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Timorese Truth Commission Report Reveals Shocking Brutality, Calls for End to Impunity

NEW YORK, January 20, 2006—Today, President Alexandre "Xanana" Gusmão of Timor-Leste presented the UN Secretary-General, Mr. Kofi Annan, with the final report of the Commission for Reception, Truth and Reconciliation in Timor-Leste (CAVR in its Portuguese acronym). In so doing, President Gusmão complied with the UN regulations that established the CAVR in 2001 and with Timorese legislation. President Gusmão had earlier handed the report over to the Timorese parliament and cabinet.

The CAVR delivered its report to the president on October 31, 2005, marking the end of more than three years of intensive work, during which more than 7,000 victims gave testimony on human rights violations committed in East Timor between April 1974 and October 1999. The Commission found that at least 102,800 Timorese people died as a direct result of the 24-year Indonesian occupation. This corresponds to approximately 10% of Timor-Leste's present population.

The International Center for Transitional Justice (ICTJ) applauds the CAVR and the Timorese people for a scientifically rigorous and morally brave report. The CAVR dutifully discharged its mandate to establish the truth, contribute to accountability and promote reconciliation. The ICTJ calls on the governments of Timor-Leste and Indonesia, as well as on the international community, to disseminate the report's findings and act immediately on its recommendations, ending impunity for perpetrators of human rights abuses in Timor-Leste.

The final report is a comprehensive and detailed record of the suffering of the Timorese people in their struggle for freedom, a harsh indictment of the 24-year Indonesian occupation and a plea to overcome the inaction of the international community. Based on rigorous legal analysis and extensive information, the CAVR concluded that Indonesian security forces committed human rights violations that amounted to crimes against humanity and war crimes against the Timorese population.

The Commission's final report should remind the world that the Indonesian security forces committed massive international crimes long before the well-publicized atrocities that surrounded their retreat from East Timor in 1999.

Shamefully, Indonesia and the international community still fail to uphold their moral and legal obligations to bring perpetrators to justice. They have been unable even to

effectively address the crimes committed in 1999, which were thoroughly documented by the international media.

In June 2005, the UN Commission of Experts appointed to review the justice processes in Indonesia and Timor-Leste condemned the prosecutions before Indonesia's Ad Hoc Human Rights Court as "manifestly inadequate" and accused it of "scant respect for or conformity to relevant international standards." The UN Commission found that the work of the prosecutors was inadequate, verdicts were inconsistent, and perpetrators were not held accountable.

CAVR Final Report Findings

Although the official mechanism disseminating the report to the general public remains unclear, President Gusmão has announced that the handover of the report to the Secretary-General marks "the beginning of the intensive dissemination of the content of the report and its recommendations." Copies of the report were leaked to the public after it was presented to the Timorese parliament and cabinet in November.

The CAVR final report found that between 1974 and 1999:

- At least 102,800 Timorese are estimated to have been killed or to have died of hunger and illness directly attributable to the Indonesian occupation. This estimate is the most accurate and scientifically rigorous ever made for Timor-Leste, and is based on the CAVR database, a retrospective mortality survey, and a census of public graveyards.
- A vast majority (85%) of the human rights violations directly reported to the Commission were committed by Indonesian security forces acting alone or through auxiliaries.
- Violations were "massive, widespread and systematic." Indonesian forces used starvation as a weapon of war, committed arbitrary executions, and routinely inflicted horrific torture on anyone suspected of sympathizing with pro-independence forces. This included organized sexual enslavement and sexual torture of Timorese women.
- The Indonesian government and the highest commanders of the Indonesian army violated international humanitarian law by targeting civilians; conducting indiscriminate military attacks, some involving the use of banned weapons like napalm; and pillaging and unnecessarily destroying civilian property.
- Approximately 10% of reported violations were committed by pro-independence forces led by the Front for an Independent East Timor (FRETILIN). In contrast with the Indonesian forces, however, FRETILIN leaders have accepted responsibility for the violations they committed and cooperated with the commission.

