



Crocodiles in the Timor Sea: development and socio-economic implications of the maritime resources dispute



 MONASH University



Crocodiles in the Timor Sea




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This public seminar is hosted
by the Anthropology Program
in the School of Social Sciences

 **MONASH** University

- *Welcome:* My name is Sara Niner from Monash University and I am happy to welcome you all here today to Monash's anthropology's public event
- I would like to acknowledge and pay respect to the Kulin people, including elders past and present, the original owners of the land on which we all meet today. Indigenous peoples from Australia and Timor traded with each other long before Europeans came to this part of the world. They respected the sovereignty of each other's lands and our topic today is directly related to these issues of rights and sovereignty over territory and resources.
- I am also happy to welcome today, Kirsty Sword Gusmao, former first lady of Timor-Leste, Ambassador to Australia Abel Guterres and Consul Rae Kingsbury, former Deputy Premier of Victoria, John Thwaites (Professorial Fellow, Monash University's Sustainability Institute), and visitors from both the Timor and Australian governments,
- Our program today includes 3 speakers, myself and Professor Brett Inder also from Monash and a Monash alumni, Kirsty Sword Gusmao. We will talk for an hour or so and then we have time for questions and discussion and then some Timorese coffee and snacks.
- We are filming today's presentations and discussion so please be aware of that if you ask questions you'll be recorded. The plan is to put the footage up on the Monash website by the end of the week.
- I have organised this seminar to address the social development impact of this dispute to improve public understanding of the issues at stake and the development implications of the dispute for both Timor-Leste and Australia.

- Yesterday my colleague Michael Leach from Swinburne University and I, along with other academics from the Timor-Leste Studies Association held an all day law seminar to examine the dispute over the maritime boundaries and inform potential solutions. ... We were surprised and delighted at how many people came and we think the level of interest in this issue is rising and with the Labour Party change of policy on this issue last week signals a major shift in thinking.
- I want to explain the title of this event: Crocodile experts at CDU (Graeme Webb) held a workshop in Timor in 2013 where they spoke about Crocodiles swimming from the Northern Territory to Timor across the Timor Sea. In other work they talk about crocodiles re-colonizing islands such as Flores and Bali suggesting also that there may be extensive sea-faring by crocodiles within the region.
- This captured my imagination—the image and symbolism of Australian crocodiles recolonising the islands to our north, particularly Timor, had a resonance with today’s topic over who has rights in the Timor Sea.
- the conflicting symbolism of the crocodile as being revered by the Timorese as their ancestor (which is the founding myth of the island and pervasion in indigenous symbolism as HERE) and the crocodile being pervasive in indigenous Australia too
- However, in European myth the crocodile is seen as sneaky, cunning and vicious
- But before I completely confuse the symbolism I’ll move along to introduce the topic with a short paper that I have been working on with Kim McGrath who is doing a PhD with us in Social Sciences at Monash which will function as an introduction to the topic. Kim also works as an adviser to the Timor-Leste Government but the material we are discussing today is solely related to her Phd research.



