

2. The United Nations and East Timor Self-determination

Without question, it was the UN and its various organs that served as the primary forum for debate on East Timor over the years. Even so, as also demonstrated by the East Timor case, the UN is structurally limited and beholden to the wishes of powerful states. The eventual reengagement of the UN in the East Timor issue with the New York Agreements of 5 May 1999 should have brought great soul-searching to the international community, especially as the outcome not only brought eventual liberation, but also much in the way of bloodshed and destruction, entirely preventable even by the terms of UN worst-case scenario planning.

As Mathew Jardine (2000, 47) has written in his aptly titled article, “East Timor, the United Nations, and the International Community: Force Feeding Human Rights into the Institutionalized Jaws of Failure:”

“The United Nations General Assembly and Security Council passed a total of ten resolutions on East Timor from 1975 to 1982. Taken together, these resolutions criticized Indonesia's invasion of the territory, called for the withdrawal of Indonesian troops, and affirmed the right of the East Timorese people to self-determination. While East Timorese independence now seems imminent, it is occurring largely in spite of the United Nations. As the case of East Timor demonstrates, the

United Nations is an organization whose very structure favors its most powerful member states and their allies, and largely insulates them from serious pressure to respect international law.”

The Salazar Regime and the UN

In 1950 the Salazar regime moved ahead to seek a new international image for Portugal. The Ministry of Colonies was renamed the Ministry for the Overseas Provinces and the colonies became known as overseas provinces (*ultramar*). Notwithstanding UN Resolution 1542 of 1960, determining that Portugal was the administering power over a number of non-self-governing territories, including East Timor, Portugal went ahead in 1963 and formally inscribed Timor on its list of overseas provinces. Portugal, which became a member of the UN in 1955, came under increasing scrutiny in subsequent decades for its obstruction over the issue of decolonization of its colonial empire, namely by refusing to submit reports on the situation in its colonies or non-self-governing territories as required by the UN Committee of 24. Portugal, in turn, responded that under Chapter XI of the UN charter, Timor was not a non-self governing territory but, as with its other colonial possessions in Asia and Africa, an integral part of the motherland (cf. Clark 1980, 4). While this measure also provided limited autonomy to all its territories including the establishment of a legislative assembly to assist and advise the governor, it was also a device used by Portugal to deflect mounting criticism of its colonial policies in the UN body.

Needless to say, the 25 April 1974 Movement in Portugal which overthrew the dictatorship created great expectations in Timor, especially the creation on 13 May of a Commission for Self-determination for Timor and the law 7/74 of 27 July under which the Portuguese government made

known its willingness to offer self-determination and independence to all its territories including Timor. Specific information on this question in relation to Timor was addressed to the UN on 5 June. On 10 September 1974 Portugal recognized the independence of Guinea-Bissau. In turn the independence of Mozambique was recognized on 25 June 1975; Cape Verde (5 July); São Tomé e Príncipe (12 July); and Angola (11 November). The status of Macau remained a special case, especially as Beijing, which took the China seat in the UN Security Council in 1979, moved to strike the territory from the decolonization committee.

It would not be until the arrival in Timor in November 1974 of representatives of the Movimento das Forças Armadas (MFA) or the military group which, three months earlier had overthrown the Portuguese dictatorship, that any democratic concessions were made. The creation of political parties was thus a natural consequence of the 25 April Movement. [see Portuguese Colonialism] The UN response to these dramatic developments was limited to a meeting of the Special Committee of the Decolonization Committee in Lisbon in June 1975 which called upon Portugal to “to enable the people of that territory to attain the goals set forth in the Charter of the United Nations and the Declaration [on the Gaining of Independence to Colonial Countries and Peoples”] (quoted in Dunn 1996, 322).

UN Response to Indonesian Machinations (1975-76)

Even the onset of the Indonesian-instigated civil war did not provoke a UN response. The UN was also silent on Indonesian military incursions leading up to the full-scale invasion of 7 December 1975. Naturally Indonesia was opposed to UN intervention at this juncture, but lack of Australian support in a conflict that involved no superpowers was undoubtedly crucial in creating the seeds of

an international disaster. Five days before the full-scale invasion, the Decolonization Committee (Fourth Committee of the General Assembly) again convened a hearing. Among other petitions, Portugal deplored the growing military intervention, while Australia, in refusing to identify the source of the problem in Indonesia's meddling, urged the East Timor parties to engage in talks. As Australian intelligence well knew, armed subversion from across East Timor's borders had already commenced (cf. Jardine 2000, 50 citing Ramos-Horta 1987, 104-05).

