

# Digest 92

## Law in a lawless place: East Timor

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Indonesia's armed forces invaded the Portuguese colony of East Timor on 7 December 1975. Within a few years they had reduced resistance to guerrilla level. A civil administration identical to that operating elsewhere in Indonesia was put in place. For the next 24 years the Indonesian government in East Timor explained itself on the basis of Indonesian law. But the United Nations never recognised the annexation as legal. Throughout that time, too, human rights workers brought to light numerous detailed accounts of officially sanctioned torture and murder. The UN view, and that of human rights workers, contained a strikingly lawless image of East Timor under Indonesian administration.

This juxtaposition of law and lawlessness requires explanation - not just in East Timor where it took on extremely visible forms, but everywhere in the Indonesia of 1999. What does law mean in a lawless place?

### Militias and the military

While the Suharto government was strong, East Timorese resistance to its lawless behaviour found little international echo. But that changed when the Suharto-era economy crumbled and Suharto's successor President Habibie became dependent on international goodwill to an unprecedented degree. On 5 May 1999 Indonesia signed an international agreement to allow the East Timorese to determine their own future.

The Indonesian military have always worked with 'civilian' militias in East Timor. They began to reorganise them in October 1998 to counter an increasingly confident independence movement following the resignation of Suharto. When, to their thinly veiled horror, President Habibie announced late in January 1999 he would offer East Timorese a ballot, the militias were beefed up again. They killed dozens of independence activists and held numerous rallies threatening death to any who voted for independence.

Within hours of UN secretary general Kofi Annan announcing that a massive 78.5% had voted for independence in the 30 August ballot, the militias embarked on a rampage that was to displace more than three quarters of the population of 800,000, and destroy half of all buildings in the territory within three weeks.

Who was responsible for the militia strategy? Under the agreement covering the UN ballot, signed on 5 May 1999 by the foreign ministers of Indonesia and Portugal as well as the UN secretary general, Indonesia promised to maintain security throughout the process. In matters of law and order, the buck stopped at the desk of General Wiranto, Indonesia's defence minister and armed forces commander.

Wiranto denied his troops were responsible. On 7 September he declared martial law in East Timor, saying it was a 'concrete step to restore security and order in East Timor'. 'What happened in East Timor was an emotional outburst and expression of disappointment by pro-autonomy supporters,' he said. 'Our military personnel are still welcomed by all levels of East Timorese.' Analysts friendly to the Indonesian government said 'rogue elements' within the army were responsible. The general, in other words, did have a conscience. He was simply surrounded by scoundrels who weakened an otherwise credible institution.

A less diplomatic analyst, academic Harold Crouch, said the violence was part of the military's considered East Timor policy directed by General Wiranto. The wholly conscious policy, according to this interpretation, was to use militias in an attempt to intimidate the 60% of voters thought to be in the middle in order that they vote for Indonesia. Since Wiranto repeatedly protested his innocence, this view effectively branded him a liar.

### A dramaturgy of power

I have no doubt that Harold Crouch was right. But this conclusion leaves a troubling gap in our understanding.

By simply dismissing Wiranto's own truth claims in this regard, we are in danger of dismissing an entire discourse by top military officials as mere lies. It is important not to do that glibly because, even if the discourse is indeed 'all lies', it is believed by millions of Indonesian people to be true. Citizens tend to rely on the word of government leaders to define the limits of the lawful for them, even in the face of massive evidence to the contrary. And in this case, the evidence for Wiranto's personal complicity in militia violence was hardly massive. They want to believe that the highest government leaders have some personal integrity.

How to explain the contradiction between public discourse and covert action conducted by the same high official is the dilemma of the law in a lawless place.

I'd like to suggest another approach that might help resolve the dilemma between a Wiranto who promises law and order and a Wiranto who uses thugs to destroy all law. Abner Cohen, in *The politics of elite culture: Explorations in the dramaturgy of power in a modern African country* (University of California Press, 1981), wrote an anthropological study of the creole elite in Sierra Leone. The book takes as its theme the relationship between culture and power. The elite, Cohen claims, quite consciously practise two cultural performances that are in contradiction with one another.

One is an egalitarian mystique, in which they represent the best of the aspirations of every citizen in the country. Here the aim is to present themselves to wider society as indispensable. They act out this dramatic performance at ceremonies of state, or at the presentation of state awards. The other is an internal cultural performance that emphasises their own superiority over the citizenry. Its purpose is to cement internal cohesion within the elite. They act it out at their own clubs, at family funerals, or at graduation ceremonies for their children.

Could it be that Wiranto and all his senior officers, like the Sierra Leone creole elite, are also taking part in not one but two (simultaneous!) dramatic performances, each with quite a distinct purpose? There is a theatrical quality to Indonesian politics that probably does more to explain the contradictions of political life in Indonesia than the moral failings of a key individual like Wiranto could do.

