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East Timor: Justice and accountability are long overdue

"I saw the most terrible thing that will stay in my memory forever. I saw a man being executed. He was a Timorese man.... His back was facing me and I could see that his hands were tied. He was naked and being pulled backwards by a piece of wire towards a flagpole. When he arrived at the flagpole, I saw his head being cut off with a machete or a sword. I saw his head fall off onto the ground. I could not see the person who cut off his head because my vision was obstructed by one of the TNI's legs in the truck." (eyewitness testimony from a 17-year old East Timorese girl)

The UN is seriously failing the victims of crimes against humanity and war crimes in East Timor by failing to act swiftly to begin international investigations, Amnesty International said as it released a new report today calling on the international community to bring the perpetrators to justice.

"Many of the atrocities witnessed in East Timor constitute crimes against humanity and war crimes*," Amnesty International said. "Every day that the UN delays its international investigations, vital evidence may be lost or destroyed."

"Already six weeks have passed since the UN Security Council called for the perpetrators to be brought to justice, yet the international Commission of Inquiry, established by the UN Secretary-General, is still weeks away from travelling to East Timor to carry out its investigations."

"After 24 years of turning a blind eye to the human rights violations committed in East Timor, the international community has a responsibility to ensure redress and justice for the East Timorese people."

Following the widescale destruction in East Timor local human rights non-governmental organizations do not have the capacity, the forensic expertise or the resources to investigate the serious human rights violations that were committed in East Timor.

Amnesty International continues to receive credible reports that East Timorese refugees in West Timor are continuing to suffer from intimidation, attacks and abductions at the hands of militia groups.

"Until the UN proves that it is serious about investigating the crimes committed in East Timor, such individuals will continue to assume that they can commit violations with impunity."

"International investigations must commence without any further delay and with the full support of the Indonesian government and the international community," the human rights organization added.

The next step is prosecutions -- all states have an obligation under international law to prosecute and punish those responsible for crimes against humanity and war crimes, and to cooperate in the detection, arrest and punishment of persons implicated in these crimes.

"No one, not even a Head of State, has immunity from prosecution in cases of crimes against humanity or war crimes," the organization reiterated.

Military commanders, those who effectively act as military commanders and those in the government hierarchy who find themselves in a command position with a similar level of authority with respect to their subordinates, are criminally responsible under international law for tolerating crimes against humanity or war crimes committed by their subordinates or for failing to take the necessary measures to stop or repress them.

This principle of criminal responsibility of the military commander also extends to crimes committed by paramilitary groups and/or other armed groups -- in this case the pro-integration militia -- not organized into the official military structures, operating under their control, whether or not they act under specific and express instructions from the official force

There is strong evidence that the Indonesian military (TNI) have trained, armed and acted in collusion with the militias to launch a systematic campaign of violence against the East Timorese people.

"A shattered society can only be rebuilt on the foundation blocks of justice not impunity," the organization added. "Strengthening the rule of law and respect for human rights is an essential step for future peace and reconciliation in East Timor."

"It is also vital for the future development of Indonesia that those responsible for these grave human rights violations are held accountable so that truth, justice, and respect for fundamental human rights is secured," the organization concluded.

***Background**

According to international customary law and treaty law, crimes against humanity include the practice of systematic or widespread torture, forced disappearances, rape, deportation and forcible transfers, arbitrary detentions, political persecutions or other inhumane acts.

The conflict in East Timor is an international armed conflict, given East Timor's status as a non-self-governing territory and the illegal nature of Indonesia's annexation of it in 1975.

War crimes are violations of the laws and customs of war. War crimes include: wilful killing, torture or inhuman treatment, wilfully causing great suffering or serious injury to body and health, unlawful deportation or transfer or unlawful confinement of a civilian population, compelling a protected person to serve in the forces of a hostile power, taking of hostages and extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly. At the same time, indiscriminate attacks and direct attacks on civilians are also war crimes.

Under the principle of universal jurisdiction states may try suspects for war crimes and crimes against humanity even if these crimes took place outside their territory.

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For more information or to receive a copy of the report, *East Timor: Demand for justice (ASA 21/191/99)* please call Amnesty International's press office in London, UK, on + 44 171 413 5566 or visit our website at <http://www.amnesty.org>