

INAUGURAL HAL WOOTTEN LECTURE#

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I thank the University, the Chancellor and all my friends, the Vice-Chancellor, David Dixon, Dean of Faculty, Garth Nettheim and the Diplomacy Training Program for being so kind in bringing me back to this great university.

I first came here to this university some 20 years ago after for living 15 consecutive years in New York from '75 to about '90. Anyone with experience of life in New York would certainly share my experience of feeling burnt out. With no family anywhere in the entire continent of the US, I decided to shift residence to Australia. Australian Immigration was very gracious in disregarding my absolute lack of professional technical skills to contribute to the growth of this country, because all I could show for was political activism. I'm sure, back then, the Federal Government in Canberra would have thought 'who needs more political activism in this country?' But there must have been some generous souls in Immigration and they allowed me to enter your country. I came to the University of New South Wales to propose something constructive, instead of concentrating on disrupting the functions of the Foreign Affairs Department or the Indonesian Consulate or Embassy in Canberra. I should do something good for humanity. So I met with Professor Garth Nettheim and we established the Diplomacy Training Program.

The name Diplomacy Training Program came from me. It is a bit of a reflection of my exaggerated view of myself, because it's actually more modest than the name suggests. It is a program that aims at providing training and knowledge to Indigenous peoples or to anyone involved in the struggles for promotion of human rights, justice and freedom anywhere in the world, but, in particular, the Asia-Pacific region.

The international system – the United Nations system – is complicated enough, cumbersome enough, complex, sometimes terribly ineffective. I was hoping to change it starting January 2007, but someone else hijacked that chance. As of this morning, Ban Ki-Moon, the Foreign Minister of South Korea, seems to have gotten the unanimous endorsement of the Security Council to be the next Secretary-General. I wish him good luck and wish all of us good luck, because the leadership of the Secretary-General in the next few months – in the next few years – is absolutely vital to diffuse the tensions in the Korean peninsula, and, in particular, the tensions in the Middle East, where the uranium nuclear ambitions,

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whether peaceful or unambitious, remains to be seen. The UN is required to retain vision and leadership to continue the exceptional work that has been done so far by our esteemed friend Kofi Annan in mobilising and inspiring people in the fight against poverty, HIV and malaria. No leader in recent years has done more than Kofi Annan in harnessing the goodwill of the international community; in making people aware that Africa, as a continent, deserves to be assisted. So I hope that the new Secretary-General – seeing as it's not going to be me (you can see how I'm not very, very modest) – will continue the exceptional work done by Kofi Annan.

It is this complex system that some of us, because of our own experience, try to simplify for people who need to advocate for change wherever they are and that's why we established the Diplomacy Training Program. Now in its 16th year, it has provided training for more than 1 000 people. Not all have become 'Einsteins' of diplomacy, but throughout these years it has been very enriching for myself to meet others who have taken part in the course.

I'm particularly honoured to be here to open the Hal Wootten Lecture series. I'm honoured to be here, to be a witness, to pay tribute to Professor Hal Wootten, the founder of this Law School and who has had a lifelong commitment to social justice. He not only believes in the importance of professionalism in law, but also in the practical aspect of lawyers contributing to society. The Law School today stands as a monument to that vision through the work of its staff, their teaching methods, the establishment of the Indigenous Law Centre, Australian Human Rights Centre, Kingsford Legal Centre, in addition to many others.

Professor Wootten's dedication to social justice has inspired a generation of law students. His belief in the combined power of professionalism with a directive conscience led to the establishment of the Indigenous Legal Service in 1970. It began as an organisation of volunteers fuelled by idealism and a belief that all citizens have a right to access the judicial system, both as clients and a profession. His achievement strikes at the core issue in many justice systems: the right of universal access. His achievement is all the more notable because as an individual he strove to overcome one of the darker parts of Australian history.

All nations have incidents that collectively they might choose to ignore or forget, but it is to the credit of that country and its people if they can face those problems head-on and right the wrongs of the past. As a dedicated professional lawyer, Professor Wootten knew the legal system was supposed to be impartial and provide protection to all those in need, but he saw that in practice that lofty ideal was tainted by the social constraints of historical scars. True to his ideals, Professor Wootten worked to restore integrity to his profession, justice to his country and opportunity for all people. It is in the name of these ideals and the immensity of his effort to obtain them that I dedicate this lecture.

