



**PRESIDÊNCIA DA REPÚBLICA
GABINETE DO PRESIDENTE**

Statement

By

H. E. President Kay Rala Xanana Gusmão

to the Security Council

New York, 23rd January 2006

Mr. President,

Thank you for inviting me to speak to this august body today. Excellencies, before I begin my address, I seek your indulgence to put on record a special thank you. Mr. President, I wish to convey to you in my own name and on behalf of all the people of Timor-Leste, our profound thanks to the people of Tanzania, for the strong support you gave us, beginning in December of 1975 when our Foreign Affairs Minister, Dr. José Ramos-Horta came to here for the first time seeking the assistance of the Security Council. He was met at the front door by H.E. Salim Ahmed Salim who looked after him. I express our deepest gratitude to your late President and Father of the Nation as he is known to all, H.E. Julius Nyerere, who was one of our steadfast supporters.

Thank you Excellencies.

My statement will address three issues. First I will share with Your Excellencies my thoughts on the Report of our Reception, Truth Reconciliation Commission (CAVR); second, I shall elaborate on current developments and challenges; and thirdly, I will outline to Your Excellencies our on-going needs and expectations from the international community.

On 31st October 2005, the CAVR's Chairman, Mr. Aniceto Guterres, handed over to me, the Commission's Final Report, pursuant to UNTAET Regulation No. 2001/10 as amended by several laws passed by our National Parliament. Although the law allows me up to two months to submit the Report to the National Parliament and the Government, I decided to expedite the process by handing it over to the Parliament on 28th November 2005 and thereafter to the Prime Minister.

On 20th January 2006, our esteemed Secretary-General was gracious enough to receive me and I handed over a copy of the CAVR Report to him. Now I am before you to share with you this historical document and my personal reflections.

Excellencies,

When I addressed our National Parliament on 28th November 2005, I said that, upon learning about the contents of the Report, I concluded that both Minister Ramos-Horta and I were right, when we say that true justice was the recognition by the international community of the right to self-determination and independence of the people of Timor-Leste. And this understanding is crucial for our analysis and conclusions.

So if we consider that the previous 24 years, were years of injustice, an injustice in which a part of the international community was implicated, then the collective actions taken by the United Nations in freeing our people and in assisting us since are acts of redemption, of superior justice.

The following excerpt can be read in its Report: "The Commission is of the opinion that it is not possible to achieve long-lasting reconciliation without establishing the truth, obtaining justice, and providing compensation to the victims. Compensation is necessary in order to restore the dignity of victims and to amend the damaged relations within our society".

Before the CAVR was established, based on an UNTAET Regulation that was subsequently endorsed by the Constituent Assembly, the CNRT with the support of IOM, UNHCR and UNTAET, was engaged in meetings at the border involving victims and perpetrators, in an effort to encourage the Timorese who had fled to West Timor to return home. These meetings were also aimed at fostering genuine reconciliation among the people. In the year 2000 UNTAET itself promoted several trips to Timor-Leste for a considerable number of former militias, in a laudable effort to promote reconciliation and reduce tensions along our common border with Indonesia. However in 2001 different views emerged within UNTAET with some now opposing what seemed to be in 2000 a wise policy.

I am reflecting on these passages only to alert to the need not to evaluate the CAVR Report solely from the incomplete perspective of exposing the truth regarding the violations of human rights. I acknowledge that the assertion of truth as a mandate attributed to the CAVR was indeed the pivotal element leading to all other activities. And we all acknowledge the merit that the CAVR has achieved in their search for truth. Further we all acknowledge that truth is seminal to the quest for justice and for victims. Indeed it is truth that informs the mandate of Timor-Leste and Indonesia's Commission on Truth and Friendship (CAV).

Reconciliation, however, has been a long-standing process enabling the people of Timor-Leste to endorse the principles of tolerance and forgiveness as the true basis for the coexistence of diverging opinions in society. The border meetings initiated by UNTAET with broad community support, set within the framework of reconciliation, were stalled as they had become irrelevant, whether from the social or political perspective to the Serious Crimes Unit, which was only interested in arresting any militias who dared to cross the border line. Hence, we charged with our mandate to represent our community, then went to the other side of the border and continued to foster reconciliation and allowed people to decide if they wished to return to Timor-Leste, which they did in large numbers.

