The Scourge of Impunity in Indonesia

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Since Suharto seized power in Indonesia in October 1965, impunity has been deeply entrenched in Indonesia. Although the fall of the dictator in May 1998 led to the introduction of the basic mechanisms of democracy, it has done nothing to end the scourge of impunity.

Impunity which means crime without punishment poses a serious threat to human rights. When a crime is perpetrated, under the rule of law, the perpetrator should be called to account. This is clearly enunciated in the Universal Declaration of Human Rights, Article 8 of which states:

'Everyone has the right to an effective remedy by the competent national tribunal for acts violating the fundamental rights granted him by the constitution or by law.'

During the first six months after Suharto's seizure of power, it is estimated that up to one million people were killed in massacres that swept the country. The killings were committed by members of the Indonesian Armed Forces or by mobs acting at the instigation of, and equipped by, the military. Tens of thousands of people were arrested across the country and held without trial, many for up to fourteen years.

The wave of massacres and mass arrests is recognised as one of the worst crimes against humanity in the twentieth century. In 1977, Amnesty International declared that 'in no other country in the world have so many political prisoners been held without trial for so many years.'

In 1969, thirteen thousand male prisoners were banished to Buru, a remote island surrounded by a shark-infested sea, an island from which there was no escape. The men were beyond the reach of their families some 2,000 kms from their homes in Java and other parts of the country, and subject to a harsh physical environment and unremitting forced labour. Hundreds of prisoners died from starvation and from untreated injuries; they were bereft of even the most basic medical treatment.

During Suharto's New Order, the rights of freedom of expression and freedom of assembly ceased to exist, all Indonesians were required to pledge loyalty to the state ideology, Pancasila, and to join state-controlled organisations of workers, women, youth, students and intellectuals. All political parties and mass organisations existing prior to Suharto's seizure of power were banned.

Suharto was never called to account for the terrible crimes perpetrated during his despotic rule. Attempts to formally charge him with corruption were made but with the help of well-paid lawyers, he was alleged to be too ill to face charges. As for his crimes against humanity and his act of war against Timor-Leste, no moves were taken to charge him and he died in January 2008 without ever being brought to justice.

During the New Order, many atrocities were perpetrated of which the following are the most egregious.

The Tanjung Priok Incident, 12 September 1984
Hundreds of demonstrators, angered at the desecration of their mosque by soldiers in Tanjung Priok on the outskirts of Jakarta, were slain when troops opened fire, leaving many dead. Later investigations estimated that 63 demonstrators were killed and hundreds more injured. Thirty-

six survivors of the massacre, some still suffering from their injuries, were tried six months later for public order offences. No army officers were called to account for the massacre.

The Lampung Incident, January 1969
Dozens of villagers were killed in the village of Talangsari in Lampung, South Sumatra when troops opened fire on demonstrators, angered at the growing pressure on their livelihoods and land by migrants from Java. *Asiaweek* later reported that 'Talangsari lay in ruins… piles of ashes and scorched beams were all that remained of the hamlet of nearly three hundred people.'

Death Squads Kill Thousands, 1983
During the course of 1983, death squads composed of members of the military stripped of their insignia shot dead thousands of people in cities and towns throughout the country in so-called 'anti-crime operations'. In many places, bodies were left unattended in the streets. The killings which went on for several months later became known as *petrus* (mysterious killings).

This was the only atrocity for which Suharto took personal responsibility. In his autobiography, he said: 'There was nothing mysterious about it all. Was it right to do nothing? [Violence] had to be treated by violence… Those who tried to resist, like it or not, had to be shot. Because they resisted, they were shot.'

The random killings were regarded as a reminder to the population that the military authorities had the fire-power and determination to deal with anyone who dared to challenge the government.

POLITICAL ASSASSINATIONS IN WEST PAPUA
West Papua was unlawfully incorporated into Indonesia in 1969, after a fraudulent Act of Free Choice when just over one thousand hand-picked tribal chiefs voted unanimously in favour of integration, under duress from the Indonesian armed forces.