In tribute to his achievements, I hope today to discuss social justice in the context of East Timor. I believe the reason I have been asked to speak before you today is because I, for most of my life, have challenged the status quo in the name of higher justice for a people. That struggle was originally unrecognised, ignored by those who would have chosen expediency over fairness. It later came to be recognised by most of the world as a just cause, but for years it was simply

the vain dreams of a few who hoped, more than they believed, that change would come about through dedication and perseverance.

A few days ago I was in a village of Timor called Gleno for the tenth time in the last few months and for the second time in only the space of one week, to talk to some of our disaffected soldiers (the famed group of 600 who had left and ignited the crisis that most of you are familiar with as you saw on television). And as I spoke to them, I tried to sensitise them to the need for forgiveness; there is a need to forgive their own colleagues in the defence force, whose action might have caused them to leave the defence force, discrimination, injustice and so on. I told them, 'remember I spent 24 years lobbying for this country, promoting the rights of our people. In the process I was humiliated, I was ignored, I was insulted by many powers that be'.

Today, I'm considered to be a very good friend of President Susilo Bambang Yudhoyono of Indonesia. I have some best friends in Canberra, in Washington and so on. I do not think back on what was done to me, or to us, and if we can reconcile with those who call themselves our enemies – I don't call them our enemies, they were the ones who call themselves our enemies – but if we can reconcile with them, then why don't you? Aren't you able to reconcile with your own comrades in the defence force? Well, they looked down, it was silent, so I hope that it has made an impact on their minds.

It must have made an impact in their minds because after several months of crises, of difficulties in the country, there has been today – particularly in the last week or so – a dramatic lessening of the tensions. There is, I would say, an outbreak of talks, when everybody suddenly started talking to each other. I get a bit confused about the many groups that are now organising talks, including from the international community. So much so that I joke with the gentleman who was partly responsible for me receiving the Nobel Peace Prize – Professor Gunnar Stalsett, member of the Nobel Peace Committee for 14 years and mediator on Guatemala and many others. When the crisis happened back in April/May, I called my friends in Norway. I said 'I want you to send someone to help me with the process here'.

So Gunnar came. He's been there now several times as a special envoy of the Norwegian Government, but the European Commission is also assisting in the dialogue. So is another group calling itself 'The Club of Madrid', former heads of state, prime ministers. So I told Gunnar, 'I hope I don't have to mediate between the three of you' and with my sometimes stupid jokes, I said, 'to start with, I don't want any of you to carry matches'. Well, you know, tragically, in my country there seem to be too many matches. Whenever some individuals disagree with each other, the first thing they do is to pull out matches and set someone else's house on fire.

The positive lesson from the past few days and weeks is that the vast majority of the people do not wish violence. The vast majority is opposed, too traumatised, and today we have much less political tension in the country. Today we are struggling to maintain the ideals of freedom, of fairness, of justice. It has now been four years since our independence. We are faced with immense challenges of building a functioning government, continuing to consolidate the

institutions of the state in the wake of the devastation of '99 and in the midst of widespread poverty.

In my inaugural speech as Prime Minister on 10 July, but in particular, in August when I submitted to the Parliament our budget, I went back to one of my favourite books and that is *Les Misérables*, by Victor Hugo. I've read the book, saw the play in New York and, several times, seen the movie, and nothing in my lifetime has touched me more than the story of Jean Valjean. So I told my deputies, the members of Parliament and the nation (because the speech was being broadcast live) and I said 'those of you who don't know me enough, I suggest you read Victor Hugo's best seller'. Jean Valjean is my hero. And of course I do not have to recount to you the story of Jean Valjean, the eternal quest for social justice, for fairness against injustices and that is what guides my current government.

Today, when I was interviewed on the ABC I said that I will preside over this government until 20 May 2007 with one concern, and that is how to deliver services to our people, those who never had anything. Then on 20 May 2007 I will retire back into my irrelevant and insignificant life.

