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Hybrid Criminal Tribunals and the Concept of Ownership: Who Owns the Process?

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HYBRID CRIMINAL TRIBUNALS AND THE CONCEPT OF OWNERSHIP: WHO OWNS THE PROCESS?

PHILLIP RAPOZA *

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INTRODUCTION

I look forward to sharing with you some of my experiences in East Timor, especially as they relate to the topic before us. On the flight to Washington, I spent a moment looking at the airline's in-flight magazine and I came upon a cartoon, which, with some

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modification, could apply to my contribution here today. In the cartoon, a large ship is passing by a small tropical island, the kind that often appears in such cartoons, a mere speck of land with one palm tree surrounded by ocean. Except that on this island, the only thing other than the palm tree is a car on which hangs the sign, "Driver Education School." In the cartoon a sailor on the passing ship looks at the island and the sign on the car and says to another sailor: "I'll bet *that's* an interesting story!" Well, if we were to change the car into a court and have the sign read, "Special Panels for Serious Crimes in East Timor," I would venture to say that the sailor in the cartoon would still be able to say, "I'll bet *that's* an interesting story!" because, indeed, it is.

But I am not here to tell war stories or even war crimes stories. Rather, in the short time that I have, I would like to discuss the concept of "ownership" in the context of hybrid criminal tribunals, which involve both national and international elements.

There are at least two forms of ownership as I see it. The first refers to the notion of popular acceptance of a particular tribunal or its work, especially within the jurisdiction to which it relates. The degree to which the affected public accepts the process that has been established to address the wrongs committed against them or within their society serves as an important measure of the tribunal's credibility and the extent to which it is perceived to have done justice. In this sense, acceptance or public ownership supports the legitimacy of the process itself.

There is also a second form of ownership that pertains to hybrid criminal tribunals, and it is on this latter aspect that I would like to focus. The second form of ownership, as I am using the term, relates to the degree to which the national and international components "buy in" to the process. Ultimately, the degree to which each accepts and acknowledges its share of ownership in the tribunal will affect the allocation of responsibility, and thus accountability, within and for the criminal process. Simply stated, who owns the hybrid criminal process? Or, better still, who owns what part of the process and what are the consequences of that ownership?

For today's purposes I would like to offer the serious crimes experience in East Timor as a lens through which to look at this issue. East Timor also presents a unique opportunity for purposes of

illustration because it was the first process of its kind to open, but also the first of its kind to close. Consequently, where the tribunal has ceased operation, it provides a chance to perform something of an academic autopsy of a hybrid criminal process.

Prior to the formal declaration of East Timor's independence in 2002, the United Nations administered the territory as its sovereign. With the departure of the Indonesians, the country was left a wasteland, nowhere more so than in the judicial sector. Accordingly, the U.N. played a primary role in re-establishing the institutional infrastructure of the country, including the creation of a national judiciary.

More importantly for our purposes, the U.N. established a hybrid criminal process for the trial of serious crimes committed during the period of Indonesian occupation. This included a court, the Special Panels for Serious Crimes, the office of the prosecutor, the Serious Crimes Unit, and the Defense Lawyers Unit. These elements operated within the national legal system, but were substantially—although not exclusively—staffed with international actors, including judges, prosecutors, and defense attorneys. By way of example, each sitting panel of the court included two international judges and one Timorese judge.¹

The term “serious crimes,” as used in the title of both the court and the prosecutor's office, refers to the most severe violations of human rights, including genocide, war crimes, crimes against humanity, murder, sexual offenses and torture. The term “serious crimes process” as used in East Timor, thus referred generally to legal proceedings involving individuals accused of such offenses. Less serious violations were referred to a Commission on Reception, Truth and Reconciliation. Let us turn to the issue of ownership as it arose in that setting.

1. On the Establishment of Panels with Exclusive Jurisdiction Over Serious Criminal Offenses Regulation, United Nations Transitional Administration in East Timor [UNTAET] Reg. 2000/15, § 22.1, U.N. Doc. UNTAET/REG/2000/15 (June 6, 2000) [hereinafter UNTAET Regulation 15].

I. OWNERSHIP FROM WITHIN: POPULAR ACCEPTANCE OF A TRIBUNAL

First, I would like to touch on the extent of public ownership or “buy in” with respect to the serious crimes process. I do so recognizing the difficulty of determining the contours of public opinion in East Timor. The press and other media in the country are still in the initial phases of development and do not necessarily provide an adequate basis for determining public opinion. Similarly, neither polling nor any other opinion study has been done, to my knowledge, on this particular issue. Accordingly, the information on this point is primarily anecdotal.

