

Distr.: General
26 December 2011
Arabic
Original: English



مجلس حقوق الإنسان

الدورة التاسعة عشرة

البند ٣ من جدول الأعمال

تعزيز وحماية جميع حقوق الإنسان المدنية والسياسية والاقتصادية والاجتماعية، بما في ذلك الحق في التنمية

تقرير الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي*

إضافة

البعثة إلى تيمور ليشتي*

موجز

قام الفريق العامل المعني بحالات الاختفاء القسري أو غير الطوعي بزيارة إلى تيمور ليشتي في الفترة من ٧ إلى ١٤ شباط/فبراير ٢٠١١. وكان الغرض من الزيارة هو التعرف على ما بُدّل من جهود لمعالجة حالات الاختفاء القسري التي وقعت في الماضي.

ويعترف الفريق العامل بالجهود العديدة التي بذلها البلد على الرغم من التحديات التي يواجهها. ومع ذلك، لا يزال يتعين بذل الكثير لإعمال الحق في الحقيقة وفي العدل وفي التعويض لمن اختفوا وذويهم.

وتشمل التوصيات الرئيسية التي أصدرها الفريق العامل الامتثال لتوصيات لجنة الاستقبال والحقيقة والمصالحة واللجنة الثنائية المعنية بالحقيقة والصدقة؛ والاعتماد السريع لمشروع القانونين المتعلقين بإنشاء معهد الذاكرة والبرنامج الوطني للتعويضات؛ وضرورة التوصل إلى المزيد من الحقائق بشأن ما حدث في الماضي؛ وزيادة التركيز على العملية القضائية؛ وإدراج جريمة مستقلة للاختفاء القسري في القانون الجنائي.

* يُعمم الموجز بجميع اللغات الرسمية. أما التقرير المرفق بالموجز، فيُعمم باللغة التي قدم بها فقط.

Annex

Report of the Working Group on Enforced or Involuntary Disappearances on its mission to Timor-Leste (7 to 14 February 2011)

Contents

	<i>Paragraphs</i>	<i>Page</i>
I. Introduction	1–6	3
II. General observations	7–22	4
A. General context	7–8	4
B. Constitutional and legal framework	9–20	4
C. The phenomenon of enforced disappearances in Timor-Leste	21–22	6
III. The right to the truth	23–36	6
IV. The right to justice	37–51	9
V. The right to reparation.....	52–66	12
VI. Conclusions and recommendations	67–98	15
A. The right to the truth.....	75–83	16
B. The right to justice.....	84–95	19
C. The right to reparation	96–98	21

I. Introduction

1. At the invitation of the Government of Timor-Leste, the Working Group on Enforced or Involuntary Disappearances visited the country from 7 to 14 February 2011. The Working Group had also requested an invitation from the Government of Indonesia to visit its country. It is hoped that a visit to Indonesia will be granted in the near future.
2. The Working Group was represented by two of its members: its Chair-Rapporteur, Jeremy Sarkin, and Jasminka Dzumhur. The purpose of the visit was to study the efforts made by Timor-Leste in dealing with the issue of enforced disappearances, including how the State is addressing cases of enforced disappearances that occurred in the past, as well as to collect information which may lead to clarification of outstanding cases of enforced disappearances that transpired in the country and that have been reported to the Working Group.
3. During the visit, the Working Group had the honour of meeting with President José Ramos-Horta. It also held meetings with the Vice-Prime Minister for Social Affairs, the Vice-Minister of Justice, the Vice-Minister of Foreign Affairs and Cooperation, the Secretary of State for Former National Liberation Combatants Affairs, and senior officials of the Ministry of Foreign Affairs and Cooperation, including its Secretary-General and the Director-General for External Relations. The Working Group also met with the President of the National Parliament, the President of the Committee for Justice and Constitutional Affairs of the National Parliament, the Chief Justice, who is also President of the Court of Appeal, and the Prosecutor-General. In addition, it met with the Director of the Criminal Investigation Service and the Chief of the Forensic Unit of the National Police of Timor-Leste.
4. The Working Group also met with the Ombudsman for Human Rights and Justice (Provedor dos Direitos Humanos e Justiça) and the Deputy-Ombudsmen, the Secretary-General of the Timorese Red Cross (Cruz Vermelha de Timor-Leste), as well as with many non-governmental organizations, relatives and victims of enforced disappearance, and other civil society actors all over Timor-Leste. In addition, the Working Group held meetings with representatives of the international community, including the Special Representative of the Secretary-General for Timor-Leste, the Deputy Special Representative of the Secretary-General for Governance Support, Development and Humanitarian Coordination, the Deputy Special Representative of the Secretary-General for Security Sector Support and Rule of Law, the Chief of the Human Rights and Transitional Justice Section of the United Nations Integrated Mission in Timor-Leste (UNMIT), the Head of the Serious Crimes Investigations Team of UNMIT, the Head of Mission of the International Committee of the Red Cross in Timor-Leste; and representatives of UNMIT, the United Nations Children's Fund (UNICEF) and the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).
5. The Working Group visited various parts of Timor-Leste, including Suai, Baucau, and Liquica. It also visited the premises of the former Commission for Reception, Truth and Reconciliation (CAVR) in Dili (now the Post-CAVR Technical Secretariat), which used to be a detention centre. At the end of the visit, the Working Group held a press conference at the UNMIT headquarters in Dili.
6. The Working Group expresses its gratitude to and recognition of the Government of Timor-Leste for extending an invitation to the Working Group to visit the country and for its positive cooperation before and during the visit. The Working Group also wishes to thank UNMIT and the secretariat of the Working Group that accompanied it on the mission for their invaluable support. Furthermore, the Working Group would like to acknowledge

the commitment of members of civil society and to express its thanks to those non-governmental organizations and families of victims with which it met.

II. General observations

A. General context

7. The process of decolonization from Portugal began in 1974, when the Timorese were allowed to establish their own political parties. The most prominent were the Timorese Democratic Union (UDT), which supported gradual independence and association with Portugal, and the Revolutionary Front for an Independent Timor-Leste (FRETILIN), which supported full independence. Before a provisional Government could be established, a civil war erupted between UDT and FRETILIN, which ended with the victory of FRETILIN. On 28 November 1975, FRETILIN unilaterally declared its independence from Portugal. However, Indonesia occupied the territory and later annexed it as its twenty-seventh province. This was followed by more than two decades of conflict between the resistance and Indonesia.

