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REFERENCES COMMITTEE

Reference: Economic, social and political conditions in East Timor

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SENATE
FOREIGN AFFAIRS, DEFENCE AND TRADE REFERENCES COMMITTEE

Wednesday, 15 September 1999

Members: Senator Hogg (*Chair*), Senator Brownhill (*Deputy Chair*), Senators Bourne, Lightfoot, Quirke and West

Participating members: Senators Abetz, Bolkus, Boswell, Brown, Calvert, Chapman, Cook, Coonan, Crane, Eggleston, Faulkner, Ferguson, Ferris, Forshaw, Gibbs, Gibson, Harradine, Knowles, Mason, McGauran, Parer, Payne, Tchen, Tierney and Watson

Senators in attendance: Senators Bourne, Brownhill, Hogg and Payne

Terms of reference for the inquiry:

- (a) economic, social and political conditions in East Timor including respect for human rights in the territory;
- (b) Indonesia's military presence in East Timor and reports of ongoing conflict in the territory;
- (c) the prospects for a just and lasting settlement of the East Timor conflict;
- (d) Australia's humanitarian and development assistance in East Timor;
- (e) the Timor Gap (Zone of Cooperation Treaty); and
- (f) past and present Australian Government policy toward East Timor including the issue of East Timorese self-determination.

WITNESSES

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Committee met at 9.41 a.m.

MURFET, Dr Robert Kingsley, Director, Paxiquest

PLUNKETT, Mr Mark Oliver, Director, Paxiquest

SANDERSON, Lieutenant General John Murray (Retd), Chairman of Directors, Paxiquest

WOOD, Mr Gary James, Research Assistant, Paxiquest

CHAIR—AllI declare open this public meeting of the Senate Foreign Affairs, Defence and Trade References Committee. The committee is inquiring into East Timor, in accordance with terms of reference given by the Senate. I welcome Dr Robert Murfet, Mr Mark Plunkett, Lieutenant General Sanderson and Mr Gary Wood, who are representatives of Paxiquest. The committee prefers all evidence to be given in public, but should you at any stage wish to give any part of your evidence in private, you may ask to do so and the committee will consider your request.

The committee has received this morning the submission of Mark Plunkett of the Pax Group. Subject to the normal perusal

by the committee, it will be made a public document unless there are specific things you do not wish to have made public.

Mr Plunkett—I am content for it to be a public document.

CHAIR—All right. Subject to the normal scrutiny of the committee, we will release this as a public document. I now invite you to make opening statements, and then we will proceed to questions.

Mr Plunkett—Since 1993, at the conclusion of the United Nations Transitional Authority peace operation in Cambodia, General John Sanderson, others and I have attended periodic peace seminars conducted by the Australian Defence Force and the Australian Federal Police in Williamstown and in Canberra. Around the same time, Griffith University, the key centre for law, justice, ethics and governance, embarked on a rule of law project in the Asia-Pacific and took up the issue of the re-establishment of the rule of law in collapsed, fractured and frustrated states.

In 1996 and 1997, a colleague and I were involved in providing joint negotiation training for all parties to the unresolved armed conflict in Bougainville. Earlier this year, after the general retired, I expressed interest in collaborating, because it was our view that the corporate knowledge about the conduct of peace operations in the public sector was disintegrating and there was an urgent need to coalesce it in some form or another.

I have set out in documents at attachment 2 the structure of the various companies and academic institutions that have been involved in the rule of law peace operation project. In the past, prior to East Timor, we had been retrospective, looking at what went wrong, what

worked in peace operations, and, to adopt a phrase from the United Nations, a ‘lessons learnt’ unit. We looked at the lessons derived, because we do not believe many of the lessons are learnt, and we think peace operations seem condemned to keep repeating the same mistakes. When Timor became an active matter of international diplomatic discussion, heading towards a peace operation, we decided—that is, the two companies and the learning institutions, being reflective practitioners and engaged scholars—to look prospectively at Timor. So we adopted the East Timor peace operation as a project, and we visited the living laboratory of East Timor and conducted a series of workshops. We also fielded an advance mission in East Timor and an electoral monitoring, UNAMET accredited, mission which returned last month.

In attachment 2, I have set out in more detail the aspirations, mission statement and objectives of the Pax Group. In attachment 3, I have set out some peace game scenarios. In May this year, in Canberra, a peace gaming exercise was conducted for members of the Australian Defence Force, members of the Australian Federal Police, members of NGOs and others who wished to attend, in which we attempted to forecast the sorts of bottomless dilemmas that people going into the UNAMET peace operation might face. They are set out in attachment 3 as a series of 14 scenarios. Tragically enough, many of those scenarios came to pass. Many were perfectly predictable, as we had experienced these sorts of scenarios in similar missions elsewhere. Each of the scenarios was drawn from a real life situation in other peace operations around the world. Some people regarded the scenarios as being far fetched; ironically, some regarded them as being naive, and I think the latter characterisation probably carried the day in light of the events that unfolded post 30 August.

In attachment 4, I have set out some of our basic training material. In attachment 5, I prepared a paper setting out what I call the enforcement model for the re-establishment of the rule of law in peace operations, and the negotiated model for the re-establishment of the rule of law. This is a paper which was presented at a conference conducted by Griffith University and the Australian Defence Force Academy in July this year in Canberra, and I have adapted it somewhat in light of the UNAMET experience.

Attachment 6 is a scenario tree which was developed in preparation for a workshop conducted in Canberra on 25 August, following the advance UNAMET mission. We predicted scenarios as indicated on that tree from scenario 3, the poll would be held to scenario 4, autonomy would be rejected. I had proposed, at least for my part, to go to scenario 9, that Indonesia agrees to independence and that there would be scenario 13, eventual handover after constitutional ratification by MPR and then transition through to scenario 15.

While I ranked the integrationists making war and the decision being postponed as having an equal weight of probability with Indonesia agreeing to independence or Indonesia rejecting independence, scenario 10 is what has unfolded. What I had not envisaged, nor had anyone at that stage, was the comprehensiveness of the violence that ensued post 30 August 1999. There was information that such a planned undertaking was afoot. For my part, I discounted that information after speaking to UNAMET people—Mr Martin and Commissioner Alan Mills—and to Indonesian police and soldiers. I was satisfied at the advance mission that there was a great deal—and I believe there still is—of conscientiousness on the part of some Indonesian police and some Indonesian military to do

their duty according to their own law and according to the international agreement. So for my part, I could not have envisaged the genocide which ensued post 30 August. To that extent, my prognosis was naive.

In attachment 7, I set out a blueprint for a comprehensive rule of law campaign plan, and I believe regard ought to be had at least to the principles of it if the subsequent international military peace operation is to be a success. One of the most fundamental omissions in the tripartite agreement, as with most other peace operation agreements in recent years, has been the omission to make adequate provision for the re-establishment and maintenance of the rule of law. This has vexed and dogged every peace operation over the last decade. A major defect in the tripartite agreement was that there was not adequate provision made for this.

The tripartite agreement failed to have at the negotiation table all of the people who should have been there. In any negotiation, it is a basic diagnostic criteria that anyone affected by the dispute must have a say and be involved in the negotiation. Of course the tripartite agreement involved two governments and the United Nations, but it failed to have at the table—in any real form, in my submission—the Timorese people of all the factions, including Indonesian people and the Indonesian TNI. In any negotiation it is not proper, as a matter of practical reality, to seek to exclude people because it is thought that some might wear black hats and some might wear white hats. Whoever is affected by the disputes must have a say at the table. If they do not, they will use their alternatives; and I believe that is what happened with the ensuing genocide post 30 August 1999.

In attachment 8 there are some sit. reps. I have endeavoured, where possible, to excise reference to the author or authors of this material. I am not under oath, but I am prepared to say under oath that this did not come from any Australian, that it did not come directly to me from any UNAMET person, and that I obtained it in Jakarta. That is not to say that I obtained it from an Indonesian source. I think it would be very instructive for the committee to read it to get an idea, at the tactical and strategic level, of the difficulties that were being faced by UNAMET in having responsibility for the maintenance of the rule of law vested in one of the protagonist parties, if I can call it a protagonist party—all the parties being protagonist in that description.

Attachment 9 is a series of articles by Professor Charles Sampford of our Pax Group. They set out eloquently his thinking about the developing international rule of law, which I believe has great applicability to the circumstances in East Timor.

Attachment 10 is a document prepared by me and furnished to Mr Paul McGeough, Editor of the *Sydney Morning Herald*, who was head of a media consortium to put into place in East Timor a last resort evacuation and humanitarian vessel. This vessel did not go into East Timor. In my view, with the wisdom of hindsight, it should have. The media consortium took no umbrage at the price or at the nature of the vessel and its capacities. There was a lot of dithering and input by the Department of Foreign Affairs and Trade, which delayed the ability to put this vessel in the water and have it located at Dili at the appropriate time. We negotiated, and we did obtain consent from the local harbourmaster and the local authorities in East Timor, and we obtained consent from General Wiranto and the Minister for Information at the Jakarta level—but those consents were obtained too late to

put the vessel at sea and in position. Had the vessel been there, it is my opinion that many lives would have been saved.

I have set out, on page 3, my main points, which I have addressed to some extent. I do not want to dwell on them, because I know that in the fielding of questions they might be better answered by other members as well as myself. But in my opinion, the violence that ensued was calculated and planned, and a great deal of effort went into it.

It is not possible to organise the large numbers of West Timorese and East Timorese to form part of the militia and pay them when they are untrained. Yet there is an irresistible inference that there was a clear, concerted plan. We know from the evidence of UNAMET that members of the TNI dressed in uniforms as members of the militias. I think it is wrong and false thinking to see this as a popular uprising by disgruntled or fearful pro-integrationists. It was a concerted, well-managed operation.

It is clear from the operation that those people who conducted it took great pains to ensure that no international people were killed or harmed. It is also clear that they had a staged program to remove the international media. In my opinion, the international media organisations were too hasty in withdrawing their teams when they did. Had the media remained longer, perhaps there would have been retardation of, interference in or prevention of the violence that ensued. Whilst the media were withdrawn on the Monday and the Tuesday in unseemly haste, almost to the point of panic, those journalists who remained behind ought to be commended for their courage in continuing to report to the world community. And that reporting had a significant deterrence effect, in my opinion.

Prior to the dispatch of Australians on the mission, there had been some debate that the Australians—this is CIVPOL—should not take cameras and tape recorders, and I believe that was followed. In my opinion, they should have taken tape recorders and cameras. I know, from the evacuation of Gleno, that the use of a helicopter with an overhead camera did much to deter the militia, the police and military units from attacking the UN members and enabled them to make a safe escape. Likewise, had the media had more fortitude and remained, they could have prevented and perhaps thwarted the violence that ensued.

I also think that special commendations should be given to Mr Ian Martin and to Commissioner Alan Mills. With a shoestring budget and a very tight timetable, they were able to carry out their mandate and did so in an exemplary fashion. In particular, special recognition should be given to the electoral teams, the international people—advisers from other countries including those from the Australian Electoral Commission—and the local people, who carried out their duties with courage, promptitude and expedition. We know that many of the local people have been killed for their duties.

This was an unusual peace operation in that it commenced with an election, whereas most operations conclude with an election. If this agreement is carried to its full course, presumably there will be an election for ratification of the constitution and a constituent assembly. But this operation had an unusual feature, with a very tight timetable in the beginning and with an election. The 451,000 who enrolled and the great turnout demonstrated the success of those who conducted and carried out the UN mandate, their

leadership, their operational practicalities and abilities. That, in my submission, ought to be recognised by this committee.

It is also a salutary lesson for the international community to acknowledge that the use of an election as a conflict management device—where the people are a judge of one—can be a powerful tool to bring about the resolution of a conflict. But, as I said, the major design defect in this agreement was that inadequate provision was made for the rule of law. Perhaps the most serious omission was the failure to have an armed military component of an international character to provide assistance to UNAMET.

Another feature which is disturbing is: why was there this very well planned genocide, which must have cost millions of dollars? We have tried to find out the pay rates of the militia involved. We know that they were being paid because that was cited by people. We know from UNCIVPOL members—who were in hides and who shot film and who saw the TNI and POLRI supplying weapons to the militia—that this was a well organised, concerted plan. It must have cost a lot of money. There must have been a lot of communications going out. I would be very surprised if the pro-independence people had not had their own people on the ground surreptitiously being part of the militia groups, because they were part of the autonomy campaigning groups. They must have been so, given the near 80 per cent turnout for independence.

