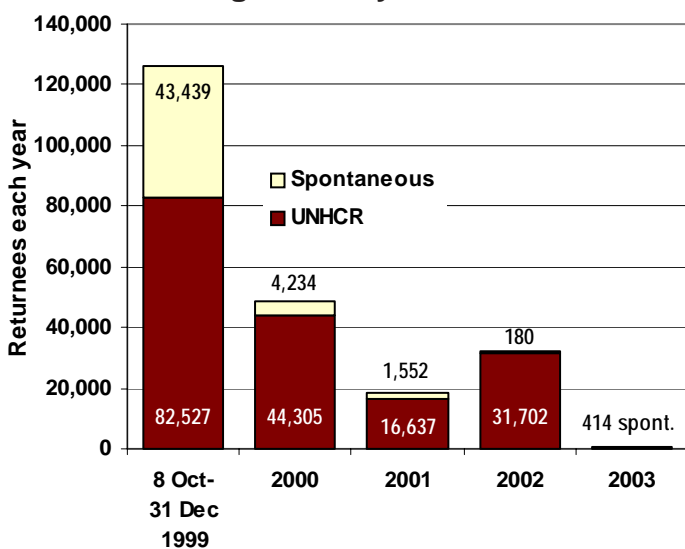
In facilitating returns, IOM, in collaboration with NTT's Refugee Coordination Unit and Jesuit Refugee Services (JRS), visited refugee camps to inform the refugees and registered those who were willing to return to East Timor (either JRS visits the camps or the refugees come to JRS Office to register). Administration costs such as forms and photos for the refugees were funded by IOM.

*Satlak* also organizes transport and informs IOM in East Timor of refugees intending to return, including the number of families returning to East Timor, their date of return and places of origin. On the scheduled arrival dates, IOM waits at the border with transport to pick up the refugees, and also pays transportation costs for the journey from their camps to the border.

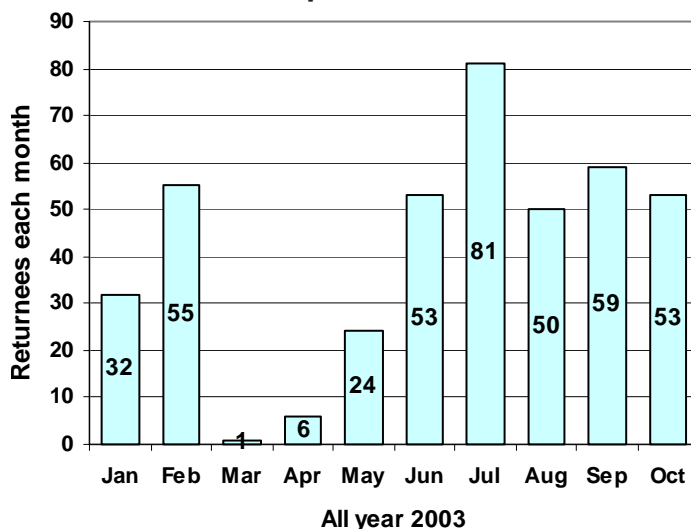
At the border, IOM, UNHCR and CAVR (East Timor's Commission for Reception, Truth and Reconciliation) welcome and interview the returning refugees to assure protection in case the returnees have any problems during their reintegration into their communities. Returnees expected to have problems are secured in safe houses. Then IOM, UNHCR, CAVR and the Human Rights Unit of UNMISSET begin dialogues with local communities and their leaders about the return of the refugees.

Those without problems are brought directly to their community in East Timor. According to a UNHCR source, the agency monitors the reintegration of the returnees into their home communities, although *La'o Hamutuk's* own information from several districts shows that after the returnees have been transported to their home communities there is little further monitoring. If there is intimidation or unfair treatment against them by the local community, the returnees may feel unsettled and insecure, which may encourage them to return to West Timor. The same UNHCR source admitted that some returnees have since gone back to West Timor for

**Table 1: Returnees 1999-2003**  
Voluntarily/spontaneously or organized by UNHCR



**Table 2: Returnees in 2003**  
(after UNHCR terminated refugee status)  
All spontaneous



unknown reasons. Such instances are not encouraging for finding a lasting solution to the refugee problem (see Table 2).

UNHCR and IOM have funds especially allocated for refugees. *La'o Hamutuk* was given information about UNHCR's budget; unfortunately IOM didn't want to disclose similar information.

