



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

July 12, 2005

Dear Mr. Secretary-General:

We write to encourage you to support the recommendations made by the Commission of Experts on East Timor that you established in February of this year and whose work concluded on May 26. We also urge you to publish the report of this Commission as soon as possible and to encourage the Security Council to meet soon to discuss its findings and recommendations.

The work of the experts has been faithful to the objectives you set for them, and will allow you to report back to the Security Council about the results of the accountability mechanisms established in Jakarta and Dili. At the same time, they have provided you with reliable analysis about the terms of reference of the Commission of Truth and Friendship proposed by the governments of Indonesia and East Timor.

Based on the experts' report and on our own experience, it is impossible not to conclude that the main factor behind the limited progress in bringing to justice those most responsible for the atrocities committed in East Timor in 1999 is the intransigence of the Indonesian authorities in the face of their international legal obligations.

The United Nations decided in 2000 not to establish an international tribunal to try the crimes committed because it hoped that Indonesia would comply with its obligation to punish those responsible. That hope was betrayed and in fact Indonesia's lack of cooperation undermined the ability of the Serious Crimes Unit to secure the custody of more than 75% of the persons it indicted, including those most responsible for orchestrating the international crimes that took place in 1999. The sham trials conducted in Jakarta before the ad hoc Court of Human Rights have not resulted in a single perpetrator serving a sentence.



Secretary-General Kofi Annan
July 12, 2005
page 2

The solution to this pattern of impunity will not come from a non-judicial investigation, such as the proposed Commission of Truth and Friendship, a body whose explicit rationale—as noted by the UN-appointed experts—is to bring “definitive closure” while apparently excluding criminal justice processes, and whose process of establishment has been deeply politicized.

In fact, the proposed Commission of Truth and Friendship runs against every lesson identified by your Report on the Rule of Law and Transitional Justice in Conflict and Post-Conflict Societies, issued in August 2004: it has been rushed through without appropriate consultation; it lacks public support in both countries; it does not have a transparent nominating process; and it lacks guarantees of independence. The proposed Commission’s mandate to recommend amnesties for those who have committed crimes against humanity is offensive to the victims and to every principle of international human rights law.

We have witnessed over the years how the victims of the atrocities committed in East Timor have looked to the United Nations to establish an international tribunal. We have seen their right to justice mocked by the Jakarta trials, and their hopes diminished by the premature closing of the Serious Crimes Unit in Dili. We have seen their dismay when political deals weakened their chances of achieving justice. Their legitimate expectations have been frustrated for long enough. Only decisive action from the international community can vindicate their rights.

We respectfully call on you to endorse the findings of the Commission of Experts before the Security Council and to actively support their recommendations. The experts recommend that Indonesia be given a final opportunity to comply with its obligations: to strengthen its judicial system; reopen the trials before the ad hoc court; and consider the evidence compiled by the Serious Crimes Unit against General Wiranto and other high-level officials.

Although we have serious reservations about Indonesia’s willingness to ensure that justice is done, we think that the experts’ proposals could be feasible if your office and the Security Council are prepared to establish a credible system to monitor compliance within the time frame proposed. Given the weaknesses identified by the Commission of Experts, such monitoring should include, *inter alia*, clear standards for the drafting of



Secretary-General Kofi Annan
 July 12, 2005
 page 3

indictments, the conduct of the prosecution and witness protection processes, and judicial training and independence. Further, in the absence of substantive progress, such a system should include steps towards the establishment of an international tribunal.

We believe that only signals of strong resolve will persuade Indonesia to punish the perpetrators, and that bringing justice will in turn strengthen Indonesian democracy, cement genuine reconciliation with East Timor, and build lasting security in the region.

Sincerely,

Nina Bang-Jensen
 Executive Director
 Coalition for International
 Justice

John M. Miller
 Coordinator
 East Timor and Indonesia
 Action Network

Amado Hei
 Head of Policy Advocacy
 The Hak Association-
 East Timor Association for
 Law, Human Right and
 Justice

Michael Posner
 Executive Director
 Human Rights First

Brad Adams
 Asia Division Director
 Human Rights Watch

Choirul Anam
 Coordinator
 Human Rights Working
 Group

Juan E. Méndez
 President
 International Center for
 Transitional Justice

Charles A. Scheiner
 Secretariat
 International Federation for
 East Timor (IFET)

Tiago Amaral Sarmento
 Director
 Judicial System Monitoring
 Programme

Jim Goldston
 Executive Director
 Open Society Justice Initiative

Paul Barber
 TAPOL, the Indonesia Human
 Rights Campaign

Alex Flor
 Executive Director
 Watch Indonesia!