With that said, the major concern that has been expressed by the Timorese public about the serious crimes process has been the failure to prosecute those with command responsibility for the carnage in East Timor. Essentially, the criticism is that the serious crimes process caught only the small fish, while the larger ones swam free.

This point is generally made to highlight the fact that high-level defendants living abroad, such as General Wiranto,² were able to avoid prosecution due to the lack of an extradition process between East Timor and Indonesia. The statistics tell the tale: Of the 440

2. General Wiranto was the former Commander of the Armed Forces and Minister of Defense of Indonesia. In that capacity he was the highest officer in the chain of command for all military and police forces throughout Indonesia, including the region of East Timor. He was charged with having exercised command authority in 1999 as to those forces as well as the pro-autonomy militia operating in East Timor and, consequently, for being responsible for the approximately 1500 killings that occurred at the time of the referendum on independence. According to the warrant issued for his arrest,

although he knew or had reason to know of the ongoing criminal violence in East Timor and the involvement of the military forces, the police and the pro-autonomy militia in such criminal activities, [he] failed to take necessary and reasonable measures either (a) to prevent the commission of crimes by those over whom he had command authority, or (b) to punish the perpetrators of those crimes.

See Warrant of Arrest for Wiranto, Case No. 05/2003, at 19, *available at* http://socrates.berkeley.edu/%7Ewarcrime/Serious%20Crimes%20Unit%20Files/all_documents/Wiranto/Wiranto%20case-English%20Warrant_of_Arrest.pdf. The warrant concludes that Wiranto “bears command responsibility for the criminal actions of the military forces, police and pro-autonomy militia under his authority.” *Id.*

defendants who were indicted in East Timor, over 300 remain outside the country, presumably in Indonesia.³ Of the 87 defendants who stood trial before the Special Panels, all were Timorese nationals.

The serious crimes process thus became a two-track system, one of which was a dead end, frustrating the Timorese and leading the Commission of Experts appointed by the Secretary General to report that "the community is not entirely satisfied with the justice process"⁴

I should note, though, that Timorese concern over the prosecution of small fish rather than large ones is not generally voiced to suggest that the direct perpetrators of serious crimes should be spared prosecution. Indeed, the continuation of the process has often been endorsed at the local level not only to ensure that justice is done, but to see that closure is brought to the numerous open cases that still cause so much pain to so many.

I remember attending a community meeting hosted by the Commission of Experts in which the widow of one victim stated that she recognized that Indonesian generals such as Wiranto would never stand trial for what happened in East Timor. Nonetheless, she urged that serious crimes investigations continue along with the Special Panels because she had a different concern, which she explained to the Commission members. As she described it, the two men who killed her husband still live in her village. They are both former members of the Indonesian-backed militia and she sees them every Friday on market day. It bothers her that they seem to grin at her mockingly because, she said, they know the serious crimes process is over and they know they will never be indicted or prosecuted. But what really bothers her is that one of the two men continues to wear the jacket that her husband wore on the day he

3. The War Crimes Studies Center at Berkeley has compiled a comprehensive list of the indictees and pending charges. See U.C. Berkeley War Crimes Studies Center, East Timor and Indonesia, Serious Crimes Unit: All Indictees, <http://socrates.berkeley.edu/~warcrime/ET.htm> (follow the "website of the Serious Crimes Unit" hyperlink; then follow the "Indictees" hyperlink).

4. Commission of Experts, *Report to the Secretary-General of the Commission of Experts to Review the Prosecution of Serious Violations of Human Rights in Timor-Leste (the then East Timor) in 1999*, Annex II, ¶ 126, U.N. Doc. S/2005/458 (May 26, 2005).

died. "What should I do," she asked, "when justice still needs to be done?" Her question is one that many Timorese have asked, although no satisfactory answer has yet been provided.

II. OWNERSHIP BETWEEN INTERNATIONAL AND DOMESTIC ACTORS

Let us now turn to the notion of ownership in the second sense that I mentioned, as between the national and the international actors in the process. Who owns what part of the process and what are the consequences of that ownership?

What is critical here is to recognize that before we can even talk about "ownership," there has to be "buy-in" on the part of the relevant parties. In other words, if you don't buy it, you don't own it. This proved to be a significant issue in East Timor, where neither the U.N. as the international component nor the Timorese government as the national component ever completely bought in to the process. As a result, their ownership interests were never clearly defined. Indeed, it was common for both sides to disown the process whenever it ran afoul of what they considered to be more pressing political or diplomatic priorities.