After the murder of three UNHCR international staff in Atambua in 2000, UNHCR's East Timor mission withdrew its entire staff from West Timor. Since then they have only been providing assistance for refugees that return to East Timor, including facilitating transport as mentioned above, and basic materials upon return to East Timor such as food, kitchen utensils and tarps. This has also included UNHCR's Shelter Program for the rebuilding of 35,000 houses for returnees and for vulnerable persons in local communities, which ended in 2001 (see *LH Bulletins Vol. 3, No.1 and Vol. 1, No. 2*).

#### UNHCR budget for repatriation and reintegration of returnees and displaced persons

Year	Budget
2000 .....	\$15,676,966
2001 .....	\$6,203,268
2002 .....	\$1,321,153
2003 .....	\$634,640
<b>Total .....</b>	<b>\$23,836,027</b>

The term "displaced persons" refers to East Timorese who never left East Timor but were forced to leave their villages due to the fighting in late 1999.

#### Condition of the refugees in West Timor

In 1999 there were approximately 175 refugee camps, and today there are still around 145. In Kupang District there are only three, but each camp contains many refugees: Tuapukan alone has 7,000.

After the murder of three UNHCR international staff and a number of East and West Timorese in Atambua in 2000, virtually all international staff of all humanitarian agencies were evacuated from West Timor and aid to the refugees reduced. However, some international organizations continue modest work with the refugees including CRS, CWS, JRS, UNICEF, WHO, Oxfam GB, and CARE, using Indonesian staff and NGOs. There have been significant security obstacles for these international organizations and the UN to keep monitoring and providing assistance to the refugees. In 2000, West Timor was classified by the UN as one of the most dangerous places on earth, and international staff are generally prohibited from traveling there. Although the security situation has improved since then, Indonesia has yet to provide adequate justice in the case and the UN has not changed the classification of the region, which also discourages other organizations from working in the area.

In early 2000, long before UNHCR ended refugee status, the government of Indonesia stopped assistance to the refugees as a strategy to move them from the camps. According to a workshop in Yogyakarta on refugees funded by Bakornas PBP and UN-OCHA, the Indonesian Government will end its sector refugees fund in 2004. Remaining government assistance is not specifically for the refugees, but is part of NTT province and local government's poverty reduction

programs for the NTT general population. It means the Indonesian government assumes the refugees are part of poor communities in NTT, not those forcibly moved from their places of origin to save their lives because of conflict or government policy.

The number of refugees in the camps in West Timor is slowly decreasing. The refugees are slowly developing relations with local communities. New camps have also been built for active and retired members of the Indonesian armed forces who served in East Timor. Removing these elements from civilian refugees has helped decrease the intimidation in the camps. All these factors have helped to improve the situation of the refugees. But it does not mean that all the problems are over, and the refugees are far from living easy lives. Virtually all assistance from the international community and the government of Indonesia has long ceased. Besides reports from NGOs with limited resources, there is no recent reliable data on the humanitarian situation of the remaining refugees.

A West Timor NGO survey, coordinated by Oxfam GB and CIS Timor (Volunteer Center for Internally Displaced People Services in Timor) in November 2002, revealed that the food and nutrition situation was worrying in almost all of the camps (the refugees ate less than three times a day), water and sanitation was inadequate (some camps lack access to potable water), and there were frequent health crises, especially among children due to lack of basic health services.

NTT province has very limited resources for public services, and many locals resent the further strains put on the local budget by the refugees' needs. At times there are discriminatory policies which keep refugees from using public services such as primary schools, government health care and social safety net programs such as subsidized rice. Former refugees already settled in local communities are also often excluded from services by the local government.

In several camps and resettlement areas, land disputes are common between the refugees and local communities. When the refugees were deported to West Timor in 1999, the government assured local people that the refugees would only use their lands temporarily. In several places local people have demanded that the refugees return to East Timor. This tension is exacerbated by competition between the refugees and local people for public services and limited natural resources (for example, clean water). The tension will continue to escalate if the land issues are not addressed.

#### Resettlement program

The government of Indonesia, with assistance from the Japanese government, the European Union and UNHCR, launched a program to resettle refugees who do not want to return to East Timor in Indonesia. This program is supervised by the Ministry of Labor and Transmigration and the local government's Resettlement Department. There is also a resettlement program from the Department of Social Services and the Indonesian military (TNI). And unlike regular transmigration programs, all resettlement programs are within NTT province. Since 2000 the majority of resettlement sites have been in West Timor. However, in the more recent period of 2002-2003, UNHCR-funded programs have only built resettlement sites on other islands in NTT province, such as Sumba, Flores and Alor. According to an Oxfam GB survey, only 13% of the refugees wish to be settled outside West

Timor. This is understandable as they might want to return to East Timor in the future, and it makes it easier to contact relatives in East Timor. Resettlement areas in West Timor were quickly filled but there is hesitancy to move to other camps off the island. Reallocation programs coordinated by UNHCR/UNDP outside West Timor, particularly in West Sumba, were having problems finding people. Of 550 families planned to resettle on the island, so far only 15-20 have done so.

