

# La'o Hamutuk

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Members of the United Nations Security Council  
Dili, Timor-Leste and New York, New York, USA

Dear Distinguished Members of the United Nations Security Council:

We welcome your mission to Timor-Leste, and hope this letter will be useful to you when you hold the ultimate Security Council debate on Timor-Leste on the 21<sup>st</sup> anniversary of the Santa Cruz Massacre next week.

The Timor-Leste Institute for Development Monitoring and Analysis (La'o Hamutuk) is a local NGO which has followed United Nations activities in Timor-Leste since 2000. Both this country and your organization have accomplished much during that period, which is half as long as the 24 years during which Timorese people endured and resisted the brutal, illegal Indonesian military occupation.

The people of Timor-Leste and their supporters will always be grateful for what the UN did in 1999 to end that occupation and allow the restoration of the Democratic Republic of Timor-Leste, nearly all of whose citizens enjoy peace, physical security, and civil and political rights. However, much remains to be done, and we fear that the Security Council and the international community will be less engaged in supporting Timor-Leste in the future, as our people continue to struggle to end impunity, achieve inclusive economic and social justice, and apply the rule of law to every person.

During the last decade, La'o Hamutuk has often written to the Council<sup>1</sup> and met with UN officials, encouraging the UN and its Member States to live up to the ideals expressed in the UN Charter and by every Secretary-General and High Commissioner for Human Rights who has visited our country.

The latest Secretary-General's report on UNMIT (S/2012/765) and Prime Minister's letter to the Security Council (S/2012/736) describe the stability and democracy which prevails in Timor-Leste today, as well as appropriately celebrating the accomplishments of the United Nations and Timor-Leste's Government. However, we believe that essential support is still needed so that Timor-Leste's people can enjoy the political, economic and social rights that all human beings deserve. We urge the United Nations, its agencies and the wider international community to continue to work with our state and people as we struggle to overcome the aftereffects of centuries of colonization and decades of war and illegal occupation. It will be a long, challenging journey.

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<sup>1</sup> Letters from La'o Hamutuk to the Security Council since 2006 are linked to from <http://www.laohamutuk.org/reports/UN/06UNMITcreation.html#Statements>

## **Impunity breaks promises and undermines rule of law.**

La'o Hamutuk and the Timor-Leste National Alliance for an International Tribunal have often asked the international community to fulfill the promises and recommendations from many Timorese, Indonesian and UN commissions and experts – to end impunity for those who perpetrated serious crimes during the 24-year Indonesian occupation. As you know, this impunity violates fundamental principles of the United Nations.

Three months ago, the Secretary-General told our Police Academy that “Timor-Leste has vividly and painfully experienced the devastation that can come with the breakdown of the rule of law and civil order.” He is correct – a democratic state which tries to function under rule of law has existed here for only ten years. Accountability, based on laws and implemented through judicial processes, is the only effective way Timor-Leste can make our people secure. When major criminals enjoy impunity, especially those protected by powerful people or institutions, others will disrupt the public order – either to commit crimes or to take revenge into their own hands.

The Secretary General reminded you that

“Efforts should focus on measures and ways to ... promote accountability, including in respect of crimes against humanity and other serious crimes...”<sup>2</sup>

The Special Rapporteur on Extreme Poverty and Human Rights was more concrete in her May 2012 report to the Human Rights Council:

“[E]nding impunity is an essential prerequisite to ensuring stability, peace and sustainability. The Special Rapporteur encourages the State to take measures to ensure that post-conflict justice and reconciliation is prioritized and that a legal framework is put in place to ensure that those responsible for serious crimes during the conflict are called to account for their deeds, and the victims of those crimes are able to access reparations. **She also reminds the Government of Indonesia, the United Nations and the international community of the role they must play in ensuring that the perpetrators of crimes during the Indonesian occupation are brought to justice.**”<sup>3</sup>

Seven years ago, a UN Commission of Experts evaluated Indonesian, Timorese and international justice processes for serious crimes committed in 1999. Although the findings of this Commission were submitted to the Council in 2005, they have never been discussed, and we hope that you will read them again prior to the meeting next week. We excerpt them here because this may be the last chance the Security Council has to address this gaping inadequacy.

The Experts found, among other things, that:

“[T]here is frustration among the people of Timor-Leste about the inability of the [Serious Crimes and Special Panels] judicial process to bring to justice those outside the country’s jurisdiction, particularly high-level indictees. Similarly, there is concern that

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<sup>2</sup> Report of the Secretary-General on UNMIT, 15 October 2012, S/12/765, paragraph 73.

<sup>3</sup> A/HRC/20/25/Add.1, paragraph 17.

the overwhelming majority of offenders convicted by the Special Panels are from Timor-Leste.

“The Commission of Experts concludes that the serious crimes process has not yet achieved full accountability of those who bear the greatest responsibility for serious violations of human rights committed in East Timor in 1999.

