



The Indonesia- East Timor 'Truth and Friendship Commission': More Friendship, Less Truth, Impunity from the Law

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It was announced on 21 December 2004 that the governments of East Timor and Indonesia had agreed on the formation of a Truth and Friendship Commission to look into the Referendum-related violence which took place in East Timor in 1999, however, the precise details as to how this will be achieved remain unclear. What is clear in JSMP's view is that the individuals who are primarily responsible for the brutal crimes perpetrated against the Timorese people will be neither identified nor held to account by the Commission for their actions in orchestrating the destruction of East Timor.

As Jose Ramos-Horta, Foreign Minister for East Timor, has said, the work of the Commission "would finally close this chapter. We would hope and intend that this initiative would resolve once and for all the events of 1999". JSMP has been informed by the East Timor Ministry of Foreign Affairs that the powers and mandate of the Commission will be determined by the end of this month when the terms of reference are agreed upon by the governments of East Timor and Indonesia.

The Jakarta trials are widely regarded, both by international NGO's and governments (including that of the US) as a whitewash. The fact that four of the total six convictions issued by the Jakarta Court have been overturned on appeal and that the remaining two are pending appeal indicates that this process was neither independent nor impartial.

The UN Tribunal in Dili has to date convicted 72 persons of offences committed in 1999, however, nearly all convictions were of low level Timorese functionaries. The senior military officers who have been indicted, and who are alleged to bear principal responsibility for the violence, remain in Indonesia, shielded behind a wall of impunity. Whatever the standard of the Jakarta and Dili trials, it is clear that they have failed to meet the UN demands made in Security Council Resolution 1272 that "***all those responsible for such violence be brought to justice***".

The failure to bring the principal perpetrators to justice has brought calls from prominent international NGO's and governments for the UN to investigate the quality of the trials. Kofi Annan, with the support of a number of major member states, is now spearheading UN efforts to establish a Commission of Experts ("COE") which will assess whether these trials were impartial and in accordance with standards of international law. If the COE is established and finds that the trials fall short of these standards, the international community has a duty to ensure the perpetrators are tried before a tribunal which does accord with international standards.

The fact that the Truth Commission proposal was announced at a time when steps are being taken to establish the COE is no coincidence – it has been openly acknowledged by both governments that the Commission is intended to block the progress of the COE initiative. East Timor's eagerness to halt further investigation of 1999-related violence is

explained by its well-publicised desire to prioritise good relations with its neighbour. It is for this reason, amongst others, that crimes committed against *humanity* are a matter of concern for the entire international community. They cannot be ignored or disposed of as a matter of bilateral political concern.

The intended role of the Commission and the spirit in which it was agreed upon are perhaps best summed up by its chosen title, 'The Truth and Friendship Commission'. The need to denounce impunity and to bring to justice those responsible for 24 years of brutality must not be sacrificed on the altar of political friendship on which the proposed Commission is based.