On 28 November 1975 Fretilin made a Universal Declaration of Independence (UDI), holding out for world recognition in the face of armed subversion from Indonesia. As Fretilin President Xavier Francisco do Amaral cabled Lisbon (as received on 29 November):

“Face agressão da Indonesia ao territorio Timor-Leste por terra, ar e mar, violado carta e resoluções Nacões Unidas bem como o direito nosso povo a autodeterminação e independencia; em virtude Governo português constante e abusivamente data conversações, mostrando total desinteresse solucionar correctamente descolonização Timor-Leste, Comité Central Fretilin, em defesa superiores interesses e direito inalienavel povo Timor-Leste a independencia total e completa, proclamou as zero horas dia 28 Novembro 1975 independencia Timor-Leste. Comité Central Fretilin exige retirada imediata Governo Português Timor Leste bem como reconhecimento nosso Estado que ora se constitui sob Direção Fretilin.”

In the event, some thirteen countries recognized the UDI, all the Portuguese African colonies; Congo (Brazzaville); Guinea; Tanzania; plus, the Indochinese countries, North Korea and China (Clark 1989, 8). For example, on 27 January 1976, Ton Tuc Thang, President of the Democratic Republic of Vietnam wrote to President Xavier do Amaral that the people and government of

Vietnam “resolutely support the struggle for independence and freedom carried out by the people of East Timor,” and rights to self-determination “against Indonesia's armed aggression” (Department of External Affairs, 1977).

While the Fretilin UDI was rejected by Portugal, so was the so-called Balibo Declaration of integration of 30 November 1975 signed by UDT, Apodeti, Kota and Trabalhista and engineered by Indonesia. Although Portugal duly informed the UN Secretary General of these harrowing events, the attentions of the world body were hardly reciprocated with words or actions, at least not until the invasion of Dili by main force units of the Indonesian armed forces on 7 December 1975. On that day Portugal broke off diplomatic relations with Indonesia. With the departure the following day of the Portuguese corvettes from Atauro, the 450 year Portuguese presence in the archipelago came to a precipitous end.

General Assembly Resolutions

Coinciding with the annual General Assembly session, the Indonesian invasion provoked a strong response in the General Assembly. On 12 December 1975, just five days after Jakarta's full-scale invasion, the General Assembly passed Resolution 3845 (XXX). The first operative paragraph “calls on all States to recognize the inalienable right of the people of East Timor to self-determination, freedom and independence...” It also requested Indonesia withdraw its forces. Notwithstanding the binding nature of General Assembly resolutions, this was ignored by Indonesia (Gunn 1997, 107-08). Altogether 72 member states voted in favor of the resolution, with 10 against, while 42 abstained, a group which included the U.S., Canada and most Western European nations.

At the 1976 session, the General Assembly (Resolution 31/35) again reaffirmed the right of the East Timor people to self-determination and repeated its injunction that Indonesia withdraw its forces. At the 1977 session, Resolution 32/34 reaffirmed the above, in the face of Indonesian attempts to win acceptance for its incorporation into Indonesia. Although Indonesia invited the UN to attend the first meeting of the so-called Regional Popular Assembly in Dili on 31 May 1976, the UN body declined. Accordingly, the third operative paragraph rejected Indonesia's claim of integration. Once again Indonesia ignored the resolution. Two months later Australia offered de jure recognition of Indonesia's incorporation. Once again at the 1978 session, the previous resolutions were affirmed.

