

Indonesian court acquits military of East Timor atrocities

By Peter Symonds
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The outcome of the first trials by an Indonesian court over the massacres in East Timor in 1999, prior to and following the UN-sponsored vote on independence, has proved to be a farce. According to UN figures, at least 1,000 East Timorese were killed by pro-Indonesian militia groups, backed by the Indonesian armed forces (TNI), in an effort to intimidate and terrorise pro-independence supporters.

Abilio Soares, the former Indonesian governor of East Timor, was convicted on August 14 of having failed to control his subordinates and prevent the slaughter of more than 100 people in four separate incidents. He was sentenced to just three years in jail, even though the statutory minimum for crimes against humanity under Indonesian law is 10 years.

The following day, the same ad hoc human rights court dismissed all charges against former East Timor police chief Timbul Silaen and five co-defendants—five middle-ranking officers—over the massacre of 27 civilians, including three Roman Catholic priests, in a church in the town of Suai on September 6, 1999. The judges found that there was no evidence linking Timbul or the others to the Suai murders.

The verdicts have provoked an outcry among human rights groups and activists inside Indonesia and internationally. Hendaridi, a lawyer with the Indonesian Legal Aid and Human Rights Association, criticised the Soares sentence saying: “The judges are contemptuous of the law by issuing such a light sentence”. Amnesty International issued a statement declaring that “the trials were seriously flawed, have not been performed in accordance with international standards, and have delivered neither truth nor justice.”

The ad hoc human rights court was only established last year by President Megawati Sukarnoputri after the UN Security Council threatened to establish an international tribunal to prosecute those responsible for the violence in East Timor in 1999. From the outset, the court’s mandate was severely circumscribed, dealing only with a limited number of cases in three of East Timor’s 13 districts in the months of April and September. In all, 18 civilians and military officers have been charged but the defendants do

not include any of the military top brass.

The court was heavily weighted in favour of the military from the start. According to the US-based Human Rights Watch, “Twelve obscure academics were appointed... some of whom had associations with senior army officers. Only one of the judges is believed to have any particular expertise in international human rights law, and he is one of those with ties to the military.”

The military made its attitude clear from the outset. On the first day of the trials, a number of top generals including then TNI chief Admiral Widodo Adiscripto and army chief-of-staff General Endiatono Sutarto appeared in court to offer “moral support” to those on trial. The military show of force in the courtroom was aimed at intimidating the judges, prosecutors and witnesses. Fearing for their safety, a number of witnesses simply refused to appear in court.

There has been widespread condemnation of the failure of the prosecutors to present available evidence or to effectively cross-examine witnesses. Amnesty International noted: “Key evidence regarding the direct involvement of the Indonesian security forces in committing serious crimes was not presented in court. Such evidence has been well attested by expert investigations including by Indonesia’s own Commission of Inquiry on Human Rights Violations in East Timor, the UN International Commission of Inquiry and in investigations carried out by the UN Serious Crimes Unit in East Timor.”

Commenting on the Soares verdict, Human Rights Watch official Sidney Jones stated: “When you consider the fact that the prosecution presented almost no evidence, it’s as much a travesty of justice that he was convicted as if he was acquitted.” In other words, the decision to convict Soares and release the police and military officers was made on political grounds, not on the legal merits of the case.

The failure of the court to make even token convictions of the TNI officers directly involved in the East Timor violence is a sharp indication of the degree to which the military has reestablished its political position after being forced onto the defensive by the ousting of Suharto in 1998.

The court rulings are even more striking, given that it could have been predicted in advance that the verdicts would renew the clamour for the UN to establish its own tribunal on East Timor—the very measure that the establishment of the Indonesian court was meant to avoid. The former head of the UN mission to East Timor, Ian Martin, has described the legal proceedings in Jakarta as “an inversion of reality” and called on the “international community” to ensure that justice was served. UN High Commissioner for Human Rights, Mary Robinson, pointedly visited the site of the Suai massacre last weekend and issued a call for an international court to examine human rights violations in the former Indonesian province.

The official reaction in East Timor is divided. President Xanana Gusmao, who has called for “reconciliation” and sought to reestablish ties with Jakarta, is in part responsible for the light sentence handed out to Soares. Arguing that the military not the governor was responsible for the slaughter, Gusmao made a formal appeal to the court calling for leniency. Aware of the widespread anger over the trial result, other members of the government are calling for a UN tribunal.

The criticisms have largely been ignored in Jakarta. The Attorney General’s Office filed an appeal last week in the Supreme Court over the acquittal of the six police and army officers. However, given the weakness of the prosecution case, any appeal is likely to have limited success. Moreover the verdicts in the remaining cases are likely to follow a similar pattern. As Amnesty International observed, “the indictments issued and initial proceedings in these cases are similarly flawed.”

One reason for confidence in Indonesian ruling circles lies in the muted response from Washington. Under the guise of its “global war on terrorism,” the Bush administration has been pushing hard for the reestablishment of close ties to the TNI as part of plans to strengthen the US strategic position in South East Asia. Following the violence in East Timor in 1999, the US Congress placed a ban on the provision of financial or other assistance to the Indonesian military, until those responsible were brought to justice. The trials were regarded in Jakarta as a means for lifting the ban.

Last week US State Department spokesman Philip Reeker issued a mild official criticism of the outcome. “Without commenting on the specific verdicts,” he said, “the US is nevertheless disappointed that prosecutors in these cases did not fully use the resources available to them from the UN.” He noted that the US welcomed the creation of the Indonesian court and was committed to building a closer relationship with Indonesia, including its military. He made no suggestion that the US would support the formation of a UN tribunal, calling instead on the Indonesian government

to ensure that a more effective prosecution is mounted in the remaining cases.

The Bush administration has strongly indicated that the remaining restrictions on US-Indonesian military ties will be lifted. US Secretary of State Colin Powell visited Jakarta in early August and announced US assistance for a broad counterterrorism program involving at least \$50 million over two years. Most of the funding will go to the police, but \$4 million from a newly-created Defence Department fund designed to avoid the Congressional ban, will go directly to the military. Just prior to Powell’s visit, the US Senate Appropriations Committee voted to lift the current restriction on the provision of training to the Indonesian military.

Any push in the UN Security Council for the establishment of international tribunal on East Timor would require the support of the Bush administration. Even if such a body were finally established, its terms of reference would be just as tailored to political requirements as the ad hoc court in Jakarta. None of the major powers want a full and thorough investigation into the brutal crimes of the TNI in East Timor or elsewhere in Indonesia, as it would raise too many questions about their own involvement.

Washington was centrally responsible for installing the Suharto dictatorship in the bloody military coup of 1965-66, which led to the slaughter of at least half a million people. For more than three decades, successive US administration relied on Suharto as a key linchpin in South East Asia and turned a blind eye to all of the junta’s atrocities. In the case of East Timor, the Ford administration gave tacit support for the Indonesian occupation of the former Portuguese colony in 1975, which led to the loss of an estimated 200,000 lives over the next quarter century.

Whatever the outcome of the deliberations in the UN, the East Timorese people will not achieve any genuine justice through an international tribunal set up under its auspices.

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