

£EAST TIMOR

@Continuing Human Rights Violations

Introduction

Since November 1994, there have been increased, and sometimes violent, demonstrations against Indonesia's occupation of East Timor. While some of the demonstrations have been pro-independence protests others appear to have arisen out of ethnic tensions between East Timorese and Indonesian immigrants. The authorities have responded to the unrest with arbitrary detention, including detention of peaceful protesters, beatings, torture and in some cases shooting. There have also been reports of suspected extrajudicial executions.

The recent unrest coincides with the release of a report by a United Nations (UN) expert which concludes that members of the Indonesian security forces were responsible for killings during the November 1991 Santa Cruz massacre in Dili, East Timor. The report by the UN Special Rapporteur on extrajudicial, summary or arbitrary executions also criticises the Indonesian Government for failing to satisfactorily investigate the fate of those killed and "disappeared" as a result of the massacre.

This document provides details of the recent human rights violations which highlight the need for the Indonesian Government to urgently implement the recommendations of the UN Special Rapporteur.

The Special Rapporteur's report

The UN Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr Bacre Waly Ndiaye, visited Indonesia and East Timor in July 1994 to examine the Indonesian Government's investigation of the Santa Cruz massacre. The Special Rapporteur was denied permission to visit other regions of Indonesia such as Aceh and Irian Jaya, from where he had also received reports of extrajudicial executions. His report concludes with 12 detailed recommendations, which Amnesty International believes, if implemented, would lead to a considerable improvement in the human rights situation in East Timor.¹

At least 100 and possibly as many as 270 were feared killed when government troops opened fire on a peaceful demonstration at the Santa Cruz cemetery in Dili. A further 200 were feared "disappeared". Facing local and international protest, Indonesian Government and military authorities expressed regret at the loss of life and promised a prompt investigation. From the outset however the government argued that the soldiers were forced

¹ Commission on Human Rights, Fifty-first session, Extrajudicial, summary or arbitrary executions, Addendum, Report by the Special Rapporteur, Mr Bacre Waly Ndiaye, on his mission to Indonesia and East Timor from 3 to 13 July 1994, E/CN.4/1995/61/Add.1. The report's recommendations are attached to this document.

to shoot when "the mob attacked them brutally". The government has also portrayed the massacre as an aberration. The Special Rapporteur however concludes that the shooting of the demonstrators was "a planned military operation designed to deal with a public expression of political dissent in a way not in accordance with international human rights standards". His report also concludes that the impunity with which the Indonesian security forces can act means that the factors which allowed for the Santa Cruz massacre to happen still exist. Members of the security forces responsible for the abuses have not been held accountable. Those who were prosecuted received sentences ranging from eight to 18 months' imprisonment, in sharp contrast to civilians involved in peaceful protest during and after the massacre, who received sentences of up to life imprisonment.

Since November 1991, the Indonesian Government does not appear to have taken steps to ensure that government troops are properly trained in crowd control or that soldiers who kill or torture are properly disciplined and where appropriate brought to justice. Last July, General Feisal Tanjung, the Commander of the Armed Forces, told the United Nations that no changes had been made to the training program of soldiers to improve riot control since the Santa Cruz massacre.

Nor has the government addressed the need for impartial and thorough investigation of human rights violations and access for domestic and international independent human rights monitors. The Special Rapporteur's report has criticised the competence, independence and thoroughness of the Indonesian Government's investigations into the Santa Cruz killings, concluding that the inadequate investigation into the massacre illustrated "that little importance is given to the respect of the right to life by Indonesian law enforcement officials in East Timor". He has also called on the Indonesian Government to allow domestic and international non-government organisations unrestricted access to East Timor.

The response to the Special Rapporteur's report from the government has so far been one of condemnation. Indonesia's Foreign Minister, Ali Alatas, is reported to have called the report "unbalanced and not based on facts".² The recent reports of further human rights violations in East Timor, however, give credence to the Special Rapporteur's conclusions. They also highlight the urgent need for the implementation of his recommendations.

Arrests and trials

Amnesty International does not condone the violence which has occurred during some of the recent unrest, including arson and assault, and recognises the right of the government to

² Reuters, 9 January 1995.

prosecute in a fair trial those responsible for criminal acts. However, the organization is concerned that some of those detained and currently facing trial may be held solely for their peaceful opposition to Indonesian rule of East Timor. Amnesty International is also concerned that some of those in detention have reportedly been subjected to torture and beatings.