The voting pattern in the General Assembly is illustrative. Characteristically, France, West Germany and the UK abstained from voting or, in the case of Australia, Japan, and the U.S., consistently voted “no.” Indonesia found strong support from the ASEAN countries, India, and a large number of U.S. allies. But, as a result of Indonesia's diplomatic success in politically, commercially, or otherwise influencing the vote, the 1982 vote barely passed with 50 votes in favor, 46 against and 50 abstentions. This was the final vote in the Assembly which, on 23 November 1982, requested the Secretary-General to begin consultations with all concerned parties with the goal of finding a “comprehensive settlement of the problem,” and to “initiate consultations with all parties directly concerned” (Gunn 1997, 112-13). Besides the African Lusophone countries and Brazil, East Timor's staunch supporters in the General Assembly included a mixed bag; China, the Soviet Union, Vietnam, Laos, Greece, Ireland and Cyprus. [See Appendix: Voting Map of UNGA (1975-1982)]

Security Council Response to the Invasion

On 22 December 1975, the Security Council adopted unanimously Resolution 384 (1975). In the second operative paragraph of the resolution Indonesia was instructed to “withdraw without delay all its forces from the Territory.” The fourth operative paragraph “Urges all States and other parties concerned to co-operate fully with the efforts of the United Nations to achieve a peaceful solution to the existing situation and to facilitate the decolonization of the Territory.”

On 22 April 1976 the Security Council adopted Resolution 389 (1976) by 12 votes to none with two abstentions (Japan; US) and with Benin's non-participation. The imperative for Indonesia to withdraw its forces was repeated as was the need to facilitate the decolonization of the territory. The resolution also maintained to remain “seized” of the situation, although it would not be before 1999 that the Security Council again acted on East Timor.

As Suter (2000, 185) has interpreted, although the resolutions remained in force, there was an overriding lack of political will among Security Council member nations to go further, such as in imposing economic sanctions to pressure Indonesia to comply. This is undoubtedly true but, from July 1983, East Timor commenced to be treated under the formula of the UN “tripartite dialogue” conducted between Portugal and Indonesia. While this process cannot be isolated from broader international and economic changes, and the role of international actors, it was the “principal construct” under which the 5 May agreements were eventually negotiated (cf. Lloyd 2000, 79). Nevertheless, the tripartite dialogue also suffered from general fatigue, a sense of stalemate, and even breakdown in the run-up to what would become the Dili massacre of November 1991.

“Good Offices” Activities of the Secretary-General

The Security Council also requested the Secretary-General to send a special representative to East Timor to assess the situation at first hand. This was Vittorio Winspeare Guicciardi, Head of the UN Office at Geneva (UN Doc S/12011 (1976)). In this role he contacted interested parties in New York, Jakarta, Australia, west Timor and inside East Timor. Nevertheless, as monitored by U.S. intelligence, attempts to visit Fretilin-controlled areas in early January were actively thwarted by Indonesia (and Australia), leading the envoy to conclude of the stage-managed visit that “any accurate assessment of the situation as a whole remains elusive” (Clark 1980, 9; Dunn 1996, 317). Where UN Secretary-General Kurt Waldheim had perceived the East Timor issue as a “minor problem,” his successor Javier Perez de Cuellar responded with more sincerity, at least in the way of forming a task force which led to direct diplomatic contacts between Jakarta and Lisbon. Obviously Lisbon upheld a special role versus East Timor, not only as the former colonial power and legatee of some 450 years of contact but, in the eyes of the UN, the de jure “administering power.” As such, Portugal was the key player alongside Indonesia in UN attempts to mediate the issue. [see Diplomacy, Portugal]

But in interpreting the concerned parties as Portugal and Indonesia, de Cuellar effectively marginalized Fretilin which had been the key interlocutor on East Timor at the UN. Neither did the Secretary-General respond to Bishop Carlos Ximenes Belo's letter of 6 February 1989, requesting a UN-sponsored referendum. Broadly, the UN Secretary-General mandated talks between Portugal and Indonesia continued until interrupted by the Dili massacre of 1991, although stymied by Indonesia's obstructionism and insistence on focusing upon human rights issues as opposed to the question of self-determination (cf. Jardine 2000, 53).

