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Chronology of Justice and Accountability for East Timor September 1999 – October 2001

1999

- 22 Sept:** The Habibie government gives its approval to Komnas HAM to form the Commission of Inquiry into Human Rights Violations in East Timor (KPP-HAM) to investigate human rights crimes committed between Jan. and Oct. 1999.
- 23 Sept:** Mary Robinson, the UN High Commissioner for Human Rights, calls for an international inquiry into the massacre of civilians in East Timor, saying Indonesian security forces were involved in the rampage.
- 27 Sept:** The United Nations Commission on Human Rights (UNCHR) passes resolution 1999/S-4/1 during an extraordinary session in Geneva. It calls upon Secretary-General Kofi Annan to establish an international commission of inquiry into gross human rights violations in East Timor. The resolution also requests the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture and the Special Rapporteur on violence against women, its causes and consequences to carry out missions to East Timor and to report back to the UNCHR and the General Assembly.
- 28 Sept:** The Indonesian government rejects the international inquiry, but requests the UNCHR's cooperation with its own investigation. The UNCHR accepts.
- 8 Oct:** President B.J. Habibie signs a government regulation enabling Komnas HAM to establish a tribunal to prosecute civilians and soldiers for future human rights violations. Indonesia's parliament rejects the regulation in March 2000.
- 15 Oct:** The Office of the High Commissioner for Human Rights appoints a team of five experts to conduct the international inquiry.



- 25 Oct:** The UN Security Council passes resolution 1272/99, establishing UNTAET. On the same day, Indonesia formally withdraws from East Timor and hands over authority to the United Nations.
- 4-10 Nov:** The three UN Special Rapporteurs visit East Timor. Despite a desire to visit Jakarta and West Timor as part of their investigation, they do not do so as the Indonesian government defers a response to their request.
- 21 Nov:** Richard Holbrooke, the Clinton administration's UN ambassador, calls upon Indonesia to account fully for its crimes at a press conference in Jakarta.
- Dec:** INTERFET transfers full authority for serious crimes investigations and its case files to CivPol.
- 10 Dec:** The UN special rapporteurs' report implicates the TNI, along with militia, for crimes including "murder, torture, sexual violence, forcible transfer of population and other persecution and inhumane acts, including destruction of property," crimes "committed on a scale that is widespread or systematic or both" They recommend that "the Security Council . . . consider the establishment of an international criminal tribunal" unless Jakarta produces credible results from its investigation and promised prosecution of those responsible for the 1999 terror in East Timor "in a matter of months." The tribunal, they assert, "should have jurisdiction over all crimes under international law committed by any party in the Territory since the departure of the colonial Power [Portugal]."

2000

- Jan:** UNTAET appoints the first East Timorese judges and prosecutors.
- 31 Jan:** The United Nations International Commission of Inquiry on East Timor (ICIET) report concludes by calling upon the UN to "establish an international human rights tribunal consisting of judges appointed by the United Nations"—a step, according to the Commission, "fundamental for the future social and political stability of East Timor." The Commission finds evidence of "a pattern of serious violations of fundamental human rights" and expresses "the view that ultimately the Indonesian Army was responsible for the intimidation, terror, killings, and other acts of violence." That the "actions violating human rights and international humanitarian law in East Timor were

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directed against a decision of the United Nations Security Council . . . and were contrary to agreements reached by Indonesia with the United Nations to carry out that Security Council decision” make it all the more necessary for international prosecution, according to the Commission.

On the same day, KPP-HAM releases its report stating that “gross violations of fundamental human rights have been carried out in a planned, systematic and large-scale way in the form of mass murder, torture and assault, forced disappearances, violence against women and children (including rape and sexual slavery), forced migration, a burnt-earth policy and the destruction of property.” The report specifically names General Wiranto, the head of the TNI in 1999, and Major-General Zacky Anwar.

Indonesian President Abdurrahman Wahid rejects the ICIET’s recommendation for an international tribunal, but voices support for the domestic investigation and trial of at least 33 people accused of gross crimes.

Feb: Indonesia’s Attorney General, Marzuki Darusman, states that it will take three months to decide whether to file charges against those accused by the Komnas HAM investigation.

18 Feb: In its response to the report, the UN Security Council calls upon Indonesia to bring the perpetrators to justice “as soon as possible” and to “institute a swift, comprehensive, effective and transparent legal process, in conformity with international standards of justice and due process of law.”

22 March: Sergio de Mello formally shifts responsibility for investigation into “serious crimes” to a special unit within CivPol headed by UNTAET’s Human Rights Unit.