The unrest in Dili began on 12 November 1994, when hundreds protested after hearing of the murder of an East Timorese trader, **Mario Vicente**, by a trader from the island of Sulawesi. The protest quickly degenerated into violence, leading to the destruction of shops, houses and vehicles. Protests and clashes between East Timorese and the security forces continued until 18 November. On 13 November, a group of some 40 demonstrators marched to the Mahkota Hotel where they displayed banners with pro-independence messages. On 15 November, a group of about 300 university students clashed with security forces at the University of East Timor, after police tried to break up a pro-independence gathering there. On 18 November, another incident occurred in the vicinity of the Catholic cathedral in Dili as pro-independence protesters clashed with riot police and a group of pro-Indonesian demonstrators.

Over 100 East Timorese were arrested in the immediate aftermath of the unrest and up to 18 may be facing charges as a result of the demonstrations.³ The trials of six of those detained, **Jacinto dos Santos Loho**, **Elidio Maia**, **Julio Araujo de Jesus**, **Marcelino da Costa**, **Pransitas Klau** and **S Neves**, have already begun. They are believed to have been charged under Articles 187 (1) and Article 55 (1) of Indonesia's Criminal Code. Article 187 (1) states that any person who "with deliberate intent sets fire, causes an explosion or causes a flood, shall be punished by a maximum imprisonment of twelve years if thereby general danger to property is feared". Article 55 (1) relates to those who "perpetrate, cause others to perpetrate" a criminal act.

In addition to these six currently facing trial, a further two are believed to be currently detained by the military intelligence unit (*Satuan Tugas Intelijen - SGI*) of the Sub-Regional Military Command for East Timor (*KOREM 164/Wira Dharma*) in the Colmera district of Dili. They are **Hendrique Belmiro da Costa**, and **Matheus**, a nurse and civil servant with the Health Department. Amnesty International is concerned that the two may be being subjected to torture, including electric shocks, while in military detention. Hendrique is already reported to have had stitches to his head as a result of wounds sustained through torture. The charges against them are not clear.

³ See Amnesty International *Indonesia & East Timor: The 12 November Protests*, (ASA 21/53/94), 15 November 1994, and *Indonesia & East Timor: Update on the 12 November Protests*, (ASA 21/56/94), 23 November 1994.

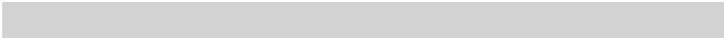
On 9 January 1995, about 30 East Timorese youths staged an apparently brief pro-independence demonstration at the University of East Timor in Dili. Eyewitnesses reported that a group of about 30 youths held banners and shouted slogans denouncing East Timor's integration into Indonesia. Shortly after the protest began, riot police and plainclothes security forces arrived. Eyewitnesses claim that at least two of the demonstrators, including **Jose Antonio Belo**, were forced by plainclothes officers into security forces' vehicles. The two were reportedly beaten inside the vehicles before being driven away.

A regional military spokesman for East Timor acknowledged that 24 East Timorese were arrested for questioning over the demonstration. Responding to concern about possible ill-treatment, Major Laedon Simbolon stated that none of the 24 were being subjected to torture and that "We take good care of them and feed them, just to let them tell us the truth about why they did the demonstration and who stood behind them".⁴ Sources have told Amnesty International that the authorities used the demonstration as a pretext for arresting alleged pro-independence protestors. Some of those arrested were believed not to have been directly involved in the demonstration.

By the end of January, eight of those detained had been released. East Timor's police chief announced that the remaining 16 would be "tried as they broke Indonesia's anti-integration law... and the law pertaining to the general public order".⁵ Jose Antonio Belo, an English literature student at the University of East Timor, is believed to be regarded by the authorities as the main organiser of the demonstration. It appears that all of the group have been charged under Article 154 of Indonesia's Criminal Code which states that "...the public expression of feelings of hostility, hatred or contempt toward the government..." is punishable by up to seven years' imprisonment. Article 154 is one of the so-called Hate-sowing Articles, introduced by the Dutch colonial government and incorporated into Indonesia's Criminal Code, which are frequently used to suppress peaceful dissent.

⁴ Reuters, 12 January 1995.

⁵ Reuters, 16 January 1995.



Jose Antonio Belo, arrested and currently facing the possibility of a seven-year prison sentence for his role in a peaceful demonstration on 9 January in Dili.

In addition to the 16 facing trial, Amnesty International has received a list of 21 names of individuals who are reportedly "disappeared". The 21 are believed to have been detained originally in connection with the 9 January protest, but it is not clear when or where they were arrested.