8. On 30 August 1999, a popular consultation sponsored by the United Nations was carried out and the vast majority of the Timorese population (78.5 per cent) voted in favour of independence from Indonesia. During 1999, both before and after the vote for independence, paramilitary groups, with the support of the Indonesian military, committed brutal acts around the country. The militias killed approximately 1,500 Timorese and forcibly relocated as many as 300,000 people. Many disappearances also occurred. After approximately 2 1/2 years under the authority of the United Nations Transitional Administration in East Timor (UNTAET), Timor-Leste became independent on 20 May 2002.

B. Constitutional and legal framework

1. Constitution

9. According to the Constitution, which was approved by the Constituent Assembly on 22 March 2002, Timor-Leste is a democratic State based on the rule of law, the will of the people and the respect for the dignity of the human person. The Constitution provides for a semi-presidential system and the separation and interdependence of powers between the President of the Republic, the National Parliament, the Government and the courts.

10. The executive branch is composed of the President, the Prime Minister and the Council of Ministers. The President of the Republic, elected by universal and direct suffrage, is the Head of State and Supreme Commander of the Armed Forces.

11. The National Parliament is unicameral and is vested with legislative, supervisory and political decision-making powers. Its members are elected by universal and direct suffrage.

12. As regards the judicial system, the Constitution stipulates the following categories of courts: (a) the Supreme Court of Justice and other courts of law; (b) the High Administrative, Tax and Audit Court and other administrative courts of first instance; and (c) military courts.

13. The Constitution of Timor-Leste, in section 6 (b), stipulates that the fundamental objectives of the State shall be, *inter alia*, to “guarantee and promote fundamental rights and freedoms of the citizens and the respect for the principles of the democratic State based on

the rule of law”. According to section 9 of the Constitution, international conventions, treaties and agreements ratified by Timor-Leste shall apply in its internal legal system, and rules contrary to the provisions of such international instruments shall be invalid. In section 23, the Constitution guarantees a range of civil, political, economic, social and cultural rights and provides for the interpretation of the fundamental rights enshrined in the Constitution in accordance with the Universal Declaration of Human Rights.

14. The Constitution also provides for the establishment of a national human rights institution – the *Provedoria dos Direitos Humanos e Justiça* – as an independent organ “in charge of examining and seeking to settle citizens’ complaints against public bodies, certifying the conformity of the acts with the law, preventing and initiating the whole process to remedy injustice”. The first *Provedor* was appointed by the National Parliament in June 2005 and the office started operating in March 2006.

2. Criminal code

15. The Working Group welcomes the fact that enforced disappearance appears as a crime against humanity in article 124 (i) of the Penal Code of Timor-Leste, which implements article 7 of the Rome Statute of the International Criminal Court. The crime carries a punishment of 15 to 30 years in prison. Timor-Leste law does not, however, deal with enforced disappearances in the absence of crimes against humanity. The State should therefore amend its criminal code to incorporate the crime of enforced disappearance as an autonomous crime for cases not linked to crimes against humanity. See further the report of the Working Group on best practices on enforced disappearances in domestic criminal legislation (A/HRC/16/48/Add.3 and Corr.1).

16. The Working Group notes with concern that article 120 of the Penal Code provides that “amnesty extinguishes criminal prosecution and halts execution of a sentence yet to be served in whole or in part, as well as its effects and accessory penalties to the extent possible” and that article 122 provides that a pardon (*indulto*) can extinguish, totally or partially, or replace a penalty by another one that is more favourable to the convicted person.

17. Article 18, paragraph 1, of the Declaration on the Protection of All Persons from Enforced Disappearance states: “Persons who have or are alleged to have committed offences referred to in article 4, paragraph 1, above, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction.” In its general comment (2005) on article 18, the Working Group recommended that “States should refrain from making or enacting amnesty laws that would exempt the perpetrators of enforced disappearance from criminal proceedings and sanctions, and also prevent the proper application and implementation of other provisions of the Declaration”. In 2010, in its general comment on the right to the truth in relation to enforced disappearances, the Working Group expressed its “opinion that no ... limitation [to the right to justice] may occur when the enforced disappearance amounts to a crime against humanity” (para. 8). Therefore, it is recommended that the Timor-Leste criminal law be amended to remove the possibility of granting amnesty for serious crimes of international law, including the crime of enforced disappearance.

18. It is noted with concern that clemency and commutations are frequently granted. If such processes are to be carried out they should be rendered transparent and the factors considered in such determinations should be announced in advance. Moreover, a process for obtaining input from victims and other affected parties should be instituted. It is of concern that many *indultos* are being granted for serious international crimes.

3. Ratification of international human rights instruments

19. Timor-Leste is party to most of the core United Nations human rights instruments and the Rome Statute. However, it is not party to the International Convention for the Protection of All Persons from Enforced Disappearance. The Working Group calls upon the Government to become a party to the Convention and to accept the competence of the Committee on Enforced Disappearances in terms of articles 31 and 32 on individual and inter-State complaints.

20. The Working Group also encourages the Government of Timor-Leste to ratify other international instruments which may have an impact on enforced disappearances, such as the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

C. The phenomenon of enforced disappearances in Timor-Leste

21. In its final report entitled *Chega!* (Portuguese for “no more, enough”), which was presented to the President, Parliament and Government of Timor-Leste on 31 October 2005, CAVR estimated that at least 102,800 civilians had died of conflict-related causes during the period covered by its mandate (25 April 1974 to 25 October 1999). Others however have assessed that possibly as many as 200,000 died. It is estimated that about 18,600 persons were killed or disappeared, the rest having died as a result of conflict-related illness or hunger. The number of missing is estimated by some to be in the tens of thousands. Through its statement-taking process, CAVR received reports from deponents on, inter alia, about 835 enforced disappearances. However, some actors have estimated that possibly as many as 4,000 children were abducted and taken to Indonesia.

22. Since its establishment in 1980, the Working Group has dealt with 504 cases concerning Timor-Leste. The majority of cases of disappearances reported to the Working Group occurred between 1990 and 2000. The Working Group has used the rule of territoriality to determine to which country cases are assigned. While the cases were originally listed under Indonesia they are now listed under Timor-Leste. Of the 504 cases, the Working Group has resolved 58 cases on the basis of information provided by the Government of Indonesia and 18 on the basis of information provided by other sources. A total of 428 cases remain outstanding.

III. The right to the truth

23. Many families of the disappeared in Timor-Leste want to know the truth about the fate or whereabouts of their loved ones. They want to be able to bury them according to their traditions and culture.

