

# Indonesian court delivers token guilty verdict in East Timor cases

John Roberts

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Verdicts delivered late last month in Jakarta by the Indonesian government's ad hoc court trying cases of human rights abuses in East Timor in 1999 underline the cynical nature of the judicial proceedings.

On November 27, Eurico Guterres, the leader of the Dili-based Aitarak militia, was sentenced to 10 years imprisonment for his part in 12 murders at the house of East Timorese pro-independence politician Manuel Viegas Carrascalao on April 17, 1999. Presiding judge Herman Heller Hutapea ruled that Guterres incited his followers to attack the house and made no effort to stop the killings once they began. Guterres was guilty "of gross rights violations and crimes against humanity," the judge declared.

The sentence, the lightest that could have been imposed, will not be served immediately. Despite the seriousness of the charges, Guterres will remain free while he appeals his conviction in the Indonesian Supreme Court.

Nevertheless, Guterres reacted angrily to the sentence, denouncing the trial because the Indonesian military and police officers who organised the violence in East Timor went unpunished. "It is unfair," he said, "that a civilian like me must serve 10 years in jail, but all the military and police officers were acquitted even though they were responsible for the violence. What I did was try to maintain the unity of Indonesia, but now I have to go to jail."

The outburst contrasted to his swaggering when he first appeared before the court. Guterres evidently expected his high-level patrons in Jakarta to ensure his acquittal.

His comments provide further confirmation that the top echelons of the Indonesian military were involved in directing the militia violence against pro-independence supporters, prior to and following the UN-

supervised referendum on the status of East Timor in August 1999. At least 1,000 people lost their lives and another 250,000 were forced to flee their homes.

None of the TNI top brass implicated in the violence has been brought to trial and, to date, none of the middle level officers charged have been found guilty.

On November 29, the court acquitted Lieutenant-Colonel Endar Priyanto, the former army commander in Dili, over the same incident for which Guterres was convicted. Later in the day, it acquitted three others for their part in the April 6, 1999 massacre in a Liquica church, where at least 22 people died. They were the former district military commander Lieutenant-Colonel Asep Kuswani, the local police chief Lieutenant-Colonel Adios Salova and the district head Leonita Martins. According to the court, "there was no effective command relation between the defendants and the Besi Merah Putih militia group" that carried out the massacre.

In contrast to the end of the Guterres trial, there were celebrations as senior military officials in the courtroom rose to their feet and hugged the accused.

The November verdicts mean that of the 18 formally charged over the East Timor killings, 12 have now been tried, of whom only two have been convicted. They are Guterres and another East Timorese civilian, former governor Abilio Soares, who was sentenced to three years imprisonment in August for failing to control his subordinates in four incidents that led to 100 deaths. Not one member of the Indonesian armed forces (TNI) or police has been convicted.

In none of the trials has the objective presentation of evidence or any concern for justice for the victims of the 1999 violence played a part. Sidney Jones, the director of the Brussels-based International Crisis Group's Indonesian office told the *New York Times*: "It

looks increasingly as though a deal was done between the prosecutor and the army to ensure that all officers were acquitted.”

An article in the *Australian* on November 25, two days before the Guterres verdict, pointed to the political considerations behind his conviction. The newspaper’s Jakarta correspondent reported a discussion with the prosecutor, Muhammad Yusuf, who said he was confident of a conviction because one of the judges, Roky Panjaitan, told him that Guterres could not go free. The judge said he “was embarrassed” by public criticism of the growing list of acquitted police and military officers.

A conviction was needed to salvage some credibility for the special court under conditions where the TNI brass had made it clear that they did not want any officers convicted. Similar calculations were involved in August when Soares was convicted, while six officers were released.

In sentencing Guterres, the court indicated that there might yet be a token conviction of a military figure. The court singled out former East Timor commander Brigadier-General Tono Suratman, who is yet to stand trial, for ignoring a warning about the April 17 attack in Dili. At most, however, the judges appear to be preparing for a neglect of duty conviction.

Indonesian President Megawati Sukarnoputri was forced to set up the special court in July 2001 under international pressure. Some show of dealing with those responsible for the Timor atrocities was needed to prevent an international tribunal being convened and to reverse a US ban on military ties with Indonesia. The US Congress blocked assistance to the TNI until those responsible for the 1999 violence were brought to justice.

From the start, however, Megawati was keen not to alienate the generals who played a key role in installing her in office and with whom she shares a determination, reinforced by the separation of East Timor, to crush the separatist movements in Aceh and Papua.

Throughout the trials, the prosecution has not presented any evidence of the scale of events in East Timor or the links to the highest levels in Jakarta’s military and government apparatus. Such evidence was available in reports from the Indonesian Commission of Inquiry on Human Rights Violations in East Timor and the UN Serious Crime Unit’s International

Commission of Inquiry.

Moreover, in March this year documents leaked in the Australian press revealed that the Australian Defence Signals Directorate had intercepted communications from Jakarta directing militia activity in Timor. Among those involved were the current TNI intelligence chief Lieutenant-General A.M. Hendropriyono and TNI spokesman Major-General Sjafrie Sjamsuddin.

The judicial farce can be understood in part by the shift in the international climate since the September 11, 2001 terrorist attacks on the US. The Bush administration has been pressuring the US Congress to lift the ban on relations with the TNI as part of its assertion of US strategic interests in East Asia. As a result, it was no longer so important that justice was even seen to be done in the East Timor trials.

The International Crisis Group’s Sidney Jones noted in the *Australian* that because of Bush’s “war on terror” the importance of the East Timor trials has diminished in the West, particularly in the US. “It’s fallen so far below the radar screen, it’s out of sight now. I’ve got the impression no one is paying attention to the Timor trials—it’s not on anyone’s agenda now,” she said.

The Congressional ban is due to be tested next month when a \$400,000 grant to the TNI under the US International Military Education and Training Program (IMET) faces its final hurdle. In all likelihood, the verdict of the Jakarta court will be ignored and the measure given the appropriate stamp of approval.



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