Nevertheless, as legal expert Roger Clark has written, the retention of the East Timor issue in the General Assembly as a self-determination issue made it hard for the Indonesians to claim wide support for their annexation. Writing in 1980, Clark saw with prescience the ability of the UN to stick with intractable cases, such as with Namibia at that time (and, as with West Sahara at this writing) suggesting that, in the “symbolic world” of diplomacy, keeping issues under review is the nearest thing to real sanction (Clark 1980, 440). Visits to East Timor by “special rapporteurs” served the same purpose. [see Humanitarian Assistance/ Human Rights]

Talks between Indonesia and Portugal, however, resumed in 1992 between Portuguese Foreign Minister José Manuel Durao Barroso and Indonesian Foreign Minister Ali Alatas in New York in December 1992, in Rome in April 1993, in New York, September 1993 and in Geneva in May 1994 with a fifth round held in Geneva in January 1995. Framed in terms of “confidence building measures” it is clear that talks undertaken by Alvaro de Soto, Special Political Adviser to the Secretary-General, made little advance with both sides at gridlock in their expectations. While such discussions maintained the legal status quo, there is belief in expert opinion that Indonesia was staking out a shift in international opinion towards rewarding the reality of Indonesian occupation (Escamania 1993).

The sixth round of talks was held in Geneva on 9 July 1995, with the seventh held in London on 16 January 1996. Inbetween the ministerial sessions, discussions between the two sides continued at the Permanent Representative level with the participation of representatives of the Secretary-General. Beginning with the sixth round, according to UN documents, both sides, without prejudice to their respective positions, discussed issues identified by the Secretary-General regarding possible

avenues to achieving a “just, comprehensive and internationally acceptable solution”

[E/CN.4/1996/56].

East Timor in the UN Decolonization Committee

As far as the UN body was concerned Indonesia's annexation remained illegal, just as the process of incorporation, along with justifications were not acknowledged. For this reason East Timor was officially listed as a non-self-governing territory and remained so right down until independence was achieved from the UN on 20 May 2002. Although the Security Council did not re-engage the issue, at least until 1999, the Decolonization Committee nevertheless repeatedly issued resolutions in defense of East Timor self-determination.

The Special Committee on Decolonization (Committee of 24), established in 1960, actively debated the East Timor question on an annual basis down until 1999. Over the years a procession of individuals and groups presented petitions at special sessions of the Committee. Petitioners for self-determination included Fretilin and CNRT, joined especially after 1991 by international solidarity members, along with church representatives, parliamentarians, jurists, and other interested figures. One of the more egregious defenders of Indonesian annexation addressing the committee in November 1982 was former Australian Prime Minister Gough Whitlam who unhelpfully stated, “It is high time that the question of East Timor was voted off the United Nations agenda and ceased to preoccupy and distract the nations of Southeast Asia and the Pacific.” [photocopy of text and cf. Ramos-Horta 1987, 130]. Debates sharpened sometimes acrimoniously from the mid 1990s, especially as the Indonesian side facilitated the passage to New York of pro-Indonesian East Timorese petitioners. [see International Solidarity]

In a general sense, sessions of the Committee were ritualistic and often empty but, as with the 1996 session addressed by Nobel Peace Prize laureate José Ramos-Horta, were full of promise and stood as beacons of the rule of law in the sense of keeping the self-determination alive.

All Inclusive East Timorese Dialogue

On 2-5 June 1995 the first so-called All-inclusive East Timorese Dialogue (AIETD) was held in Burg Schleining in Austria. Hosted by the Government of Austria, facilitated by the UN Secretary-General, and financed by a number of interested countries, the meeting brought together East Timorese of different political persuasions from inside and outside the territory.

Although attended by two UN observers, the dialogue was not viewed by the UN as a forum for addressing the political status of the territory, nor was it deemed a parallel negotiating track, but was meant to provide a venue for East Timorese (of different persuasions) to explore ideas “that might have a positive impact on the situation in East Timor and assist in the establishment of an atmosphere conducive for the achievement of a solution” (E/CN.4/1995/56). The presence of Bishop Belo at the meeting was viewed as a moderating and unifying influence, especially as East Timor culture and human rights issues were high on the agenda. Importantly, paragraph 6 of a declaration issued, made reference to General Assembly resolution 37/30 (see Gunn 1996, 228-29). Another round of discussions of the AIETD was subsequently held in March 19-22 1996. As with the first round, this led to a declaration, inter alia, affirming the respect of East Timor culture, the need to protect human rights and the desirability of greater East Timorese participation in the local administration. Bishop Belo did not attend, although was represented (see Gunn 1996, 230-31). The third session of the AIETD, held near Vienna in October 1997, “broke with the usual

recriminations and accusations of sabotage” (Marker 2003, 63). The last AIETD session held in Austria at the end of October 1998 also ended in failure with no agreed final declaration on the issue of a referendum.