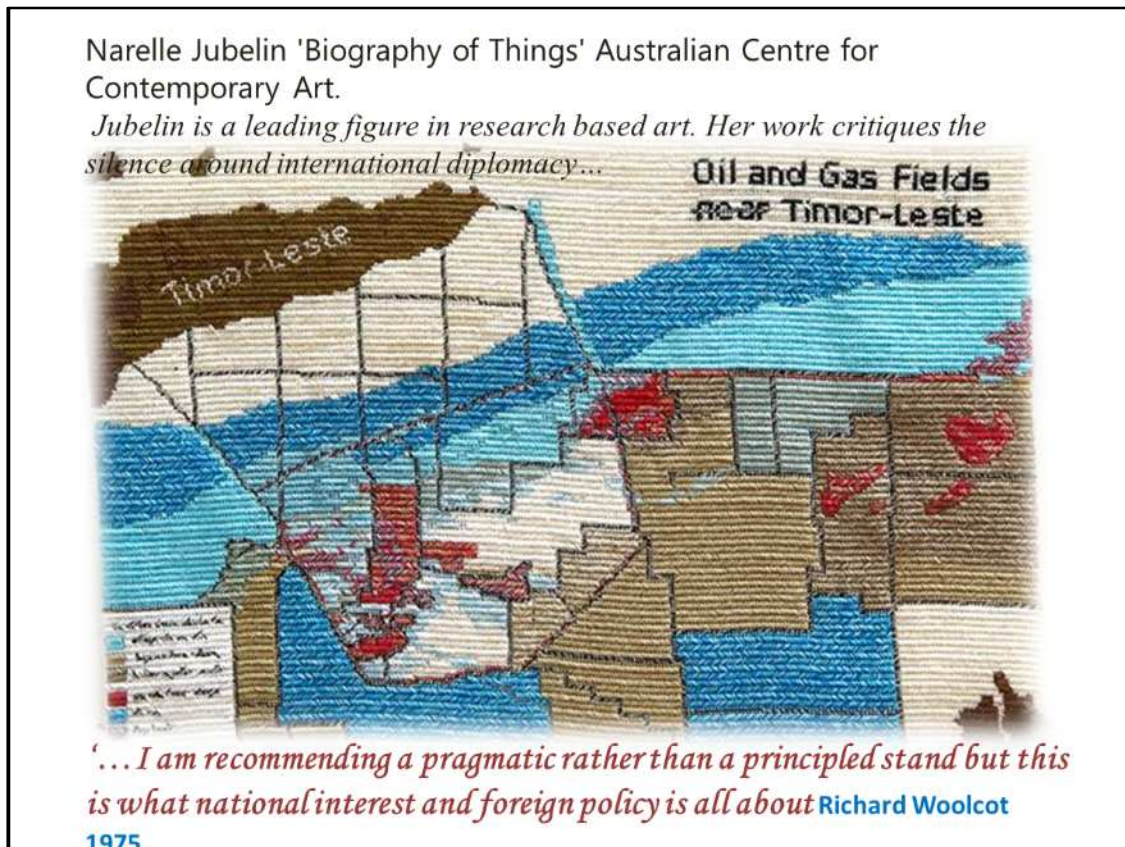
An anthropological or human perspective on
the dispute over maritime resources in the
Timor Sea

Dr Sara Niner & Kim McGrath

- a Timorese perspective as a new, post-conflict nation in immediate conflict over their sovereign borders and resources with a neighbour
- the culture and ethics of the Australian Department of Foreign Affairs and Trade and their relationship to Australian society.

Kim has been doing extensive research in the National Archives of Australia which provides new insights into the culture and ethics of DFAT

- Timor academics have poured over cables and reports from 1974-76 granted early release in September 2000, by Australian Foreign Minister, Alexander Downer. The documents confirmed Australian diplomats and politicians knew about Indonesia's plans to incorporate Portuguese Timor and that some actively encouraged the Indonesian takeover. Allegations to this effect had been made by journalists and academics based on leaked documents since 1975. DFAT documents reveal a total disregard for the people of Timor and deliberate attempts to play down, or discredit reports of atrocities in East Timor in the lead up to, during, and following, the December 1975 Indonesian invasion.
- In addition to the files subject to accelerated release, Kim McGrath has examined files in the Australian National Archives that concern Australia's broader diplomatic relationship with Indonesia and Portugal and files relating to Australia's maritime boundary claim in the Timor Sea from the early 1960 to the late 1970s. This broader reading suggests that a key driver of Australia's support for the Indonesian 'incorporation' of East Timor in 1975, and recognition of Indonesian sovereignty over the territory in was Australia's "national interest" quest to preserve the integrity of off-shore exploration permits unilaterally issued to Woodside Petroleum and other companies in the Timor Sea, north of the median line, in the early 1960s.

