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INDONESIA & EAST TIMOR

When Will the Commission Take Action...?

I. Introduction

In 1995, there were signs of increased sensitivity on the part of the Indonesian Government to national and international pressure for an improvement in the human rights situation in Indonesia and East Timor. A four day visit by the UN High Commissioner for Human Rights, which included around 24 hours in East Timor, took place in December and there are unconfirmed reports of agreement to closer cooperation from the Indonesian Government with human rights experts and mechanisms. In addition, in August it was announced that some restrictions on public gatherings would be lifted. However, the Indonesian Government has failed to implement past recommendations and resolutions made by the UN Commission on Human Rights (CHR) and its thematic mechanisms, and in the context of continued, grave human rights violations in Indonesia and East Timor, those measures which have been taken are insufficient. Over 200 political prisoners, many of them prisoners of conscience, are currently imprisoned in Indonesia and East Timor. Dozens of them were sentenced after unfair trials during 1995. Throughout 1995 and early 1996 Amnesty International has also continued to receive reports of “disappearances”, extrajudicial executions, arbitrary detention and of torture and ill-treatment of both political and criminal detainees in Indonesia and East Timor.

At the 1995 CHR Amnesty International called on the international community to take action over persistent and grave human rights violations in Indonesia and East Timor. However, the CHR ignored serious human rights violations in Indonesia and even the Chair's statement on the situation in East Timor did not adequately address the Indonesian Government's demonstrated lack of commitment to human rights. The violations continued during 1995 and Amnesty International fears the situation will not improve unless the international community is prepared to put pressure on the Indonesian Government, via UN mechanisms and bodies, to take concrete measures to prevent further human rights violations.

This report provides a summary of current human rights concerns in Indonesia and East Timor and examines the response by the Indonesian Government to previous recommendations and resolutions of the CHR and its thematic mechanisms. The report concludes with recommendations for the international community which Amnesty International believes would, if implemented, contribute to greater protection and promotion of human rights in Indonesia and East Timor.

II. Human rights in Indonesia and East Timor during 1995

Indonesia's human rights performance during 1995 was marked by the sentencing of prisoners of conscience, unfair political trials, harassment and arbitrary detention of alleged government opponents, torture, extrajudicial executions, "disappearances" and imposition of the death penalty. Restrictions on civil liberties and harassment of alleged government critics and human rights activists continue in Indonesia and East Timor, indicating the government's reluctance to allow or tolerate criticism. In 1995, at least 26 seminars and meetings were broken up by the authorities and the performance about a play on labour rights was banned. Despite a court decision in favour of one of the magazines banned in 1994, restrictions on the press continued. In May, an Administrative Court in Jakarta ruled that the June 1994 banning of Tempo magazine had been unlawful. The decision surprised many observers, but the government has announced that it is appealing the verdict. In the meantime, publication of the magazine remains suspended. Other media was subject to censorship during 1995, including a television talk show and a weekly paper, both of which had aired comments critical of the government.

Political Prisoners in Indonesia and East Timor

The Indonesian Government continues to imprison peaceful critics. Dozens were imprisoned after unfair trials during 1995 in both Indonesia and East Timor. These add to the around 200 political prisoners, many of whom are prisoners of conscience, already sentenced to terms of up to life imprisonment, imposed after unfair trials, for their alleged links with armed secessionist movements in Irian Jaya, Aceh and East Timor or with Islamic activists or those alleged to have been involved in a coup attempt in 1965.

Political prisoners continue to be sentenced after trials marked by unfairness, including intimidation of defendants, threats against independent lawyers, use of testimony extracted under torture, and statements by the authorities assuming the guilt of defendants. In 1995, at least five people were tried and sentenced to prison terms ranging from six to 20 years for their alleged role in an armed uprising in Aceh, with at least two of the five convicted under Indonesia's Anti-Subversion Law.

Peaceful critics, including journalists and labour activists, continue to be at risk of imprisonment. **Sri Bintang Pamungkas**, a former member of parliament for the United Development Party (*Partai Persatuan Pembangunan*- PPP) is facing a six year sentence for criticising the government. He is currently being tried in Jakarta. In September, two members of an independent journalists' organization, the Independent Journalists' Alliance (*Aliansi Jurnalis Independen* - AJI) and an office worker were found guilty of "insulting the government" and sentenced to prison terms ranging from 20 to 32 months for their role in the dissemination of an

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unlicensed publication. In November the sentences against the journalists were increased by four months.

Three prisoners detained since the 1960s after unfair trials for involvement in an alleged communist coup attempt in 1965, were released in August but at least 14 others remain in detention for their alleged role in the coup attempt, including five on death row. Former prisoners, and frequently members of their families, continue to face restrictions in seeking employment, housing and voting. Despite a government announcement in August 1995 that it would remove the marking on identity cards for former prisoners, there remains concern among non-governmental organizations and others that this information will still be recorded and used by government officials to restrict the rights of former prisoners.

At least 35 East Timorese prisoners are currently serving sentences of up to life imprisonment for their peaceful opposition to Indonesian rule in East Timor. At least 17 prisoners of conscience were tried and sentenced during 1995, including **Jose Antonio Neves** who was sentenced to four years' imprisonment in February. Others sentenced after unfair trials during 1995 include 16 students tried over their role in a peaceful demonstration in January. Many of this group were not represented by independent lawyers and several were known to have been threatened by the authorities to withdraw their power of attorney from independent lawyers.

Arbitrary detention

In Indonesia, labour, political and human rights activists are frequently at risk of being subjected to short-term arbitrary detention as a result of their peaceful activities. Such arrests are usually conducted without warrants, by military authorities rather than police and detainees are denied access to lawyers of their choice, all of which facilitates the practice of torture. In 1995, information came to light about the arbitrary detention during 1994 of individuals in the province of Irian Jaya, believed to have been linked to a local armed-secessionist leader. East Timorese are particularly at risk of arbitrary detention for their real and alleged opposition to Indonesian rule. Hundreds of suspected political activists were subjected to short-term detention and harassment during 1995. Up to 300 were believed to have been arrested following riots throughout East Timor in September and October. Most were released shortly afterwards but between 35 and 50 of these people are believed to be facing trial. The security forces frequently arrest people alleged to be opponents of Indonesian rule in East Timor in a bid to try and prevent demonstrations or actions. This is most common just prior to significant dates in East Timor such as the anniversary of the November 1991 Santa Cruz massacre or prior to visits by foreign delegations to East Timor, including UN representatives.

In August 1995, the government announced that it would lift restrictions on public gatherings by

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relaxing reporting requirements. Under Article 510 of the Indonesian Criminal Code, anyone who organises processions or gatherings without prior permission from the police is liable to two weeks' imprisonment or a nominal fine. The article is frequently used to prevent public meetings on human rights, democracy and labour rights and to subject individuals to arbitrary short-term detention. New guidelines on public gatherings are expected to be drawn up, but while the announcement suggested an easing of restrictions on some types of events, permits are still required for public parties, public gatherings and parades. The guideline, which has become effective on 1 January 1996, does not include directives for street demonstrations and protests which will be regulated under separate legislation.

Torture and ill-treatment

Torture and ill-treatment of political and criminal detainees continues in Indonesia and East Timor. Those at greatest risk are individuals in marginalised groups and those who are either denied, or cannot get access to, legal counsel of their choice. In January 1995, a woman and two men were tortured in military detention after being detained along with seven others while travelling to central Jakarta to demonstrate against the demolition of their homes. The woman was slapped, kicked and her skin smeared with ointment to make the pain more intense. She was then subjected to electric shocks resulting in burn marks on her thighs, arms and back. Lawyers were denied access to the group in detention.

In East Timor, torture of political detainees continues to be routine. In some cases, detainees who have been beaten and tortured are warned not to provide information to human rights monitors about their treatment. In other cases, detainees are subjected to torture to prevent them from seeking independent legal advice. **Hendrique Belmiro**, arrested in December 1994, has recently been sentenced to six years and two months imprisonment for armed rebellion against the state. He is known to have been severely tortured. Amnesty International also believes that he was forced to withdraw power of attorney from independent legal counsel. In September, his trial was adjourned apparently because he was not fit to appear in court. The organization is gravely concerned for Hendrique Belmiro's health and is requesting that he be granted immediate access to independent legal counsel and medical treatment. Amnesty International has also received testimony and eyewitness accounts of individuals detained during the riots in East Timor in September and October 1995 who were tortured and beaten.

Torture and ill-treatment of criminal suspects is also commonplace and sometimes results in death. **Edy Sartono**, a 14-year-old boy was repeatedly beaten and forced to masturbate using a liniment, after being detained by police on a rape charge during 1995. In October 1995, **Yuliani** was found dead in a police cell in East Jakarta after she was arrested on a criminal charge. Police claim that she died as a result of injuries she sustained when she banged her head repeatedly

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against the wall but there was concern that she had been beaten by police. An investigation was launched into her death. Also in 1995, a 26-year-old man, **Jumadi**, was found hanging in his police cell after being detained on a rape charge. Police said that he killed himself but the autopsy report showed signs of ill-treatment. Seven police were reported to have been questioned about the death, but it is not clear what further action has been taken.