6 April: UNTAET and the Indonesian government sign a Memorandum of Understanding on legal exchange and cooperation. The document obligates the two parties to “afford to each other the widest possible measure of mutual assistance.” The Indonesian authorities, however, do not co-operate, refusing UNTAET investigators access to witnesses they have traveled to Jakarta to interview on several subsequent occasions.

6 June: UNTAET creates a prosecutors office to lead investigations into serious crimes. It also establishes the Special Panels for Serious Crimes of the Dili District Court. Each panel consists of one East Timorese and two international judges. The panels have the power to try cases of genocide, war crimes, torture and crimes against humanity (irrespective of time) as well as murder and sexual offenses committed between 1 January and 25 October 1999.

4 July: Over 50 East Timorese protestors calling themselves “The 1975-1999 Alliance for Justice” gather in front of the United States Liaison Office in Dili. The group makes a series of demands relating to U.S. complicity in Indonesia’s invasion and occupation of East Timor, including the release of government documents, a formal investigation and apology, reparations and active support for an international criminal tribunal.

5 July: The International Federation for East Timor sends a letter to Kofi Annan signed by 80 groups from across the world. The signatories call upon the Secretary-General

“to recommend to the Security Council that it takes immediate steps to establish an international tribunal for East Timor.”

Early Aug: At a public meeting in Dili with UN High Commissioner for Human Rights Mary Robinson, East Timorese call for the proposed international tribunal to cover crimes committed prior to 1999.

18 Aug: Indonesia’s parliament passes a constitutional amendment prohibiting prosecution for crimes that did not constitute an offense at the time of their commission, potentially disallowing prosecution of individuals for war crimes or crimes against humanity committed in East Timor or Indonesia prior to the amendment.

28 Aug: Various international solidarity organizations and individual activists write to the delegates of the CNRT Congress, expressing their concern about the CNRT’s lack of discussion on the mass killings and destruction committed during the 1975-1999 period, and the need for accountability for these crimes.

31 Aug: During a meeting with a visiting delegation of European Parliament members, Indonesia’s Justice and Human Rights Minister, Yusril Ihza Mahendra, warns that international pressure on Jakarta for prosecution of human rights abuses committed in East Timor could backfire. “[W]e could also demand the Dutch and the Japanese governments [to compensate] for [past] war crimes committed during the independence war and their periods of occupation here,” he says.

30 Oct: Xanana Gusmão warns against focusing too much on individual militia leaders, stating that responsibility for the 1999 crimes should not be “individualized.” He states that greater efforts must take place to bring Indonesian generals to justice.

4 Nov: Sergio Vieira de Mello states that Jakarta deserves “a bit more time” to prove that it is serious about investigating and prosecuting those responsible for crimes committed in 1999.

6 Nov: Indonesia’s parliament passes a law on the establishment of a human rights court.

Nov: Indonesian Attorney General, Marzuki Darusman, states that Jakarta will prosecute 22 suspects implicated in crimes against humanity in East Timor in January 2001.

20 Nov: A UN Security Council Mission to East Timor and Indonesia issues a report, noting that “UNTAET is facing significant difficulties in bringing to justice those responsible for the serious violations of human rights that occurred in East Timor in 1999.” The report urges “that measures be undertaken to address this problem in order to respond sufficiently to the expectation of East Timorese for justice.” During the visit to Indonesia, Jakarta reaffirms its commitment to investigate and prosecute those suspected of carrying out the 1999 crimes.

1 Dec: An international coalition of “Christian organizations and churches in long-standing partnerships with the Catholic and Protestant Christian congregations in East Timor” issues a statement calling for “an international ad hoc tribunal in which both Indonesia and East Timor will participate.”

11 Dec: UNTAET announces the first twelve indictments for serious crimes committed in 1999. Most were against relatively low-level militia members already in detention. One indictment cites crimes against humanity and involves an Indonesian official in Indonesia.

2001

Jan: The first Serious Crimes trial opens before the Special Panel of the Dili District Court. Former militia member João Fernandes confesses to the murder of a pro-independence activist.

25 Jan: Human Rights Watch releases a statement saying that “There has been no evidence—in either Jakarta or Dili—of a systematic strategy to prosecute the top militia commanders or the Indonesian officers behind them.” “All the key perpetrators of the 1999 violence remain in Indonesia, and prosecutions there are totally stalled,” states a spokesperson.

A panel of three judges sentences João Fernandes to twelve years in prison.

30 Jan: Twenty-nine members of the U.S. Congress write to American Secretary of State Colin Powell stating, “The time has now come for the United States government to unequivocally support an international tribunal for war crimes and crimes against humanity committed in East Timor.”

