

Speech by Tjitske Lingsma during the seminar 'Unfinished Struggle in East Timor and Cambodia', in a series Roads to Justice organised by NIOD Institute for War, Holocaust and Genocide Studies – 22 January 2013

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Since my first visit to East Timor, in 1998, I always have been returning to the country. Mainly as a journalist, though from 2001-2002 I worked as the public information officer for the Constituent Assembly in Dili.

I won't give a review of the documentary – Alias Ruby Blade - although I think it stops at a convenient moment. The marriage of Xanana Gusmao and Kirsty Sword not only consisted of romantic love. It is not always easy to be the wife of a charismatic leader. I must say that I am very sorry about a recent sad development. Just before Xmas Kirsty Sword was diagnosed with breast cancer, and is being treated in Australia. I read in the press she is doing okay. Let's hope she will completely recover.

There is another reason for me to note that the documentary ends at a convenient moment, just after the violent birth of a nation. The images of the independence celebrations are a snapshot of general euphoria that has been quite rare in East Timor. Building a destroyed country is a difficult process marked by mistakes, trial and error, conflict of interest and many painful dilemmas.

We should not forget that during all those scenes of a blossoming love between Kirsty and Xanana, being detained as a political prisoner in Indonesia, the terror in East Timor continued. It is estimated that at least 100.000 people died during the 24 years of occupation by Indonesia. Though the death toll might actually be as high as 200.000. Horrific numbers. Especially if you realize that in those years East Timor had a population of just 600.000 people. Every single family is affected, often missing several brothers, sisters, parents, grandparents, nieces, nephews, cousins, aunts and uncles.

Before I will talk about justice efforts I will take you back to 1999, when the UN organized a popular consultation during which the Timorese voted with overwhelming majority (78,5%) for independence. This referendum, which ended the long and brutal occupation, took place in extreme violence. During that year alone between 1500 – 2000 people were killed. The exact number has never been established. After having lost the referendum the Indonesian army and Timorese militia razed the country to the ground, burning at least 70 percent of the infrastructure. Houses were destroyed and possessions stolen. Some 250.000 people were forcibly deported to adjacent West-Timor. There was no economy, no work, no government, no shops, no schools, hardly food or medical help, no services like electricity or running water. East Timor was in complete ruins.

The UN sent in a mission that would govern East Timor for about 2,5 years. UNTAET had almost colonial powers, but many of its staff were unqualified. Within a few months much of the respect for the UN had gone.

This is the context in which the complex process of justice was supposed to take place. I remember how early 2000 the first Timorese judges and prosecutors were sworn in. One can wonder how well qualified they were, but at least it was a start. In the meantime the UN had set up a Serious Crimes Unit to do criminal investigations.* But certainly in its early years, the unit faced problems such as severe mismanagement and a lack of funds. While the UN in New York had rejected the possibility of an international tribunal for East Timor, the Special Panels were set up. A hybrid domestic-international mechanism, to prosecute genocide, crimes against humanity, war crimes, but also murder, rape and torture.

During his visits in the country Xanana Gusmao however did not call for prosecutions. He called for amnesty. He said the Timorese should forgive and concentrate on building their lives and the country.

In 2001 the Commission for Reception, Truth and Reconciliation (CAVR) was set up. A team of Timorese and international researchers investigated violence committed by all parties during the occupation. They conducted interviews – one of the interviewers is here : Willy van Rooijen – but also organised public hearings and studied documents. Through statistical analysis the commission established that at least 102,800 Timorese died as a result of the conflict. Approximately 18,600 Timorese were killed or disappeared. The vast majority died due to hunger and illness. The commissions report *Chega is*, although far from perfect, at least the most complete account of what happened from 1975-1999.

Apart from investigating and organizing hearings, the Commission also took part in arranging reconciliation sessions during which lower ranking Timorese militia members would confess their crimes to their communities.

In Indonesia attempts were made as well. The national human rights organisation Komnas Ham published a report, already on 31 January 2000. It confirmed the terror in 1999 was the result of a systematic campaign of violence, and named 33 suspects. Two years later Indonesia had set up an ad-hoc trial. Eighteen persons were prosecuted including officials from the Indonesian army (but not the top brass), police, civil service and Timorese militia-leaders. But in the end all were acquitted.

In 2005 the governments of East Timor and Indonesia set up a joint Commission for Truth and Friendship (CTF). Its goal was to establish the truth about 1999 events. Nobody expected much of such a mechanism set up by two governments which had not presented themselves as keen justice campaigners. But when the Commission published its report many were surprised that at least it did conclude that Indonesian forces were mainly responsible. Although it had the possibility to offer amnesties, the Commission declined to do so. Other than that, it did not name perpetrators, it did not do much for justice nor for reparations for the victims.

In the end the Serious Crimes Unit indicted a total of 391 persons. Just 87 suspects were tried which led to 85 convictions. They were all, except for one person, Timorese. Many have been released by the Timorese government, through pardons, including notorious militia leaders. The Indonesian masterminds were not brought to account.

Things were not going well in East Timor – one of the poorest countries in Asia (ranking 147 in UNDP's Human Development Index). In 2006 a conflict within the Timorese army spiralled out of control. The police, youngsters and gangs became involved, against the backdrop of a massive political crisis. Thousands of people fled their homes. Houses went up in flames. At least 25 people were killed. International troops were flown in to restore order.