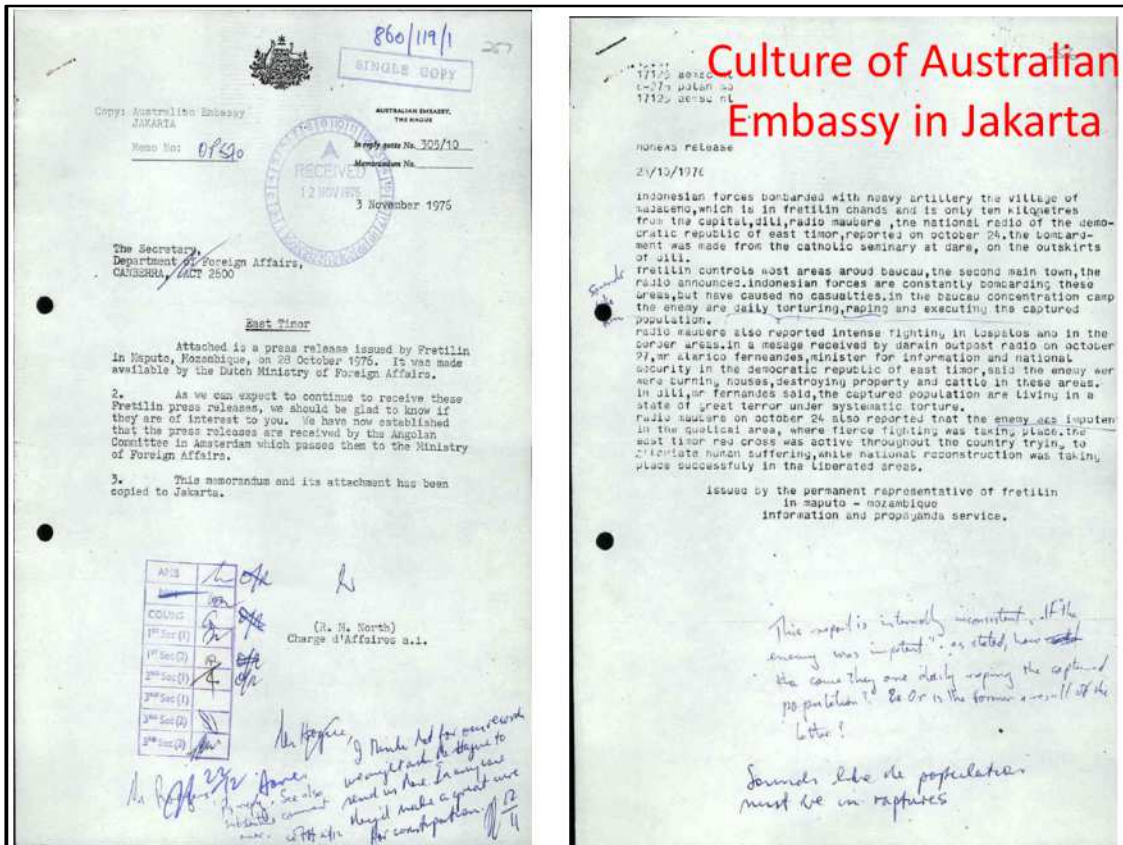


I think this picture might make a change from those maps of the Timor Sea with all lines no one can ever understand. Narelle Jubelin 's petit point artwork here critiques the silence around international diplomacy: Sean Cubitt (1998 'Artlink') writes: *The function of the embassy in this is to underwrite, guarantee, facilitate and perhaps most of all to ensure that trade communication is restricted entirely to the fiscal domain, with as little seepage as possible into areas of the aesthetic and the ethical. It is not that diplomacy manufactures secrecy, but that it operates to restrict communication between cultures to the level of deals.*

- In keeping with this idea and to frame Kim McGrath's fine archival work I would like to use an anthropological gaze on the culture and ethics of the Australian Department of Foreign Affairs and Trade (DFAT) which has been the main author and executor of Australian policy that has led to the dispute over maritime resources between the Australian and Timor-Leste governments.
- We have also put our collective knowledge of Timor-Leste to use to examine the Timorese political and civil society perspective on the maritime boundary dispute.
- First some history: In 1963 Australia unilaterally issued the Woodside Company exploration permits north of the median line in the Timor Sea and in 1971 approved a request to drill in one of those permit areas prompting an official protest from Indonesia.
- Less than 15 months later (Oct 1972) Australia and Indonesia signed a maritime treaty agreeing to boundaries that gave Australia over 70 percent of the seabed between Australia and Indonesia, including the 1963 permit area. [because Indonesian didn't

know how rich the fields might be; Aust softened opposition to Indon's ambitions to have the archipelagic principle acknowledged]

