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Indonesia: Guilty verdict insufficient to deliver justice and truth

Despite the guilty verdict in the last of the trials in Jakarta relating to mass killings and other violence in Timor-Leste during 1999, the process has not been effective in either delivering justice or truth and now requires the international community to act, Amnesty International said following today's conviction of the last suspect Major General Adam Damiri.

Major-General Damiri was one of 18 people brought to trial in the *ad hoc* Human Rights Court on charges relating to crimes against humanity in Timor-Leste (formerly known as East Timor) in 1999. Of the 18, who included senior Indonesian military and police officers, 12 were acquitted. The six who were found guilty were sentenced to between three and 10 years' imprisonment. Major General Adam Damiri, who is the highest ranking military officer to have been brought to trial, was sentenced to three years' imprisonment. As with the other five who have been convicted, he is expected to remain free pending the outcome of his appeal.

"Today's verdict is surprising, but does not diminish the fact that deliberate efforts to subvert the course of justice and shield senior officials from being held fully to account have taken place" Amnesty International emphasized.

The organization has repeatedly drawn attention to shortcomings in the trials and urged the Indonesian authorities to take measures to strengthen the process. One of the main weaknesses has been the prosecution which presented weak and contradictory indictments. It also failed to present credible cases in court and provided a version of events in Timor-Leste in 1999 which bore little relation to reality. In the trial of Major General Adam Damiri, the prosecutor even argued that the case should be dropped for lack of evidence, making the guilty verdict all the more surprising.

Major General Adam Damiri was unable to attend several court sessions because of his duties relating to the recently declared military emergency in the Indonesian province of Nanggroe Aceh Darussalam. Amnesty International strongly urges that he is immediately withdrawn from active duty now that he has been found guilty of failing to prevent violence in Timor-Leste in 1999.

Other concerns raised by Amnesty International throughout the trial process included the inadequate legal framework and the limited jurisdiction of the *ad hoc* Human Rights Court, the lack of a thoroughness and impartiality of the investigations, the absence of effective victim and witness protection and the inexperience of the judges.

Others have expressed similar concerns, including the UN Secretary-General, the UN High Commissioner for Human Rights, the European Union, and various governments.

"Indonesia's failure to heed the warnings and to respond adequately to demands to improve the process means that the UN must now take it upon itself to follow through on its demands for justice", said Amnesty International.

Amnesty International urges that, as a first step, the UN undertakes an independent review of the trials in order to establish what has been achieved to date and what action must now be taken to overcome existing legal, institutional and political obstacles to ensure a comprehensive and credible justice process and a full airing of the truth. Such a review should examine the trials in Indonesia as well as the efforts to investigate and prosecute serious crimes also being undertaken in Timor-Leste.

The UN established Serious Crimes Unit has made considerable progress in recent months and has now issued indictments against 301 people to be tried by Special Panels set up in Timor-Leste. Among those indicted with committing crimes against humanity is Major General Adam Damiri. However, obstacles remain to completing the investigations and prosecutions, including lack of cooperation by Indonesia which has refused to transfer suspects to Timor-Leste for trial - 221 of those indicted are currently at large in Indonesia.

"Indonesia's lack of cooperation with the process in Timor-Leste is just one more indication of its lack of commitment to a credible justice process. Having proved neither able nor willing to respond adequately, the authorities must now stand back and allow the international community to ensure justice is done and seen to be done." Amnesty International concluded.

Background

It is estimated that some 1,300 people were killed in Timor-Leste in the months proceeding and in the immediate aftermath of a UN organized ballot on independence on 30 August 1999. More than a quarter of a million people were forcibly deported or fled across the border to West Timor in Indonesia, where an estimated 28,000 remain in refugee camps today. An unknown number of people were subjected to other human rights violations, including torture and rape.

These crimes were not spontaneous, but part of well coordinated efforts by members of the Indonesian military, police and civilian authorities to influence the outcome of the ballot and to disrupt the implementation of the result. The creation of, and support for militia, including through the provision of funds and weapons, were central to these efforts.

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