Open Letter to United Nations Security Council

26 November 2007

Dear Security Council member,

As your delegation prepares to leave for Timor-Leste, we write to urge you to pay careful attention to the transitional justice process for that country. As you will be aware, the people of Timor-Leste suffered countless war crimes and crimes against humanity during the Indonesian invasion and 24-year occupation of their homeland, in violation of numerous United Nations resolutions and human rights treaties. We remind you of the Security Council's earlier commitments, expressed more than seven years ago in Resolutions 1264 and 1272, to bring those responsible to justice.

Indonesia's Ad Hoc Human Rights Court and the bilateral Commission for Truth and Friendship (CTF) have proven manifestly unsuitable in both design and implementation to the task of delivering justice in accordance with international law. We applaud the Secretary-General's decision not to give legitimacy to the CTF unless its terms of reference are substantially changed.

The Serious Crimes process (which only dealt with crimes committed in 1999) was terminated by the Security Council in May 2005 although its work was far from complete. Since then the United Nations Integrated Mission in Timor-Leste (UNMIT) has re-established the Serious Crimes Investigation Team to complete investigations into outstanding cases from 1999. What will happen to the results of these investigations? A total of 290 individuals already indicted under the serious crimes process remain at large in Indonesia, outside the jurisdiction of Timor-Leste. No formal investigations or proceedings are underway for the many serious crimes committed prior to 1999, with the exception of an Australian coronial inquest which recently concluded that the killings of journalists in October 1975 was a war crime.

UNMIT's recent "Report on human rights developments in Timor-Leste August 2006 - August 2007," highlighted the role that the report of the Commission for Reception, Truth and Reconciliation Commission (CAVR) can play within Timor-Leste in both "unifying" Timorese society and helping to "foster a democratic culture based on the rule of law." We believe that the unhealed mass trauma experienced by the East Timorese between 1975 and 1999 contributed to the crisis of 2006. The shortcomings of the local and international justice processes have helped create a culture of impunity in which many believe they can, in effect, get away with murder and other crimes. A genuine justice process can help further reconciliation both within Timor-Leste and between the Timorese and Indonesian peoples.

The CAVR report's recommendations were also addressed to the international community, specifically including the Security Council and its permanent members, as well as Indonesia,
a current member. The Security Council should have an open debate that includes representatives of civil society to discuss implementing the report’s recommendations.

Both the CAVR and the UN Commission of Experts recommended the creation of "an ad hoc international criminal tribunal for Timor-Leste" should Indonesia, under a strict time frame, continue to fail to credibly prosecute senior officials responsible for the devastation in 1999. If this is not feasible, we urge you to fully reconstitute the Serious Crimes process, providing it with sufficient resources and backing. This should be done in accordance with recommendations 7.1.1 and 7.1.2 of the CAVR Report - namely, the UN itself should provide the resources and judicial expertise, not Timor-Leste’s court system. The Serious Crimes process must investigate war crimes and crimes against humanity committed from 1975 onwards, not just those committed in 1999. Indonesia, which is currently a member of both the Security Council and UN Human Rights Council, must extradite for trial those charged by the Serious Crimes process.

This call for substantive justice for past crimes is widely supported within Timor-Leste, especially by the Church and civil society. However, the leaders of Timor-Leste have favored the flawed CTF, because of concerns about standing up to Indonesia, its larger neighbor and former ruler, and especially its still largely unreformed military.

However, in his inauguration speech as Prime Minister in 2006, now President Jose Ramos-Horta acknowledged the "great teachings" of the CAVR report. Prime Minister Xanana Gusmao, in his speech at the swearing in of members of his government in August this year, called for the consideration of the CAVR report. "We cannot ignore the lessons of the past in order to understand the current crisis, and protect the future," he said.

East Timor’s diplomatic position means that it cannot take the lead on the matter of justice in the face of opposition from its powerful neighbor. The international community, as embodied in the United Nations, must be involved in addressing these crimes which violated international criminal law, the UN charter and Security Council resolutions. If the Security Council is truly interested in upholding its international human rights responsibilities, we urge the council as a body and its individual members to implement the relevant recommendations of the CAVR and to act forcefully for justice for the people of Timor-Leste.

