

OCCASIONAL
PAPER
SERIES

CRYING WITHOUT TEARS

In Pursuit of Justice and Reconciliation
in Timor-Leste: Community Perspectives
and Expectations

Written by Piers Pigou
Edited by Paul Seils
for the *International Center
for Transitional Justice*

August 2003

INTRODUCTION

About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. It provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments, and others. The ICTJ assists in the development of strategies for transitional justice comprising five key elements: prosecuting perpetrators, documenting violations through nonjudicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and advancing reconciliation. The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so.

The ICTJ in Timor-Leste

The ICTJ has been involved in helping Timor-Leste deal with the legacy of past human rights abuse since 2001. The Center has been closely involved in the creation of the Commission for Reception, Truth and Reconciliation and in providing technical advice and assistance as it has progressed. The ICTJ has also worked closely with the Serious Crimes Unit and the UN Missions in Timor-Leste to try to help ensure that their efforts were as effective as possible in bringing perpetrators to justice. Our report, "Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta," evaluates the credibility of the 12 trials that have taken place before the Court since March 2002.

Acknowledgements

This report was commissioned by the ICTJ. Senior Associate Paul Seils was responsible for the project. The National Democratic Institute for International Affairs (NDI) carried out the fieldwork and translations. The conclusions of the report do not necessarily reflect the views of NDI. Many thanks to all those who participated in the focus groups throughout Timor-Leste, and to the focus group facilitators. Thanks also to Sarah Rutledge for her time in the final preparation of the report and to the Centre for the Study of Violence and Reconciliation in Johannesburg, South Africa, for its cooperation in agreeing to the ICTJ's secondment of Mr. Pigou for his work in Timor-Leste.

About the Author

Piers Pigou is an expert in the investigation of human rights violations, having worked with various institutions in South Africa, including the Truth and Reconciliation Commission, and has written widely on matters related to transitional justice in South Africa. He is currently employed by the Centre for the Study of Violence and Reconciliation.

BACKGROUND

Timor-Leste's journey to independence has been turbulent and traumatic. Centuries of Portuguese colonialism, followed by 24 years of violent Indonesian military occupation, have left the world's newest nation badly scarred and traumatized. While clear figures on the scale of the atrocities committed remain elusive, estimates commonly suggest that perhaps up to one-third of Timor's population was killed in the early years of the Indonesian occupation. Thousands more died of malnutrition and disease, many having fled into the mountains trying to escape the invading forces, and others caught in the grip of the Indonesian military's vicious counterrevolutionary strategies. Murder, torture, rape, and other gross violations of human rights were widespread not only at this time, but indeed throughout the history of Indonesia's presence in Timor.

Few, if any, Timorese have escaped unaffected by the violence and the trauma. Indonesia, having long coveted the Portuguese colonial territory, took advantage of civil strife that erupted between rival Timorese political parties during 1974 and 1975. In December 1975, Indonesia's armed forces launched a land, sea, and air invasion that, despite the United Nations' condemnation, resulted in Timor becoming the Republic's twenty-seventh province. It took several years to subdue the bulk of the population, many of whom had fled to the mountains with resistance forces.

Although many of the country's youth are too young to have experienced the 1975 invasion and the bloodshed and severe repression that followed, virtually the entire population was directly affected by the violence, intimidation, and destruction that characterized the antecedent and aftermath of the UN's supervised 1999 referendum (referred to as a *popular consultation*). In response to an overwhelming rejection of Indonesia's offer of autonomy, the Indonesian military, in conjunction with its Timorese militia proxies, unleashed a wave of terror against the Timorese people. Almost two-thirds of the population were displaced; a quarter of a million were forcibly herded across the border into Indonesian territory in West Timor; more than 1300 people were murdered; thousands were raped and assaulted; and over 75 percent of Timor-Leste's infrastructure was razed.

These violent actions were a deliberate rejection of the United Nations process that was agreed on in May 1999. It also confirmed what many had alleged or suspected; namely, that the Indonesian armed forces could not be trusted to maintain security, and had in fact actively sought to undermine it.

The United Nations Transitional Authority in East Timor (UNTAET), which was subsequently established to run the territory and pave the way for independence following Indonesia's controversial and violent withdrawal, was obliged to address the causes and consequences of the widespread violations that had occurred.

Despite calls for an international tribunal like those in Rwanda and the former Yugoslavia, the UN instead decided to support Indonesian government efforts to establish an ad hoc court based in Jakarta. This was a controversial decision given the profound levels of mistrust toward Indonesia, which had never taken any decisive action to hold senior members of its armed forces to account. Although no specific undertaking was made, it remained possible that the UN would revisit the issue of an international tribunal if the domestic Indonesian process were deemed inadequate.

The workings and results of the ad hoc court in Jakarta have been subject to considerable scrutiny and criticism, and international human rights organizations and Timorese civil society have

issued calls to establish an international tribunal.¹ This is at odds with the position of the Timorese government, which has publicly stated that it will not push for such a tribunal, which it presumably believes would undermine its longer-term objectives of building a fruitful relationship with Indonesia.

Within Timor-Leste, the criminal justice system had to be rebuilt from scratch, both in terms of personnel and infrastructure. Understandably, there was considerable pressure on the UN Administration to address past human rights violation issues, and in response it created two important processes. In order to prosecute cases of serious crimes that had occurred during 1999 (before and after the referendum), a Special Panels of the Dili District Court and a Court of Appeal were established. A Serious Crimes Unit based at the Office of the General Prosecutor investigated and indicted a number of Timorese and Indonesians, especially security force and proxy militia members. Although many of those who face prosecution remain outside Timorese jurisdiction, the Special Panels, which comprise both international and Timorese judges, have heard and passed judgment in a number of matters. Thus far, only accused Timorese have appeared before the court.

During early 2002, the UN Administration, in consultation with Timorese political leaders, established an independent Commission for Reception, Truth and Reconciliation (most commonly known by its Portuguese acronym, CAVR). The Commission's mandate is to facilitate the reconciliation process by documenting and investigating human rights violations committed in Timor-Leste on both sides between April 1974 and October 1999. In addition, the CAVR is tasked with putting into place a community reconciliation process for those who committed less serious crimes. The Commission is expected to make detailed recommendations around identified issues that need to be addressed in order to prevent future human rights violations, and it will also identify and respond to the needs of victims of past violations. The CAVR's mandate expires before the end of 2004.

The Special Panels have thus far been able to handle only a portion of the violations committed during the 1999 period (although they have addressed hundreds of cases), and are unlikely to pursue events that transpired during the earlier period of occupation, when the bulk of violations occurred. The CAVR is tasked with documenting and investigating past abuses (on which there is little primary data) and, at best, it will be able to assemble a relatively sophisticated account of Timor's violent past that integrates a structural analysis of what occurred with the consciousness of those who lived through it. In addition, it is anticipated that the Commission's innovative Community Reconciliation Process will handle as many as 1000 cases involving lower-level crimes through approximately 100 community hearings across the country.

¹ Please see the ICTJ's report, "Intended to Fail: The Trials Before the Ad Hoc Human Rights Court in Jakarta," available at www.ictj.org/asia/indonesia.asp, for a detailed analysis of the trials.

RESEARCH OBJECTIVES

Despite a new political, social, and economic order, and these important institutional developments designed to address past violations, the success of this embryonic criminal justice system and nascent CAVR will inevitably be limited, as will be progress toward realizing their objectives. What does this mean in terms of government priorities? How tangible are the interrelated transitional justice objectives of securing justice, peace, truth, and reconciliation for the people of Timor-Leste?

This research seeks to shed some light on these issues from the perspective of ordinary Timorese. We want to know what people think and want to do about the issue of past human rights violations, how they should be dealt with, and by whom. We also want to know what they believe needs to happen in terms of building reconciliation, as well as what they see as the major challenges in this regard and how these might be overcome. Obviously, these issues are not addressed within a vacuum, but within the context of contemporary social, economic, and political realities. Unemployment is rampant, the economy extremely weak, and basic services are embryonic. The exigencies of day-to-day living present fundamental socio-economic challenges. In this context, how important are the objectives of securing justice, peace, truth, and reconciliation?

A series of semistructured focus group discussions were convened to examine an array of interrelated expectations, concerns, and opinions regarding issues of violence and conflict, truth recovery, justice, accountability, reconciliation, and forgiveness. These issues lie at the heart of the Timorese peoples' expectations and experiences, and at the center of Timor's transitional justice concerns.

Timor-Leste's unique transition from brutal occupation to independence carries the hopes and expectations of a long-suffering people. This research seeks to give voice to a range of views and opinions on some of the critical challenges of this "unfinished business" and priorities in the transitional justice arena.

Many of the people we spoke with expressly requested that their views be forwarded to government and other decision-makers, and that they be acted upon. This was the first opportunity for many people to discuss these profoundly important issues and to begin to explore the relationships between the various components. Participants were greatly encouraged that their views were being sought, and placed a premium on developing and enhancing ongoing communication about these and related concerns.

It is important to remember that the views expressed in this report are not necessarily representative of what the general population in Timor-Leste thinks or wants in relation to these issues. Their uniformity vis-à-vis certain matters suggests, however, that such views are indeed widespread. The International Center for Transitional Justice (ICTJ) hopes that this report gives some profile to these perspectives and serves as a constructive contribution to addressing the ongoing and interrelated challenges of securing peace, justice, truth, and reconciliation in Timor-Leste.

SAMPLE AND METHODOLOGY

The ICTJ, in consultation with the National Democratic Institute, developed a list of broad topics and specific questions for the focus group facilitators, who received training and orientation on the subject matter.² These topics and questions are used to develop discussion among the focus group participants. One advantage of the focus group format is that participants are able to discuss the issues in question with one another, so one person's ideas may set off a whole string of related thoughts and ideas. Similarly, one participant may disagree with and question the remarks of another. Such interactions can provide deeper insights into the subject matter than would be ordinarily gleaned from a series of individual interviews.

Twelve focus group discussions were convened, involving 82 people in 6 of the country's 13 districts.³ Six of the groups were exclusively men, five were only women, and one comprised all women with the exception of one male.

Eight of the groups were convened in urban settings, with four in the capital, Dili, and one in Baucau, Maliana, Manatuto, and Liquica. The remaining four groups were held in rural areas in the districts of Baucau, Viqueque, and Aileu.

The participants came from a range of backgrounds, including the unemployed, students, farmers (formerly civil servants and guerilla fighters), teachers, merchants, community leaders, NGO employees, business professionals, and so on. Ages ranged from 19 to 61.

In addition, we spoke with four groups who were chosen because of their specific backgrounds and experiences. These included two groups of former political prisoners (one male, one female), a women's group that had been established in Liquica in the wake of the 1999 violence, and a group of widows that meets regularly in the town of Maliana in Bobonaro district.

Discussions were held and facilitated in Tetum, the lingua franca of Timor-Leste. These were translated into Bahasa Indonesian and subsequently into English. Unfortunately, a certain amount of detail and nuance is inevitably lost in this double translation process. Each group spent on average more than three-and-a-half hours in discussion, which reflects the deep level of interest in the subject matter and the high level of participant involvement.

² The Focus Group Discussion guideline is set out in Appendix 1.

³ A breakdown of the groups is set out in Appendix 2.

CRYING WITHOUT TEARS

In Pursuit of Justice and Reconciliation in Timor-Leste: Community Perspectives and Expectations

EXECUTIVE SUMMARY

The Democratic Republic of Timor-Leste faces unique challenges as it attempts to build a viable independent nation, literally from the ashes of colonial and imperial occupation. With a population of less than one million, the scale of human rights violations visited on the Timorese is staggering. As many as a quarter of a million people perished during the Indonesian occupation, and thousands more were tortured and abused. Timor-Leste became the counterinsurgency playground of the most powerful and ruthless armed forces in Southeast Asia, while a privileged elite closely associated with Indonesia's political leadership systematically pillaged its natural resources as it resisted international pressure for change. The fall of the Soeharto regime and domestic developments in Indonesia provided the Timorese with an opportunity to make their voices heard. Despite widespread intimidation from pro-Jakarta militias, backed by Indonesian security forces, the Timorese rejected Indonesia's offer of special autonomy, opting instead for independence. It was a decision not without cost, as hundreds were killed and most of the country's infrastructure was destroyed in the wake of the United Nation's administered referendum. Vast numbers of Timorese were forced or fled across the border to refugee camps in West Timor. Although most have since returned, thousands have not, presenting an enormous challenge around the unfinished business of justice and reconciliation.