- This agreement left a gap in the maritime boundary below Portuguese Timor which became known as the 'Timor Gap'.
- In response to the collapse of the Portuguese colonial empire and its administration in Timor a DFA Planning Paper (May 1974) advised that the territory was no longer 'a viable economic entity', that it had 'no capability' for independence, which 'should become part of Indonesia.' The paper continues that Indonesia would probably accept the same compromise on maritime boundaries in the 'gap'
- In mid 1974 Woodside quietly confirmed commercial quantities of petroleum near the Timor Gap.
- At the height of the global oil crisis, in September 1974, Prime Minister Whitlam visited President Suharto and expressed his personal opinion that Portuguese Timor should be incorporated into Indonesia, 'if the East Timorese so wished', adding this was likely to become Australian foreign policy.
- 'According to reliable reports' [DFA leaks], related the Melbourne *Sun*, Whitlam had agreed with Suharto to incorporate Timor so Indonesia would 'look favourably on Australia's search for off-shore oil' there
- in August 1975 Australia's Ambassador to Indonesia Richard Woolcott asked DFA Canberra if anyone had spoken to Department of Minerals and Energy : "...[who] might well have an interest in closing the present gap in the agreed sea border and this could be much more readily negotiated with Indonesia ... than with Portugal or independent Portuguese Timor. I know I am recommending a pragmatic rather than a principled stand but this is what national interest and foreign policy is all about..."
- Throughout 1975 the DFA had been consulting with departments about the permits and the prospectivity of the Timor Sea
- As many here are very familiar with, Indonesia invaded Timor in Dec 1975 with condemnation from the UN but little criticism from Australia



If we skip ahead to the end of 1976—to look **at one of** documents from the Australian Embassy in Jakarta—the office at the heart of DFAT negotiations with Indonesia over the Timor Sea. This documents are revealing of the culture present in the Embassy and the Department:

- 3 November 1976 the Australian embassy in The Hague sent this memo to DFAT (including a 28 Oct Fretilin media release). Fretilin was reporting on current events inside Timor ‘...in the Baucau concentration camp the enemy are daily torturing, raping and executing the captured population.’ The last part of the last sentence is underlined and next to the text someone in the Australian Embassy in Jakarta has handwritten: ‘sounds like fun’. Another annotation in the same handwriting states: ‘This report is internally inconsistent. If the enemy was impotent, as stated, how come they are daily raping the captured population? Or is the former a result of the later?’ This prompted the following response from another Embassy officer: ‘Sounds like the population must be in raptures.’ On the memo, this same author has advised that, ‘I think that for our records we ought to ask the Hague to send us more [Fretilin Reports]. In any case they’d make a great cure for constipation.’
- We have singled out this memo because it is rare example of such exchanges being recorded on an official file.
- But while the recording of such exchanges is rare, the lack of empathy, and culture of denial vividly exposed here is reflected throughout the archival records in more formal, bureaucratic language.
- We don’t have time to visit other examples today, but there are many, that reveal a culture of covering up, of uncritical acceptance of Indonesia’s assurances that

Fretilin's allegations were false, that things were improving and that the resistance would soon be crushed.

- This memo is also worth singling out because of its timing: PM Fraser had visited Indonesia just 3 weeks earlier. The Embassy had briefed him that a key outcome for Indonesia would be his recognition of Indonesian sovereignty over ET.
- There were media reports following his visit that he had tacitly acknowledged Indonesia's sovereignty over East Timor, and that Australia had commenced maritime boundary talks.
- There was outrage in the Australian media and a censure motion in the Parlt and Fraser was forced to deny he had recognised the occupation and the boundary talks were abandoned.
- The Embassy blamed Fretilin's successful 'propaganda' campaign for the debacle, which perhaps gives context to some of the comments.
- It took another two years of strategizing before the embassy got its way, in these two years the Suharto regime in Indonesia continued to bomb, napalm and starve the resistance out. It was possibly the worst 2 years of human rights abuses in the 24 year occupation.
- On 15 December 1978, Australia's Foreign Minister Andrew Peacock announced that Australia and Indonesia would commence maritime boundary negotiations which would "signify a de jure recognition by Australia of the incorporation of East Timor into Indonesia. That is a matter of law, but we also have a duty to be closing that gap."