6 Feb: The Special Panel of the Dili District Court issues the second indictment of crimes against humanity, indicting five persons, including a TNI officer for murder, rape, torture, unlawful deprivation of liberty, inhumane and degrading treatment and persecution, crimes allegedly committed before and after the popular consultation in Lolotoe sub-district, Bobonaro district, by TNI members and local militia.

14 Feb: Foreign Minister Alwi Shihab brags to Indonesian legislators that Jakarta had succeeded in changing the human rights violations in East Timor from being an international issue into a national one. “In short, Indonesia refuses to hand over its citizens [to international bodies for prosecution],” he says.

5 March: José Ramos-Horta states that “If Indonesia proves incapable of bringing the culprits to justice, we believe the UN Security Council will have no alternative but to create an *ad hoc* tribunal for East Timor.”

14 March: The Free East Timor Japan Coalition writes to Japanese Minister of Foreign Affairs, Yohei Kono. The group calls upon the Japanese government to work for a resolution that calls for the “establishment of an international tribunal to prosecute crimes against humanity and war crimes committed in East Timor” at the upcoming meeting of the UN Human Rights Commission. The coalition also calls upon Tokyo to seek “clarification, as part of any investigation into crimes against humanity and war crimes committed in East Timor, of the responsibility borne by countries which provided financial assistance, weapons and diplomatic support to the Indonesian government and military.”

March: UNTAET requests UN Headquarters to send expert Mary Fisk to East Timor to investigate the problems with the Serious Crimes Unit. Her report, which *La’o Hamutuk* has been unable to obtain, reportedly pinpoints several individuals in the S.C. Unit as obstacles to its effectiveness. Seven months later, the named individuals are still in their positions, and little has been done to implement Ms. Fisk’s recommendations, although her conclusions are privately acknowledged by UNTAET’s leadership.

18 April: The Secretary-General of Indonesia’s National Human Rights Commission, Komnas HAM, Asmara Nababan, states for the first time that he would agree to the establishment of an international tribunal for East Timor, saying that it “is the only way for justice to be done.”

19 April: UN Human Rights Commission president, Leandro Despouy, warns that if Jakarta does not move decisively to try military, police and militia leaders responsible for atrocities in East Timor, the UN might decide to establish an international tribunal.

While visiting Jakarta, Xanana Gusmão tells journalists that the establishment of an international tribunal is “not a priority for me,” and that “overcoming East Timor’s social and economic problems is of greater immediate concern.”

23 April: East Timor’s NGO Forum criticizes Xanana’s statement and asserts that an international tribunal must be “seriously considered” given Indonesia’s lack of progress in prosecuting those responsible for atrocities in East Timor.

23 April: Indonesian president Wahid approves the establishment of a human rights court for East Timor that will only prosecute violations committed after the August 1999 popular consultation.

23 April: Bishop Carlos Belo appeals for an international tribunal to punish crimes against humanity committed in East Timor, similar to those established for the former Yugoslavia and Rwanda. “We have no faith in the investigations being conducted in Jakarta,” he states.

24 April: Australian newspapers publish a leaked report “Crimes Against Humanity in East Timor, January to October 1999: Their Nature and Causes” by retired Australian diplomat James Dunn. UNTAET’s General Prosecutor had commissioned the 60-page report, but decided not to release it. Dunn concludes that “the campaign of massive destruction, deportation and killings in September was essentially an operation planned and carried out by the TNI, with militia participation, to punish the people of East Timor for their vote against integration.”

25 April: Amnesty International responds “with dismay” to Jakarta’s new human rights court for East Timor, calling it “a case of one step forward, two steps back.”

28 April: The *Sydney Morning Herald* obtains and reports on “a secret report” prepared for the Indonesian Attorney General’s office that confirms that the military directed the campaign of violence and terror in the aftermath of East Timor’s independence vote with direct government financial support.