Given all of that, how was it that our public sector information gathering services did not find out about it? If they did find out about it, what did they do? All of the international people and, more particularly, the local persons, sadly, were at risk because of the failure to obtain this information or, if it was obtained, the failure to put it to use to take steps to prevent the violence. It beggars belief that this could have happened without our departments and our various information gathering agencies knowing about it. Certainly it was my impression by the Monday that the Department of Foreign Affairs and Trade—rightly acknowledging that it was a psychological war—did not inform the Australians that there was any anticipation of the level of the extent of violence that did ensue.

I believe that there has been a significant failure of imagination by our departments and that our departments must cease saying no to every initiative—like our boat—and recommending that government do nothing. At the risk of being whimsical, I will tell you that, as I left Dili, I heard someone say, ‘Someone should call Sandline.’ That is an absurd suggestion, of course, but it reflects the frustration that your constituencies feel about the inadequacy of government to come to grips with these serious issues. We have talked about the rule of law for six years and it seems that we are talking up against a brick wall. It is time to listen to the lessons learnt. Thank you.

Lt Gen. Sanderson—Thank you very much for this opportunity. First of all, I would like to put a broader context to the Timor experience before I come back to talking in detail about what has happened in recent weeks. As Mr Plunkett has pointed out, over the time since the Cambodian operation we have been engaged—with a number of international authorities, academic institutions and so on—in the increasing dialogue about what is going on with international policy, international law and, indeed, United Nations peace operations per se.

There is no question in my mind that we are moving into a very complex global environment where the foundation of international policy, which has been that of the relationships between nation states, is being brought into question by the growth of international law. Some would say that it is not simply the growth of international law that is doing this; it is the international reality that every society is now much more interactive than they have been in the past because of global communications and, indeed, the environmental aspects that are associated with the way in which development takes place.

But the fact of the matter is that the United Nations is an organisation which has been based on the sanctity of the sovereign state. Its charter makes clear, as it does in a number of the protocols and conventions, that none of the conventions and protocols are intended to dilute the power of the sovereign state to deal with its own internal problems. Yet since the end of the Cold War most United Nations operations have been about internal issues within states.

It is debatable whether the situation with respect to East Timor is an internal issue within a state because the question of Indonesian sovereignty over East Timor is one which is not refined to the point where you can say that that is sovereign territory of Indonesia. That was definitely so in the case of Kosovo. Kosovo was acknowledged as the sovereign territory of Serbia, yet the international community, on the basis of evidence of gross crimes against humanity and the destabilisation of a region, chose to intervene inside a sovereign state and incise part of that state and place that incised part in a state of transition to some form of governance and relationship with the surrounding region.

The complexity of these issues struck us in recent times as an issue which was going to engage the international community more intensely in the business of helping nation states to establish effective instruments of governance within their nations so that the way in which they developed a relationship between the state and the people was based on consensual politics. That is why I think elections, consultations and referendums are so much an important part of the international future.

The issues that are associated with this now are those about the nature of international intervention, the application of force and the differences between peacekeeping—keeping the peace—peace enforcement and so on. I am sure that the members of this committee would have noticed over the last few months that there has been a great deal of confusion in our own society about exactly what sort of operations we are undertaking, with UNAMET I and with the sort of operations that are forecast for the transition to governance in Timor. People talk about peacekeeping when they are really talking about peace enforcement. The words ‘keeping the peace’ slip into the dialogue very rapidly and people do not seem to recognise that keeping the peace is a term which is about internal security operations. It sprung up during the latter days of the colonial states in South-East Asia and Africa. It was about maintaining order while those states transitioned to an independent form of governance.

Keeping the peace is the sort of thing that is actually being conducted in Kosovo after peace enforcement operations have been carried out. It is an extension of peace enforcement. NATO has conducted a peace enforcement operation which has forced the Serbs to accept a NATO incision and then the United Nations has gone in there and the NATO forces are helping the United Nations to keep the peace while that nation, or whatever it is, transitions

to some new form of governance. I guess that is exactly what we are talking about in the case of East Timor.

This confusion in the dialogue and the confusion over the balance of interests between the sovereignty of the nation state and the international force are among the things which confuse the mandates which come out of the United Nations. Most failures in recent times of mandated United Nations operations, in my opinion, have been because of deficiencies in the mandate. I would attribute that to Somalia; to Rwanda, particularly in the early stages; and indeed to Bosnia for most of the time before the NATO intervention.

In my opinion, if we are not careful, we will end up with a very confused mandate with respect to East Timor which will not simply continue the grief of the East Timorese people but be detrimental to the long-term relationship between Australia and Indonesia. In my view, now is the time to be very careful and very refined in the way in which we establish this mandate. I accept that it may be that the mandate might start off in a fairly fundamental form but will need to be refined very quickly to ensure that it does not provoke conflict rather than diminish it and stabilise the situation.

In recognition of the fact that the establishment of governance and justice systems and of the rule of law were going to be a key component in the way in which global politics developed, we established the organisation, Paxiquest. This organisation very quickly found a relationship with my colleague Mr Mark Plunkett and his rule of law and justice system philosophy, which I commend to you as having a very strong foundation for the way in which we approach problems in this region in the future.

But at the same time we did participate in an activity with Brown University on the harmonisation of peace operations. This was about pulling all the agencies together in a way so that you achieve objective outcomes. Up till now most peace operations have been initiated with a very discordant relationship between the civil and military agencies that are involved. When I talk about civil agencies, I am talking about the United Nations humanitarian agencies and the non-government agencies, as well as the civil police.

The activity with Brown University was the development of a harmonisation handbook to meet a presidential directive to that end. In the process of doing that, we identified a close association between the way in which Brown University and indeed the US Army War College, who were working with them on this, were thinking about these issues and the way that we were thinking ourselves. So this association of ideas has driven us towards an association of our organisations, using Brown University and the Key Centre for Ethics, Law and Justice at Griffith University as think tanks for the practical dimension of implementing or assisting to implement the development of rule of law justice systems and effective governance in the field.

We have been putting together a body of work which we think will contribute extensively to that. Mr Plunkett has pointed out the fact that we participated with Griffith University in the workshop, prior to the commitment of UNAMET, in which we looked at the police role and established a number of scenarios which were subsequently used as part

of the training packages for all the international elements before they went into East Timor—and with some success, I might add. I would like to make the point at this stage that to my knowledge this is the first time that all of the civil police for the United Nations have actually been trained before they have entered a mission area. I only wish that such an intervention had been made in the case of the United Nations in Cambodia, where a very expensive civil police operation, to my mind, failed. Why? Because it took most of the time that the mission was in Cambodia for it to actually come together and focus on what its mission was.

There were 3,500 police in the Cambodian operation. The cost was about a quarter of a billion dollars. My view is that that quarter of a billion dollars could have been spent to establish an effective rule of law and justice system in the country including a new police force. The police force could have been operated for up to three years and we would have left the government of Cambodia with an effective non-political police force instead of a police force with all of its linkages to the one-party state which was pre-existent in Cambodia.

Mr Plunkett has pointed to the fact that getting the relationship between the rule of law and the justice systems and the establishment of government wrong has caused an enduring failure in a number of United Nations missions. What we are suggesting—through the documents that he has put forward before you and through the work that we have done in our previous workshops and since—is that establishing an effective justice system as a precursor to, or in parallel with, the establishment of government is a key issue. It seems to me that we have an opportunity to improve the life and dignity of the East Timorese people through this process now. Thank you very much.

Mr Wood—I spoke to Mr Barsdell just before the meeting commenced and he asked me to convey what I saw in East Timor, what I was told and what I think. I will leave some of the other arguments up to Mr Plunkett and Lieutenant General Sanderson. I would like to tell you about a few things that I saw on the ground and let you draw your own conclusions from them.

On the Wednesday after the election I was walking down a street when a truck pulled up in front of me, a barricade was thrown out and militia jumped out. An East Timorese person came around the corner and they just shot him in the chest. They ran over to him and started to hack him up, and I ran in the opposite direction as quickly as I could. It was that simple, it was that quick, it was that fast and I just thought at that point, ‘This town’s unsafe,’ and that there was a campaign to intimidate everyone in the city of Dili.

I will give you my background. I was in the Australian Federal Police for 16 years. I have served in UN missions in Cyprus and Mozambique. In 1996 I did the feasibility study on the guns for drugs issue in the Torres Strait. I have spent a lot of time in New Guinea and a lot of time in the Torres Strait. I believe I have a reasonable grasp of what happens at the coal face but probably not of the big picture. Most police on UN missions are given a certain task and they do not really know the big picture. They are told what to do and they do it to the best of their ability.

Quite a lot of my good friends were in the UN mission, people that I had lived with in Mozambique and had served with in varying jobs here in Canberra. I was in the detectives in Canberra for 10 years, and I am quite close to a lot of people who served on the ground. I spoke to them before they left. I took the training packages to Darwin to assist them before they left. I helped write the scenarios and, with the General's group, we tried to help the contingent as best we could.

I think that, compared with formulas in the past, the formula of how they went was not quite right. If you take the example of Mozambique, there is a formula. People agree to go to different areas, the combatants go to different areas, the military come in, they then feed them and clothe them. It is Maslow's hierarchy of needs—people get fed, they get clothed and they get looked after for a couple of months—and then they say, 'We haven't had any problems for a couple of months. How about we consider handing the weapons in?' The weapons are handed in, the military takes control and it is reasonably safe, then the military starts to withdraw, the civilian police start to come in and eventually there is some harmony on the ground. Then the electoral people come in with the humanitarian people. There is a formula to go through. Then there is a process and towards the end there is an election. Slowly more humanitarian people come in to assist and the police and the military withdraw and, hopefully, it works. In Mozambique it did work. In 1994 I saw it work; it happened that way.

East Timor was the opposite way around. It was like, 'Let's have an election and everything will be okay.' All the formula, the recipe for the problem, was still there. All the combatants were there. The anger, hostility and violence were still there. I thought that made the position of our people on the ground very difficult.

On polling day I went to a lot of polls. I thought that people were very brave and very heroic. In different places that I went to we intervened just to say, 'That gentleman's got a balaclava on and a stick and he's standing there while people are trying to vote. Perhaps he could be removed.' That happened. It seemed that a lot of the international people who came as observers helped because they just spread out and the Indonesians knew they were being watched. I spoke to Tim Fischer that night at the Turismo Hotel, and I even complimented the Indonesian police on the things that I saw them do on polling day where they did intervene. They did seem to do a good job at that point.

On the other hand, I am fairly close to some of the people who served in the Ermera district and I know that at a quarter past four on polling day, when the polling booth closed down, one of their electoral people was stabbed and bashed. For an hour and a half they called for assistance and it did not come. This UNAMET local person expired in the arms of two of the CIVPOL officers. From that point on, the Gleno area was under siege. The people were under siege all night and were threatened. There were 200 people living in a room probably no bigger than this desk, confined with the CIVPOL staff surrounding them and standing on guard all night. They were under siege all night, and the comment that they made to me was that they had good communications with Dili.

At 10 o'clock the next morning I went to the Turismo Hotel again. Mr Fischer had a press conference and he praised the Indonesian officials. He, like I and everyone else on the

ground, thought that there really had not been any major events during the night, although our people had still been under siege.

That morning they were still under siege. They tried to get the electoral boxes out and they called for a helicopter, and they were attacked again by militia. From the accounts of these good friends of mine, they said that when they had had enough—and you have to realise that these people are highly trained policeman who are used to being in a position of authority and having some power on the ground—and they had shouted at the militia, the police turned their firearms towards their stomachs and said, ‘If you keep yelling at the militia, we will kill you.’ That was on Tuesday morning, the day after the elections.

The helicopters were shot upon and left, and the electoral boxes were taken back to their office. They were under siege till midday and at that point, out of sheer frustration, they actually used their satellite phones to contact anybody who could help them. Japanese people in their group—electoral people—contacted Japan, Portuguese people contacted Agence France Presse and one New Zealand police officer telephoned his own station in New Zealand to speak to his officer there. They were in dire straits. They contacted CNN and at that point, mid-afternoon, it started to get some airplay and they were eventually allowed to leave.

