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6 August 2003

**JSMP : COURT IN JAKARTA COMPLETES THEATRICAL PERFORMANCE**

The sentencing of Major General Adam Damiri to three years imprisonment for crimes against humanity in a sentence handed down on Tuesday brings to a close a process that is widely regarded internationally as both a tragedy and a farce. Damiri is the last and most high ranking of 18 defendants to be tried and sentenced by the ad hoc Human Rights Court in Jakarta.

Adam Damiri is the former Indonesian military Commander who oversaw all military operations in East Timor in the lead up to the popular consultation and the ensuing TNI sponsored violence involving murder, arson, rape and forced deportation of 250,000 people. Damiri was charged with “command responsibility” for these crimes by failing to prevent troops under his command and effective control from committing grave human rights violations.

The court found Damiri guilty of having failed to prevent the killing of 153 people during five separate incidents. These include the attack and killing of 22 civilians sheltering in the Liquica church led by the Indonesian army, the attack on Manuel Viegas Carascalao’s house by the TNI and militia resulting in 11 dead, the attack on Bishop Belo’s office with around 20 dead and the attack on Suai Ave Maria church with at least 27 dead including 3 priests.

“Although the guilty verdict came as something of a surprise the sentence of three years is essentially meaningless. Not only is it less than the minimum sentence of ten years, it also mocks the gravity of the crime. It is also meaningless because we know that all of the other five convicted and sentenced to jail in this process still walk the streets, pending appeals. We don’t expect that any of them will serve time for these of crimes.” said JSMP

The court has previously convicted two members of the TNI, one member of POLRI and two East Timorese including the former Governor of East Timor Abilio Osorio Soares and Eurico Guterres, a renowned militia leader. Twelve accused have been found not guilty.

The ad hoc Human Rights Court has been widely criticized for its limited mandate and procedural flaws with Indonesian prosecutors failing in their duty under international law to bring effective prosecutions against the accused. These failings include presenting indictments which do 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.

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.

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 documented 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;

“Throughout the trials the international community demanded that the Indonesian Government strengthen the process in order to deliver credible outcomes and justice. This did not happen. It is now time for the UN to follow through on its commitments to deliver justice and pursue the recommendations of its own International Commission of Inquiry on East Timor to establish an international criminal tribunal. It needs to be remembered that these were not ‘only’ crimes committed against East Timorese people but Crimes Against Humanity.” said JSMP

#### 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 and other inhumane treatment, 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.. 85% of East Timor's infrastructure 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.

East Timor's Serious Crimes Unit has also filed an indictment against Damiri charging him with five counts of crimes against humanity for murder, persecution, and deportation or forcible transfer of the civilian population. The failure of the Indonesian Government to cooperate with the Serious Crimes Unit means that many high-ranking Indonesian officials have escaped trial in East Timor.

For more information or to arrange an interview contact the Judicial System Monitoring Programme in Dili, East Timor on +670 390 323 883, +670 7233726 or email [info@jsmp.minihub.org](mailto:info@jsmp.minihub.org) ( [www.jsmp.minihub.org](http://www.jsmp.minihub.org) )