"Disappearances" and extrajudicial executions

"Disappearances" continue to be reported in both Indonesia and East Timor. In 1995, new information came to light about "disappearances" in the Indonesian province of Irian Jaya which had occurred during 1994. In October 1994, **Sebastianus Kwalik**, and his three brothers, **Romulus Kwalik**, **Marius Kwalik** and **Hosea Kwalik**, were all allegedly arrested by five soldiers on suspicion of involvement with the *Organisasi Papua Merdeka* (Free Papua Movement - OPM). They were last seen by relatives in November 1994 after being detained at a military post at Koperapoka in Timika. Five youths are alleged to have "disappeared" after being arrested on 9 January in Dili, East Timor. The five, **Eustáquio Pinto**, **Armando Soares**, **Julião Pinto**, **Jose Pinto** and **Francisco Amaral**, were arrested by the military after a demonstration at the University of East Timor. At the end of February, the East Timor Police Chief stated that the fate of the five was being investigated. However, since then, no action appears to have been taken.

Extrajudicial executions of political and criminal suspects continue to be reported in both Indonesia and East Timor. In May, 11 people, including women and children, were extrajudicially executed by the military in the village of Hoesa in Irian Jaya, as the security forces pursued members of an armed secessionist movement. Both the Indonesian National Commission on Human Rights and the military conducted an inquiry into the incident, and four low-ranking soldiers are believed to be in military detention for their alleged role in the killings. The four were believed to be awaiting trial in January.

In East Timor, at least 13 civilians are thought to have been extrajudicially executed during 1995 alone. In January, six men were extrajudicially executed by the military in Liquiza. Two soldiers were sentenced to prison terms of four and four and a half years for the killings but this did not prevent extrajudicial executions continuing in East Timor with at least four other civilians killed after this. In September, two civilians, were killed by the military in Viqueque while they were hunting deer. East Timor military commander, Colonel Simbolon, has said that he ordered an inquiry into the killings, but the outcome of the inquiry is not yet known.

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Death penalty

In 1995, three people convicted on criminal charges were executed and others were threatened with execution heightening concern that Indonesia was increasing its use of the death penalty. Prior to January 1995, there had been no executions since December 1992. At least 26 people are believed to remain under sentence of death, some at imminent risk of execution. During 1995, the spectre of possible political executions returned. The last executions of political prisoners took place on 16 February 1990 when four men accused of involvement in the 1965 coup attempt were executed. In August 1995, Justice Minister Utoyo Usman announced that two political prisoners were among seven prisoners who would be executed soon. The minister later claimed, however, that no execution orders had been signed and it remains unclear when or if the executions will be carried out. The two prisoners threatened with execution are believed to be **Bungkus** and **Nataneal Marsudi**, both of whom have been on death row for almost three decades.

Komnas HAM - progress towards human rights?

One of the few recommendations made by UN human rights experts which the Indonesian Government has implemented - albeit in an inadequate manner - is the establishment of a national institution on human rights. The presence of the National Commission on Human Rights (*Komisi Nasional Hak Asazi Manusia - Komnas HAM*) is frequently highlighted by the Indonesian and other governments as evidence of an improvement in the human rights situation in Indonesia and East Timor. Amnesty International acknowledges that the creation of the National Commission was a welcome step and that it has contributed in some way to ensuring that a limited number of violations of human rights are brought to public attention. The National Commission has conducted inquiries into certain human rights violations and has released unexpected findings in a few cases. But its presence is in no way evidence of the fact that full and impartial investigations into allegations of human rights violations are systematically conducted in Indonesia and East Timor, evidence of which can be seen from looking at the National Commission's performance in 1995 alone. In addition, limitations on the National Commission's power and functions prevent it being a truly effective mechanism for redressing human rights violations. Any contribution that the National Commission can make in promoting and protecting human rights is undermined by the continuing failure of the government to act on the findings of the National Commission.

Amnesty International is concerned that, as established by the Indonesian Government, Komnas HAM's working methods and powers fall short of international standards for national human rights institutions, rendering its findings less than complete. The responsibility for this falls squarely with the Indonesian Government which has yet to grant the National Commission sufficient powers and resources required for it to be fully operational and independent.

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International standards set out how national human rights institutes should be structured and how they should operate.¹ They also set out how governments should assist in the proper functioning of national institutions and how they should deal with findings of human rights violations by members of government security forces. In summary, national institutions should:

- be independent from the government;
- have members who function independently and have particular expertise in the field of human rights;
- should be given as broad a mandate as possible to monitor human rights set out in a constitutional or legislative text;
- should have precisely defined powers to investigate on their own initiatives reports of human rights violations;
- should have adequate funding to ensure the smooth conduct of their activities;
- should have as one of their functions making recommendations for the ratification of or accession to international human rights instruments and should ensure their implementation;

Komnas HAM does not meet the conditions set out in the UN standards. It is not established in law and does not operate with adequate resources. Its mandate is not clearly defined nor are its powers.

The National Commission has three divisions; a monitoring division; human rights education division and a division which considers international human rights standards. Komnas HAM claims to have received 4,000 cases since it was established with a large proportion of these cases relating to land and environmental disputes. Other cases submitted to the National Commission include labour disputes, extrajudicial executions, torture and arbitrary detention. Because of a lack of clarity about Komnas HAM's functions, there is no consistency in the cases it takes up. It does not always investigate cases of extrajudicial execution or "disappearance" brought to its attention, nor does it always take up cases of torture.

While Komnas HAM has on occasion made reference to political detainees, this has not been consistent. Some political detainees or others threatened with being tried on political charges have attempted to bring their case before Komnas HAM, but without substantive support. In

1 Annex to Resolution 1992/54 on National institutions for the promotion and protection of human rights, adopted by consensus by the United Nations Commission on Human Rights, 3 March 1992.

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October, Komnas HAM stated that it would change its focus to "political" cases, and that it will look at legislation which allegedly violates human rights. It has said it will consider as a top priority the Anti-Subversion Law, but it is not clear whether it will also include the "Hate-sowing" articles, which are now more commonly used to imprison peaceful critics. Nor has it said whether it will address the issue of unfairness in political trials.

Amnesty International is concerned that the conditions which would allow Komnas HAM to conduct full and impartial inquiries are often not present. The level of military surveillance in the areas in which the National Commission conducts investigations raises concerns about military intimidation of witnesses and relatives of victims. During investigations into human rights violations in the province of Irian Jaya, Komnas HAM itself concluded that there was excessive military surveillance in the province. Witnesses to killings were reported to have fled prior to Komnas HAM's arrival for fear of reprisals. At one site, villagers were apprehensive about meeting the National Commission because of the presence of an Armed Forces (ABRI) patrol in the area. Without cooperation from the government and the military to allow for the proper investigation of human rights violations and the protection of eyewitnesses, Komnas HAM cannot effectively fulfill its function of monitoring violations.

The extent of the forensic work conducted by the National Commission is not clear. It would appear that there is a lack of adequate resources for this type of investigation. Amnesty International is also concerned that military presence in the areas in which the National Commission has conducted inquiries has inhibited independent and complete forensic investigation. Amnesty International has documented previous instances where the security forces have destroyed crucial evidence of human rights violations.²

Komnas HAM never releases its full findings, making it difficult to determine the nature of particular inquiries and the full extent of their conclusions. The normal procedure is for the National Commission to release a three or four-page press release. On some occasions Komnas HAM has undertaken to submit more complete reports in private to the government. The result of this is that precise violations found to have occurred are not always detailed. Amnesty International considers that in an environment where the government appears unwilling to ensure that human rights violations are systematically addressed, and where full public information about the findings of Komnas HAM is not available, impunity for members of the security forces continues.

² See for example details of the Liquiza killings in East Timor in January 1995 in Amnesty International East Timor: Twenty Years of violations, ASA 21/33/95, July 1995. Evidence in relation to the 1993 murder of Indonesian labour activist, Marsinah, widely believed to have been killed with the complicity of the security forces, has also been destroyed.

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Even if the conditions existed for Komnas HAM to conduct full and impartial inquiries, the Indonesian Government often does not act on its findings. Indeed, it is not clear whether any particular section of the government is responsible for responding to Komnas HAM's reports. The National Commission therefore often submits reports in a vacuum. In some cases, adverse findings from the National Commission have been followed by military trials at a national or local level. The investigations and prosecutions are therefore carried out by the body alleged to have committed the violations - the Armed Forces. This is despite the fact that in many cases, senior army figures provide misleading information about the true circumstances surrounding the army's involvement in human rights violations. In August, the head of the ABRI information centre, Brig-Gen Suwarno Adiwijoyo, was quoted as saying that it was not the army that was responsible for the violations in Irian Jaya, but rather GPK (*Gerakan Pengacau Keamanan* - Security Disturbers), the government term for groups and individuals opposed to their rule.³ At the beginning of September, ABRI was still maintaining that while it was unclear what actually happened during all of the reported incidents, those who were killed were members of the OPM, and not civilians.⁴ This response echoes that of the armed forces after reports began circulating that six alleged members of the East Timorese resistance had been shot during a confrontation in Liquiza in January 1995. The six were claimed by ABRI to be guerrillas. Komnas HAM, however, stated that the six were "non-combatants", suspected of being Fretilin, in a three page press release of its own findings released on 1 March 1995. The press release also said that the six had been intimidated and tortured by the security forces and then unlawfully killed.

