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## East Timor

Entering its fourth year of independence after a brutal twenty-five-year occupation by Indonesia, East Timor continued generally to make progress in human rights in 2005, although the pursuit of justice for past violations was challenged. Most notably, East Timor established a Provedor's office, similar to an ombudsman institution in other countries. In May the United Nations-established tribunal in East Timor, mandated to investigate and prosecute serious crimes by Indonesian military and militia, shut down due to a lack of international political and donor support. Two months earlier Indonesia and East Timor had announced the formation of a Commission of Truth and Friendship to address reconciliation between the two countries, with provisions for amnesty even for perpetrators of the worst crimes.

The destruction inflicted by the occupation and by Indonesian troops withdrawing following the U.N.-supervised independence referendum in 1999 continue to limit East Timor's ability to consolidate its gains. But negotiations with Australia over oil and gas revenue—although fraught with legal difficulties—may yet yield a significant revenue flow for the impoverished country.

### *Justice and Reconciliation*

In May 2005, the U.N. tribunal in Dili (comprising the Serious Crimes Investigation Unit and Special Panels for Serious Crimes) established to investigate and prosecute serious crimes cases from 1999 (including the killings of 1,400 East Timorese), shut down. As Human Rights Watch has previously noted, important obstacles to justice remain for victims of the violence that accompanied Indonesia's rule and eventual withdrawal from East Timor. In addition to the failure to prosecute the 1999 cases, there has been no judicial accounting for previous atrocities committed during Indonesia's occupation.

During its six years in operation, the U.N. tribunal had convicted some East Timorese militia and prepared indictments against more senior militia leaders and high-level Indonesian officers. However, due to limitations on the tribunal's powers to extradite indictees from Indonesia, no senior Indonesian perpetrators had faced trial in Dili. Trials in Jakarta of senior Indonesian military officers ended in acquittals for all. Only one East Timorese militia commander was convicted, and he remains free pending appeal.

In February 2005, U.N. Secretary-General Kofi Annan announced the establishment of a U.N. commission of experts to review the prosecution of serious human rights violations committed in 1999 and make recommendations to him with regard to possible future actions. The commission's report to the Secretary-General, published in July, found that the trials in Jakarta for crimes committed in East Timor in 1999 were "manifestly inadequate," and showed "scant respect for or conformity to relevant

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international standards.” The report cited the prosecution’s failure to make substantial use of available evidence and of witnesses’ statements already gathered by Indonesia’s Commission on Human Rights and the U.N. tribunal investigators. The U.N. commission of experts recommended that Indonesia accept international support to strengthen its prosecutorial capacity, and advised issuing a clear six-month timetable to show progress on the commission’s recommendations. The report also recommended that the U.N. Security Council extend and strengthen the parallel justice process in East Timor, given that East Timor had succeeded in prosecuting low-level militia members and preparing indictments against others. As of November 2005 neither the Security Council nor the Secretary-General had acted on any of the commission’s recommendations.

In March East Timor and Indonesia established their own joint body to look into crimes committed in East Timor in 1999. The Commission of Truth and Friendship (CTF) was set up to establish agreed-upon facts regarding the events prior to and immediately after the 1999 referendum, with a view to further promote reconciliation and friendship between Indonesia and East Timor. The body was widely criticized by victims’ groups and civil society in both countries for being unrepresentative of victims’ wishes for justice and accountability, and for effectively promoting impunity. The U.N. commission also expressed reservations about the CTF, noting that the truth commission’s terms of reference, which include amnesty provisions even for perpetrators of the worst crimes, “contradict[ed] international standards on denial of impunity for serious crimes.” Five Indonesian and five East Timorese commissioners started their work in August.

The Commission for Reception, Truth and Reconciliation in East Timor (Comissao de Acolhimento, Verdade e Reconcilio de Timor Leste, CAVR) is a national, independent, statutory authority mandated by law to undertake truth-seeking, facilitate community reconciliation, report on its work and findings, and make recommendations for further action. Complementing the work of the (now-defunct) Serious Crimes Investigation Unit, the CAVR has been largely successful in its initial efforts to promote national reconciliation through national hearings on a wide range of issues, truth seeking, and public community-based reconciliation processes—an ambitious task after twenty-five years of violence in East Timor. The CAVR submitted its final report to the president in October.

As Human Rights Watch has previously noted, East Timor’s judicial and criminal institutions remain weak, under-resourced, and overburdened. Consequently, many serious crimes, including rape and domestic violence, are habitually referred to traditional customary law mechanisms, which lack basic due process protections and regularly fail to provide justice for victims, especially victims of sexual violence.

### **Police**

Although the National Police Service of East Timor (Policia Nacional de Timor-Leste, PNTL) has had full responsibility for the country’s thirteen districts since January 2004, it has not had adequate training or resources to maintain law and order in a manner consistent with international human rights standards. Reports continue of excessive use of force by police when arresting suspects, and abuse and ill-treatment

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of detainees in police detention. Internal police disciplinary mechanisms remain weak at addressing such issues.

### ***New Restrictions on Assembly***

In late 2004 parliament passed a broadly worded Law on Freedom, Assembly and Demonstration which violates international law and the East Timorese constitution by restricting peoples' right to demonstrate and voice peaceful opposition to the head of state. The law introduces a prior notification requirement for demonstrations, despite a provision in the constitution that allows an unfettered right to hold assemblies "without a need for prior authorization."

### ***Human Rights Defenders***

East Timor's parliament elected the country's first Provedor in March 2005. The Office of the Provedor has far-reaching powers to investigate and report on complaints against government officials and institutions, including the police. However, the Office does not have the power to make enforceable decisions: It can only make recommendations to the relevant bodies such as the police, offer to act as a mediator between the complainant(s) and representatives of the public body involved, or refer a grievance to a competent jurisdiction or other recourse mechanism. Although it can undertake investigations without waiting for a citizen's complaint, and does have the power to order a person to appear for questioning, any recommendations can be disputed or ignored. The Provedor was officially inaugurated and started work in June 2005.

East Timor's nongovernmental human rights defenders operated freely and played an active role in lobbying the U.N. and government. There were no attacks on human rights defenders in 2005.

### ***Key International Actors***

The U.N. peacekeeping mission finished its mandate in May 2005, and was replaced by a smaller one-year political mission called the United Nations Office in Timor-Leste (UNOTIL). Its core function is to continue to provide capacity building support and advice to key government institutions, with particular regard to the police service and Border Patrol Units. The U.N.'s Human Rights Unit provided training programs and technical support for East Timorese nongovernmental organizations.

In April 2005, Indonesia's President Susilo Bambang Yudhoyono made his first state visit to East Timor. A third meeting of the Indonesia-East Timor joint ministerial commission followed in July. Unresolved issues between the two countries continue to be negotiated through a series of bilateral talks, including the official border demarcation, and how to resolve the ongoing problems of East Timorese refugees and missing and separated children in Indonesia. Thousands of East Timorese students continue to attend schools and universities in Indonesia.

The World Bank has assisted East Timor since 1999 in rebuilding infrastructure, stabilizing the economy, and supporting government institutions. The Bank is supporting a multi-donor strategy to implement a

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National Development Plan in coordination with the government. However, as Human Rights Watch has previously noted, East Timor remains in desperate need of long-term international financial assistance. It receives its largest financial contributions from Japan, Portugal, the United Kingdom, the European Union, the United States, and Australia.