In addition, the government of Indonesia is slow in building new resettlement areas. In the past year, only around 200 houses have been built due to the difficulty in finding land inside West Timor. The housing situation in new resettlement areas is very worrisome where houses are small, bad quality and easily damaged. The Indonesian Government needs to give serious attention to implementing funds from the Japanese Government and UNHCR. Officials from four districts in West Timor had expressed their reluctance to have the refugees settled in their areas, as East Timorese refugees have been there for four years and have already caused some problems for local people. The government of Indonesia has only allocated 40% of houses in new resettlement areas for former East Timorese refugees, reserving the rest for the local population and transmigrants from other areas in Indonesia. Sometimes conflict arises between local people and East Timorese, yet the government has not taken significant measures to avoid this. Given this situation, sometimes locals have occupied resettlement areas that were specifically built for former refugees. There are several cases where the local community has occupied whole houses in new resettlement areas. However some local communities allow refugees to use their land (for instance, in Kereana Village, near Betun, the community allows their land to be occupied by refugees from Sukabitetek camps). It depends on how local govern-

ment talks to the local community about the situation. If the government continues to be so slow to settle the issue, it will take at least 10 years to reallocate all East Timorese who want to be Indonesian citizens.

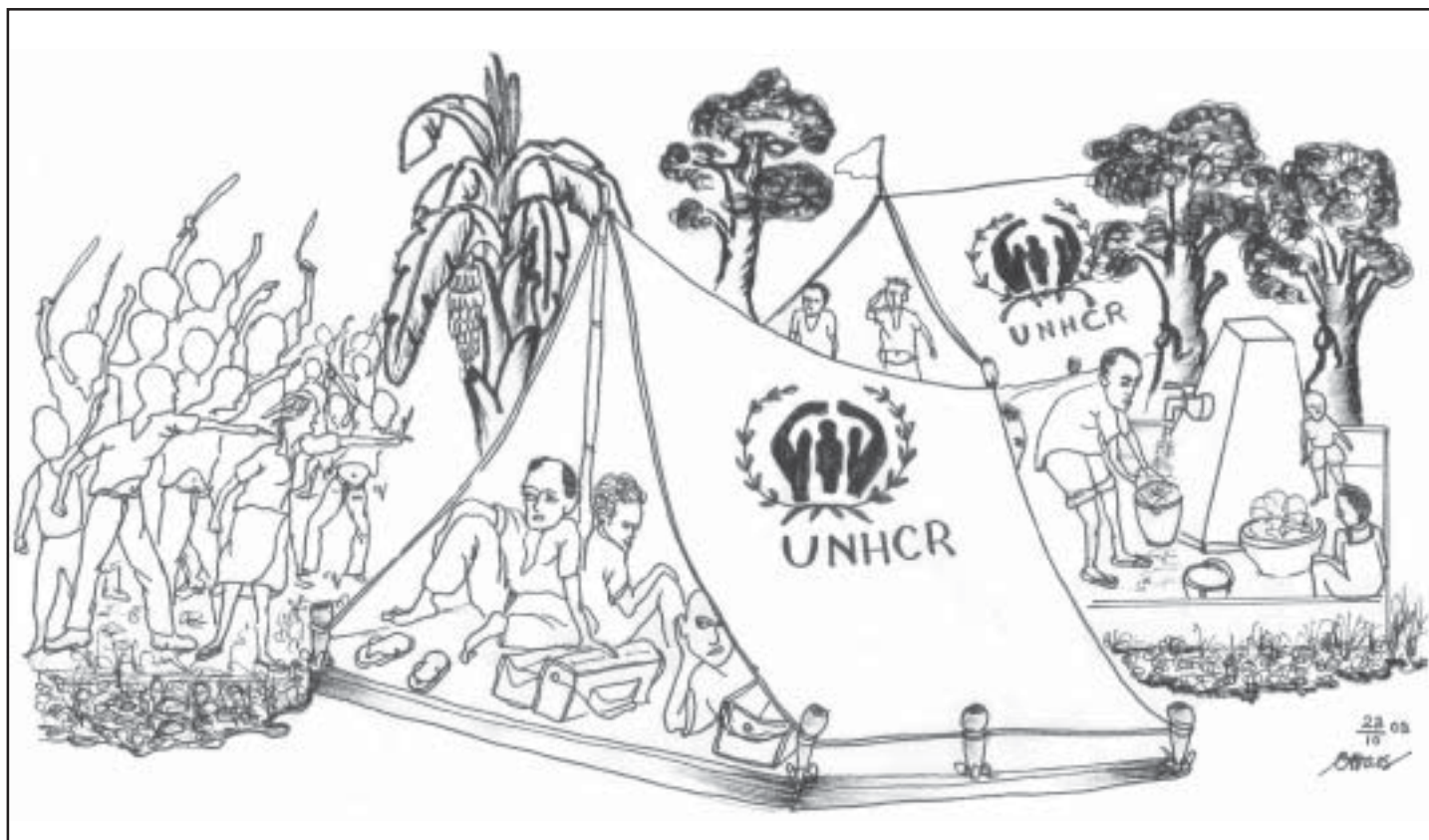
### Refugees Status

Since the implementation of the cessation clause by UNHCR on 31 December 2002, East Timorese remaining in Indonesia are faced with four options:

1. Return to East Timor
2. Remain in West Timor by taking part in the resettlement program in West Timor
3. Settle outside West Timor by participating in the resettlement program outside of West Timor
4. Remain in the current camps with no support from the government of Indonesia or the international community.

According to a West Timorese NGO survey conducted from November 2002 to January 2003, about half of the refugees want to return to East Timor. Yet they worry about security in East Timor, their assets abandoned in East Timor, employment issues and so forth. Fifty percent of the refugees considered returning to East Timor in the coming two years. Other reasons they have not returned are dependency on salaries from the government of Indonesia (civil servants, TNI, police, and pensioners including widows) and fear of prosecution or retaliation for involvement in the 1999 atrocities.

The government of Indonesia has also issued a decision of the People's Assembly (TAP MPR No. VI/MPR/1999) and presidential decree on the citizenship status of the East Timorese remaining in Indonesia. The decree, issued in May 2003, offered the population of East Timor (the former Indonesian "province") including the refugees to:



1. "remain" a citizen of Indonesia or
2. become an East Timorese citizen, and receive permission to remain as a foreigner in Indonesia for up to one year.

This presidential decree obliges the former population of East Timor (including those who are not originally from East Timor) to take part in the registration process that ended on 30 September 2003. The decree does not explain further consequences of the two options. For those who do not register by the deadline the consequences are not clear.

The refugees who want to be East Timorese citizens but remain in Indonesia are given a special temporary residency permit valid for one year. It is expected that at some point in time they will have to provide legal documents, such as a passport, to prove East Timorese citizenship, and obtain a regular residency visa through procedures applicable to any foreign citizen. However, no clear process has been publicized by the East Timorese government for refugees to get proof of East Timorese citizenship without first returning to East Timor. It is doubted whether refugees who choose East Timorese citizenship will be able to fulfill the administration requirements without help from the East Timor Government. But if the refugees are legal subjects of East Timor, the East Timor Government is obligated to support them.

Almost all the refugees are entitled to East Timorese citizenship. Yet East Timor's Nationality Law requires documents such as a birth certificate to prove anyone's place of origin, and many of the refugees have never had or lost such documents, especially during the chaos of 1999. Moreover, given the limited time available for registration and lack of funds allocated by the Indonesian government to socialize the process, it is doubtful whether refugees can make informed decisions about their future status.

Many of the refugees are still unaware of the importance of citizenship and its consequences, which is often viewed as merely a set of nationalist feelings with no legal consequences. This was worsened by the lack of information provided to the refugees on the current citizenship process and the implications under East Timorese and Indonesian law. Without this awareness, some refugees were probably unable to decide on citizenship correctly, did not register or missed the deadline. This could possibly leave them stateless, with little or no legal rights in Indonesia.

## Conclusion

UNHCR terminated refugee status due to increasing stability in East Timor. Since East Timor has a newly established government, which can protect its citizens and provide a stable and secure situation, the reasons why the refugees fled their homeland no longer exist. So UNHCR, The East Timorese and Indonesian governments expect East Timorese refugees still living in West Timor to decide to return to their homeland or live permanently in Indonesia. However it does not mean that UNHCR can simply wash their hands of these issues. UNHCR has to keep supporting the refugees until a lasting solution is found.

