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Viewing cable 08JAKARTA1385, GOI ACCEPTS RESPONSIBILITY FORHUMAN RIGHTS

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VZCZCXRO0670 OO RUEHCHI RUEHCN RUEHDT RUEHHM DE RUEHJA #1385/01 2000830 ZNY CCCCC ZZH O 180830Z JUL 08 FM AMEMBASSY JAKARTA TO RUEHC/SECSTATE WASHDC IMMEDIATE 9572 INFO RUEHXS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS PRIORITY RUEHBY/AMEMBASSY CANBERRA 2786 RUEHLM/AMEMBASSY COLOMBO 1139 RUEHKA/AMEMBASSY DHAKA 1101 RUEHDT/AMEMBASSY DILI 0969 RUEHNE/AMEMBASSY NEW DELHI 2021 RUEHUL/AMEMBASSY SEOUL 4747 RUEHKO/AMEMBASSY TOKYO 2241 RUEHWL/AMEMBASSY WELLINGTON 2858 RUEHBD/AMCONSUL PERTH 0965 RUEHHK/AMCONSUL HONG KONG 2816 RUEAIIA/CIA WASHDC RHEHNSC/NSC WASHDC RHEFDIA/DIA WASHINGTON DC

C O N F I D E N T I A L SECTION 01 OF 03 JAKARTA 001385

SIPDIS

DEPT FOR EAP, EAP/MTS, EAP/MLS, EAP/RSP, DRL, DRL/AWH NSC FOR EPHU

E.O. 12958: DECL: 07/18/2018 TAGS: PREL PGOV PHUM ID TT SUBJECT: GOI ACCEPTS RESPONSIBILITY FORHUMAN RIGHTS VIOLATIONS IN EAST TIMOR

REF: JAAARTA 1328 AND PREVIOUS

JAKARTA 00001385 001.2 OF 003

Classified By: Pol/C Josph L. Novak, reasons 1.4(b+d).

¶1. (C) SUMMARY: Indonesian and East Timorese leaders have underscored their support for the conclusions of the Commission on Truth and Friendship (CTF) Report, stressing that the report assists the reconciliation process. The report itself places institutional responsibility on Indonesian security forces for gross human rights violations in East Timor in the 1990s. It also lays out recommendations for reform, which include human rights training for security forces. Critics charge that the report does not mandate individual accountability by those who committed human rights violations. Over all, we see the report as constructive in terms of normalizing relations between the two countries and in adding further impulse to security force reform. END SUMMARY.

FOCUS ON RECONCILIATION

¶2. (U) In a ceremony in Bali on July 15, President Yudhoyono and President Ramos-Horta formally received copies of the Commission of Truth and Friendship (CTF) report (see reftel). The report focuses on the violence that occurred in East Timor in the 1990s, who was responsible for it and includes a list of recommendations for next steps.

¶3. (U) President Yudhoyono accepted the report, acknowledged its findings, expressed "deep remorse" and pledged to follow all the recommendations set forth in the report. This acknowledgment included accepting institutional responsibility for Indonesia's gross human rights violations committed by government and state institutions. In press comments, SBY said he would not use the report's findings to prosecute the individuals involved, but rather to focus on "restorative justice" for the victims, as the report was designed to resolve issues through a non-prosecutorial process.

¶4. (U) Timor-Leste President Ramos-Horta also emphasized reconciliation. Ramos-Horta said he accepted Indonesia's acknowledgment of responsibility and wished to move forward. News reports stated Ramos-Horta was satisfied with SBY's expression of "deep remorse" and that he reiterated the need to look forward and not focus on the past.

¶5. (U) The Indonesian military (TNI) admitted responsibility

for the human rights violations outlined in the report. According to press reports, TNI chief General Djoko Santoso said the TNI accepted its responsibility as part of a democratic administration and would abide by any decision made by the Indonesian government. He also said he was unclear what amends the military would make, as the report was still under "government scrutiny."

¶6. (C) On July 16 FM Wirajuda presented the CTF report summary and SBY's administration's reaction to members of the Indonesian Parliament's (DPR) Commission I, which is responsible for foreign affairs and defense. (Note: The GOI will present the full report to the DPR shortly.) Commission I Chair Theo Sambuaga told Pol/C that he welcomed the report and firmly believed that it would assist with the reconciliation process. Commission I member Marzuki Darusman told poloff that DPR members received the document favorably. Although the DPR does not have a formal role in implementing the report's recommendations, legislators would follow the matter closely, he said. The DPR could use its oversight function to press the GOI regarding the report's recommendations, though parliamentarians had not reached a consensus on this issue, according to Darusman.