- 2 May:** Asmara Nababan, Secretary-General of Komnas Ham, calls for the revision of a presidential decree that rules out trials of crimes committed in East Timor before the 1999 independence ballot.
- 2 May:** An East Timor court issues another indictment of crimes against humanity, relating to offenses allegedly committed in Liquiça district by the TNI and militia.
- 3 May:** Patrick Burgess, head of UNTAET's Human Rights Unit, criticizes the narrow mandate of Indonesia's proposed human rights court. "If the jurisdiction of the ad hoc tribunal is to be seen as credible, its mandate must be broadened to include all of 1999," he states.
- 4 May:** A Jakarta court convicts six Indonesians of "fomenting violence" in the context of the murder of three international UNHCR workers in Atambua in September 2000. They receive sentences ranging from 10 to 20 months. Although at least three of the six had confessed to stabbing the victims, the judge rule there is not sufficient evidence to find them guilty of murder. UN Secretary-General Kofi Annan calls the verdict "wholly unacceptable."
- 7 May:** Newspapers report that several of the TNI officers named as suspects in crimes against humanity have received promotions since Indonesia's withdrawal from East Timor. "These promotions are proof that there is zero will to hold anyone accountable," a diplomat in Jakarta who focuses on East Timor says.
- 23 May:** Indonesian authorities free Eurico Guterres after he has served just 23 days of his six-month sentence of house detention for a conviction on weapons charges on the justification that he had already been under house arrest before trial.
- 30 May:** José Ramos-Horta, ETTA's foreign affairs minister, calls the light sentences for the six Indonesians involved in the killing of the UNHCR works "an outrage" and says that it is time for the international community to establish an international tribunal for East Timor.
- 6 June:** An East Timor court issues another indictment of crimes against humanity, relating to offenses allegedly committed in Liquiça district by the TNI and militia.
- 8 June:** Australian foreign minister Alexander Downer warns of international action unless Indonesia prosecutes those responsible for the 1999 violence in East Timor.
- 9 July:** The first trial containing charges of crimes against humanity starts in Dili. The indictment, accuses eleven persons of committing such crimes, including murder, torture, deportation and forcible transfer of civilian population in Lospalos between 21 April and 25 September 1999.
- 13 July:** Outgoing UNTAET Political Affairs Minister Peter Galbraith says he has "seen very little evidence" that Indonesia was serious in its efforts to bring to trial those responsible for the violence, and calls for the establishment of an international war crimes tribunal.
- 26 July:** Unknown assailants assassinate Justice M Syafiuddin Kartasasmita, responsible for setting up Indonesia's new human rights court, in Jakarta.
- 2 Aug:** Indonesia's new president, Megawati Sukarnoputri, signs a decree that changes the scope of the ad hoc court for East Timor to include crimes committed in April as well as Sept. 1999, but not during other months. At the same time, the decree restricts the court's jurisdiction to crimes committed in Dili, Liquica and Suai only.
- 9 Aug:** The new chief of the team preparing the establishment of Indonesia's ad hoc court, Benjamin Mangkoedilaga, states that he expects that the court hearings could begin in October.
- 24 Aug:** Amnesty International writes to Megawati Sukarnoputri and complains about the delays in bringing to justice those suspected of crimes against humanity before and after the 30 August 1999 ballot. The organization criticizes the limited jurisdiction of the new court. The organization urges a review of the decision and for trials to begin without further delay.
- 31 Aug:** James Kelly, U.S. Assistant Secretary of State for East Asia and Pacific Affairs, says while visiting Indonesia that Washington will not resume full military ties with Jakarta until it properly punishes the killers of the three UNHCR workers—one of whom was a U.S. citizen—in Atambua in Sept. 2000.
- Sept:** In an interview with *Tempo*, an Indonesian magazine, Xanana Gusmão states that "we have to also go back 24 years ago and not only concentrate on what happened in September 1999" when asked about an the possibility for an international tribunal for East Timor.
- Tempo* also reports that Indonesia's Attorney General has closed the investigation into the Sept. 1999 murder of Dutch journalist Sander Thoenes in Dili. Indonesian officials state that they have not officially ended the investigation, but that they have made little progress.
- 2 Sept:** Kristio Wahyono, head of the Office for Indonesian Affairs in Dili, says that he regrets there are still those in East Timor and abroad calling upon the UN to form an international tribunal for East Timor. He says that there is no need for an international tribunal as Indonesia is definitely going to organize its own tribunal for East Timor by the end of the year.
- 10 Sept:** A federal court judge in the United States finds in favor of six East Timorese plaintiffs and holds TNI General Johnny Lumintang liable for U.S.\$66 million in damages. The court decision determines that Lumintang is "both directly and indirectly responsible for human rights violations committed against" the plaintiffs in 1999. Foreign Minister Hassan Wirayudha calls the decision "more symbolism than substance" and says that Jakarta "will just ignore it."
- 27 Sept:** UNTAET prosecutors indict two Indonesian soldiers and nine militia for the "planned mass murder" of 47 men in Oecussi on September 10, 1999. They are also accused of other killings and abducting hundreds of people across the border. One of the indictees is in custody; UNTAET has requested the extradition of the rest from Indonesia, which seems unlikely.
- 3 Oct:** Indonesian Justice Minister Yusril Ihza Mahendra states that parliament will select the judges for the ad hoc human rights court in November, and that Jakarta will formally set up the court in December.