

UN Independent Special Commission of Inquiry for Timor-Leste

A political balancing act

By Peter Murphy

The October 2006 report by UN appointed investigators is a highly political document, avoiding the deeper issues involved in the security, political and social crisis, attempting to keep the status quo by a complex series of criticisms of individuals and institutions, and thus allowing the Timorese people to continue to deal with the problems by mainly political means.

This reality is reflected in the strong and repeated assertions by President Xanana, Prime Minister Ramos-Horta and FRETILIN that all Timorese should accept the findings and let the judicial processes take their course.

In its broad view of the last 32 years of Timorese history, the report is strongly biased against FRETILIN, endorsing the views of President Gusmao and some groups which aligned themselves with the Indonesian occupation. In this aspect, the report commits some howlers - saying wrongly that the UDT joined the National Council of Maubere Resistance in December 1987, and that the present national flag is the FRETILIN flag, and that the present national anthem is the FRETILIN anthem. While the Report will be enlightening for many readers, it does not cover all sides of the recent events.

However, the findings of the Commission about the events of 2006 did not lend themselves to a massive blame against the FRETILIN government.

These findings were that the petitioners protest led to the April 28 riot; that the army intervened that day on the Prime Minister's initiative without the agreement of the President; this was followed by the murder of a police officer at Gleno on May 8; that in late May at least three armed groups of soldiers and police, and some civilians, attacked the army, and that the army drove them back; these events included a massacre of unarmed police; and that Australian and other foreign forces entered the country to restore order on the invitation of the President, Prime Minister and President of the Parliament.

The report criticises the President for his handling of the petitioners' protest and for the way he communicated with Major Reinado's rebel group. It criticizes more strongly the Prime Minister and even calls for more investigation of his role in the distribution of arms to civilians with a view to a criminal prosecution. However this is not what Alkatiri's detractors wanted, nor did it suit the many people who are angry at the President's manoeuvring.

There are serious gaps in the findings. The report failed to consider written information handed over to the Commission that Prime Minister Alkatiri addressed a letter to the Prime Minister of Portugal on May 10 requesting the assistance of a company of police (GNR) to restore law and order, and that the request was immediately objected to by President Xanana.

The report also failed to refer to various meeting that took place in President Xanana's private house during the crisis in the presence of individuals like Ramos-Horta, the Bishops, Reinado, Tara, Railos, Paulo Martins, and others, particularly the meeting with ex-combatants. The Commission failed to investigate these meetings and the issues raised during these meetings.

The report failed to consider the role of Mr Ramos-Horta in the whole crises, especially his close liaison with Reinado, Tara, Salsinha, and Railos in his effort to collect "facts" against Prime Minister Alkatiri during the crisis.

The report failed to consider properly the question of "illegal smuggling of arms" used by the President to attack FRETILIN and its Leadership in his address to the nation in June 22, when he accused the party leadership of arms distribution and bribery of the delegates of the Congress.

These gaps are to the detriment of the FRETILIN government's record of managing the crisis.

Even so, the UN report finds that former Prime Minister Alkatiri did not order any murders or distribute any arms. The army did not massacre anyone on April 28-29. The anti-Alkatiri, anti-government hysteria in the Timorese and Australian press is deflated.

On the other hand, the report steers completely away from any consideration of people connected with Rai'los - other than Lobato - Mesquita and Reinado. It does not mention that the petitioners' leader, Lt Salsinha, was found smuggling sandalwood. It could not even unravel the petitioners' grievances. All in all, the report does not manage to explain why the violent upheaval took place, beyond very broad comments on institutional weakness and fragility.

At the next level down, the report recommends criminal prosecutions against the senior police commanders and the Minister of the Interior, as well as the Defence Minister and the top army command - mainly for distribution of arms to civilians.

However, the Police Commander comes under the most severe political criticism, because he distributed arms wrongly well before the May crisis, and then fled his post at the height of the conflict.

At the next level down, the rebel figures of Reinado, Rai'los and Mesquita are strongly condemned and criminal prosecution is recommended. Each is identified with specific armed attacks in Dili in the May 23-25 period. However, only Mesquita is in custody. The reaction of these figures is the most unpredictable, although the UN and Australian military leaders met Reinado in the week before the report was released. Again, this is not the picture of Reinado presented by the Australian media.

The UN report indulges a form of 'balance' in its recommendations, only by ignoring the context of the events it records. For example, Alkatiri is condemned for calling out the army late on April 28, and even for directing the Military Police to back up the regular police at the petitioners' protest earlier in the day. Yet there is no recognition that there was a major public disorder that required a response. This is such a curious attitude in these times of 'law and order' government in western countries. However, it is explained if one considers that President Gusmao greatly resented Alkatiri's action. The UN report states that this action by Alkatiri was strictly unconstitutional because the President was not consulted and the minutes of the decision were not written down, and so it strongly condemns Alkatiri's action. While it noted that the telephone system had collapsed on April 28, this was apparently not an extenuating circumstance.

Similarly, the army distributed arms to civilians in its reserve on May 24, when faced with determined armed attacks around Dili, and then retrieved these arms some days later; on the other hand, the police arms distributed to civilians were used to attack the government's army and many have still not yet been returned. The Report treats these arms distributions as equal, and so equally condemns them.

The Report also states the anti-Lobato case as fact, even though he has been indicted in relation to the alleged distribution of arms to the Rai'los group and is to stand trial. This unqualified endorsement of the prosecution case is a denial of Lobato's right to a presumption of innocence, and also fails to account for its finding that Rai'los attacked the army, not the petitioners or FRETILIN critics, as Rai'los claimed Alkatiri and Lobato had ordered him.

In considering the Timorese judicial system and its capacity to manage the many trials recommended in the report, the Commission made the startling finding that the Prosecutor-General does not act independently, but considers that he is carrying out the President's policy. This finding helps explain why Reinado and Rai'los continue to be armed and free, and why it took so long to arrest Reinado in late July. The Report recommends the appointment of an international person as a Deputy Prosecutor-General with the main responsibility for investigating and prosecuting the people named in the report.

Based on statements by Alkatiri, FRETILIN is happy to accept this tough dose of medicine and allow the judicial process to make findings and impose sentences over the next several months and years.

The President is yet to make a statement about the Report, but can be expected to take a similar attitude.

FRETILIN and its supporters have been complaining about the vacuous language of 'reconciliation' when the people are really angry that no one is punished for serious crimes. They counterpose 'justice' to 'reconciliation'. In this case the UN report endorses the popular view in favour of 'justice' and for an end to the climate of impunity.

This situation really means that the people will make the basic judgement about who they trust to lead the nation at the elections scheduled for April 2007. Just who the candidates for President and Prime Minister will be is yet to be determined.

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