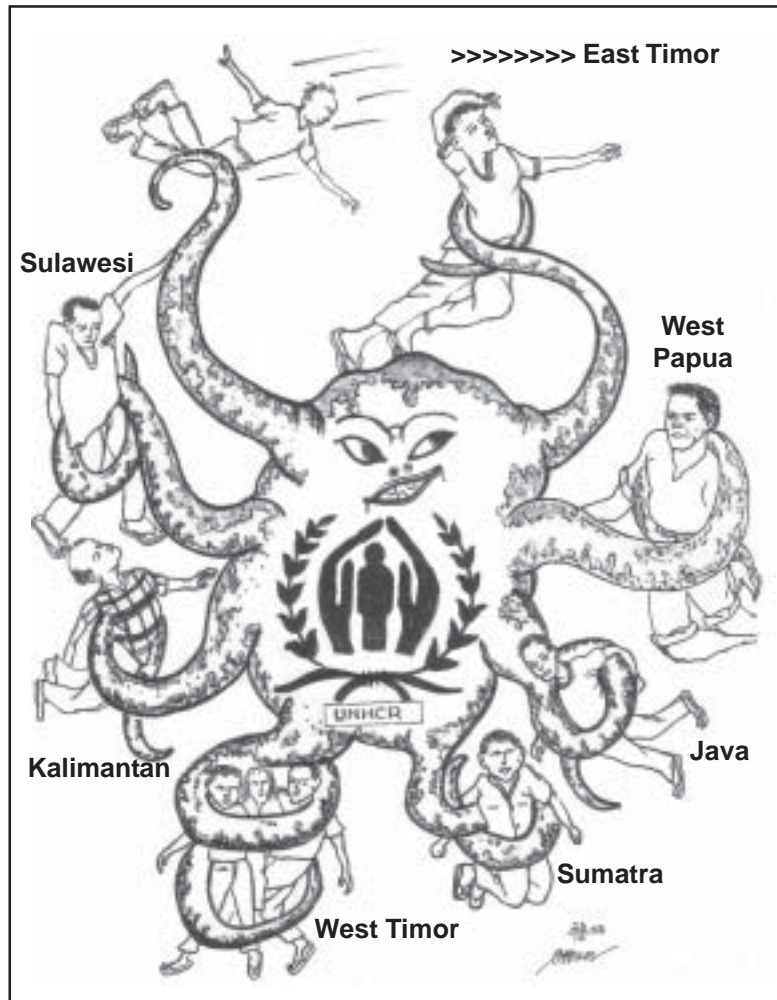
Humanitarian assistance for the refugees has to be resumed since many of the refugees may still decide to return. And in order to help the refugees make informed and voluntary decisions there should be an independent and balanced socialization of the options available to them.

Only the government of East Timor can determine who is an East Timorese citizen, so the government of Indonesia must work in close cooperation with the government of East Timor regarding citizenship issues. It is especially important to provide balanced information to help the refugees decide their future citizenship. This can include making provisions for the absence of legal documents. The govern-

ment of Indonesia should apply a mechanism to enable refugees to register after the 30 September deadline, since many refugees did not understand the importance of their citizenship status.

The government of East Timor should monitor the returnees to ensure their security and help them to integrate with the community, providing them with services to fulfill their basic needs. That way, the refugees will see that the East Timorese government gives them attention.

The government of Indonesia has to make better use of the limited donor funds available for resettlement programs. All discriminatory policies imposed upon the East Timorese choosing to remain in refugee camps, local resettlement areas or elsewhere in Indonesia must end immediately. Indonesian local government must treat newly settled East Timorese and local people equally as an integrated society, including the refugees in the social safety net, poverty reduction and other related programs if these East Timorese people are to be considered full citizens of Indonesia. ❖



# Asian Development Bank Fiji Workshop on Good Governance

The Asian Development Bank (ADB) Second Regional Workshop on Good Governance was held in Korolevu, Fiji on the 29-31 August. The participants at the workshop came from Pacific Island States including Fiji, Samoa, Solomon Islands, Vanuatu, Papua New Guinea, Cook Islands, New Zealand, Australia, Tonga, Marshall Islands, Tuvalu, Federated States of Micronesia, Kiribati and East Timor. Some donors were also present, including Ausaid, New Zealand Aid, JICA, Austral Foundation, British High Commission, UNDP, and the ADB. From the NGO and academic community those in attendance were the Forum Secretariat, Foundation for the Peoples of the South Pacific International Pacific Financial Technical Assistance Centre and the University of the South Pacific. The delegation from East Timor consisted of Agostinho Castro from the Budget Office of the Ministry of Planning and Finance, Augusto Soares Barreto, Director of the government's Capacity Building Coordination Unit and the representative from civil society was Tomas Freitas from *La'o Hamutuk*.