It is a result of our efforts at reconciliation that there has not been a single revenge killing of suspected elements implicated in the occupation of our country.

If the elections of August 2001 for the Constituent Assembly represented a great moment of civic behavior on the part of the citizens of Timor-Leste, and if the elections of April 2002 for the President of the Republic were held under a commendable climate free from violence, it should be a reflection of the profound consciousness of our People to never, ever again, allow in Timor-Leste any space for political violence.

While participating in the struggle, the people, for it was they who formed the resistance, grew firmer in their commitment not to allow the occurrence of more conflicts or wars in Timor-Leste. And this is what the CAVR gathered from the people, including from the victims themselves.

Excellencies,

From the comprehensive investigations conducted by the CAVR, we can group them into two main areas: the international dimension pertaining to the way the international community positioned itself in relation to the question of Timor-Leste, and the internal one which dealt with the acts committed against the Timorese.

Regarding the responsibility of the acts committed by us, East Timorese, I had in due time acknowledged that such acts of violation of human rights had taken place. Such acknowledgement helped me to sense beforehand, that the Report of the CAVR would suffer from a lack of impartiality and objectivity, unless the acts of human rights abuse committed by Timorese against Timorese were courageously addressed as well.

The Report makes recommendations that are obviously very ambitious.

What is, after all, the objective of Justice? Essentially, at its heart is retribution, which is about punishing those who act outside the rule of law. In that sense, based on the range of variations that we can find from country to country, we may say that Justice has fulfilled a key part of its mission: to punish! But we know that Justice also has a deterrent component, that is having the objective of stopping the recurrence of crimes, then in some countries, even those that have the death penalty for certain types of crimes, and the law still has not become redundant or irrelevant because executions are still taking place, nevertheless, there is still recurrence of the same types of crimes.

The CAVR Report also states “the absence of justice... is a fundamental obstacle in the process of building a democratic society”.

My reply to that would be not necessarily, justice cannot be abstracted, and I would say that the building of a democratic society is very much dependent upon the context where we apply this concept.

On the way here I came across an article by Nobel Peace Laureate Archbishop Desmond Tutu on the very issue I am reflecting on. For your benefit I have attached to my speech, a copy of this timely article, titled **Justice Means Reconciliation**, but allow me to read to you some salient parts of the article, that speak to our situation as much as another can.

“In our case neither, the apartheid government nor the liberation movement could defeat each other. We had a military deadlock.

Moreover, in the case of Nuremberg, the prosecutors and judges could pack up their bags after the trial and leave Germany for their several homes.

We had to make our homes in this, our common motherland, and learn to live with one another.

Such trials probably would have gone on nearly forever, leaving gaping wounds open.”

Whilst we do not share a common motherland with Indonesia, we do share a border, we do share history, we do have citizens of Timor-Leste living, working and studying in Indonesia, we are both nascent democracies struggling to put behind us years of conflict and our fates are in many ways enjoined. Timor-Leste is not a conquering nation and Indonesia is not a conquered one.

I have had to ask myself if it is in our national interest, which must include social harmony, to adopt a process that I am told by some friends will bring justice, and have this process go on for years, and possibly set back our democratic consolidation, that is being

undertaken in Timor-Leste and Indonesia respectively? The answer that I came to, after wide consultation with the people, was that it is not.

Mr. President, Archbishop Tutu said more and the most telling is that he advanced both the necessity and desirability of adopting a restorative justice model. On this matter he had this to say:

“So it was a mercy that our country chose this way to go the way of the Truth and Reconciliation Commission (TRC)-granting amnesty for the truth. This was ultimately based on the principles of restorative justice and ubuntu....It sets high store by healing...

Justice as retribution often ignores the victim and the system is usually impersonal and cold. Restorative justice is hopeful.”