In other cases, the findings of Komnas HAM are ignored and those responsible are not held to account. Despite the National Commission's conclusion that labour activist, **Marsinah**, was murdered in May 1993 by individuals other than the nine civilians charged and subsequently convicted with her murder, and that these civilians were tortured in detention, a new police inquiry into the murder has yet to act on the Commission's findings. In other cases, the authorities appear not to have accepted the seriousness of Komnas HAM's findings. After the findings of Komnas HAM concerning Irian Jaya were released, Army Chief of Staff, General Hartono, stated that there was no need for a military council to investigate the violations and that the violations which occurred were "less serious" than the killings of six civilians in Liquiza, East Timor in January 1995. The General stated that the issue concerned "disciplinary" problems which could be resolved by local level military commanders. The government has also made it clear that the Commission will not investigate the November 1991 Santa Cruz massacre in East Timor, because it was established two years after the events.

In 1995, Komnas HAM announced that it was establishing an office in East Timor. Amnesty International welcomes greater monitoring by international and domestic human rights organizations and experts and access to the area for human rights monitors. The organization

3 Merdeka, 21 August 1995.

4 Jawa Pos, 2 September 1995.

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does not think, however, that the Komnas HAM office will necessarily result in greater protection and promotion of the human rights of East Timorese. This concern was reflected also by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions. Based on his examination of the government's investigations following the Santa Cruz massacre, the Special Rapporteur recommended that there should be a separate independent commission on human rights in East Timor which represents East Timorese civil society, including non-governmental organizations.

Perhaps confirming the concerns of the Special Rapporteur, Komnas HAM released disappointing findings on violations in East Timor during a month of riots and disturbances in September 1995. The Commission found that violations had been committed by one group against another, an allusion to reported attacks by members of the East Timorese Catholic community against Indonesian migrants to East Timor, but failed to consider issues of arbitrary detention and torture by the security forces. Killings and "disappearances" in East Timor, with the exception of the Liquiza killings, are not known to have been investigated by the Commission.

Komnas HAM has already established links with other national commissions on human rights, in particular the Australian and Canadian national human rights commissions. Amnesty International hopes that such links will not just allow the Government of Indonesia to defend its human rights performance but will lead to concrete improvements in the structure, resourcing and working methods of the Commission and the government's response to its findings. In line with this, Amnesty International considers that other national commissions on human rights should use their links with Komnas HAM to urge the Indonesian Government to redefine the functions and legal status of the Commission ensuring that they at least meet those outlined in the UN *Principles relating to the status of national institutions*. In particular, governments should use their links with the Indonesian Government and Komnas HAM to urge the Indonesian Government to:

- clarify the functions of the National Commission;
- establish the National Commission by law;
- provide sufficient resources to enable the National Commission to be able to fulfil its functions effectively;
- ensure that the findings of the National Commission are dealt with in such a way that those allegedly responsible for human rights violations are held properly to account in civilian courts.

III. International condemnation of Indonesia's human rights performance

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Criticism of the Indonesian Government's human rights record by Amnesty International and other international and domestic non-governmental organizations continues to be echoed in the findings of the UN CHR thematic mechanisms, including the Working Group on Arbitrary Detention (WGAD), the Working Group on Enforced or Involuntary Disappearances, (WGEID), the Special Rapporteur on extrajudicial, summary or arbitrary executions and the Special Rapporteur on torture.

In December 1994 the Special Rapporteur on extrajudicial, summary or arbitrary executions, invited to Indonesia and East Timor in 1994 to inquire into steps taken by the Indonesian Government to investigate the November 1991 Santa Cruz massacre in Dili, released his report. The report criticised a lack of action by the government in investigating the massacre and made 12 recommendations to the Indonesian Government including the establishment of a new and independent commission of inquiry into the massacre; inviting the UN Working Group on Enforced or Involuntary Disappearances to East Timor; the establishment of a civilian police force; granting of full access to human rights non-governmental organizations to East Timor; and transferring jurisdiction over cases of human rights violations by members of the security forces to the civilian judiciary.

The Indonesian Government was commended by the CHR in 1995 for allowing the Special Rapporteur to visit East Timor. However, the government has so far not responded formally to the Special Rapporteur's report and has given no indication that it will implement his recommendations. Indeed at the 1995 session of the CHR, the government circulated comments on the Special Rapporteur's report which criticised the findings and concluded that it would be "difficult" for the government to implement his recommendations.⁵ The government has not since supplied the Special Rapporteur with any further information on the fate of those missing and killed during the Santa Cruz massacre, a request made in the Statement of the Chair of the CHR in 1995 - a statement which reflected consultations between the government itself and the Commission.

In 1992, the Special Rapporteur on torture made the following recommendations to the Indonesian Government following a visit to Indonesia and East Timor:

- (a) Accession by Indonesia to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights and ratification of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture);

⁵ "Comments on the Report by the Special Rapporteur on Extra-judicial, summary or arbitrary executions on his mission to Jakarta and East Timor from 3-13 July 1994", paper circulated by the Indonesian Government at the 51st Session of the CHR in 1995. AI Index: ASA 21/10/96 Amnesty International February 1996

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- (b) Creation of a greater awareness within the judiciary of its role in the enforcement of respect for human rights and in particular the right to physical and mental integrity. The independence of the judiciary should be scrupulously respected;
- (c) Extension of the responsibility of the Attorney-General's office and of the judiciary for the supervision of the legality of arrests and the regularity of criminal investigating procedures;
- (d) Strict respect of detainees' rights to legal advice;
- (e) Dismissal by courts of evidence which is obtained in a way which is not in conformity with the law;
- (f) Repeal of the Anti-Subversion Law;
- (g) The creation of a national commission on human rights;
- (h) The creation of an authority or agency, with independent investigative powers, where victims of human rights violations (e.g. torture) can file complaints.
- (i) The establishment of a system of regular visits to all places of detention, including police stations, by an independent authority. Local offices of a national commission on human rights could be entrusted with this task;
- (j) Punishment of those officials found guilty of committing or condoning torture or other cruel, inhuman or degrading treatment;
- (k) Jurisdiction over offences committed by members of the armed forces, including the police, should be given to the civilian courts.

Of these recommendations, only two - (g) and (h) - have been implemented, although only partially in both cases.

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UN Commission on Human Rights and Indonesia - a sorry performance by all

In addition to failing to implement the recommendations of the thematic mechanisms, the Indonesian Government has also failed to implement the resolutions of the CHR itself. While the Indonesian Government continues to display a lack of commitment to protecting human rights, serious human rights violations continue in Indonesia and East Timor. Amnesty International consider that the CHR should adopt resolutions on both Indonesia and East Timor at the 52nd Session in 1996. If it does not, the Commission will have failed in its responsibility to address serious human rights violations and will have missed the opportunity to try to prevent further violations.

Since the CHR resolution in 1993⁶, the position of member states of the CHR has become increasingly weak, frequently ignoring inaction by Indonesia in implementation of previous resolutions, and indeed praising the government for steps taken to improve human rights. The result has not encouraged the government to improve the human rights situation in East Timor but rather to preserve the status quo. The resolution adopted by the CHR in 1993, expressed deep concern at continuing reports of human rights violations in East Timor and urged the Indonesian Government to:

- account fully for those missing since the Santa Cruz massacre of 12 November 1991;
- bring promptly to justice all members of the security forces responsible for the massacre and related human rights violations;
- ensure that civilian detainees are treated humanely, that any trials meet international standards of fairness, and that those not involved in violent activities be immediately released;
- implement the recommendations contained in the January 1992 report of the UN Special Rapporteur on torture;
- expand access to East Timor for human rights and humanitarian organizations;
- invite four of the UN CHR's thematic mechanisms to visit East Timor.

Of these recommendations, the Indonesian Government has so far failed to implement the following:

- account fully for those killed and missing after 12 November 1991;

⁶ Resolution 1993/97 concerning East Timor, 49th Session of the UN CHR, Geneva, February 1993.

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- to hold those responsible for the Santa Cruz massacre to account;
- to release all prisoners of conscience;
- to allow East Timorese in detention access to legal counsel of their choice and a fair trial,
- to expand access to human rights organizations, despite access by the International Committee of the Red Cross (ICRC) to political detainees;
- to invite the Special Rapporteur on torture to again conduct monitoring in East Timor, the Working Group on Arbitrary Detention and the Working Group on Enforced or Involuntary Disappearances;
- to implement fully the recommendations of the Special Rapporteur on torture.

The Chair of the CHR in 1994 and 1995 gave statements on the situation in East Timor. Both statements expressed concern that the Indonesian Government had failed to fully account for those killed and missing after the Santa Cruz massacre, but acknowledged "efforts made to account for those persons" and called on the government to continue its "investigations on those still missing". The 1995 statement from the Chair also called for the government to implement the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions in his December 1994 report. The Indonesian Government has failed also to implement the recommendations of these statements, with the exception of allowing a visit to East Timor by the Special Rapporteur on extrajudicial, summary or arbitrary executions. Given that both statements were the result of consultations with the government, the Indonesian Government agreed to both statements, Amnesty International is concerned that the government has not yet displayed any willingness to implement the recommendations of the statements in full.

Access to East Timor

Amnesty International welcomes the fact that the International Committee of the Red Cross (ICRC) now has greater access to detainees in East Timor than in the past. Amnesty International however continues to receive testimony of individuals who have been tortured. Amnesty International is still denied access to East Timor. During 1995, international media faced severe restrictions on access to East Timor. Indeed, at the time that the Chair of the CHR delivered his statement, with the exception of two Australian journalists accompanying an Australian diplomatic mission, international media had already been prevented from travelling there since January. Bans on travel for international journalists continued throughout 1995. In November, a

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so-called "peace pilgrimage" by members of parliament, church leaders and activists from several countries and a foreign journalist were expelled from East Timor just prior to the fourth anniversary of the Dili massacre.