This workshop, organized by the ADB, aimed to review and analyze good governance programs in the South Pacific Region. This was the first workshop of its kind in the region. A similar workshop was held last year in Manila with participants from Southeast Asia. East Timor attended as observers because the East Timor government has not yet decided to join the South Pacific Forum. The workshop was opened by Robert Y. Siy, Director, Pacific Operations Division of the ADB.

## Dr. Qalo: Pacific Governance

The first paper was presented by Dr. Ropate Qalo, head of the School of Social and Economic Development, University of the South Pacific, titled *Towards a Uniquely Pacific Governance Model?*. This paper discussed several areas important for Fijian society.

Dr Qalo said that the ADB defined governance as having four dimensions: accountability, participation, transparency and predictability. The ADB's medium term plan *ADB Action 2000-2004* put governance at the top of the agenda for Asia Pacific development. This has been criticized by some including the Chinese Government, in terms of the ADB's stance toward government policies. The Chinese Government said that this terminology is "too political." The Chinese Government is inclined to choose the term "development management" instead of "good governance" which is promoted by International Financial Institutions (IFIs). The World Bank defines governance as the way power is exercised in the management of a nation in terms of social and economic development, a polite way to raise embarrassing issues such as corruption, incompetence and power imbalances. The idea of good governance comes from the theory and institutions of neo-classical economy, legal corporations, political knowledge and economic sociology.

Dr. Qalo said that the meaning of independence for Fiji was to improve living standards of individual households. He said this was ruined by the macro views of those in authority as they favored larger infrastructure projects. As these projects were mainly based in the urban areas they increased the migration from rural to urban areas. He went on to say that the majority of Fijian households at the micro level cannot live a life of value these days because of the rhetoric of independence remains at the macro level. In Fiji more than 50-60% of the population live below the poverty line. This poverty problem has occurred be-

cause of the low income of the lower class, who are not able to pay tax to the state, and also because of the macro-economic conditions that have been forced on them by the IFIs.

## Rex Horoi: Regional Technical Assistance Program

Rex Horoi, Executive Director for the Foundation for the Peoples of the South Pacific International (FSPI), presented a paper *Government Planning, A Progress Report about the Regional Technical Assistance Program (RETA)*, where he explained community perspectives on governance in the Pacific Region. The idea of RETA is to identify and analyze elements of government from a grassroots community perspective. FSPI is a consultant selected to monitor ADB activities of government planning in Fiji, Kiribati, Solomon Islands and Vanuatu. This planning is also a key component of the FSPI project "Voices and Choices", about good governance and democracy.

Mr. Horoi stated that Fiji was a test case to analyze problems faced by communities and then link them with government issues, from the perspective of a monitoring model of the local community, to identify traditional or local government forms.

The following are the steps taken by RETA:

- Describe the planning process selected by the community.
- Examine the extensive ties between the family and the community. The case of Fiji and the comparison of family relations with the traditional community, as well as mixed races in Fiji were all issues that came out of the community planning.
- Look at traditional law versus statutory law (law made by parliament). The case of Vanuatu involved a comparison of government models at the community level, community planning and an illustration of differences and adaptations to the modern government.
- Complete the planning process under RETA, analyzing issues raised by the village community.

The delegation from Papua New Guinea (PNG) focused on combating corruption, because in PNG corruption is a big problem. Almost all components of civil society, including media and NGOs, focus on combating corruption.

## Phil Bowen: financial management

Phil Bowen from the Australian Department of Finance and Administration, conveyed his ideas about financial management in the public sector. He said that the push for reform has developed over a long period of time. He went on to outline some reforms that have taken place within the Australian public sector and the effects they had. He said that the key drivers for reform were fiscal consolidation and improved outcomes. He emphasized that the following principles needed to be underlined when discussing public sector financial management:

- Increasing monitoring
- Clear accountability measures
- Decreasing government spending
- Becoming more accurate in financial transparency in budget reporting.