We too are hopeful Mr. President and it is important that we too follow the path of restorative justice, in step with our needs.

Mr. President,

After some 30 years of a one-man rule without the checks and balance that gave rise to impunity and corruption, Indonesia began in 1999 its own process of democratic transition and like us in Timor-Leste it has its wonderful achievements and its flaws.

In a meeting in Bali with the then President Megawati, General Sutarto, the Chief of the Indonesian Armed Forces, said, “today’s Indonesia is now embarked in the process of democratizing the country, which we know will be a long one. We are just entering the phase of the first direct elections for the President of the Republic. We owe this to the political reforms that President Megawati instigated with the revision of our Constitution. Many candidates will stand for the elections and we do not know who will win. All we ask from Timor-Leste is to understand our effort and not to disturb the democratic political environment that we are trying to consolidate”.

We in Timor-Leste have done our best to understand Indonesia’s own challenges as the 240 million of the archipelago take the first steps in democracy and rule of law.

In one Indonesian TV network, there is a program known as “Ombudsman” enabling Indonesian citizens to publicly report cases of bribes by agents of the State. Now and then, when at home I have the chance to watch the program, it makes me feel even more convinced that the Indonesian society is indeed committed to put an end to the abuse of power.

What truly concern me are the Report’s recommendations pertaining to reparations for the victims. The CAVR Report asks the permanent members of the Security Council of the United Nations, the Governments that sold weapons to Indonesia and that supported Indonesia’s policy, as well as the Portuguese and Indonesian Governments, to pay reparations to the victims.

With all of this in mind, I recalled what was published in our newspapers some time ago about whether the remains of some members of the resistance from Liquiçá will be buried in the cemetery of the heroes, or whether this should be left to the responsibility of their families.

The father of one of them said that if the State decides that they should be buried in the cemetery of the heroes, he would comply; however, another father was of the opposing view and these were more or less his words: "If the State has paid my son to fight, the State has the right to his mortal remains; the truth is that my son gave his life for his Homeland out of his own volition and not because he was forced to do so. For this reason, my son is mine and his remains are my responsibility".

His statement underlines the concept of victims and their suffering. All the people of Timor-Leste accepted the sacrifices for their Homeland.

In regard to the responsibilities of those who during the previous 24 years, from 1975 to 1999, by indifference and inaction or by direct participation enabled an unjust situation to persist for so long, I can only express my deepest gratitude for what the countries mentioned in the CAVR report and many others have done to free ourselves and to rebuild our country. There are not enough words to express the gratitude of our people.

Excellencies,

The most important recommendation of the Report, suggests that the contracts of the international judges who served on the Special Panels for Serious Crimes be *renewed* and that the resources allocated for the investigation and trial of all crimes committed between 1975 and 1999, undertaken by the Serious Crimes Unit, be enhanced.

This recommendation does not take into account the situation of political anarchy and social chaos that could easily erupt if we decided to bring to court every crime committed since 1975. In order to alert our people to the dangers of such an undertaking, I have always stated that if we are to testify about others and ourselves in a Court, political anarchy and chaos might be unleashed. Imagine the culture of political persecution that we would be sowing.

The difference between NGOs, or an independent Commission, and a Government and a State resides in the fact that NGOs, or an independent Commission, are not obliged to deal with responsibilities of certain magnitude. These are outside their jurisdiction, whereas Governments and States in their relations with the wider world do.

The CAVR Report also deals with the Commission of Truth and Friendship. As Your Excellencies would be aware, the Heads of State and Government of Timor-Leste and Indonesia have embarked on an unprecedented initiative in truth telling and reconciliation in a forward looking spirit. While here have been many national truth commissions, there has never been one jointly initiated by two countries and so far we regret that the United Nations has not shown much interest in, and support for this novel initiative. The Commissioners, five East Timorese and five Indonesians, plus three alternates from each side, are individuals of high standing in our respective countries. They began this complex and historic process in August 2005 and we anticipate that the Commission should conclude its work this year with the possibility of an extension.