The people of West Papua have since suffered gross discrimination, their lands have been seized, thousands have been displaced by growing numbers of migrants from Indonesia and attempts to protest against human rights violations have been heavily repressed. Ever since it fell under Indonesian rule, access to West Papua has been denied to the international media and foreign NGOs, making it impossible to monitor conditions and investigate incidents, news of which has reached the outside world. The death toll from crackdowns by security forces over the past four decades is believed to be many tens of thousands.

In April 1984, Arnold Ap, a well-known Papuan cultural worker and museum curator who set up a song-and-dance group, Mambesak, and ran popular programmes on the local radio was murdered while in military custody, striking a severe blow to Papuan cultural aspirations. The *Sydney Morning Herald* was able to chronicle the events leading up to his death, which revealed that troops of Kopassanda, the special forces of the army now known as Kopassus, plotted his alleged escape from prison during which he was shot down in cold blood.

In November 2001, Theys Hijo Eluay, the chairman of the hugely popular Papuan Presidium Council which was set up in Jayapura shortly after the downfall of Suharto, was invited to attend an event marking Indonesian Heroes' Day by the commander of the local Kopassus unit. On the way home, his car was ambushed and he was abducted. On the following day, his body was discovered in his upturned car. An autopsy confirmed that he had been strangled. His driver, Aristoteles Masoka, disappeared after returning to the Kopassus base apparently to report the abduction, and has never been heard of since.

The assassination of Theys was widely reported, especially in Australia, and led to the arrest of seven Kopassus officers who had been escorting the Papuan leader on his way home. They were tried before a military court and were charged not with murder but with 'maltreatment resulting in the victim's death'. It was alleged that they had been involved in an argument with the victim about his support for Papuan independence and then stifled him. Some were sentenced to three years and some to three-and-a half years. Later, the army chief of staff, General Ryamizard Ryacudu, referred to the convicted men as 'heroes' who had carried out a legitimate act in defence of the unitary state of Indonesia.

STATE TERROR IN ACEH

Aceh, located on the north-west tip of Sumatra, suffered more than two decades of brutality, massacres, disappearances and rape from the mid 1970s until the devastating tsunami in December 2004.

After a move by GAM, the Free Aceh Movement, to declare independence for the territory in 1976, the Indonesian army sought to quell the movement which had widespread local support. In the 1990s, Aceh was being described as a virtual war zone, following a huge influx of troops. In some districts, people were forced to take part in 'fence of legs' operation to flush out guerrillas.

Troops were under orders to hunt down GAM. In February 1991, the military commander, Major-General H.R Pramono from Kopassus issued an order to the Acehnese to kill members of GAM with their own hands.

In late 1990, a dossier from GAM reported that 56 prisoners being held at a detention centre in Lhokseumawe had been stripped naked, shot dead and thrown down a ravine where they were later found by villagers, most of them unidentifiable. According to an Asia Watch report, an army doctor estimated that there had been a thousand deaths on both sides, more killed in summary executions than in the actual fighting. Bodies with gunshot wounds or stab wounds were found along the rivers or in plantations while the military refused to allow the bodies to be buried in accordance with Islamic practices.

Following the downfall of Suharto, local human rights activists discovered three mass graves in one area alone where more than 1,400 bodies were believed to have been buried.

After Suharto's removal from power, the government in Jakarta entered into talks with GAM mediated by a former Finnish president. While the talks were in progress, Aceh was devastated by a tsumani in December 2004 which destroyed the capital, Banda Aceh, and other urban areas, and caused an estimated 140,000 deaths. Foreign assistance poured into the region to fund reconstruction. GAM had already abandoned its claim for independence and, with Aceh shattered by destruction, a peace agreement was reached. A presidential decree granted an amnesty to all Acehnese political prisoners. However, past human rights violations were inadequately addressed while a provision providing for the establishment of a human rights court in Aceh has still not been implemented.

THE INVASION AND OCCUPATION OF EAST TIMOR

The occupation of East Timor, now called Timor-Leste, following the invasion in December 1975 lasted until 1999. Killings in the territory were on an unimaginable scale. Within weeks of the invasion, Timorese religious leaders were reporting that 60,000 people had been killed. Investigations undertaken many years later suggested that up to one third of the population had been wiped out.

