

# La'o Hamutuk

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Members of the United Nations Security Council  
New York, New York, USA

Dear Distinguished Members of the United Nations Security Council:

The Timor-Leste Institute for Development Monitoring and Analysis (La'o Hamutuk) is a local civil society organization which has monitored and analyzed the mandates and activities of the United Nations in Timor-Leste since 2000, during four UN Missions. We frequently meet with UN officials and write to the Security Council, especially about the still unfulfilled promise by the international community to end impunity for crimes against humanity committed during the illegal Indonesian occupation between 1975 and 1999.

We have studied the Secretary-General's recent report on UNMIT (S/2011/641) from January through September 2011 and would like to share some observations with you before your debate next week. We believe that the report leaves out some important issues, and would like to try to help give the Council a broader, deeper understanding of the situation in Timor-Leste and UNMIT.

## **Good Governance, Human Rights and Justice**

The Secretary-General's report is optimistic about the consolidation and progress of peace, stability and development<sup>1</sup> in Timor-Leste for today and for the future. That optimism is based on speeches and assurances by political and State leaders,<sup>2</sup> the superficial progress of the situation itself, and the efforts by the UN and other agencies to consolidate peace and stability through institutional and capacity building for institutions including the police,<sup>3</sup> military,<sup>4</sup> Ombudsman for Human Rights and Justice,<sup>5</sup> Anti-Corruption Commission<sup>6</sup> and legal<sup>7</sup> and judicial systems.<sup>8</sup>

Unfortunately, there is often a gap between leaders' words and what most citizens experience every day. Considering current realities here, the positive steps taken by UNMIT, other agencies and Timor-Leste's government in recent years do not fully address people's essential and long term needs.

## **Ignoring the roots of problems creates vulnerability for future crises.**

Continuing impunity for past crimes undermines peace, stability and development. When accountability is ignored, institutional consolidation alone cannot overcome weaknesses which threaten to undo the accomplishments of UN missions in Timor-Leste over the last twelve years. We regret that the current report<sup>9</sup> appears not to understand this fundamental principle.

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<sup>1</sup> S/2011/641, para 2. Subsequent references to "para" refer to this report.

<sup>2</sup> S/2011/641, paras 3-4, 6

<sup>3</sup> S/2011/641, paras 26-28

<sup>4</sup> S/2011/641, para 34

<sup>5</sup> S/2011/641, para 42

<sup>6</sup> S/2011/641, para 16

<sup>7</sup> S/2011/641, para 35

<sup>8</sup> S/2011/641, paras 45-46

<sup>9</sup> S/2011/641, para 41

The 2006 crisis should teach us a lesson, and similar crises can arise in future if impunity continues to flourish. Although the UN and others previously highlighted impunity for 1975-1999 crimes and the 2006 crisis as a cause of future instability, that lesson may have been forgotten. Even with functional state institutions working to maintain peace, stability and justice, the lack of accountability is a time bomb that can explode at any time. Stability requires every citizen to comply with the rule of law, and that everyone is confident that others will also do so. As we discuss below, impunity undermines this bedrock of democracy.

### **Socio-economic development**

We remain concerned about the UN's preoccupation with maintaining security through police and military force. As we wrote to the Security Council in February 2010"

"People feel secure when they can live without fear of crime, civil disorder, repression, starvation, disease, and other major disruptions to the lives of their families. Although some of these concerns can be addressed with 'security forces,' the more difficult and fundamental ones require inclusive, equitable service delivery and economic development. Indeed, if significant numbers of people remain impoverished and alienated -- while a few enjoy the benefits of affluence and power -- no amount of bullying by men and women with guns can provide security."<sup>10</sup>

Last July, La'o Hamutuk expressed this concern to the Development Partners Meeting in Dili:

"Avoiding or preventing physical conflict should not be the primary dimension for measuring effectiveness of a government or donor program. Improving the quality of people's lives -- as defined by international standards for human rights (economic and social as well as civil and political) -- is also relevant. Starvation, diarrhea, kidney disease and toxic pollutants can be just as fatal as bullets, and far more Timorese people are killed by preventable diseases than by violence. For example, the great majority of the more than 2,000 Timorese children under five who die every year are victims of avoidable or curable conditions, while homicide took only 39 lives in Timor-Leste 2010."<sup>11</sup>

We regret that the Secretary-General's report<sup>12</sup> and UNMIT itself fail to give enough attention to atrocious sanitation, nutrition and health care that kill and injure far more people than causes which can be addressed by soldiers and police officers. We encourage the Security Council to give more attention to human resource development (education and health), agriculture and non-oil industrial development which can free this country from import dependency and reduce poverty sustainably, over the long term.