Initiatives of Secretary-General Kofi Annan

As Mathew Jardine (2000, 56) has observed, despite the UN's structural limitations and the power of Indonesia's allies, most notably the U.S., to prevent the implementation of resolutions on East Timor, considerable progress nevertheless took place in the UN in the 1990s. This coincided with the appointment in January 1997 of Kofi Annan as Secretary-General, and, in turn, his appointment the following month of a Special Representative for East Timor, Pakistani diplomat, Jamsheed Marker, assisted by veteran diplomats, Fransesc Vendrell and Tamrat Samuel (cf. Marker 2003, 10-11). The end of the Cold War also saw an invigorated UN system more disposed towards humanitarian interventionism, with the support of China and Russia.

Essentially stalemated by the Suharto regime since the East Timor question was referred by the UN in July 1983 to the Governments of Indonesia and Portugal, but revived, as mentioned, with the Secretary's appointment of a Special Representative, by late 1998, despite an apparent deadlock at the foreign ministers' meeting in December, there was a sense that Portugal and Indonesia had reached a rapprochement on the way ahead. This was all the more so when, in early 1999, each country moved to open an interest section in each other's capital. This followed a statement of 9 June 1998 by Suharto's successor, B.J. Habibie that he was considering an offer of “special status” or “wide-ranging” autonomy” for East Timor.

Nevertheless, many questions remained to be answered as to Jakarta's sincerity on the issue, especially as elite opinion in Jakarta among certain opposition figures, retired Generals, etc. was not encouraging. But Indonesian Foreign Minister Ali Alatas' abrupt statement on 27 January 1999 as to a “second option” for East Timor as free from Indonesia raised international expectations to an even higher level, as did the 12 February statement by President B.J. Habibie, that, “From January 1, 2000, the East Timor question should be resolved... We don't want to be burdened. We will concentrate on the other 26 provinces.” Habibie was also responding to the dire economic and financial crisis that severely weakened Indonesia's standing.

Undoubtedly, the dogged perseverance of the UN Special Representative in staying with the issue was crucial to the outcome. As Marker (2003) recounts of the hitherto unrevealed details of an intense shuttle diplomacy between New York, Jakarta, Lisbon and East Timor, practically all the actors on the East Timor question were consulted, including President Suharto, President B.J. Habibie, President Nelson Mandela of the Republic of South Africa, Xanana Gusmão, José Ramos-Horta, the two East Timor bishops, all East Timorese attendees at the AIETD, East Timorese students, the Portuguese and Indonesian foreign ministers, leading political figures in Portugal and Indonesia, Indonesian generals, the World Bank, and representatives of the “core group” of nations, the U.S., the UK, Australia, New Zealand, Japan, Brazil, and Austria.

The 5 May 1999 Agreement

Meeting on 5 May 1999 in New York at UN headquarters, the foreign ministers of Portugal (Jaime Gama) and Indonesia (Ali Alatas) signed a historic agreement on the question of East Timor, along with two protocols pertaining to the modalities of a popular ballot slated for August 1999 as

to whether or not the East Timorese would accept or reject autonomy within the Republic of Indonesia, and another pertaining to security arrangements during and after the vote. Annexed to the agreement was Indonesia's constitutional framework for a special autonomy for East Timor, otherwise known as the autonomy package (see Martin 2001, 141-47).

This agreement, endorsed by the Security Council on 7 May (Resolution 1236 [1999]), was widely portrayed as the triumph of 16 years of UN diplomacy on the question. It was cautiously greeted by proponents of the East Timorese resistance, inasmuch as the document recalled key Security Council resolutions on East Timor and the fact that the document, the process, and the results of the ballot were to be referred to the Security Council for approval. The document was also historic in the sense of heralding the almost immediate arrival in East Timor of an advanced UN assessment team (4-15 May) as a prelude to a full-blown United Nations Assistance Mission in East Timor (UNAMET) budgeted at some US\$53 million. Under the agreement, the UN Secretary-General, acting on the advice of the assessment team, had until 13 June 1999 to decide if conditions in the territory made the consultation possible. Nevertheless, as events proved, leaving Indonesia and its armed forces in control of overall security was a recipe for disaster.