In many places, whole villages were uprooted, the inhabitants forced to abandon their homes for resettlement in heavily guarded encampments.

Shortly before the invasion, in October 1975, five journalists from Australia, the UK and New Zealand were shot dead by Indonesian forces in Balibo, near the border between East and West Timor. They were intending to file reports about the activities of the Indonesian military at a time when reports of the planned invasion of East Timor were being widely circulated in the press. The officer responsible for the Balibo killings, Captain Yunus Yosfiah, has never faced charges. Following his retirement from the army, he served a term as Indonesia's minister of information. He is now completing his second term as a member of the DPR, Indonesia's national parliament.

As a result of the efforts of the former colonial power, Portugal, the illegal occupation of Timor-Leste remained on the agenda of the United Nations, keeping the tragedy firmly in the sights of the international community.

When B.J. Habibie, Suharto's vice-president, took over as president after Suharto's downfall in May 1998, he was under pressure to reform some of the most outrageous political restrictions imposed during Suharto's New Order. In particular, the worldwide campaign against the occupation of Timor-Leste had been extremely damaging to Indonesia's reputation. Whenever official delegations ventured abroad to attend international meetings or state events, demonstrations would condemn Indonesia and call for an end to the occupation.

In January 1999, keen to rid the country of what had become a serious diplomatic embarrassment, Habibie decided to grant the Timorese people a 'popular consultation' and offered the 'option' of voting for or against 'autonomy'. This decision incurred the wrath of the armed forces and set in motion a campaign of slaughter and abduction against anyone suspected of being pro-independence which continued throughout the year. When the referendum was held on 30 August 1999, Indonesian security forces were in charge of security under the terms of an agreement reached with the UN.

Despite the horrors perpetrated on the streets, the Timorese turned out in huge numbers on 30 August, voting by 78.5 percent to 21.5 percent against autonomy. After the results were announced on 4 September, troops under General Wiranto's command took vengeance on the Timorese. The country's infrastructure was virtually destroyed. Some 1,500 Timorese were killed and two hundred thousand were driven at gunpoint across the border to West Timor.

In February 2003, the Deputy General Prosecutor for Serious Crimes of the Dili District Court, acting under the authority of UNMISET, the UN Mission of Support for East Timor, issued an indictment, charging General Wiranto, the Indonesian Minister of Defence and Security and Commander of the Indonesian Armed Forces, along with six other Indonesian generals with Crimes Against Humanity.

The charge sheet against General Wiranto states that:

'During 1998 and 1999, WIRANTO made frequent visits to East Timor during which he met with East Timorese community leaders, members of the press and officials representing the international community including Military Liaison Officers and other officials of the United Nations Mission in East Timor [UNAMET]' (when he was) 'repeatedly informed of the acts of violence being perpetrated by TNI [the Indonesian Army].'

'During 1999, WIRANTO failed to take necessary and reasonable measures to prevent the crimes being committed by his subordinates and he failed to take necessary and reasonable measures to punish the perpetrators of those crimes.'

'By reason of the above, WIRANTO is criminally responsible for the acts of his subordinates pursuant to section 18 UNTAET Regulation 2000/15.'

All efforts to seek Wiranto's extradition for trial in Timor-Leste have failed. Indonesia has made it clear on a number of occasions that it will not contemplate extraditing Indonesian nationals to face criminal proceedings for crimes against humanity.

Following his retirement from the army, General Wiranto entered the world of politics and stood as a candidate for president in the 2004 presidential elections. In 2009, he teamed up with Vice-President Jusuf Kalla to seek election as vice-president.

Another vice-presidential candidate in 2009 was Prabowo, also a retired general and former son-in-law of Suharto, who stood as the team-mate of Megawati Sukarnoputri, herself a former Indonesian president, in her bid in this year's presidential election. Prabowo spent several tours of duty in East Timor. He is best known for his involvement in the abduction and disappearance of dozens of pro-democracy students several months before Suharto's downfall.

Indicted militia leader handed back to Indonesia

The most recent case of impunity occurred in August 2009 when Martenus Bere, a former militia leader was handed over to the Indonesian embassy in Dili, after being arrested in Timor-Leste while on a visit to Dili, after crossing over from West Timor.