#### THERE ARE CRITICS

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¶7. (U) UN Secretary General Ban Ki-Moon issued a statement saying he "has taken note" of the final report and calling for prosecution of individuals who committed gross human rights violations and reparations for victims of the conflict. He called for full accountability in line with the recommendations contained in the UN Report on Justice and Reconciliation for Timor-Leste, which calls for the creation of an international tribunal. The SYG reiterated the UN's willingness to assist both countries in the implementation of such measures.

¶8. (C) Despite Indonesia's statements of regret both on the part of the Indonesian government and military, many human rights groups remain skeptical. Critics have said that without prosecution there can be no justice for victims. International Crisis Group (ICG) Southeast Asia Director John Virgoe told poloff that it is unlikely Indonesia will pursue prosecutions anytime soon.

¶9. (C) According to Indonesian Foreign Minister Hassan Wirayuda and Minister of Defense Juwono Sudarsono, "the case is closed." Wirayuda said no prosecutions would be made for the perpetrators of violence. In an interview, Wirayuda said Indonesia was "forced to choose either peace or prosecutorial justice--we chose peace." Echoing these comments, Sambuaga told Pol/C that there was no plan and no political support at this time to pursue prosecutions against individuals implicated by the report's findings.

¶10. (C) Darusman, a former Attorney General with extensive contacts in the legal and human rights communities, had a different take. He said prosecutions may still occur at sometime in the future. He noted that the CTF specifically avoided granting amnesty to any individuals for their involvement in alleged human rights abuses in Timor-Leste. Further, according to Darusman, there is nothing to prevent individuals or groups from using facts established by the report as the basis for legal cases. He said that the National Human Rights Commission (Komnas HAM) and human rights NGOs were weighing possible legal actions, including class action lawsuits on behalf of victims and their families. Darusman underscored that the CTF process was unprecedented and that nobody could predict with certainty what would happen next.

#### REVIEWING THE REPORT

¶11. (U) The report's findings were based on Commission hearings and review of documentation, and a review of previous investigations and testimony. They led to the following conclusions as to gross human rights violations and institutional responsibility:

- Gross Human Rights violations in the form of crimes against humanity did occur in Timor-Leste in 1999. These violations included murder, rape, and other forms of sexual violence, torture, illegal detention, and enforceable transfer and deportation carried out against the civilian population.

- TNI, the Indonesian civilian government, the Indonesian police and pro-Jakarta militia groups must all bear institutional responsibility for gross human rights violations targeted against civilians perceived as supporting the pro-independence cause. These violations included murder, rape, and other forms of sexual violence, torture, illegal detention, and enforceable transfer and deportation.

- Timorese pro-independence groups were possibly responsible

for gross human rights violations in the form of illegal detentions that targeted civilians who were perceived as Jakarta supporters. However, due to lack of previous systematic judicial investigations, precise nature of these crimes could not be conclusively determined.

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- From a moral and political perspective, the respective states must accept state responsibility for the violations. Due to the nature and scope of the persistent patterns of organized institutional involvement in these gross human rights violations, acceptance of responsibility is necessary to move forward.

¶12. (C) The final report appears to be nearly identical to an advance copy received by Mission prior to the July 15 release. Mission reviewed the early version we received in refuels.

KEY RECOMMENDATIONS

¶13. (C) The CTF's key recommendations are:

- Accountability and institutional reform--the CTF does not recommend amnesty or rehabilitation for any persons. However, it recommends the following: (1) human rights training for security forces; (2) human rights training and conflict resolution for civil institutions; (3) strengthen bodies that investigate human rights violations; (4) training for all forces in the protection of women and children.

- Joint border and security policy--both countries will work to the establishment of visa free (peace zones) along the border and joint border patrols to enable safe crossing.

- Conflict resolution and psycho-social services for victims--establish conflict resolutions centers to provide training in conflict resolution and mediation for government, civil society, and specific communities. This includes specific survivor healing programs, in particular for victims of sexual violence and torture.

- Economic and asset dispute resolution--accelerate the resolution of disputes of complex economic and asset issues.

- Commission for disappeared persons--establish a bilateral commission to acquire information about disappeared persons and identify the whereabouts of all Timor-Leste children separated from their parents and to notify their families.

- Make recommendations for official acknowledgment and apology for the suffering caused by the events of 1999.

- Long term and aspirational recommendations--additional recommendations included cultural and educational exchanges, health sector cooperation, promotion a cultural of peace and respect for the rule of law and human rights, and continued security cooperation.

A CONSTRUCTIVE REPORT

¶14. (C) Over all, Mission sees the CTF report as a positive step forward in terms of reconciliation between the two countries. Official acknowledgment of institutional responsibility by the two governments of the crimes that were committed was not easy to do, especially for Indonesia. In fact, Yudhoyono and his government acted in the face of what could be a backlash from retired senior generals and others who hold a "nationalist" perspective. These elements have largely held their fire, so far, but they are influential and national elections are looming. It is now important that the GOI focus on implementing the report's recommendations elaborated on above.

HUME