As a preliminary matter, I think it is fair to say that much of the problem with respect to ownership at this level derived from the novelty of the hybrid criminal process. In other words, the fluctuation in national and international support for the process was not always a function of political intrigue, but rather reflected the administrative and material limitations in the circumstances.

First, there was no specific model to use as a point of reference either to form the court or to conduct the process. Moreover, establishing and sustaining judicial structures of a hybrid sort was not something with which the U.N. had much experience. As a result, numerous mistakes were made, especially at the outset, and valuable time passed before the court was fully operational and the Serious Crimes Unit had devised a coherent prosecutorial strategy. Indeed, it is fair to say that there was no U.N. guidebook to provide direction on how to set up a hybrid criminal process in a post-conflict society, especially one without a judiciary. Finally, the process was impacted by the fact that it was under-funded and under-resourced. This resulted from the desire to provide an economy model of justice

often referred to as “justice on the cheap.”⁵ In any event, these several factors all came together to create an environment in which the chain of command was not clear, lines of responsibility were not always apparent, and the duty to sustain and support the process was often undefined.

I would like to touch on four particular areas in which the lack of ownership by the parties to the hybrid process was of consequence.

A. WHO OWNS THE NUTS AND BOLTS OF THE PROCESS?

The primary contribution of the U.N. was to provide financial support to contract national and international judges, prosecutors, defense lawyers and support staff. The second contribution of the U.N. was to provide supplies and services as they were needed through the resident mission, first the United Nations Transitional Administration in East Timor (“UNTAET”) and later the United Nations Mission of Support in East Timor (“UNMISSET”).

With respect to supplies, everything—from paperclips to motor vehicles—was to be supplied by the U.N. through the local mission. But there was no “set-aside” of necessary items for the serious crimes process. Rather, it was every man for himself, with the court, prosecution and defense all competing with other mission offices and agencies—and sometimes with each other—for available resources. The result was that necessary supplies and services could not always be obtained.

One example involved something as basic as electrical service. When I arrived in East Timor in 2003, the courthouse had electricity, at most, three days a week, owing to the unreliability of the public electric supply to which the building was connected. The U.N. mission, located in a separate compound, had its own large generators and enjoyed lights, computer service and air conditioning all day, every day. Yet the mission resisted fixing the courthouse generator for use by the Special Panels because that was purportedly the responsibility of the national government, as the courthouse belonged to the Ministry of Justice. It took months before UNMISSET

5. See David Cohen, *Seeking Justice on the Cheap: Is the East Timor Tribunal Really a Model for the Future?*, ASIA PAC. ISSUES, Aug. 2002, at 1, <http://www.eastwestcenter.org/stored/pdfs/api061.pdf>.

finally agreed to repair the generator, although later it refused to supply fuel, again citing that as a national responsibility. The Ministry of Justice grandly budgeted thousands of dollars for fuel, but the money was never appropriated, leaving the court with nothing more than a promise. I was finally able to negotiate an agreement in which the U.N. and the Ministry each agreed to pay one-half of the cost of the fuel. True to form, the Ministry never paid its share and the court had to make due with the fuel supplied by UNMISSET.

Thus the battle was never quite won. At one point an UNMISSET administrator advised me that she could no longer guarantee fuel deliveries after December 2004. In my email response I advised her that as a result of that information I could no longer guarantee that the Special Panels would conduct trials after December 2004. Eventually, we got more fuel.

Court security was another area in which ownership was never clear. As a national building, the courthouse was the responsibility of the Ministry of Justice, yet the Ministry supplied no more than one unarmed, untrained, and unequipped security guard during court hours. As a result, the courthouse was virtually an open building and it was not uncommon, for those who arrived early at work, to encounter people from off the streets sleeping on the floor of the court vestibule while others used the outdoor faucets to wash.

It was always a concern that no security was provided for victims or witnesses, and trials were conducted without any security in the courtroom. Moreover, although numerous U.N. international staff worked and were stationed at the courthouse, no security assistance was ever supplied by the U.N. mission for the premises. This was the case even when the court was besieged by a large group of protesters and the court gates had to be closed to prevent an incident.

