



His Excellency Kofi Annan
Secretary-General
The United Nations
1 United Nations Plaza
New York, New York 10017-3515

March 24, 2006

Dear Mr. Secretary-General:

We are writing to express our concern that the report of the Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR) has not yet been referred to the United Nations Security Council for discussion. The report, which was presented to you on January 20, 2006 by Timor-Leste's President Xanana Gusmao, specifically recommends that you refer it to the UN Security Council, the UN General Assembly, the UN Special Committee on Decolonisation, and the UN Commission on Human Rights. The report also requests that each of these bodies devote a special session to discussing and reflecting on the report and the lessons to be learned from its contents and findings. We urge you to follow these recommendations by disseminating this important document to the wider UN community.

The findings and recommendations of the CAVR report draw on the Commission's work of recording statements from over 8,000 individuals, and listening to hundreds of victims' testimonies through public hearings over the past four years. The CAVR's authoritative and exhaustive account of the views of the people of Timor-Leste on issues surrounding justice concluded that, "the demand for justice and accountability remains a fundamental issue in the lives of many East Timorese and a potential obstacle to building a democratic society based upon respect for the rule of law and authentic reconciliation between individuals, families, communities and nations." The CAVR also determined that the commitment of the UN was critical to achieve justice for crimes committed in Timor-Leste.

An independent statutory authority, the CAVR was originally created by an UNTAET regulation based on broad Timorese support. The Commission was supported by UN funding and technical assistance. Many of the human rights violations uncovered by the Commission took place just before and after the August 1999 referendum following the May 5 agreement to which the UN was a party, with UN staff among the victims. These factors further magnify the need for the UN to respond to these violations of internationally recognized human rights.



The CAVR investigation found that the crimes committed in 1999, while egregious, "were far outweighed by those committed during the previous 24 years of occupation." We share CAVR's unhappiness that "the international community has paid little or no attention to the issue of justice for the grave crimes committed in Timor-Leste throughout the 23 years prior to the 1999 atrocities." We urge you to explore ways to end impunity for crimes against humanity committed in Timor-Leste throughout the illegal Indonesian occupation. In the same connection, we cannot but be concerned that the international community has so far been unable to effectively support accountability even for the 1999 crimes when now it is clear that they were only a fraction of the total crimes committed.

We are also concerned that the report of the independent Commission of Experts (COE), appointed by you to review the prosecution of serious violations of human rights in Timor-Leste in 1999, was not formally discussed by the Security Council. Without taking formal action, the Council asked you in September 2005 to prepare an additional report "on justice and reconciliation for Timor-Leste" providing guidance on the issue.

We urge you to promptly issue the report on justice and reconciliation for Timor-Leste requested by the Security Council and that you endorse the recommendations of the COE report and take into account the relevant recommendations of the CAVR. These include the recommendation that if the government of Indonesia does not comprehensively review prosecutions and Serious Crime Unit indictments and initiate credible judicial processes, an international criminal tribunal should be established for the prosecution of high-level perpetrators. We further ask you to refer to the Security Council the fact that Indonesia has never formally answered the findings in the report, and such a response should be pursued.

The UN has already provided Indonesia with many opportunities to demonstrate its commitment to deliver a credible justice process for those accused of committing atrocities in Timor-Leste. However, Indonesia has not made any genuine attempts to end the impunity for those responsible for those atrocities. The failure of the ad hoc court in Jakarta has been well documented. This process, described by the Commission of Experts as "manifestly inadequate," acquitted 17 defendants at first instance or on appeal.

Both the COE and the CAVR reports are rigorous and comprehensive, building upon previous findings by UN special rapporteurs, the International Commission of Inquiry on East Timor and two reports prepared for the Office of the High Commissioner of Human Rights. All those studies have authoritatively reconstructed the truth and responsibilities about the crimes against humanity committed during the Indonesian occupation, yet inaction persists. It is essential that both are seriously taken into



consideration by the Council in its deliberations. The UN must rise to the challenge of the currently prevailing impunity: we hope that you will provide the necessary leadership.

Sincerely,

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