

May 1, 2007

His Excellency Ban Ki-Moon
Secretary-General
The United Nations
1 United Nations Plaza
New York, New York 10017-3515

Dear Mr. Secretary-General:

I am writing to you to urge you to issue an official response from the United Nations to challenge the allegations of gross misconduct, fraud, and human rights violations by UNAMET personnel, which have been claimed during the public hearings of the bilateral Indonesia/Timor-Leste Commission on Truth and Friendship (CTF), held in February and March 2007 in Denpasar and Jakarta.

In October 2005, the International Center for Transitional Justice (ICTJ) made public our analysis of the main flaws in the CTF's Terms of Reference, *inter alia*: their preclusion against recommending prosecutions for those most responsible for serious human rights violations; their provisions for recommending amnesty for perpetrators of serious crimes; a lack of protection provisions for victims and witnesses; and a lack of guarantees for the independence of the Commission. Two years later, our causes for concern underlying these reservations have all been realized.

The CTF's public hearings have demonstrated a significant lack of procedural fairness. Those who have testified disproportionately represent Timorese groups who were themselves alleged to have been involved in the violence, and Indonesian military commanders, a number of whom have been indicted for crimes against humanity by the UN-backed Serious Crimes process in Timor-Leste. Through their public testimony, these alleged perpetrators have been free to propagate their own version of events in a public forum, which has been widely reported in the mass media. They have done so without their versions being subjected to any substantive cross-examination or contrary evidence. No testimony has been proffered in support of the operations of the United Nations Assistance Mission in East Timor (UNAMET). Furthermore, some of the Commissioners have demonstrated obvious bias, including suggesting to witnesses that UN personnel were involved in torture and in manipulation of the ballot process in East Timor. On the other hand, the few East Timorese victims who have attended the hearings in Indonesia have been subjected to unduly aggressive questioning from some Commissioners, and have been denied the respect and protection that their status as victims deserves.

In the course of the hearings, many witnesses who were serving members of the Indonesian security forces or militia groups in East Timor in 1999 have given evidence that UNAMET was directly responsible for the violations surrounding the ballot. As stated above, this evidence has not been questioned and no witnesses from the United Nations have attended to provide an alternative view to the one widely-reported in

Indonesian and international media. The allegations include graphic accounts of UNAMET staff taking part in criminal acts such as rape, torture, and the illegal transport of weapons. The underlying theme suggested by these witnesses has been that United Nations staff members were involved in a systematic conspiracy to distort the 1999 ballot process in order to ensure a victory for pro-independence supporters and the consequent separation of East Timor from Indonesia. The decision by the then Secretary-General, Kofi Annan, and UNAMET leader, Ian Martin, to accelerate the announcement of the result of the ballot by several days has been criticized as unscrupulous and has been attributed as directly leading to the violence in which approximately 1,500 East Timorese were killed.

Representatives of the United Nations have been invited to provide evidence to the Commission. Such testimony could greatly assist in providing a more balanced account for the public record. In the absence of a response from the United Nations and the lack of serious cross-examination, the evidence which has been presented is likely to be accepted by many observers as an uncontested, official version of what took place in 1999. Allowing this to occur will produce yet another serious setback for any prospects of justice and democracy in Indonesia. This process will also contribute to the impunity of those responsible and dishonor the courageous efforts of United Nations staff, including the 12 who lost their lives as a result of their service to UNAMET.

The United Nations has invested significant political and financial resources into establishing accountability for the serious crimes committed in Timor-Leste, including providing resources and staff to: the Serious Crimes indictment and prosecutions process in Dili; the Commission for Reception, Truth and Reconciliation (CAVR) in East Timor; the work of the UN Commission of Experts (COE) evaluating these mechanisms; and the Ad Hoc Human Rights Court in Jakarta. Despite this, the impunity of those most responsible and who are presently laying the blame at the door of the UN, remains. I urge you to take action to ensure that the truth regarding the UN's role in the ballot and the actual responsibility for the crimes committed in 1999 be brought before the CTF.

Further, I respectfully remind you that the Government of Indonesia has failed to implement a key recommendation of the COE to "comprehensively review prosecutions before the Ad Hoc Court and reopen prosecutions" in a timely manner. Given that almost two years have passed since your predecessor submitted the COE's findings to the Security Council and given the abysmal performance of the CTF in combating widespread impunity, I urge you to re-open the discussion on the COE's critical recommendation of a judicial mechanism to ensure that high-level perpetrators are held genuinely accountable.

Sincerely yours,
Juan E. Méndez
President

cc: Ambassador Vijay Nambiar
Michael Williams

Lynn Pascoe
Nicolas Michel