24. Various processes have been implemented in Timor-Leste to deal with questions relating to the truth about the conflict and disappearances. These include those of CAVR, which dealt with the period 25 April 1974 to 25 October 1999, and those of the bilateral Commission for Truth and Friendship (CTF), which dealt with the events of 1999, established by the authorities of both Indonesia and Timor-Leste. These processes have played a constructive role in discovering the truth about the past and occurrences of enforced disappearances.

25. CAVR was established in 2001 and functioned from 2002 until its dissolution in December 2005. It was an independent, statutory authority led by seven Commissioners

from Timor-Leste and mandated to undertake truth-seeking for the period of 1974-1999, facilitate community reconciliation for less serious crimes, report on its work and make recommendations. CAVR collected 7,669 statements, conducted more than 1,000 interviews and held public hearings. The Commission's 2,800-page report was presented to the President, Parliament and Government of Timor-Leste following its completion in October 2005. The report deals with numerous human rights violations, including 356 pages (chap. 7.2) on unlawful killings and enforced disappearances. The CAVR Community Reconciliation Process has been recognized as a novel, appropriate and successful application of restorative justice. The Commission made many recommendations, including for the establishment of a comprehensive national reparations programme that contained a national memorialization programme and a limited material reparations programme.

26. More needs to be done to follow up on the recommendations made and laws need to be adopted to institutionalize the findings and recommendations of the process. Although a number of efforts have been made to disseminate the CAVR recommendations and findings, more should be done to more widely publicize the final CAVR report in accessible ways. Using radio programmes to allow more people to listen to the findings would increase the impact of the Commission's work. Also, this work needs to be built on; more research should be conducted and other ways found to ensure greater truth recovery. The role of the future Memory Institute would be crucial in this regard.

27. CTF was established jointly by Timor-Leste and Indonesia in 2005 to "learn from the causes of past violence in order to strengthen the foundation for reconciliation, friendship, peace, and prosperity".¹ Its mandate was to find the truth about the events of 1999 to heal wounds and promote friendship. This included holding a joint inquiry with the aim of determining the "conclusive truth" about the reported human rights violations and institutional responsibility of the two nations. It was tasked with making recommendations, which would contribute to healing the wounds of the past occurrences and continuing to promote reconciliation and friendship, as well as ensuring the non-recurrence of similar events.

28. The establishment of the first-ever truth commission by two countries was a new and innovative approach to transitional justice, although criticized by many. The United Nations and a range of international and other organizations chose not to participate in CTF processes. Many condemned the Commission as an attempt to perpetuate impunity. Despite this, CTF did make findings about who perpetrated human rights violations. It suggested that the "Governments of Indonesia and Timor-Leste work together to acquire information about the fate of disappeared people and cooperate to gather data and provide information to their families".² It also recommended collective reparations. These issues should be taken further by the Joint Ministerial Commission established between the two Governments. The process needs to demonstrate concrete and positive results for victims. CTF also recommended the establishment of a commission on the disappeared. Such a process could have crucial value.

29. The Governments of Timor-Leste and Indonesia should continue their cooperation, through various processes, to develop tools to promote truth and justice. The conclusion of an extradition agreement between the two States would be an important step in this regard. The Working Group hopes that the new law on international criminal judicial cooperation (47/11) approved by Parliament on 16 August 2011 will provide the sufficient framework to request the extradition of perpetrators of serious crimes living outside Timor-Leste.

¹ "Final report of the Commission of Truth and Friendship (CTF) Indonesia-Timor-Leste" (2008), p. i.

² *Ibid.*, p. 297.

Attempts should be made to secure the extradition of at least some of the most important perpetrators from Indonesia, as this will benefit the relationship between the countries and assist the reconciliation process.

30. The process to determine where the people who disappeared in Timor-Leste are has had some success with the discovery of various grave sites, which have been exhumed. In 2009, the 12 November Committee, an association of those who survived the Santa Cruz massacre, in cooperation with forensic experts from the Victorian Institute of Forensic Medicine and the Argentine Forensic Anthropology Team (EAAF), examined 16 bodies of Santa Cruz massacre victims. They were able to identify 11 through DNA tests. In 2010, the Government contracted an international forensic team to conduct a forensic examination of an area west of Dili; nine bodies were found. DNA testing was conducted in Australia. However, a lack of ante mortem and family blood samples hampers identification.

31. During the mission, the Working Group learned with satisfaction that the Timor-Leste 2011 budget approved by the Parliament in February 2011 included a few lines for matters relating to CAVR/CTF: (a) funds to establish a follow-up institution (the above-mentioned Memory Institute); (b) funds for exhumation and forensic work; and (c) monuments in various subdistricts. It is hoped that the funds will be used for these purposes.

32. International assistance should be provided both materially and in the form of the requisite expertise and capacity-building required to develop a forensic unit. Assistance with DNA capabilities is also needed. There should be special facilities to properly preserve human remains. There are no clear procedures or rules for managing mortal remains after their exhumation, including the conditions for their storage. An appropriate legislative framework on forensic examination is therefore needed. Managing the forensic process is an important aspect to ensure justice. The police and prosecutors also need to be trained on forensic issues. The assistance of outside forensic institutions should be actively sought and assisted. Processes to ensure that DNA testing occurs more often should be enhanced and promoted. Processes to assist victims to obtain death certificates and to allow them to deal with issues such as inheritances ought to be enhanced.

33. It is a very positive development that the national human rights institution in Timor-Leste, the Provedor's Office (Ombudsman), has recently signed a Memorandum of Understanding (MOU) on cooperation with the Indonesian National Human Rights Commission (Komnas HAM). While the MOU focuses only on the 1999 period, it is hoped that this will be extended to include the full period of Indonesian presence on the territory of Timor-Leste. While the process will initially focus on children who disappeared during this period and now possibly reside in Indonesia, it is recommended that all the missing and disappeared be included in the process. The capacity, independence and resources of the Provedor's Office should be enhanced in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) so that it continues to improve and is able to contribute effectively to the bilateral cooperation to resolve cases of the disappeared. Many of its recommendations to the State have not been acted on.