The establishment of the Commission of Truth and Friendship was an undertaking of the State. The State of Timor-Leste assumes the principle that truth telling is a way of achieving justice, which, under the current circumstances, is the best approach towards the development of the country.

The State has the duty to protect its citizens and safeguard the stability of the nation. The State manages the present to create the conditions that will enable the betterment of the future and ensure the safety of citizens in all aspects.

The State does not manage the past, but allows itself to be informed by it. The State manages the present and adapts for the future.

What should be the true lesson learned from this Report?

There are many valuable recommendations that deserve to be studied in-depth by the Timorese society and, particularly, by the political forces of our Nation.

The commitment that we should all undertake is not to allow, under any circumstances, a recurrence of political violence in our beloved Homeland.

Institutions such as the Police and the defence force must remain non-partisan, obeying only the law and the Constitution. Court officials must be even more conscious that an ill-advised form of justice in our country would undermine the basis of a State based on the rule of law.

Once we subscribe to these principles, we can then be certain that we will never have to face again the nightmares and sacrifices of the 24 years of struggle we have had to endure.

Mr. President,

Allow me now to turn to current developments in Timor-Leste, the achievements and challenges.

As we are nearing the end of UNOTIL's mandate in Timor-Leste, allow me, Your Excellency Mr. President and distinguished members of the Council, to express in this forum the collective and sincere gratitude of the people of Timor-Leste to you all, for the critical role this august body has played in the recent history of our country. Though it might sometimes seem to us that the dark days of the senseless violence and destruction of 1999 is a thing of the past, let us not forget that it all happened only a few years ago.

Yet in this short time span much has happened and much has changed for the better, so much so that our people, even if many are still trying to come to terms with their personal suffering, are happy that we are at peace with ourselves and with our neighbors and that we are living in a free and democratic country. We would not have achieved this without your steady and generous assistance. For this we are eternally grateful to you all.

We have made significant progress in many areas and continue the struggle to consolidate our nascent democracy and democratic institutions while at the same time we try to build an economy and create jobs for our people.

In only a short period of time since the transfer of sovereignty in May 2002, building on the impressive but basic and precarious institutions left by UNTAET, our new nation has made some strong progress.

The Secretary-General's report provides a good overview of the achievements and challenges my country still faces. To add to the positive assessment of the country

situation made by the Secretary-General, Your Excellencies might wish to read another positive and recent report, this one by the World Bank.

However, much remains to be done, to ensure that our state institutions, the agencies of law and order, and our administration continue to improve in their performance, so as to better serve our people.

As Head of State I am fully aware of the criticisms leveled at our security forces, namely the National Police (PNTL). One needs only to listen directly to those on the receiving end of the abuses or to read our media to conclude that there have been too many unacceptable breaches of our own laws and international obligations.

However, I also believe that if compared with only some two years ago, there has been a marked improvement in the overall conduct of our police force.

We are very grateful to those countries that have made such an important contribution to the development of our police force.

Unfortunately our shortcomings and failings are not confined to one area alone. We are conscious about our shortcomings in the justice sector as a result of extreme shortage of trained and experienced judges, prosecutors, public defenders and court clerks. Although this situation has somewhat improved with the recruitment of a number of competent foreign jurists, the reality is that for a long time to come, Timor-Leste will continue to require international assistance in this sector if we are to offer our people an independent and credible judiciary.

Our relations with our two closest neighbors continue on a sound basis. The high point of our relations with Indonesia was last year when President Susilo Bambang Yudhoyono visited our country. Thousands of people poured into the streets in a truly spontaneous expression of good will towards our friend and neighbor. Our two countries have now reached agreement on 99% of our common land border with the remaining 1% to be resolved in the next few weeks, hopefully before the end of UNOTIL's mandate.

In spite of a series of incidents that occurred with repeated incursions into our territory in the Oe-Kusi district in September and October 2005, by civilian elements that destroyed private property and a police post, the overall situation has been very calm.