I do not really know how that fits into the scenario, but somewhere someone has got to ask the question: why was that allowed to happen and why were the international media praising what had happened when these people were under siege? These people even had a television in their police station and watched the BBC news; they watched the CNN; they watched the ABC news the next morning and they were watching, as they were surrounded under fire, what was deemed to be quite a peaceful election. You can imagine their hostility and anger and bitterness at that. I do not really know what to make of it, but I would like to convey it to you to make of it what you will.

We spoke to those officers as they came out, and they stayed with us for two nights—those police at that area on tour—and eventually six other police. On the Thursday we went back to that village with them, we accompanied them back to that village. At that point it finally became clear to me the total complicity of the Indonesian forces with the militia. There was a boundary stick this round across the road, supported on two rocks six inches off the ground. The militia had what I could only describe as two young street hoodlums dressed in black clothes. The TNI would drive into the bush and go around that pathetic stick and two rocks rather than cross that barrier. UNAMET did the same; the mobile brigade did the same, as did any other military group.

Virtually when we arrived in that town we were told that our safety could not be guaranteed—in fact, no-one’s safety could be guaranteed. We had our own problems to get out of there. It took some time and a little bit of bargaining and quite a lot of stress and turmoil to get out. But our fear as we drove down that road was that those people—our friends and colleagues—probably were left to their fate. As it turned out, they were there trapped again Thursday, Friday, Saturday, Sunday and Monday. On arrival at their home, the next door neighbour’s house was burnt to the ground. They were told that the night before the police came to the door and said, ‘You leave the premises now’ and half an hour later

the next door neighbour's house of local Timorese people just went up in flames. The penalty for those people was that they lived next door to the UNAMET.

I was also at the Mahkota Hotel when it was under siege. I stood on the roof whilst it was under siege and counted the different groups of different leaderships that surrounded it. There was the POLRI; what they call the BRIMOB, which is the mobile brigade; the TNI; and a regiment or company or group from Kupang who were actually surrounded—under protection—by four separate groups of Indonesian troops, police, whatever you would like to call it. I saw at different stages militia come in around four separate cordons of some hundreds of police and military from four different levels of command and shoot at the building and have people run around that building with machetes. I can only say that it had to have been orchestrated. There was more security on us to get in. We had to walk and carry our bags to get into that place through security. They would not even let us drive our vehicles there, yet people—militia—could drive in three on a motorbike and behave that way and get a pat on the back and a laugh and a grin and drive back out again.

The only other thing I could add is that last Wednesday, about this time, we were quite happy—Mark and I—to fly out of Kupang, West Timor. Probably at 9 o'clock that morning I decided to tell Mark, 'We had better behave normally. I think I will go for a swim at the local swimming pool.' As I swam around the pool, the local police were going into the rooms and turning the rooms over. There were people walking up the corridor outside our room with machetes. I was quite happy to leave Kupang, West Timor, this time last Wednesday.

On the Tuesday we went to a refugee camp 13 kilometres to the east of Kupang. We were threatened. We managed to get in our vehicle. The vehicle was kicked and pushed. They tried to choke our driver through the window of the car. They told him they would kill him for taking us there. I was asked on the plane by Senator Brownhill whether I thought they were pro-integrationist or pro-independence. I was pretty wired up when I spoke to you last week, Senator. All I could say at that point was that the people were dressed in their red and white pro-autonomy outfits. Some people appeared happy when we arrived, but upon being taken 20 metres into that camp, we were virtually surrounded by people who were quite antagonistic. So on reflection I am not quite too sure exactly who they were. At the airport, on leaving, I went to the window and I was told by the police to get away from the window. All we saw was one C130 after another with people coming off in the company of the military and more military going back to Dili. So I am not too sure on that point whether these people had been forced out against their will or not.

On arrival our second time into East Timor we drove from Kupang 500 kilometres to Dili, so we had a good opportunity to go in on the ground at Kupang. It was a friendly, normal Asian city. On the day we arrived, after we drove the 500 kilometres to Dili, on the border there was nowhere to stay. Two days prior to the election the military had taken everything in the town. It was full. There was military everywhere. It was just like something was about to happen. Then we crossed the border on our second visit on the Sunday before the election. That is probably all I would like to say. I would be happy to answer any questions. Thank you for your time.

Dr Murfet—I am a psychologist. My background is that I worked with the Public Accounts Committee for a period of time advising on project management; I then went to be corporate planner with the Defence Housing Authority and set up a lot of the corporate structures in that organisation; and I have also had lots of experience in building new urban environments in Australia. I am now a consultant in those areas.

I want to quickly tell you a touch more about Paxiquest and show the depth of Paxiquest in relation to what we are talking about here. Paxiquest primarily focuses in on, specialises in, peace building through to governance. We believe that, in that path from peacekeeping to governance, it is very important that an overall plan is developed for that process. As mentioned before, we have been gathering together reflective practitioners and have engaged academics from around Australia and in the US. We are trying to bring together some of the best brains in this field to concentrate on this process from peace building through to governance.

We have spent some time looking at what might happen after, let's say, the emergency phase of a few weeks. We have been looking at developing a model for how things might be handled into the project. We have been looking at the steps of going from peacekeeping to good governance. As mentioned before, we follow this Maslow process of need to get in there and set up some of the very basic things, for a start. You need to develop a process of getting food and water to people, obviously; housing; and, then, the rule of law at the very, very basic stages. We have discussed before that one of the things in the first stages is to establish who owns what, who owns what land. You can very quickly regress back into a state of disarray when you have arguments about who owned what back through history.

Our model would then move up the level to gradually develop better governance in this environment, basic health systems, basic education systems and basic public services—removal of garbage and all those sorts of mundane things. Then the next stage up would be starting to develop some institutions—development of government, governance systems, a constitution, political systems, financial systems, who is going to control the ports and the traffic and all those sorts of things. So we developed this model which shows how we move from peace building to governance. We would like to see that in a structured, harmonised way where we do not have any disconnects, where we go from what Mark is talking about—introduction of law and the early stages—through to developing a good system of governance. Thank you.

CHAIR—Thank you very much. If there are no further statements, I will lead off with a couple of questions before I pass across to my colleagues. It seems to me from the statements that you people have made this morning that there was a great defect in our own intelligence organisation. I note, particularly in the paper put to us by Mr Plunkett, that that is covered at point 15. Being a Queenslander, I admire your call for 'a full-scale Fitzgerald style inquiry into these government agencies' which you say 'is warranted to determine the extent of institutional corruption'. That is fairly strong.

Mr Plunkett—It is strong, yes.

CHAIR—It seems to me, from the statements that have been made, that we did not have the capacity to have the intelligence to know what might be the plan. In your statements you

said that what took place was calculated and planned. So obviously our intelligence services are failing. Where is the breakdown? How does one set about exposing the breakdowns that have taken place?

Mr Plunkett—Senator, there were public documents, purportedly leaked from the Indonesian sources, setting out what the plan was. They were rejected by our people—public sector people—as being hysterical and fake. Yet with hindsight, we now know that those documents were accurate.

CHAIR—When you say ‘our people’, who do you mean specifically?

Mr Plunkett—I invite the committee to explore that, because it is beyond my capacity. All I know is that in newspaper reports—which are not necessarily very reliable—there was general consensus by public officials from the Australian sector that that document was a fake. And similarly, Colonel—

CHAIR—Can I ask there: how does one test the integrity or otherwise of such documents? Is it a good intelligence background?

Mr Plunkett—In negotiation theory one of the failures of us all is to suffer from optimistic overconfidence and a failure to look for disconfirming information, to assertively listen. I believe that there was a lot of wishful thinking about the outcome of the electoral process and about the fact that there would not be the genocide that ensued, so that people were not prepared to listen and to really weigh carefully, in the balance, the document which said it was going to happen or the public statements of Colonel Tono Suratman to the effect that there would be a scorched earth result.

For my part, I was reassured by UN people, to similar effect, that they were exaggerations. If one reads the statement of the United Nations special representative, Mr Marker, given just a few days before the poll, I was emboldened to believe that the suggestion of a scorched earth or massive retribution was absurd. After all, these people were just voting; it was not an armed insurrection. Who could imagine they deserved the retribution that was wrought upon them? Even now, I suffer from some disbelief, but it has happened.

So to the extent that information gatherers and analysers may have fallen into error, it is to some extent forgivable. But the scale and the monstrosity of the human suffering is such that, if there had been errors in the failure to resource them or in their inability to act properly on the information, then we ought to ensure that we remedy those. I would invite the committee to make appropriate recommendations to the Senate to that effect. It is beyond my capacity to delve into or know about that, but it is a fair inference that there has been an almighty cock-up, a gigantic bungle of some sort or another. It put at risk not just the lives of Australians on the UN mission and all the international people but, worse still, the lives of the people whom the international community and our government encouraged to go to the polls and vote. And the UN said it would not leave. In all of the literature around the place, they said, ‘We will not be leaving after the election.’

CHAIR—You are saying that, basically, our strategy was flawed right from the outset? We should not have gone down the path of holding the poll unless there was some degree of certainty?

Mr Plunkett—I suppose there was a lot of desire for expedition after 25 years of what people saw as the major suffering of these people, so no doubt people were enthusiastic about hastening any resolution. But it was flawed at the outset because only two governments in the United Nations entered into the agreement.

If there is a domestic dispute involving a husband and wife, it is no use for the grandmother and an uncle reaching an agreement about it; everybody that is affected has to be involved, including children of adult age. The first thing you do when you set out a negotiation is to draw up a list of who is affected by this dispute, directly and indirectly. Then you must identify what their underlying interests and needs are as distinct from their positions, and then you must engage in a synergetic dialogue. This was not done.

This was fraught with risk from the outset, because major parties affected by the unresolved armed conflict in East Timor—I am not drawing any judgment against them, whether they have got black hats or white hats—were not heard from. If people are excluded from the bargaining table and they cannot negotiate, they will use their other alternatives, which include the application of force to get what they want if they are shunned. I believe the process, at the very fountainhead, failed.

Senator BROWNHILL—Bishop Belo predicted this was going to happen—that there was going to be a fracas if the voting went the way that was anticipated. Mr Plunkett, are you saying that articles 6 and 7 of the agreement—which went to the UN staying there, which I have been hanging my hat on for a while on this agreement—on which the two foreign ministers agreed and which was witnessed, if you like, by the Secretary-General of the United Nations, was not worth the paper it was written on?

Mr Plunkett—It was worth something, because good things did happen, but unfortunately there was the quite evil consequence that did occur after 30 August. It is like this: just the other day I was trying to assist as a mediator in a dispute between a home owner and a plumber. We reached an agreement. But there is an important person who was not in the room—the plumber's wife. When he went out to the telephone and said to the wife, 'I have agreed to this', she said, 'You have agreed to what?' She is not at the table, she is angry, because she does not know why that bargain was fair. That is exactly what happened here: there were key people who were not at the table. For a genuine peace operation you must have attempts at reconciliation, and reconciliation must mean participation. People were excluded. That led, I believe, quite directly to them adopting coercive means to get what they wanted.

Senator BROWNHILL—I am completely on side with you about peace building to governance and that side of it and the fact that, as Mr Wood said, the formula was no good, because it was all cocked up, around the wrong way, and the timing was bad because it was at a time when 70-odd per cent of the Indonesian people had voted against the government that was still in power there. And the voting in East Timor for independence, against integration, was nearly the same vote as in the Indonesian election. So there is that side of it.

So basically you are saying that the UN failed miserably, so UNAMET was an unmet realisation—

Mr Plunkett—On negotiations, if you go to attachment 4 you will see seven principles. The Harvard negotiation project—Roger Fisher with *Getting to Yes* and Ury with *Getting Past No*—and all of the scholars in the Harvard negotiation project identify those seven principles as the diagnostic criteria for measuring any negotiation. So we are not concerned with the substance of the dispute; we are concerned with processes, and this process was flawed. This is pretty basic, fundamental stuff. But I criticise the UN for not—

CHAIR—Sorry to interrupt, but if this is fundamental stuff, why weren't our agencies in command of this type of material?

Mr Plunkett—I believe that they are not trained.

CHAIR—So you are saying that there is a distinct lack of expertise and capacity within the Department of Foreign Affairs and Trade?

Mr Plunkett—Yes. And I know that some foreign services, such as the Norwegian government, have undertaken quite extensive work with the conflict management group at the Harvard Law School and is attuned to these things. But this is fundamental. They are teaching this in high school in the United States of America. It is countercultural for us lawyers, but your law making here has required us to go to conciliation and mediation before litigation, so we have had to relearn these skills. And that is why domestic litigators, such as myself, purport or boast to have some insight into this, because we have had to relearn all of this in the last decade.

