

AMNESTY INTERNATIONAL

Public Statement

AI Index: ASA 21/121/2002 (Public)
News Service No: 144
15 August 2002

Indonesia: East Timor trials deliver neither truth nor justice

In a joint statement issued today, Amnesty International and the Judicial System Monitoring Programme (JSMP) expressed their grave disappointment in the trials of the first East Timor cases in Indonesia. The findings of the two organizations show that the trials were seriously flawed, have not been performed in accordance with international standards, and have delivered neither truth nor justice.

The former Governor of East Timor, Abilio Jose Osorio Soares was found guilty yesterday of committing crimes against humanity by failing to control subordinates and sentenced to three years' imprisonment. The former Regional Police Commander, Brigadier General Timbul Silaen, who was responsible for security around the 1999 ballot on independence, was acquitted. Five Indonesian military, police and government officials who are accused of failing to prevent a massacre in Suai on 6 September 1999, were also found not guilty.

Both organizations have been monitoring the trials closely. JSMP, supported by the International Platform of Jurists for East Timor (IPJET), is the only independent organization which had international legal observers consistently present during the trials.

Amnesty International and JSMP believe that the Indonesian prosecutors failed in their duty under international law to bring effective prosecutions against the accused by presenting indictments which did not correspond to allegations about the conduct of the accused, ignoring relevant evidence and by presenting cases which deliberately failed to prove the widespread and systematic nature of the violations that occurred in East Timor.

The two organizations have documented a succession of serious procedural and other failures which meant that the trials did not achieve the objectives of delivering justice and revealing the truth about the extent of the involvement of members of the Indonesian security forces and civilian authorities in perpetrating crimes against humanity and other serious crimes in East Timor in 1999. Among the problems identified by the two organizations were:

The indictments presented a version of events which did not reflect the widespread and systematic nature of the crimes which took place in East Timor in 1999 and failed to address the role of the Indonesian security forces in setting up and supporting militia in East Timor.

Key evidence regarding the direct involvement of the Indonesian security forces in committing serious crimes was not presented to the court. Such evidence has been well attested in expert investigations including by Indonesia's own Commission of Inquiry on Human Rights Violations in East Timor (KPP-HAM), the United Nations (UN) International Commission of Inquiry and in investigations carried out by the UN Serious Crimes Unit in East Timor.

A lack of experience among key officials, including judges and prosecutors, was reflected in sloppily drafted indictments and questions and cross-examinations which failed to address the evidence effectively;

Victims and witnesses summoned to testify at the trials were not provided with adequate protection. Several witnesses from East Timor refused to appear before the court because they were not confident that their security could be guaranteed.

The trials of 16 other suspects, including several senior military officials, are still in progress. Both Amnesty International and JSMP are seriously concerned that the indictments issued and initial proceedings in these cases are similarly flawed.

In addition to procedural failures the two organizations have been concerned by the succession of decisions by the Indonesian authorities which undermined at an early stage the prospect of a credible or effective justice process. Such obstacles included a decision by President Megawati Sukarnoputri to limit the jurisdiction of the court such that it can only hear a handful out of the many hundreds of cases of serious crimes that were committed in East Timor during 1999.

If Indonesia is to fulfil its international obligation to provide a credible remedy for the gross human rights violations committed in East Timor both the weaknesses of Indonesia's judicial system and political resistance to holding perpetrators of human rights violations to account must be simultaneously addressed.

The process in Indonesia has also highlighted the need for Indonesia to cooperate with the trial process currently taking place in East Timor. So far 114 people have been charged with committing serious crimes, including crimes against humanity, by East Timor's Deputy Prosecutor General. Many are living in Indonesia. Indonesia has so far refused to transfer any of them to East Timor for trial by the UN established Special Panel for Serious Crimes, and has also taken no steps to bring most of them to justice in its own courts.

In view of the serious problems with the trials in Jakarta, Amnesty International and JSMP believe that it is also the moment for UN to review its decision not to pursue the recommendations of its own International Commission of Inquiry on East Timor to establish an international criminal tribunal. The crimes committed in East Timor during 1999 were of such a serious nature that they cannot go unpunished, but the prospect of Indonesia being able to fulfil its responsibility to deliver a credible and effective justice process is now remote. Credible alternatives must therefore be sought.

Background

On 30 August 1999, in a United Nations organized ballot, 78.5 per cent of the East Timorese population voted against continued integration with Indonesia which had illegally occupied the territory since 1975. In the months leading up to the vote, violence, threats and intimidation were widely employed against supporters of independence by pro-Indonesia militia. The militia groups had been set up and were backed by the Indonesian security forces.

The violence escalated dramatically after the results of the ballot were announced on 4 September 1999. It is estimated that around 2,000 people were unlawfully killed by militia and the Indonesian security forces. Others were subjected to torture, including rape. Over a quarter of a million people fled or were forcibly expelled to Indonesia. Thousands of others sought safety in the hills while infrastructure and property was looted and destroyed.

Under pressure from the international community, Indonesia set up a team to conduct an initial inquiry into reports of grave human rights violations. It reported in January 2000 that crimes against humanity had been committed in East Timor and publicly named 33 individuals, including members of the

Indonesia military and police, civilian officials and militia members, which it alleged to be responsible. Indonesia's Attorney General selected just five cases and 18 individuals for investigation and prosecution.

Inquiries were also carried out by a UN appointed International Commission of Inquiry on East Timor and by a team of UN experts consisting of the Special Rapporteurs on extrajudicial, summary or arbitrary executions, on torture and on violence against women, its causes and consequences. Both inquiries found that widespread or systematic violations of human rights had taken place. Both recommended that an international criminal tribunal should be established to bring perpetrators to justice.

For more information or to arrange an interview contact Amnesty International in London on +44 207 413 5729 or the Judicial System Monitoring Programme in Dili, East Timor on +670 390 323 883, +61 419804600 or email christian@jsmp.minihub.org (www.jsmp.minihub.org)

Public Document

For more information please call Amnesty International's press office in London, UK, on +44 20 7413 5566

Amnesty International, 1 Easton St., London WC1X 0DW. web: <http://www.amnesty.org>

For latest human rights news view <http://news.amnesty.org>