As invoked by the 5 May document, the principle of “special status based on wide-ranging autonomy...without prejudice to the positions of principle of the respective governments” had been determined at the earlier meeting on 5 August 1998. Long holding out the scenario of civil war should a referendum be held, it was only at a subsequent meeting in New York on 21-23 April that Indonesia finally conceded the principle of a direct ballot or plebiscite, allaying concerns as to a West Irian (West Papua) act of free choice scenario, a reference to the sham UN-monitored plebiscite of 1969 in that territory.

Notably, at the 21-23 April meeting, Indonesia formally presented for the first time its 60-point autonomy package, as mentioned, first broached by President B.J. Habibie in June 1998. It was then revealed that the UN was expected to supervise a vote or plebiscite, whereupon on 8 August the East Timorese would be consulted as to whether they rejected or accepted the Indonesian autonomy package. Two additional documents were presented to the delegations for the first time. These covered security arrangements for the popular consultation and the modalities of the consultation. As Special Representative Jamsheed Marker, explained, while a UN presence would be involved on the ground, the shape or form was yet to be worked out, further revealing that he favored the word and understanding of Indonesia and diplomatic process over dispatching Blue Helmets or peacekeepers.

As the 5 May document stipulated, should the proposed constitutional framework for special autonomy be acceptable to the East Timorese people, then Portugal would initiate the procedures necessary to remove East Timor from the list of Non-Self-Governing Territories and Indonesia would make its constitutional adjustments in line with the autonomy package. On the contrary, should the autonomy proposals be rejected, then Indonesia would terminate its links with East Timor and the territory would revert to its pre 17 July 1976 status (a reference to the Indonesian parliament's incorporation of East Timor) and authority in East Timor would be transferred to the UN pending a transfer of power to an independent East Timor state. Fatally, such language masked the pact with Jakarta that required the new Indonesian parliament elected in June 1999 to actually vote to release East Timor from the illegal 1976 annexation (cf. Marker 2003, 144-60).

But developments inside East Timor could not be ignored. For example, the showcase evacuation staged for the foreign media in August 1998 by the Indonesian military (TNI) actually masked a troop buildup in the east preparatory to an encirclement and assault on Falintil in that quarter. In effect, the unofficial ceasefire between TNI and Falintil was disrupted by TNI killings in Alas on the remote south coast in November 1998, provoking the Portuguese to postpone an upcoming round of discussions with the Indonesians at New York and attracting a statement of concern from the Secretary-General. Jakarta's veiled-glove strategy was now reversed. Commencing in late 1998, new militia groups were brought into line. Within days of the signing of the 5 May agreement, it seemed that militia violence in part aimed at derailing the prospects for an election was, to Indonesia's concern, strengthening international calls for the peacekeepers (Gunn 2000, 272). Marker's tribute to the special role of Secretary-General Kofi Annan in both reviving the moribund East Timor case within the UN system and in engaging the negotiating process at all levels is undoubtedly apposite as well:

“Thinking back on this sequence of events, I am reaffirmed in my conviction that without Kofi's initial decision to activate a negotiating process on East Timor and not only to keep it alive but to vigorously push it at all times, the United Nations would not have been in a position to seize the opportunities offered by the devolution of political events in Indonesia. In other words, we kept the ball in our possession, and ran with it as soon as we got the chance” (Marker 2003, 204).

UNAMET on the Ground

Simultaneous with the New York meeting of 21-23 April 1999, a UN interagency humanitarian mission visited East Timor to assess humanitarian and development needs. It reported critical gaps

in the delivery of basic services, particularly health and education. This assessment would not surprise many people, Timorese included, especially as a humanitarian disaster had been reimplanted by the destabilizing actions of the militias. But it is also significant that, for the first time in 24 years, the UN had moved to even make an on-the-ground assessment in this area. The first members of the UN assessment team in advance of the full blown UNAMET mission arrived in Dili on 3 May, just ahead of UN discussions. This was a four-member team from the UN Department of Political Affairs (DPA) tasked to evaluate the needs of the future UN monitoring force. On 8 May, Om Rather, the top UN police advisor flew to Dili to assess the situation, offering that a force of between 250 and 300 UN police would be required and would start to arrive in June.