So between now and 20 May 2007 the task before us is how to respond to the demands of the people. First, for truth: truth to be told; to be shared by everybody about their origins, their causes, their responsibilities for the violence that rocked East Timor. Second, they demand justice: justice for those who were irresponsible enough, adventurous enough. We will see the report of the international commission of investigation set up by the UN to look into the facts of the violence from 28 April till the end of May. But at the same time, as a Prime Minister, I have to create conditions for people to feel safe and secure with the assistance from our friends from Australia, New Zealand, Malaysia and Portugal. These four countries have done a superb job in Timor-Leste.

The other day, after talking with my President, Xanana Gusmão, former Prime Minister Mari Alkitiri and others, with the UN and some diplomats, I convened a meeting with diplomatic corps to discuss what we should do when, in October, the Security Council decides to review the security situation in East Timor. Should we insist, like back in August, on a UN peacekeeping mission, which the Security Council has no will for. The Security Council – the UN – is overstretched in Lebanon; in Congo; hopefully soon they will be allowed to go to Darfur and in many other conflicts, stretching from Sierra Leone, Liberia, all the way down to the Côte d'Ivoire and so on.

So the UN is overstretched. Should we insist that we have a UN peacekeeping force in Timor rather than the current arrangement with Australia, New Zealand, Portugal and Malaysia? Well, Malaysia in the meantime left in August. They came to Timor for three months and at the end of three months they left. Portugal doesn't have a military force on the ground: it is a paramilitary force that in the meantime joined the international police force. So we still have only two bilateral military forces: Australia and New Zealand. What should they do? The experience since the end of May, the professionalism, the effectiveness of the force, their strict respect for the East Timorese, recognition of institutions and the

leadership, suggests to us that if we have such a good arrangement, then why change for the sake of changing?

So I proposed to my President and former Prime Minister, and they agreed, that we should continue with the current force arrangement with Australia. The UN obviously will continue to provide leadership on police training, policing and other civilian duties. But the experience since the end of May, when Australian and New Zealand forces intervened, suggests to us that we should continue with the current force arrangement; maybe with the addition of some other countries that wish to join in the same manner, in a bilateral arrangement with the Government of East Timor.

In view of the absence of a regional body in Asia, similar to the African Union, what should an international committee do about conflict like that in Nepal or in Burma, in Timor-Leste or in the Solomons? Obviously everybody goes to the UN to do something about it. In the case of East Timor, we decided back in May to solicit support from friendly neighbours and far distant friendly countries, such as Portugal, that did not hesitate for a second to disperse a professional, strong police contingent to help us from 20 000 miles away at their own cost. Only now has this Portuguese police force transitioned over to the United Nations.

The security situation has very, very much improved and stabilised, but the same cannot be said of our continuing, very weak judicial system, our judiciary. Most of our current judges, prosecutors and public defenders are recent graduates. In 2004, we founded our first professional training institution, the Judicial Training Centre, and a system of temporary replacement with international advisers who sit in the judicial system when national judges, prosecutors, public defenders enrol in this full time education program.

The crisis, which began in April 2006, constituted a major setback not only for stability within our country, but for the very institution that ensured our stability: the police system. The police in the capital basically imploded and very, very disturbingly so did the judiciary. Of course, the judiciary is made of courageous people, but always suffers from lack of competent experienced judges and other personnel. What began as a friction in the military escalated after April until the structure of the national police, the Ministry of Interior, collapsed. Over a few weeks in May and June 2006, several hundred houses were burned, 150 people were displaced in their own country. The setbacks for the judiciary were critical. The office of the Minister of Justice, Court of Appeals and Prosecutor-General were looted in late May. We suspect obviously that some of the people who looted the office of the Minister of Justice, Court of Appeals and Prosecutor-General had their own motives in looting these particular institutions.