I do not believe that the people in the Department of Foreign Affairs and Trade are au fait and are trained in the science as well as in the art. It is like learning to ride a bike or fly an aeroplane. It is not good enough to do a course, you have got to practise it and practise it and practise it. When I see the elegant tomfoolery of some of our representatives, I know—just from their lack of people skills—that they are untrained. I must hasten to say—as I said in the written submission—that I make no criticism of our Ambassador to Indonesia, who I think is an outstanding diplomat. I think he performed well from what I saw of him when he was in Thailand and when we were in Cambodia, and he performed outstandingly again from what I saw in East Timor. There are stars, like our ambassador in East Timor, but there are a lot of drongos.

One has got to look at the expenditure that goes on. The walled cities—you see that in Phnom Penh, you see them in Port Moresby, and you say, 'The money is going into this.' It should be going into people centred, skilled personnel who can build genuine relationships. As a barrister, you can appreciate that I have seen the height of precociousness among my colleagues—I have probably been guilty of a lot of it myself—but I have never seen anything like it when I have had to interact with the Department of Foreign Affairs and Trade.

Lt Gen. Sanderson—Could I make an observation, Mr Chairman?

CHAIR—Go ahead; this is very good.

Lt Gen. Sanderson—I would like to dissociate myself from some of Mr Plunkett's observations. In the broad, I have had experiences of very fine and able people in the Department of Foreign Affairs and Trade over the years. I would just like to put this instance of the East Timor activity in context. Our biggest problem, I think, is the issue of sovereignty and flawed mandates, which I spoke about during my opening statement. Here we were in a state of flux in Indonesia where I would think the Australian community and the Australian government and, indeed, the parliament, would be desirous of promoting liberal democratic forces within Indonesia.

The election which was conducted in June was the first such election since 1956, and I thought probably we, as a community, would have been encouraged by that fact. The outcome is still in a state of flux. And I think this is the greatest problem we have had. We are conducting a hugely sensitive activity during a situation where the development of government in Indonesia is in this enormously turbulent state. So I would not think we should have been surprised that there would be other forces at work within Indonesia which would be acting contrary to the stated intention of the President of Indonesia when he committed himself to this act of consultation.

I would think that probably the period between January, when President Habibie said that he was going to agree to such a thing, and when the agreement was made in May, was a period of quite bitter debate within Jakarta itself, because what emerged in the agreement was not the fulsome commitment to consultation or to self-determination which we would have expected. In fact it was an agreement made between Portugal, Indonesia and the United Nations. To my knowledge, the East Timorese themselves played no part in that agreement. There might have been expatriate forces which had some say in Portugal, but the East Timorese themselves did not. Therefore, I think the agreement was flawed and the mandate—more than any single act of the United Nations—acknowledged Indonesian sovereignty over East Timor. And the fact that the Indonesians were given responsibility for law and order in the post- electoral environment must have created a sense of dread amongst the East Timorese—justifiably so.

But what I am saying in contradiction of what Mr Plunkett has said is that I, like most people who thought deeply about this, was concerned about the agreement, but as each day went by we started to increase in optimism, thinking, 'Maybe we will just pull this off.' I am sure all of us thought that: maybe we will just pull this off. The thrust of the momentum of such a thought is quite powerful, and it tends to override the information which comes in about what the intentions are. Who would have thought that both the militia and the Indonesian military would be so audacious as to confront the international community in this way, given the fragility of their own national institutions and, indeed, the economics of Indonesia at that time? Who would have thought that?

Senator BROWNHILL—I have only a couple of questions before Senator Payne and Senator Bourne, who have both just returned from East Timor, might ask more pertinent questions. You have made comments about complicity between the armed forces of Indonesia and the militia. I think that is pretty clear, and that was evidence given to us prior to the referendum, so we take what we are told, it becomes a norm with the evidence. There

is the issue of war crimes and the fact that it is now being put by Ambassador Robinson to the United Nations, so that will now basically become a fait accompli through the United Nations—the same way as it has done in Bosnia and in other parts. In point No. 17 you say:

Australia now more than ever must listen to Indonesia and form an unconditional constructive relationship with Indonesia.

I agree: nobody would want to have either Indonesia in conflict with Australia or Australia in conflict with Indonesia. Obviously you are talking about that in a helping way. Is that predicated basically on a change in government to the 80 per cent who voted against the existing regime, or would it be whoever is in power in Indonesia?

Mr Plunkett—I think it is whoever is in power, because if the devil turned up at the Vatican tomorrow, the Pope might have to negotiate with him. Rights and wrongs determination and equity seeking is a major obstacle to negotiation. It really is about trying to determine what your enlightened self-interest is but, more importantly, understanding what their enlightened self-interest is. And you are not going to get what you want unless they get what they want. So you have got to engage in role reversal and you have got to actively listen.

I think the real trap at the moment for Australia is to demonise Indonesia for what has happened. We must avoid that. I know—and I said before—that there are conscientious Indonesian soldiers and police who endeavour to do their duty. I believe that, broadly, the people of Indonesia are democracy seeking, freedom loving people. In any conflict, particularly a serious one, people have this saintly image of themselves and a demonic image of the other. But it is a reverse mirror; everyone has the same look at it.

It is true that war crimes tribunals might have the inhibition in separating people, but I think there are other tools as well—truth and reconciliation commissions, just having an inquiry. I invite this committee to have an inquiry. I have set out why: if we have a plane crash in which 10 people die or 100 people die, or a mining disaster, or a petrochemical disaster in Victoria, there is a major inquiry. I believe it is beholden on yourselves, with great respect, as elected representatives of the people, to embark upon such an inquiry. But that is a process of reconciliation.

As to the war crimes issue, it is very important, ultimately, to forgive. It is also important never to forget. The dark side of humanity came out with the finest cultured people in Europe—the Germans—during the Second World War. It came out against an exquisitely cultured race of people—the Japanese—in the Second World War. And it can come out in us. So it is important, as a great sense of humanity, to look at those dynamics in our relationships.

We face a problem now if we react against the Indonesians because of the genocide that has happened. It is very important not to make prejudgments of guilt against an entire nation of people, because I am quite sure that that is not correct. I do not know, and we do not know enough about, who or what caused it. But we have to be very careful at this stage to be engaging with them. So even if someone does not want to talk or negotiate with you, you must build a constructive, unconditional relationship. Professor Fisher, in a book called

Getting together: good relationships, sets this out in great detail. It is seen as the sine qua non of good negotiations. It should be at the heart of our foreign policy now at these precious times with Indonesia.

Senator BROWNHILL—You are basically saying that, just because Hitler led a country and committed atrocities, you do not blame the whole of the German nation for that, in the same way that you should not blame the whole of the Indonesian nation for atrocities that have been created by some certain person?

Mr Plunkett—Precisely. And it is necessary to negotiate with criminals. Federal agent Wood will tell you that, in a hostage situation, you have got to negotiate with them. So a good diplomat and a good negotiator knows how to deal with downright evil or demonic people. But one should not always assume that; it is the assumptions that get in the way of proper negotiations. I think we are in a dangerous period now about building false assumptions.

Lt Gen. Sanderson—It is also a very dangerous position globally that is developing at the moment. Do we punish whole peoples for the crimes of their criminal leadership? Incidentally, it seems to me that there are a couple of places around the globe at the moment where we are actually doing that. But that is, of course, the basis of international relations that has existed over the last 200 years; it is the relationship between nation states. I am suggesting to you that we are in a period of great change there, and we are going to have to come up with new instruments to deal with these issues.

Senator BROWNHILL—I would like to follow up the question I asked Mr Wood on the plane, which was not part of the inquiry, of course, as to the integration versus independence people. We were told in evidence that the militia, before the referendum, were actually positioning their families and that sort of thing back in West Timor. We understand now from paper reports that a lot of the militia have now moved back into West Timor. I am not saying that that is or is not correct. Would you believe that the people that are being shipped back to West Timor are pro-independence or pro-integrationists? And if they are pro-independence people being shipped back there, what hope have they got and what hope has East Timor got in the future to have a population? Or will they ever come back to East Timor? I guess that is a decent question for you.

Mr Wood—Yes, it is. At our conference we held in Canberra two or three weeks ago, I was asked a similar question. In Dili about a month ago when we drove our vehicle around we were stopped by militia and a big autonomy sticker was put on our car. If that was taken off our car by our driver that was his death sentence. He was told to wear a cap; he was told to wear a shirt; he was told to have a flag outside his house. That was his insurance policy to stay alive. It is very difficult for those people on the ground not to change their hats very quickly if it means their lives are at stake.

Quite a lot of the Indonesians would have thought prior to the popular consultation that they would have got a bigger share of the vote because there were people, as part of the militia, who were actually pro-independence people; that was their insurance to keep their families alive; it is their insurance to have a flag. Some of the houses where UNAMET people worked had an Indonesian flag outside their homes. The United Nations hospital had

an Indonesian flag in its compound. People wore those clothes and behaved in that way to save their lives, and quickly they would go back into that mode when they crossed the border into West Timor. So to stay alive, if it meant saying that you were pro-Jakarta or pro-integration, you would do that quite quickly. You would put your hat back on and stay alive till things changed. It will take a big humanitarian effort to go into West Timor to find who is who in the zoo and really work it out.

I have been to places in Mozambique and talked to people in prison. I have said, 'How are you being treated today?' and they have said, 'Very well thank you.' You could see that they were starving, but they had to say that because there was someone in another room watching me speak with them. It will take a big effort and a lot of thinking to even sort that out. The Indonesians will have control of West Timor and people will not have access to these people where they will feel safe.

Are they going to put their hand up in Kupang and say, 'Yes, I want independence'? People have moved out of West Timor all over the country. They are going to be hard to find and bring back to their country. I said to my driver when he took me to the airport, 'Why have you got that cap on?' They gave him a brand new cap and said, 'You put that on and do not take it off.' It had 'pro-autonomy' on it. Out of terror, he would not take it off his head.

Senator BROWNHILL—So if they do come back from West Timor they will be of a different voting frame of mind than when they went?

Mr Wood—A lot of people were forced to go to West Timor. Some would definitely be pro-integration and some would definitely be pro-independence. They would, at this stage of the game, be espousing the virtues of integration to save their own lives and that of their families.

Proceedings suspended from 10.56 a.m. to 11.09 a.m.

Senator BOURNE—Mr Plunkett, I think you mentioned demonising the other side.

Mr Plunkett—Yes.

Senator BOURNE—I perfectly agree with you that we cannot do that. There are certain elements that have demonised themselves and they do not need any help from us. The vast majority are not included in that. There is the opposite situation, though, as you mentioned. It is pretty obvious at the moment that there is something which is officially sanctioned, but not publicly sanctioned, for demonising Australia and all Australians within Indonesia. Can you think of anything that we should be doing now to try to counter that?

Mr Plunkett—Do not play into it. We should just build the unconditional, constructive relationship, as Professor Fisher would say. In Kupang we came under a lot of pressure personally as to, firstly, whether we were journalists—and happily we were not—and, secondly, whether we were Australians. When someone asked me where I came from, I quite happily told them I was from Queensland. I was not going to do what one Australian journalist did, to his dying shame, and that was describe himself as a British journalist. I

thought it was adequate to say I was a Queenslander. I think it is a passing phase. The personal relationships are more enduring than that—so just do not react.

Senator BOURNE—There is equally the problem of the obviously officially sanctioned but slightly public belief that Australians—or nobody who is white—should be involved in the peacekeeping force. That means Australians, New Zealanders, Canadians, British—although, I think the Brits are sending Gurkhas, who are not particularly white, if I recall. This is not too public; it is slightly public. How do you recommend we should react to that?

Mr Plunkett—One often comes up against this in peace operations, particularly if one is from a European biological background. People will say, ‘These are Western values or these are Eurocentric approaches.’ Yet, when you get to the rule of law, every culture in the whole history of humanity has deplored arbitrary killings—except that there were ritual killings—unfairness, the burning of someone’s house, torture, capriciousness or theft. Every culture from every race of humanity has a universality about these basic concepts of justice.

It is always a trap for European cultured people to shrink a bit when Asians attack them and say, ‘This is terribly Eurocentric. This is racist.’ We have to be very careful not to fall into the trap of believing that we have been politically incorrect and then retreat into silence and not be assertive about matters concerning justice, which are of a universal nature, as we should be.