A large group of rebelling soldiers had escaped to the mountains. Then in the morning of 11 February 2008, trucks with renegade soldiers came into Dili and shot president José Ramos Horta. He was critically injured, but survived. In a separate incident Prime Minister Gusmao was also shot at, but he escaped unharmed. Until today it is unclear of what exactly happened that morning. The event is surrounded by secrecy.

After a turbulent decade East Timor commemorated on 30 August 2009 the historic referendum, that had led to its independence. The events during that day, shed some light on the delicate matter of justice in East Timor.

It was hot that morning. The sun was burning. Guests from East Timor and abroad were waiting while seated in the shadow of two covered grandstands. The ceremony at the square in front of the presidential palace in Dili – largely built by the Chinese government - should have started already half an hour ago, when a rumour started going around. The delay seemed to be caused by the Indonesian delegation.

Finally the ceremony began. President José Ramos-Horta, who had been an exile himself during most of the occupation, started his speech. Remarkable in personal detail and opinions, he spoke about the history of his country. He reached out to his fellow Timorese who had suffered so much. How he, himself, had lost a sister and two brothers. About his brothers he said: 'We still don't know exactly when, where, how they died. Their bodies rotted somewhere and their souls are still in pain because we have not buried them.'

He recalled the efforts of the truth commissions in revealing the facts.

'The greater good, the greater justice, is that we are today free and with this gift from God we must forgive our brothers and sisters, and those in the Indonesian army who committed heinous crimes against us.'

He went on to say: 'There are some voices at home, but primarily abroad in the West, calling for an International Tribunal for East Timor.'

But Ramos Horta did not agree: '(...)As an East Timorese and Head of State, as someone who lost brothers and a sister, as someone who almost lost his life, as someone who has crisscrossed this beautiful island of ours in the past 10 years, and knows what the vast majority of the people feel and demand today, I am saying let's put the past behind. There will be no International Tribunal.'

He pointed at a sensitive issue: the atrocities that were committed in the past by the Timorese resistance movement, especially in the years 1975-1977. Should an International Tribunal, he said, 'try only East Timorese militias and Indonesian military, and not East Timorese Resistance leaders (...)?'

Ramos Horta argued it is up to Indonesia to prosecute its own perpetrators. And he stressed that many countries that never had an international tribunal to deal with the past.

During the reception, a shocked UN official came to me and whispered. 'Do you know why the ceremony was delayed. Indonesian officials refused to come if Bere would not be released.'

Just a few days earlier the East Timorese authorities had captured militia leader Maternus Bere, who had slipped over the border, was recognized and arrested. He was being wanted for murder, rape, kidnapping and deportation during the same referendum which cynically, was currently commemorated. But the Indonesians protected him. Only if Bere was set free and safely handed over to the Indonesian embassy, the Indonesians would participate in the ceremony.

Prime minister Gusmao ordered his release. There was an outcry from politicians and human rights organisations, but the deal was done.

Last week I emailed a Timorese friend, himself a survivor of the Santa Cruz massacre. He said people still want justice. But he wondered what campaigning for justice would mean for the relationship between the two countries, with Indonesia being the closest and main supplier of affordable

economic goods to Timor-Leste? The leadership is trying to shift the mindset of the Timorese to work for economic development and strong economic cooperation, he said.

He feared that campaigning for justice would involve 'all sort of complexity with its neighbor', and suggested the international community should take the lead.

Let me conclude by saying that in East Timor at least some attempts were made to do some justice. Last December three militia were sentenced by the Dili court. But Indonesian perpetrators, including the masterminds, are left untouched. Good relations with Indonesia, security, economic development and silence over atrocities within the Timorese resistance, are more important. Indonesia has been obstructing justice. That might not come as a surprise. The current president Susilo Bambang Yudhoyono served as a commander in East Timor during the occupation. With regard to the near future. Prabowo Subianto, who is the son in law of the late dictator Suharto and is being held as former commander of the special forces (Kopassus) responsible for terrible human rights violations in East Timor, will take part in the next elections in an effort to become the president of Indonesia.

The title of today's seminar - 'unfinished struggle' - is well chosen. Justice, it is one simple word of seven letters, and despite our feelings for fairness, it is a hugely complex issue.

Having said all this, there are many perspectives on a country. Apart from its painful history and the current problems, personally I am very fond of East Timor and it is always a great pleasure to visit the country. I have a tremendous respect for the brave Timorese with their frankness and determination. It is fun to walk around and be greeted with the soft sounding 'bom dia'. On top of that, without wanting to sound too much like a travel agent, the country is a true gem with amazing landscapes, pristine beaches, coral reefs, jungle, savannah like plateaus, impressive valleys and mountains that sometimes give you the impression of being in the German Eifel, and then overlooking green Irish hill tops until you see the men riding horses in Maubisse and you imagine being somewhere in South America.

*For the overview of justice mechanisms I made use of several sources, including:

-Suzannah Linton – 'Post-Conflict Justice in Asia,' published by The International Institute of Higher Studies in Criminal Sciences.

-The International Center for Transitional Justice - <http://ictj.org/>