Unfortunately, the National Priorities and Millennium Development Goals<sup>13</sup> deal more with organizational structures than effective measures, and budget allocations by Timor-Leste's government and development partners fail to comply with these priorities or adequately address these goals, spending the lion's share of their resources on physical infrastructure and policing.

The *Millennium Development Goals-Suco* program to build five houses per year in each sub-village<sup>14</sup> is problematic. Not only is it costing more than twice the budgeted amount, but the use of imported, prefabricated houses undercuts local industrial and economic development and the sustainability of these homes. La'o Hamutuk discussed this in our recent submission<sup>15</sup> to Parliament on the proposed State Budget for 2012.

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<sup>10</sup> The letter is available at <http://www.laolaohamutuk.org/Justice/10LHtoUNSC22Feb.htm>

<sup>11</sup> The statement is at <http://www.laolaohamutuk.org/econ/11TLDPM/LHtoTLDPM12July2011.pdf>

<sup>12</sup> Paras 48-55 of S/2011/641 mention some of these issues, but only from the point of view of official processes currently underway, without considering what needs to be done to address them effectively.

<sup>13</sup> Paras 48-49.

<sup>14</sup> Para 49.

<sup>15</sup> <http://www.laolaohamutuk.org/econ/OGE12/LHSubComCPNOJE2012En.pdf>

We appreciate the publication of the long-awaited 2011 UNDP National Human Development Report *Managing Natural Resources for Human Development: Developing the Non-Oil Economy to Achieve the Millennium Development Goals*,<sup>16</sup> but regret that UNDP retreated when the Government attacked the report, removing it from UNDP's website and failing to publish a Tetum version.<sup>17</sup>

The Secretary-General's report mentions that state expenditures are driving strong economic growth,<sup>18</sup> but fails to discuss inequalities inherent in this growth, which is largely concentrated in the capital and among companies receiving government contracts. The living conditions of the majority of our people, outside the capital and not among the upper class, have barely improved or gotten worse. Although cash transfers have helped some avoid starvation, this will be unsustainable when already-declining oil and gas revenues run out in about 12 years. Timor-Leste's non-oil private sector today consists almost entirely of subsistence agriculture, importers and government contractors. If local production to replace imports and add value to agricultural products is not improved, poverty will increase drastically when the oil revenues run out.

Timor-Leste's total petroleum wealth could pay for public spending equivalent to \$1.72/citizen/day for the next 40 years. The proposed \$1.76 billion 2012 budget, a 35% increase over 2011, will spend at more than double that rate, and is enabled only by nonrenewable petroleum revenues. Timor-Leste has a billion-dollar non-oil trade deficit in goods and services; how can this continue after the oil and gas are used up?

La'o Hamutuk has expressed concerns about the new TimorGAP National Oil Company<sup>19</sup> and the proposal to develop the "Tasi Mane" southwest coast petroleum infrastructure corridor. We believe that they are misguided and will not help Timor-Leste escape petroleum dependency, and encourage the Security Council and UNMIT to support Timor-Leste's sustainable, non-oil development.

During the last decade, UN missions around the world, including in Timor-Leste, have learned lessons about drawing down and preparing for their termination. We hope that the UNMIT withdrawal from Timor-Leste next year will gain from these experiences. In particular, we urge continuing UN engagement in areas of economic development and human rights.<sup>20</sup>

### **Refusing to accept permanent impunity**

During the last 13 years, the UN has taken some actions to reduce impunity for crimes against humanity committed during the Indonesian occupation. This Council established the Serious Crimes Unit and Special Panels in 2000, but their mandate was unfortunately restricted the last ten months of the 24-year illegal occupation. The SCU indicted 391 people but was only able to bring 87 (all Timorese) to trial, convicting 84. The rest are shielded from accountability by Indonesia, and the UN has not taken effective action to end this violation of international law.

