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Timor-Leste's battle to settle its maritime borders resumes

As Timor-Leste reactivates arbitration over Australian espionage, a Melbourne-raised woman is in the engine room of the nation's international push to settle its maritime borders.



MARK SKULLEY



Betti Exposto was a baby (centre, with dummy) when her family fled Timor in 1975.

SUPPLIED

Elizabeth “Betti” Exposto and her family fled Timor by boat in August 1975, during the civil disturbances but before the Indonesian invasion in December. She was just eight months old.

Seven months after Cyclone Tracy, Darwin was still a mess. The Exposto family could have got on a plane to Portugal, but they chose Australia because they thought the war would be over quickly.

“Then we would be closer to home and able to go back to Timor,” Exposto explains 40 years later. “We hadn’t anticipated that Indonesia would invade. So when they did invade, we stayed on in Australia.”

The family settled in Melbourne, which has Australia’s largest Timorese community. Exposto graduated in international relations from La Trobe University, but she grew up on stories of Timor.

“Since I was a little girl and Mum put me in Timorese traditional clothes and I danced in the city square, I went to the demonstrations, and Moomba, everything ... My family actually lived, breathed Timor ... breakfast, lunch and dinner was always Timor.”

As a teenager, Exposto gave talks in Melbourne high schools and in country Victoria. At 17, she was part of a youth delegation that lobbied members of the United States congress and gave talks on Timor at Ivy League universities such as Yale, Princeton and Harvard.

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At 19, Exposto was back on the international speaking circuit in Sweden, Ireland and England, where she was interviewed at BBC headquarters. “My family in Timor heard that interview because, even under occupation, they would listen to the BBC. They couldn’t believe that they were listening to their niece. Of course, they didn’t understand what I was saying because it was in English ... A few years later I heard from my uncle that he had heard me on the radio, so it was wonderful.”

She heeded the call to return to Timor after chairing a 1999 gathering in Melbourne that was addressed by former resistance leader turned politician Xanana Gusmão. “He gave a very strong message, especially to the youth and especially to those who were educated outside – ‘Now your homeland needs you, your country of birth needs you, come back and help rebuild.’”

Exposto worked as a United Nations volunteer for the National Development Planning Agency initially, speaking English, Portuguese and Tetum, Timor’s lingua franca. She was a media officer for the new president Gusmao and then worked as his international relations officer, executive assistant and acting chief of staff.

Exposto was working in an advisory role to Timor’s current prime minister, Rui Maria de Araújo, when he appointed her this year as chief executive of a new body, the Maritime Boundary Office. In this role, Exposto has a weekly meeting with the prime minister and the office does the executive work for a consultative commission of eminent persons, which includes Gusmao and José Ramos-Horta.

There is a negotiating team, led by Timor's ambassador to Britain, and they are advised by the law firm DLA Piper on what is formally called the final determination of maritime boundaries. The issue has largely dropped off the public radar here, but is about to return because Timor has "reactivated" its espionage complaint against Australia.

Initial arbitration

In April 2013, Timor launched confidential proceedings in the Permanent Court of Arbitration in The Hague arguing that the treaties that divide up petroleum revenue in the Timor Sea are invalid because Australia engaged in espionage by bugging the Timorese government offices during talks in 2004 and did not negotiate in good faith.

The arbitration became public in late 2013 after ASIO raided the home of a former Australian Secret Intelligence Service spy, who is identified as Witness K, and the offices of Canberra-based lawyer Bernard Collaery. Timor took action in the International Court of Justice to retrieve the documents, and in March 2014 the court made an interim order that Australia seal the documents and "not interfere in any way in communications between Timor-Leste and its legal advisers in connection with the pending arbitration".

In September 2014, Timor agreed to a request from Australia to put the proceedings on hold for six months to allow further talks. That period ended in March this year and Australia returned the seized information in May, without acknowledging it had violated Timor's sovereign rights.

Timor has since terminated the return of the documents case while reactivating the "espionage" arbitration.

Exposto says that Timor believed that suspending the case would lead to structured negotiation of maritime boundaries. She had worked with the highest levels of Australian government, and believed she understood the process. "Having grown up in Australia I understand well the culture and how Australian leaders approach and frame issues."

But the government in Australia has been intractable. "Australia would not come to the table with that," Exposto says. "Basically they were not interested in talking about maritime boundaries, they only wanted to talk about current arrangements and how we can improve arrangements."

Significantly, Indonesia has approached Timor about starting negotiations to settle their maritime border. The ALP national conference in July passed a motion in support of settling the maritime boundaries with Timor, but the Abbott government is refusing to negotiate.

According to Exposto: "We have always made it clear that we want to negotiate, sit down with them. This is what neighbours do, this what friendly countries do. When there's a dispute you sit down when you want to talk about the issues.

"Australia came to our aid in 1999 and in 2006 again, with the support of the troops. They have been one of our major development partners through our state building process. And we enjoy very good people-to-people relations and that's something that will never change. But Australia has put us in a very difficult position by refusing to talk about maritime boundaries altogether."

Australia disappointed

Timor can't take its case to the International Court of Justice under the UN Convention on the Law of the Sea because in 2002 Australia withdrew from the treaty clause that provides for compulsory dispute resolution.

It argues that international law supports the maritime border being on the median line between it and Australia, which would put the contested oil and gas reserves in Timorese waters. As things stand, under the disputed Timor Sea Treaty, Timor gets 90 per cent of the output in a Joint Petroleum Development Area and there is a proposed 50-50 split of Woodside Petroleum's undeveloped Greater Sunrise field.

The Minister for Foreign Affairs, Julie Bishop, said the government was disappointed that Timor-Leste had indicated it would resume the arbitration against Australia, challenging the validity of the Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS).

"Australia negotiated CMATS in good faith, and remains committed to it," Bishop told *The Saturday Paper*.

"The framework established by the Timor Sea treaties, including CMATS, provides an alternative, is the best way to unlock the economic benefits of the Timor Sea for both Timor-Leste and Australia, and is entirely consistent with international law."

Bishop noted the existing Timor Sea treaties had enabled Timor to accrue a national Petroleum Fund worth \$US16.8 billion.

But for Exposto and the Timorese government, there's more than money at stake. "For us, it's an issue of sovereignty. We have no maritime boundaries in the Timor Sea, we only have temporary arrangements to manage the oil and gas activities in that area. All we're asking for is what all other countries have, even Australia, which is the right to settle their maritime boundaries under international law ... Either we negotiate them bilaterally or we can take it to an international umpire." ●



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