The United Nations Transitional Administration in East Timor (UNTAET)—which administered the territory following Indonesia's withdrawal until independence in May 2002—in conjunction with the local political leadership, established a special court and investigation unit to prosecute Timorese and Indonesian perpetrators of the 1999 violence. In addition, a truth commission has been established to investigate past atrocities and to facilitate a community reconciliation process.

Despite widespread resistance and opposition to the occupation, a significant minority of Timorese actively supported and/or became beneficiaries of it. Schisms in Timorese society were not, however, simply the product of occupation, but rather were exacerbated by circumstances and opportunities. These divisions have not dissolved, as exemplified by the tens of thousands of Timorese who remain in refugee camps inside Indonesian-controlled West Timor, apparently too frightened or simply unwilling to return. This is also apparent from the commentary of some of those interviewed during the course of this research.

Using a focus group methodology, this report examines an array of interrelated expectations, concerns, and opinions regarding issues of violence and conflict, truth recovery, justice, accountability, reconciliation, and forgiveness. For many, this was the first opportunity to discuss such issues and, consequently, even though many aspects are clearly interrelated, participants did not always deal them with in this way. By the end of the discussion, however, when groups were asked what they felt was most important—justice, truth, peace, or reconciliation—many individuals understood that these issues were closely related and impacted one another.

The report examines participants' expectations and experiences of independence in the current context of Timor-Leste. Opinions are by no means uniform, but many construe the current situation in terms of "pros" and "cons," where newly won freedoms and opportunities are balanced by socio-economic realities, challenges, and uncertainties. Such difficulties are compounded by concerns that only a select group are benefiting from independence, and a

general sense that many of those who sacrificed for independence or who have special needs in the new state have been abandoned. As such, the injustices of the past are compounded by discriminatory practices in the present.

Our focus is on the issue of human rights violations. Most Timorese have been exposed to some form of violence and repression, and it is important to remember just how pervasive it was. Consequently, participants were asked a series of questions about what they perceived as the core characteristics, causes, and drivers of the past violence and conflict, and what impact it had on their lives. Although most identified Indonesia, and its political and security force leadership, as the primary perpetrators, many participants recognized the role that Timorese had played, and the significance of divisions between Timorese political parties.

Although there was some reluctance to provide detail on how the violence impacted upon them, most participants recognized that their current circumstances are a direct result of the conflict and violence of Indonesia's occupation and withdrawal. This has resulted in an array of general and specific needs; some relating directly to the broader development and transformation agenda of the new government, and others involving specific needs regarding truth recovery, justice, and medical and psychosocial services. Once again, the issue of special needs for particular groups was raised, as were concerns regarding inadequate governmental response.

Focus group participants were also asked to voice their opinions regarding contemporary issues of conflict and violence. Despite a distinct qualitative difference in the context and nature of the conflicts and violence now affecting independent Timor-Leste (including concerns about social violence, criminal violence, etc.), it is clear that the contemporary situation is firmly rooted in the country's conflicted past. As in any transitional situation, it is simply not possible to draw a line between the past and present situations.

Whether past or present, issues of violence and conflict inevitably raise questions around truth, justice, and accountability. The remainder of this report examines participants' attitudes to these issues in relation to gross violations of human rights. Once again it is important to recognize that opinions and attitudes vary.

Establishing the truth relating to past violations is a central objective of the special prosecution and truth commission processes in Timor-Leste. Most focus group participants felt it was extremely important for the Timorese to know the truth about what happened, both in terms of their personal situations and regarding broader the community and society in general. The significance of writing Timor's "history" was raised repeatedly.

While truth-recovery processes are integral to issues of justice and reconciliation, it is evident that the truth regarding many human rights violations has not been uncovered or recorded. Consequently, justice remains largely intangible for most victims. Most participants did not have a detailed knowledge of who was doing what in the field of justice, although many understood that responsibility for securing justice lay both with the Timorese and international governments and agencies. In the context of an embryonic formal justice system, it is also important to recognize the widespread support expressed among participants for a continued (and expanded) role for traditional leaders and customary law.

Holding perpetrators accountable for abuses has widespread support among these focus group participants. Such calls for investigations and prosecutions of both Timorese and Indonesians, however, sharply contradict recent statements from the Timorese government, which, in relation

to the crimes of 1999, has become increasingly ambivalent and ambiguous about bringing those with the greatest responsibility to justice.

Although many participants felt perpetrators should be punished, most thought it was the court's responsibility, and that the nature of the punishment should reflect the nature of the crime. A number of people regarded establishing liability and punishment as integral components of the reconciliation process, as victims would be able to come to terms with violations only if those responsible were held to account. In addition, a number of participants highlighted the importance of confession and apologies.

For many, reconciliation remains a largely intangible concept, but participants expressed a range of opinions about what they felt were the most appropriate processes for securing reconciliation, the important role of leadership and key preconditions, and major obstacles facing the process.

Most Timorese recognize the interrelationship and interdependency of the core transitional justice goals of accountability, peace, truth, and reconciliation. Many have lost everything, and still expect that the government will somehow address these losses. Even in the context of acute social and economic deprivation and the daily struggle for survival, the need and desire for justice remains a priority for many. Opinions vary on exactly what shape this justice will or should take, but many agree it must address issues of truth recovery and accountability—without it, the prospects for sustainable reconciliation are dire.

It is evident that the challenges facing Timor-Leste's transitional justice objectives are immense: the scale of the abuses, the limited capacity of available remedial mechanisms, and the scarcity of resources are compounded by severe contemporary socio-economic problems and difficult conditions vis-à-vis security. Above all, however, the reality of international politics and economics and the relative weights of Indonesia and Timor-Leste make the choices of the Timor-Leste government appear somewhat limited. What it does decide to do, however, should be guided not only by expedience and the current constraints, but also by the hopes and needs of its people.

The government's credibility will be severely tested if it does not explain its reasoning and motivations behind whatever path it choose. Already, some feel that the government has abandoned those who have sacrificed and those most in need for reasons of political expediency. Regardless of whether this is actually the case, it is evident that strong feelings are developing. The need for effective participation and communication has been highlighted, and the government ignores this at its peril.

CONTENTS

- I. The “Sweet Fruit” of Independence?
 - A. Expectations for Independence
 - B. Independence—Who Benefits?

- II. A History of Conflict and Violence
 - A. The Impact of Past Violence
 - B. Conflict and Violence in Independent Timor

- III. Human Rights Violations and Truth

- IV. Human Rights Violations and Justice
 - A. What Is Justice?
 - B. Who Is Responsible for Justice?
 - C. The Role of Traditional Leaders

- V. Human Rights Violations and Accountability

- VI. Reconciliation and Forgiveness
 - A. Conditions for Reconciliation
 - B. Reconciliation Processes
 - C. Obstacles to Reconciliation
 - D. Reconciliation and Government Responsibility
 - E. To Forgive or Not to Forgive

- VII. The Road Ahead—Challenges and Opportunities?

APPENDIX 1: Focus Group Discussion Guideline

APPENDIX 2: Focus Groups

CRYING WITHOUT TEARS

In Pursuit of Justice and Reconciliation in Timor-Leste: Community Perspectives and Expectations

I. THE “SWEET FRUIT” OF INDEPENDENCE?

“Independence could bring light to the people of Timor-Leste.”

[Women’s group member, 40 years old, Dili]

Independence has a special meaning for the majority of people in Timor-Leste, given the pain wrought and the sacrifices made to achieve it. A number of focus group participants recognized and remarked on this.

“This independence has been bought by the blood and souls of Timor-Leste’s people.”

[Female health worker, 37 years old, Baucau]

“Getting independence was paid by a high price, for we got it with lives, blood and tears, belongings, and other things.”

[Male villager, 34 years old, Laga, Baucau]

Indeed, many Timorese lost everything—including loved ones, possessions, livelihood, and homes—in the course of the violence and repression. Although the entire nation was subjected to occupation, some were particularly victimized, and as such are seen as deserving of special attention.

“We cannot measure the sacrifice that been given by the people of Timor-Leste, but we hope that the government can give special attention to the families of the victims in general.” [Male professional, Baucau]

During the discussions, many groups returned again and again to the themes of “special attention” for victims and the new government’s responsibility in this regard. While there was a pervasive sense of the sacrifices that were made to achieve independence, for many, the jury was still out in terms of whether, and to what extent, the struggle had been worthwhile, and to what extent their independent status had been able to address their losses.

A. Expectations for Independence

Participants were encouraged to talk about what they had expected from independence and whether those expectations had been met.

Independence for many is synonymous with “freedom,” “opportunity,” and the right to determine one’s own future, which had been denied under Indonesian rule. First and foremost, this meant an end to foreign domination and control, and the introduction of a government chosen by the people.

“My expectation about independence was that we would stand on our own feet, which means...that everything would be controlled and dealt (with) by us without pressures from other countries.” [Male villager/teacher, 42 years old, Baucau]

“We people from Timor don’t want to be like a horse that other people ride.”
[Male villager, 30 years old, Ossu, Viqueque]

At a more practical level, freedom meant an end to stringent controls over movement within the territory, as people would no longer be forced to carry the National Identity cards that had become a symbol of foreign occupation. While some Timorese were undoubtedly beneficiaries of occupation, most were subjected to systematic discrimination.

Some, therefore, saw independence as a basis for meaningful development and brought hopes for improvements and equity in employment prospects, enhanced food security, better educational opportunities, and general improvements in the social and economic environment.

“This freedom could lead us to life where democracy is fully implemented. Now we as a society refuse to suffer more, but we want a better life in this era of independence.”
[Female political prisoner, 38 years old, Dili]

In addition to opportunity, independence also brings responsibilities.

“Independence means that we have to stand on our own. But we have to use it properly inside of our democratic country because this independence cost us a lot.”
[Women’s group member, 32 years old, Dili]

Most participants expressed the desire for peace and security as the main “hope” for independence, which would mean an end to the fear, insecurity, violence, and intimidation that had characterized the occupation.

“My expectation was that when Timor-Leste gained independence, everybody would be free to walk to anywhere without fear of intimidation, terror, and other things.”
[Male villager/teacher, 39 years old, Baucau]

As to whether expectations had been satisfied, some participants claimed they had been met or partially met, while others felt that their hopes had been dashed or simply were not tangible.

Securing independence and ending Indonesian occupation was in itself a remarkable achievement.

“My hope has been achieved because the soldiers and the people of Indonesia have returned to their country.” [Women’s group member, 32 years old, Dili]

In this context, most recognized an acute improvement in the overall security situation, and most participants said they certainly felt safer now than they did before.

“I see now that I have lived in independence; there is no more terror or intimidation, and no more KTP [ID cards] inspection as there was in the Indonesian era.”
[Female teacher, 32, Baucau]

“Independence is very good because there is no more oppression, violence, and fighting, and we can live freely.” [Male political prisoner, 30 years old, Dili]

Opinions were not uniform, however, and participants raised concerns about recent incidents of violence in Bobonaro and Ermera districts allegedly involving former militia members still residing in the border areas of West Timor.

“My dream of a peaceful life after independence apparently is not coming true, because there are still conflicts and murders in our region; for example, in Atsabe and Atabae.”
[Widow, 35 years old, Maliana]

Districts adjacent to the border were the hardest hit in the postreferendum violence. These attacks, which took place in the first half of 2003, have been blamed on Timorese militia groupings operating from across the border. According to both the United Nations and Timorese government, these elements represent a significant security threat. However, participants raised the presence of these groupings across the border primarily in the context of obstacles to building reconciliation.

Despite distinct improvements in personal freedoms and safety, interpersonal and domestic violence has increasingly come under the spotlight in Timor-Leste, highlighting a social blight that continues to seriously affect many, particularly women.

“I am still afraid because women’s rights are not respected; sometimes there is no security for women because rapes still occur. So for me, independence doesn’t exist yet.”
[Female student, 23 years old, Manatuto]

Although half our focus groups were exclusively women, only one or two participants raised this specific issue. While violence against women is recognized as a contemporary concern, the relationship and connection between past and present manifestations was not broached during any of our discussions.

The removal of Indonesia’s omnipresent security and intelligence machinery had imbued a sense of freedom among many participants.

