



Submission No 73

Inquiry into Australia's Relationship with Timor-Leste

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Joint Standing Committee on Foreign Affairs, Defence and Trade
Foreign Affairs Sub-Committee

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My involvement with East Timor and its relationship with Australia had its beginnings more than 50 years ago. Then, as an intelligence officer in the Defence Department focussing on events in Indonesia, my attention was occasionally drawn to the situation in the then Portuguese colony, whose economy was at the time in a parlous state. But my interest began seriously in late 1961, after I had joined the Department of External Affairs and was appointed Australian Consul in Dili, a post I held until late 1964. Ten years later, after a diplomatic appointment in Moscow, shortly I was appointed Director of the Foreign Affairs Group of the Parliament's Legislative Research Service.

In 1974 I was briefly seconded to DFAT, as it had become known, to be the expert on a fact-finding mission sent by the Whitlam Government to assess the situation in the colony, following the collapse of the dictatorship, and the decision of the new Government in Lisbon to allow its colonies to determine their own future. I subsequently reported my findings to the Parliament, indicating, among other things, that few Timorese were disposed to join with Indonesia, most preferring ultimate independence. When the Whitlam government made known their desire for the colony to become part of Indonesia I often found myself in a rather difficult situation, but quite a number of members, on both side of politics, were uncomfortable with the perceived stand of the Government, and were troubled that the wishes of the Timorese, who had helped our Commandos in World War II, at huge cost to themselves, were about to be disregarded.

I continued to become involved in the search for a just solution, and was active in East Timor as an adviser to the UN mission, during the referendum, or consultation as the Indonesians termed it, and to Interfet and the UN missions after September 1999.

Issues in the Current Situation.

The political views in Parliament in the past, I suggest, is an important aspect for this committee to keep in mind. The Parliamentary support they received has never been forgotten by older generation of Timorese leaders, which always gave them hope that help would come from Australia, as it did so generously after the TNI departure in 1999. . The support of parliamentarians such as Tom Uren, Ken Fry, Andrew Peacock, Allen Missen, Gordon Macintosh, Bernie Kilgariff and Neville Bonner, and state members like John Dowd QC, to mention an incomplete list, reveals its bipartisan nature, something that, even in the darkest hours of the past, seemed to console Timorese leaders. One important aspect is of course the role of parliament in our foreign relations, which governments have often downplayed. Again and again in the past it reminded Timorese leaders that Australia was an open society, with more voices than that of the Government or its officials.

The past experience has, understandably, influenced the way the present generation of East Timorese regard us today, which is at times complex and unpredictable. It is a constant reminder that, in issues of

some controversy, such as Timor Gap negotiations, there is another interested Australia that may be turned to, and, in that context, of particular importance is the Parliament. In this modern world its members have the vitally important role of scrutinising the role of our governments, especially in relation to international humanitarian conventions to which Australia has firm commitments, by virtue of having ratified the instruments concerned.

Having said all that, I do not propose to dwell on Australia's relations with Timor Leste, which are in quite good shape, thanks to the efforts of aid agencies, our ADF efforts, and, not least main towns, many of them in remote areas. Inevitably much of the development favours the living conditions of the elite, as has almost always been the case in the first years of independence of new nations after colonial rule.

Australia's major role in getting the Indonesian military occupation force to withdraw was a much valued action on our part. We continued to play a leading part in peace-keeping and in the UN led efforts to prepare East Timor for independence. Australia is a major aid provider, both in terms of the formal government to government programs, at a time when other major aid providers are cutting back on their programmes. While much of our aid is focussed on major programmes, many NGO projects, including those, for example, of many Rotary groups are of special value, taking valuable basic assistance to villages that had hitherto been given little attention. These programmes have endeared this country to the ordinary people, especially outside the major towns

where progress in development has failed to ease the high level of poverty.

It may have been time for the end of the UN missions but although Timor Leste has gone a long way since the destructive campaign carried out under TNI leadership prior to their departure in October 1999 serious problems remain. In judging the state of Timor Leste of today it is important to fully appreciate the past, not least in order to evaluate the successes and shortcomings of the UNTAET mission. The events of 1999 presented the nation's leaders with a marathon task, and after a decade of independence the task ahead remains challenging for governments who have yet to come up with a clear path to a self-sustaining economy. Although the Petroleum Fund now has more than \$13 billion the new nation will need all the help it can get from the international community, in which Australia's position will remain a leading one.

