

## FOR IMMEDIATE RELEASE

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### **Timor-Leste: A Claim for Justice Still Denied**

*Reports Point to Jakarta Trials' Failure to Deliver on Timorese Desires for Justice, Truth, and Accountability*

NEW YORK, August 19, 2003—An analysis of the trials before the Ad Hoc Human Rights Court in Jakarta suggests that Indonesia never seriously intended to fulfill its promise of holding perpetrators accountable for the violence following the East Timorese vote for independence in 1999, while a survey of a cross-section of Timorese people indicates that their desire for justice has not diminished, the International Center for Transitional Justice (ICTJ) said in two commissioned reports released today.

In its 75-page report, "Intended to Fail: The Trials Before The Ad Hoc Human Rights Court in Jakarta," authored by David Cohen of the University of California, Berkeley, the ICTJ carefully evaluates the credibility of the 12 trials that have taken place before the Court since March 2002. As a result of these trials, only 6 of the 18 defendants—including Indonesian Army officers (TNI), a militia leader, and police and civilian officials—have been convicted of crimes against humanity, receiving sentences ranging from 3 to 10 years. The most important of these trials was the prosecution of Major General Adam Damiri, who was regional commander of the military region including East Timor and who just last week was convicted, despite prosecutorial demands for his acquittal. He was sentenced to three years in prison—a sentence less than the minimum required by law.

The ICTJ report states that despite the efforts of some judges to ensure the fairness of the trials, the lack of political will on the part of the Attorney General's office and the Indonesian government to prosecute and accept the outcome of the legal process was the central underlying factor contributing to its failure to achieve accountability, justice, and truth. The report concludes that the trials as a whole must be regarded as a failure on every level, including:

- The failure of the prosecution in almost all of the trials to press its case with professional commitment and to produce sufficient inculpatory testimony and documents, despite the ready availability of that evidence;
- The failure of the prosecution to present a coherent and credible account of the violence in East Timor sufficient to justify convictions in crimes against humanity cases;

- The failure to establish the individual criminal responsibility of those at the highest levels of the military and political institutions involved in planning or permitting the crimes (which is integral to establishing institutional responsibility); and

The failure to fulfill the trials' "truth function," a central objective of human rights and war crimes tribunals.

In keeping with the ICTJ's victim-centered and consultation-based approach to providing technical assistance, its 55-page report, "Crying Without Tears: In Pursuit of Justice and Reconciliation in Timor-Leste: Community Perspectives and Expectations," authored by Piers Pigou of the Centre for the Study of Violence and Reconciliation (CSV) in South Africa, is based on a focus group methodology implemented by the National Democratic Institute (NDI). The report examines the expectations, concerns, opinions, and attitudes of a representative cross-section of ordinary Timorese people about issues of violence and conflict, truth recovery, justice, accountability, reconciliation, and forgiveness. As Timorese politicians debate and struggle with issues of accountability and justice, "Crying Without Tears" makes a serious contribution to this important debate by giving a voice to victims and ordinary people. For many of those who participated in these focus groups, this was the first opportunity they had been given to discuss these issues. The picture drawn by their opinions should inform key international and national stakeholders and policymakers as they discuss how to ensure justice and peace in Timor-Leste.

The ICTJ report found that most focus group participants felt it was extremely important for the Timorese to know the truth about the 1999 violence and for perpetrators to be held accountable for the vast human rights violations inflicted on the East Timorese. Although most participants identified Indonesia and its leadership as the primary perpetrator, many recognized the role that some Timorese played in the crimes. The report indicated that many regarded establishing accountability and meting out punishments proportionate to the crimes committed, as integral components of the reconciliation process. Finally, the report concluded that despite the fact that justice remains largely intangible for most Timorese victims of human rights violations and that many still suffer from acute social and economic deprivation, the need and desire for justice among the participants remains a powerful driver.

"These two reports highlight the fact that even though justice has not been achieved by the Jakarta trials, the demand for justice and accountability among a broad cross-section of the Timorese people has not waned," said Ian Martin, vice president at the ICTJ. "Justice for the atrocities that occurred in 1999 is not only key to ending the impunity of the Indonesian army, currently engaged in fighting in Aceh, but is also essential to the integrity of the international community as a whole, and to the UN in particular. Now that the Jakarta trials have ended, these reports will be critical to two important efforts: the first, to inform the UN and other interested parties about the reasons behind the failure of the trials; and the second, to encourage policymakers to take seriously the opinions of the Timorese people in devising an appropriate course of action to address the still critical issues of justice and accountability in Timor-Leste."

## **The ICTJ in Timor-Leste**

The ICTJ has been involved in helping Timor-Leste deal with the legacy of past human rights abuse since 2001. The Center has been closely involved in the creation of the Commission for Reception, Truth and Reconciliation (CAVR) and in providing technical advice and assistance as it has progressed. The ICTJ has also worked closely with the Serious Crimes Unit and the UN Missions in Timor-Leste to try to help ensure that their efforts were as effective as possible in bringing perpetrators to justice.

## **About the ICTJ**

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through non-judicial means such as truth commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments and others.

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