Unfortunately, the UN is not following its own principle – reaffirmed by the nations of the world in the Rome Statute – never to tolerate enduring impunity anywhere in the world. This betrayal is especially egregious in Timor-Leste, both because of the pervasive, prolonged nature of the crimes and because they were committed by agents of one state against citizens of another. The UN Security Council and General Assembly explicitly condemned them numerous times between 1975 and 1999.

As we move toward the end of UNMIT's mission next year, the UN has unacceptably circumscribed the scope of UNMIT's work to end impunity. In 2006, Security Council Resolution 1704 instructed UNMIT to finish investigations for 1999 cases not completed by the Serious Crimes Unit, establishing the Serious Crimes Investigation Team (SCIT) with no mandate to issue indictments or prosecute alleged

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<sup>16</sup> Para 51.

<sup>17</sup> The report remains available at <http://www.laohamutuk.org/econ/HDI10/TLHDR2011En.pdf>. UNDP invited La'o Hamutuk to speak at its launch, and our presentation is at <http://www.laohamutuk.org/econ/HDI10/11NHDREn.htm>.

<sup>18</sup> Para 50.

<sup>19</sup> Para 52.

<sup>20</sup> A letter written by local organizations to a visiting mission from the Office of the High Commissioner for Human Rights discussing post-UNMIT activities is at <http://www.laohamutuk.org/Justice/ANTI/ANTItoOHCHR5Oct2011.pdf>.

perpetrators.<sup>21</sup> Even if SCIT finishes its work before UNMIT ends, there is no avenue to achieve accountability. Indonesian officials continue to obstruct justice, and Timor-Leste's leaders – responsible for a tiny, new nation which has suffered horrendously from crimes by its western neighbor – remain cautious without credible assurance of international support.

The July conviction and sentencing to nine years imprisonment of Besi Merah Putih militia member Valentim Lavio<sup>22</sup> was not successful because the prolonged process and lack of pre-sentencing detention allowed him to flee to Indonesia; his co-indictee also remains at large. Once again, failures of the international community to prevent impunity have enabled a criminal to escape accountability.

### **Recommendations for the UN Security Council and UNMIT**

1. Consider Timor-Leste as a test case for accountability for crimes against humanity, creating an opportunity to redeem the name of the United Nations by showing that the institution and its member states are serious about their promise never to tolerate impunity. One initial step would be to discuss and act on the recommendations of the 2005 Commission of Experts,<sup>23</sup> which include the creation of international mechanisms when national ones are incapable of achieving accountability. In addition, the Security Council could extend SCIT's mandate and duration to include investigating and prosecuting serious crimes committed as part of the Indonesian occupation of Timor-Leste between 1975 and 1998, and allocating sufficient resources to this task.
2. Assist Timor-Leste's economic development in a realistic, sustainable way which does not depend on temporary and capital-intensive petroleum infrastructure. In addition to supporting Government priorities and programs, the UN can provide expertise and longer-term perspectives for long-term, non-oil development. In particular, the UN could help Timor-Leste to develop its human resources – especially education and health care – to enable its future development.
3. Remember that during 2012, Timor-Leste's government and citizens will be dealing with many pressing issues in addition to elections and UNMIT withdrawal, and look for ways that the United Nations and the international community can avoid neglecting other critical concerns.

UNMIT is likely to leave Timor-Leste a little over a year from now, but more than a million Timorese people will continue to live here, and deserve better support from the international community than they have received during the last 36 years.

Thanks for your attention and interest, and we are happy to try to answer any questions or concerns you may have.

Sincerely,

José Pereira, Inês Martins, Mariano Ferreira, Juvinal Dias,  
La'o Hamutuk

Charles Scheiner

Cc: SRSG Ameerah Haq and others at UNMIT, media, RDTL officials, others.

<sup>21</sup> This is discussed, with no context, in para 43.

<sup>22</sup> Para 43.

<sup>23</sup> S/2005/458