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President
Security Council
The United Nations
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October 20, 2009

Your Excellency

We have long been concerned with the justice and accountability for human rights and war crimes committed in Timor-Leste.

As you meet this week to discuss the situation in Timor-Leste, we remind you that United Nations -- and more specifically Security Council -- pledges and obligations concerning human rights and accountability for serious human rights crimes remain unfulfilled.

Once again we urge the Security Council to implement the recommendations of the 2005 [Commission of Experts](#) (CoE) report and [Chega! \(Enough!\)](#), the final report of the Timor-Leste's Reception, Truth and Reconciliation Commission (CAVR). Both reports urge establishing an *ad hoc* international tribunal should other efforts at justice fail. If anything, recent events confirm that the governments of Timor-Leste and Indonesia are unwilling or able to pursue justice. It is time for the Council to act.

Recent events have highlighted the necessity for international involvement in prosecuting serious crimes committed in Timor-Leste between 1975 and 1999, including the August arrest and extra-judicial release (under Indonesian pressure) of the former militia leader and Martenus Bere. He had been arrested under an outstanding indictment for serious crimes committed in 1999 after crossing the border into Timor-Leste. His release not only undermined the rule of law in Timor-Leste, it clearly demonstrated that the government of Indonesia continues to undermine efforts by the judiciary in Timor-Leste to prosecute Indonesian citizens accused of serious crimes committed in 1999 and before.

There was an outcry from broad segments of Timor-Leste society against Bere's release, as shown by letters recently delivered to you from East Timorese.

Both the spokesperson for the Secretary-General and the United Nations High Commissioner for Human Rights properly took issue with the release. The Secretary-General in his recent report to the Security Council on UNMIT, expressed his "hope that the Governments of both Timor-Leste and Indonesia will ensure that Martenus Bere is brought to justice taking into account the report of the Commission of Experts appointed in 2005 (see S/2005/458)."

The recent report of UNMIT and the Office of the High Commissioner for Human Rights "Rejecting Impunity: Accountability for Human Rights Violations Past and Present" makes clear that "Victims of past violations have continued to call for the perpetrators of crimes against them or their family members to face justice." The report states "grave human rights violations were committed by members of the Indonesian

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security forces" during the Indonesian invasion and occupation. These were contrary to international law, the UN Charter and the Security Council's own resolutions.

Some of Timor-Leste's leaders have expressed the certainty that the United Nations and the Security Council will never act in a substantive way to hold accountable those responsible for the crimes committed during the illegal occupation of Timor-Leste. While we are not naïve about the obstacles, we hold you to a higher standard. We believe that the United Nations and the Council must live up to its promises to deny impunity to worst perpetrators, if only to reinforce your own credibility. We urge you to act now to implement the UN's repeated promises by allocating the necessary political, financial and legal resources to end impunity for these crimes against humanity.

We strongly believe that real accountability will reinforce democracy and the rule of law in both Indonesia and Timor-Leste, as well as support genuine reconciliation between the two peoples.

The Security Council ended the serious crimes process in May 2005, although UNMIT has resumed investigating murders committed in 1999, but without a mandate or mechanism for issuing indictments or bringing perpetrators to trial. In addition to this far too-restrictive mandate, the Serious Crimes Investigative Team's (SCIT) investigative process is appallingly slow. As reported to you by the Secretary-General, "As at 31 August, the team had completed investigations into 89 of 396 outstanding cases; an additional 21 cases are currently under investigation." More than 300 suspects indicted by the UN-backed Serious Crimes Unit, nearly all in Indonesia. We urge the Council to reject the recent statement of Timor-Leste's president to close the SCIT. Instead its resources should be increased, and its scope broadened.

A full reconstitution of the serious crimes processes is required, in line with recommendations the CAVR's *Chega!* This requires at a minimum: A Serious Crimes Unit working within the Office of the Prosecutor-General, a commitment of sufficient resources, and a mandate to investigate and prosecute major crimes committed during the Indonesian occupation. Timor-Leste's judicial system remains weak, with no ability to reach perpetrators outside the country. Timor-Leste's leaders made clear, in the debate about the Bere case, that they fear retaliation from their large neighbor.

Justice must be a direct UN responsibility to ensure that there is no impunity for serious crimes such as war crimes, crimes against humanity and genocide.

A full decade has passed since Indonesia's violent exit from Timor-Leste. Indonesia has repeatedly demonstrated that it will act to prevent credible prosecution of Indonesian citizens for crimes connected with Indonesia's occupation of Timor-Leste. We urge Interpol to issue arrest warrants for all those indicted by the Serious Crimes Unit who remain at large, at a minimum to discourage these suspects from traveling internationally. Other sanctions should be considered as well.

The Secretary-General in his most recent report on UNMIT to the Council writes, "On 2 September, participants in a three-day 'National Victims' Congress' organized by non-governmental organizations in Dili, with support from OHCHR, called for an international tribunal to prosecute the perpetrators of human rights abuses committed during the 1974-1999 period." As an alternative to a revived and strengthened serious crimes process, the Security Council should implement this recommendation, echoed by the CoE report and the CAVR by creating an *ad hoc* international criminal tribunal for Timor-Leste.

More than ten years ago, the Council, in Resolutions [1264](#) and [1272](#) expressed its commitment to justice for the people of Timor-Leste. Failure to do so reinforces the impression that the UN supports a double standard of justice, undermining the rule of law and respect for human rights in Timor-Leste, Indonesia and internationally

Yours sincerely,

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