“Independence is a very good thing because now we are already free, unlike before, when there were always intelligence and spies around us.”
[Female political prisoner, 27 years old, Dili]

“Although our nation is the poorest nation in the world, a nation that is lacking in so many things, the most important thing is for us to live in freedom now.”
[Female retailer, 40 years old, Baucau]

These new freedoms and their benefits were experienced in a number of ways—freedom of speech, freedom of movement, a greater distribution of information, improved communication between leadership and the people, and a sense of participation and inclusion. Some participants pointed out that independence had also created an opportunity to introduce a new constitutional state, where the rule of law is fair and equitable.

“Independence brings freedom. Moreover, I always do everything according to the law. If I break the law, then I am the one who will receive the punishment, not like the situation under the Indonesian government, which protected the guilty and persecuted the innocent.” [Women’s group member, 28 years old, Liquica]

However, the theoretical and practical opportunities that independence has offered must be tempered by the reality of most people's circumstances. The struggle for independence has sapped the means of many Timorese, leaving few resources with which to build their new lives.

"We have fought against the Indonesian government for 24 years, and all of our wealth is gone, therefore, we want freedom. Everything has gone; nothing is left for us."

[Male villager, 61 years old, Ossu, Viqueque]

B. Independence—Who Benefits?

Within most of the groups, concerns were raised about the limitations of independence experienced thus far.

"We have independence now, but I haven't felt the value of this independence."

[Women's group member, 32 years old, Dili]

Former female political prisoners in Dili, for example, acknowledged the success of removing an oppressive occupying regime, but were virtually unanimous in their concerns that independence has yet to be realized for many, as living conditions in Timor-Leste have remained extremely difficult.

"My expectancy about this independence was to have a better life. However, in my opinion, it seems like we do not have independence at all because the suffering that I felt in the past is still there." [Female political prisoner, 32 years old, Dili]

"What I always wanted I still do not get, because there is still unemployment, KKN,⁴ high educational fees, etc. So my hopes have not been fulfilled. If all those things are settled, then my hopes will have been fulfilled." [Female retailer, 33 years old, Baucau]

Although many were suffering, the situation was particularly desperate for some groups and individuals.

"My dream was to be able to work after independence arrived, but it has not been achieved, since I am still not working now. My life has been so miserable, along with that of my children, who have lost their father in the aftermath of the war in 1999."

[Widow, 45 years old, Maliana]

The loss of loved ones, principally breadwinners, compounded the situation for many people by undermining opportunities to secure a basic standard of living, put food on the table, send children to school, and so on.

"It's already very hard to earn money for food, let alone to pay the school fees."

[Widow, 35 years old, Maliana]

The government was singled out for criticism for not adequately addressing the people's needs.

⁴ KKN is the Indonesian acronym for Corruption, Collusion and Nepotism. It is commonly used and understood in Timor-Leste.

“I am not too happy with this independence because actually the government’s performance does not accommodate the people’s expectations.”

[Male political prisoner, 42 years old, Dili]

Widespread expectations existed that the government would address a range of social and economic needs. This included concerns about housing and land, water, roads, electricity, and so on. The prohibitive costs of education were repeatedly raised.

“In the past, we fought for independence, sacrificing everything—property, times, and even our souls—with a hope that we would obtain better education after we achieved independence. However, you can see what’s happening with education, which is very expensive; on the other hand, we are unemployed. How can we get the money for education? Everything is difficult, even to meet our basic needs (food).”

[Male political prisoner, 41 years old, Dili]

With endemic levels of unemployment, many viewed the creation of jobs as the gateway to independence, and those who didn’t have employment or some means of generating income would be left behind.

“Independence on the one hand brings advantages to people who already have jobs, but just brings agony to others who are still unemployed.” [Widow, 55 years old, Maliana]

Economic conditions in Timor have not improved significantly for many people, and for some—especially farmers and others living in the rural areas—they have gotten worse. Farmers, facing fierce competition from foreign imports, are struggling to sell their agricultural products. Elsewhere, some commodity prices (e.g., for rice and coffee) had fallen cutting into the farmers’ income, and some rural participants expressed concerns that independence was disproportionately benefiting urban interests.

“We, the rural people, have a very hard time in making a living as a result of the unprofitable sale of our agricultural products in the market, while the leaders are enjoying their fancy cars.” [Male villager, 40 years old, Aileu]

A number of “vulnerable” groups were identified as deserving special attention. Several participants specifically raised the issue of Timorese youth in relation to education and employment circumstances and opportunities. Of particular concern in most focus groups was the lack of attention given to those, young and old, who had sacrificed for the struggle.

“People who fought for 24 years—sacrificing everything for the independence of Timor-Leste, the families of the victims, the fighters who preceded them—have not gained benefits from this independence.” [Male villager/teacher, 39 years old, Baucau]

Some posited that while participants and victims of the struggle continue to wait for assistance, “less deserving” folk were reaping the benefits of independence. Participants leveled criticism at a number of groups in this regard, especially the incumbent political leadership.

“It seems that independence is not for the people, but what I see is that independence in Timor-Leste is only for political leaders.” [Female teacher, 33 years old, Baucau]

Some felt those who had been in exile and then returned were benefiting disproportionately. Former political prisoners feel particularly strongly about this issue.

“The freedom fighters once believed that their merits and struggle would give their children better opportunities for better future. They sacrificed everything, even their souls, for the independence of Timor-Leste. However, up to the present time, what they dreamt in the past is not yet realized. Independence is just enjoyed by certain group of people, the opportunists. During the wartime, these people migrated to other countries. They never felt the bitter struggle of the people fighting against Indonesia’s armed invasion. These kinds of people always take good chances, they avoid bad situations, and then return home as the situation improves.” [Male political prisoner, 52 years old, Dili]

“The elite politicians had wings to fly when the situation was not normal and protected themselves in other countries, leaving the ordinary people behind to suffer.”
[Male political prisoner, 40 years old, Dili]

“The reality is that only certain people or group of people are enjoying independence. They do not know anything about the people’s suffering during 24 years of Indonesian military regime. Now, they govern and serve this country, but I think they haven’t succeeded yet in creating good conditions in Timor-Leste, because we still can see many people are hungry everywhere.” [Male political prisoner, 30 years old, Dili]

Some went further and drew a political distinction between those who had benefited from independence and those who had not.

“The independence of Timor-Leste is enjoyed only by certain people, and meanwhile the people are living in difficult circumstances.... Government (officials) are ‘fat,’ meanwhile the people are very ‘thin’...we are facing many difficulties; starvation is everywhere, children cannot go to school because their parents are not able to pay expensive tuition, people are living in shortage.” [Male political prisoner, 30 years old, Dili]

“Most government officials represent their political party. Actually, they are supposed to represent all Timorese people. So I think, what became apparent to the public is that the government is solely representing its political party (Fretilin).”
[Male political prisoner, 40 years old, Dili]

As shown below, a number of participants construe the current situation in terms of “pros” and “cons,” where newly won freedoms and opportunities are balanced by socio-economic realities, challenges, and uncertainty. In addition, the benefits of independence have not been “rolled out” in terms of effective governance, recognition, and authority, particularly at the local government level. Male villagers from the Baucau district, for example, complained that despite independence, their village still did not have proper status or recognition, effectively leaving them in limbo and acutely frustrated with political leaders.

While several participants claimed they did not have unrealistic expectations of what an independent Timor-Leste could deliver, others pointed to enduring socio-economic concerns and corruption as indicative that independence from occupation alone would not suffice.

“My heartache hasn’t been cured yet. In a colonization era, poor people suffered the most and, up to now, there hasn’t been any attention from political leaders because they think only about their positions; besides, corruption, collusion, and nepotism still exist. These kinds of attitudes only add to the people’s sufferings. There are still many conflicts, and we are still traumatized by flashbacks of our past sufferings during the colonial era;

we afraid that we will face it again. So, the independence does bring freedom, but not national stability.” [Women’s group member, 29 years old, Liquica]

To a certain extent, coping with contemporary realities masks and obscures concerns and priorities relating to past abuses. Many of the participants were direct victims of the violence of occupation, and they hoped that independence would also bring an end to the impunity that cloaked systemic violations in the territory, and that at last there would be an opportunity for justice. For many of these people, independence without justice is meaningless.

“As one of the victims of colonization who lost family, home, and husband, I feel that the liberation hasn’t brought any advantage to my life. When justice is upheld, then the independence, which is obtained by bloodshed, is a true liberation. So, justice is the answer to all sufferings.” [Women’s group member, 29 years old, Liquica]

II. A HISTORY OF CONFLICT AND VIOLENCE

Focus group participants answered a series of questions about past and contemporary conflict and violence that related to their experiences, attitudes, and opinions. We wanted to know what they perceived as the core characteristics, causes, and drivers of the violence and conflict, and what impact it had on their lives. We also wanted to know what the current situation was in terms of conflict and violence, and whether people felt safe and secure in their environments.

Virtually all of the participants had some personal experience of the conflict, and all had a general sense that it afflicted Timor-Leste for many years during Portuguese and Indonesian occupation.

Not surprisingly, the Indonesian occupation was singled out as the period of most conflict, characterized by violence and struggle. Many participants had directly experienced abuses.

“When I was still in jail, with my own eyes I saw some Timor-Leste women who were raped and tortured. That is the violence I saw with my own eyes.”
[Male political prisoner, 51, Dili]

Participants in several groups argued that the root cause of Timor’s problems was the disagreement and internal conflict that developed between the Timorese who wanted independence and those who wanted to forge a closer relationship with Indonesia.

“The ones that started the conflict, including killing and torturing, are Fretilin and UDT. UDT is no longer here, while Fretilin still is.”
[Female political prisoner, 32 years old, Dili]

“In the past, there was a lot of conflict and violence, including, for example, murders between members of UDT and Fretilin. I witnessed the murders in Aileu. My own brother was one of the victims.” [Female political prisoner, 38 years old, Dili]

This conflict mutated and took on different dimensions following the invasion, and the subsequent installation of a pro-Jakarta, Timorese-headed “administration.” Support for the administration came from a range of people, including Timorese beneficiaries of the regime; poor transmigrant peasants who were seeking a new life and new opportunities in Indonesia’s new territory; civil servants from Java, Sumatra, and elsewhere; and, perhaps most important, the ubiquitous security forces.

Opposition to the occupation was widespread, although armed resistance was relatively limited. Clandestine activities resulted in massive crackdowns and indiscriminate retaliation. Increasingly, the youth bore the brunt of the repression, although men and women of all ages were subjected to terrible hardships and violations.

Most participants hold the Indonesian government as primarily responsible for the violence and impunity with which its security forces operated. Most also recognized the role and responsibility of the Timorese that were involved. Most of the male professionals from Baucau, for example, blamed both Indonesians and Timorese for violations, claiming both peoples were involved. Several others felt that the Indonesians had turned Timorese against Timorese in their attempts to divide and rule. Not surprisingly, many participants specifically mentioned the most recent experience with pro-autonomy militia groups.

“They created many conflict in Timor-Leste, including organizations such as Besi Merah Putih, Halilintar Mahidi, Aitarak, and many others that created disorder at that time.”
[Female health worker, 37 years old, Baucau]

Despite Timorese culpability, the primary perpetrator is generally identified as Indonesia, as it was the invader and power broker during the occupation. Despite a few direct references to Fretilin, very few participants referred to the responsibility (and/or culpability) of those who were fighting for independence, as their actions were seen more in terms of “reactions.”

The situation obviously varied in intensity across Timor-Leste, which was reflected in the discussions held by the various groups. Rural participants in Aileu, for example, did not report the same level of conflict as did political prisoners from Dili, reflecting both their experiences and view of the conflict. Age differences also affected participants’ understanding and perceptions of the conflict. Many of the older participants had direct experience of the severe conditions that accompanied the first decade of occupation, when Timor-Leste was effectively cut off from the world. For many of the younger participants, the events of 1999 remained the most germane.

A. The Impact of Past Violence

“I don’t know what to do for the rest of my life because I have nothing.”
[Widow, 55 years old, Maliana]

“We were crying without tears.”
[Male political prisoner, 40 years old, Dili]

Individuals, communities, and Timor-Leste society in general were profoundly affected by the violence. Abuses took place over a lengthy period, the degrees of trauma vary—some experienced multiple violations. Many are too young to remember the early years of invasion, although everyone was affected by the chaos of 1999. Some of the older participants rebuilt their lives after the trauma of the violence and repression that accompanied the invasion and occupation, only to lose everything again in 1999.