Investigations of human rights violations

The fact that the CHR continues to acknowledge efforts being made by the Government of Indonesia to clarify the fate of those killed and missing as a result of the Santa Cruz massacre suggests that the government is actively continuing to attempt to investigate the massacre. This is contrary to available evidence, evidence provided by UN thematic mechanisms. Such an acknowledgement also ignores inaction by the government on the investigation of other killings and "disappearances".

To Amnesty International's knowledge the government is no longer actively investigating the fate of those missing and killed at Santa Cruz. The organization is not aware of any new information provided by the government on those killed and missing to mechanisms such as the Working Group on Enforced or Involuntary Disappearances or the Special Rapporteur on extrajudicial, summary or arbitrary executions, or any willingness by the government to continue its investigations. The Special Rapporteur was informed by East Timorese chief of police during his visit to East Timor in 1994 that there was no special "investigative team" looking into the fate of those missing. The Special Rapporteur requested details and reports from the Indonesian Government concerning the government's attempts to identify those bodies recovered after the massacre and alleged attempts by the police to track those believed to be missing. None of this was provided to the Special Rapporteur at the time that his report was completed in November 1994.

The CHR does not seem to realise that the government has supplied misleading information on those killed and missing. Amnesty International has previously raised concern over misleading information which has been given by the Indonesian Government in relation to the fate of those killed or missing on or after 12 November 1991, including government figures of the number killed which contradict the government's own National Commission of Inquiry and doubts about the veracity of names provided by the government. In 1994, the Indonesian Government informed the Special Rapporteur on extrajudicial, summary or arbitrary executions that the identity of 10 of the 66 people believed missing had been revealed, with six still alive and four bodies being found outside Dili. The four bodies could not be identified however, raising doubts about their real identity and only the names of two of the 10 were in fact included in the government's own list of the 66 missing.

Despite repeated references to the killings and "disappearances" at Santa Cruz by the CHR, Amnesty International is at a loss to understand why the CHR has never urged the Indonesian

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Government to investigate other killings and "disappearances". Despite several high profile investigations by both Komnas HAM and the military into particular human rights violations during 1995, the government has failed to demonstrate a commitment to systematic, full and impartial investigations of human rights violations, and to ensure that the perpetrators are brought to justice. The Liquiza killings in East Timor and the subsequent investigations and sentencing of two members of the security forces considerably appeased international concern over violations by the security forces and impunity. The Indonesian Government said that the findings on the Liquiza killings in East Timor would be made public, a statement which was welcomed by the CHR in 1995. In fact, the findings were not made public. Two inquiries were conducted, one by Komnas HAM and the other by the military. Both inquiries yielded little in the way of public information and evidence of the killings was tampered with by the security forces. Two soldiers were convicted and sentenced to prison terms for their role in the killings after military trials which ignored findings of torture by security forces. The deaths of two men in Baucau, East Timor in July 1995, after they were shot dead by the military, have not been investigated, nor has the shooting of two men in Viqueque, East Timor in September. The killing of four peaceful demonstrators by the military on the island of Madura in September 1993 remains unresolved despite a complaint by family members and fellow villagers to Komnas HAM.

Violations in Indonesia: Inaction by the CHR

While the CHR has called on the Indonesian Government to address the human rights situation in East Timor, it has never dealt with the human rights situation in Indonesia, despite the fact that similar patterns of human rights violations occur there. CHR recommendations referring specifically to East Timor, identify problems and offer proposals which are equally relevant to Indonesia itself. By viewing the human rights situation in East Timor in isolation - and in particular by treating the Santa Cruz massacre as an isolated incident - the CHR has overlooked the problem of human rights violations by Indonesian security forces throughout the archipelago. What about the deaths of up to 2,000 believed to have been killed by the security forces in Aceh between 1989 and 1993, or the scores believed killed in an assault by government forces in Lampung, Sumatra in February 1989? Criminal suspects continue to be shot and killed by police in suspicious circumstances and "disappearances" and extrajudicial executions of alleged political opponents continue.

This lack of action continues despite the fact that the CHR's thematic mechanisms have expressed concern about human rights violations in Indonesia. The UN Special Rapporteur on extrajudicial, summary and arbitrary executions requested permission from the Indonesian Government to investigate reports of extrajudicial executions in areas of Indonesia such as Aceh

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and Irian Jaya. His request was not accepted. The Special Rapporteur on torture concluded that torture was commonplace in Indonesia and East Timor after being invited to conduct a visit to both Indonesia and East Timor in 1991.

Promotion and Protection of Human Rights

In the last few years, the Indonesian Government has taken a number of steps to address international concern over its human rights record. One such step was to hold a seminar on human rights in Jakarta in October 1994. During the seminar, the Indonesian Government signed a Memorandum of Intent with the UN High Commissioner for Human Rights (HCHR) and the UN Centre for Human Rights.⁷ Amnesty International is concerned that, despite the reference by the Government of Indonesia to the existence of the memorandum in international fora, it has not yet yielded any results. Technical cooperation programs should be established when there is a clearly demonstrated political will on the part of the government concerned to work towards improving human rights.

The Memorandum of Intent referred to the serious commitment of the government to fulfill its obligations to promote and protect human rights. The memorandum states that a program of technical cooperation will be established for Indonesia, within the framework of the cooperation and coordination between the High Commissioner for Human Rights/Centre for Human Rights and the Indonesian Government. It calls for the contents and the modalities of the program to be based on an assessment of human rights assistance needs to be conducted by the HCHR and the UN Centre for Human Rights as requested by the government. The memorandum also calls on the government to work with the HCHR and the centre in the development of a national plan of action for human rights in Indonesia. Finally the memorandum states that the HCHR will prepare a "Memorandum of Understanding" leading to the implementation of a programme of technical cooperation on human rights.

Amnesty International considers that the program of advisory services proposed by the Memorandum raises a number of concerns, given that the Indonesian Government has yet to demonstrate a commitment to improving the human rights situation in Indonesia and East Timor and has failed to implement all but a few of the recommendations of the CHR and its thematic mechanisms.

Amnesty International is not aware of any further action being taken by the Indonesian Government to implement the provisions contained within the "Memorandum of Intent", in particular the development of a national action plan on human rights. It is not clear whether a national action plan has yet been completed and if so, whether there was consultation with Indonesian human rights organizations concerning the plan. A needs assessment has not been

7 "Memorandum of Intent between the United Nations High Commissioner for Human Rights/Centre for Human Rights and the Government of the Republic of Indonesia on the mutual agreement to cooperate in the development and implementation of coherent and comprehensive national programmes for the promotion and protection of human rights in Indonesia", 26 October 1994.

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conducted and Amnesty International is not aware of whether the Indonesian Government has yet formally requested this. It would also appear that non-governmental organizations have not yet been consulted over the Memorandum.

Amnesty International considers that the technical cooperation program should be made contingent on the Indonesian Government clearly demonstrating the political will to improve the promotion and protection of human rights in Indonesia and East Timor by:

- ▶ implementing in full the 1993 UN CHR Resolution on East Timor and the 1994 and 1995 Chair's Statements of the UN CHR;
- ▶ implementing in full the recommendations of the UN Special Rapporteur on torture and the UN Special Rapporteur on extrajudicial, summary and arbitrary executions;
- ▶ committing itself to meaningful cooperation with thematic mechanisms;
- ▶ ratification of international human rights instruments.

Amnesty International also considers that any technical cooperation program should be directed at strengthening Indonesian civil society by delivering benefits to Indonesian non-governmental organizations as well as to government institutions such as Komnas HAM.

UN High Commissioner for Human Rights

In December 1995, the UN High Commissioner for Human Rights (HCHR), Mr Ayala Lasso, visited Indonesia and East Timor for discussions on human rights. The visit, which was mentioned in the statement of the chair at the CHR in 1995, lasted approximately four days, with around 24 hours spent in East Timor. It expressly did not include investigation of human rights. Amnesty International welcomed the visit of the HCHR to Indonesia and East Timor but urged the HCHR to base any discussions with the Indonesian Government on the previous resolution and recommendations of the CHR and its thematic mechanisms. The HCHR is expected to report on his visit to Indonesia and East Timor to the CHR in 1996.

The importance of the visit by the HCHR for the Indonesian Government was clear. Prior to his visit, Indonesian Foreign Minister Ali Alatas stated that "Indonesia is keen to improve the implementation of human rights, and he [the High Commissioner for Human Rights] is the most senior UN official in charge of human rights".⁸ Amnesty International hoped that the visit would lead to a tangible expression by the Indonesian Government of a commitment to protecting and promoting human rights in Indonesia and East Timor by the government. This is not yet clear.

⁸ Reuters, 26 November 1995.

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At this stage, the visible outcomes of the High Commissioner's visit are:

- Indonesia has agreed to the UN Centre for Human Rights opening an office in Jakarta.
- Indonesia has agreed to ratify the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. It is anticipated that this will take place this year.

There were also reports that the Indonesian Government had agreed to greater cooperation with UN thematic mechanisms, and allow greater access for human rights organizations to East Timor: this has not been clarified. For its part, Amnesty International is still denied access to East Timor.