On 6th January an incident occurred when three indicted persons based in West Timor entered our territory. In the ensuing scuffle the three were shot dead. We should await the results of the investigation to be undertaken by a Joint Commission of Investigation agreed by the two sides to begin its work before we can be certain of the facts of the incident. Nevertheless, regardless of the facts that will emerge, any loss of life is regrettable. Hence I hope that besides ascertaining the facts of the incident, the Commission will recommend ways and means to insure that such incidents do not occur again.

With our other neighbor, Australia, we have taken another step in further consolidating what is a very important relationship for Timor-Leste. On 12th January the two Foreign Ministers signed an historic agreement that provides for a 50-50 share of oil and gas resources in the Greater Sun Rise area, one of the richest in the entire Asia-Pacific region, and a 50-year moratorium on our maritime boundary, without prejudice of our sovereign claims.

In the course of this year, we will see heightened political activities in Timor-Leste as we approach the 2007 general elections for the National Parliament and Presidency. As Head of State it is my duty under the Constitution to set the dates for the elections.

In this regard I have found very useful the report of the UN Electoral Assistance Division of the Department of Political Affairs Assessment Mission that visited Timor-Leste in December 2005 to evaluate our needs in regard to the elections in 2007. The electoral law will have to be drafted and finalized in the next few weeks and I expect that consultations with all relevant sectors of our society will take place so as to create a national consensus on this very important legislation.

In view of the above, Mr. President, it is my duty to appeal to the international community to continue to assist us in meeting some of our most critical needs. Prime Minister Dr. Mari Alkatiri has written to the Secretary-General conveying our needs and request for assistance.

While we agree that UNOTIL should come to an end and with that I must say we should close with a high note, the UN presence in our country, I would propose that the Security Council consider the establishment of a Special Political Office in Timor-Leste with the following components:

1. Electoral assistance - to provide the government with technical and logistical support;
2. Civilian advisers. As Your Excellencies would be aware, while we have made continuing progress during UNOTIL's mandate, there are critical areas that remain in need of secured and steady assistance, namely, in the Justice and Finance sectors.
3. Timor-Leste continues to require support in police training. Though we have had an excellent bi-lateral assistance program funded by Australia and the UK, we believe it is important to maintain a degree of UN involvement in police training.
4. In view of the forthcoming elections in 2007 and the need to ensure an enhanced dialogue and cooperation between East Timorese and Indonesian security elements in order to prevent tensions and conflicts along the border, we believe that the deployment of some 15 to 20 "military liaison personnel" as part of the "Special Political Office" would be of crucial importance.

In the meantime, we are planning a celebratory event on 19-20th May 2006 to farewell and to thank the UN and our friends as the current UN Mission comes to a close after nearly six years. We hope Your Excellencies will honor us with your presence on that occasion. Invitations will be sent to leaders of governments and agencies that have made a significant contribution to the UN efforts in Timor-Leste since 1999.

Last but not least, as this might be the final time I address this august body in my current capacity before the formal closure of the UN peace-keeping and peace-building missions in my country, allow me Mr. President to thank each and everyone in the UN family for their role in securing peace, security and progress in my country.

I wish to thank all troop contributing countries in INTERFET and in particular Australia for its decisive leadership in 1999 that made possible the landing of peace-enforcers in our country.

I wish to pay tribute to our dear friend, the late Sergio Vieira De Mello, a unique human being, one of the best ever servants of the UN and its best ideals; I wish also to thank his immediate predecessor, Ian Martin, head of UNAMET which paved the way for what followed; and I wish also to pay tribute to Kamalesh Sharma, head of UNMISSET, and to our friend Sukehiro Hasegawa, head of UNOTIL, who has been in Timor-Leste since 2002, displaying admirable energy and dedication in his mission. I should say, harigato Sukehiro-san.

Through them I pay tribute to all their immediate staff and the peace-keeping forces, police and civilian personnel, UNVs, under their command, from so many nationalities. We owe them all a great deal.

We might not have too many virtues, but we do possess one quality that amplifies any lack, and that is our sense of gratitude to anyone who has done good to us.

We have learned a great deal with them all, both good and bad, and I hope they have learned something from us, some good, and some bad, but all part of life's wonderful learning experience.

Mr. President, Excellencies, thank you.