Foreign observers remarked on the more restrained handling of the November unrest in Dili by the security forces. However there was clear evidence that members of the security forces still used excessive force in dealing with the protestors.⁶ In addition, in December it was reported that some of those detained following the November demonstrations were

⁶ See Amnesty International Indonesia and East Timor: Update on the 12 November Protests, (ASA 21/56/94), November 1994.

beaten and tortured in military detention. A group of youths from southwest of Dili were reportedly stripped, beaten and subjected to electric shocks by the military. Concern for those currently in detention was again heightened by the witnessed beating of the two demonstrators arrested on 9 January at the University of East Timor.

Suspected extrajudicial executions

Between three and five people were reportedly shot and killed when soldiers opened fire on a riot in the East Timorese town of Baucau on 1 January 1995. Rioters reportedly attacked shops and houses and set fire to the town's two markets. Indonesian immigrants were also reportedly attacked and many sought refuge in the local military installation. Around 200 East Timorese began rioting in the town after discovering that an East Timorese, **Armando Ximenes**, 17, had been stabbed to death by **Cole, alias Rusli**, a migrant from the Indonesian island of Sulawesi. Cole later died as a result of stab wounds received during the fight.

Police initially tried to quell the rioters, but when this proved unsuccessful, two trucks of soldiers moved in. The military said that they fired in the air to disperse the crowd, but that because it was dark, some of their bullets may have hit individual rioters. East Timor's military commander, Colonel Kiki Syahnakri, acknowledged that five people, all with East Timorese names, were injured and were then taken to hospital.⁷ On 5 January, the military stated that three people had died, including Ximenes and Cole, and that a further five sustained injuries.⁸ Baucau's Mayor claimed that five East Timorese were killed during the clash, but he did not attribute the deaths to the military.⁹ Members of the armed forces were also reportedly injured during the clashes. Independent sources have claimed that at least three people were shot and killed by the troops. Up to 15 may have been wounded during the shooting. At least five of those reportedly shot have been identified as **Dominggos Jose Dos Reis, Alfonso Sarmiento, Joao da Costa, Dominggos Marques** and **Abilio Freitas**. Dominggos and Alfonso are believed to have subsequently died after being taken to the military hospital. The names of others wounded, killed or missing are not known.

The riots were followed by arrests of alleged participants. On 5 January, the military stated that the police were holding 20 people for questioning.¹⁰ On 16 January, East Timor's Police Chief Andreas Sugianto stated that 11 East Timorese and one Indonesian from Sulawesi would be charged as a result of the riot, with the charges ranging from arson to murder.

⁷ AFP, 4 January 1995.

⁸ Reuters, 5 January 1995.

⁹ Reuters, 4 January 1995.

¹⁰ Reuters, 5 January 1995.

In another incident on 13 January, the Indonesian Government announced that six resistance guerrillas had been shot dead during a confrontation with the army in Ermera, west of Dili. Independent sources have subsequently said that at least five of the group were civilians, and not guerrillas. On 11 January, members of the regional military command, KODIM, clashed with guerrillas around the Leo-Tela village in the Biniquilo Partenel area. The clash resulted in one of the government troops being wounded, while the guerrillas managed to evade capture. The KODIM troops then reportedly entered Gariana village near Maubara, to look for the guerrillas and arrested four men, **Jose Nunes**, the village head of Gariana, **Agusto Pinto**, **Abel Nunes** and **Victor**. The next day the same troops reportedly arrested two others, **Americo de Araujo** and **Osorio Soares** from the same village.

Sources say that on the afternoon of 12 January, the six were then killed by KODIM troops. The families of four of the victims were reportedly subjected to death threats when they attempted to bury the bodies. Amnesty International has not been able to independently confirm the allegations. However, the organization is calling on the Indonesian Government to allow for an impartial and thorough investigation of the incident and to grant unrestricted access to domestic and international human rights monitors to determine the circumstances of the killings.

Implementing the Special Rapporteur's Recommendations

The Special Rapporteur concluded that the Indonesian Government has not yet learnt from the lessons of the Santa Cruz massacre, stating that "...the conditions that allowed the Santa Cruz killings to occur are still present. In particular, the members of the security forces responsible for the abuses have not been held accountable and continue to enjoy virtual impunity".¹¹ The reported killings in January in Baucau and Ermera are not of the same scale as the Santa Cruz massacre, neither were the circumstances the same. However, their occurrence highlights the inadequacy of crowd control mechanisms by the security forces, and the continuing lack of accountability of members of the security forces, concerns which are all expressed in the Special Rapporteur's report on the Santa Cruz massacre. The report also highlights the need for improving investigations into human rights violations and for the government to allow access to East Timor to independent human rights monitors. If implemented these safeguards may help prevent the recurrence of further human rights violations.