For almost two months, at the height of the disturbances, the courts and prosecution had no security. Added to this backlog was the flux of the perpetrators from the violence. Some 580 arrests were made, but the prosecution was not prepared to handle this number of detention hearings – much less trials – and the prison service was unable to handle the inflow of detainees. The possible impact of these obstacles is not to be taken lightly. What happens to a society where criminals cannot be punished? It is here we see the intense need to pursue

law and peace together, with a delicate balance between the two. The problems facing the court are tied to the problems facing the entire nation and government: how to create a stable rule of law with a newly established system. Our fledging institutions have a massive responsibility and this is to provide our people with the most basic human right: the right to live without fear. The state's monopoly on law means that our institutions must be capable of punishing the guilty, protecting the innocent and resolving conflicts without the use of force. Equally important is that our people believe that the government is capable of finding solutions to their problems. To do this requires a professional and educated group of individuals who will staff the justice system and are willing to strive every day to produce real justice in each case and for every individual.

This fundamental development is essential to the safety of our people and the creation of a lasting peace. These achievements will not happen overnight. East Timor, as a nation, is attempting to match Professor Wootten's lifelong dedication towards healing the scars of our past. Despite the essential role that the judiciary plays in the development of our institutions and our state, the judicial sector is only a tiny piece of the puzzle which East Timor is now preparing to assemble.

Six years ago, when Indonesian troops left our shores, we stood on a capital of rubble, our infrastructure in shambles, without institutions, governors or law. As a nation we are sadly accustomed to political violence and repression, experiencing a collective trauma that could only be healed by the passage of time and a sustained task of reconciliation. We remain indebted to the UN which has ensured stability with our new nation. It helped establish the ground work for our democracy; helped rebuild destroyed infrastructure.

We have made gains since independence in 2002. Sometimes it's heartbreaking because it's unfair that, when the crisis happened, people tended to forget that this is a country that is only four years independent. If we remember and look back at the history of Malaysia and Singapore, two prosperous countries today, they began back then 40 years ago in communal ethnic violence. And we look around the Asian region from Thailand to the Philippines to Indonesia. Thailand was never colonised, but Indonesia and the Philippines – which have been independent for decades and have far greater experience and number of educated people and international support over generations – still face, in some instances, greater challenges and problems of nation building, peace consolidation, democracy building, reform of the judiciary, healing the wounds, healing the differences between the communities because of religious divide. So East Timor is not very different from these many nations that have been there for much longer.

And then those who observe the situation in Timor, particularly some commentators, whether academics or media (I do not want to incur the anger of anyone by defining who these commentators are), politicians in general, whoever they may be, immediately dismissed East Timor as yet another case of a failed state, forgetting it's four years independent and that Timor-Leste, more than many developed countries, within hours of our independence acceded to all the international human rights treaties. We can do a check list of which international

human rights treaties Australia has ratified, which ones the United States has ratified or which ones Norway or Sweden have ratified. Students, former students, could go to the internet, Google, go to the human rights conventions and look at the ratification and you will see: Timor-Leste is one of the very few countries in the world that have ratified all major seven international human rights treaties. And in doing so we incurred obligations, including obligations to report to the treaty bodies. It has been enormously cumbersome for our people, for the Minister of Foreign Affairs and others, to start the process of reporting to the treaty bodies about our implementation of the treaty provisions in our state policies, in our domestic laws and so on. We have two reports that have now been finalised to go to the treaty bodies to the Secretary-General and he will then forward them to the treaty bodies based in Geneva.

A failed state – what is a failed state? A failed state would mean that it had disintegrated and collapsed, both politically and socially. A failed state suggests that the government has lost its legitimacy. Our capital was wracked with instability, but the domestic dispute was confined. Outside the capital, police remain at their posts; schools remain open. I travelled extensively from the end of April, May, June, July, August to many parts of the country. In the worst of the crisis in Dili I was in many places in the country and of course people knew of the crisis in Dili. People were profoundly upset, saddened; but most of the countryside was more or less functioning. I say more or less because obviously when the capital doesn't function it does have an impact on the rural areas.

We were on the verge of a civil war. All the ingredients were there. When the police collapsed and the police entered the army, started shooting at each other in the streets of the capital, that is a recipe for the beginning of a civil war. But we managed to prevent East Timor descending into a civil war through the extraordinary leadership of my President, Xanana Gusmão, through the leadership of the police, the bishops in particular, and many individuals in civil society, many anonymous people, but primarily because of the vast majority of people who would refuse to take up arms against each other.