In the one script, General Wiranto is a politician whose needs include a burden for his own good reputation. One important audience for this script is the domestic political elite and the domestic press, who all need General Wiranto to protect them from the anger of the masses and are thus anxious to applaud him in this role. This elite audience in turn (in a Gramscian fashion) creates a discourse of legal certitude to reassure the general population that all is well. Another audience are foreign diplomats, who are also keen to play along because it is uncomfortable to have public disagreements with the defence minister of a country with which you have excellent relations.

Upholding the law, especially the constitution, is the most important part of Wiranto's legitimacy. This script requires that he promise to do this often. Should any of his soldiers be caught red-handed actually doing all in their power to undermine the law -- instructing militias to destroy East Timor's infrastructure, perhaps -- then the script says these soldiers are 'rogue elements'. They are acting out of their own misguided instincts (although they are almost never punished for it). For the army, minus the regrettable rogue elements, upholds the law.

In the other script, General Wiranto is a soldier who ultimately has only one task, namely to secure the survival of the unitary state of Indonesia, using any means at his disposal. The audience for this script is entirely different to the first. There are firstly his own soldiers and the semi-civilian militias with whom they work -- they need to feel affirmed. Secondly they are those people considering political action that the army leadership considers a threat to the survival of the state. These people no longer believe the first script about the law and the constitution, but might be dissuaded by naked violence from putting their dissident thoughts into action.

In this script, a soldier gives instructions to burn East Timor's infrastructure because he had repeatedly threatened to do just that if the East Timorese refused to vote for Indonesia. He must keep his promise in order to save his own face and that of his superiors. He must freely vent his anger to demonstrate that there is no law that can contain it.

Wiranto is not the only security officer to perform two such contradictory scripts (think of the underpaid

Australian policeman, an active unionist, told to break up a trade union strike). But the contradiction is for Wiranto peculiarly severe. The reason is not that he is a particularly deceptive (Asian!) person, but that he is part of a political system that simply demands two contradictory scripts from him.

Under the doctrine of 'dual function', the Indonesian military have both a security function and a political one. The political function places soldiers in parliament as well as in several non-military portfolios in each cabinet. Military participation in government has been of the essence in the authoritarian system that General Suharto installed after 1965. Their removal from government has been a key demand of the democracy movement, thus far with only partial success. Their unrivalled capacity for organised violence is the only qualification soldiers have for playing a political role.

These two functions -- the political and the purely military -- provide the two scripts that every Indonesian soldier has to perform. One is a script of law, the other a script of lawlessness.

Normally, the audiences for the two scripts are entirely separate, thus minimising the impact of any conflict between them. Indeed, the rival interests of the two audiences -- the metropolitan elites versus dissidents, separatists, and thugs -- ensures they do not interact. When all is working as intended, one won't read about any conflict in the newspaper, and for years under Suharto one rarely did.

But there is no denying that the two scripts are in sharp conflict. That is why the violence in East Timor had to be conducted by 'civilian' militias. Conflict between the two scripts requires deniability and hence clandestinity. Indeed the covert nature of the script of lawlessness makes it so enduring. Two scripts in fundamental conflict yet located at the heart of the dual function concept are the best explanation for the chronic duplicity that characterises this and every authoritarian system.

In East Timor the conflict did become embarrassingly open, thanks to a refusal of some sections of the press to cooperate. We can read the most striking illustration of these two scripts in contrast in a report by journalist Richard Lloyd Parry in *The Independent* (London), 11 September 1999. It describes a meeting in the imposing Indonesian armed forces headquarters between General Wiranto and a top UN delegation that had just visited East Timor. Repeatedly the UN delegation's mobile phone rang with fresh information about yet another atrocity in East Timor. Each time, General Wiranto reached for his own phone to 'get the real information'. 'There is no trouble, the situation is peaceful', he assured the delegation. 'This cameo of the absurd', the author concludes, 'with two telephones in a single room telling two different stories, captures exactly what the UN is up against.'

Within Indonesia, too, the political public is becoming less tolerant of 'dual function'. The news of military backing for the East Timor atrocities has become well known in a mainstream Indonesian media now less shackled by state controls. There, the revelation that behind the script of law there exists a script of lawlessness, in irreconcilable conflict with the first, doomed General Wiranto's presidential aspirations on 20 October 1999. The analysts who had predicted he might yet emerge as a successor in the Suharto mold had been proven wrong.

The full story of who exactly within the Indonesian government devised the militia strategy in East Timor in 1999, and why they did so, is yet to emerge. Clearly they failed in spectacular fashion. The East Timorese people refused to be intimidated. And the international community, urged along by popular outrage at the militia behaviour, did not desert them. On 19 October 1999 the Indonesian Consultative Assembly (MPR) voted to release East Timor from Indonesian control. On 25 October 1999 the UN Security Council voted to establish a UN Transitional Administration in East Timor that would take the territory to full independence within two to three years.

Law and lawlessness, performed by the same state actors, was an important subtext of Indonesia's occupation of East Timor.

*[This was written in October 1999 but has not appeared in public and still seems relevant in June 2000]*

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