

# Indonesian military court hands out light sentences for murder of Papuan leader

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A military court in the Indonesian city of Surabaya last week sentenced seven Kopassus soldiers to jail terms of between 24 and 42 months for the murder of Papuan leader Theys Eluay in November 2001. Announcing the verdicts, the court martial president Colonel Yamini declared: "The defendants have been legally and convincingly proven guilty of torturing [Eluay] to death."

But the sentences handed down on April 21 amount to little more than a slap on the wrist for those directly involved. The main purpose of the trial was to cover up the involvement of the military top brass who undoubtedly had a hand in organising and directing this brutal political murder.

The commander of the Kopassus special forces unit in West Papua was sentenced to 42 months jail as was the soldier convicted of actually strangling Eluay. The others involved terms ranging from 24 to 42 months. Most, but not all, were discharged from the army. All seven are appealing their convictions and sentences.

The court decision provoked widespread protests. Indonesian civil rights lawyer Hendardi denounced the sentences as "too lenient" and added: "We don't even see the highest-ranking officers with command responsibilities on trial."

Papuan Presidium member Willy Mandowen declared that Indonesian authorities were "castrating the case". "[W]hy Theys was killed, who is responsible and who gave the order were questions not addressed in the military trial... The process only sacrificed soldiers and the feeling of justice of the Papuan people," he exclaimed.

A spokeswoman for the Brussels-based International Crisis Group, Sidney Jones, said that the conduct of the Eluay trial showed that efforts to reform the Indonesian military had collapsed. "[T]here's no international

pressure to reform and no drive within the cabinet (of President Megawati Sukarnoputri). So no justice, no accountability and no reform."

Of course, the military would have preferred that none of its members were put on trial. After Eluay's body was found on November 11, 2001, Jayapura police chief explained that Eluay had been strangled and his car upturned to make his death look like an accident. What followed, however, was a series of implausible and contradictory explanations aimed at diverting attention from the Indonesian armed forces (TNI).

The provincial military chief Major-General Mahidin Simbolon declared on November 13 that Eluay had died of a heart attack. A doctor at the Jayapura General Hospital even claimed that the Papuan leader hanged himself. National Police spokesman Saleh Saaf told the *Jakarta Post* that Eluay had been murdered by his own men for advocating a peaceful independence movement.

It soon emerged, however, that the Papuan leader had dined with Kopassus Lieutenant-Colonel Hartomo on the night of November 10 and had been killed after leaving the dinner. Hartomo and six of his subordinates were eventually charged over the death but every effort was made to ensure the crime was presented as a spur of the moment decision carried out without the knowledge of the TNI leadership.

The prosecution charged the seven with "unpremeditated murder". Despite the seriousness of the crime, which carries a maximum sentence of 15 years jail, the prosecutor only called for token terms: three years for Private Ahmed Zulfahmi who was convicted of strangling Eluay and lesser sentences on three other soldiers. The accused should only be found guilty of "carrying out an assault that resulted in the

death of the victim,” the chief military prosecutor Haryanto told the court.

According to the prosecution, Hartomo had only ordered his men to frighten Eluay into dropping his call for Papuan independence. The decision to kill Eluay was made by Private Zulfahmi after an argument broke out over Jakarta’s plans for Papua. Zulfahmi strangled Eluay in front of six witnesses—five other Kopassus soldiers and Eluay’s driver, Aristoteles Masoka. The defence claimed that the Kopassus soldiers assaulted the victim but did not kill him.

Both versions are highly improbable. Even on the evidence presented at the court martial, the killing has all the hallmarks of a well-planned assassination.

Eluay was invited to dinner to discuss his stance on Jakarta’s plans for the province and accompanied from the meal by six soldiers in two cars. The murder conveniently took place on an isolated stretch of road in the dead of night. The soldiers arranged the scene to look like an accident. The only independent witness, Masoka, disappeared after a mobile phone call to relatives warning of the attack and has not been seen since. In all likelihood, the driver was murdered as well and his body disposed of.

The notion that the murder of one of Papua’s most prominent political leaders was carried out on the spur of the moment by a private, or even the local Kopassus commander, without the knowledge and involvement of the military high command is simply absurd. Just who ordered Eluay’s murder is not known but the political context makes clear that the TNI top brass gave at least tacit approval.

In July 2001, after a protracted and bitter impeachment process, the military played a central role in ousting President Abdurrahman Wahid and installing Megawati Sukarnoputri in his place. The TNI’s opposition to Wahid stemmed in large part from his willingness to negotiate with independence supporters such as Eluay in West Papua, and also in Aceh. These resource-rich provinces are important both to the Indonesian economy and to the military, which gains a significant proportion of its finances from a variety of legal and illegal commercial activities.

The TNI leadership backed Megawati because of her willingness to support a crackdown on any independence movements. At the time of his murder, Eluay and four other members of the Papuan Presidium

were on trial for treason because of their pro-independence stance. Since then the military has continued its repression of pro-independence supporters.

The TNI has been further encouraged by Washington’s attempts to reestablish close ties between the US and Indonesian military. These relations were formally ended by a US Congressional ban following military-organised violence in East Timor in 1999 that resulted in the death of at least 1,000 East Timorese.

The Bush administration, in particular, which views the military as the only reliable guarantor of political stability in Indonesia, has been keen to overturn the ban. Last year it pressured the US Congress to grant \$400,000 to the TNI under the International Military Education and Training Program (IMET)—the first breach in the congressional ban.

The resumption of military training took place despite an ambush last August near the US Freeport-McMoRan mine in Papua which resulted in the deaths of two American teachers. Evidence points to the involvement of military personnel in the attack. The US Embassy in Jakarta denounced the ambush as “an outrageous act of terrorism” and FBI officials visited the province but no further action was taken.

The light sentences handed out to the murderers of Eluay are a further indication that the TNI leadership feels that it has the tacit support both of Jakarta and Washington no matter what its crimes. The fact that Megawati has not pressed for a full investigation of the killing and the Bush administration has made no comment on the outcome of the court martial will only embolden the military to assert itself even more aggressively—in Papua and elsewhere.



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