While the important Security Council resolution unlocked UN funds to support the UN mission, still the potential donor countries were slow in announcing commitments, doubtless also deterred by the dubious security situation. Indeed, the UN imposed conditionality upon the process, requiring a positive assessment of the security situation to be constantly reported back to the UN Secretary-General, in turn to be reported to the Security Council in mid-June, which would, in turn, determine whether the registration process could proceed. By early July, according to UN spokespersons, all groups were required to lay down their weapons, clearly a formula short of disarmament and a timetable comfortable for the militias to finish off their bloodthirsty work.

As set down in the 5 May Agreement on the Modalities of Popular Consultation, the run-up to polling day on 8 August was to be in line with a strict timetable (cf. Marker 2003, 148). The first stage was that of operational planning/deployment (10 May-15 June); followed by public information program/voter education (10 May-5 August); preparation and registration (13 June-17 July); exhibition of lists and challenges (18 July-23 July); political campaign (20 July-5 August);

and cooling-off period (6 August-7 August). Voter registration was to take place over 20 days in 200 centers inside Timor as well as in a number of Indonesian cities and in such centers where the diaspora formed communities as Macau, Lisbon, and Darwin. The campaign ahead of the vote was to be in line with a Code of Conduct. International observers were allowed. International civilian police were to be present in East Timor to advise the Indonesian police and to supervise the escort of ballot papers. In this exercise, the voters were asked to accept or reject the Indonesian autonomy package. Within days of the agreement, the UN announced that alongside international civilian police, there would be over 600 international staff, including 400 registration and polling officers, as well as some 4,000 local staff.

Security Guarantees

As the security protocol of the 5 May 1999 agreement outlined, a prerequisite for the vote was a secure environment devoid of violence or other forms of intimidation. Such would be salutary for the East Timorese at the hands of the militias and TNI, although the major contradiction of the agreement was, as feared by independence supporters, that the maintenance of law and order rested with the appropriate Indonesian security authorities. Still the absolute neutrality of TNI was demanded. But this was a matter of faith, as Kofi Annan explained in a press conference. Details on security were also outlined in an unsigned memorandum presented by the Secretary-General. This was presented to convey to Portugal and Indonesia that certain security conditions had to be met for the operational phase (or start-up) of the process. Primary was the need to bring armed civilian groups under strict control, a ban on armed rallies, the arrest and prosecution of those threatening to use violence, the redeployment of Indonesian military, and a laying down of

arms. Such sentiments were salutary but fell short of Indonesian military drawdown and disarmament.

In any case, the security question was to be subject to a number of tests, the first accounting of which was registered by the advance mission in its report to the UN Secretary-General, in turn submitted to the Security Council on 22 May (S/1999/595). In this, Kofi Annan declared, “Despite repeated assurances that measures would be taken by the Indonesian authorities to ensure security in East Timor and curtail the illegal activities of the armed militias, I regret to inform the Security Council that credible reports continue to be received of political violence, including intimidations and killings, by armed militias against unarmed pro-independence civilians...there are indications that the militias, believed by many observers to be operating with the acquiescence of elements of the army, have not only in recent weeks begun to attack pro-independence groups, but are beginning to threaten moderate pro-integration supporters as well.” In identifying 24 militia groups across the territory, the Secretary-General also raised for the first time the possibility of assigning military liaison officers to assist UNAMET (cf. Gunn 2000, 277).

