

JSMP Press Release:

19 July 2004

East Timorese civil society demand the creation of a Commission of Experts

Today, the Judicial System Monitoring Programme (JSMP) along with 106 individuals signed a joint statement to be sent to the Secretary-General of the United Nations, Kofi Annan calling on him to establish a Commission of Experts to analyse the trials of the Special Panel for Serious Crimes in Dili and the Ad Hoc Human Rights Court for East Timor in Jakarta. The signatories include individuals from organisations such as the Commission for Reception, Truth and Reconciliation (CAVR), the National Alliance for an International Tribunal representing 28 NGOs, victims groups, legal aid organisations, community representatives and university students and lecturers.

The statement expresses the support of East Timorese civil society and community leaders for the establishment of a Commission to analyse these processes, which up until now, have not provided justice and accountability. At present, the East Timorese Government is not actively supporting this vital initiative. The Government prefers a forgive and forget attitude, focusing on maintaining good relations with Indonesia. While President Xanana Gusmao is intent on embracing former General and Commander of the Indonesian Armed Forces, Wiranto, whilst low-level East Timorese militia members serve prison sentences. The impunity of senior Indonesian commanders and officials while East Timorese serve time demonstrates the injustice of the present situation. The solution, however, is not to abandon justice initiatives for past crimes, but rather to ensure high-level international experts can give recommendations on future processes.

It is the responsibility of the international community to act, and to act now. JSMP believes that the Secretary-General intends to defer a decision on the Commission of Experts until after the second round of Indonesian presidential elections in September this year. However, as Wiranto has already been eliminated from the presidential race, the establishment of the Commission cannot be said to interfere in Indonesian politics. Further, investigations for cases before the Special Panel for Serious Crimes will cease in November 2004 and trials finalised by May 2005. This is despite around half of the estimated 1400 murders being uninvestigated and countless other crimes committed throughout the Indonesian occupation being unaccounted for. To lose the opportunity to improve the serious crimes process before it ceases operations would be an unnecessary setback. Accordingly, the Commission of Experts must be established immediately so it can issue its findings while the serious crimes process is still in progress.

JSMP's community consultation work has revealed that tension remains in communities and has the potential to turn violent. As a result the UN's positive work in rebuilding East Timor could unravel unless those most responsible for

crimes against humanity are brought to justice. This public statement provides further evidence that the people of East Timor, regardless of the position of the Government, cannot accept the current injustice and impunity. A Commission of Experts must be officially established, and this needs to happen now. Current UN rhetoric emphasises the importance of engaging civil society. Let the Commission of Experts be an example of putting these words into action.

Below is an English translation of the Public Statement sent to the Secretary-General of the United Nations, Kofi Annan. The original version, including the list of signatures is available at <http://www.jsmp.minihub.org>

Public Statement to the Secretary-General of the United Nations

His Excellency Kofi-Annan

Secretary-General
The United Nations
1 United Nations Plaza
New York, New York 10017-3515

19 July 2004

Dear Sir,

We the people of Timor-Leste and victims of crimes sign the following:

We strongly support and hope that you along with the United Nations establish a Commission of Experts to review the progress of the justice processes in Indonesia and Timor-Leste.

We the people of Timor-Leste, especially the families of victims of crimes against humanity believe that both processes have not yet met our needs and demand for justice. On the other hand, what has occurred is perpetrators have not yet been held accountable for their actions. The judicial process in Indonesia was in effect show trials created entirely to exonerate and cover up crimes through a legal process. Those accused of violations of crimes against humanity have not faced punishment. Several accused who have already been found guilty and received sentences are still at large in Indonesia. Even former head of the armed forces Wiranto, one person who arguably bears most responsibility for the crimes committed in 1999, has avoided trial in the Ad Hoc Human Rights Court in Jakarta and was up until recently a presidential candidate in Indonesia. Other people still occupy strategic positions in the military. We have identified that the judicial process in the ad hoc Court in Jakarta has only convicted some of the 18 defendants and the majority found guilty are civilian leaders of Timorese ethnicit

However the trial process taking place in East Timor only tries low-level perpetrators who live within the territory of East Timor. In most of the court

proceedings that have taken place in East Timor, those small perpetrators claimed they were actually also victims of the Indonesian Army's systematic plan in 1999. Furthermore, a large number of those indicted by the Serious Crimes Unit continue to be at large in Indonesia and the Special Panel for Serious Crimes cases cannot try those indictees.

According to our experience, one of the major factors influencing the above-mentioned failure is the absence of pressure from the international community on the Indonesian government to co-operate with the UN-established Serious Crimes Unit. We therefore recommend that such pressure is forthcoming, especially as it is of paramount importance given the end of UNMISSET's mandate in the near future. This is also due to the fact that there are many controversial developments that continue to challenge our strong desire for justice.

We, the East Timorese people argued that it is the United Nations' responsibility to examine and evaluate the court processes that have taken place in both countries. The United Nations should seek any other mechanisms and/or alternatives to bring to justice those perpetrators of crimes against humanity, where there is evidence that the process was unjust.

For more than five-years, the United Nations has played a very crucial role in the development of a new East Timor, including the judicial process. Thus justice for the victims and their families would become an important barometer to measure the United Nations' achievement in East Timor

We therefore appeal and demand that you, the honourable Mr. Kofi Annan, through the United Nations establish a Commission of Experts to evaluate the court processes that have had taken place both in Indonesia and East Timor.

Similarly important, we request that the Commission of Experts be provided with the necessary resources, including its discretion to recommend an International Tribunal to be established for East Timor in order to try the perpetrators of crimes against humanity.

Below is the list of our signatures;

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