In terms of implementation of other UN human rights recommendations and resolutions, it appears that the visit yielded little. The Indonesian Government did not indicate whether further thematic mechanisms would be invited to Indonesia and East Timor. Nor did the government give any commitment to implement recommendations by the UN Special Rapporteurs on torture and extrajudicial, summary and arbitrary executions.

If there is to be a UN human rights office in Indonesia, Amnesty International considers that it should meet the following minimum requirements:

- the office should supervise the implementation of recommendations made by the CHR and by its thematic mechanisms concerning Indonesia and East Timor;
- the office should not preclude initiatives of other United Nations human rights mechanisms and experts;
- the office should have the authority to receive information from all available sources, including individuals, governmental and non-governmental organisations on the human rights situation in Indonesia and East Timor;
- the office should have the authority to issue regular public reports on its findings, including its assessment of the human rights situation; these reports should be made available to the CHR;
- the office should have the authority to advise the Indonesian Government on ways and means to improve human rights in Indonesia and East Timor;
- there must be full acknowledgment by the Indonesian Government that the office should be empowered to gather information about violations of human rights and to follow up on these

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findings with the authorities concerned;

·the office should be staffed by independent human rights experts and be provided with necessary resources;

·staff of the office must have full and unimpeded access to all areas of Indonesia and East Timor.

In view of the serious nature of human rights violations in East Timor the HCHR needs to develop the capacity to monitor the human rights situation in East Timor and should consider a permanent presence there to achieve this end.

While acknowledging that by inviting the HCHR to visit Indonesia and East Timor, the Indonesian Government has abided by one of the calls made in the CHR consensus statement of 1995, Amnesty International considers that any findings and recommendations of the HCHR must be seen in the light of the government not having implemented these other major recommendations. Amnesty International is disappointed not to have learnt of further commitments given by the Government of Indonesia as a result of the HCHR's visit. In view of this, Amnesty International hopes that the international community will continue to urge Indonesia to act on other recommendations made by the CHR and its thematic mechanisms.

IV. Recommendations to UN Member States

Amnesty International urges the CHR to adopt a resolution on the human rights situation in Indonesia and East Timor incorporating the following recommendations:

Cooperation with UN human rights monitoring bodies and special rapporteurs:

▶request the Indonesian Government to provide detailed information on the implementation of the 1992 report of the UN Special Rapporteur on torture and the December 1994 report of the UN Special Rapporteur on extrajudicial, summary or arbitrary executions;

▶request the Indonesian Government to provide information on implementation of the 1993 CHR Resolution and the 1994 and 1994 Chair's Statements;

▶request information about precise steps taken towards and timetable for ratification of the Convention against Torture, signed by the government in 1985;

▶request information about what precise progress has been made towards ratification of other international human rights covenants;

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- ▶ urge the government to invite the Working Group on Arbitrary Detention to Indonesia and East Timor;
- ▶ urge the government to invite the Working Group on Enforced or Involuntary Disappearances to visit Indonesia and East Timor, as recommended by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions;
- ▶ urge the government to allow follow-up visits to Indonesia and East Timor for the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions to Indonesia and East Timor;
- ▶ urge that, in accordance with the recommendations of the Special Rapporteur on extrajudicial, summary or arbitrary executions, a separate independent Human Rights Commission be established in East Timor;

Prevention of human rights violations

- ▶ urge the government immediately and unconditionally to release all prisoners of conscience in Indonesia and East Timor;
- ▶ urge the government promptly to repeal the Anti-Subversion Law and conduct a thorough review of all legislation pertaining to national security and public order to ensure that national security interests cannot be invoked to imprison people for the peaceful exercise of their right to freedom of expression;
- ▶ urge the government to take particular steps to ensure that political trials in Indonesia and East Timor meet minimum UN standards, including ensuring that detainees have access to legal counsel of their own choice, that evidence extracted under torture used in courts and that witnesses and independent lawyers are not subjected to threats and intimidation;
- ▶ urge the government to grant full access for international and domestic human rights monitors and journalists to all areas of Indonesia and East Timor;
- ▶ encourage the government to establish clear guidelines on the use of lethal force by government and government backed troops in accordance with the UN Code of Conduct for Law Enforcement Officials;
- ▶ urge the government explicitly to prohibit by law all forms of torture and ensure that all such acts are recognised as criminal acts and punishable by penalties which take into account the

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seriousness of the crime;

▶urge the government to maintain a centralised public register of all detainees in all parts of the country.

Komnas HAM

Urge the Indonesian Government to:

·clarify the functions of the Commission;

·establish the Commission by law;

·provide sufficient resources to enable the Commission to fulfill its functions effectively;

·ensure that the findings of the Commission are dealt with in such a way that those alleged to have been responsible for committing human rights violations are held properly to account in civilian courts.

·urge the Indonesian Government to establish a section within Komnas HAM to deal specifically with human rights violations against women; taking into account the particular needs of women who have been raped and tortured by members of the security forces. Provide sufficient resources and logistical support to Komnas HAM to enable it to fulfill this function;

·to reduce the risk of rape, sexual abuse, torture, ill-treatment and other in detention, urge the government to ensure that female guards are present during interrogation of female detainees; hold female detainees and prisoners separately from male detainees and prisoners;

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APPENDIX I: Amnesty International documents on Indonesia / East Timor, 1995

Human Rights in 1994: A summary
(ASA 21/03/95, January 1995)

Continuing Human Rights Violations
(ASA 21/10/95, February 1995)

The Liquiza Killings
(ASA 21/15/95, February 1995)

Attacks on free speech
(ASA 21/22/95, April 1995)

Parliamentarian questioned after demonstrations - a pretext for silencing peaceful opposition?
(ASA 21/24/95, April 1995)

Workers' rights still challenged
(ASA 21/29/95, June 1995)

East Timor: Twenty years of violations: Statement before the UN Special Committee on Decolonization, 11 July 1995
(ASA 21/33/95, July 1995)

Indonesia: Predictions of a psychic: a threat to national stability?
(ASA 21/34/95, July 1995)

The 1965 prisoners - A briefing
(ASA 21/36/95, July 1995)

The 1965 Prisoners - Update
(ASA 21/55/95, July 1995)

Irian Jaya: National Commission on human rights confirms violations
(ASA 21/47/95, September 1995)

Women in Indonesia and East Timor: Standing against repression
(ASA 21/51/95, December 1995)

Trade unionists arrested

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(ASA 21/59/95, November 1995)

UN High Commissioner on Human Rights Visit to Indonesia and East Timor: 4 - 8 December 1995

(ASA 21/61/95, December 1995)

Journalists' sentences increased as media restrictions continue

(ASA 21/63/95, December 1995)

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APPENDIX II: Ratifications of major international human rights treaties by Indonesia

The following lists reflect information available to Amnesty International as of December 1995

Indonesia	Signature X= Date Unknown	Date of : Rat., Acc., Suc., Dec.	Status (R), (A), (S), (D) or (M)
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	23.10.85		
Convention on the Rights of the Child	26.01.90	5.09.90	R
Convention on the Elimination of All Forms of Discrimination Against Women	29.07.80	13.9.84	R

Explanation of Information Contained in the Status List

Signature: Defined whereby states have expressed their intention to become bound by the provisions of a treaty at some later date. States often sign an instrument soon after they have joined in adopting the text, but delay ratification until they have passed any internal legislation, or made changes in internal administrative arrangements, to the point where they can be satisfied that their domestic arrangements comply with all the obligations imposed by a treaty; meanwhile they are obliged to refrain from acts which would defeat the object and purpose of a treaty.

R=Ratification: Defined whereby a state has given its consent to be fully bound by the provisions of the treaty, by the exchange, deposit, or notification of a written instrument, having signed at an earlier date.

A=Accession: Defined whereby a state has given its consent to be fully bound by the provisions of the treaty, by the exchange, deposit, or notification of a written instrument, **without** having signed at an earlier date.

S=Succession: Defined whereby newly independent states continue their commitment to a treaty to which their previous governing state was a party to.

Declaration/ At any time of signature, ratification or accession, a state may express reservations about a treaty, unless the

Reservations: treaty itself expressly forbids or restricts this. A reservation may mean, that a state may withhold or limit its consent to being bound by some specified provision, or a group of

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provisions in a treaty. For the purposes of the enclosed status lists symbol **M** indicates a declaration made under a specific article of a treaty; Symbol **D** indicates a declaration of succession (as in the process above).

State Party: Defined as a state whose government has ratified, acceded or succeeded to a treaty or agreement and is legally bound to follow its provisions.

Entry into Force: The International human rights law treaties all provide that they will only enter into force when they have been ratified by a specified number of states, and the appropriate instruments of ratifications have been deposited with a central depository such as the Secretary General of the UN, the Council of Europe, the Organization of American States, or the Organization of African Unity. Until an instrument of ratification or accession has been deposited with the central depositing body, Amnesty International does not recognise it as a state party.

Convention/Covenant: Defined as a formal, legally binding treaty or agreement between sovereign states.

Protocol: Defined as a formal, legally binding agreement between sovereign states that is normally a supplement to another treaty or agreement.