34. The draft laws on reparations and the establishment of the Memory Institute are important steps in the implementation of the CAVR/CTF recommendations. The creation of an independent, but well-resourced by the national budget, Memory Institute will be an important development in this regard. Institute members should be independent of the State, and selected through an independent process to ensure that the best and most skilled people are appointed. Functions of the Memory Institute are to include, inter alia, playing an advisory role; supporting the Government in matters relating to disappearances and missing persons; and establishing, managing and updating a central database on disappearances and missing persons. As part of the Institute, a research and documentation, reparations and

missing persons unit will be established. A central database is crucial to promote transparency, accuracy and certainty about who went missing and who disappeared. Statistical data on disappearances is needed. The data should be disaggregated by gender, age, geographical region, and type and location of place of disappeared, and should include information, where available, on the date and place of exhumation and information on family members. The creation of the Institute is expected to be a major step forward in truth recovery, ensuring more research into and documentation about the past. The Institute should promote a better understanding of the nature, causes and impact of human rights violations; a culture of responsibility and accountability; and respect for the rule of law. It should also aid in remembering and honouring those who died in the conflict, and assist in determining the fate or whereabouts of disappeared and missing persons.

35. It is very problematic that the laws regarding these processes have been delayed a number of times. It is hoped that they will be enacted in the near future.

36. Despite the many successes of the processes to uncover the truth about the past, more needs to be done. While the Memory Institute ought to play a role in this regard, further investigations and other processes must be carried out to more fully uncover what occurred, especially in the years before 1999. For example, the massacres that occurred, such as those of Kraras-Viqueque (1983), Muapitine-Lospalos (1983), Mauchiga and Maununo-Ainaro (1982) and Santa Cruz-Dili (1991) should be the subject of more inquiry. Processes are needed to ensure that those who disappeared are looked for and that graves are found and exhumed. Conducting an accurate assessment of exactly who disappeared, including the thousands of children, would be beneficial to the families. A national registry in this respect would be beneficial. Families also ought to be further assisted with their needs to uncover the truth about what happened to their loved ones. Families that had their children taken from them must be assisted in their quest to locate their children.

IV. The right to justice

37. Progress in establishing accountability for violations committed in the past has been slow. Few cases have addressed past serious human rights violations, including crimes against humanity. Victims seek more accountability for those who perpetrated these crimes; many believe that the majority of perpetrators have escaped justice so far, and that those who were prosecuted were given light sentences or were pardoned almost immediately. For this reason there are those in Timor-Leste who still call for an international criminal tribunal to dispense justice.

38. Timor-Leste has adopted various laws to support its judicial framework. These include the Criminal Procedure Code, the Penal Code (promulgated on 29 March 2009), and the Law on the Protection of Witnesses (although the committee to be established under the latter law is not yet functional).

39. Various institutions have been involved in the process of investigating and prosecuting serious crimes committed in the past. The Special Panels for Serious Crimes were established by UNTAET under its mandate to establish law and order after the end of the hostilities. The Panels were invested with authority over serious international and national crimes committed between January and October 1999. The Special Panels for Serious Crimes convicted 84 persons, most of whom served very little time in prison and were reportedly pardoned soon after their convictions. Of the nearly 400 indictees, more than 300, believed to be in Indonesia, remain at large.

40. Various United Nations missions in Timor-Leste, including the United Nations Mission in East Timor, UNTAET, the United Nations Mission of Support in East Timor,

and the United Nations Office in Timor-Leste (UNOTIL), played a role with regard to prosecutions.

41. The Serious Crimes Unit was established following Security Council resolution 1272 (1999). The Unit was responsible for conducting investigations and preparing indictments to bring to justice those responsible for crimes against humanity and other serious crimes committed in 1999. Its mandate ended in May 2005.

42. The Serious Crimes Investigation Team was established pursuant to Security Council resolution 1704 (2006). The main mandate of the Team is to assume the functions of the former Serious Crimes Unit and assist the Office of the Prosecutor-General with outstanding investigations into serious crimes committed in the country in 1999, including cases on enforced disappearances as a crime against humanity. The Team is developing a database on victims, alleged perpetrators and witnesses, without distinction to the crimes committed. The database already contains thousands of names. This should be part of an accessible national archive with the contents available to the public. This process will be most helpful and will further assist the truth recovery process. Resources should be found domestically and internationally to assist this endeavor. The Team's records and case files should be adequately preserved and protected at the end of its work. Timor-Leste should also take adequate steps to preserve and protect the Serious Crime Unit archives. A law should be enacted to promote the right of access to information and ensure that such access is easy, affordable, and timely.

43. At present the Serious Crimes Investigation Team has only 10 international investigators and 10 domestic investigators. More trained staff are needed. In February 2008 the Team was investigating 396 cases. By December 2010 they had concluded 184 cases. Indictments for enforced disappearances as a crime against humanity have been made in 27 cases. A total of 19 cases have been brought to court, but very few convictions have been obtained. There does however seem to be a lack of communication and cooperation between the Serious Crimes Investigation Team and the Timor-Leste Office of the Prosecutor-General on cases that are being investigated and those handed over for prosecution. Few cases that have been handed over in the last two years have been prosecuted.

44. The Serious Crimes Investigation Team should continue to be sufficiently supported and resourced. Greater coordination between the SCIT, the Prosecutor-General and the courts needs to occur. The number of prosecutors in the country needs to be increased, and prosecutors also need more expertise to deal with such cases. More training on international law and the crimes that occurred in the past and related topics ought to be given by a variety of international actors to local officials to address these cases. The capacity and independence of the prosecutors ought to be further strengthened. Appropriate funding, assistance and leadership of the international community are needed in this regard and the establishment of a forensic unit is crucial. Critical as well is the further development of the Courts to be able to deal fully with these matters. More training should also be provided to this sector, by those well versed in the relevant topics.

45. Most of the perpetrators of the disappearances that occurred in Timor-Leste are still at large – abroad, in the majority of cases. While Indonesia did prosecute 17 Indonesian military officers, police officers, and civil servants and a Timorese militia leader before the Indonesian Ad Hoc Human Rights Court in Jakarta, almost all the defendants were acquitted immediately or on appeal. As a result of the processes in both Timor-Leste and Indonesia, some victims are angry and frustrated. Many are trapped in situations of poverty, partly because of what happened to them. Many feel forgotten and marginalized. They believe that issues concerning veterans of the fight to attain the independence of Timor-Leste have been and continue to be prioritized politically and economically over theirs, even though their role in the liberation struggle was important. Victims have stated their

belief that veterans have held up the processes to attain reparations for their own economic benefits. As a result of the widespread perception of impunity, there are continued calls for an international tribunal to hold persons accountable for the crimes committed in the past. Victims continue to strive for justice and to be consulted on the process and issues concerning accountability. The gender dimension of disappearances and the effect of those disappearances remain hidden; women are often unable to access the services they need.

