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Consejo de Derechos Humanos
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Promoción y protección de todos los derechos humanos, civiles, políticos, económicos, sociales y culturales, incluido el derecho al desarrollo

Información presentada por la Institución Nacional de Derechos Humanos de Timor-Leste*

Nota de la Secretaría

La Secretaría del Consejo de Derechos Humanos transmite adjunta la comunicación presentada por la Institución Nacional de Derechos Humanos de Timor-Leste**, que se reproduce a continuación de conformidad con el artículo 7 b) del reglamento que figura en el anexo de la resolución 5/1 del Consejo, con arreglo al cual la participación de las instituciones nacionales de derechos humanos se basará en las disposiciones y prácticas convenidas por la Comisión de Derechos Humanos, incluida la resolución 2005/74, de 20 de abril de 2005.

* La institución nacional de derechos humanos tiene la acreditación de la categoría "A" ante el Comité Internacional de Coordinación de Instituciones Nacionales para la Promoción y Protección de los Derechos Humanos.

** Se reproduce en el anexo como se recibió, en el idioma en que se presentó solamente.

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Anexo

Statement on behalf of the National Human Rights Institution of Timor-Leste on the Report of the Working Group on Enforced or Involuntarily Disappearances on its Mission to Timor-Leste

It was with great pleasure for the National Human Rights Institution of Timor-Leste, the Provedoria for Human Rights and Justice, that the Working Group on Enforced or Involuntarily Disappearances followed the invitation of the Government of the Democratic Republic of Timor-Leste to visit our country in February last year. We are grateful for the pertinent advice on enforced disappearances provided by the Working Group through its recently issued report.

Twelve years after more than two decades of occupation, the issue of enforced disappearances continues to concern the people of Timor-Leste. The Commission for Reception, Truth and Reconciliation (CAVR), which functioned from 2002 to 2005, received statements on about 835 enforced disappearances. Other actors have estimated the number of missing in the tens of thousands and possibly as many as 4,000 children were abducted from Timor-Leste and taken to Indonesia. The Provedoria appreciates the effort the Working Group has undertaken regarding 504 cases concerning Timor-Leste, of which 58 have been resolved.

We would like to point out that some success has been achieved during the last three years with the exhumation of various grave sites in Timor-Leste. However, we agree with the Working Group that the right to know the truth means the right to know about the progress and results of an investigation and therefore, victims of enforced disappearances must be better included in the processes concerning the disappeared. Although it is a positive signal that the 2011 State budget included funds for exhumations, international assistance is required to develop a forensic unit. A legislative framework on exhumations is needed too.

With respect to the right to truth, a mechanism has been established to follow-up on the work of the Commission of Truth and Friendship (CTF), established by Indonesia and Timor-Leste in 2005: the Joint Ministerial Commission. In addition, in 2010 the Provedoria signed an agreement with the National Human Rights Institution of Indonesia, KOMNAS HAM, to focus, among other issues, on finding of the missing children reportedly taken to Indonesia. This agreement has been renewed in late 2011. Although these two initial steps are important, we endorse the Working Group's recommendations that the timeframe in the definition of disappeared should be extended from the present limit of those disappeared solely in 1999, to those disappeared during the entire time of the Indonesian occupation. The process should also be expanded to include all missing persons, not only children. We also agree that the Joint Ministerial Commission should meet more than twice a year and that the commenced negotiations to establish a bilateral commission on the disappeared persons should be finalised. In this connection we commend Indonesia's recommendation provided during the Human Rights Council Working Group session on the UPR of Timor-Leste last October "to implement the plan for action to implement the recommendations of the CTF", especially since the Working Group has urged that the CTF process needs to demonstrate concrete and positive results for victims.

Regarding the implementation of key recommendations of the CAVR and CTF, which address the rights and needs of victims of past human right violations, the Provedoria assisted in the drafting process of laws on a CAVR and CTF follow-up intuition and on

reparations, and is accompanying the Parliamentarian process to approve both draft laws. The follow-up institution's task would be to assist the Government in fulfilling the State's obligations with regard to missing persons and establishing a reparations programme. We fully support the Working Group's recommendation to adopt the draft laws without hesitation. The final vote is pending since September 2010.

Shortly after independence Timor-Leste adopted most of the core human rights instruments and the Rome Statute, as a nation that is seeking to be affirmative in the promotion and protection of human rights. However, Timor-Leste has not yet ratified the International Convention for the Protection of All Persons from Enforced Disappearance, a fundamental document for the protection against one of the most serious human rights violations that can be committed. We therefore urge the Government of Timor-Leste to provide a positive response regarding this matter at the Plenary of the Human Rights Council next week, where the outcome document on the UPR of Timor-Leste will be adopted. Several Member States have called on Timor-Leste to become a party to this important convention as an urgent matter for the Timorese people.

Since the establishment of our institution in 2005 we have been challenged to tackle attempts to adopt broad amnesty laws for serious crimes of international law. The Working Group endorses our position by referring to the Declaration on the Protection of All Persons from Enforced Disappearance, that persons who have or are alleged to have committed acts of enforced disappearance, shall not benefit from any special amnesty law or similar measures that might have the effect of exempting them from any criminal proceedings or sanction. Therefore, we follow the Working Group's recommendation that the Timor-Leste criminal law should be amended to remove the possibility of granting amnesty for serious crimes of international law, including the crime of enforced disappearance. Here, I also would like to point out that we share the concern of the Working Group that many 'indultos' (pardons) are being granted for serious international crimes.

Finally, we would like to draw attention to an issue that worries many Timorese people: the lack of justice for perpetrators of past grave human rights violations. Progress in establishing accountability for these violations has been slow and most of the perpetrators who committed enforced disappearances are remaining at large outside of Timor-Leste. Only one of the cases which have been handed over to the Office of the Prosecutor-General by UNMIT's Serious Crimes Investigation Team in the last two years has been prosecuted. In addition, all 18 cases prosecuted by the Indonesian Ad Hoc Human Rights Court in Jakarta, were finally acquitted.

It has always been our position, like the Working Group noted, that without effective criminal justice for serious crimes there cannot be lasting peace, nor can such crimes be prevented in the future. Therefore, it is of eminent importance to take immediate and effective steps to investigate all unresolved cases of enforced disappearances; to continue adequate support by the international community to the Serious Crimes Investigation Team; to follow up the recommendations of the Commission of Experts which reviewed the work of the Indonesian Ad Hoc Court and the Serious Crimes Process in Timor-Leste; and to secure the extradition of at least some of the most important perpetrators from Indonesia to Timor-Leste.

We understand that many of the issues that we have touched upon are complex and the result is that progress in the accountability for enforced disappearances committed in Timor-Leste has been slow. Some achievements have been made, as pointed out, but Timor-Leste still has a long way to go to fulfil the rights to truth, justice and reparations for those who disappeared and for their families. The Provedoria will further strengthen its efforts so that the recommendations of the Working Group will be implemented timely and effectively. Civil society organizations have also demonstrated their commitment in this regard. We are confident that though UNMIT's will withdraw at the end of this year, there

will be further support through a strong UN Human Rights presence in Timor-Leste to assist in the areas of human rights, transitional justice and rule of law. We are also hopeful that the new Government and President elected this year will join us in these efforts and bring redress to all of those who were victims of enforced disappearances.