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APPENDIX III: Action by UN human rights bodies on Indonesia / East Timor

UN Sub-Commission on Prevention of Discrimination and Protection of Minorities **1993/12 Situation in East Timor**

Guided by the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the universally accepted rules of international humanitarian law,

Bearing in mind General Assembly resolution 37/30 of 23 November 1982 and Security Council resolutions 384 (1975) of 22 December 1975 and 389 (1976) of 22 April 1976,

Recalling the statement agreed by consensus by the Commission on Human Rights at its forty-eighth session (E/1992/22, para. 457) and resolution 1993 /97 of 11 March 1993 adopted by the Commission at its forty-ninth session,

Recalling also its resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983, 1984/24 of 19 August 1984, 1987/13 of 2 September 1987, 1989/7 of 31 August 1989, 1990/15 of 30 August 1990, and 1992/20 of 27 August 1992, as well as the statement made by the Chairman at its forty-third session on the question of the situation in East Timor,

Having examined the note by the secretariat on the situation in East Timor (E/CN.4/Sub.2/1993/14),

Noting with satisfaction the most recent lifting of the restrictions imposed upon the activities of the international Red Cross,

Disturbed by reports of continuing violations of human rights in East Timor, as well as by reports of forcible removal of prisoners from their original place of residence to serve jail sentences in parts of Indonesia in contravention of the provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,

1. **Expresses its deepest concern** at reports of continuing violations of human rights in East Timor;

2. **Notes with satisfaction** the recent lifting of the restrictions imposed upon the activities of the International Red Cross;

3. **Urges** the Indonesian authorities to implement fully the decisions of the Commission on Human rights as contained in the consensus statement agreed by the Commission at its forty-

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eight session and in resolution 1993/97 of 11 March 1993, adopted by the Commission at its forty-ninth session;

4. **Also urges** the Indonesian authorities to honour the provisions of the Geneva Convention relative to the Protection of the Civilian Persons in Time of War, of 12 August 1949, regarding the prohibition on removing prisoners from their original place of residence;

5. **Decides** to consider at its forty-sixth session the situation pertaining to human rights and fundamental freedoms in East Timor, and for this purpose requests the secretariat to transmit to it all relevant information received.

20 August 1993. [Adopted by secret ballot by 13 votes to 10, with 2 abstentions.]

UN Sub-Commission on Prevention of Discrimination and Protection of Minorities: **1992/20 Situation in East Timor**

Bearing in mind the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights,

Recalling resolution 37/30 of 23 November 1982 of the General Assembly, in which it requested the Secretary-General to initiate consultations with all parties directly concerned to resolve the conflict in East Timor,

Recalling its resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983, 1984/24 of 29 August 1984, 1987/13 of 2 September 1987, 1989/7 of 31 August 1989 and 1990/15 of 30 August 1990 concerning the situation in East Timor,

Bearing in mind the consensus statements by the Chairman of its forty-third session (see E/CN.4/Sub.2/1991/SR.26) and the Chairman of the Commission on Human Rights, at its forty-eighth session (see E/CN.4/1992/SR.54/Add.1),

Having examined the report of the visit to East Timor by the Special Rapporteur on the question of torture of the Commission on Human Rights, Mr Peter Kooijmans (E/CN.4/1992/17/Add.1),

Appalled at the loss of life and injuries among civilians resulting from the violent incidents in Dili on 12 November 1991 and concerned at the fate of those who are missing,

Welcoming the decision of the Secretary-General to send Mr. S. Amos Wako as his personal Envoy to inquire into the violent incidents of 12 November 1991,

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Regretting that the National Commission of Inquiry set up by the Government of Indonesia failed to identify clearly those responsible for the killings,

Considering that the Government of Indonesia had undertaken to adopt the measures necessary towards the implementation of the recommendations of the Special Rapporteur on the question of torture,

Disturbed by the heavy sentences passed on the East Timorese involved in peaceful political activities on the basis of the "Anti-Subversion Law", the abrogation of which had been recommended by the Special Rapporteur,

Disturbed also by reports of continuing human rights violations in East Timor,

Disappointed by the persistent denial of access to the territory to human rights organizations,

1. **Deplores** the tragic events in Dili of 12 November 1991 in which East Timorese civilians, including women and children, were killed;

2. **Expresses** its utmost concern at reports of continuing widespread human rights violations in East Timor;

3. **Invites** the Secretary-General to transmit the full report of his Personal Envoy, Mr. S. Amos Wako, to the Commission on Human Rights at its forty-ninth session;

4. **Requests** the Secretary-General, in preparing his report on the situation in East Timor for consideration by the Commission on Human Rights under item 12 of its agenda, to include an analytical compilation of all information received from, among others, Governments, intergovernmental and non-governmental organizations;

5. **Commends** the decision of the Government of Indonesia to set up a National Commission of Inquiry, but regrets that investigation of the actions of the armed forces on 12 November 1991 has not been followed through and invites the Indonesian authorities to cooperate in the preparation of the above-mentioned report of the Secretary-General by providing information on the complementary measures to bring the members of the armed forces responsible to justice;

6. **Urges** the Government of Indonesia to provide the Working Group on Enforced or Involuntary Disappearances with information regarding the missing persons;

7. **Also** urges the Indonesian authorities, on humanitarian grounds, to cooperate with the families of the victims by providing information about the dead and the whereabouts of their remains for

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proper burial;

8. **Calls upon** the Indonesian authorities to honour their commitment to facilitate access to East Timor by humanitarian and human rights organizations;

9. **Decides** to review the situation in East Timor at its forty-fifth session and to this end requests the secretariat to transmit to it all available information concerning the human rights situation in the territory.

27 August 1992

[Adopted by secret ballot by 13 votes to 6, with 4 abstentions.]

UN Sub-Commission on Prevention of Discrimination and Protection of Minorities: **1995/15 Situation in East Timor**

Guided by the Universal Declaration of Human Rights, the International Covenant on Civil and political Rights and the universally accepted rules of international humanitarian law,

Noting the changing international situation which is conducive to dialogue and negotiations as the most appropriate way of resolving local, national and inter-state disputes in order to guarantee full respect for human rights,

Recalling General Assembly resolution 37/30 of 23 November 1982 and the unanimous Security Council resolutions 384 (1975) of 22 December 1975 and 389 (1976) of 22 April 1976,

Recalling its resolutions 1982/20 of 8 September 1982, 1983/26 of 6 September 1983, 1984/24 of 29 August 1984, 1987/13 of 2 September 1987 and 1989/7 of 31 August 1989 concerning the situation in East Timor,

Considering that according to reliable allegations, the people of East Timor continue to be subjected to gross violations of human rights,

Regretting the restrictions imposed by local military authorities upon the activities of specialized non-governmental organizations,

1. **Welcomes** the good offices of the Secretary-General and encourages their exercise as mandated by General Assembly resolution 37/30 of 23 November 1982 with a view to exploring the avenues for finding a settlement guaranteeing full respect for human rights in East Timor;

2. **Requests** the Indonesian authorities to facilitate the access to the territory of international humanitarian and development organizations;

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3. **Appeals** to all sides to exercise restraint and, guided by the spirit of dialogue and negotiations, to co-operate fully with the Secretary-General in the exercise of his good offices with a view to finding a durable settlement of the conflict;

4. **Recommends** to the Commission on Human rights that it consider, at its forty-seventh session, the situation pertaining to human rights and fundamental freedoms in East Timor and, to this purpose, asks the Secretariat to transmit to the Commission all the reliable information received.

30 August 1990

[Adopted by secret ballot by 14 votes to 9, with 1 abstention].

UN Commission on Human Rights 50th Session (1994) Statement from the Chair Situation of human rights in East Timor

“The Commission on Human Rights discussed the human rights situation in East Timor. The Commission notes with concern continuing allegations of human rights violations in East Timor, while recognizing the positive measures taken by the Government of Indonesia to improve the situation.

“The Commission recalls the undertakings by the Government of Indonesia to promote human rights in East Timor and those contained in the consensus Chairman's statement at its forty-eighth session on the matter, and stresses the need to take further steps towards its implementation.

“A matter of preoccupation to the Commission is the incomplete information concerning the number of people killed and the persons still unaccounted for as a result of the Dili violent incident of 12 November 1991. While acknowledging the efforts made to account for those persons, the Commission calls upon the Government of Indonesia to continue its investigation on those still missing and the circumstances surrounding the matter.

“The Commission expresses the hope that the cooperation between the ICRC and the Government of Indonesia will continue. It calls upon the Indonesian authorities to ensure that those East Timorese in custody are treated humanely and that their rights are fully respected, and to take further appropriate measures aimed at early release of those convicted.

“The Commission is encouraged by the greater access recently granted by the Indonesian authorities to human rights and humanitarian organizations as well as international media, and

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calls upon them to continue this policy of expanding access.

“The Commission welcomes the undertaking by the Government of Indonesia to invite the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit East Timor and to submit his report at its fifty-first session. In the same spirit, the Commission takes note of the intention of the Government of Indonesia to continue to cooperate with other relevant thematic special rapporteurs and/or working groups, and to invite them to visit East Timor when necessary for the fulfilment of their duties.

“The Commission welcomes the current dialogue between Indonesia and Portugal under the auspices of the United Nations Secretary-General and encourages him to continue his good offices in order to achieve a just, comprehensive and internationally acceptable settlement to the question of East Timor. In this context, the Commission stresses the importance of the understanding reached on confidence-building measures between the two Governments and welcomes the recent mission undertaken by Mr. Francesc Vendrell as representative of the Secretary-General in order to promote further progress in that dialogue.

“The Commission requests the Secretary-General to keep it informed on the situation of human rights in East Timor and will consider it at its fifty-first session.”

UN Commission on Human Rights 51st Session (1995) Statement from the Chair Situation of human rights in East Timor

“The Commission on Human Rights discussed the human rights situation in East Timor.