46. The legal system of Timor-Leste has many challenges, including a shortage of personnel. There were few trained legal persons in Timor-Leste after the departure of the Indonesian administrators. UNTAET and successive peacekeeping missions provided international jurists to perform line functions and initiate mentoring programmes for national actors. Thus, the national authorities and the United Nations Development Programme (UNDP), together with the United Nations system and development partners, formulated a capacity-development project for the judiciary. This has achieved quite a lot and the number of skilled trained officials has grown. However, there is a backlog of thousands of cases. Ways of dealing with this backlog need to be found. There is therefore a need to strengthen the capacities of the police, prosecutors, judges and public defenders in Timor-Leste. Significant reforms and the completion of the legal framework are still required to raise the quality and access to the justice system. Strengthening legal aid is necessary to allow greater access to justice. There needs to be an increase in the number of prosecutors and public defenders. They need to be provided with the necessary expertise, and specific training, including in the local languages and in relevant international law. The issue of language continues to be an impediment for those wishing to access the justice system. While the Constitution of Timor-Leste provides that Tetum and Portuguese are the country's official languages, it is the latter that has played the dominant role in the justice system. This has a serious impact on access to justice. Ways of dealing with the language issues need to be found.

47. The Legal Training Centre, supported by the UNDP Justice System Programme, should continue to conduct, on a regular basis, education and training for, among others, judges, prosecutors, defenders, court clerks, private lawyers, legal translators and police officers. The curriculum should be developed to ensure that international laws and standards, particularly relating to enforced disappearances, are enhanced. The training provided should take into account the various official, working and spoken languages in Timor-Leste.

48. While much has been done to strengthen the police, further effort is required. The capacity, effectiveness, credibility and functioning of the police must be enhanced, and police recruitment and training requires additional attention. While the resumption of policing responsibilities by the Timor-Leste National Police Force (Policia Nacional de Timor-Leste, PNTL) has progressed, more needs to be done to ensure the capacity of the Force to prevent disappearances. The PNTL disciplinary and other internal mechanisms must be further strengthened to ensure that disappearances are prevented, and dealt with if they do occur. Effective handling of complaints and officers charged with offences is a key requirement to ensure the credibility of the Force. Thus, judicial and other police accountability mechanisms need to be strengthened.

49. Without effective criminal justice for serious crimes there cannot be lasting peace, nor can such crimes be prevented in the future. The Working Group notes the importance of taking immediate and effective steps to investigate all unresolved cases of enforced disappearances.

50. Victims and associations of victims of enforced disappearances have at times been insufficiently included in the processes concerning the disappeared. The Working Group, in its recently issued general comment on the right to the truth, noted that in relation to enforced disappearances, the right to know the truth means "the right to know about the

progress and results of an investigation, the fate or the whereabouts of the disappeared persons, and the circumstances of the disappearances, and the identity of the perpetrator(s)". Family members and family associations should receive greater support to allow them to play a critical role in addressing enforced disappearances issues.

51. The Working Group recognizes the important role the United Nations has played in the country. The Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste played a useful role in reviewing the work of the Indonesian Ad Hoc Human Rights Court on East Timor in Jakarta and the Serious Crimes Unit and the Special Panels for Serious Crimes in Dili,³ and made useful recommendations. There should be follow-up to the work of this Commission. The Working Group welcomes the continuing work conducted by the Serious Crimes Investigation Team, operating under UNMIT, while recognizing that it has been entrusted with a mandate limited in time and scope.

V. The right to reparation

52. Both CAVR and the CTF recognized that all the people of Timor-Leste had been affected by the suffering and were, in one way or another, victims of the conflict.

53. These two mechanisms made a wide range of recommendations, which included reparations for victims. CAVR recommended that a comprehensive programme on reparations be established in Timor-Leste based on the principles of feasibility, accessibility, empowerment, gender and prioritization on basis of need. According to CAVR, the programme should aim at assisting "vulnerable victims of gross human rights violations, within the scope of the mandate of the Commission, by repairing, as far as possible, the damage to their lives caused by the violations through the delivery of social services and symbolic and collective measures".⁴ In this regard, the Commission's final report makes reference to the following forms of reparation: rehabilitation, including social and psychosocial care; collective measures in a community context; and symbolic measures developed in consultation with victims, which may include "memorialisation, commemoration ceremonies, exhumations and reburials or marking and honouring of mass graves".⁵ According to CAVR, this programme should provide material assistance for the most vulnerable among those who continue to suffer the consequences of human rights violations, such as victims of torture, and symbolic reparations for all victims. In addition, CAVR recommended that the international community and the Government of Indonesia apologize to the people of Timor-Leste and support a reparations program.

54. The recommendations of CTF on reparations required "material and other forms of support from the relevant governments and institutions".⁶ The Commission made recommendations concerning, inter alia: (a) accountability and institutional reform, including the development of human rights training programs; (b) the promotion of conflict resolution and provision of psychological services for victims, including the establishment of a documentation and conflict resolution centre to promote understanding of the past between the peoples of Indonesia and Timor-Leste, to provide educational and legal

³ Summary of the report to the Secretary-General of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (then East Timor) in 1999 (S/2005/458).

⁴ *Chega! Final Report of the Commission for Reception, Truth and Reconciliation in East Timor*, Part 11, p. 40. Available from <http://etan.org/news/2006/cavr.htm>.

⁵ *Ibid.*

⁶ "Final report" (footnote 1 above), p. xviii.

training programmes in conflict resolution and mediation, and to develop comprehensive and inclusive survivor healing programs, particularly for victims of sexual violence and torture; (c) acknowledgment, which should be made through “expressions of regret and apology for the suffering caused by the violence in 1999 and a firm commitment to take all necessary measures to prevent recurrence of such events and to heal the wounds of the past”;⁷ and (d) the establishment of a commission for disappeared persons. With regard to the latter, CTF recommended that the Governments of Indonesia and Timor-Leste “work together to acquire information/form a commission about disappeared people and cooperate to gather data and provide information”.⁸ According to CTF, “this Commission shall be also tasked to identify the whereabouts of all Timor-Leste children who were separated from their parents and to notify their families”.⁹

55. According to some actors, there has not been enough progress in the implementation of these recommendations; more should be done. With regard to the recommendations by CTF regarding disappeared persons, the Working Group was informed during the mission that the Governments of Indonesia and Timor-Leste are working together, through the Joint Ministerial Commission, on how to establish, in practical terms, the proposed Commission for disappeared persons. It is hoped that this will bear fruit in the short term and that the measures to be developed are widely implemented.

