



REPORT RELEASE

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Timor-Leste: New Report Lays Out Failures in Serious Crimes Process

NEW YORK, June 10, 2005—The quest for justice in Timor-Leste began with good intentions, but was not backed up by the strategic planning and effective political support necessary to counter the damaging effects of Indonesian lack of cooperation, argues a report released today by the International Center for Transitional Justice (ICTJ).

“Justice Abandoned? An Assessment of the Serious Crimes Process in East Timor” presents a historical overview and critical analysis of the Serious Crimes Unit (SCU) and the Special Panels for Serious Crimes (SPSC) established by the United Nations to prosecute those responsible for the widespread and systematic atrocities committed at the time of East Timor’s 1999 referendum on independence from Indonesia. The SCU and SPSC were closed prematurely in May 2005, as part of the downsizing of the United Nations Mission of Support in East Timor.

The 31-page report argues that not only was the serious crimes process undermined by a lack of planning and support, it was abandoned in its hour of greatest need by the UN, the international community, and the government of Timor-Leste. Nowhere is this seen more clearly than in the attempts by the UN and the Timorese government to distance themselves from the SCU’s indictment of General Wiranto, the former Indonesian minister of defense and commander of the armed forces. Further, UN support for the process was withdrawn even though a significant number of investigations and prosecutions are not yet closed, and many have not even begun.

The most fundamental obstacle to the effective functioning of the serious crimes process was Indonesia’s failure to cooperate. Despite memorandums of understanding signed with the UN, Indonesia consistently hindered the prosecution of serious crimes in Timor-Leste, in particular by refusing to surrender suspects for trial; of 392 persons indicted by

the SCU, 304 are thought to be in Indonesia. Among these are numerous high-level perpetrators from the Indonesian military and government.

Despite these failings, a small group of determined practitioners managed to achieve some measure of justice for the victims of the conflict in Timor-Leste. The serious crimes process partly achieved its objectives of establishing accountability and carrying out trials in a fair manner in accordance with international standards. The SPSC and the Court of Appeals heard a large number of cases in a comparatively short period, and 74 perpetrators were held accountable for serious crimes. Further, the process made a significant contribution to the historical record by documenting human rights violations and the contexts in which they occurred, as well as the involvement of the Indonesian state.

The outlook for further prosecutions is poor following the premature closure of the SCU and SPSC. The large number of indictments, arrest warrants, and trials still pending require international involvement, since there is insufficient professional capacity in the domestic legal system to continue the process without outside assistance. Future prosecutions are further threatened by the apparent willingness of Timorese leaders to sacrifice justice in order to promote friendly relations with Indonesia. A joint Commission for Truth and Friendship announced by both countries, over the unanimous objections of civil society organizations, offers amnesties for perpetrators of crimes against humanity while remaining silent about the rights of victims.

“The international community must fulfill its commitment to bring justice to Timorese victims by providing renewed assistance for the serious crimes process,” said ICTJ Program Director Paul van Zyl. “If Indonesia persists in its refusal to hand over evidence and suspects, the Security Council should use its authority under Chapter 7 of the UN Charter to establish an international tribunal. It is in the interests of both Indonesia and Timor-Leste, and fundamental for the credibility of the UN, that perpetrators are held accountable and victims’ rights are vindicated.”

A Commission of Experts appointed by the UN Secretary-General to review the justice processes in Indonesia and Timor-Leste submitted its findings in late May. The report will soon be released to the public, and is expected to call on the UN to redouble its efforts to promote accountability for serious crimes in Timor-Leste.

“Justice Abandoned? An Assessment of the Serious Crimes Process in East Timor” is available from the ICTJ web site at www.ictj.org/downloads/ictj.justice-abandoned.pdf

The ICTJ in Indonesia and Timor-Leste

The ICTJ has been working in Indonesia and Timor-Leste since the organization’s inception, consulting with the UN, governments, civil society groups, and academics on a variety of transitional justice initiatives.

Released in August 2003, “Intended to Fail,” the ICTJ’s analysis of the trials before the Ad Hoc Human Rights Court in Jakarta, suggests that Indonesia never intended to fulfill its promise of holding perpetrators accountable for the violence surrounding the East Timorese vote for independence in 1999. Senior Associate Eduardo Gonzalez worked with local and international NGOs to request that the UN develop an appropriate response to this failure.

The ICTJ has also monitored parliamentary efforts to establish a truth commission and coordinated with local partners to ensure that the proposed body respects victims’ rights and promotes accountability. In January 2005, the Center disseminated a study of the Indonesian law establishing the Truth and Reconciliation Commission (TRC), and in February, co-sponsored a conference in Jakarta for civil society leaders and activists to develop a strategy to respond to the TRC law.

The ICTJ has actively supported efforts in Timor-Leste to address the human rights violations and impunity left by 24 years of Indonesian occupation by assisting the work of the Commission for Reception, Truth, and Reconciliation and the Serious Crimes Unit. To help inform the debate about accountability, the Center produced a report in August 2003, “Crying Without Tears: In Pursuit of Justice and Reconciliation in Timor-Leste,” which examines the perspectives of a cross-section of Timorese citizens on issues of violence, truth, justice, and reconciliation.

The Center urged the UN Secretary-General to convene an international Commission of Experts to examine the situation of impunity for the crimes committed in 1999 and to devise workable, efficient, and fair strategies to ensure accountability.

In January 2004, the Center released “The Struggle for Truth and Justice,” a report that maps nearly 200 transitional justice initiatives undertaken by Indonesian civil society organizations. The Center publishes a monthly newsletter in Bahasa Indonesia to disseminate transitional justice information throughout the region. All three reports are available on the ICTJ web site at www.ictj.org.

About the ICTJ

The International Center for Transitional Justice (ICTJ) assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved.

In order to promote justice, peace, and reconciliation, government officials and nongovernmental advocates are likely to consider a variety of transitional justice approaches including both judicial and nonjudicial responses to human rights crimes. The ICTJ assists in the development of integrated, comprehensive, and localized approaches to transitional justice comprising five key elements: prosecuting perpetrators, documenting and acknowledging violations through nonjudicial means such as truth

commissions, reforming abusive institutions, providing reparations to victims, and facilitating reconciliation processes.

The Center is committed to building local capacity and generally strengthening the emerging field of transitional justice, and works closely with organizations and experts around the world to do so. By working in the field through local languages, the ICTJ provides comparative information, legal and policy analysis, documentation, and strategic research to justice and truth-seeking institutions, nongovernmental organizations, governments and others.

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