Yours sincerely,

Yasinta Lujina, Coordinator
La’o Hamutuk Institute for Reconstruction Monitoring and Analysis, Timor-Leste

Angelina Maria Sarmento, Executive Director
NGO Forum Timor-Leste

Mericio Akara, Program Manager
Luta Hamutuk - Timor Leste
Joao Pequinho  
Forum Tau Matan, Timor-Leste

Edio Saldaha  
Yayasan HAK, Timor-Leste

Sisto do Santos  
Student Front, Timor-Leste

Jose Fernandes Teixeira  
Member of National Parliament (elected June 2007)  
Former Minister for Natural Resources, Minerals and Energy Policy Second and Third Constitutional Governments

Poengky Indarti, Director of External Relations  
Ully Sarimayam, Communication Officer  
Imparsial, The Indonesian Human Rights Monitor, Indonesia

Rafendi Djamin, Coordinator Indonesia  
NGO Coalition for International Advocacy (Human Rights Working Group)

Usman Hamid, Executive Director  
KontraS, Indonesia

Winston Neil Rondo, Coordinator  
CIS TIMOR Volunteers Association, Indonesia

Gustaf Dupe, Chairman  
Committee for the Release of Political Prisoners (KAP T/N)  
Chairman, Association of Prison Ministries, Indonesia Chairman, Law Enforcement Watch (LEW), Jakarta  
General Secretary, Jakarta Christian Communication Forum, (FKKJ)

John M. Miller, National Coordinator  
East Timor & Indonesian Action Network, USA  
UN Representative, International Federation for East Timor (IFET)

Carmel Budiardjo, Director  
TAPOL, the Indonesia Human Rights Campaign, UK

Dr Clinton Fernandes  
Australian Coalition for Transitional Justice in East Timor

Gus Miclat  
Asia-Pacific Solidarity Coalition (APSOC), Philippines
Anselmo Lee, Executive Director
Tadzrul T. Hamzah, South East Asia Programme Officer
FORUM-ASIA, Thailand

Brad Adams, Director for Asia
Human Rights Watch

Pedro Pinto Leite, Secretary
International Platform of Jurists for East Timor, The Netherlands

Charles Scheiner
International Secretariat
International Federation for East Timor

Paul van Zyl, Executive Vice President
International Center for Transitional Justice

Robert B. Fisher, Chairperson
VIVAT International

Brian Keane, Director
Land is Life

Roger S. Clark, Board of Trustees
International League for Human Rights

Shulamith Koenig, Founding President
PDHRE, People's Movement for Human Rights Learning; Recipient of the 2003 UN Human Rights Award

Juan Federer, Former Coordinator
East Timor International Support Center

Maire Leadbeater, Spokesperson
Indonesia Human Rights Committee, Auckland

Edwina Hughes, Coordinator
Peace Movement Aotearoa
Kyo Kageura
Japan East Timor Coalition

Ahmed Seif Elislam Hamad, Executive Director
Hisham Mubarak Law Center (HMLC), Egypt

James Dunn, former UNTAET expert on crimes against humanity in East Timor
Geoffrey C. Gunn, Professor of International Relations
Nagasaki University, Japan
Former consultant sociologist to UNTAET; former consultant to
CAVR on “international actors.”

Dr Helen M. Hill, Chairperson
Australia-East Timor Association (Victoria)

Celine Massa, Campaign Organiser
SEARCH Foundation, Australia

Rob Wesley-Smith, Convenor
Australians for a Free East Timor, Darwin, Australia

Jefferson Lee, Spokesperson
Australia East Timor Association, NSW Australia

Miriam Tonkin, Chairperson
Australia East Timor Friendship Association, (SA)

Dr Vacy Vlazna, Former Coordinator
East Timor Justice Lobby Sydney, Australia

Brian T. Manning
Campaign for an Independent East Timor, Darwin

Dr. Monika Schlicher, Executive Director
Watch Indonesia! Working Group for Democracy, Human Rights and Environmental
Protection in Indonesia and East Timor, Berlin, Germany

Gabriel Jonsson, Chairman
Swedish East Timor Committee

Carlos.Semedo
France-Timor Leste

Bruno Kahn Directeur de recherche
CNRS Paris, France

Clionadh O’ Keeffe Community Development Worker and Human Rights Activist, Ireland

Ed McWilliams, retired senior Foreign Service Officer, former Political Counselor, U.S.
Embassy, Jakarta

Neil Hicks, Director
Human Rights Defenders Program, Human Rights First
Rev. Dr. Dennis M. Davidson, President
Unitarian Universalist Peace Fellowship

Sharon Silber & Eileen B. Weiss, Co-Founders
Jews Against Genocide

Sr. Sheila Kinsey, OSF, Leader
Justice, Peace & Integrity of Creation Office Wheaton Franciscans

Rev. John Chamberlin, National Coordinator
East Timor Religious Outreach

Bill Ramsey
Human Rights Action Service, St. Louis

David Hartsough, Executive Director
PEACEWORKERS, San Francisco

Green Delaware

Rev. James Kofski, Associate
Asia/Pacific and Middle East Issues Maryknoll Global Concerns, Washington

Elaine Donovan, co-founder
Concerned Citizens for Peace, Hemlock, NY

Wade Schemmel, Conference Minister
Northern Plains Conference, United Church of Christ

Roland Watson, Founder
Dictator Watch

Mary T. Whittlinger, Treasurer
Ecumenical American Moluccan Church

Mariza Cabral
Seattle International Human Rights Coalition