“My life has still been a misery since my husband was killed in 1975. The pain wasn’t over yet when we had to face another war in 1999. Every thing we had was gone for the second time.” [Widow, 55 years old, Maliana]

“Since 1974 our lives have always been a misery. When will it end? In 1974, my father was killed in the forest; that was in my childhood. In 1999, my husband was killed.”
[Widow, 45 years old, Maliana]

It is important to remember just how pervasive the abuses were, as virtually every family in Timor has been affected one way or another.

“Human rights violations that happened in previous years have affected me, because I saw those inhumane people kill innocents without thinking that someday there would be punishment for them. It did affect not only one or two people, but every citizen of Timor-Leste.” [Female health worker, 37 years old, Baucau]

The impact of traumatizing an entire nation cannot be measured, but it continues to be compounded by a range of concerns, obstacles, and pressures relating to “unfinished business of the past,” particularly around the related quests for truth and justice, including issues of disappearance.

“In the year 1975, my uncle and my grandmother died. We still feel sad because we can’t find their bodies.” [Female student, 22 years old, Manatuto]

Specific categories of abuse—such as rape, or the impact of being orphaned or widowed—were highlighted as requiring specific attention. The psychological impact of losing a loved one is often further compounded by socio-economic factors. Thousands of homes remain in disrepair, food scarcity or unavailability and malnutrition concerns have not abated, and unemployment is rife.

In a country where family remains at the center of the social fabric, the loss of one or more breadwinners has had a profound impact on many families’ ability to survive. Women head up many households in Timor, and many children are growing up without their fathers. This continues to have a profound impact on these families. All the Maliana widows, for example, felt that their lives remained extremely difficult.

“My sufferings since the era of struggle last up until now; all of my children had quit school because I can’t fund it since their father died. Independence hasn’t brought any benefit to me because my children’s lives and mine are still miserable.”
[Widow, 44 years old, Maliana]

Precise and detailed descriptions of how people were affected, however, were limited. It is important to recognize that these are difficult issues to articulate in terms of impact, especially within a focus group setting that may not be conducive to opening up. However, a few participants did share their personal experiences. One former political prisoner explained that she was so upset after her father and two brothers were killed that she was unable to study and subsequently lost her chance to continue her schooling after the person who paid the fees was also killed.

Many victims feel that the response to their particular situations and the violations in their community have been inadequate.

“Many people died in Uma-Tolu at that time, but up to the present time the incident is gone with the wind. Nobody cares about these human rights violations.”
[Male villager, 43 years old, Umatolu, Viqueque]

Participants widely agreed that the government has specific responsibilities, especially toward particular categories of victims.

“With this conflict and violence, many women became widows and children became orphans. But the government has not paid attention to them; therefore, many people say that we haven’t experienced independence.”

[Women’s group member, 30 years old, Dili]

Many focus group respondents believe that public perception that the government is ignoring these constituencies and issues is likely to compound existing trauma, especially if there are high expectations that something will (or can) be done to address their needs.

For many, past issues are further compounded by the struggle to survive in contemporary independent Timor-Leste.

“I still suffer. I don’t have anything else now. What I possessed during the era of struggle has been auctioned away, part of my house was burnt down, and my husband was killed in 1999.” [Widow, 45 years old, Maliana]

B. Conflict and Violence in Independent Timor

Participants also discussed conflict and violence in Timor-Leste. One clear link to the past was the alleged militia-related violence that occurred in Bobonaro and Ermera, and rumors of potential attacks on the southern coast of Viqueque district during the first quarter of 2003. Significantly, only a few of the groups mentioned this, although the widow’s group (based in Bobonaro District’s capital of Ermera) said it was an urgent and pressing concern. Also of particular interest was the fact that there was virtually no mention of the violent protests that erupted in Dili in December 2002.

Virtually every participant believed that Timor-Leste is now a safer place in which to live. Thanks to the presence of the UN peacekeeping force and civilian police component, as well as the creation of the Timorese defense and police forces, Timor-Leste is getting its first experience of security agencies working essentially for the interests of the people.

A number of participants recognized that, despite these developments, conflict is also a feature of independent Timor-Leste, and that fault lines and fissures are evolving and emerging on a number of fronts. Indeed, an absence of certain conflicts has allowed others to become more visible, although the nature of these conflicts varies from area to area. Rural participants in the subdistrict of Ossu, for example, pointed out that most of their existing conflicts related to competition for resources, especially water.

Several groups raised concerns about the rise of “social violence,” and the levels of domestic and sexual violence against women and children, pointing out that these problems have not been adequately addressed, and will have broader implications in terms of conflict and violence.

“If we cannot implement peace in the family, automatically conflicts happen everywhere.” [Female teacher, 49 years old, Baucau]

The absence of any statistical data makes it impossible, at this stage, to determine just how widespread these phenomena are, although anecdotal evidence suggests it is prevalent.

Several groups raised the issue of crime in general, and the seeming inability of the criminal justice system to address the violent crimes, such as murder, rape, and assault. Many blamed the unemployment situation and difficult socio-economic conditions that disproportionately affect youth.

“Right now we are so oppressed since there are no jobs, which creates so many conflicts.” [Female political prisoner, 27 years old, Dili]

“Right now I feel secure. However, the problem is the young people who always create conflict such as hitting other people or burning cars, and so on, mainly because they are unemployed.” [Female political prisoner, 32 years old, Dili]

Participants raised concerns that these issues are likely to underpin much of the emerging conflict as competition for resources becomes fiercer, development initiatives favor some (but not others), opportunities recede, and the society becomes more polarized, separating the “haves” from the “have nots.”

Many participants were incensed that some of those who were aligned with pro-autonomy elements and had effectively supported the retention of Indonesian rule should benefit from the new democracy, while victims of Indonesian repression did not.

“For example, in the Indonesian era, A is a rich pro-autonomy, and B is just an ordinary person. Now, B still leads the very same life while he sees that A, who used to be a pro-autonomy, now lives a life of luxury and holds a position in one of the offices. These things often create conflicts.” [Female teacher, 33 years old, Baucau]

In this context, a number of conflicts could emerge as a result of frustrations and unrealized expectations. Male professionals from Baucau, for example, spoke about a relatively recent conflict in the local subdistrict, which resulted in a number of houses from one village being burned down. According to the participants, President Gusmao arranged for assistance to rebuild houses in the affected village. These participants were upset that this kind of aid had not been offered to those whose houses were destroyed in 1999.

Indeed, some participants expressed concerns that there would be conflict if the needs of those who had struggled and sacrificed were not adequately addressed.

“If they do not get attention in this independence era, I think they will make problems and create conflicts because their good deeds have not been rewarded. The fact is, the government pays more attention to foreigners than to Timor-Leste’s people.”
[Male political prisoner, 51 years old, Dili]

While this view reflected a certain amount of frustration regarding the lack of action around these issues, it also reflected anxieties that some were benefiting at the expense of others.

“We see that the government officials are only people from the Fretilin Party. It is already a prominent discrimination. All this time, we have talked about democracy, but sometimes the leaders themselves misuse democracy.”
[Female health worker, 37 years old, Baucau]

Participants also mentioned disquiet over real and potential conflicts relating to land, boundary issues, and local governance interests. Land-ownership issues remain unresolved in many parts of the country. During Indonesia's counterinsurgency campaigns, many people were forcibly relocated to other areas in order to facilitate control over the local population and to cut off independence fighters from popular support. Many people have been living in their current locations for more than 20 years, yet land-ownership issues remain unresolved, both in relation to people's places of origin and current residency. One particular rural group in Baucau felt that, after being victimized by Indonesian authorities, the government was victimizing them all over again by refusing to recognize their current status and instead encouraging them to return, which they were not prepared to do.

"We did not move to this region of our own will, but at that time the government enforced us to move here. Now we won't just leave this region. We have lived here for a long time, we have a lot of plants, many of our people have died here. In addition, we also have plowed the land." [Male villager, 34 years old, Umatolu, Viqueque]

Participants in this group felt the government was not serious about resolving these problems. That failure has left their community in limbo, without status, legal authority, or prospects for development.

"We feel like strangers in our own country."
[Male villager/teacher, 39 years old, Baucau]

Timor-Leste is a conservative society in the throes of discovering new freedoms. One or two participants specifically raised concerns about the introduction of relatively radical new concepts that have accompanied this new era of political freedom and human rights, and their belief that the misuse and manipulation of these issues will contribute to increased social violence.

"I see that many conflicts have arisen because many people talk about rights, democracy, and gender. These three things will induce conflicts. Talking about rights gives everybody the right to do anything, talking about democracy allows people to easily do anything they want." [Female teacher, 49 years old, Baucau]

"We know now that social violence is rising in Timor-Leste only because of the influence of environment, media, and family. I guess we can teach and give advice, but people prefer democracy, meaning they can do anything they like according to their rights. People don't realize that democracy can be used improperly. So I am hoping that government will socialize the true meaning of democracy in Timor-Leste so it won't be misused." [Women's group member, 30 years old, Liquica]

Despite a distinct qualitative difference in the context and nature of the conflicts and violence now affecting independent Timor-Leste, it is clear that the contemporary situation is firmly rooted in the its conflicted past. As in any transitional society, it is simply not possible to draw a line between past and present situations.

In Timor-Leste, confronting past human rights violations has become an integral part of the transformation and transitional justice processes. The following sections examine participants' insights and perceptions about past violations in relation to truth, justice, and accountability.

III. HUMAN RIGHTS VIOLATIONS AND TRUTH

Participants were asked whether they knew the truth about past violations, whether they knew who was responsible, why they thought the violations had been perpetrated, and whether they felt it was important to know the truth about such matters.

Most focus group participants were aware of the broad range of violations that took place during the occupation, and many had direct and personal experiences. Not surprisingly, politically active groups (i.e., political prisoners) had considerably more insight, detail, and knowledge on the subject. A number of participants, especially from the Maliana widows and the Dili women's group, felt they knew a lot about what had happened during the occupation, based on their direct experience of, and proximity to, the violations.

The occupation of Timor-Leste was particularly brutal, and when asked why the violations had occurred, most participants offered relatively limited responses. Several were aware of Indonesia's territorial ambitions and, for some, the abuses were "an inevitable consequence of war," and of efforts to subdue and break the Timorese nationalist resistance.

As we have seen, violations and abuses were committed before the arrival of the Indonesians. Some of the older participants explained how conflict arose between newly formed political formations in Timor-Leste during 1974 and 1975. This internal wrangling reflected the political arrogance and intolerance of "unripe political leaders" and provided opportunities which external actors were able to manipulate. It was this inability and/or unwillingness to compromise that some believe created the conditions for what then transpired.

"Each party defended their principle, and weren't willing to follow the other's wants. Such as the principle of those who wanted to defend Timor-Leste: 'life or death in independence.' Such determined principles created conducive conditions for the conflicts and human rights violations to happen." [Widow, 44 years old, Maliana]

A central task of the CAVR is comprehending why the violations were so widespread and brutal, and this will require an in-depth examination of how the conflict unfolded, the detail of specific incidents and the role of specific actors, and the identification of themes and trends (i.e., security force impunity) in the violations.

Most participants hold the Indonesian government and its security forces, proxy militias, and pro-autonomy factions primarily responsible for the violations.

Most participants felt it was extremely important for the Timorese to know the truth about what happened, both in terms of their personal situations and the broader community and society in general. This included establishing who were victims, who were perpetrators, what impact violations have had, and so on. While some participants were keenly aware of what occurred within their own communities, others expressed a desire to know what happened in other parts of the country.

"I am also interested to know all of the violations that happened in other regions beside mine because those incidents happened all over Timor-Leste."
[Women's group member, 33 years old, Dili]

Several focus group members emphasized the importance of recording this chapter of Timor's history.

“It is very important that we know the truth about the violations, because our history that must be written down and be told to the next generations.”

[Female political prisoner, Dili]

“We think it is very important to know the truth of what happened during all this time so that we can tell our children and grandchildren.”

[Male villager, 40 years old, Ossu, Viqueque]

It is hoped that the telling of this history will help prevent any recurrence of such violations.

“The violations from 1974 to 1999 are part of history for the people of Timor-Leste, and also lessons for future generations to prevent such tragedy from happening again.”

