

East Timor: New Constituent Assembly must prioritise justice and human rights

Ahead of Thursday's vote, Amnesty International is calling on all those who will be elected to East Timor's new Constituent Assembly to place justice and human rights at the forefront of the political agenda in East Timor.

"Politicians have a key role to play in creating a human rights culture in all countries," Amnesty International said. "The Constituent Assembly will have a unique opportunity to place the protection of human rights at the heart of East Timor's political life."

The main task of the Assembly will be to draft a Constitution for the new state of East Timor which will become fully independent next year. Amnesty International urges the members of the Constituent Assembly to ensure that the Constitution contains explicit provisions for the protection and promotion of human rights, including the right to life, the right not to be subjected to torture and the right to fair trial.

"All the people of East Timor, no matter what their background, beliefs or identity, must be able to depend on the Constitution for the protection of their human rights and know that they will be upheld in East Timorese courts," Amnesty International said.

The Constitution should include provisions upholding the rights of vulnerable groups who are at particular risk of human rights violations, such as women, children and minorities. Non-discrimination provisions of the Constitution must be defined broadly to include the prevention of discrimination on grounds of sex, race, colour, sexual orientation, language, religion, political opinion, national or social origin, or any other status.

The drafting of the Constitution must reflect international human rights standards and enshrine these principles within East Timor's domestic legal system. The adoption of a program for the ratification of international human rights instruments would provide further safeguards.

Human rights cannot be guaranteed unless an effective justice system is established. The United Nations Transitional Administration in East Timor (UNTAET) has been mandated with this task, but, in a recent report, Amnesty International raised concerns that its work is incomplete. Amnesty International has called on UN member states to commit further resources to ensure that a legal and judicial framework is established to protect and promote human rights.

A basic element of such protection is to ensure that all those responsible for past human rights violations are brought to justice, including those responsible for unlawful killings, rape, torture and other serious crimes committed in East Timor in 1999.

"Bringing the perpetrators of these crimes to justice is a fundamental condition for reconciliation and establishing the rule of law in East Timor," Amnesty International said. "Yet two

years after the UN-sponsored ballot which paved the way for independence, the vast majority of victims continue to be denied justice."

Responsibility for this failure lies primarily with the Indonesian authorities who have yet to bring charges against any of those allegedly responsible. UNTAET has also been slow at conducting investigations and bringing perpetrators to trial. Amnesty International is urging UN member states to commit resources to continue, improve and accelerate this process, and at the same time, strengthen their calls on Indonesia to fulfil its own obligations.

"A stable future can only be secured if the UN and the international community continue to provide ongoing and sustained support to build a new state of East Timor governed by the rule of law and with a human rights culture at its core."

Background

Indonesia's former President, Abdurrahman Wahid, issued a Presidential Decision establishing an *ad hoc* Human Rights Court on East Timor to try those responsible for the serious crimes committed in 1999. However, the Court's jurisdiction was limited to crimes which occurred after 30 August 1999. Indonesia's new President, Megawati Sukarnoputri, has recently amended this Decision, but the amended version still limits the Court's jurisdiction to crimes committed in the months of April and September 1999 and in only three of East Timor's 13 districts. This means that hundreds of victims of violations during 1999 throughout East Timor will be denied justice and the full truth about the events will not emerge. Indonesia has also failed to cooperate with UNTAET in its investigations.

Although trials of some militia members are now taking place in East Timor, even UNTAET's limited target of filing indictments on ten priority cases by the end of the year appears unlikely to be reached. Meanwhile, investigations into the hundreds of other cases of unlawful killing, rape, torture and other crimes will not have even begun by the time UNTAET's mandate expires on 31 January 2002.

In July 2001 Amnesty International published a report, *East Timor: Justice past, present and future* (ASA 57/001/2001) criticizing UNTAET's efforts towards establishing a fully functioning justice system and making detailed recommendations for accelerating and improving this process.

Read the report: [East Timor: Justice past present and future](http://www.web.amnesty.org/ai.nsf/recent/ASA570012001?OpenDocument)
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