## ADB Country Governance Assessment

The Country Governance Assessment (CGA), is an idea put forward by the ADB in the workshop. There are two objectives contained in the CGA: Firstly, calculate the quality of a govern-

ment by evaluating the quality of the process used in government institutions. Secondly, identify those government dimensions that will benefit from improvements. The methodology of CGA is that "Good Governance," meaning "good institutions" will receive public support. The CGA framework includes:

**Public Administration:** There must be an evaluation in regard to constitutional clarity in the separation of powers and an evaluation of the effect of the traditional hierarchical structure. The degree of popular understanding of the electoral system and citizenship rights must also be gauged together with the level of parliamentary negligence. Weaknesses in government policy development and decision making also need to be gauged as well as government understanding of community participation.

**Public Finance Management:** This involves an improvement in financial management, revenue collection, and administration. Some ADB Pacific Developing Member Countries have adopted basic ideas for budget implementation, but it has been difficult for them to understand and apply the concept. Even though some of them have attempted to implement some measures in the medium term, the quality and sustainability has been questioned, and there is no formal mechanism to collect and incorporate input from civil society into the budgetary process.

**Law and the regulatory framework:** Regionally this framework is weak and undeveloped: rules are very monopolistic; there is a lack of capability; legal drafting is not supported by the accuracy of policy instructions; there is a lack of strength on the part of the police in monitoring corruption, as well as in their ability to carry out investigations for prosecution.

**Judicial System:** It must always be independent, free of corruption and provided with the resources to ensure the deliverance of justice.

**Civil Society:** There should be freedom to obtain information, to speak and to associate guaranteed in the Constitution. For NGO's, advocacy skills are not enough, particularly in the financial environment. Different sectors of civil society in the Pacific have varying degrees of strength.

### East Timor's presentation

On the last day of the workshop, each country delegation was asked to convey the problems faced in their country. Augusto Soares Barreto said that in East Timor, the problem of "Good Governance", or corruption or nepotism was not a big problem. In East Timor, the wheels of the government run along the lines of the National Development Plan. In its efforts to implement the plan, the government is finding that it is lacking in the skills of civil servants, and capacity building is very much needed in East Timor. An example is basic computer skills.

### Conclusion

It is clear from the second ADB regional workshop on "Good Governance" that the ADB pays a lot of attention to countries in the Asia Pacific region. We also realize that corruption, lack of transparency and accountability are serious problems in some Asia Pacific countries. However, if we analyze properly the concepts offered by the ADB such as the CGA, sometimes this does not demonstrate the spirit of Good Governance. One example is the point above which states that "*there is no formal mechanism to gather ideas from civil society about the budgetary process.*" This comment raised serious comments from some of the participants at the workshop, who questioned the involvement of civil society in the process. If the ADB really wants to implement "Good Governance", why doesn't the ADB involve civil society in formulating the budget? In regard to consultation with civil society, it is still not clear what consultative mechanism is exercised in East Timor. ❖

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## Editorial: Privatization and Profit *(continued from back page)*

make their guaranteed profit at the expense of the poor. This is not development or poverty reduction. It is exploitation.

The only limit to exploitation is government regulation. But governments often cannot regulate privatized sectors because they are taken over by enormously powerful and rich companies. There is very little governments can do, particularly in developing countries with new institutional and regulatory systems. In countries that have relatively strong regulatory systems such as the UK some private companies that have bought into the public sector now want to withdraw, as the regulations limit how much money they can make.

The World Bank, International Monetary Fund and Asian Development Bank say that privatization will help economic growth by developing the private sector, but it is unclear how selling public sector utilities, very often, to large transnational companies will do this. More commonly, the private sector tries to stifle out competition and avoid government regulation to maximize profits. The IFIs also say that privatization will increase investment. However for many developing countries, such as in Africa, few investors are interested in privatization, so governments have to offer concessions like tax breaks to encourage investors. Privatization is supposed to let governments spend money on reducing

poverty rather than having to invest in infrastructure, but frequently governments incur further financial burdens such as guaranteeing a company's profits or maintaining loss-making state companies after the more profitable parts have been sold off.

Private companies want to maximize profits and have little motivation to meet people's needs. Water, electricity, health care and education are not a marketable commodities. They are basic necessities which people have a right to.

In East Timor, a foreign private company, Macau Electricity Cooperation (CEM) has been given a concession to manage Electricidade de Timor Leste (EDTL) for three years, and a separate company has been contracted to begin installing pre paid electricity meters. EDTL has not been privatized as all the assets will return to the government after three years.

East Timor, like many countries in the world, has very little money to invest in electricity, water and other essential services, so this country must analyze all available options. The East Timorese people must decide what is public and best provided by the government and what is private and best provided by the private sector, and the international financial institutions and foreign donors must let them make their own decisions. ❖

# Editorial: Privatization and Profit in Developing Countries

People need goods, like food and clothing, and essential services like water, electricity, education and health care. One of the most controversial issues in recent decades has been how these goods and services should be provided. What is better provided by the market or the private sector, and what should be provided by the government or the public sector?