- The crimes committed in 1999 constituted a systematic campaign orchestrated at the highest levels of the Indonesian government.
- The report details the names and command responsibilities of key Indonesian military leaders who had jurisdiction over areas of Timor-Leste where massive atrocities were committed. This includes high-ranking officials such as General Wiranto, Minister of Defense and Chief of the Armed Forces in 1999. A UN-established tribunal in Timor-Leste requested General Wiranto's arrest in 2004.
- The UN consistently failed to take effective action to stop the Indonesian occupation and accompanying atrocities. The permanent members of the UN Security Council, and some non-permanent members, put their economic and strategic interests ahead of the purposes and principles of the UN.

CAVR Final Report Recommendations

- In the final report, the CAVR makes a series of recommendations for achieving justice and ending impunity, including that:
 - The United Nations should renew the mandates and funding of the Serious Crimes Unit (SCU) and Special Panels in Timor-Leste, established to try those responsible for the violations. Both bodies should be placed under the jurisdiction of the UN.
 - The international community should apply the principle of universal jurisdiction to bring cases against Indonesian perpetrators, in particular those already indicted by the SCU. The international community should make cooperation with Indonesia contingent on specific steps taken by its government to achieve accountability for the abuses committed in Timor-Leste.
 - The government of Timor-Leste should implement a national reparations program—including both economic and symbolic compensation—for the victims of human rights violations. The cost of the program should be born primarily by Indonesia, as well as by states and corporations that benefited from the occupation.
 - The government of Indonesia should declassify information held by its security forces that could contribute to justice, and should educate its people and public institutions about the crimes committed in Timor-Leste.
 - Any additional truth-seeking measures, such as the so-called Commission of Truth and Friendship (CTF) established by the governments of Indonesia and Timor-Leste to investigate the crimes committed in 1999, should be undertaken "with a view to strengthening, not weakening," the chances for criminal justice.
 - The international community should help preserve and disseminate the records and final report of the CAVR. In particular, the UN Secretary-General should refer the report to the Security Council, General Assembly, the Special Committee on

Decolonization, and the UN Commission on Human Rights, requesting that "each of these bodies devotes a special session to discussion and reflection on the Report and the lessons to be learned from its contents and findings."

A Way Forward

The ICTJ considers the recommendations on criminal justice, truth, and reparations contained in the CAVR report just and feasible. These recommendations are a call to the government of Indonesia to finally acknowledge its legal and moral responsibility to the people of Timor-Leste, to admit the truth, prosecute perpetrators, and provide reparations.

At the same time, the report is a plea to the Timorese leadership not to assist Indonesian efforts to obscure the truth and entrench impunity for reasons of political expediency. Continued impunity for perpetrators will only erode democratic legitimacy in Timor-Leste and strengthen authoritarian elements within the Indonesian government and military.

"The report of the CAVR is a memorial to the courage of the Timorese people in fighting for their freedom in the face of brutal repression and international apathy," said ICTJ Senior Associate Eduardo Gonzalez, head of the Center's Timor-Leste and Indonesia programs. "One hundred thousand Timorese have died and thousands of survivors are struggling to cope with the long-term consequences of the suffering and ruin inflicted on them by the Indonesian government. That atrocity cannot be whitewashed for reasons of political expediency."

Indonesia's State Secretary yesterday dismissed the CAVR report, charging that "Western countries also colonized Asia and Africa in an even worse manner." The international community should not accept such a disingenuous manipulation of history, just as it should not accept Indonesia's attempts to obscure the truth through the sham trials conducted before the Ad-Hoc Human Rights Court in Jakarta, or the so-called Commission of Truth and Friendship, which has been widely rejected by civil society in both Indonesia and Timor-Leste. The world must instead give full support to Timorese efforts to overcome the legacy of the Indonesian occupation and achieve real justice.

The ICTJ in Indonesia and Timor-Leste

The ICTJ has been working in Indonesia and Timor-Leste since the organization's inception in 2001, consulting with the UN, governments, civil society groups, and academics on a variety of transitional justice initiatives.

In June 2005, the Center released a report on the serious crimes process in Timor-Leste entitled "Justice Abandoned?" The report concluded that the quest for justice in Timor-Leste had begun 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.

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 (CAVR) and the Serious Crimes Unit (SCU). 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 four 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 non-judicial 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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