[Male professional, 36 years old, Baucau]

“I think it is important to know it because we can prevent the same mistakes from happening again. I think this is a good lesson for us, our children, and the next generation in anticipating and stepping forward toward our future.”

[Male political prisoner, 40 years old, Dili]

“In my opinion, the human right violations are significant and need to be exposed so that everyone can know what occurred, victims don’t feel burdened by what happened to them, and to deter future violations.” [Male villager, 27 years old, Aileu]

Given the pervasiveness of the conflict, this history has personal resonance for most Timorese, which in turn underscores the importance of remembering and honoring those who died, and the significance of memorialization in a country that has previously been denied this opportunity.

“It is important for me to remember my late husband and my two children as some of the victims. This happened throughout Timor-Leste, not only in our area.”

[Widow, 42 years old, Maliana]

For some participants, getting to the truth provided options for victims regarding what to do with that information. As such, it provided a basis for reconciliation and other justice initiatives. For some, this meant criminal prosecution.

“I want people who are guilty to be prosecuted and punished according to the existing law.” [Female professional, 32 years old, Baucau]

Knowing what happened in the past does not, however, mean a desire for vengeance. Interestingly, only one participant called for capital punishment. Indeed, although several participants said they hoped the perpetrators of serious crimes could be imprisoned, this was seen as an integral component of the reconciliation process, and not as vengeance.

“All of you have to know the past. It does not mean that we want revenge on our brothers who were involved in past violations. Most important, they have to realize their mistakes.” [Female student, 22 years old, Manatuto]

Inquiring into and uncovering truths about the past is clearly very important for a number of reasons, from individual, community, and societal perspectives. Several participants recognized the relationship between truth and justice and the need to question the past. It is important to note

that not one participant suggested forgetting and moving on in an attempt to draw a veil over the past.

IV. HUMAN RIGHTS VIOLATIONS AND JUSTICE

“Justice is a way to know who is right and who is wrong.”

[Female student, 19 years old, Manatuto]

Timor-Leste has no experience of an effective and equitable criminal justice system, and consequently, “justice” has been loaded in favor of the powerful occupying forces of Portugal and, subsequently, Indonesia. The justice system has provided little relief from abuse and persecution, and has systematically protected those who have perpetrated violations. Timor’s independent status has begun to open up new opportunities for securing meaningful justice for people in Timor-Leste. The situation is, however, by no means straightforward. The UN was mandated to establish a new justice system, which would also take responsibility for addressing past violations. The extent to which it achieved this goal impacts directly on prospects for the new Timorese administration to take these processes forward.

To a large extent, justice remains intangible, and consequently theoretical, for many.

“We always talk about justice, but there is no implementation. We can strive for our rights, but there’s been no realization yet... I don’t understand the true side of justice because I haven’t seen its benefits.” [Women’s group member, 29 years old, Liquica]

Participants were asked what justice meant to them, who they felt was responsible for delivering justice, the role of traditional leaders in this process, and how well they felt the organizations working in the field were faring.

A. What Is Justice?

Justice is understood in terms of both its process and its outcomes. Many focus group members focused on the retributive aspects of justice, the application of law and order, and punishment.

“Justice is when guilty people are prosecuted or punished in accord with what they did.”
[Female teacher, 33 years old, Baucau]

“Justice is the place where the perpetrators of human rights violators stand for trial and are proportionately punished.” [Widow, 35 years old, Maliana]

Some view justice as the process of apportioning responsibility, establishing the truth about violations, and determining who is victim and who is perpetrator.

“Justice for me means finding out the truth through a judicial process.”
[Male villager, 35 years old, Ossu, Viqueque]

“I think the meaning of justice and truth is almost the same. Getting to justice and the truth through investigation will eventually lead to the reality of what the perpetrators have done, so that the judge can give a fair verdict based on the crime.”
[Male professional, 28 years old, Baucau]

“When the perpetrator of human rights violations is put on trial, he can take responsibility for the acts committed.” [Male professional, 36 years old, Baucau]

“Justice is a legal process that secures convictions in a court, so that the guilty can be held responsible for what they have done. If they are found guilty, then they are supposed to go to jail.” [Female political prisoner, 39 years old, Dili]

Some participants stressed the importance of equality before the law.

“I want us to be true to justice so that a guilty person is convicted—be it a rich person, an important person, or a government official. If he is at fault, then there is no mercy for him. His place is in jail.” [Female retailer, 33 years old, Baucau]

“All of the people involved in violations of human rights must be tried by the law without exception, whether the perpetrators come from the elite or civilian ranks, whether they are rich or poor.” [Male professional, 28 years old, Baucau]

“We, the people of Timor-Leste, do not want a recurrence of what happened under Indonesian rule. At that time, a guilty person could be freed and an innocent person could be sentenced to jail. In addition, money could buy justice. Now, Timor-Leste is an independent country and we hope to have honest and independent justice.” [Male villager, 24 years old, Umatolu, Viqueque]

Participants in several groups emphasized the importance of due process and fair trials, and the necessity of avoiding delays in justice for both victims and perpetrators. Not everyone, however, supported the utilization of “formal” justice processes. One participant, for example, referred to the importance of “popular justice,” but did not provide further detail on what this would involve, outside of being more participatory.

*“Justice for me is the existence of *Justica Popular*.⁵ In this way, the people can directly determine who committed or was involved in human rights violations.”*
[Male villager/teacher, 34 years old, Baucau]

Some viewed the importance of addressing past violations as an integral component of establishing the rule of law for the current and future system. While most participants felt the government should respond to the people’s wishes, a few recognized that government was faced with a host of priorities.

“The government should set its main priorities, which should be put forward, and we, the people, will not force the government to follow our opinion on this matter.”
[Male professional, 28 years old, Baucau]

Some focus group members addressed justice issues in terms of its restorative components. When asked about organizations working towards justice, many referred to the CAVR, and others construed justice through the prism of reconciliation and repairing relations and the social fabric.

⁵ The concept of “Popular Justice” was not explained or explored in any of the focus groups. Consequently, it was not entirely clear what was being suggested, outside instituting a process that was more inclusive of local people.

“Justice is to fix the relation between victims and the convicted after they are tried by the court.” [Female political prisoner, 32 years old, Dili]

“Justice is to rectify past mistakes so that we can mend them now to ensure they will not be repeated in the future.” [Male villager, 34 years old, Baucau]

For others, justice also incorporates acknowledgment for wrongdoing.

“Justice is when the convicted admits all of their crimes in the court, so that they can be responsible for their past actions.” [Female political prisoner, Dili]

B. Who Is Responsible for Justice?

Focus group participants hold the government of Timor-Leste and its domestic agencies, as well as the United Nations and the international community, responsible for securing justice in the territory. Responses to this question were qualitatively different, from a few relatively sophisticated responses that explored the different roles of the executive, legislature, and judiciary, to the bulk of respondents who simply stated that government and the courts were responsible. Some participants also suggested that justice should be dealt with at that level.

Most participants did not have detailed knowledge of who was doing what in the field of justice. The court system remains embryonic, and has yet to be developed in many areas. Within Timor-Leste, a number of participants were aware of the activities of nongovernmental organizations, such as Yayasan Hak and Fokupers, which work on justice-related issues. Several people also mentioned the CAVR.

Many participants felt that the Indonesian government bore a direct (and joint) responsibility for upholding the law in relation to violations committed in its name. Participants in some of the groups were aware that Indonesia had embarked upon its own process in relation to alleged abuses in Timor. They were not optimistic that the ad hoc Jakarta process would or could deliver justice and uncover the truth.

In terms of international responsibility, some participants, including former political prisoners, made a distinction between internal Timorese conflict issues, which they argued were the responsibility of the Timorese government and its fledgling justice system, and the role of Indonesia in East Timor, which is an international/UN responsibility.

These and others argued that the Timorese government has a direct responsibility to lobby for an international tribunal and to facilitate this with more in-depth investigations, the provision of evidence, and so on.

“We are talking about human rights violations. This is not a family problem, but instead an international issue. Therefore, the government of Timor-Leste should solve the problem internationally.” [Male political prisoner, 52 years old, Dili]

Some participants raised concerns that the government’s silence on this issue was problematic. Recent statements from the Timorese government that it does not support calls for an international tribunal are likely to be unpopular in a number of quarters.

“It is the hope of the people. But if justice contradicts the people of Timor-Leste, then the people will not be satisfied. It will be like an unhealed wound, and if there is friction, the wound may open again.” [Male villager/ex-Falantil, 38 years old, Baucau]

Participants from a number of the groups were quite clear on why they felt this was an international responsibility.

“According to the 5 May 1999 agreement, approved by UN Secretary-General Kofi Annan, Indonesia is responsible for the security during and postreferendum. However, TNI, the police, and militias broke the agreement by spreading violence to Timor-Leste. Therefore, I think Indonesia and the UN should be responsible for the violence.”
[Male villager, 43 years old, Umatolu, Viqueque]

“Because the conflict involves both Timor-Leste and Indonesia, the UN should be the one to resolve it, based on international law.” [Male professional, 29 years old, Baucau]

“The UN should be in charge of solving the case based on international law because it is also related to international matters, not simply local matters.”
[Male professional, 36 years old, Baucau]

“(An) international court should be established to punish the guilty who are not Timorese.” [Women’s group member, 40 years old, Liquica]

Some group participants made specific mention of the role of the CAVR in the context of delivering justice. There was a general awareness that the CAVR’s role and function relates to recording and investigating violations, and that it would present recommendations for the government to take forward, but also that its mandate is limited.

“What I know is that the Commission works for two years and after that reports the results to the government. My question is: what will the government do about the cases?”
[Women’s group member, 29 years old, Liquica]

Some made a distinction between the institutions on the basis that various problems require different remedies and that the courts should address gross violations of human rights, whereas lesser violations can be resolved by other means. Within this context, participants explored the role of traditional leaders and the importance of resolving problems in a Timorese way.

“To solve a problem, the government should not be influenced by European culture, because Timor-Leste has its own culture.” [Male professional, 28 years old, Baucau]

C. The Role of Traditional Leaders

Most participants supported the involvement of traditional leaders in the justice system, even though this would necessarily depend on the type and seriousness of the case. The inclusion of traditional leaders and customary law⁶ is regarded as a critically important “first stage,” before matters get taken up in the formal criminal justice system.

⁶ For an overview of the role of customary law in Timor-Leste, see “A brief overview of the role of customary law in Timor-Leste,” Dionisio C.B. Soares, a paper presented at the International Conference on “Timor-Leste—Towards Self-Determination: The Social and Cultural Questions,” Faculty of Education

“The problems have to be classified based on their significance. Minor problems don’t have to be brought to the upper level, but only need to be solved by the people through tribal leaders. Major problems need to be channeled to the higher levels to receive satisfying solutions.” [Male villager, 22 years old, Aileu]

“Their duty is to settle the small problems in a traditional way so the victims and perpetrators can be accepted again by society.” [Village head, 41 years old, Maliana]

“Traditional leaders play fundamental roles in overcoming any problems in the village based on local tradition or culture.” [Male political prisoner, 40 years old, Dili]

In many respects, this role is understood in terms of its interrelated roles of holding people to account and helping to reconcile them.

“The tribal leader can reconcile the conflicting parties and can mete out punishment in the form of compensation so that those parties can live together.”
[Male villager, 40 years old, Aileu]

“The traditional and customary leaders know better how to solve any problem so that the victim and the offender are willing to forgive each other.”
[Male political prisoner, 40 years old, Dili]

Matters that cannot be handled at this level can be referred to the formal criminal justice system.

“Problems should be solved through the tribal leaders. If a problem cannot be solved, it should be brought to a higher level through Chefe de Aldeia, and if necessary, it can be channeled to the police to protect one’s rights.” [Male villager, 30 years old, Aileu]

As such, there is some recognition that traditional leaders’ involvement could take considerable pressure off an already overburdened and under-resourced system by addressing matters at the local level. There is no uniform opinion on what sorts of matters could be dealt with at this level, although some suggestions (at times controversial) were proffered.

