

## An International Tribunal for Timor-Leste: an idea that won't go away

Pat Walsh, 26 August 2009

Due to a combination of circumstances, the idea of an international tribunal for past crimes in Timor-Leste is again being discussed.

Bookending the period in question is the new film *Balibo* on 1975, now being widely screened in Australia and Timor-Leste, and the tenth anniversary of the 1999 Popular Consultation, now in full swing in Timor-Leste. Both are reviving strong memories of bloody violence at the outset and the end of the Indonesian occupation and prompting many to ask, again: what's happened to the accountability we are all told is so important to the modern world?

The idea is not new. Several UN-sponsored enquiries since 1999 have called for an international tribunal on Timor-Leste and the Security Council itself vowed more than once that justice had to be done. In Timor-Leste, the Resistance Congress convened by Xanana Gusmao in Dili in 2000, a gathering of representatives from all the political parties and groups that made up National Council of Timorese Resistance (CNRT), called for the "establishment of an International Tribunal to bring Indonesian Generals to trial".

The Timor-Leste truth commission (CAVR) also addressed the idea. Though it did not champion the proposal, as some have claimed, CAVR did not rule it out. The Commission preferred that Indonesia dealt with crimes committed by those in its jurisdiction and recommended that Indonesia also assist Timor-Leste's judicial response. But it also recommended that, in the event of failure, the option of an international tribunal should be re-visited by the international community. (*Chega!* Recommendations 7.2)

The ambivalence that can be sensed in the CAVR position is shared by many. Jose Ramos-Horta gave starkest expression to it in *The Diplomat*, the documentary on his diplomatic career. Viewing the destruction of Timor-Leste in 1999, he angrily comments: "There has to be a war crimes tribunal. There will be 100s of them lining up to be tried". But later in the documentary he is filmed telling Timor-Leste's troops: "We shouldn't hate them (the Indonesian military). We must forgive them, stretch out our hand and offer our hearts to them. If we do this East Timor will be a better place".

As President, Ramos-Horta has abandoned his earlier uncertainty and openly and regularly opposes the idea of an international tribunal. In June, the President ruled out the option during comments to a Norwegian sponsored consultation in Dili on truth, justice and reconciliation. A short time later, on July 6, he delivered a full-blooded attack on the proposal in an after-dinner speech to participants in a Victoria University conference held in Dili.

While intended to bury the idea, the President's comments have also had the effect of provoking thought and discussion on its merits.

Two main points emerge in these discussions. For many this is not fundamentally about Indonesia. To dismiss talk of an international tribunal as payback is to misunderstand it. The central issue for many is the destiny of humanity and the need to draw the line in the inch-by-inch struggle to overcome the impunity which permits what are so powerfully termed "crimes against humanity". For them it is abhorrent to contemplate that Timor-Leste, which used and benefited significantly from international law in its long struggle to breathe freely, might now not play its part in this global common effort and, worse, even weaken it.

More tangibly, people keep coming back to the idea because they believe justice is central to sustainable peace and see no other option. The argument runs: if Timor-Leste can't deliver justice and Indonesia doesn't want to, then it's an international responsibility – particularly given the nature of the crimes in Timor-Leste and the complicity of many in the international community in those offences. This line of argument is given added force in Timor-Leste because of the failure of the Parliament to respond to the CAVR report. The Parliament seems oblivious to the fact that continued stonewalling on *Chega!* is contributing to growing militancy and is bad politics.