
East Timor

Since gaining its independence on May 20, 2002, after two-and-a-half decades of Indonesian occupation, East Timor has taken important steps to protect human rights. East Timor's new constitution includes significant rights guarantees and, with the support of the United Nations, the government has moved forward in a number of areas including policing. In December 2002 East Timor's first government, under the presidency of former guerilla fighter Xanana Gusmao, signed all main United Nations human rights treaties.

East Timor still faces myriad problems caused by the legacy of Indonesia's brutal occupation and the destruction of much of the country's limited infrastructure by withdrawing Indonesian troops following the U.N.-supervised referendum on independence in 1999. East Timor faces severe economic hardship, and has yet to rebuild much of what was destroyed. U.N. peacekeeping forces remain deployed in the country because of sporadic but at times lethal border raids by militias based in Indonesian West Timor.

Efforts to bring Indonesian military and militia leaders to justice for the killing of more than one thousand East Timorese after the 1999 referendum have been frustrated by lack of resources, poor cooperation from Indonesia, and systemic problems in East Timor's criminal justice system.

Justice and Reconciliation

Important obstacles to justice remain for victims of the violence that accompanied Indonesia's rule and eventual withdrawal from East Timor. In 1999 alone, an estimated 1,400 political murders were committed while a large U.N. mission, present in East Timor to supervise and monitor the independence referendum, stood helplessly by. Few perpetrators and no high-level officers have been prosecuted. There has been no judicial accounting whatsoever for previous atrocities committed during Indonesia's twenty-four-year occupation of the former Portuguese colony.

In late 1999, the United Nations Transitional Administration in East Timor created the Serious Crimes Investigation Unit (SCIU) to investigate and prosecute cases in front of two Special Panels for Serious Crimes (Special Panels) of the Dili District Court. Now under the authority of East Timor's prosecutor general, the SCIU is responsible for preparing indictments against those responsible for crimes against humanity and other serious crimes committed in East Timor in 1999.

The two Special Panels are part of the Dili District Court system, and are comprised of one East Timorese and two international judges. They have exclusive jurisdiction over murder and sexual offenses that were committed in East Timor between January 1, 1999, and October 25, 1999, but also have

jurisdiction over genocide, torture, war crimes, and crimes against humanity committed before 1999. The first Special Panel commenced operations in January 2001.

While the SCIU has been largely successful in prosecuting lower ranking East Timorese militia in Dili's district court, the Indonesian architects of the 1999 violence remain at large in Indonesia. International pressure and arrest warrants have failed to ensure extradition of these defendants to Dili for trial.

Among those wanted are former Indonesian minister of Defence and Armed Forces Commander Wiranto, six high-ranking Indonesian military commanders, and the former governor of East Timor who were indicted by the SCIU on February 24, 2003. All remain at large in Indonesia.

Calls in 1999 and 2000 for the establishment of an international tribunal were blunted when the U.N. secretary-general entrusted Indonesian authorities with responsibility for pursuing justice for the 1999 crimes, believing that domestic trials should be the first recourse for East Timor's victims. However, despite significant international pressure and interest, trials of senior Indonesian officers in Jakarta failed to give a credible judicial accounting for the 1999 atrocities. Twelve of the eighteen defendants were acquitted. Four defendants who were found guilty received nominal sentences, which were all overturned on appeal. The appeals court upheld guilty verdicts for the two East Timorese defendants on trial, one of which was overturned by Indonesia's Supreme Court in November 2004.

These results have created widespread cynicism among the East Timorese public, who questions the fairness of a process that leads to the prosecution of relatively low-ranking Timorese in Dili while the sponsors of the violence remain free—and in many cases politically prominent—in Indonesia. East Timorese leaders, most notably President Xanana Gusmao, have publicly stated an unwillingness to pursue justice through the courts, instead preferring a reconciliation-based approach. However, Foreign Affairs Minister and Nobel Prize Laureate Jose Ramos Horta has publicly supported the idea of a U.N. commission to explore future options for justice.

Due to lack of donor support, the SCIU is scheduled to finish all pending investigations by December 2004, with trials slated to end by May 2005. As a result, the Special Panels are not likely to address the vast majority of political murders that took place in 1999.

At this writing, it was expected that by December 2004 or early 2005, U.N. Secretary-General Kofi Annan would announce the establishment of a commission of experts. The commission likely will be charged with assessing the successes and failings of both the Jakarta ad hoc trials on East Timor and the parallel process at Dili's Special Panels for Serious Crimes.

The Commission for Reception, Truth and Reconciliation in East Timor (Comissao de Acolhimento, Verdade e Reconcilio de Timor Leste, CAVR) is a national, independent, statutory authority mandated to undertake truth-seeking, facilitate community reconciliation, report on its work and findings, and

make recommendations for further action. Complementing the work of the SCIU, the CAVR has been largely successful in its initial efforts to promote community-based national reconciliation, an ambitious task after twenty-five years of violence in East Timor.

East Timor's national judiciary and criminal justice system remain weak, under-resourced, and overburdened. As a result of insufficient staffing, the Court of Appeal was shut down for eighteen months in 2002 and 2003. Due to public frustrations with formal judicial processes, many serious crimes, including rape and domestic violence, are habitually referred to traditional customary law mechanisms rather than to the courts. Such mechanisms lack basic due process protections and regularly fail to provide justice for victims, especially victims of sexual violence.

Police

The National Police Service of East Timor (Policia Nacional de Timor-Leste, PNTL), overseen by the United Nations, has grown in strength and expertise. However, the service remains fragile and underdeveloped with inadequate training and resources to maintain law and order in a manner consistent with international human rights standards. Reports continue of excessive use of force by police when arresting suspects and abuse of detainees in police detention. The PNTL has now taken over full control of East Timor's thirteen districts from U.N. civilian police.

Key International Actors

The United Nations continues to have a presence in East Timor. Although armed U.N. peacekeepers are likely to remain in the country for the foreseeable future, the civilian arm of the United Nations Mission of Support in East Timor (UNMISSET) started phasing out in May 2004, and the Mission is scheduled to finish in May 2005.

East Timor remains in desperate need of long-term international financial assistance and receives its largest financial contributions from Japan, Portugal, the United Kingdom, the European Union, the United States, and Australia.

East Timor continues to have cordial relations with Indonesia, its largest trading partner. Unresolved issues continue to be negotiated through a series of bi-lateral talks between the two countries, including the official border demarcation and how to resolve the ongoing problem of East Timorese refugees and missing and separated children in Indonesia.