56. The Working Group has been informed that, since 2002, a series of measures to acknowledge veterans of the conflict have been adopted in line with the Constitution of Timor-Leste, which provides for the valorization of the Timorese resistance. In this sense, its section 11, paragraph 3, provides that “the State shall ensure special protection to the war-disabled, orphans and other dependants of those who dedicated their lives to the struggle for independence and national sovereignty, and shall protect all those who participated in the resistance against the foreign occupation, in accordance with the law”. The measures included, *inter alia*, payments of compensation and pensions as well as the awarding of medals.

57. Furthermore, after the 2006 crisis, which led to the displacement of approximately 100,000 people, compensation was provided to those displaced by the violence, in particular in the form of payment for damages to their homes. In addition, since 2007, and in line with the Constitution, a number of social assistance programmes, including national pension programmes for the disabled and the elderly, have been established. Decree Law 19/2008 on Support Allowances for the Aged and Disabled defines and regulates a support allowance for the aged and the disabled, which consists of a sum of money paid on a periodic basis in order to meet the basic needs of those target groups. According to the information received by the Working Group during its mission, other programmes include support for seriously ill patients to receive treatment outside the country, food assistance, and funeral services, among others.

58. The Working Group was informed that an integral reparations programme for all those people who suffered human rights violations during the period 1974–1999 and who did not participate actively in the resistance and thus do not qualify as veterans has not yet been established. This fact may foster a feeling of inequity and injustice among the victims. The Working Group also received allegations that post-independence authorities discourage public debate concerning the conflict. In this regard, some actors believe that authorities fear that discussion of issues related to the past may lead to discord and conflict.

⁷ *Ibid.*, p. xx.

⁸ *Ibid.*

⁹ *Ibid.*

59. During its visit the Working Group learned with satisfaction that the Parliament was about to start the debate on two draft laws presented by the Parliamentary Committee for Justice and Constitutional Affairs in June 2010 that would address the recommendations made by CAVR and CTF. As mentioned, one of the draft laws concerns the creation of a Memory Institute and the other provides for the establishment of a national reparations programme for victims of human rights violations that occurred in Timor-Leste from 25 April 1974 to 25 October 1999. According to this draft law, the national reparations programme shall: include symbolic and material measures designed to honour and remember those who lost their lives and those who otherwise suffered within the context of the conflicts; rehabilitate and empower the vulnerable victims as well as communities severely affected by the conflict; commemorate significant events related to the conflict; and promote civic education on human rights.

60. According to draft article 9, the national reparations programme may include a national commemorations programme, an individual reparations programme and a collective reparations programme. The aim of the national commemorations programme would be to “honor and dignify victims and promote education on human rights and Timorese history”, including through commemoration ceremonies, monuments, searches for missing people, exhumation and reburial of remains, and marking and honouring mass graves and former detention centres. The collective reparations programme would be aimed at acknowledging and providing “material assistance to communities seriously affected by the conflict through the provision of community infrastructure, livelihood projects and projects for paying tribute to the victims at the community level”. According to the draft law, the concrete forms of collective reparations would be defined in consultation with the beneficiary communities. The individual reparations program would be aimed at rehabilitating vulnerable victims, defined by article 4 of the bill as the “victims residing in Timor-Leste who continue to suffer from difficulties in the form of physical or mental damages, or from financial difficulties” as a result of a specified number of human rights violations, including victims of torture and “victims of the disappearance or summary execution of the spouse or a person who live with him or her under analogous conditions, descendants up to the 1st degree, and ascendants up to the 1st degree”. People who are receiving other pensions or benefits, in particular in relation to the legislation concerning National Liberation Combatants, would be excluded from receiving individual reparations. According to the draft law (art. 11), the Memory Institute would assist the Government in designing the reparations and the modalities for their provision. This draft law could represent a positive step towards achieving the right to reparation. However, the Working Group noted with concern that, on the last day of its visit, 14 February 2011, the National Parliament once again decided to postpone the discussion on both draft laws.

61. The Working Group recommends that a national programme on reparations, which includes compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition for all victims of human rights violations during the period 1974-1999, be established as soon as possible. It is hoped that the processes between the two Governments will lead to a positive outcome in this regard.

62. Reparations are, however, not only financial in nature. Article 19 of the Declaration on the Protection of All Persons from Enforced Disappearance establishes that “the victims of acts of enforced disappearance and their family shall obtain redress and shall have the right to adequate compensation, including the means for as complete rehabilitation as possible. In the event of the death of the victim as a result of an act of enforced disappearance, their dependants shall also be entitled to compensation”.

63. As the Working Group noted in the first paragraph of its general comment (1997) on article 19 of the Declaration, States are obligated to adopt legislative and other measures in order to enable the victims to claim compensation before the courts or special

administrative bodies empowered to grant compensation. Victims and their families are also entitled to compensation for the suffering during the time of disappearance and in the event of the death of the victim dependants are entitled to compensation. It goes on to note that compensation shall be “adequate”, i.e. proportionate to the gravity of the human rights violation (e.g. the period of disappearance, the conditions of detention, etc.) and to the suffering of the victim and the family. Monetary compensation must be given for any damage resulting from an enforced disappearance such as physical or mental harm, lost opportunities, material damages and loss of earnings, harm to reputation and costs required for legal or expert assistance. In addition to the right to monetary compensation, the right to obtain redress for acts of enforced disappearance also includes “the means for as complete a rehabilitation as possible”, which includes medical and psychological care, legal and social rehabilitation, rehabilitation for any physical or mental damage, guarantees of non-repetition, restoration of personal liberty, family life, citizenship, employment or property, return to one’s place of residence and similar forms of restitution, satisfaction and reparation which may remove the consequences of the enforced disappearance.

64. Reparation programs should take into account a gender perspective, considering that most family members of missing persons are women. Gender mainstreaming within Government in general should assist the process.

65. Other new initiatives and processes, such as those being developed by Living Memory, a non-governmental organization that seeks to support and record the experiences of ex-political prisoners, may be useful for families of those who disappeared.

66. During its visit, the Working Group noted with concern that there are not many memorials for victims of human rights violations. The Working Group therefore recommends that, in consultation with victims and associations of victims, the Government build more places that commemorate and memorialize the events of the past.