There are many now who criticise the Timorese government for its failures after our independence in 2002. These criticisms are sometimes equally shared with the United Nations, which administered Timor-Leste from the end of '99 until 2002 with some strong residual powers after 2002. I'm obviously one of the greatest defenders of the United Nations and an individual who has more thanks and respect for the UN because of my close observation of the UN. But we also have to be humble and honest enough to acknowledge that in many instances the UN failed; in the case of East Timor, I have to say some of the most simple things. Often in frustration I would converse with my dear friend, the late Sergio Vieira de Mello. The UN had hundreds of millions of dollars to manage in the country. Yes, true, the UN was responsible primarily for political security sectors. It is the World Bank, ADB and various multilateral or bilateral agencies that would coordinate among themselves to look at the developmental side, but the UN provided political leadership.

Well, how can one explain that from '99 until 2002, the day when Kofi Annan handed over reigns of power to my President, there was no 24-hour electricity in

Dili, the capital. Does one require an ‘Einstein’ to figure out how to supply electricity 24 hours? Well, by May 2002 we didn’t have electricity 24 hours. We then went to our Norwegian friends. We asked our Norwegian friends please, ‘we need 24-hour electricity’. By December 2002 we did have 24-hour electricity in Dili, but four years after independence we don’t have street lighting. Well, I told my predecessor, Dr Mari Alkitiri, on more than one occasion, I cited to him a number of issues. I said, if I were the opposition in next year’s elections, I would list these failings of this government – one failing was 24 hour street lighting.

My government failed in many aspects. One way that we failed was on the dialogue with civil society, dialogue with political parties. I remember making one comment at the retreat of the Government sometime in early 2003 in Maliana district. There we were, all the Cabinet in a three day retreat and I said often, or sometimes, governments fall, not so much because of who are governors, but sometimes because of the simple perception from the people that the government authorities are arrogant and alien to the rest of the society. And I added: when we’re in power we should show humility and embrace those who are out of grace, out of power. But then I added, in a sarcastic manner: however, if we cannot afford to be genuinely humble, at least let’s pretend to be humble. We were not able to pretend to be humble. That was one of the tragic causes of the alienation of our government, and I say ‘our’ government because being Foreign Minister I was one of the senior members of the Cabinet and I must share in the responsibility.

As I said, while the United Nations, the international community and others must share the responsibility as well for the failings in East Timor, the Government, our government must above all have the courage and humility to shoulder the majority of the blame. We suffer from a perception of arrogance, which is exacerbated by poor management and inexperience. I have to say I know little about economics, least of all about the tax system.

I called in the IMF people, I worked out some very simplistic ideas. I want, more or less, most taxes in Timor to be eliminated. When you have a poor country, very poor administration in terms of experience, then why do you import a complicated bureaucracy and tax system from some of the oldest countries in Europe, like Portugal and so on, when we cannot execute some of the most basic operations? First thing we did, when we became independent, was make up a complicated tax system that government ministers themselves found difficult to comprehend, let alone our bureaucrats. So I told the World Bank and IMF people about a month ago that I want to clean this up. The young IMF gentleman from Denmark said ‘well, we can try to send you a team from IMF maybe by January’. I told him, ‘my friend, I suffer from terminal cancer. I’ll be dead by January so I want the changes now’.

So, they have a team arriving this week to look at my proposal to reform the system. This is only an illustration of the many impediments to our faster economic growth that would, in turn, deliver jobs for the people and reduce poverty. The failures did happen and we still bear the consequence of being unable to deliver on promises made to our people, but learning from the mistakes of the past ensure that they are not repeated. That is what is most important.

One of the most significant setbacks we have been faced with was the UN's haste to leave our shores in 2002 for other more politically pressing conflicts. But in this regard, we, the Timorese side, also must shoulder the blame when the UN left in 2002. I have to say I was one of the few lonely voices who pleaded with the Security Council in New York not to retreat in haste, but many of us in East Timor, fresh from the successful independence struggle, wanted the UN out as quickly as possible, wanted independence by May 2002. I suggested to the head of the department of peacekeeping operations in New York and Under-Secretary-General that we needed a minimum five-year transition. And he said 'if you manage to convince the Security Council for a two-year transition you'll be lucky'. And that's what we succeeded in getting, only a two-year transition before independence was declared. But it was also many in the Timorese leadership who were very excited about having the UN leave, as if the UN was there as a colonial power.