“The Commission expresses its deep concern over the continuing reports of violations of human rights in East Timor, including the recently reported increased tensions and the violent incident where six people were killed. It welcomes the decisions of the Government of Indonesia to investigate this incident and to make public its findings.

“The Commission welcomes the visit to East Timor in July 1994 by the Special Rapporteur on extrajudicial, summary or arbitrary executions, and the cooperation granted to him by the Indonesian authorities. The Commission takes note with concern of his report (E/CN.4/1995/61/Add.1), and urges the Government of Indonesia to implement further its undertakings to promote human rights in East Timor, and those contained in the consensus Chairman's statements at its forty-eighth and fiftieth sessions.

“A matter of preoccupation to the Commission is the incomplete information concerning the

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number of people killed and the persons still unaccounted for as a result of the violent incident in Dili on 12 November 1991. While acknowledging the efforts made to account for those persons, the Commission calls upon the Government of Indonesia to continue its investigation on those still missing and the circumstances surrounding the matter.

“The Commission expresses the hope that the cooperation between the International Committee of the Red Cross and the Government of Indonesia will continue. It calls upon the Indonesian authorities to ensure that all those in custody are treated humanely and their rights fully respected, and to take further appropriate measures aimed at the early release of those convicted.

“The Commission recognizes the greater access granted by the Indonesian authorities to East Timor and calls upon them to continue this policy, including the granting of access to human rights and humanitarian organizations and international media.

“The Commission welcomes the undertaking of the Government of Indonesia to invite the High Commissioner for Human Rights to visit East Timor in 1995 and to submit his report to the Commission at its fifty-second session. The Commission further takes note of the intention of the Government of Indonesia to continue to cooperate with the relevant thematic special rapporteurs and/or working groups of the Commission on Human Rights, and to invite them, taking into consideration of their requests, to visit East Timor when necessary for the fulfilment of their duties.

“The Commission welcomes the result of the fifth round of meetings of the Foreign Ministers of Indonesia and Portugal, held under the auspices of the Secretary-General of the United Nations on 9 January 1995 at Geneva and encourages the Secretary-General to continue his good offices in order to achieve a just, comprehensive and internationally acceptable settlement to the question of East Timor. In this context, the Commission stresses the importance of continuing the efforts to promote confidence building measures between the two Governments. The Commission welcomes the Secretary General's intention, as expressed in his statement of 9 January 1995, to facilitate and offer the necessary arrangements for the convening of an all-inclusive intra-East Timorese dialogue.

“The Commission requests the Secretary General to keep it informed on the situation of human rights in East Timor and will consider it at its fifty-second session.”

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APPENDIX IV: Reports of the UN Thematic Mechanisms

Report of the Special Rapporteur on extrajudicial, summary and arbitrary executions, Mr Bacre Waly N'diaye, on his mission to Indonesia and East Timor from 3 to 13 July 1994 - (E/CN.4/1995/61/Add.1)

Conclusions

“The Special Rapporteur believes that, in examining the situation of the right to life in East Timor, other grave human rights violations attributed to the Indonesian armed forces in Indonesia itself (for instance in Aceh and Irian Jaya), as described in previous reports to the Commission, should be borne in mind. In particular, the patterns of dealing violently with political dissent and the virtual impunity enjoyed by members of the security forces responsible for human rights violations should be recalled” (para 42).

Recommendations

“The Special Rapporteur believes that the Santa Cruz killings should not be considered as a thing of the past. They must not be forgotten, and there is still some time to correct the shortcomings, noted at all levels, in the way in which violations of the right to life have been dealt with by the Indonesian authorities in East Timor: it is not too late to conduct proper investigations, to identify and bring to justice the perpetrators, to determine the fate and whereabouts of the missing persons, to grant compensation to the victims or their relatives, and to prevent the occurrence of further killings.

“The Special Rapporteur urges the Indonesian authorities to carry out through, prompt and impartial investigations of all suspected cases of extrajudicial, summary and arbitrary executions and enforced or involuntary disappearances. Those investigations should be in accordance with international standards set forth in the various instruments, and should involve the armed forces, the relatives of the victims, the local clergy, non-governmental organizations, and, particularly, civilian authorities. The Special Rapporteur calls on the Government of Indonesia to establish a civilian police force as a matter of urgency. This police force should be placed under the authority of the Prosecutor. The Special Rapporteur wishes to recall that the recommendation to establish a civilian police force had already been made by the Special Rapporteur on the question of torture after his visit to Indonesia and East Timor in 1991 (E/CN.4/1992/17).

“In the case of the Santa Cruz killings and the alleged subsequent grave human rights violations, the findings of the military inquiry should be made public and an additional investigation should be conducted by a new commission of inquiry. In this respect, and in addition to what was said earlier, the Special Rapporteur feels that the following aspects should be taken into consideration:

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.The new commission of enquiry should be composed of individuals of recognized independence, impartiality and expertise. It should include specialists in anthropology, forensic science, ballistics, etc. If this expertise is not available in East Timor or in Indonesia, it should be provided internationally, through the United Nations or non-governmental organizations;

.The credibility of such an investigation could be increased by the participation of experts internationally recognized for their objectivity and competence. Such a presence would help to reduce amongst the East Timorese population the fear and mistrust which were so detrimental to the investigation of NCI;

.The commission should have at its disposal all the necessary budgetary and technical resources for effective investigation and shall have the authority to obtain all information necessary to the inquiry;

.All the necessary measures should be taken to protect complainants, witnesses and their families from violence, threats of violence, arrest or prosecution, or any other forms of intimidation;

.The families of the victims shall be informed of and have access to any hearing, as well as any information relevant to the investigation, and shall be entitled to present evidence.

“The purpose of the investigation should be to determine the following points:

.The circumstances of the killings;

.The number of persons killed, their identity and the location of their graves;

.The number of missing person, their identity, their fate and their exact whereabouts;

.The chain of command and the identity of the perpetrators and their superiors, and their individual responsibility in human rights violations.

“The Special Rapporteur strongly believes that no confidence-building measures can be effective and no solution to the problems facing East Timor can be found before justice has been done. The first step for the Government should be to recognize its responsibility and declare that killings, and not an “incident”, took place in Santa Cruz. Full light should be shed, publicly, in accordance with the standards referred to above. An end should be put to impunity enjoyed by members of the Indonesian armed forces responsible for abuses. To that purpose, the Special Rapporteur recommends the following:

.The jurisdiction over such cases should be handed over to the ordinary civilian judiciary;

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.The independence, fairness and transparency of the judiciary should be improved and guaranteed. Interference of the military at any stage of the proceedings, including the investigation, should be avoided. This should not exclude its cooperation, when it is requested. Corruption should be effectively fought;

.Provision should be made to allow victims or their families to initiate judicial proceedings. In particular, investigations into complaints by victims or their families should be compulsory and not left to the discretion of police authorities. Furthermore, victims or their families should be granted full participation in the proceedings, and free choice of independent counsel should be granted;

.Persons identified by the investigation as being responsible for abuses, whoever they are, should be brought to justice. The proceedings should be public. Human rights violations should be offences under criminal law punishable by appropriate penalties, taking fully into account their seriousness;

.Acts constituting enforced disappearances should be considered as a continuing offence as long as the perpetrators continue to conceal the fate and whereabouts of persons who have disappeared and these facts remain unclarified;

.Equitable compensation should be granted without delay to the victims or their dependants and their families.

“As regards the access to justice for the victims or their relatives, the Special Rapporteur recommends that the Indonesian authorities apply, in addition to the various international principles referred to in this report, the following points embodied in the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, adopted by the General Assembly in its resolution 40/34 of 29 November 1985:

4. Victims should be treated with compassion and respect for their dignity. They are entitled to access to the mechanisms of justice and to prompt redress, as provided for by national legislation, for the harm that they have suffered.

5. Victims should be informed of their rights in seeking redress through such mechanisms.

6. The responsiveness of judicial and administrative processes to the needs of the victims should be facilitated by:

a. Informing victims of their role and the scope, timing and progress of the proceedings and the disposition of their cases, especially where serious crimes are involved and where they

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have requested such information;

b. Allowing the views and concerns of victims to be presented and considered at appropriate stages of the proceedings where their personal interests are affected, without prejudice to the accused and consistent with the relevant national criminal justice system;

c. Providing proper assistance to victims through the legal process;

d. Taking measures to minimize inconvenience to victims, protect their privacy, when necessary, and ensure their safety, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

e. Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting awards to victims”.

“As mentioned earlier, the involvement of relatives of missing or killed persons into any sort of investigation is essential. The Special Rapporteur could notice himself that in the atmosphere of fear and suspicion currently prevailing in East Timor, the conditions conducive to such participation are not present. The Special Rapporteur therefore believes that for confidence-building measures allowing the families to feel safe enough to report about their missing or killed relatives. This reduction should not only affect combat units, but all troops present in the territory, including territorial battalions and military intelligence. In this regard, the Special Rapporteur welcomes the dissolution of the Special Military Command in East Timor in 1993, as well as the reductions of troops, especially combat battalions, already carried out.

“The Special Rapporteur believes that the involvement of non-governmental organizations in all questions relating to human rights in East Timor, for example, investigation, monitoring, legal assistance, information and training - should be allowed and encouraged by the Indonesian authorities:

.Independent NGOs should be created in East Timor and allowed to operate freely throughout the territory. At this stage, the Special Rapporteur feels that the involvement of the Catholic clergy (which at the moment is the only institution whose involvement with human rights questions is tolerated by the Indonesian authorities) in such organizations would be essential;

.Indonesian and international human rights NGOs should be granted full access to East Timor.