“I believe that traditional leaders have the competence to solve problems like theft, land disputes, and family affairs, because within the constitution, these rights are already preserved. At the same time, adat⁷ leaders cannot handle political problems and other issues that lead to serious crime.” [Male professional, 28 years old, Baucau]

“I think traditional leaders have the responsibility to promote justice in Timor-Leste, but we should also consider the context of the problem. If the problem is related to politics, then it is beyond the traditional leader’s capacity. But, if the problem is related to rape, family affairs, and land dispute, the traditional leader has the competence to solve it.”
[Male professional, 36 years old, Baucau]

Some group members felt inadequate attention was given to the role and potential of traditional leaders. This was also reflected in the widely held view that traditional leaders had performed

and Languages, UWS Macarthur, Sydney, July 15–16, 1999. Research School of Pacific and Asian Studies, The Australian National University.

⁷ *Adat* is the name of the local systems of customary law.

well under the circumstances and that there was a general acceptance of their authority, even though their positions were not yet officially recognized or remunerated.

Several participants felt that the domestic and international NGOs that focused on Timor were doing a reasonably good job, and that it was important to appreciate the limitations of what they could achieve.

“(N)ational or international organizations that work on justice in Timor-Leste are reliable in the way they perform their job. They can channel complaints from the people to the government. It is just that they can only channel aspirations, but they cannot yet solve the problems.” [Male villager, 34 years old, Baucau]

Under the current circumstances, some also felt that the courts were doing reasonably well, having imprisoned some perpetrators, but realized that much more was required.

“They’ve done a pretty good job; it’s just that we hope they can seize all of the perpetrators of the killings, rapes, tortures, and arsons. We will not be satisfied until we see all the culprits are punished.” [Widow, 35 years old, Maliana]

There was considerable concern that efforts to bring perpetrators to justice would remain limited.

“I think sometimes organizations that work for justice in Timor-Leste only talk about theories and we never see them realized.” [Male political prisoner, 51 years old, Dili]

Such concern was complemented by related fears that expectations had been raised by the considerable interest that a number of organizations showed in the violations. There was considerable criticism leveled at organizations that simply “took data” and did not conduct any apparent follow-up or provide further communications or feedback. Consequently, some feel it is not very clear what these NGOs have achieved.

“NGOs in Timor-Leste are opening up shop, but what have they done for our society?” [Women’s group member, 31 years old, Dili]

Most participants felt that, despite certain developments (e.g., the establishment of the Special Panels and the CAVR), the government had yet to deal effectively with past violations. There was some support for the CAVR’s work, but anxieties that it had employed people who sided with integrationist forces, and therefore might share responsibility for what happened.

V. HUMAN RIGHTS VIOLATIONS AND ACCOUNTABILITY

Participants were asked whom they held most responsible for the crimes committed between 1974 and 1999, whether those involved in planning and executing the crimes should be punished, and if so, what sort of punishment they should receive. Participants indicated who they thought should punish them, whether there were some people who should be able to avoid punishment, and whether they should have to give anything as reparation.

Not unexpectedly, Indonesia was accused of bearing the primary responsibility for the crimes and violations committed.

“The government of Indonesia is responsible for the violations of human rights that took place between 1974 and 1999. Because the people of Timor-Leste wanted freedom, the

government drew up a strategy and formed various organizations (Militias) in 13 districts to create conflict between the people of Timor-Leste.”

[Women’s group member, 30 years old, Dili]

Several group members pointed out the responsibility of other countries, both in terms of violations that took place before the invasion, and those that armed and supported Indonesia during the occupation.

“The ones who should be responsible for the conflicts are the Soeharto regime and the Portuguese who annexed us. Because of the deeds of those inhumane people, there are many conflicts in Timor-Leste.” [Female teacher, 33 years old, Baucau]

“Supporting countries like the United States and Australia are also guilty of supplying weapons.” [Women’s group member, 29 years old, Liquica]

“To be responsible for the conflicts of the past, the actors—the political leaders of Timor-Leste, the political leaders of Japan, the Portuguese people, and the Indonesian people—must apologize to the Timorese people for what they have done.”

[Female retailer, 40 years old, Baucau]

Although most of the focus group participants felt that the Indonesian government bore primary responsibility for the crimes committed between 1974 and 1999, several pointed to the specific responsibility of Timorese political parties for violations prior to the invasion.

“I hope the five former big party leaders will be responsible, especially the leaders of Fretilin and UDT, because their differences of opinion were not compromised, but instead, they created assault groups to attack each other, making poor people the victims.” [Women’s group member, 30 years old, Liquica]

Some felt that both the Indonesian government and the Timorese political leadership that worked with it bore responsibility for the subsequent violations.

“I think the ones who committed the violations during the Indonesian era were Indonesian soldiers and the hired hands of the Indonesian soldiers, so they are the ones who should be held responsible. The ones who are responsible for the violations are the leaders of Indonesia and the ex-leaders of Timor-Leste, who held positions in the Indonesian government.” [Female retailer, 40 years old, Baucau]

“I think that when a Timorese is found to have violated human rights, he should be held responsible for what he did. For at that time, not only Indonesians committed crimes, but the Timorese people who joined them did, as well. Therefore, the Timorese also have to be held responsible.” [Female teacher, 33 years old, Baucau]

Getting all sides to “own” violations committed by their forces or in their name remains a critical challenge for processes of truth, justice, and reconciliation in Timor-Leste. Very few participants made mention of the responsibilities of the independence and nationalist forces for committing violations. Although it is evident that the vast bulk of abuses were perpetrated against this group and its support base, there have been allegations of abuse and violations carried out by independence groups. Silence on this issue may reflect the fact that participants are simply unaware of the violations committed by those fighting for independence. In addition, and as in other countries that have experienced violent liberation struggles, there may be a general

unwillingness to address these issues, especially if there has been no public acknowledgement of the liberation movement's violations.

Almost without exception, participants emphasized the importance of making sure that those responsible for violations were held to account. For most, this meant prosecution.

“Through this research, we'd like to ask the government to establish a special commission to solve these problems and to bring the perpetrators to the court of justice so that the people can live peacefully forever.” [Male professional, Baucau]

“I want people who are guilty to be prosecuted and punished according to the existing law.” [Female teacher, 32 years, Baucau]

“I just want to say that people who have violated human rights in Timor-Leste must be prosecuted, including Abilio Soares, and the leaders in Indonesia.”
[Female retailer, 33 years old]

Most participants argued that the courts should deal with perpetrators, in accordance with the law and constitution. Although few participants felt that those responsible for the planning and leadership elements bore primary responsibility, many did not distinguish between those who planned and those who executed the violations, maintaining that both groups are responsible and both need be held accountable.

“Anyone who has violated human rights must be punished or put in jail.”
[Female retailer, 33 years old, Baucau]

“Both groups need to be punished, since both the strategists and the undertakers have violated human rights.” [Male villager, 28 years old, Aileu]

Although there was a general appreciation that victims of abuse and violence could subsequently become perpetrators for a range of reasons (several groups made mention of the Aiterak militia leader, Eurico Gutteres, in this regard), this does not make such actions either correct or legal.

There was a general sense that perpetrators should not be allowed to “get away with it,” and that “they have to get punishment, any punishment,” otherwise, there would be consequences.

“I think that if a person who violated human rights was not punished, he would continue doing whatever he did.” [Female health worker, 37 years old, Baucau]

“If they are let go, I am sure that people will not respect each other and that violations will continue.” [Female teacher, 32 years old, Baucau]

The importance of punishment was reiterated, in terms of its significance for making the court system work, and for reinforcing the principle that the law applies to everyone.

“The guilty should be punished because they have broken the law and violated other people's rights. The law is meant to protect innocent people and offenders should be responsible for their wrongdoings.” [Male villager, 24 years old, Umatolu, Viqueque]

In this regard, the importance of holding culpable Timorese to account was also raised.

“Indonesia is behind them, forcing the people of Timor to kill each other based on the command of the Indonesian army. Both parties have to be punished and be held responsible for their crimes. If this is done, the people will see that the law applies to everyone.” [Male villager, 28 years old, Aileu]

Most agreed that the decision on how these people would be punished should be the responsibility of the courts, and that depended on the nature of the crime.

“If they committed a small crime, then we could forgive them, but if the crime is one of murder or rape, then they have to pay.” [Female student, 22 years old, Manatuto]

Significantly, the call for violent retribution was limited, and there was only one participant who called for the death penalty. Indeed, imprisonment was favored as the most appropriate form of punishment, especially for serious crimes such as murder.

Some, however, felt that simply sending people to prison was inadequate, and that punishment must include being put to work.

“It would be better if they were sent to Natarbora to plant rice and the produce would be given to us, instead of sending them to jail in Dili, where they can eat delicious food.” [Female merchant, 49 years old, Manatuto]

Some participants recognized that the reality of the court system’s limitations meant that many perpetrators were likely to “get away with it,” and that alternatives would have to be sought.

“There are so many cases like this in Timor-Leste. If they do not want to be punished, then they have to be processed to solve the problem according to the culture in their territory, depends on the agreement between the victim and his or her family.” [Women’s group member, 32 years old, Dili]

A number of participants highlighted the significance of complementary and alternative ways of dealing with offenders, which emphasized the importance of addressing the victim’s needs. Such restorative justice components, it was argued, should be based on Timorese culture and traditions.

“The punishment that perpetrators receive should be based on the laws of Timor-Leste Law. But they still have a responsibility toward the families of the victims: if someone burned down a house, he should build a new one for the family.” [Male professional, 28 years old, Baucau]

Punishment is interpreted in different ways and is seen as an important and integral component of the reconciliation process. In this regard, perpetrators may be expected to tell victims and their families what they know about the violations. In addition, they may be expected to compensate victims and their families.

“As compensation, the perpetrator must hold a feast with the victims’ families and the public so he or she can be accepted back into the community.” [Village head, 41 years old, Maliana]

Much may depend on the nature of the violation. Material compensation has symbolic as well as practical ramifications. Even those who were imprisoned would need to repair relations with the families they have wronged.

“When they are released from jail, they should make an agreement to compensate the families of the victims, the duration of which will depend on the individual family’s needs.” [Male professional, 28 years old, Baucau]

Several discussants highlighted the importance of public apology in this process, which some accepted as a form of punishment.

“I think the person must stand before some public meeting, explain what he did, and admit and feel sorry for his mistake in front of the victim while observed by local people. This will make the victim feel satisfied and more willing to accept him back.”
[Male villager/ex-Falantil, 38 years old, Baucau]

“They have to be punished by being asked to apologize publicly and to promise not to commit any further violations.” [Female retailer, 33 years old, Baucau]

VI. RECONCILIATION AND FORGIVENESS

“Reconciliation is a bridge for the Timorese to forgive each other.”
[Male villager, 30 years old, Ossu, Viqueque]

Participants were asked what reconciliation meant to them. Most spoke of local and domestic dynamics and conditions, with very few making mention of reconciliation with Indonesia.

Most participants accepted the importance of promoting reconciliation. This was even described as a moral imperative, a “duty to the nation,” and a method for deterring future problems.

“We have to be open and transparent about all of the existing problems, and through this reconciliation, we can solve past problems so that we can live together in society and deter new problems.” [Male villager, 22 years old, Aileu]

Reconciliation is described in terms of both the intended objectives and the process by which Timor’s polarized society can be brought together. Different respondents emphasized various components of this process. For some, reconciliation signified unity and an end to conflict.

“Reconciliation is the desire of pro-autonomy and pro-independence groups to reunite.”
[Female merchant, 49 years old, Manatuto]

“I think reconciliation is a process meant to amalgamate both conflicting parties, meaning the victims and the perpetrators.” [Female retailer, 40 years old, Baucau]

This, in turn, requires the removal of suspicion and the building of trust.

“Reconciliation requires trust, no suspicion, and cooperation between the people of Timor-Leste.” [Male villager, 27 years old, Aileu]

The importance of receiving people back into their communities and forgiving them was stressed.

“Timor-Leste needs reconciliation so that the Timorese can receive and forgive each other.” [Male villager, 35 years old, Ossu, Viqueque]

“Reconciliation means forgiving each other, admitting one’s mistakes, and solving past conflicts to strengthen recent developments.”

[Male villager/teacher, 39 years old, Baucau]

Several groups raised the centrality of acknowledgement, truth-telling, and reaching common understandings about their differences as core components of the reconciliation process.

“Reconciliation is a truth for everyone, especially for people discovering their existing differences.” [Male villager, 27 years old, Aileu]

“Reconciliation is a medicine that can cure heartache; before we make peace with each other, we should realize our own actions.”