In developed countries, governments have sold many formerly publicly owned companies and utilities to private companies over the past two decades. Now most people buy their water, electricity or gas from a private, profit-making company. Other services, such as telecommunications, rubbish collection and transport, are also provided by the private sector, which is also becoming involved in education and health care and even prisons and policing services. This model of privatizing formerly public sector utilities like electricity and water is forced on developing countries by international financial institutions like the International Monetary Fund (IMF), the World Bank, and the Asian Development Bank (ADB), who place conditions on their loans. It is also encouraged and promoted by major donors like the United States, United Kingdom, Australia and Japan. This kind of pressure leaves very little room for people to explore alternatives.

From Africa to Asia and South and Central America to the Caribbean there are many failures of privatization. There is no conclusive evidence that privatization of public utilities leads to better service in developed or, more importantly, developing countries, but it very often leads to higher prices. The Dominican Republic privatized electricity and the service got worse and electricity prices are now among the highest in the world. The Bolivian government awarded a 40-year concession to run the water and sanitation system of Cochabamba to Aguas del Tunari, a consortium controlled by Bechtel, a large infrastructure company from the United States. The huge increase in water prices caused demonstrations and riots because people were unable to pay.

The World Bank, the IMF and the ADB say they use the profit-motivated energy of the private sector for the social good in developing countries. This is mindless and particularly cynical when the companies that usually buy into the public sectors are big, rich and powerful, and whose profits come from exploiting the poor. It may be true that in a competitive market private sector companies have to be efficient to make a profit and survive. However, a competitive market does not exist in the provision of water, electricity, health care and education, particularly in a developing country like East Timor.

Moreover public sector services like water and electricity in developing countries are normally unattractive propositions for private sector companies. They require large initial investment, so it takes a long time for companies to make money. If they can't make a profit they don't invest. The UK firm Biwater withdrew from a water project in Zimbabwe because people were too poor to pay the minimum price Biwater wanted for its water; the profit margin wasn't big enough.

To encourage investors in unattractive infrastructure projects, developing country governments can do a number of things. They can raise the prices to increase the potential

profit margin. In Buenos Aires (Argentina) and Manila (Philippines), the governments increased the prices of water and electricity to encourage investors before privatization. Or, they can break up public sector companies, selling off the most profitable parts while keeping the parts that don't make quick profits. In Guinea and Côte d'Ivoire, the governments were able to sell off the most profitable parts of the public water companies, the parts responsible for billing and metering water usage. However, private companies wouldn't buy the other parts, which the governments had to maintain at a loss.

To invest, private sector companies seek guarantees from governments that they will make a profit. These 'take or pay' guarantees mean that a private sector company will build, for example, a power station and take all the profit for 20 to 30 years, and then hand it over to the government. These agreements have caused big problems for developing countries like the Philippines and Vietnam. In India, the government has to pay the disgraced American company Enron for electricity the people of Maharashtra state cannot afford to buy from the Enron-Dahbol power station. In some cases such as in the Kipevu power station in Kenya which is sponsored by the International Finance Corporation (part of the World Bank group), the Kenyan government has had to agree to pay 140% of what is required into a separate bank account to guarantee that the investors get their money. In these cases, the developing countries lose out, while the investors

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## What is La'ó Hamutuk?

*La'ó Hamutuk (Walking Together in English)* is an East Timorese non-governmental organization that monitors, analyzes, and reports on the principal international institutions present in Timor Lorosa'e as they relate to the physical, economic, and social reconstruction and development of the country. *La'ó Hamutuk* believes that the people of East Timor must be the ultimate decision-makers in this process and that this process should be democratic and transparent. *La'ó Hamutuk* is an independent organization and works to facilitate effective East Timorese participation. In addition, *La'ó Hamutuk* works to improve communication between the international community and East Timorese society. *La'ó Hamutuk's* East Timorese and international staff have equal responsibilities, and receive equal pay and benefits. Finally, *La'ó Hamutuk* is a resource center, providing literature on development models, experiences, and practices, as well as facilitating solidarity links between East Timorese groups and groups abroad with the aim of creating alternative development models.

*In the spirit of encouraging greater transparency, La'ó Hamutuk would like you to contact us if you have documents and/or information that should be brought to the attention of the East Timorese people and the international community.*