Senator BOURNE—If the reports this morning are true that the British have taken Australian leadership of the force out of their motion then that is unfortunate, although it does not preclude it. The last report I heard on the 6 o’clock news this morning was that there was no reference to leadership. I think, Dr Murfet, you mentioned peace building up to governance. Can you think of any peacekeeping missions or peace enforcing missions that have gone right from peace building up to governance? Has it happened before or do you think this is something we ought to be building up to now—and this is obviously an opportunity to at last get to that end?

Lt Gen. Sanderson—The Cambodian mission was a paradigm in the sense that this was the first time the United Nations had undertaken that full transition authority role. The object of it was to hold Cambodia in a state of suspense by controlling all the key institutions of governance whilst the Cambodians worked out a new foundation in law for the relationship between the government and society.

I believe it was a very successful operation in terms of the bandaid that was given. But what we failed to do is do what Mark has said is the key—that is, to lay the foundation for the rule of law and justice in Cambodia. So, to all intents and purposes, some people are very satisfied with the governance institutions that have been established in Cambodia and some are terribly dissatisfied because they still have the hallmarks of a one-party state. In other words, the police and judiciary are responsive to the party rather than to the people and the law. There is that flaw in the Cambodian operation. That is the message that we have been trying to get across.

The harmonisation activity we engaged in with Brown University also addresses this fundamental issue. I made the point that we have an opportunity in East Timor. I am very

conscious of Indonesian sensitivities in this. There is no question about the fact that if Indonesia removes itself from East Timor then there will be no governance institutions in East Timor and they will have to be established. If they are not established on a foundation in law then the East Timorese are going to find themselves at odds with each other. This will provide a cause for the Indonesians to say, 'See, we told you so.'

Senator BOURNE—That is exactly right.

Lt Gen. Sanderson—In answer to your question, no it has not been done from the bottom up. I think it is being addressed in Kosovo right now. That is very complex. It seems to me that for East Timor it is an absolute necessity.

Senator BOURNE—That is a very good point. The human rights commission in Cambodia springs to mind because it seems to have disappeared off the face of the earth, whereas Komnasham, with all the difficulties it faced from the beginning, has actually not done too bad a job.

Lt Gen. Sanderson—One of the things we missed fundamentally in Cambodia was the fact that this police force was not really addressed by the Paris agreements. The way in which it was supervised rather than reconstructed created the situation where, despite the fact that the militaries might have been under control in one form or other, the police force was still rampant within the society. My conclusion from this is that that is one of the main reasons the Khmer Rouge did not come into the process.

Senator BOURNE—That is very interesting. Is there anywhere in East Timor where you see us reinventing the wheel? How many wheels are there that we have reinvented?

Mr Plunkett—There is. Again, on the question of harmonisation, another problem with the tripartite agreement is that there are hiatuses, there are gaps, there is ambiguity. What happens in phase 2 and phase 3? The genocide that occurred was contrary to the law and constitution of Indonesia, but what mechanisms were put in place to deal with this? When we looked at what was going to happen in phase 2, the interim phase, or phase 3, the transitional phase as I call it, it was not coordinated. There is a policeman who has an idea about police training. There is someone who has an idea about judicial mentoring perhaps. No-one really knows or has any clear view in the transitional phase what will be the source of legitimacy of authority. This has great potential for violence and danger because people will be inclined to keep using the traditional method of conflict resolution—namely, force, intimidation and fear.

Peacekeepers have to be unambiguous about their own source of authority. Even as they are crafting this mandate in New York today or tonight there will be quite clear ambiguity, I fear, in terms of reinventing the wheel, about what the rules of engagement are. There is great potential for a Rwanda type situation where peacekeepers had to sit back and witness acts of genocide and major killing. Unless with the mandate, and as an adjunct to it the rules of engagement, there is special care to contest against ambiguity for the rule of law then we are fraught with real danger, as I said in the last paragraph of my letter.

There is an assumption by peace operation planners that the rule of law will mysteriously return when peacekeepers arrive. It does not. The only time military peacekeepers, under the usual rules of engagement, can use force is when they are being shot at themselves. What do they do when they see someone machete another person in front of them or burn a house down? Do they arrest them? What powers of arrest do they have? Under what law do they arrest them? Where will they put them if they arrest them? Before what courts will they be brought?

There is a necessity to have a clear understanding about what we call a justice gap. There is a gap in what the law is and how it should be used. There is a gap in the resources. Where are the courts? There are jails in East Timor, but there has been no functioning court, that I am aware of, since the trial of Gusmao. It may be necessary for, and we have been saying this for a long time now, peacekeepers to bring their own off-the-shelf law. It was done in Cambodia on 10 September 1992 where UNTAC promulgated its own criminal law. It does not have to be complex. It is pretty simple: they shalt not kill, steal, rape and so forth. The procedures may be culturally varied. I fear that we are about to attempt to reinvent the wheel or fall into the same error. Right now in New York I do not believe there is a full appreciation of this.

Lt Gen. Sanderson—It gets back to the issue of the nature of the mandate. A peacekeeping mandate is not suitable for this. In Cambodia, when we established UN law, if you like, and then established the special prosecutor and went after the political terrorists, we were confronted with the possibility that we might actually have to kill somebody in the process. In theory, our peacekeeping mandate did not embrace that. Peace enforcement mandates of the keeping peace type really are akin to the old colonial administrations and emergency legislation where you have special powers given to arrest people and bring them before the courts and to carry out offensive action if they resist that sort of arrest, if you get my point.

Mr Plunkett—This was the problem in Cambodia where I had the function of special prosecutor. How was it possible where there was cross-factional violence to try an issue before the courts of one faction? It may be necessary to constitute courts composing of judges of all factions, chaired by a distinguished international jurist in the interim period. But, at the end of the day, it has to be their law, their courts, their police and their judges. That is one aspect to the rule of law. That is the enforcement model.

There is a very important other part that is generally ignored, although we have seen inklings in Namibia and elsewhere—that is, engaging the people. Good peacekeeping is a people centred activity. You can build your institutions, which look terrific on paper and put people in and train them, but there is this other aspect at the level of the elite leadership, at the level of the functionaries—the police and military—and the level of the great mass of the community, which is where UNTAC was very successful. UNTAC had a very good human rights component which did do a lot of major education, but it had no training at the elite leadership level in Namibia and no training at the functionary level.

Usually most of the problem is young men in their teens whose sole conflict resolution device, in the case of Cambodia and elsewhere, is an AK47 rifle, but they know about force and intimidation because they have seen it work. You also have maybe three decades of

repression and it is very hard to stop that momentum. You cannot do it with creating institutions. You have to go out in the villages and engage the new core of public servants, the new judges and the elite leaders and engage in a mass education process.

Most mandates ignore that. Despite my commendation and praise for Ian Martin, when I saw the special representative of the Secretary-General's report to the United Nations Security Council about phase 2 and phase 3, it omitted a human rights component. I believe that there should be a human rights component because at least that is a group who understand the people centred activity of what some scholars like Donini call the illumination from within. If it is general reconciliation you have to change people's minds.

Senator BOURNE—Human rights bodies are becoming far more common within the Asia-Pacific region. I am not sure whether it was Lieutenant General Sanderson, but somebody mentioned on television last night the international law of non-belligerent occupation which Australian troops had used in Somalia or somewhere.

Lt Gen. Sanderson—It was raised with respect to Somalia. That was the foundation of what they did in Somalia. I hesitate to say that this was fully developed. You have to recognise that the presence of Australians in Somalia was about four months. It was a month getting in and a month getting out. There was good intent, but, at the end of the day, we would have to question what happened to the people who were associated with them through this process. The young lawyers who advised them in that activity used that particular basis in law for those activities. I must confess that I am not completely familiar with that.

Senator BOURNE—It would be worth looking up, would you think?

Mr Plunkett—I have addressed it somewhat in attachment 5 at paragraph 57 and 58. Colonel Michael Kelly has done quite prestigious work, which was printed by the Australian Government Publishing Service, on 58(b) dealing with laws of belligerent and non-belligerent occupation including the Fourth Geneva Convention. Even if there is a deficiency in a mandate or an omission in the domestic or international law of a country, it is still possible to negotiate with the parties. A peace operation is a gigantic conflict resolution machine. It is an intrusion into the affairs of traumatised and angry people and it is temporary. There is a high ethical duty if you are going into someone's conflict not to make it worse.

As part of that continuous negotiation process, I saw in Thmar Pouk—I do not know whether Superintendent Kirk is with us—where was no law, there was no jail and there were no courts, that about 10 Australian Federal Police officers were able to slow down massive violence in the area simply by going around and asking questions and investigating crimes and shaming the purported authorities as to what they were doing about it. They brought the victims forward—the widows and mothers. That has a profound impact in getting compliance with the rule of law. I suppose federal agent Wood and others would call it community policing. That is continuous negotiation for compliance with the rule of law. If it is not in the mandate, good professional policemen and human rights component officers can do it as a continuous process of negotiation.

Mr Wood—Could I add to that. What I was told on the ground was that the militia are on the payroll for about 50,000 rupiah a day, which equates to \$10. If there is a big bag of money to pay those people and that is their occupation to be militia and threaten and intimidate in a political way, when the payroll stops surely there is a recipe for their political ideology to change to a criminal one because that is their occupation. Their occupation is to intimidate, to corrupt, to threaten.

In Mozambique, when the combatants went to their neutral corners some people were not happy with the money they were making and they started to freelance, to hold people up and to rob. That is one of the things that I think will face our peacekeepers. These people are trained to do these things and their payroll is going to stop. Payday will not be Thursday anymore; there will no money. They have to feed the wife and kids. They have access to weapons. I can see that the militia will quickly turn into a criminal element. I do not think there will be anything on the ground to cope with the criminal element of robbery and general mayhem by the people who are trained to do that.

Mr Plunkett—One of the ways of arresting the violence in Somalia was merely to supply goods to the market men. At attachment 6 I have done a diagram for the foundations of the silver society. It is happening now in Somalia and, to some extent, in Afghanistan—although Michael Maley or his brother may disagree with me—that the anonymous trust of the marketplace helps bring about the re-establishment of the rule of law. You cannot discriminate against the Jews if they have control of diamonds and you want to buy a diamond. It is very important to reinvigorate the civil society, particularly the free enterprise system, through marketplaces and so forth. Part of a good peace operation is to direct energies to restore that so that you bring about anonymous trust and people can bargain and negotiate a conflict rather than use outright force.

Senator PAYNE—Before I start questions, I note particularly the points that Mr Plunkett has made in relation to importance of people's skills and training, specifically in relation to the Department of Foreign Affairs and Trade. You have referred in your submission at point 16 to John McCarthy, the Australian Ambassador in Indonesia. As someone who had the opportunity—and I could only call it a snapshot because in terms of what other people have experienced that is all it is—to visit East Timor, I have to say that there are other Australian personnel on the ground in Dili and Jakarta who, after that brief experience, I regard as exceptional public servants and exceptional people building those sorts of relationships which ensured in many ways the absolute success of our role as Australian observers. I think it is important to put that on the record. The second secretary, political, from Jakarta, Nore Hoogstad, would be one of those people, not to mention the consulate personnel in Dili under John Batley.

In terms of the breadth of issues that your submissions have raised this morning, whether we are talking about people turning to crime to support themselves when they are no longer paid as members of the militia, or the market issues and others down to something like a truth and reconciliation commission, are you saying, and I have not had time to read all your documentation, that there is a fundamental failure in the international community's operation at the UN level or wherever else it is to recognise in a holistic fashion what needs to be done in an environment such as this, the end result of which is loss of life and certainly a

humanitarian and human rights crisis? If that is the case, how, Mr Plunkett—and I do not expect you to have all the answers—do you think we get people to sit up and take notice?

Mr Plunkett—The answer to your question is yes, Senator. It is the gravamen of my submission. I know that police from many countries and other UN managers from many countries have been saying this for a long time. But, as I said earlier, we often felt it was falling on deaf ears.

One of the diagrams I have done is a four-quadrant diagram where diplomats and the contributing planners from various nations see it as a paper task: you give them a new constitution. So you create institutions on paper. They put the emphasis on the state rather than the rule of law. I was critical of the UNTAC operation, because the engine that drove it was the election, until General Sanderson pointed out to me that the election itself was a major reconciliation process. People for the first time had an identity as electors, as Cambodians, as distinct from factions.