[Women’s group member, 29 years old, Liquica]

“Reconciliation means that everybody should reflect, contemplate, and admit their respective mistakes.” [Male political prisoner, 52 years old, Dili]

“Reconciliation is to look at or repair what we have done to someone else in order to achieve peace between victims and perpetrators.”

[Male professional, 28 years old, Baucau]

A. Conditions for Reconciliation

Reconciliation means different things to different people on different levels. Participants discussed what they thought should happen in order for reconciliation to occur.

Although most participants had their own opinions on what reconciliation meant, several pointed out that they did not think that there was a widespread understanding of the concept and its many facets among broader Timorese society. This emphasized the importance of an effective education and socialization process, meaning the government, the CAVR, and others had a specific task to explain more clearly what reconciliation is, and to facilitate its realization.

Much depends on what the parties are reconciling over.

“If the case is about livestock entering my garden, eating my plants, and destroying my garden, I think I can forgive the owner of the livestock. However, talking about the offenses surrounding the 1999 referendum, some people may agree with reconciliation, but some people may disagree because their relatives have been killed or raped. I think government cannot force the people to reconcile.”

[Male villager, 41 years old, Umatolu, Viqueque]

Several participants felt that reconciliation may only be appropriate in “minor” cases in which lesser violations were perpetrated.

“I guess reconciliation works only with minor problems like hitting, insulting, etc., but it can’t solve major crimes like murder—that’s the job of the law.”

[Women’s group member, 30 years old, Liquica]

There was a general recognition that reconciliation is not an easy process, especially in a context of differing opinions, experiences, and so on. Several participants emphasized particular prerequisites that must be addressed first or as an integral part of the process. There must, for

example, be a desire to reconcile by all parties, and a sharing of objectives and principles. Peace and stability within the community is also necessary, and there were some concerns that this was not the case in some parts of the country.

Many participants also called for punishment, accountability, and truth as fundamental prerequisites for reconciliation. For these people, there was no contradiction between the objectives and processes of investigation, prosecution, punishment, and reconciliation. Indeed, justice is regarded as a precondition and an integral component of reconciliation.

“Reconciliation will work if the parties involved can be held responsible for their actions before the court...reconciliation cannot be based on sweet talk only.”

[Male professional, 28 years old, Baucau]

“If you want reconciliation to be effective, you also have to have a good justice system. Reconciliation means nothing if the justice system is obstructed.”

[Male political prisoner, 30 years old, Dili]

These responses reflect a diversity of opinion as to how reconciliation might be furthered, and highlights the importance of both the traditional and formal justice systems in this process.

B. Reconciliation Processes

Several groups raised the importance of a victim-centered consultative process that is inclusive and transparent.

“I think that all victims and the perpetrator should be called to conduct a gathering, and then the victims should be asked what way is best for them. It is not we who decide, but the victims themselves.” [Female teacher, 32 years old, Baucau]

Reconciliation is also understood not as an event, but in terms of an evolving and longer-term process.

“Reconciliation should first start within the family, and then with other people within the surrounding environment, and finally as reconciliation with our enemies.”

[Male political prisoner, 40 years old, Dili]

These perspectives recognized that there are necessarily different (albeit interrelated) levels of engagement, including reconciliation between political leaders, reconciliation between the government and society in general, and reconciliation between different elements within society. Several participants also spoke about the need for direct intervention, for instance, in the refugee camps in West Timor.

Several participants emphasized the importance of national leaders taking the lead in setting an example.

“To effect reconciliation in this new country, victims and perpetrators have to give and take from each other and forgive each other. Before conducting the reconciliation between two societies, the leaders have to start the process and set an example.”

[Female teacher, 32 years old, Baucau]

The role of the CAVR in these processes was also highlighted.

“The CAVR is needed to facilitate reconciliation between the victims and the actors of human rights violation, and this institution can help both conflicting parties to make peace, accept each other, and live in the society of Timor-Leste.”

[Male villager, 28 years old, Aileu]

The primary importance of reconciliation processes being rooted in the family and community was emphasized.

“I often see that conflicts appear within families. If we cannot implement peace in the family, automatically, conflicts happen everywhere.”

[Female teacher, 49 years old, Baucau]

It was recommended that local solutions should be attempted as a preliminary step.

“I think we have to create an organization before proceeding to the CAVR. All this time, it is the CAVR that is handling the process of reconciliation in Timor-Leste, but as far as I see, it never gets to the traditional leaders.” [Female retailer, 33 years old, Baucau]

The centrality of key figures, such as the head of the household, the head of the village, and traditional leaders was emphasized. This focus recognizes that there are potential remedial mechanisms at different levels, but emphasizes the importance of locally based reconciliation initiatives and processes.

“The victims and the perpetrators should sit together in front of traditional leaders and government to solve the problem customarily or based on the judicial system.”

[Male political prisoner, 42 years old, Dili]

“There should be ‘naha biti boot’—we should sit and get together to discuss the problem based on our tradition. This is the foundation for reconciliation in this country. Everyone should admit his or her past wrongdoing and be willing to introspect and clean themselves up.” [Male villager, 35 years old, Umatolu, Viqueque]

“Our community respects naha biti boot culture because using this Timorese mechanism, we have elicited public confession, which makes it easier to reconcile.”

[Women’s group member, 29 years old, Liquica]

C. Obstacles to Reconciliation

The focus groups raised a range of issues that they felt were significant obstacles to reconciliation in Timor-Leste.

At the heart of the challenge is the recognition that reconciliation must involve all parties.

“We reconcile not only with militias who had violated human rights during wartime, but also with freedom fighters. Reconciliation in Timor-Leste will not be a success if it is conducted only on one side.” [Male political prisoner, 40 years old, Dili]

“The challenge is to make a meeting between the perpetrators and the victims. If this cannot be done, it will obstruct the reconciliation.”

[Women’s group member, 29 years old, Liquica]

This requires a meaningful commitment to the goals of reconciliation.

“The independence we have gained is still merely lip service, for it doesn’t create peace and calm, but adds more conflict, because societies haven’t accepted one another. To develop our country into a good one, we must accept one another to create peace.”

[Widow, 41 years old, Maliana]

This objective is undermined by the failure and refusal of perpetrators to participate in the available process, and to account for and take ownership of the violations in which they participated. Many perpetrators, for example, have chosen not to return to Timor-Leste and remain in refugee camps in West Timor.

On the other hand, some victims are also struggling to come to terms with the process of reconciliation.

“There are still many victims who have not participated in the process of reconciliation because they are still traumatized by what happened to them, and it is very hard for them to accept reconciliation.” [Midwife, 24 years old, Manatuto]

Some victims are simply unwilling to reconcile with the perpetrators.

“I think the main barrier to solving problems are the victims who do not accept the perpetrators.” [Female teacher, 49 years old, Baucau]

For many victims, the absence of justice and the limitations of the criminal justice system in processing violations (both lesser and graver offenses) presents serious restrictions on the reconciliation project.

“The biggest obstacle for reconciliation is the absence of justice.”

[Women’s group member, 52 years old, Dili]

Several participants questioned the relationship between peace, justice, and reconciliation. While there is general agreement that peace (e.g., an absence of violence) is a precondition for reconciliation, some felt that justice was possible only after reconciliation (as perpetrators must first recognize the mistakes they have made in order to reconcile themselves to the fact that there must be justice), whereas others felt justice was a precondition for reconciliation.

D. Reconciliation and Government Responsibility

Once again, the government is accused of not paying adequate attention to addressing the current circumstances of victims and their families.

“The main challenge and obstacle in performing reconciliation is the fact that the government has not yet paid attention to the victims’ families. These families are still traumatized by the past and by their current living conditions.”

[Male professional, 28 years old, Baucau]

In addition, some feel that not enough has been done to recognize, reward, and memorialize the contributions of those who made sacrifices. Compounding this lack of recognition are anxieties about the situation of the Timorese who were government officials under the Indonesians but

have retained their positions in the independence era. Under the circumstances, it is difficult to accept why these people should be beneficiaries of independence while others suffer.

“This automatically disappoints the people who sacrificed their whole lives and souls in fighting for the independence of Timor-Leste.”

[Male villager/ex-Falantil, 38 years old, Baucau]

Some participants specifically refer to these people as “perpetrators.”

“We still have a big challenge because the perpetrators are still alive. They are educated and have a lot of money that enable them to live better. In the past, they were not willing to fight for the independence of this country. They cooperated with the Indonesian government and joined the Indonesian army to hurt the people. However, in these independent times, they have good positions in administration, have luxurious cars, and leave the people behind to live in poverty. This is not fair; this is the big challenge for us.” [Male villager, 43 years old, Umatolu, Viqueque]

Such concerns highlight the important role of leadership in these processes and the need for leadership elements to reconcile among themselves. Participants were not aware of processes that have been undertaken at this level, and some feel that because initiatives thus far have focused on ordinary citizens, much of the Timorese leadership remains unreconciled.

“Reconciliation is not only for the people on the lower levels, but before that, there must be reconciliation among the elite political leaders because they are the symbols followed by the people. If there is no reconciliation on the level of elite politicians and they push each other down, then the people will follow their lead.”

[Male villager/teacher, 39 years old, Baucau]

“The obstacle to reconciliation is that the members of the Parliament themselves have not reconciled.” [Female teacher, 49 years old, Baucau]

Some participants felt that the government gave inadequate attention and support to community reconciliation processes that are also designed to deliver on the justice front, and that the rebuilding of trust and a sustainable social fabric requires more investment. It is therefore important to recognize that the processes embarked upon thus far by NGOs and the CAVR are just the beginning, and that much more is needed and can be achieved.

Several participants raised issues with the CAVR itself, with some claiming that those involved in the process were not seen as neutral. These participants felt it was not possible for people who had aligned themselves with integrationists to give advice on reconciliation, and that what they said or recommended would not be accepted. While the CAVR objectives were heartily endorsed, it was felt that the employment selection process had not been rigorous enough and that the inclusion of certain individuals was and would continue to undermine the process.

“If wrongdoers facilitate the reconciliation process, I believe they will create a condition that permits conflict to recur. This will automatically be a barrier to the success of reconciliation.” [Male political prisoner, 42 years old, Dili]

Given the multifaceted and multileveled nature of reconciliation objectives, it was suggested that the best approach would involve partnerships involving government, the CAVR, NGOs, and

traditional and community leaders. The importance of government working in partnership with civil society on this issue was clearly recognized.

“I think the government of Timor-Leste itself, together with NGOs, should facilitate the reconciliation process in Timor-Leste. If there should be only one party in the team, it will create bias and vested interests, and we won’t know whether reconciliation can achieve its goals. And the other party will feel at a disadvantage by such a situation.”
[Male professional, 37 years old, Baucau]

In addition, there were several calls for greater involvement from the church, and concerns in some quarters that the government was not using and may even be opposed to the church (and traditional leaders) playing a greater role in this process.

“We must honor what the church has done in helping achieve independence. It will be nice to see the government and the church walk hand in hand to develop this country.”
[Male villager/ex-Falantil, 38 years old, Baucau]

E. To Forgive or Not to Forgive

Some too the view that forgiveness lies at the heart of the reconciliation process.

“Forgiveness is the barometer for reconciliation in Timor-Leste.”
[Male villager, 24 years old, Umatolu, Viqueque]

There was widespread acceptance amongst participants that forgiveness was necessary, and many claimed that they were personally ready to forgive.

“Forgiveness is key to the success of the reconciliation process in Timor-Leste. If there is no forgiveness, reconciliation will not succeed.”
[Male villager, 52 years old, Ossu, Viqueque]

Anecdotal evidence has raised some concerns about the community reconciliation process, and has indicated that there was considerable pressure on participating victims to accept the brokered agreements. One or two felt that this may have been the case.

“For the sake of the country, they are forced to accept the reconciliation.”
[Male villager, 40 years old, Ossu, Viqueque]

Most, however, disagreed and did not feel that victims had been coerced, but rather, that they had participated of their own free will.

“Reconciliation cannot be forced. If I’m still angry and keep my vengeance, then no one can force me. I need time to make peace with my self.”
[Women’s group member, 29 years old, Liquica]

There would not be genuine reconciliation without their genuine acceptance and forgiveness. Forgiveness is essentially a personal issue between perpetrator and victim. A few participants felt that victims have a “right” not to forgive or reconcile and do not wish to do so at this stage.