Bere has been indicted by the UN Serious Crimes Unit for crimes against humanity for the slaughter of scores of Timorese, including three priests, ten years ago in Suai. He was also indicted for assisting in the rape and abduction of Alola, a young Timorese woman, after whom a charitable institute set up by Kirsty Sword-Gusmao, wife of Xanana Gusmao, the prime minister of Timor-Leste, has been named.

The release of Bere who has angered many Timorese people. There was outcry at his release at a congress of victims held in Dili in September this year. A UN spokesman has also condemned the release, stressing that it is in violation of Security Council resolutions and the laws of Timor-Leste. According to a statement by the Indonesian ministry of foreign affairs following the wave of anger about Bere, 'Indonesia still refuses to even consider the extradition of its nationals to face criminal charges regarding something (ie, the mass slaughter in Timor) that has already been resolved.'

Responding to the outcry over Bere's release, the president of Timor-Leste, Jose Ramos Horta said: 'Restoring good relations with Indonesia is more important than prosecutorial justice.' This is certainly not a sentiment shared by the vast majority of Timorese people.

In a speech delivered on the tenth anniversary of the 1999 referendum. President Ramos-Horta declared: 'There will be no International Tribunal'. He described the UN's Serious Crimes Unit as a waste of money and said that it should be disbanded because there were no more cases to handle. UN officials however say that there are more than three hundred cases pending out of the 396 cases identified in 1999. The suggestion that there should be no International Tribunal is in contravention of the Constitution of Timor-Leste which reads as follows:

Section 160 (Serious Crimes)
'Acts committed between the 25th of April 1974 and the 31st of December 1999 that can be considered crimes against humanity of genocide or of war shall be liable to criminal proceedings with the national or international courts.'

Section 163, Paragraph 1 (Transitional judicial organisations)

'The collective judicial instance existing in East Timor, integrated by national and international judges with competencies to judge serious crimes committed between 1st of January and the 25th of October 1999, shall remain operational for the time deemed strictly necessary to conclude the cases under investigation.'

CO**NCLUSION**

In September 2002, one of Indonesia's foremost human rights activists, Munir Said Thalib delivered a paper, *Indonesian Civil Society Strategy for Ending Impunity.* He said: 'Impunity is a reflection of the system of power in which it exists. The eradication of impunity can be used as a measure of progress towards democracy.' He also said: 'The effort to combat impunity means removing the armour from a system of absolute power.'

On 7th September 2004, Munir was assassinated while on a flight from Jakarta to Amsterdam. Five years since his death, the mastermind of his assassination had still not been brought to justice. In 2007, the man who admitted to administering the poison that killed Munir was sentenced to twenty years. In 2008, Muchdi Purwoprandjono, who at the time of Munir's death was deputy head of Indonesia's intelligence agency, *Biro Inteligen Negara,* the agency that is widely believed to have been responsible for the murder, was acquitted after several witnesses who had filed depositions for the prosecution withdrew their testimonies simultaneously and under suspicious circumstances, undermining the prosecution's case.

As a reflection of the system of power in which it exists, the depth of impunity in Indonesia is largely due to the continuing influence of the military in Indonesian political institutions and the perceived respectability of military officers regardless of their known involvement in serious crimes in Timor-Leste, West Papua and Aceh and regardless even of their formal indictment for such crimes. The fact that each of the three duos contesting the election for president which took place earlier this year included a retired army general, Susilo Bambang Yudhoyono who stood with Budiono, winning the election, Megawati Sukarnoputri who stood with retired general Prabowo, and Jusuf Kalla who stood with retired general, Wiranto indicates that senior military officers still enjoy recognition as legitimate actors in political affairs.

While Indonesia is these days frequently praised as a vibrant democracy, it is still blighted by the impunity enjoyed by former senior military officers. Civil society in Indonesia has a long way to go before former military officers with blood on their hands are brought to justice. As long as the military continues to exert an influence and are regarded as being men without a stain on their reputations, the chances of ending the scourge of impunity are remote.

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This is an extended version of a presentation by the author at a conference in Dili, Timor-Leste in August 2009 on the theme: *Strengthening Solidarity: The Struggle for Justice Continues.*