“The Special Rapporteur believes that the National Human Rights Commission is not the most appropriate mechanism to deal with human rights violations in East Timor. Its mandate, the means of action at its disposal and its methods of work are insufficient. Furthermore, it is not

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trusted by the population of East Timor. In any event, it has not dealt with questions relating to East Timor. Consequently, the Special Rapporteur recommends that a commission for human rights in East Timor be created to monitor the situation of human rights, receive and independently investigate complaints, make recommendations to the competent authorities, and disseminate information about human rights. Its characteristics should be in accordance with the Principles relating to the status of national institutions (Commission on Human Rights resolution 1992/54, annex, adopted without a vote on 3 March 1992). The Special Rapporteur recommends that such a commission should be composed of individuals of recognized impartiality and independence representing the civil society of East Timor, including NGOs.

“As provided for in article 3 of the Declaration on the Protection of All persons from Enforced Disappearances the Special Rapporteur recommends that the Indonesian authorities “take effective legislative, administrative, judicial or other measures to prevent and terminate acts of enforced disappearance”. Following article 4, paragraph 2, of the Declaration, the Special Rapporteur suggests that “[m]itigating circumstances may be established in national legislation for persons who, having participated in enforced disappearances, are instrumental in bringing the victims forward alive or in providing voluntary information which could contribute to clarifying cases of enforced disappearance”.

“Measures should be taken to ensure that peaceful demonstrations of political dissent are dealt with in conformity with international standards. In particular, the use of force by law enforcement officials should be restricted accordingly. Furthermore, members of security forces should be better trained in proper crowd control methods, and the appropriate non-lethal equipment for such operations should be made available to them. Training should also place more emphasis on human rights questions and should stress that a soldier receiving an order contrary to human rights has the right and duty not to obey it.

“The Special Rapporteur recommends that the Indonesian Government invite the Working Group on Enforced and Involuntary Disappearances to carry out a mission. He expresses the hope that his recommendations will be implemented, in conjunction with those formulated by the Special Rapporteur on the question of torture after his visit to Indonesia and East Timor in November 1991. In particular, he encourages the Government to accede to major human rights instruments, such as the International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment”. (paras 77-88)

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Observations made by the Special Rapporteur on persons subjected to any form of detention or imprisonment, in particular: torture and other forms of cruel or degrading treatment or punishment - Mr Nigel S Rodley (E/CN.4/1995/34)

“By letter dated 4 July 1994 the Special Rapporteur advised the Government that he had continued to receive reports indicating that the practice of torture and other ill-treatment was routine in Indonesia, both with respect to those persons detained for political reasons and those being accused of criminal offences. Methods of torture were said to include beatings, blindfolding, application of electrical shocks, lashings with iron rods, stomping on the body, rape and other forms of sexual abuse, and burning parts of the body with cigarettes.

“Reports were also received according to which detainees in Kopassus prison in Lammeulo, Aceh, underwent particularly harsh treatment. Detainees were allegedly held for many months and sometimes for several years without any judicial proceedings or contact with the outside world. The prisoners were said to be denied medical care and a number of them were allegedly tortured to death.

“Reports further indicated the persistence of a broad pattern of military and police intervention in labour disputes in Indonesia which frequently resulted in the detention and torture or ill-treatment of workers and labour activists. “ (paras 381-383)

“The Special Rapporteur appreciates the replies received from the Government in respect of his urgent appeals, but notes the absence of replies to information transmitted to the Government over the past two years. In addition, the Special Rapporteur has sought in 1993 and 1994 an invitation to conduct a visit to the country as follow-up to that conducted by his predecessor in 1991 to Indonesia and East Timor. He also sought information on measures taken in connection with the recommendations contained in the previous report (E/CN.4/1994/31, para.342). He has received no reply in respect of either matter. In the light of the allegations received and the absence of the responses sought from the Government, the Special Rapporteur feels it appropriate to remind the Commission of the statement made in the report of the 1991 visit, namely that ‘the Special Rapporteur cannot avoid the conclusion that torture occurs in Indonesia, in particular in cases which are considered to endanger the security of the State.’ (E/CN.4/1992/17/Add.1, para.73)” (para 401)

Report of the Special Rapporteur on Religious Intolerance - Mr Abelfattah Amor (E/CN.4/1995/91)

“In a communication dated 20 October 1994, the Special Rapporteur transmitted the following information to the Government of Indonesia:

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‘According to information received, followers of the Baha’i faith have continued to suffer grave violations of the right to freedom of religion. The situation of the Baha’i community, is said not to have improved. Jehovah’s Witnesses are also reported to have suffered a ban.

Furthermore, the cases of religious intolerance summarized below have been brought to the attention of the Special rapporteur:

·In June 1992, two students, Bambab Nahya Nirbita and Ambar Widi Atmoko, were reportedly sentenced to two and a half years in prison. They are said to have been arrested following complaints lodged by a certain persons who accused them of offending the Islamic religion during a sketch they performed in late April 1992.

·In early January 1994, two young men, Djoni Purwoto and Sugiri Cahyono, were reportedly sentenced to four years’ imprisonment respectively, for blasphemy. They were accused of offending Islamic religion during a play performed at Salatiga in Central Java.”

The Special Rapporteur has also been informed that the 1975 Marriage Act prohibits registry offices from registering marriages of persons not belonging to one of the five known religions (Islam, Hinduism, Buddhism, Catholicism, Protestantism).” (p49)

Report of the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1995/36)

“During 1994, the Working Group transmitted four newly reported cases of disappearance to the Government of Indonesia. During the same period, the Working Group retransmitted nine cases to the Government, updated with new information from the sources. It also considered clarified on the basis of information previously provided by the Government, five cases on which no observations had been received from sources within a period of six months. In addition, the Working Group informed the Government that four cases had been deleted from the statistics owing to duplication.” (para 223)

“It is further alleged that those responsible for the human rights violations committed at the Santa Cruz cemetery have never been brought to justice and that security forces are able to operate with impunity. On the rare occasion when soldiers are prosecuted for human rights violations, their punishment is reportedly not commensurate with the severity of the crimes they have committed, and there is said to be a serious discrepancy in the sentencing of military personnel and peaceful civilian protestors. Concern was, moreover, expressed that the recently created National Human Rights Commission had decided not to investigate past violations,

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thereby closing another avenue of redress for the families.” (para 228)

“In response to the general allegations transmitted to it, the Government replied that allegations submitted by the non-governmental organization Aceh / Sumatra National Liberation Front were not credible and the allegations that there was an increase in human rights violations in Aceh province were totally baseless. In response to the allegations that those responsible for the Dili incident in 1991 had never been brought to justice, the Government replied that those allegations were unsubstantiated and that the Military Honorary Council had been set up to investigate military personnel involved in the incident. As a result of the findings and decisions of that body, disciplinary action had been taken against several officers and military personnel involved in the incident” (para 230).

Report of the Working Group on Arbitrary Detention (E/CN.4/1995/31)

During the period of January to December 1994, the Working Group transmitted 6 newly reported individual cases of alleged arbitrary detention to the Government of Indonesia. The Government of Indonesia provided the Working Group with information regarding some of the cases transmitted to them.

In respect of communications transmitted prior to the period January - December 1994, the Working Group received replies from the Government of Indonesia.

“In connection with its consideration of the case of Xanana Gusmao, the Working Group, recalling Commission on Human Rights resolution 1993/97 which urged, *inter alia*, the Government of Indonesia to invite thematic special rapporteurs and working groups, including the Working Group on Arbitrary Detention, to visit East Timor, requested the Government of Indonesia to permit such a visit by the Working Group in order to enable it to ascertain the facts, in cooperation with the Government, for the purpose of better understanding certain contentious issues involved in the case of Xanana Gusmao. The decision was adopted by the Working Group at its tenth session, in September 1994, and transmitted to the Government of Indonesia in November 1994.

By letter dated 24 November, addressed to the Chairman of the Working Group, the Indonesian Government reacted to the request for invitation by stating the following:

‘With regard to the invitation by the Government of the Republic of Indonesia to the Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, I would like to convey to you that the invitation was extended on the basis of the consensus Chairman’s Statement of the fiftieth session of the Commission on Human Rights rather than of resolution 1993/97 of the forty-ninth session of the Commission which was adopted with a vote in which 12 members

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voted against and 15 members abstained. Therefore Indonesia was not bound by that resolution, which was not achieved by consensus and went against the will of a substantial number of sovereign countries.

‘The consensus Chairman’s Statement also mentioned ‘the intention of the Government of Indonesia to continue to cooperate with other relevant thematic special rapporteurs and/or working groups , and to invite them to East Timor when necessary for the fulfilment of their duties’. In the endeavours to fulfil this commitment, the Government of Indonesia has not only demonstrated its willingness to always cooperate with all of the United Nations human rights machineries to promote and protect all human rights as well as the human rights situation in East Timor, but also to give careful and genuine consideration to inviting relevant thematic special rapporteurs and or working groups to visit East Timor province, Indonesia’.

The Working Group considers the above as an encouraging sign on the part of the Indonesian Government, and will continue its efforts to obtain an invitation to visit *in situ*.” (paras 19-20)