VI. Conclusions and recommendations

67. **The Working Group on Enforced or Involuntary Disappearances acknowledges the many efforts Timor-Leste has made since its independence more than nine years ago, despite the several challenges the country faces, in particular its economic constraints and the existence of a great number of conflicting interests. However, the Working Group believes that much remains to be done to achieve the rights to truth, justice and reparation for disappeared persons and their families.**

68. **The country has come a long way since its independence in bringing about a process of national reconciliation, a process that was supported by the Commission for Reception, Truth and Reconciliation (CAVR) and the Commission for Truth and Friendship (CTF). The Working Group lauds the holistic and integrated approach taken by CAVR towards reconciliation, an approach that involved all levels of society, individuals, families, and communities from all sides of the conflict.**

69. **The Working Group encourages the Parliament of Timor-Leste to swiftly adopt the draft law on a framework for the national reparations programme and the draft bill establishing the public Memory Institute, which have reached the final legislative stage. The draft laws are aimed at honouring, remembering and dignifying the victims of the conflicts that occurred in Timor-Leste between 1974 and 1999 through a national commemorations programme. These are important steps in the implementation of the CAVR/CTF recommendations. The establishment of the proposed Memory Institute will be a major step forward in truth recovery.**

70. To assist national reconciliation, reparations should be provided on a non-discriminatory basis regardless of the past or present political affiliation of the victim. Parliament has set aside resources in the budget for the erection of monuments across the country to commemorate the victims. The National Dialogue on Truth, Justice, and Reconciliation brings together representatives of the Government at the highest levels. Timor-Leste should adopt measures to achieve satisfaction, such as the setting up of various memorial sites and monuments. It should adopt a legal framework to regulate such measures.

71. The establishment of the bilateral CTF between Indonesia and Timor-Leste in 2005, and the endorsement of its final report in 2008 by both Governments, represents an important step in the reconciliation process between the two countries and its peoples. A bilateral Joint Ministerial Commission has been created, which should meet more regularly than twice a year. The Ombudsman of Timor-Leste has signed a Memorandum of Understanding with the institution's Indonesian counterpart in January 2010 to implement recommendations of the CTF report with a focus on cases that require an immediate solution, in particular with regard to finding disappeared or missing people.

72. However, much more should and can be done. Positive signs include the negotiations on the creation of a bilateral commission that could assist in dealing with the large number of children taken to Indonesia. Agencies such as the International Committee of the Red Cross, the national Red Cross, UNICEF and others can assist this process. No effort should be spared in assisting the process of healing the wounds of the past.

73. The international community should assist Timor-Leste in its endeavours, through the provision of funds, training, technical assistance, capacity-building measures and other necessary support, in particular following the expiration of the mandate of the United Nations Integrated Mission in Timor-Leste (UNMIT), currently foreseen for the end of 2012. The Working Group recognizes the important role the United Nations has played in the country, for example, through the continuing work conducted by the Serious Crimes Investigation Team (SCIT). The role of the United Nations should continue in various ways, even if the UNMIT mission does not continue beyond 2012. The presence, for example, of the Office of the United Nations High Commissioner for Human Rights is necessary to assist and provide support in the areas of human rights, transitional justice and rule of law.

74. The Working Group looks forward to the ratification by Timor-Leste of the International Convention for the Protection of All Persons from Enforced Disappearance and its acceptance of the competence of the Committee on Enforced Disappearances, as well as to its ratification of other international instruments, such as the first Optional Protocol to the International Covenant on Civil and Political Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

A. The right to the truth

75. The Working Group acknowledges that there have been various processes in Timor-Leste to deal with questions relating to the truth about the conflict and disappearances. These include CAVR and CTF.

76. The draft laws on reparations and the establishment of a Memory Institute are important steps in the implementation of the CAVR/CTF recommendations. The

coming into being of a well-resourced independent, but well-funded by the national budget, Memory Institute will be an important development in this regard. The Working Group recommends that the members of the Memory Institute be independent of the State and selected through an independent process to ensure that the best and most skilled people are appointed.

77. With regard to the functions of the proposed Memory Institute (see para. 34 above), the Working Group recommends that:

(a) The data it collects be disaggregated by gender, age, geographical region, and type and location of place of disappeared;

(b) The database include information, where available, on the date and place of exhumation and information on family members.

78. In relation to CAVR:

(a) More needs to be done to follow up on the recommendations made, and laws adopted to institutionalize its findings and recommendations;

(b) Although a number of efforts have been made to disseminate the CAVR recommendations and findings, more should be done to more widely publicize its final report in accessible ways so that more people are able to gain access to the findings. Using radio programmes to allow more people to listen to the findings would increase the impact of the Commission's work;

(c) The work also needs to be built on; more research should be conducted and other ways found to ensure greater truth recovery. The role of the Memory Institute will be crucial in this regard.

79. In relation to the CTF process, the Working Group recalls that the final CTF report suggested that the "Governments of Indonesia and Timor-Leste work together to acquire information about the fate of disappeared people and cooperate to gather data and provide information to their families" and also recommended collective reparations. These issues ought to be taken further by the Joint Ministerial Commission established between the two Governments. The process needs to demonstrate concrete and positive results for victims.

80. The Governments of Timor-Leste and Indonesia should continue their cooperation, through various processes, to develop tools to promote truth and justice. The conclusion of an extradition agreement between the two States would be an important step in this regard. The draft extradition law submitted to the Parliament of Timor-Leste by the Prosecutor-General should be debated and provisions on extradition enacted. Attempts should be made to secure the extradition of at least some of the most important perpetrators from Indonesia, as this will benefit the relationship between the countries and assist the reconciliation process.

81. The process to determine where the people who disappeared in Timor-Leste are has had some success with the discovery of various grave sites that have been exhumed. However, much more needs to be done. The Working Group recommends that:

(a) International assistance be provided to develop a forensic unit with the requisite expertise and capacity. Assistance with DNA capabilities is also needed;

(b) There should be special facilities to properly preserve human remains;

(c) There should be clear procedures concerning the process of managing human remains;

(d) There should be rules for managing mortal remains after their exhumation, including the conditions for their storage. An appropriate legislative framework on forensic examination is therefore needed;

(e) The police and prosecutors be trained on forensic issues;

(f) The assistance of outside forensic institutions be actively sought and assisted.

(g) Processes to ensure that DNA-testing occurs more often be enhanced and promoted;

(h) Processes to assist victims with obtaining death certificates and to allow them to deal with issues such as inheritances be enhanced.