You saw it in East Timor as well. As you would have seen, it is an incredibly illuminating experience to see these people going to vote. It is the one occasion on which the whole country does something together. That has to have a profound impact on the rule of law, on reconciliation-style thinking. But the planners work on the assumption that, when the peacekeepers arrive, everything settles back to normalcy. It is very hard for traumatised, angry people who have used weapons as the main means of resolving conflict to think of something other than the use of force. We would do it if there were no law. If someone raped my sister, I would be inclined to kill them if there was not a legal system in Australia.

Senator PAYNE—It is actually impossible to find the words to describe what it was like to arrive in Maliana at half past six in the morning and see 2,000 people waiting to vote. I cannot find the words, which is unfortunate, seeing as my job as a politician is to use words. The hiatus between that experience and now, and any effort which is made from here, is such that I cannot see how there is a continuum; how there is even a psychological link for the people you are talking about.

Mr Plunkett—We have talked about whether people knew. Those people knew. There was no acclaim. It was very sombre after the result. There was a foreboding around the city of Dili that day.

Senator PAYNE—I know.

Mr Plunkett—They knew they were voting for their own death as well as their sense of independence. They were attuned to what was going to happen to them. Perhaps they have been subject to it for the last 25 years. I am not so privy of their history as otherwise. But everyone knew that 7, 8 and 9 September were going to be the crucial days.

To return to the fundamental basis of your question, yes, people are ignoring the rule of law in peace planning and police management. I fear that we are going to ignore it right now in this second phase of international military peacekeepers. Take, for example, the very simple, practical measures. People think with the rule of law you get a judge, a policeman and so forth. Federal agent Wood refers to the militia being on the payroll. It is very easy,

for example, in Bougainville, if there is a young warrior who has not yet been blooded in battle, to ask that person what is their vision of themselves in peace. What would they really want to be. Maybe they want to be a plumber or a radio technician. It is fairly cheap to say, 'All right, let's go down to a TAFE college in Honiara and become a radio technician.' You have to build civilian career pathways for warlords and militarists. You have to give them a new role, a new meaning, in a civilian life.

Superintendent Bill Kirk made quite a significant speech at Lagua—I forget the name of the place now, but it was in Bougainville. He said to the Bougainvilleans, on the eve of going into Burnham 1, 'You men have to give up a lot of power if you want peace. If you don't want to give up that power, that power of life and death over the people, then we will come back in another 10 years.' A major dilemma in peace operations is that they are usually run by men, and I say this to you two senators at the right end of your table. Generally half—and in Cambodia sometimes much more than half—of the community are women. It is about power exchanges not just across factions but within factions. You have to give voices to those people who do not have voices.

That is a very people centred, community based negotiation activity. There are similar models, like the environment model, bringing the pipeline down the Queensland coast, or the major native title models. There are plenty of models about for peacekeepers to adopt about how to go to those community negotiations. Agricultural scientists have been doing it for 30 years with veterinary science techniques. They call it participatory assessment, monitoring and evaluation techniques. So there are plenty of models for peacekeepers to adopt.

In the past we have been lucky enough to have some skilled people who are able to do that of their own initiative in peace operations, but it has never been part of a comprehensive campaign plan. I fear it is not going to be part of this mandated phase 2 and phase 3, but the operation would be so much more efficient if it were. We were trying to work out what they were paying the militia, because if we could come up with a bigger payroll—and at the risk of being absurd—and send them to conflict resolution classes we could put the whole militia out of business overnight for a very small sum of money.

Lt Gen. Sanderson—Could I add something to that by way of clarification. In the early stages of Cambodia, we had a whole group of young Khmer Rouge walk into our observation posts. I was wondering why this was happening. So I sent my young ADC over to talk to one of them. He was a Khmer speaker. He came back and said, 'Basically these kids are juvenile delinquents. They are doing this because they are out for adventure, and this is the only thing going around these small villages in the countryside.' They talked about the war finishing in 1989, and we asked, 'Why are you still out here if the war finished in 1989?' They said, 'Because it's boring in the village.'

The response to that, it seemed to me, was to create some alternative diversion. It was clear that the Khmer Rouge were conducting operations, not directly to oppose the United Nations but to hold these military structures together. If they had not conducted operations, they would not have been able to maintain the loyalty of these young men. So the counterpoint to that is to establish a sense of excitement, a sense of participation in the new developments in the community which will enable them to be part of that community.

You spoke earlier, Senator, about your feelings when you saw the 2,000 people assembled at Maliana for the election. My sense in Cambodia when I saw it was one of euphoria. I felt as though I were floating on air. Part of that was probably relief after having been engaged in this for two solid years. But it was also the whole empowering significance of people coming together and doing something like that. Then there was a later sense of depression about the fact that we were not able to realise the expectations they had of this process, because we had not established this fundamental rule of law and justice system in that society.

Senator PAYNE—It was not very euphoric in Maliana. Perhaps ‘inspiring’ is an inadequate word, but it goes there some way. General Sanderson, you said that one of the difficulties in relation to the mandates that come out of the UN is that there is confusion in the dialogue. I am interested in that very much in terms of the here and now. I think you said this is the time to be careful and refined in the establishment of this mandate. But in many ways the general public and the international community are saying, ‘This should have been done yesterday.’ In fact, most people are saying ‘six months ago’. The feeling is that this should be done and we should be on our way. It seems to me, from what you said, this means we risk an enormous confusion in the mandate.

While at one level we talk about humanitarian aid in West and East Timor, the need for its safe passage and Mary Robinson’s efforts in relation to war crimes which are very important, there is the possibility, with this well constructed mandate, that an overlay just makes that all very confused. That is the general public’s perspective and, therefore, I assume that of the broader international community’s. Are you concerned about how confused that makes this effort and what efforts can be pursued to avoid that?

Lt Gen. Sanderson—I am deeply concerned, I must admit, Senator. I go back to my opening statement about the confusion on the issues of sovereignty and international law at the moment. It seems to me that thinking on this mandate is heavily constrained by the thought that somehow or other Indonesia has sovereignty over East Timor. If there were a significant body of the international community persuaded to that end, surely they must now conclude that, by their actions and the response of the East Timorese people—and sovereignty must be built on consensus—this is not the biggest issue with respect to mandates.

The biggest issue with respect to mandates are the wishes and desires of the East Timorese people for a dignified and stable future. And as far as I can see they are not even being consulted in this process. Maybe the instruments which need to be in place for them to be consulted have been destroyed. Of course, we are heavily dependent upon the expatriate East Timorese community in this respect. Nevertheless, it seems to me that, by their actions, the Indonesians have cast the responsibility for the future of East Timor into the hands of the international community, and the mandate should reflect that. The international community should grasp that with both hands and establish themselves as a transition authority of limited tenure, but with clear objectives of establishing effective governance in East Timor. I am concerned that the way in which the mandate is being approached is not that clear.

Senator PAYNE—To take up your point that the instruments to consult the East Timorese have been destroyed, it seems to me that even before they were destroyed, if that is the case, it did not seem to make a great deal of difference.

Lt Gen. Sanderson—Yes.

Senator PAYNE—I note from last night's news reports that David Ximenes is in a containment in rural East Timor and is alive, based on those reports, although Leandro Isaac's death was reported but unconfirmed late last week. How important are those leaders of the East Timorese community going to be in the development of an effective mandate and implementation of that mandate?

Lt Gen. Sanderson—I think their existence has to be recognised in the mandate. We may not be able to consult them in the process of developing the mandate, but the mandate should be cognisant of their presence and their role in determining the future requirements of East Timor. A concern we should all share, in my view, is that once the Indonesian yoke comes off East Timor there may be significant divisions within the East Timorese society which have to be reconciled. There has to be a determined process of negotiation and mediation to bring the East Timorese to a state where they can actually engage as East Timorese in a dialogue with the international community. That is an initial process, I think, which has to have a significant international concentration on it. These people really have to be embraced as community leaders in the process of reconciliation very early in the piece. It is to be hoped that they are still capable of doing that.

Senator PAYNE—Are we equipped to do that? Has it been done effectively in other operations such as this?

Lt Gen. Sanderson—I think it is being attempted in Kosovo at the moment. I think it has been done in a very crude way in places such as Mozambique. I think Mozambique has some real success dimensions to it in this respect. I do not think it was done all that well in Cambodia, although we must recognise that the process of agreement in Cambodia was one negotiated over three to four years prior to the granting of the United Nations mandate for transition authority.

Mr Plunkett—And Bougainville.

Lt Gen. Sanderson—In Bougainville, as an example, at the moment the United Nations is engaged there, but not in this sense. The Bougainvilleans have come to a point of reconciliation. Unfortunately, it seems to me, that point of reconciliation is a demand for a referendum, which is highly likely to result in a demand for independence.

Senator PAYNE—Do you have a sense of *deja vu*, General Sanderson?

Lt Gen. Sanderson—Yes.

Senator PAYNE—Mr Plunkett, you made a very brief reference to which I would like to return about where a situation like this leaves the women in a community. Whether we are talking about postwar Afghanistan or Cambodia or a number of other examples, because

there are so few of their brothers, husbands and so on left—only the very young and the very elderly in many cases—the leadership roles for families often fall on the women, who are very much excluded from the negotiation process and the reconstruction process. How difficult is it for the United Nations or for the development of this peace process to adjust its approaches to recognise and include that as an area of concern and to stop that happening before the whole thing starts on the ground?

Mr Plunkett—Just before attachment 6, I have tried to set out a graph giving a stylised pie chart of who really has a say in these conflicts. It is usually older men to the exclusion of women—older women and women of adult age, excluding young females. Part of the problem about peace operations is that, because of the predominance of military organisations and police, there is a higher proportion of men in them than women. I forget what the regulations provide for our armed forces. It is eight or 10 or 14 per cent or something.

Lt Gen. Sanderson—Fourteen.

Mr Plunkett—Fourteen per cent of women. So it follows that, when a peace operation gets under way, most of the people involved from the international community are men. There are some circumstances, such as in Bougainville, which is a matrilineal society, where the role of women about the ownership of land is absolutely paramount. Yet men could be completely oblivious to that power structure within the community, unless they got some insight through women about it.

A lot of this is transcultural. Women even within our own culture might have ‘secret women’s business’, to use a cliché. There is a very serious barrier, in my view, about empowering these women which constitute more than 50 per cent of the community. Part of it is to give them a voice or give them a role in the new civilian society. Strangely enough, you can draw parallels with Aboriginal communities in Queensland. There were phases of social engineering, and in the late 1980s they were given self-government. But most of the men had either died early from alcoholism or the young men wanted to become ringers and stockmen and either were not there in the community or, if they were, were unemployed and despondent. The only ones there with any qualifications were women. So you had this amazing reversal in Aboriginal communities in Queensland where women ended up running the administration of the communities to the despair of young men. I think that was a contributing factor to Aboriginal deaths in custody, of which I was a counsel assisting.

I think police operation planners and people on the ground have to make that effort to see that power dynamic and to get the women to participate in it. I think it is a major omission in all of our planning and our management, but it arises simply because most of the police are men and most of the military are men. In East Timor, the major component of civil society is the church. I think a major conduit are the priests and the nuns, particularly the nuns, who as we know are very courageous and very active in the community and who have suffered badly in recent weeks. But that might be a starting point. If I were involved in the peace operation, I would go through the women church structures of nuns.

Senator PAYNE—Mr Wood, the stories you told us at the beginning of your evidence about the experience of your friends and colleagues are going to be very important in

making people understand exactly what has happened, particularly in remote parts of East Timor. I think Mr Plunkett or General Sanderson referred to engaging the villages in mass education processes. It seems to me that the Australian CIVPOL who have returned, and for whom we, as participants in that delegation, have nothing but enormous amounts of praise, have very important stories to tell. I am wondering whether you agree with that and whether you understand that there is a way for them to make those reports and relay that information.

Mr Wood—It would be good if some of the Australian Federal Police officers who worked on the ground were sitting here in the same environment where I sit. I am certainly not here as a representative of the Australian Federal Police.

Senator PAYNE—No, I understand that.

Mr Wood—I am just giving my own opinion. From talking to my friends, I know that one of the great pains they carry at the moment is that they know that people who worked with them were executed—people who drove them in cars and people who acted as their interpreters. Some of those officers did not want to leave Darwin until they saw every plane come in. Some people came in whom they knew, and they know the fate of the ones who did not come in. There are particular areas like Maliana and Ermera, and those officers are going to suffer great pain and trauma for some time. I do not know when they will be able to get closure on that matter at the moment. I think it would be good if some of the people on the ground were invited to come and speak as opposed to someone who would give the party line.