Evaluation

From the outset, as elements of the UNAMET mission arrived in East Timor, analysts were cautious, even guarded, as to a peaceful outcome of the ballot, especially as the militia death squads were still operating with impunity. As some Western media concluded, this was a flawed UN agreement from both a security perspective, and also from an international legal perspective. Leaving the Indonesian armed forces and its adjunct police forces in control of security during the conduct of a UN supervised ballot was undoubtedly a precedent-setting strategy on the part of the

world body, but one that bent over backwards to accommodate Indonesian face. As Francesc Vendrall, Head of the UNDPA, disarmingly clarified on the envisaged role of UN police advisors, “advice cannot be forced upon the Indonesian police.” Moreover, no timetable was entertained in the pact for the cantonment and withdrawal of TNI, the invading force condemned in two UN Security Council resolutions. Neither did the call for laying down of arms on the part of the militias (and Falintil) strike the right chord, at least alongside demands for an internationally supervised disarmament (Gunn 2000, 277-78).

Shifting the blame to the “core group” countries, especially the U.S. and Australia, Joe Nevens (2002, 633) has written “Core Group members were aware in the months preceding the vote that they had to do something to increase security mechanisms available to the East Timorese while lessening the possibility of Indonesian attempts to derail the consultation process through violence...” “Moreover there was an [false] assumption that the Indonesian authorities understood the costs (internationally) that a spree of killing and destruction would entail and would thus restrain themselves.” “Nevertheless, there were certainly ample reasons not least Jakarta's conduct the previous 23 years and more – to assume that Indonesia would not abide by its obligation under the May 5 Agreement.”

Almost from the outset, a duty-bound UNAMET were obliged to defend themselves from Indonesian allegations of victim bias for having the temerity to expose a militia training class conducted by TNI. Only faith in the agreement and the mandate held by the Secretary-General, and through him, the Security Council and General Assembly, to cancel, suspend, and/or pass judgment on the ballot, offered hope for a just outcome.

Having been twice postponed on security grounds, the ballot was duly held on 30 August with over 98 percent of the 451,792 registered actually voting. Despite the absence of a level playing field, as even UNAMET admitted, the result was an overwhelming victory for independence and a rejection of special autonomy. To be precise, 78.5 percent voted to break with Indonesia while 21.5 percent chose the Indonesian autonomy package. The high voter turn-out and relative calm of the ballot was seen by UNAMET as a vindication of its mission.

But, as well documented, even before UNAMET Phase II could kick off, namely the interregnum between the announcement of the results of the ballot and the convening of the Indonesian National Assembly (MPR) which would legislate on the ballot result, the TNI and militia unleashed a bloodbath. Appropriately, UN Human Rights Commissioner, Mary Robinson, declared the necessity to create a commission leading to a Rwanda-style tribunal to prosecute crimes against humanity. [see Humanitarian Assistance/Human Rights] The international community expressed outrage, as Jakarta went into denial mode and anti-foreign nationalism surged across Indonesia. With President Habibie increasingly captive to the military, the world entered a breathless week of diplomatic brinkmanship. Undoubtedly only the threat of a war crimes tribunal along with the imposition of economic and military sanctions on Jakarta by the U.S. and EU countries, in tandem with the U.S. President's evident conversion on the Timor horror, persuaded Wiranto and Habibie – to the collective relief of the world – to agree on 12 September to invite the UN to dispatch an international force.

Still, with the sword of Damocles hanging over the heads of the Timorese, the UN procrastinated on the terms of its mission until 15 September. On this day the Security Council unanimously passed resolution 1264 (1999) paving the way for the immediate entry into East Timor of a UN-

mandated multinational peace-enforcement force pending the arrival of a full-fledged UN-commanded blue helmet or peacekeeping force in a later period. Mandated under Chapter VII of the UN charter, the Australian-led International Force for East Timor (INTERFET) was authorized to deploy force and to take in hand the humanitarian crisis. Nevertheless, much ambiguity remained in the wording of the resolution over the withdrawal of the remaining 26,000 Indonesian security forces in East Timor. Neither were powers of arrest granted INTERFET in the case of capture of militias. [see Humanitarian Assistance]

An independent East Timor now seemed politically assured, but at what unconscionable human cost? In the event, the UN decided not to act upon Mary Robinson's recommendation, or even that of a special UN mission of investigation into human rights abuse (International Commission of Inquiry), mandated on 15 October 1999. Rather than establishing an effective international court as advised, the UN Secretary-General made the decision to allow the Indonesian government to proceed with its own system of justice. [see Humanitarian Intervention]