“I think I still have doubts about reconciliation. My father was murdered; do you think I can reconcile with the person who killed him? I suggest that the offender be punished.”
[Male villager, 43 years old, Umatolu, Viqueque]

Several participants supported the victims’ right *not* to forgive, but realized the importance of forgiving as a personal choice, and its implications for the future of the country.

“Everyone has the right not to forgive, but for me, forgiving is better in order to build our country in the future.” [Widow, 45 years old, Maliana]

“I guess everyone has the right not to forgive his or her enemy, but our country will be stagnant as a result because there is no peaceful and harmonious life.”
[Women’s group member, 29 years old, Liquica]

A number of other participants felt that they did not have a right *not* to forgive, with some explaining their position from a religious perspective and others on the basis that everyone makes mistakes.

“I think we have to forgive others because we are Catholics. That is an obligation of the Catholic people that has been written in the Bible. For other religions, that depends, but for the Catholics, it has to be done. If we all forgive each other and agree that we will live peacefully, there will be no conflict.” [Female health worker, 37 years old, Baucau]

“I think we don’t have the right not to forgive, because as a human being, I am not beyond mistakes either.” [Village head, 41 years old, Maliana]

“I don’t have the right not to forgive people, because as an ordinary person, I also have made mistakes.” [Women’s group member, 33 years old, Dili]

“I can hand over the crimes to God.” [Women’s group member, 40 years old, Liquica]

Not everyone felt that they were able to be so magnanimous.

“Well, after all, we are human. I probably can accept and forgive, but in my heart I am not sure. I am not God, who would gladly forgive his people.”
[Female teacher, 32 years old, Baucau]

The issue remains a vexing one, as the difficulties of forgiving are recognized, alongside the importance of forgiveness. For most people, as with reconciliation, forgiveness is not unconditional, and may include one or a combinations of preconditions, such as acknowledgement, truth-telling, punishment, repentance, and so on.

“It is important to forgive those who acknowledge their crimes.”
[Widow, 55 years old, Maliana]

“I will forgive people who have persecuted me, and that process that should be done by the suspect confessing all he has done, and depends on an agreement between the suspect and victim. For me, personally, I do not have right to not forgive those involved.”
[Female political prisoner, Dili]

“I think to forgive the perpetrator is very important, but he or she must regret all of his or her actions so as not to repeat again.” [Female political prisoner, Dili]

A core precondition for many people is the need for admission and apology, which lie at the heart of the traditional and community reconciliation processes.

“I think it is very good that the person who committed the crime surrender himself and admit the mistakes he has made, by asking his victims for forgiveness in front of the all people of Timor-Leste.” [Female teacher, 32 years old, Baucau]

VII. THE ROAD AHEAD—CHALLENGES AND OPPORTUNITIES?

Most participants recognize the interrelationship and interdependency of the core transitional justice goals of justice, peace, truth and reconciliation.

“All are important for us because if there is truth, there is justice. If there is justice, there is peace, and if there are all of the above, there is reconciliation. If there is no peace, truth, and justice, reconciliation will not succeed.”
[Male villager, 35 years old, Ossu, Viqueque]

“Reconciliation, peace, truth, and justice have to be there in the society because in this way, we can solve existing problems. We believe the law should be upheld to ensure peace and reconciliation in Timor-Leste, and also to assure people in Timor-Barat (West Timor) to go back to our land.” [Male villager, 28 years old, Aileu]

Many of the people we spoke with have lost everything and expect that these losses will be addressed in some form or another. The need and desire for justice remains the clarion call for many.

“I guess we can handle the obstacles if justice is upheld. We can try many ways to solve it, but if there’s no justice, problems will reappear.”
[Women’s group member, 40 years old, Liquica]

“I think justice in Timor-Leste should be prioritized first to make the people love each other... If there is no justice, then resentment will continue to exist.”
[Male political prisoner, 42 years old, Dili]

“Justice is the most important thing for me because justice can bring peace and reconciliation to our country. I believe that someday we can obtain justice and peace in order to create a better life in our country.”
[Women’s group member, 42 years old, Liquica]

“For me, the most important things are justice and peace because to implement reconciliation, there should be proper justice.”
[Female political prisoner, 26 years old, Dili]

This priority highlights the magnitude of Timor’s “unfinished business” and its continuing impact on its people. These problems are compounded by difficult conditions of day-to-day living. This was also reflected in the repeated calls for government to pay more attention to the circumstances and needs of victims and their families.

The challenges facing Timor-Leste's transitional justice objectives are immense. The scale of the abuses, the limited capacity of available remedial mechanisms, and the scarcity of resources are compounded by severe socio-economic problems, geopolitical constraints, and difficult security conditions.

Under these circumstances, it is difficult to see what can be achieved in terms of justice and reconciliation. Most of the focus group participants, however, are optimistic that the government and the people of Timor-Leste can achieve these objectives, although it will take time, resources, and the necessary commitment.

“I believe and feel certain that Timor-Leste has the capacity to end its problems. Even though this nation has just gained its independence, just like a six-month-old child, it will finally grow up and have the capability to do something.”
[Female teacher, 33 years old, Baucau]

Expectations are tempered by the reality of the current circumstances, the need to get the thousands remaining in West Timor to return, and to ensure that political leaders set the right example.

“If justice, peace, truth, and reconciliation existed among the elites, then the common people would just have to follow it.” [Male villagers, 34 years old, Baucau]

Political leaders, however, should be aware that these needs must be addressed and that they will be held to account.

“The people of Timor-Leste now are very much different from those in 1975. They are not stupid people that can be treated as objects, and they can distinguish between good and bad.” [Male political prisoner, 40 years old, Dili]

An emphasis must now be placed on developing and promoting effective justice options and reconciliation initiatives. The basis of this has already begun within Timor-Leste, although much more is needed, both in terms of the formal justice sector, the CAVR, and especially the community-based processes, and partnerships between civil society and government.

Only a few of the people who participated in these focus groups had had a previous opportunity to discuss these issues. *Many expressed gratitude and there was a general feeling that such discussions were very helpful.*

“I think the topics are of benefit to me, because I can tell of my aspirations and ideas through such discussions.” [Female teacher, 49 years old, Baucau]

Others were pleased to have had the opportunity to discuss their personal and community histories for the first time, as well as to comment on related general issues. It was recommended that a program of interaction, discussion, and debate on such issues needed to be extended to the villages. To a certain extent, the CAVR's socialization, community reconciliation, and community profiling initiatives may address this. It is not clear, however, whether these channels provide an opportunity to adequately air concerns, grievances, recommendations, and so on, on a range of transitional justice concerns.

Getting the people to discuss these issues is in itself a significant challenge, but is certainly an important part of the overall process. The benefits may not always be immediately tangible, but personal experiences suggest that it will ensure greater participation and understanding.

“Before we heard what the topics would be, we were bored and ignored reconciliation. Moreover, someone said that it couldn’t bring my husband back to life. That kind of statement increased my hatred toward reconciliation. But after hearing about it from NGOs like CRS, HAK foundation, and a reconciliation committee, which eventually chose me as the trainer, I realized that justice, reconciliation, peace, and truth are good for me, for us, and for the whole country. I used to hate these topics, but now I feel they’re very useful. Now, I hate people who neglect these topics in their lives.”
[Women’s group member, 29 years old, Liquica]

Encouraging these discussions is an important way of ensuring that different views and opinions are heard. A number of those who participated in this research, for example, were keen to ensure that the government heard their messages.

“We can voice our aspirations to the government, so that the government can listen and consider what the people want in general.” [Male professional, 37 years old, Baucau]

“The topics are very interesting for us. But our hope is that the aspirations can reach the government so that they will come on location and solve our problems regarding the land and the unclear status of the village.” [Male villager, 49 years old, Baucau]

“These topics are useful to discuss, since we can tell of our misery to the central government and ask the leaders to pay attention to the sufferings we have endured.”
[Widow, 45 years old, Maliana]

Communication and consultation on transitional justice developments and available options will remain a critical challenge for all those involved in the field, if: community priorities are to be properly understood; community members’ expectations are to be effectively tempered; and ordinary people are to have a realistic understanding of what might be achieved, the sort of restrictions experienced during these processes, and the related limitations on government and civil society.

APPENDIX 1: Focus Group Discussion Guideline

MOOD

1. What were your expectations of what independence would do for you?
2. Have your expectations been met? Why or why not?
3. What have been the benefits of independence?
4. Has independence been worth the struggle?

PEACE/CONFLICT/VIOLENCE

1. Were there conflicts in your community in the past? What conflicts were there? Who was responsible?
2. What conflicts, if any, exist in your community today? Who is responsible?
3. Would you say that your community is now more peaceful than before or more conflictive?
4. Do you feel safe in your community? Why or why not?
5. How did the crimes that happened during the war impact you, your family, and your community?
6. Are there any lasting impacts that still exist?

TRUTH

1. Do you feel like you already know the truth about the crimes committed during 1974–1999?
2. Do you know who was responsible for these crimes?
3. Do you feel like you know the reasons why the crimes were committed?
4. Do you think that it is important to know the truth about the crimes committed during 1974–1999? Why or why not?

JUSTICE

1. What does it mean to you to have justice?
2. Who is responsible for justice? What organizations or courts do you know about that are working toward justice?
3. Does the government have a responsibility for justice? If so, what is its role?

4. Do you think traditional leaders share responsibility for justice? If so, what is their role?
5. Do you think that the organizations working for justice are doing a good job, a mediocre job, or a poor job? Why?

ACCOUNTABILITY

1. Who do you consider to be most responsible for the crimes committed from 1974 to 1999?
2. Should the people who planned and ordered the crimes be punished? What kinds of punishment should they receive? Who should punish them?
3. Should the people who carried out the crimes be punished? What kinds of punishment should they receive? Who should punish them?
4. Are there some people that should be allowed to not be punished for the crimes they committed? If so, what should they have to give in return, if anything?
5. To what extent are Timorese also responsible for crimes committed during 1974–1999?
6. Can victims also be perpetrators? When?

RECONCILIATION/FORGIVENESS

1. What does the word “reconciliation” mean to you?
2. Reconciliation means different things to different people at different levels. What needs to happen in order for reconciliation to happen for you personally, in your community, and in the country?
3. What are the main obstacles to reconciliation?
4. How should these obstacles be overcome?
5. Is it easy to forgive someone who mistreated you? What process do you need to go through to forgive?
6. How important is it for forgiveness that the people responsible for crimes acknowledge what they have done and apologize?
7. Do you think that participants of reconciliation processes feel pressured to accept reconciliation? If so, why and who puts on this pressure?
8. Who should facilitate reconciliation processes? Why?

UNRESOLVED ISSUES

1. What, if any, are the problems in your community that are a direct result of the problems during 1974–1999?
2. What are the obstacles to resolving these problems?
3. How can these problems be resolved?
4. Do you trust that Timor-Leste has the capacity to resolve these problems? Who is responsible for resolving them?

PRIORITIES/MOOD

1. What is most important to you: that justice is done, you can live in peace, you know the truth, or reconciliation? Why?
2. Are you very hopeful, hopeful, somewhat hopeful, or not hopeful that these four things can be achieved? Why or why not?
3. Have you discussed these subjects before? With who?
4. Is it beneficial to discuss these topics? Why or why not?

APPENDIX 2: Focus Groups

1. Female professionals, Baucau City, BAUCAU DISTRICT
2. Female political prisoners, Becora, Dili, DILI DISTRICT
3. Male political prisoners, Becora, Dili, DILI DISTRICT
4. Male villagers, Laulara, AILEU DISTRICT
5. Male professionals, Quelicai, BAUCAU DISTRICT
6. Male villagers, Laga, BAUCAU DISTRICT
7. Male villagers, Ossu, VIQUEQUE DISTRICT
8. Male villagers, Umatolu, VIQUEQUE DISTRICT
9. Widows' group, Maliana City, BOBONARO
10. Women's group, Becora, Dili, DILI DISTRICT
11. Women's group, Liquica City, LIQUICA DISTRICT
12. Women's group, Manatuto City, MANATUTO DISTRICT



international center for
**TRANSITIONAL
JUSTICE**

20 Exchange Place
33rd floor
New York, NY 10005
TEL 917.438.9300
FAX 212.509.6036

www.ictj.org | info@ictj.org