Senator PAYNE—I am an interloper on this committee, not a full member, but I think we can certainly take up that opportunity as appropriate.

CHAIR—What type of force needs to go in to bring about the processes that you have been outlining to us this morning? What strength of force and what training would be required? And who would provide the training? Could you enlighten us?

Lt Gen. Sanderson—Quite clearly, they are moving into an unstable situation where there is not a highly refined agreement about the processes that are going to occur. In fact, I would suggest that the United Nations does not comprehend the full nature of the opposing factions in this conflict area. On that basis, it seems to me that we are looking at a peace enforcement force moving in, first of all, to represent the international community. It probably needs the strength of up to 10,000 well-trained troops. When I say 'well trained', I am not talking about training for high firepower conventional operations; I am talking about training in a sensitive enforcement or 'keeping the peace environment' in which the soldiers are capable of operating in small groups and accepting significant responsibility. They need to understand fully what the rules of engagement are and be trained to apply the rules of engagement. From my knowledge of forces in the region and elsewhere in the world, nobody is better trained to do this than the Australian Army—nobody. I am not just saying that from a position of my previous job, but I have seen these people in action, and I believe that to be so.

If that is done comprehensively, it seems to me that you may be able to limit the duration of the enforcement action. You may be able to stabilise the situation very quickly and then taper the force from one which is essentially a military-civil operation to one which is a civil-military operation. To my mind, that is a highly desirable state to be achieved as quickly as possible. I say that because we need to move very quickly to the situation where we are engaging East Timorese of all persuasions in a process of reconciliation.

That needs the rule of law aspects which I have spoken about before. It needs inducements through the benefits of reconstruction of the society and all those things that go with it, such as re-establishing education, getting the roads and systems of government operating, and helping them establish some sort of interim council which can then link in with the international community and also represent them in a bilateral dialogue with individual nations who want to provide benefits for the development of the community.

CHAIR—Where would that force come from? Is it readily available?

Lt Gen. Sanderson—Obviously Australia has to be a major contributor to that force, because to get people to—

CHAIR—That is not one with a military role; it is one with a humanitarian role.

Lt Gen. Sanderson—The second force?

CHAIR—Yes, the second force.

Lt Gen. Sanderson—Yes. I think that would be one which would be much more broadly representative of the international community than the initial force, because the initial force is demanded very quickly. You must recognise that such a role is one which most nations would want to debate quite extensively before becoming engaged in it. I think there has been a significant debate in this country about this issue. I think the Australian community is well disposed towards such an engagement of our own people. That activity can be shortened here, but elsewhere I think the activity will be prolonged.

My experience of this in Cambodia is that a large number of nations took a long time to get their forces into Cambodia. It was a near-run thing with respect to when the forces arrived and what we had to do. In fact, in the case of the 3,500 police, it took almost a year from the signing of the Paris agreements before the police components were complete in the country. As for civil administration, some of them were still coming in when we went to the election. These people are not necessarily readily available within the international community. I think the international community will have to be dependent upon commercial activity in this area much more than they have been prepared to contemplate in the past. There are large bodies of consultants that have been thrown up by the way in which world economies are changing who can engage in these sorts of things. How to engage them constructively is the issue.

CHAIR—It seems to me from what you have said that, if we do not do this properly, we will have an ongoing problem in East Timor for a long, long time to come. That seems to be a reasonable assessment of the situation.

Mr Plunkett—The *Washington Post* correspondent in Dili refers to East Timor as being Australia's Haiti.

CHAIR—Oh, thank you!

Lt Gen. Sanderson—If I might add to that, we have to recognise that it is our long-term relationship with Indonesia which is also at stake in this process. While I am thoroughly committed to the welfare of the East Timorese people, the way in which we do this is going to have an impact on our long-term relationship with Indonesia. The idea is to be quite strong about the need for these institutions, even though they might cause dissatisfaction in the short term. In the longer term, I think it will be better for our relationship with Indonesia.

CHAIR—That leads me to the next question, and that is the way some people view the outcome in East Timor as providing the impetus in places such as Aceh, Kalimantan, Irian Jaya and so on to go down a similar path. The juggling act will then be how strong the support is for those places to either become independent or autonomous, or whatever the outcome might be, and ourselves juggling our relationship with Indonesia at the same time as trying to balance our relationship with East Timor. How does one in the international environment juggle those very delicate issues? Clearly, the Indonesians would not be pleased—and I am trying to look at it now from the Indonesian view as expressed, I think, by Senator Bourne—with the way they see us acting. If there are these other hot spots around, how is the conflict resolution going to be resolved in those places? Do we have a role to play there with Indonesia, without Indonesia seeing us as being some enemy of their state? Do you have processes to assist in overcoming those issues?

Lt Gen. Sanderson—At the outset let me state that the international community seems to me to be very cognisant of these issues at the moment. There is a significant change in the way in which the investment of the World Bank, the Asian Development Bank, the UNDP and so on is being applied. The issues of governance are more pronounced now than they have been in the past. On previous occasions most of the investment was to infrastructure development and that sort of thing. When I talk of infrastructure development, I am talking about roads and agriculture. But an increasing amount of it now is going into the area of helping people to form effective rule of law systems, effective business systems, effective administrative law and so on.

That is going on throughout South-East Asia, Africa, Latin America and so on to good effect, I would think. In the case of Indonesia, it seems to me that the transition from what was more or less a developing imperial state of affairs to a more liberal and looser form of governance through the archipelago has been frustrated over recent years. We saw the outbursts in Jakarta last year leading up to the resignation of President Suharto and the commitment to this new democratic process.

Whether the rate at which those things emerge can cope with the demand in these other places, I am not sure. I have a sense of foreboding about that. The desire of some people in Jakarta to scapegoat Australia for what is going on in East Timor does not seem to me to properly reflect what is going on right through the whole archipelago. It is not our fault that these things are occurring, but it seems to me that we and the international community have

a vested interest in helping Indonesia through this transition process. I am very conscious when saying such a thing that I could be accused by my Indonesian friends of being arrogant and trying to tell them how to do their business. I am sensitive to their sensitivities, but they have huge problems on their hands with both the geographic and cultural construct of that country and the fact that they have so far to go to bring themselves into the 21st century.

CHAIR—So what role do we have to play and in what forum should we play that role to be seen to be assisting our relationship with Indonesia rather than being seen to be negative? Is it within a group such as ASEAN? Is it within APEC? Do we use multilateral fora? What do we use as the means of trying to balance this very delicate situation that is emerging? Obviously we do not want to put the Indonesians offside. We cannot afford to have them offside, but we cannot stand by and let what happened in East Timor continue to happen. So how do we balance this very delicate operation?

Lt Gen. Sanderson—Indonesia is obviously full of people who aspire to the same sorts of things that we do: a decent future for their children, a roof over their head and opportunities to express their own culture, creativity and all those sorts of things. Clearly, as I said before, there are a number of multinational organisations—international organisations, if I can put it that way—which recognise this fact and are applying resources accordingly. Our role in that I think is fairly well established. If anything, I think we should become more international and more committed to these sorts of developments through international institutions such as the World Bank, the International Monetary Fund, the UNDP and regional organisations such as APEC, although it seems to be more devoted to trade than otherwise.

Quite clearly, we also need to have proper bilateral relations which are encouraging of and sympathetic to our neighbours, Indonesia, in particular. I think that is what we have been attempting to do certainly over the last decade since the mid-1980s, but even before that. If there have been any interregnums in the relationship, it seems to me that they have come about because of Indonesian sensitivities about things that have gone wrong within their own structures. We have been attempting to do that. I think we should take courage and understand that, while there might be some setbacks, there is really no choice than to engage and to continue to be engaged on all sorts of fronts. At the same time, we have to maintain the moral values on which our own society is built.

Mr Plunkett—Speaking as a thoroughly civilianised person, it was a pleasant surprise for me in 1992-93 in the UNTAC operation to see the close relationship between the Australian military and the Indonesian military. That is a good foundation for relationship building which we ought to maintain. Our officers could speak bahasa and so forth. It was also a privilege to serve alongside INDOBAT in the sectors that I had to serve as special prosecutor.

I think that should be encouraged and continued. We should not shy away from it. But I think part of our assistance and training ought to go across to things like conflict management training to demonstrate that it is possible to get what you want without having to use force. As I said, as a domestic legal community, we have had to undergo this training program. We still have a lot to learn. I think it would be of great benefit to our own civil

service as well as the Indonesian civil service, the Indonesian military, to get insights into these very durable and effective techniques.

CHAIR—One of the things that have been called for in recent days has been the suspension of military cooperation between Australia and Indonesia. If I am not reading too much into what you are saying, it seems to me that you are saying we should not be disengaging the Indonesian military in terms of military cooperation with Australia. It would seem, from what you are saying, that we need to have a different focus. Is that a reasonable interpretation?

Mr Plunkett—My opinion—and I say this from a position of ignorance, because I do not really understand all that is involved in the military cooperation—is that it ought to be maintained. It is true in a negotiation that if someone has acted dishonourably—I am not saying they have; I am simply taking another hypothetical situation—you are entitled to break off from time to time. I think it is folly if you walk away when the relationship gets a bit rocky. It is not a fixed landscape. There may be no solutions about managing conflict. It is a seascape. But you have to keep the relationship going at all costs. Whatever happens, courtesy and mutual respect must prevail. You have to be engaging. I believe the focus ought to include conflict management techniques to demonstrate that you can negotiate outcomes efficiently and elegantly where the initial inclination, if that is the only way you know, is to use force.

CHAIR—One of the allegations that has been made before this committee is that, as a result of the defence cooperation between Australia and Indonesia, we did train a large number of their senior military and that some of the knowledge they have been able to glean from their interoperation with Australia has been used against the people in East Timor. I asked one particular person who made that allegation to supply the names of people and proof, and to this stage no such proof has been forthcoming. That is the sort of thing that in the public mind out there causes people to say that, yes, severance of any military cooperation between ourselves and Indonesia should be a very high priority on the list and the sooner we do it the better.

Lt Gen. Sanderson—I would think there is no foundation whatsoever in such a statement. This is not just with respect to East Timor. Obviously, the focus of the Indonesian military, ever since it was first established, has been on internal security operations. This is an army that was established in revolution out of the colonial wars. Its whole focus since then has been on internal security operations. I know that the Australian Defence Force has not engaged with the Indonesian armed forces, ABRI, on internal security operations. They have indeed engaged in counterterrorist operations, which have been about an international or a regional counterterrorist regime. But the focus of that activity has essentially been about developing an external regional security perspective.

So I think it is wrong to say the techniques that they have picked up they have picked up as a consequence of their dealings with the Australian Defence Force. On the contrary, their activity has displayed a marked lack of professionalism, I would suggest to you. It is a continuum of other activities they have been engaged in since they were first established. I think a lot of the work that has been done on the civil side, and indeed in the dialogue, has been to illuminate the international dimensions of this—international law, operating under

international humanitarian law, and so on. Indeed, the company Paxiquest was engaged in consideration of a task which was designed to bring training in international humanitarian law and human rights law into the Indonesian academies prior to this event occurring. I doubt that that will occur in the short term, but I would hope that it will occur in the long term.

CHAIR—There was a charge very early on in the piece that some of the forces of Indonesia in East Timor were described as ‘rogue elements’. That seems to have been dispelled completely. It seems now that there is fairly direct control of the operations in East Timor. Is that your assessment?

Lt Gen. Sanderson—I have no evidence to substantiate that view one way or the other. There are indications quite clearly that there has been an engagement of parts of the Indonesian military with militia. The extent of that I think we will have to determine in the fullness of time. Whether that has been with rogue elements of the militia or not, I do not know. One thing I am relatively sure of—and this is not a personal opinion—is that there is a significant power struggle going on in Jakarta at the moment.

CHAIR—Yes, we have already had that in evidence.

Lt Gen. Sanderson—I suspect that this may well be part of that.

Senator BOURNE—There has been some comment in the media lately that there is a bit of a power struggle also going on in the TNI. It has been said that not everybody agrees with the current practices in East Timor and that that may cause some changes there as well—if not in the immediate future, certainly in the middle distance. Do you think that is so?