International standards require that governments must ensure that law enforcement officials use force only when strictly necessary and only to the minimum extent required under the circumstances.¹² Lethal force should not be used except when strictly unavoidable in order to protect life. In his report, the Special Rapporteur has encouraged the Indonesian Government to establish clear guidelines on the control of the use of force by law enforcement officials. He has also called on the government to immediately establish a civilian police force placed under the authority of the Prosecutor.

International standards also stipulate that if death or serious injury result from the use of firearms by law enforcement officials in performance of their duty, a detailed report should be sent to the administrative and judicial authorities responsible for control and review of the forces concerned.¹³ There has been no indication that the Indonesian authorities have as yet instigated an inquiry into either the Baucau or Ermera incident.

The Special Rapporteur has urged the Indonesian Government to ensure that thorough, prompt and impartial investigations are conducted into all suspected cases of extrajudicial, summary or arbitrary executions. Welcoming the establishment of the National Human Rights Commission (NHRC) in Indonesia, the Special Rapporteur stated that "it has

¹¹ Special Rapporteur's report, p22.

¹² See in particular, "The Basic Principles on the Use of Force and Firearms by Law Enforcement Officials adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders", Cuba, 1990, and The Code of Conduct for Law Enforcement Officials, adopted by the General Assembly, Resolution 34/169, 17 December 1979.

¹³ Principle 11 of the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*.

so far not dealt with human rights violations in East Timor, and in particular the Santa Cruz killings. Moreover, most observers met by the Special Rapporteur were of the opinion that the NHRC had neither the mandate ... nor the means to deal efficiently with this case".¹⁴

Despite this, the NHRC has expressed concern about the recent arrests in East Timor. Clementio Reis Amaral, a member of Indonesia's National Human Rights Commission, stated after a visit to East Timor in late December that the human rights situation in East Timor needed to be improved:

*We must not summon anybody for questioning at night, or in places other than the police station. Anybody who is summoned for questioning must be accompanied by a legal counsel. This is the correct procedure. Otherwise, we are breaking the law and violating a person's human rights.*¹⁵

Torture, "disappearances" and extrajudicial executions are among the recently documented human rights violations committed by the Indonesian Armed Forces in East Timor. Killings by the security forces are not just isolated incidents, but are part of a pattern of the suppression of dissent. These findings are supported by the Special Rapporteur's report.

Amnesty International believes that implementation of the Special Rapporteur's recommendations could lead to an improvement in the human rights situation in East Timor. The organization is therefore urging the Indonesian Government to immediately provide details of how it will implement the recommendations as a demonstration of its commitment to the protection of human rights. Amnesty International also believes however that the international community must translate its expressions of concern about human rights in Indonesia and East Timor into practical action by urging the Indonesian Government to do this.

¹⁴ Special Rapporteur's report, p14.

¹⁵ Suara Pembaruan, 27 December 1994.

Recommendations to the Indonesian Government

Amnesty International calls on the Indonesian Government to:

- implement in full the recommendations of the UN Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions;
- allow the Special Rapporteur on extrajudicial, summary or arbitrary executions access to other areas of Indonesia, such as Aceh and Irian Jaya;
- invite the UN Working Group on Arbitrary Detention and the UN Working Group on Enforced or Involuntary Disappearances to visit Indonesia and East Timor to conduct a full investigation of the human rights situation;
- release all those detained solely for peaceful activities in connection with unrest in East Timor since November 1994;
- conduct an impartial and thorough inquiry into the alleged shootings in Baucau and Ermera;
- allow unrestricted access for independent human rights monitors to all areas of Indonesia and East Timor, including Irian Jaya and Aceh.

Recommendations to UN Member States

Amnesty International calls on UN Member States to:

- urge the Indonesian Government to implement in full the recommendations of the UN Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions;
- encourage the Indonesian Government to extend a further invitation to the Special Rapporteur on extrajudicial, summary or arbitrary executions to visit other areas of Indonesia, such as Aceh and Irian Jaya;
- urge the Indonesian Government to invite the UN Working Group on Arbitrary Detention and the UN Working Group on Enforced or Involuntary Disappearances to visit all areas of Indonesia and East Timor to conduct a full investigation of the human rights situation;

- urge the Indonesian Government to conduct an impartial and thorough inquiry into the alleged shootings in Baucau and Ermera;
- urge the Indonesian Government to release all those detained solely for peaceful activities in connection with unrest in East Timor since November 1994;
- encourage the Indonesian Government to allow unrestricted access for independent human rights monitors to East Timor.

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