Towards a More Satisfactory Settlement of the War Crimes Issue

1. My main concern, in this submission, is to draw attention of a serious matter of unfinished business, the matter of crimes against humanity committed by Indonesian troops, or militia under Indonesian command between 1975 and the departure of the TNI in 1999. As one who was designated by UNTAET as expert on this subject, I have deeply disappointed by the lack of progress on this matter. In my experience, which on this subject began in Timor in 1975 at the time of the killing of the Australian newsmen

at Balibo, an incident I was able to investigate a year later, as well as after 1999. It was clearly a callous summary execution, carried out under the command of an officer who was later to become a leading general (Yunus Yosfiah) an incident revealed in its detail by the NSW Coronial Enquiry). It was to be only one of a number of mass executions, ranging from 100 to about a thousand Timorese lives. There are probably more than ten of these atrocities which continued right up to the departure of TNI forces after the Interfet intervention. Indeed, thanks to the weak response of the international community this disregard for human life continued throughout Indonesian rule, despite the efforts of a few c. Most of these killings were not Fretilin or Falintil members but ordinary East Timorese, in one case as group of *Apodeti* supporters.

During those 24 years of occupation there were other forms of crimes, such as numerous cases of torture, rape and executions on the spot of individual Timorese, as well as the virtual kidnapping and transportation of children (those forced to go to Indonesia) involving thousands of cases.

This subject was addressed not only by the Security Council, but also by Indonesia's Human Rights Commission (KPP HAM), whose findings, in general terms, roughly correspond to those my report of the time (*Crimes against Humanity in East Timor, January to October 1999: Their Nature and Causes, 2000*). We were in agreement that the crimes were systemic not random.

These extraordinary miscarriages of justice have yet to result in any serious actions by the parties concerned, yet they compare with events in former Yugoslavia and in Africa. One obstacle, of course, has been the opposition to any enquiry by Timorese leader, Xanana Gusmao, with whom I had discussed the issue over a period of a couple of hours. President Horta at first preferred an UN international tribunal, but then later informed me that such a move would not get enough international support and would, in the process, lead to a serious deterioration of relations with Jakarta that could endanger Timor Leste's security. And so, despite the efforts of the CAVR enquiry and its recommendations not action has been take that would satisfy the Timorese victims and their families. As a result a number of the senior officers accused have continued with their careers, some later serving in West Papua. Indeed, one of them may emerge as a presidential candidate.

There are, however, Indonesians in the new democratic establishment who would welcome an enquiry to past events of serious human rights violations, ranging from the Gestapu incident in 1965 to Timor and West Papua incidents. In view of the difficulty of arranging a tribunal at this late hour, however, the UN International Criminal Court has no powers to deal with situations of this nature.

It is of course a very difficult case for the Australian Government, which has been carefully nurturing our relations with Jakarta, but

it is in Australia's long term national interest that the matter be dealt with. In the first instance it is a matter of justice for the Timorese. It is also important that the cruel and oppressive culture of the military in the past be drawn to the attention of Indonesians, especially their political establishment. Although the hour is late, by not taking up these events earlier, the Timorese have been denied any reparations for the devastation of their country, especially the destruction that was carried out the TNI, or militia under TNI command in 1999.

Then a large depopulation took place with some 200,000 people being forced to travel to West Timor. The physical destruction was massive, and as witnessed by the writer, it was clearly planned and led the TNI as a matter of revenge for the pro-independence vote at the consultation in August 1999. According to the UNTAET assessment, 73% of houses and buildings in the territory had been destroyed or seriously damaged. Most government buildings had also been damaged, including the residence of former Portuguese Governors, which was destroyed by TNI members in the interregnum between the arrival of InterFet and the departure of Indonesian forces. The task, then, of the incoming UNTAET administration and the returning leaders of the Timorese Independence movement, with limited administrative skills, was mind-boggling. To complicate matters the UN mission was not fully staffed until about May 2000. In the meantime the Timorese leaders were become restless. UNTAET moved as quickly as it could with the formidable task of preparing East Timor for

independence in May 2002. Given the shortage of necessary political and administrative skills, the Timorese were barely ready for independence. In fact early in 2000 I raised with Sergio Vieira de Mello the possibility of an extension of the mission. Apparently that was, for various reasons, mostly to do with funding, simply not possible.

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