82. The Working Group welcomes that the national human rights institution in Timor-Leste, the Provedor's Office (Ombudsman), has recently signed a Memorandum of Understanding with the Indonesian National Human Rights Commission (Komnas HAM) to cooperate on the CTF recommendations. It recommends that:

(a) The period covered by the MOU, which focuses only on 1999, be extended to include the full period of Indonesian presence on the territory of Timor-Leste;

(b) The process, which will initially focus on children who disappeared during this period and now possibly reside in Indonesia, be expanded to include all the missing and disappeared;

(c) The capacity, independence and resources of the Provedor's Office be enhanced in accordance with the Paris Principles to allow it to improve and contribute effectively to the bilateral cooperation to resolve cases of the disappeared. In addition, its recommendations should be complied with.

83. Despite the many successes of the processes to uncover the truth about the past, some issues still remain. For example:

(a) Processes are needed to ensure that those who disappeared are looked for and that graves found and exhumed;

(b) Conducting an accurate assessment of exactly who disappeared, including the thousands of children, would be beneficial to their families. A national registry in this regard would be beneficial;

(c) Families should be further assisted with their needs to uncover the truth about the fate of their loved ones;

(d) Families that had their children taken from them need to be assisted in their quest to locate their children;

(e) A law should be enacted to promote the right of access to information and support the right to the truth; the law should ensure that such access is easy, affordable and timely, while respecting confidentiality and the rights of the persons concerned.

B. The right to justice

84. While great progress has been made to bring domestic legislation into conformity with international law, there are still gaps and problems.

85. Domestic criminal legislation needs to be improved. In particular, the Working Group recommends that:

(a) The Penal Code be amended to incorporate enforced disappearance as an autonomous crime for cases not linked to crimes against humanity;

(b) The criminal law be amended to remove the possibility of granting amnesties for serious crimes of international law, including the crime of enforced disappearance, in line with article 18 of the 1992 Declaration on the Protection of All Persons from Enforced Disappearance;

(c) The Committee to be established under the Law on the Protection of Witnesses become functional.

86. The Working Group noted with concern that clemency and commutations are frequently granted. The Working Group recommends that if such processes occur:

(a) They be rendered transparent, and that the factors considered in such determinations be announced in advance;

(b) A process for obtaining inputs from victims and other affected parties be instituted.

87. With regard to establishing accountability for violations committed in the past, including enforced disappearances (see para. 37 above), the Working Group notes that the Serious Crimes Investigation Team (SCIT) is developing a database on victims, alleged perpetrators and witnesses, without distinction to the crimes committed. The Working group recommends that:

(a) The database be part of an accessible national archive with the contents available to the public;

(b) Resources be found domestically and internationally to assist this endeavour;

(c) The Team's records and case files be adequately preserved and protected at the end of its work;

(d) Timor-Leste also take adequate steps to preserve and protect the Serious Crimes Unit archives.

88. With regard to SCIT staffing and its relationship with the Timor-Leste Office of the Prosecutor-General (see para. 43 above), the Working Group recommends that:

(a) The need for more trained SCIT staff be addressed;

(b) SCIT continue to be sufficiently supported and resourced;

(c) The tensions between SCIT and Office of the Prosecutor-General be resolved to ensure that accountability does not suffer;

(d) Coordination be improved among SCIT, the Prosecutor-General and the courts.

89. Currently, there are too few prosecutors and public defenders in the country and they do not have adequate expertise. The Working Group therefore recommends that:

(a) More training on international law and the crimes that occurred in the past and related topics be given to local officials by a range of international actors well versed in the relevant topics. They should be provided with the necessary expertise, and specific training, in their own language on a range of topics including relevant international law;

(b) The capacity and independence of the prosecutors be further strengthened;

(c) Appropriate funding, assistance and leadership of the international community be provided in this regard, and that a forensic unit be established;

(d) The Courts be empowered to be able to fully deal with these matters.

90. With regard to capacity development of the judiciary (see para. 46 above), the Working Group observes that:

(a) Ways of dealing with the backlog of more than 4,000 cases must be found;

(b) There is a need to strengthen the capacities of the police, prosecutors, judges and public defenders;

(c) Significant reforms and the completion of the legal framework are still required to raise the quality and access to the justice system;

(d) Strengthening legal aid is necessary to allow greater access to justice.

91. Concerning the Legal Training Center, the Working Group recommends that:

(a) It continue to conduct, on a regular basis, education and training for, among others, judges, prosecutors, defenders, court clerks, private lawyers, legal translators and police officers;

(b) Its curriculum be developed to ensure that international laws and standards, particularly relating to enforced disappearances, are enhanced;

(c) The training provided take into account the various official, working and spoken languages in Timor-Leste.

92. While much has been done to strengthen the police, more needs to be done. The Working Group recommends that:

(a) The capacity, effectiveness, credibility and functioning of the police be enhanced;

(b) The recruitment and training of the police be further attended to;

(c) More be done to ensure the capacity of the Timor-Leste National Police Force (PNTL) to prevent enforced disappearances;

(d) The PNTL disciplinary and other internal mechanisms be further strengthened to ensure that enforced disappearances are prevented, and dealt with, if they do occur.

93. Judicial and other police accountability mechanisms should be strengthened. Without effective criminal justice for serious crimes there cannot be lasting peace, nor can such crimes be prevented in the future. The Working Group notes the importance of taking immediate and effective steps to investigate all unresolved cases of enforced disappearances.

94. Victims and associations of victims of enforced disappearances have at times been insufficiently included in the processes concerning the disappeared. The Working Group deems that more attention should be given to victims.

95. The Working Group recognizes the important role the United Nations has played in the country, including the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste. The Working Group recommends that its work and recommendations be followed up.

C. The right to reparation

96. Both CAVR and CTF made a wide range of recommendations, which included reparations for victims. However, much remains to be done to provide integral reparation for the victims of enforced disappearance.

97. The Working Group recommends that:

(a) More be done to implement the CAVR and CTF recommendations concerning reparations, to ensure that reparations are paid to victims;

(b) A national programme on reparations that includes compensation, restitution, rehabilitation, satisfaction and guarantees of non-repetition for all victims of human rights violations during the period 1974-1999 be established as soon as possible;

(c) The reparation programme take into account a gender perspective;

(d) In consultation with victims and associations of victims, more places that commemorate and memorialize the events of the past should be built.

98. The Working Group invites the Government of Timor-Leste, within 90 days from the date of the presentation of the present report at the nineteenth session of the Human Rights Council, to provide the Working Group with a timetable showing the steps it intends to take to implement these recommendations.
