

173

9 July 1976

EAST TIMOR : JOURNALISTS

MR WILLIAMS

You have sent me a copy of a memorandum from our Minister in Jakarta (No. 851, file 860/119/1/5) in which he makes certain points.

2. First, he suggests that if we contend that the Indonesian Government is the legal successor to the Portuguese Government in East Timor, the Indonesian Government will be able to invoke the waiver of responsibility which was signed by the journalists in favour of the Portuguese Government.

3. While this may no doubt be true, one has to recall what the whole dispute is about. My understanding is that we allege that the journalists were deliberately killed by Indonesian forces (or at any rate, that they died in circumstances in which there is a strong probability that they were killed by Indonesian forces). We are not alleging that Indonesia is responsible because the journalists were killed by anyone other than Indonesian forces. While the waiver given to the Portuguese authorities absolves them from responsibility for injuries done to the journalists, it cannot be interpreted as giving the Portuguese authorities the right to kill the journalists. No more could the waiver, if invoked by the Indonesian authorities, be said to have given the Indonesian authorities the right to kill the journalists. All the waiver does is to say that the beneficiary of it, namely the Portuguese or the Indonesian authorities as the case may be, will not be liable for injuries caused to the journalists by others.

4. The second question raised by Mr Dan's memorandum is "whether Shackleton forfeited his rights as a neutral war correspondent, and compromised that of his colleagues, when he delivered the message from the FRETILIN commandant at Balibo to the FRETILIN at Maliana on 12 August". Clearly, a neutral war correspondent ought not to give assistance to either side in a combat. However, if he does so, the worst that can happen to him is that he should be assimilated to the forces of the party to which he has given assistance. But, no belligerent has the right indiscriminately, or discriminately, to ~~kill or injure~~