“[T]he lack of access to evidence and suspects in Indonesia is a critical challenge impeding the progress of the serious crimes processes in Timor-Leste. ... [T]here is no extradition agreement or ... mutual legal assistance framework to enable the arrest and transfer of indictees now at large. It is unlikely that the Governments of Indonesia and Timor-Leste would voluntarily enter into such arrangements in the current political climate.”<sup>4</sup>

“The Commission of Experts finds that the judicial process before the Ad Hoc Court [in Indonesia] was not effective in delivering justice for the victims of serious violations of human rights and the people of Timor-Leste.”<sup>5</sup>

The Experts recognized that Timor-Leste alone cannot achieve accountability even for 1999 crimes – let alone crimes between 1975 and 1998 – “without the presence of an international component.”<sup>6</sup> The Experts lament the arbitrary cutoff of January 1, 1999 in its mandate (perpetuated in the current mandate of the Serious Crimes Investigation Team); they “cannot help but be mindful of the contextual background leading to the situation in 1999, in particular the scale and gravity of atrocities committed prior to 1999, during Indonesia’s 24-year-long rule over East Timor.”<sup>7</sup>

The Experts’ recommendations have lain dormant for seven years. Their conclusion echoes virtually that of every relevant fact-finding commission:

“If the foregoing recommendations relevant to Timor-Leste and Indonesia are not initiated by the respective Governments within the recommended time frames [six months] or are not retained by the Security Council, the Commission of Experts recommends that the **Security Council adopt a resolution under Chapter VII of the Charter of the United Nations to create an ad hoc international criminal tribunal for Timor-Leste**, to be located in a third State.”<sup>8</sup>

Finally, the Experts concluded:

“In the course of its work, the Commission has examined all relevant matters arising out of the events that took place in East Timor in 1999, when innocent children, women and men were mercilessly massacred. The Commission wishes to emphasize the extreme cruelty with which these acts were committed, and that the aftermath of these events still burdens the Timorese society. The situation calls not only for sympathy and reparations, but also for justice.

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<sup>4</sup> S/2005/458, paragraphs 8-10, 13.

<sup>5</sup> Ibid, paragraph 19.

<sup>6</sup> Ibid, paragraph 21.

<sup>7</sup> Ibid, paragraph 42.

<sup>8</sup> Ibid, paragraph 29.

“No violation of human rights, no invasion of human dignity and no infliction of pain and suffering on fellow human beings should be allowed to go unpunished. While recognizing the virtue of forgiveness and that it may be justified in individual cases, forgiveness without justice for the untold privation and suffering inflicted would be an act of weakness rather than of strength.

“The international community is fully aware of the story of murders, rape, torture and enforced disappearances of East Timorese in 1999 and before. These are crimes that extend beyond the responsibility of the Governments of Timor Leste and Indonesia. These are crimes that concern humanity. The Report of the Commission of Experts may provide the last opportunity for the Security Council to ensure that accountability is secured for those responsible for grave human rights violations and human suffering on a massive scale and delivery of justice for the people of Timor-Leste.”<sup>9</sup>

Acquiescence with impunity for serious crimes perpetrated by Indonesian actors against Timor-Leste people between 1975 and 1999 betrays the global consensus “to put an end to impunity” achieved in the Rome Statute,<sup>10</sup> besmirches the reputation of the United Nations, and imperils security and rule of law in Timor-Leste, Indonesia and around the world.

We believe that you share our deep regret at the failures of UNTAET, UNAMET, UNOTIL and UNMIT to live up to this commitment, and hope that you will continue to seek ways for the international community “to guarantee lasting respect for and the enforcement of international justice,”<sup>11</sup> including for crimes committed before the International Criminal Court became effective in 2002.

### **Timor-Leste still needs your support.**

La'ó Hamutuk agrees with our Prime Minister that Timor-Leste no longer needs international peacekeeping forces. Although we would prefer to remain on the Security Council agenda, we accept that the Council will obey the request of the head of a sovereign government. Nevertheless, we hope the UN Security Council and Secretariat will continue to follow developments here.

Although the Secretary-General's report ignores it, recent surveys show that more people live in poverty today than when UNMIT began six years ago, notwithstanding billions of dollars of government spending and double-digit increases in Timor-Leste's GDP.<sup>12</sup> It is increasingly evident that most of this money benefits a small portion of the population.<sup>13</sup>

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<sup>9</sup> Ibid, paragraphs 529-531.

<sup>10</sup> Rome Statute of the International Criminal Court, preamble.

<sup>11</sup> Ibid.

<sup>12</sup> 2011 Household Income and Expenditure Survey, RDTL National Department of Statistics.

<sup>13</sup> For more details, see the 2012 report on Timor-Leste by of the Special Rapporteur on Extreme Poverty and Human Rights, A/HRC/20/25/Add.1

Most people in this rapidly growing country live in rural areas without formal employment, effective health care, reliable water supply or economic opportunities. Inflation makes their lives even harder, while Dili's glitzy shopping mall, recent road repairs, and new government palaces do nothing for them. Our Government has prioritized subsidizing electricity, disproportionately benefiting affluent people who have many electric appliances.<sup>14</sup>

The Government's "National Strategic Development Plan 2011-2030" bets Timor-Leste's future on a multi-billion-dollar petroleum infrastructure dream which may provide few jobs, little return on investment, and depends on the unlikely onshore Sunrise LNG Plant. We ask UN experts to help us find a more achievable, sustainable and inclusive way out of the "resource trap."