I remember making a speech to hundreds of youth: the UN is not going to be here for 500 years (I referred to the Portuguese colonial presence); it's not going to be here for five years (I referred to the Japanese occupation); it's not going to be here for 24 years (I referred to Indonesian occupation). The UN is going to be here for two years. Stop the demonstrations and make the best out of it while the UN is here. But even then there were demonstrations against the UN because some people were so excited about independence that two years was too long. So we, the Timorese, also have to shoulder our responsibility.

Of course the Security Council in New York had far greater problems than East Timor – the Middle East and so on – and so they were quite happy to oblige the desire of the Timorese. And now of course the United Nations is back in full force. We inherited a sketch – I use this expression often – a sketch of a government. What the UN left in May 2002 was necessarily impossible to better. Now that the elections for Secretary-General are over and my name is no longer considered, I can afford to criticise the Security Council. Some of the geniuses sitting in the Security Council – I might regret this five years from now – but some of the geniuses sitting in the Security Council in New York, they actually think that you can build a nation state in two years. I know some little restaurant owners in Dili. Okay, we take much longer to do things in Timor than anywhere else, but you know, I knew some small business people in Liverpool, Liverpool in Australia, western suburbs. Well, they took two, three or five years to have a functioning, sustainable business. The Security Council thinks that it is easier to have a nation state in two years than a takeaway Chinese restaurant. So what we received in May 2002 was necessarily a sketch of a nation state.

The blame is not on the United Nations Secretariat. The blame is not on the Secretary-General, because the Secretary-General receives a mandate from the Security Council. The Security Council is of course fair and has to consider the costs of the peacekeeping and the UN missions.

To the law students, to the legal profession, those of you who graduated from this great institution, those of you who are practising law in various fields, those of you who aspire to be lawyers or in any profession, I say: our passage through this planet, through this earth, as you know, is a transit. We are all in transit from

a previous life. If you ask his Holiness, the Dalai Lama, we could have been a dog in a previous life. A dog in Australia or in Norway is a great life. In East Timor, not such a great life because you get kicked around often; we are very unkind to our dogs in East Timor. We will be remembered by our friends, our neighbours, by the nation, the communities, for what good we have done for others. If we help a particular individual, if we help a family or we help a whole community, helping them to be inspired not to lose hope, to lose faith, helping them get out of misery, of poverty. Well, the choice is yours; the choice is ours what we do with our life.

You can be a successful accountant, 'nine-to-five' job and then go to your neighbourhood and do not worry about the poor in this country, the issues of injustice in this country itself; not worry about our brothers and sisters in Burma, in Myanmar; or about others suffering, neglected, marginalised people. But you will not be remembered. Of course, you can be remembered for enormous things. I refer to some of the greatest tragedies perpetrated by individuals in human history. You can also be remembered by that obviously, but I presume you wouldn't want to be remembered for that. So I appeal to you, based on our country's experience, individuals can make a difference. In my country, today we are free, independent, still struggling to resurrect it from the recent violence, but we are free because of the dedication of many of you sitting in this room.

I tell our people in Timor again and again, it is not us alone. If it was us alone, yes, we would continue to be great fighters, courageous; but there are many other nations and peoples equally courageous that have been fighting for the case for centuries and still are not free today. And we Timorese would continue without international assistance, without the help of individuals around the world, to still be continuing to fight heroically, but not be free. We owe it to you, many friends in Australia, from all colours, all persuasions, from left and right in this country. We have received tremendous sympathy and solidarity. Even with the problems we have, which are largely attributed to the failing of the leadership, the common people of this country in many neighbourhoods of Australia have not given up on us. We see Australians keep coming to East Timor.

So I thank you for your support; for your presence. The Chancellor of the University was very impressed by how the room is very, very full. I think full not primarily because of the qualities of the speaker, but because of your extraordinary generosity that knows no limits, that tolerates this speaker for the 10th time or 20th time in this country. I have seen many of you again and again in my talks and you have not given up. I thank you. God bless you.