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

24 June 2004

Dear Mr. Secretary-General:

As human rights and international justice organizations that have closely followed and supported the UN's efforts to establish justice in East Timor, we applaud your initiative to create an International Commission of Experts to review the status of efforts undertaken in the region and to hold individuals accountable for war crimes and crimes against humanity committed in East Timor. To be as effective as possible, we urge that the Commission be formed immediately and that it cover the work of the *ad hoc* Human Rights Court in Jakarta and the UN-established Serious Crimes process in East Timor. The Commission's mandate should include everything from indictments to prosecutions and appeals. We are concerned that if the Commission does not convene and report promptly, options to address core accountability issues in the region will be lost, especially given the Security Council's recent resolution, S/RES/1543 (2004), encouraging the Serious Crimes Unit to complete investigations by November 2004 and the Special Panels to complete trials by May 2005.

Four years ago, you and members of the international community gave the Indonesian government an opportunity, as they requested, to prove they could conduct full and fair investigations and prosecutions of crimes arising from the violence in East Timor in 1999 without direct international participation or supervision. This was done with the proviso that you would "closely monitor progress" and ensure a "credible response in accordance with international human rights principles."

By all accounts, Indonesia's *ad hoc* Tribunals' efforts have been deeply disappointing in that they do not appear to demonstrate a genuine effort to punish the perpetrators or maintain minimum recognized standards of independence and impartiality. They also risk perpetuating an incorrect historical record. Indeed, following the release of its first two verdicts, on 14 August 2002, your Spokesman issued a statement in which he aimed to set the record straight:

"In the course of the proceedings, it has been suggested by judges, prosecutors and defendants that there were irregularities in the conduct of the United Nations Mission in East Timor (UNAMET) during the 30 August 1999 Popular Consultation... These irregularities are alleged to have contributed to the widespread violence that engulfed the territory in September 1999. These allegations are false."



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Disturbingly, just last month, a brief presented by counsel to General Wiranto repeated this version of history identifying UNAMET and its “deceit” as “the trigger of the riots”. We are deeply concerned that such revisionism may go unchallenged.

As transparency and fairness are essential to the Commission’s success, it is vital that this group of experts evaluate the work undertaken in *both* East Timor and Indonesia. From the perspective of those whose processes are being scrutinized there will never be a perfect time to conduct an objective assessment. It is worth noting, however, that Jakarta’s trials were largely completed last year and that the Serious Crimes process has experienced many recent difficulties, making the Commission’s work especially important at this time.

We urge you, with the support of the Security Council, to establish a Commission of experts in the areas of international humanitarian law, criminal law and transitional justice to review the aforementioned justice processes and decisions. The Commission should aim to make recommendations that ensure fulfillment of the Security Council’s demands in Resolution 1272 issued under a Chapter VII mandate, namely that “those responsible for such violence be brought to justice”.

Mr. Secretary-General, we appreciate your urgent attention to this matter. The steps requested above will serve the interests of peace and security in East Timor and Indonesia, bolster UN authority and honor your promise of justice to the victims.

Respectfully,

Juan E. Mendez
President
International Center for Transitional Justice

Ken Roth
Executive Director
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