Mr Plunkett—We saw evidence of that in East Timor. When we went to Gleno, just prior to it disintegrating, we were told that the life of the POLRI colonel had been threatened and he wanted to do something about the militia. But, even though he was the colonel in charge, he was not really in charge, and the intelligence officer who was receiving instructions from Dili was calling the shots. So there seemed to be dual- or tri-streams of command.

I sometimes think we ought to be careful not to impose our own public administration monolithic structures and assume that they would apply in their public administration structures as well. One of the analogies I heard which I thought was fairly compelling just in the short exposure that we had in East Timor was that perhaps their structures were a bit like threads or plaits of a rope. There was a braid, and every now and then a particular colour would come out which would predominate but there would be others still inside somewhere. That seemed appealing to me when I heard of the dual command problem.

Senator BOURNE—It is interesting with POLRI as well. I certainly heard—and I know that Senator Payne did too—several stories of great bravery of individual POLRI officers during this whole time.

Mr Plunkett—There was the Sunrise battalion, I think, from East Java who on election day we saw conducting themselves in an exemplary manner. They were responsible, with Colonel Gultion, for giving us safe passage back to Dili. They seemed highly professional men and consciously concerned about our welfare and the carrying out of the mandate. One saw that prior to and just shortly after the poll, before the horrors that occurred on the 7th, 8th and 9th. Also, I saw two Balinese POLRI who wanted to come with us who were crying. They had been away from home for two years. As individuals, they did not seem to have any malintent.

Senator BOURNE—Since POLRI was taken away from ABRI and turned into POLRI and the TNI, from the ones I talked to and was exposed to at least, it seemed that—from my extremely limited time there of a week—they were trying to establish a separate power structure, however successfully or unsuccessfully—and I believe it was not terribly successful at the time. But I think the intentions of most of the ones I spoke to and saw were good. Whether they were able to carry it out is another question.

Mr Plunkett—I think it is very hard to take someone out of a green shirt and put them in a blue shirt or a brown shirt, as POLRI had. The military are used to using maximum force, whereas police are required to use minimum force. Soldiers are trained to fight and be aggressive, whereas policemen have to use discretion. I would much prefer to see a young constable handling a domestic dispute than a young soldier. It is a question of training. They separated in April this year, and I do not know to what extent they received training.

Senator BOURNE—It is interesting also that TNI at the time were considered the superior of the two—and still are, no doubt. So POLRI must have seen the way that they were considered, and it would be very difficult to get out of that mind-set.

Mr Plunkett—We saw that in Cambodia with the Cambodian police clearly being subordinate to the military. So the police might do the right thing and bring a suspect into custody and then be ordered by the military to release them. There were instances, post UNTAC's period, of courts convicting people and imprisoning them—I think it was down at Sihanoukville that Justice Kirby, in one of his reports as special rapporteur, goes into some detail about it—with the military then turning up and springing them out of jail. I think you will have that sort of contest for a long time to come in the Indonesia rule of law structure.

Senator BOURNE—You mentioned previously the fact that, as a world community, we are going to be stretched in trying to look after peace enforcement and all these sorts of operations. When I was in Bougainville earlier this year, I think it was April—and obviously the East Timor situation had not become terribly urgent at that point but people on the ground there realised that it would—one of the things that was said to us was, 'Don't forget us. We are a long-term problem; we are going to need help long term. We are really frightened that East Timor will take over the world's consciousness of peacekeeping needs'—and this was without even thinking about Kosovo—'and we will lose the money and, therefore, we'll just fall back into the abyss.'

I think that is certainly very possible—it is very possible with Bougainville now and it is very possible with East Timor in, say, a year. Is there anything you could recommend that would alleviate that to any extent? I think General Sanderson was saying that it will become

more commercial, that it will have to and we can think of a few groups around the world that would be very helpful in many ways. Do you think that is the way it is going? Can you think of any other ways to prevent us from forgetting about these zones of conflict?

Lt Gen. Sanderson—Clearly it is the way in which the resources of the international community are applied. It seems to me that there are significant resources—the availability of funds through various international agencies such as the World Bank and the Asian Development Bank and so on. It is quite extensive. It is the way in which they are committed. I have been led to believe, without having studied this in detail, that a number of those activities in which those funds have been directed in the past have not been particularly fruitful. There is clearly a need to develop some efficiency in the way in which those resources are applied so that they can be spread more evenly and with greater definition across the community.

It seems to me that there are sufficient institutions around to do this. It is a question of the way in which they go about their business. It is a question of what proportion of the funds are actually directed to the sharp end of the business and what proportion of the funds are directed to the infrastructure of the business. Australia can probably play a role in making sure that there is greater definition and a refined approach and, indeed, that our part of the world gets sustained attention in this respect. We probably need to put our minds more to the detail of the planning for that sort of activity rather than letting it happen on a piecemeal and relatively haphazard basis.

Senator BOURNE—Yes, with 30 seconds notice.

Lt Gen. Sanderson—Yes.

CHAIR—How should the issue of the people who have been shipped out of East Timor into West Timor or to other parts of the Indonesian archipelago—because I know that they are not all just in West Timor—be addressed? Given that you say there needs to be a mandate and a proper mandate for what happens within East Timor, how does one deal with the other problem—that is, those people who obviously have been put into camps outside?

Mr Plunkett—UNHCR has an outstanding record in its protection offices. One of the big successes of the Cambodian mission was the resettlement of some 350,000 people and into areas that may not have been safe. If you accept Indonesian sovereignty of East Timor, you are talking about ‘internal displaced persons’ as distinct from ‘refugees’ in the conventional international law sense. But there are mechanisms and modus operandi used by UNHCR which would enable the facilitation of people making a request to return to be returned. It is a question of access, when it comes down to it. I could easily see a UNHCR model being used so long as people had access to it.

CHAIR—But that really will require a deal of good faith on the part of the Indonesians.

Mr Plunkett—Absolutely.

CHAIR—And that needs to be fostered.

Lt Gen. Sanderson—Yes. In Cambodia, most of the refugees were confined to the border region inside Thailand. The Thais declared a special operation zone up against the border region, and they conducted significant operations to contain the refugee problem to that border zone. Then the mission area of UNTAC was able to temporarily extend into that zone, without encroaching too far on Thai sovereignty, which the Thais were very sensitive about.

I see a very distinct problem here with West Timor. The East Timor problem is now also in West Timor. In a sense, the mission area of whatever is mandated from the United Nations should embrace that fact. But it may well be difficult. There may have to be another relationship between UNHCR and Indonesia in West Timor to address this problem. But it is part of the continuum of the East Timor problem now, unfortunately.

CHAIR—How long do you think a peacekeeping force should remain in East Timor, assuming that Indonesia grants independence in November?

Mr Plunkett—I see that some of the East Timorese external elite have been talking in terms of three to five years. It is my belief that the international community and contributing nations could not afford that. Again, this is a rough rule of thumb, but I think it would have to be at least 24 months because of this problem that the General has alluded to—the gearing up time. If you wanted to find human rights officers today, you would not get them in the field under, I would suspect, two months. So there will be this lag in getting specialist personnel ready to uplift themselves from whatever their current jobs are and their lifestyles and take an engagement with the UN or some other agency in the field. That is part of the difficulty.

As the General has said, people were arriving right at the very end of the UNTAC electoral period. You had the difficulty between the Paris peace accords, as an example, having been made and having UNAMIC and then having UNTAC. In some cases people are arriving 18 months after the accord. That will be a problem here. But I do not believe their longer term mission is sustainable in terms of what people are able to contribute.

Lt Gen. Sanderson—Clearly, the United Nations will have to hold East Timor in transition for an extended period of time. My instincts are that the East Timorese are right about it being three to five years before they will be able to govern themselves. With all Indonesian institutions withdrawing and with their having to start from the fundamentals up, and recognising that there will be limited resources for them to assume responsibility of their own accord, it seems to me that the UN transition authority in East Timor, if you can call it that, will have to be in place for that length of time.

That does not mean that there has to be a full military engagement for that period of time. I talked about tapering the engagement. I see it as being a significant enforcement force initially, then a smaller peacekeeping force and then transition to a civil military operation, getting down to having observers and liaison officers. So, if the reconciliation process goes well and there is a focus on the rule of law and justice systems, and that starts to work early, a lot of the cost that is associated with a major military presence can be eliminated.

CHAIR—What is our capacity to sustain a long-term military operation, whether it be enforcement or peacekeeping, in a place such as East Timor?

Lt Gen. Sanderson—Are you talking about Australia's forces?

CHAIR—Australia's or the world's forces. That would have to be a very, very heavy drain on the resources of any nation, given the volatility of East Timor.

Lt Gen. Sanderson—UNIFIL has been there since 1975, UNSCO has been there since I think 1948, Cyprus since 1964. But the world is trying to avoid those sorts of long-term commitments.

CHAIR—But there was some structure in place in those places, whereas East Timor has been virtually decimated. I understand your comparison, but I just see East Timor as being a different case.

Lt Gen. Sanderson—Once again, it depends upon the objectivity with which the mandate is established and applied. In theory, once the situation is stabilised in East Timor, you go through a transition process. The transition process involves internal security, which should become a police activity as quickly as possible. There is an external security aspect which can be met by observers and liaison officers rather than military forces, provided whoever is on the other side of the border is playing the game—and the observers are there to make sure that they do. So, once governance is established in East Timor and they establish a proper relationship with Indonesia and the surrounding region, in theory the job of the international community is done. I would hope that that would be so.

There are many unknowns in this process. We are in an environment of chaos. There may be a lot of West Timorese who want to go to East Timor once this process starts. I am not talking about East Timorese who are in West Timor. It is possible that there are West Timorese who would like to go to East Timor as well.

CHAIR—This is another issue that has to be addressed: will there be a need to secure the border between East and West Timor?

Lt Gen. Sanderson—We do not know, and we will not know that until the process develops.

CHAIR—The only other question I have is on the role of Radio Australia. It now has a small footprint into Indonesia and East Timor compared with when it was being beamed out of the Cox Peninsular. Is there any evidence that you can give from your presence in East Timor that Radio Australia, which I understand was a very respected broadcaster in the region, should be lifted in its profile within East Timor, within the Indonesian archipelago, as a means of bringing reasonably unbiased and factual reporting to the people in that area? If so, what languages should be used—Indonesian, Portuguese, Tetum? What should it be? Can you give us any feedback there?

Mr Plunkett—I do not think I can answer that whole broadcasting question. But one of the comforting things for us when we were in the field in Cambodia, as we were, was access

to Radio Australia. The UN itself had fairly poor internal communication systems if you were in an isolated area. But, listening to Radio Australia, we could often hear the journalists telling us which roads were open or where the travel was.

This mission was a little different. As long as Indosat had its satellite up, we could all use our mobile phones, as long as they were on international roaming, and we could get CNN and the BBC. But people used their satellite phones and mobile phones to ring home to find out what was happening if they could not get access to CNN or the BBC. It would have been good to be able to just turn the shortwave on and get a more comprehensive coverage from Radio Australia. Purely from an operational peace practitioner's point of view, Radio Australia is of great assistance to those Australians who participate in peace operations in isolated parts.

Lt Gen. Sanderson—I would think that explaining to the Indonesian people what we were doing and what our intentions and desires were would be equally important as explaining them to the East Timorese.

Senator BOURNE—Unfortunately it does not go that far with a rented transmitter.

CHAIR—That is right. That is why I have asked the question. I thought you people may have a fairly good view.

Mr Plunkett—My association with Indonesia really started in Cambodia with the Indonesians who worked with part of the UN mission. I was quite astounded to see the warmth with which they regarded me as an Australian. It is clearly part of their national narrative with the role that Australia had to play in their independence—and it was gratifying. There is a lot of interest in Australia. People are always asking you about it and the fact that you are an Australian. I think, if Radio Australia were broadcasting and feeding that interest, it would be to the better good of both peoples.

Senator BOURNE—Dr Murfet, would you mind considering this and getting back to us on it? You previously mentioned land tenure and ownership. I think that is something that will turn into a huge problem. As far as we can see, because we have been asking questions about it, very little work is being done on it. Would you mind just considering that and getting back to us about it if you can think of anything we could usefully consider in that regard?

Dr Murfet—Of course.

CHAIR—I thank you very much for appearing before us this morning. You have been helpful, and the evidence you have given to us undoubtedly will assist us. The committee is considering putting out an interim report because of the fact that this inquiry is to proceed some time into the future. So undoubtedly the evidence you have given to us today will assist us in the compilation of that interim report, and we are very grateful for that.

Committee adjourned at 12.30 p.m.

