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## **Timor-Leste law allows amnesties for war criminals**

Amnesty International is urging Timor-Leste to close a legal loophole that is allowing war crimes and crimes against humanity committed during the 1975-1999 Indonesian occupation to go unpunished.

‘Timor-Leste; Justice in the Shadow’, an Amnesty International report released today on the country’s latest Penal Code, documents how the law allows amnesties that would prevent trials of people suspected of war crimes or crimes against humanity.

Without a ban on such amnesties, Timor-Leste is not fulfilling its obligations under the Rome Statute of the International Criminal Court, to which it acceded in 2002.

“Survivors of decades of human rights violations in Timor-Leste are demanding justice and reparations, but the authorities’ routine use of amnesties, pardons and similar measures has created a culture of impunity,” said Isabelle Arradon, Amnesty International’s Researcher on Timor-Leste.

Amnesty International fears that the Timor-Leste authorities’ potential use of amnesties due to the gap in its new Penal code, will damage the young nation’s ability to develop a strong deterrent to violence, maintain an independent and trusted judiciary, and hold armed groups and security forces accountable for their actions.

People indicted and convicted by the UN Special Panels for Serious Crimes for crimes against humanity committed during Timor-Leste’s 1999 transition to nationhood, have been among those released by presidential pardons or commutation of sentences.

In 2008, militia leader Joni Marques was set free after his sentence was substantially reduced by the President. He was originally sentenced to 33 years’ imprisonment for crimes against humanity.

“The authorities in Timor-Leste are compromising on justice to seek peace – but trading away justice for such serious crimes only undermines the rule of law, and cannot resolve the trauma of the past,” said Isabelle Arradon.

In 2009, the Timor-Leste government allowed Maternus Bere, indicted by the United Nations Serious Crimes Unit, to avoid prosecution by transferring him to Indonesia before he faced trial. Bere had been a militia leader involved in massacres of civilians in 1999.

‘Timor-Leste: Justice in the Shadow’ acknowledges important steps that the country has taken to include many of its obligations under the Rome Statute into its Penal Code. However, as well as the lack of explicit ban on amnesties for crimes under international law, the Penal Code lacks provisions on co-operation with the International Criminal Court.

Amnesty International supports a long-term comprehensive plan to address impunity in Timor-Leste.

This would include the establishment of an international tribunal to investigate and prosecute those responsible for the crimes committed under Indonesian occupation; a search for the disappeared; reparations for the thousands who suffered and the relatives of those who died; and an approach to amnesties, pardons or similar measures that does not undermine the rule of law.

## **Background**

In August 1999, the people of Timor-Leste (then East Timor) voted overwhelmingly in favour of independence from Indonesia in a UN-sponsored referendum. The lead-up to the polls and its aftermath were marred by crimes against humanity and other serious human rights violations. Most of those suspected of such crimes are still at large in Indonesia.

Between 1974 and 1999, 100,000 people are estimated to have been killed or starved to death in Timor-Leste, according to the report of the Commission for Reception, Truth and Reconciliation in East Timor (CAVR).

Crimes against humanity and other human rights violations were most acute during the 24 years of Indonesian occupation from 1975. They included unlawful killings; enforced disappearances; arbitrary detention; torture and other ill-treatment; war crimes; sexual violence; violations of the rights of the child; and violations of economic, social and cultural rights.

The overwhelming majority of the past crimes, mostly at the hands of the Indonesian security forces and their auxiliaries, have yet to be addressed.

More information is available in Amnesty International Report ['We cry for justice': Impunity persists 10 years on in Timor-Leste'](#), (AI Index ASA 57/001/2009, 27 August 2009).