B. WHO OWNS THE DIFFICULT DECISIONS OF THE SPECIAL PANELS AND THE SERIOUS CRIMES UNIT?

It is often said that success has many fathers and failure is an orphan. That is not unlike the experience of serving on a hybrid tribunal, except there you are as often orphaned for your successes as for your failures. On more than one occasion either the U.N. or the Timorese government, and sometimes both, put distance between

themselves and the Special Panels or the Serious Crimes Unit. This arose in circumstances where the court or the prosecution did something that did not fit with a particular diplomatic or political agenda. The case of General Wiranto stands out in this regard.

In February 2003, the Serious Crimes Unit issued an indictment against General Wiranto and seven other defendants, charging them with crimes against humanity based on both individual and superior responsibility. The issuance of the indictment set off a firestorm not only in Indonesia, as would be expected, but also in East Timor and at the U.N. The president of East Timor made a public statement in which he expressed his regret over the indictment and asserted that it was not in the national interest. Moreover, he underscored the importance of good relations between East Timor and Indonesia.

The then-head of the U.N. mission in East Timor issued his own statement distancing the U.N. from the indictment, stating, "While indictments are prepared by international staff, they are issued under the legal authority of the Timorese Prosecutor-General. The United Nations does not have any legal authority to issue indictments."⁶ At a press briefing at the Secretariat in New York, the U.N. spokesman instructed reporters, "We hope that in the future you'll say 'East Timor indicts' and not 'the United Nations indicts.'"⁷

While technically accurate, these statements were a far cry from the initial Security Council resolution establishing the serious crimes process, which adamantly called for full accountability and an end to impunity for those responsible for the atrocities in East Timor.⁸ Shortly after the issuance of the indictment, the Serious Crimes Unit was instructed to take the U.N. seal off its letterhead.

In 2004, when I issued an arrest warrant for General Wiranto, who was then a candidate for president of Indonesia, I was criticized by Timorese authorities as a U.N. judge, while U.N. representatives repeated the refrain that I worked as a judge within the Timorese

6. Press Release, UNMISSET, Serious Crimes Process in Timor-Leste (Feb. 25, 2003), *available at* <http://www.un.org/depts/dpko/missions/unmisset/pr250203b.pdf>.

7. *Timor-Leste, Not UN, Indicts Indonesian General for War Crimes*, U.N. NEWS CTR., Feb. 23, 2003, <http://www.un.org/apps/news/storyAr.asp?NewsID=6273&Cr=timor&Cr1=>.

8. See S.C. Res. 1272, U.N. Doc. S/RES/1272 (Oct. 25, 1999).

court system. This time the President of East Timor responded by flying to Bali where he met General Wiranto and gave him a much-photographed friendly bear hug for the benefit of the Indonesian electorate. The Timorese Prosecutor General, in turn, refused to submit the arrest warrant to Interpol. Although he had submitted such warrants in the past, he refused to do so in the case of Wiranto and all subsequent defendants, thus abandoning the very process that could assist in the apprehension of those charged with serious criminal offenses in East Timor.

From the outset, Timorese authorities were, at best, ambivalent about the serious crimes process based on their view that doing justice in a formal sense would either threaten the development of democratic forces in Indonesia or harm relations between that country and East Timor. From such a point it is a short distance to saying, as has been stated by Timorese officials on numerous occasions, that the serious crimes process is not a joint effort between Timor and the international community, but rather an initiative that was imposed on East Timor when the U.N. had the power of the pen.

This view also reflects the concern that East Timor, rather than the international community, will bear the political burden of any continuation of the serious crimes process. Although East Timor is one of the youngest nation in the world with a judiciary in its formative stages, it must now decide how to treat over three hundred arrest warrants and numerous pending indictments left behind by a criminal process that throughout its existence was dependent on international support. Although many of the remaining cases involve high-ranking and prominent individuals from East Timor's largest and most powerful neighbor, the significant political cost of pursuing these prosecutions has been lifted from the shoulders of the world community and placed on those of the Timorese.

The fact that the hybrid criminal process is neither fish nor fowl thus provides an opportunity for both the national government and the international community to walk away when they consider it beneficial to do so. The problem, of course, is when those two components, which are supposed to be supportive of the process, begin to see it as a nuisance or, worse, as adverse to their interests. Not only does it make for bad relations between the process and its

patrons, but it also creates an environment in which the court becomes isolated even though it needs and has a right to expect the administrative, material and even moral support of its sponsors. It is a slippery slope from such neglect to more obvious challenges to the independence of the judicial process. Indeed, such challenges became quite overt, at least from the Timorese side, which was unrelenting in its critique of the Special Panels and its decisions.