Timor-Leste is one of the most petroleum-export-dependent economies in the world, with about 75% of our economy and more than 95% of state revenue from oil and gas exports. Our non-oil balance of payments in 2011 was negative \$1.38 billion.<sup>15</sup> Merchandise trade is even more unbalanced – during 2011 Timor-Leste imported \$319 million, while non-oil exports were only \$13 million (87% was coffee).<sup>16</sup>

These numbers represent vast and growing human insecurity. Malnutrition is already widespread. Although maternal, child and infant mortality have dropped since the Indonesian occupation, they remain unacceptably high, and Timor-Leste has far to go to achieve human security.<sup>17</sup> As the Special Rapporteur reported:

"[P]overty persists despite notable efforts and several successful programmes, and economic growth and development have not benefited all Timorese equally. The Government must concentrate its efforts on social and economic policies which ensure inclusive and equitable growth and development for all the population. To this end it must strengthen efforts to diversify the non-oil economy, build sustainable industries, and ensure the preservation of its natural resources for future generations."<sup>18</sup>

During 2011, Timor-Leste's government received \$3.2 billion for converting part of its non-renewable oil and gas wealth into cash, a resource which may be used up by 2024. If current policies continue, the entire Petroleum Fund will be empty before then, heavy debt payments will be starting, and twice as many young people will enter the work force every year as during 2012.

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<sup>14</sup> During the first ten months of 2012, electricity received 84% of infrastructure spending and 38% of all state spending, while providing 1% of state revenues.

<sup>15</sup> \$1.76 billion left Timor-Leste for other countries, while only \$0.38 billion entered the country from non-oil sources. [http://www.bancocentral.tl/Download/Publications/BOP\\_summary2011\\_en.pdf](http://www.bancocentral.tl/Download/Publications/BOP_summary2011_en.pdf)

<sup>16</sup> External Trade Statistics Annual Report 2011, RDTL National Statistics Directorate

<sup>17</sup> According to UNPOL, there were 57 "suspicious deaths" (possible homicides) in Timor-Leste in 2010, and 64 in 2011. Every year, more than 1,500 Timorese children under five years old die from preventable conditions. (Timor-Leste's child mortality rate is double that of the Philippines or Sri Lanka, four times worse than Thailand, 15 times higher than Singapore.) In other words, 25 times as many Timorese children are dying from malnutrition, poor sanitation and inadequate health care every year as the number of deaths which could be prevented by the security and justice sectors.

<sup>18</sup> A/HRC/20/25/Add.1, paragraph 80.

If our young people have not received a solid education and the formal economy cannot employ them, we will not be secure. Aggressive police and military forces, building on the UN-trained PNTL, might achieve “security” for the affluent few by repressing the impoverished majority, discarding what is left of rule of law. If military conscription has been implemented, tens of thousands of military-trained young men will be unemployed, with no state funds to pay them as soldiers or veterans. Today’s youth problems will seem like child’s play.

Nobody wants this future for Timor-Leste, and we are disappointed that UNMIT and its predecessors, as well as Timor-Leste’s state and development partners, have not done more to prevent it, but it is not too late. Please find ways you can help our people – abandoned by most of the world between 1975 and 1998 – attain true security by achieving sustainable, equitable and inclusive economic development.

**Help us participate in the global community.**

With the withdrawal of the UN mission from Timor-Leste and dropping off the Council’s agenda, we worry that Timor-Leste’s relationships with the world may become weaker.

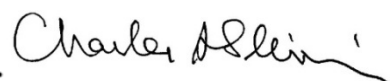
Our Government prioritizes the fragile states of the “g7+” and the Community of Lusophone Countries, perhaps so that this nation can be a big fish in a small pond. It emphasizes joining ASEAN, our larger and more prosperous Asian neighbors who steadfastly supported Indonesia’s illegal occupation. ASEAN’s trade implications may make it more even difficult to develop our own economy.

We appreciate that many of the 170 other Member States of the United Nations supported us during our struggle for independence and after 1999. We value the assistance from the Core Group at UN Headquarters, the many countries which have been on the Security Council since 1999, and our development and trading partners.

In 1999 and 2002, all UN Member States shared Timor-Leste’s pride in voting out the illegal occupation and creating the first new nation in the new millennium. As we continue on that journey, navigating perilous waters, we hope that Timor-Leste’s people can count on your continuing friendship and solidarity. Please do not let our nation pass from your thoughts, even if it is no longer on the Council’s agenda.

Thank you.

Sincerely,



Inês Martins, Mariano Ferreira, Juvinal Dias,  
La’o Hamutuk

Charles Scheiner

Cc: ASRSG Finn Riske-Nielsen and others at UNMIT, media, RDTL officials, others.