C. WHO OWNS THE LEGACY OF THE SERIOUS CRIMES PROCESS?

Although the U.N. has put distance between itself and the Special Panels as it felt necessary, there was one occasion where the connection between the two was made eminently clear. In 2004, the Security Council passed Resolution 1543, ordering that its support for the serious crimes process would end on May 20, 2005.⁹ The Council further ordered the Serious Crimes Unit to stop all investigations in November 2004 and the Special Panels to complete all trials by May 20, 2005.¹⁰ In Resolution 1599, it went on to order the Special Panels and the Serious Crimes Unit to preserve a complete copy of all compiled records.¹¹

These directives gave rise to a number of issues concerning the relationship of the serious crimes process to the Timorese government and the U.N. In the case of Special Panels records, the court was in a quandary, with the President of the Court of Appeal representing the national judiciary, ordering that all Special Panels court files be immediately transferred to the Dili District Court. On the other hand, U.N. officials directed that the handover process be suspended, pending further action by that body. In the end, the U.N. eventually accepted that all serious crimes court files were the property of the Timorese court system and could be handed over to the Registrar of the Dili District Court. This was finally accomplished at a formal ceremony that effectively marked the end of the Special Panels, thus avoiding a confrontation between the national and international partners to the process.

9. S.C. Res. 1543, ¶ 1, U.N. Doc. S/RES/1543 (May 14, 2004).

10. *Id.* ¶ 8.

11. S.C. Res. 1599, ¶ 9, U.N. Doc. S/RES/1599 (Apr. 28, 2005).

The handover issue relating to the Serious Crimes Unit proved to be far more complicated. This was due in large part to the confidential nature of many of the documents in the possession of the lead international prosecutor who, reflecting his own hybrid status, was hired by the U.N. to work as a Deputy Prosecutor General under the Timorese Prosecutor General.

To the extent that the serious crimes process focused on the 1400 murders and other serious offenses committed in 1999, the 95 indictments filed with the Special Panels accounted for only 572 of those killings. As a result of the order of the Security Council, investigations into the remaining deaths were terminated. Nonetheless, the investigative files of the Serious Crimes Unit contain thousands of pages of witness statements, most of them taken on a confidential basis.

Two positions quickly emerged on the issue of access to these statements. The international and diplomatic community urged that such access be restricted where international prosecutors had guaranteed their confidentiality. Timorese authorities took the position that all records were generated under the auspices of the Prosecutor General and thus fall under his exclusive authority.

The immediate significance of how this issue is resolved relates to whether or not the members of the recently established Truth and Friendship Commission will be permitted access to those materials. The Timorese government has stated that, in principle, those items should be available to the Commission's investigators, resulting in direct Indonesian access to information that incriminates members of that country's military. The understandable fear is that this information will be routed to those who are implicated in the crimes that were committed, thus putting at risk those who spoke out thinking that their names would never be disclosed. This is especially troubling as to those witnesses who still live in the Indonesian province of West Timor and who could suffer more direct consequences.

As matters currently stand, the records in question remain under U.N. lock and key at the former offices of the Serious Crimes Unit in Dili and negotiations with respect to their disposition continue. The present consensus appears to be that the documents will come under the control of the Prosecutor General, although the terms and

conditions of the transfer and their subsequent availability have not been publicly announced.

D. WHO OWNS THE SERIOUS CRIMES PROCESS GOING
FORWARD NOW THAT THE SPECIAL PANELS AND
THE SERIOUS CRIMES UNIT ARE CLOSED?

Although the serious crimes process ended in May 2005, its work has not been concluded. As previously noted, the investigations into hundreds of murders and other serious crimes were ended by order of the Security Council, which chose to close down the process. Although the Timorese Prosecutor General has the legal authority to continue those investigations, his office does not have the capacity, the resources, or the political will to do so. Moreover, even though the Commission of Experts has made a number of proposals relating to the continued investigation of these matters, including the continuation of the serious crimes process with international assistance, it is highly unlikely that the Security Council will approve such a course.

There is another issue that will be more difficult to ignore. As I have pointed out, there are a large number of indicted serious crimes defendants in Indonesia, many of whom are in West Timor. In the event that such defendants should return to East Timor and be apprehended, there needs to be a properly constituted court in place to conduct their trials, along with a plan for both their prosecution and defense. To date, no such structure exists and no coherent strategy to resolve the problem has been proposed, either by the Timorese authorities or by the United Nations.

The issue is no longer a hypothetical one. On July 27, 2005, Timorese police arrested one Manuel Maia, who is under indictment for crimes against humanity arising out of the violence that occurred in 1999. Absent a forum in which to conduct his trial, Maia remains in custody to this day. This situation, which is bound to be repeated, underscores the immediacy of the problem: although both the Timorese Constitution¹² and UNTAET regulations,¹³ which still have

12. E. TIMOR CONST. § 160, *available at* <http://www.etan.org/etanpdf/pdf2/constfmen.pdf>.

13. UNTAET Regulation 15, *supra* note 1, § 22.

the effect of law, call for the trial of serious crimes defendants before a special panel of national and international judges, no such entity now exists.

It is rumored that the President of the Court of Appeal has indicated that he shall compose a mixed panel using Portuguese judges who are in East Timor to assist the national judiciary and to hear local cases involving ordinary crimes. It should be noted that these judges, whatever their other merits may be, were not recruited to hear the kinds of serious crimes cases that they will now face. In any event, it is highly doubtful that in the midst of their already busy regular workload the judges will be able to devote the time and attention that such serious matters demand.¹⁴ Moreover, it is still unclear who will prosecute and who will defend such defendants, as the weight of that responsibility previously fell entirely on international staff.

Before concluding, I should mention the Commission of Truth and Friendship that was created bilaterally by Indonesia and East Timor for the purpose of establishing what its terms of reference describe as the “conclusive truth”¹⁵ regarding the history of violence in East Timor. The Commission’s work has not yet been elaborated other than to make clear that it will not refer any cases for prosecution and that in appropriate cases amnesty may be provided to those who tell their story and thereby contribute to the determination of the “conclusive truth.”

The Commission of Experts expressed its “grave reservations” regarding the Truth and Friendship Commission and recommended against international “financial and/or advisory support” absent a change in the body’s terms of reference.¹⁶ Although it is always possible that behind-the-scenes discussions are now under way,

14. The criminal and civil caseload currently being handled by the international judges in East Timor is approximately 3000 cases. See The Secretary-General, *Progress Report of the Secretary-General on the United Nations Office in Timor-Leste*, ¶ 20, delivered to the Security Council, U.N. Doc. S/2006/24 (Jan. 17, 2006).

15. Commission of Truth and Friendship Indonesia—Timor Leste, *Terms of Reference for the Commission of Truth and Friendship Established by the Republic of Indonesia and the Democratic Republic of Timor-Leste*, ¶ 12, <http://www.ctf-ri-tl.org> (follow “Terms of Reference” hyperlink).

16. Commission of Experts, *supra* note 4, ¶ 355.

neither the Secretary General nor those nations that are donors to East Timor have publicly spoken out as strongly as the Commission of Experts. Regardless of the eventual result, the momentum for controlling the future agenda with respect to serious crimes issues is clearly on the side of the national governments of East Timor and Indonesia.¹⁷

CONCLUSION

Throughout the serious crimes experience, neither the U.N. nor the government of East Timor ever demonstrated a clear sense of ownership of the very process in which they were partners. Although both agreed with the need for an end to impunity, neither appeared ready to see that accomplished by an independent, fully resourced tribunal or prosecutor's office. In the end, perhaps the question of ownership overlapped with the issue of control and neither the U.N. nor East Timor wished to take responsibility for what they did not consider wholly their own. In that sense, the hybrid process was too much a bastard child for either to claim paternity, and the orphan status of the Special Panels and the Serious Crimes Unit was too often apparent.

The good news out of all this is that there have been many lessons learned from the serious crimes process in East Timor. The challenge will be to make use of them in the years ahead as other hybrid

17. Following the presentation of these remarks, on September 28, 2005, the President of the Security Council addressed a letter to the Secretary-General in which he acknowledged the Council's receipt of the report of the Commission of Experts on June 24, 2005. President of the Security Council, *Letter from the President of the Security Council Addressed to the Secretary-General*, U.N. Doc. S/2005/613 (Sept. 28, 2005). The President went on to state that the members of the Security Council

take note of the contents of the report and, prior to further consideration of it, would request the Secretary-General, in close consultation with his Special Representative for Timor-Leste, to submit a report on justice and reconciliation for Timor-Leste with a practically feasible approach, taking into account the report of the Commission of Experts, as well as the views expressed by Indonesia and Timor-Leste.

Id. It is noteworthy that the letter of the Council President does not establish a timeframe for the submission of this further report. As of the date of publication, the Secretary-General has not yet submitted the requested report to the Security Council.

experiments, such as the one about to commence in Cambodia, come onto the scene.