Timorese Perspective

SENHOR BOB HAWKE HAS THE HONOUR OF PARTICIPATING IN THE PLOT AND IN THE GENOCIDE PRACTICED BY JAKARTA, BUT ALSO BECAUSE HE WILL SECURE THE HONOUR OF GUARANTEEING THE EXPLORATION OF OIL AND NATURAL GAS (THAT ARE OURS)! SENHOR BOB HAWKE'S HANDS ARE STAINED WITH THE BLOOD OF THE EAST TIMORESE... THAT THE ALP SHOULD CONTINUE TO PURSUE A PRAGMATIC POLICY TO

Fretilin Letter to Morrison Delegation, 26 July 1983, Papers of Bill Morrison, NLA

- If we consider the Timorese perspective for a moment, in March 1983 when the East Timorese signed a ceasefire with the Indonesian military
- which allowed for the visit of an Australian Parliamentary fact-finding mission that would consult with both sides in the conflict and provide a realistic assessment. Delegation leader, Bill Morrison, a career diplomat-turned-politician had been Whitlam's Defence Minister in 1975 and part of the conspiracy that surrounded the invasion. His priority was to safeguard the Australia-Indonesian relationship
- the delegation was halted by a group of Timorese guerrillas who conversed with Morrison [GAVE HIM LETTER ON SCREEN which archivists were surprised to find in his files after his death in 2013] and suggested a meeting in a nearby village so they could tell him their experience. Indonesian military intelligence later surrounded the village, captured the guerrillas who were tortured and then disappeared.
- Morrison then met with the top Commander of the Indonesian military, Benny Murdani whom he knew personally
- Morrison's delegation report was described by another member as, "... tendentious, superficial and at times misleading"
- Once the Australian's left the ceasefire crumbled ending in an infamous massacre at Kraras.
- 2 yrs later, PM Hawke changed the Labor Party's policy and recognized Indonesian sovereignty over East Timor and 2 months later continued discussions started under the Liberal Party Government with Indonesia for joint explorations in the Timor Gap.

- Xanana Gusmao listened to the announcement of the change in Australian policy on Radio Australia from his mountain base and it featured prominently in his 1986 message: ON SCREEN
- Meanwhile Morrison was appointed Ambassador to Indonesia.

The Timor Gap Treaty



On 11 December 1989, he and Alatas boarded an RAAF VIP jet, circled the 61,000 square kilometre "zone of co-operation" and exchanged letters of agreement confirming the 120-page Timor Gap Treaty. The split was 50/50 for 40 years, with options for another 20...

- This is one of the infamous photos of the signing 1989 Timor Gap Treaty by Foreign Ministers Ali Alatas and Gareth Evans as they flew over the Timor Sea. That treaty was a compromise that created a resource revenue sharing zone. The big win for Australia was that 80% of some of the richest fields: Woodside's Greater Sunrise and Troubadour were in Australian waters.
- After the Indonesian withdrawal from Timor in 1999 this Treaty was void
- The liberal party was in power and Alexander Downer was Foreign Minister. He led negotiations for the Timor Sea agreements and treaties agreed in 2001, 2002 and 2007.
- His office/[DFAT?] convinced the UN administration in Timor to continue the same terms of the Timor Gap Treaty even though the 1982 United Nations Convention on the Law of the Sea had established the median line principle. DFAT argued that the gas fields could start funnelling desperately needed revenue to the new nation.
- Australia then withdrew from the maritime boundary jurisdiction of the International Court of Justice.
- In 2002, with no access to an independent umpire, and desperate for revenue Timor-Leste signed a Heads of Agreement for a new treaty with Australia.
- The current spying controversy relates to a subsequent treaty signed by PM John Howard and Alexander Downer in 2006 that specifically involved the revenue distribution from Woodside's Greater Sunrise field.
- When Downer retired from politics in 2008 he founded a lobbying company called Bespoke Approach and Woodside Petroleum became a client.

What do Australians think about this?

Indonesia is one of Australia's largest aid recipients, Gareth Evan's said the aid money gave the relationship 'ballast'. This remains true even after Tony Abbot threatened to stop aid over the 2015 executions, and the Indonesian government said they do not even want the money.

The 2015 Development Policy Centre Australian Aid Stakeholder Survey states: "stakeholders perceive a loss of strategic clarity [in the Australian aid program]. They also express concern that helping poor people in developing countries has become a less important goal for Australian aid. Australia's strategic and commercial interests are now seen to play a larger role in shaping the aid program. ... attempts to reposition the aid program under a "new paradigm" and as a form of "economic diplomacy" have not yet gained traction.

According to the same researchers at ANU 'most Australians' expect their aid dollars to go to assisting poor people in developing nations rather than supporting "economic diplomacy".

- I attended a DFAT funded Aid conference last week and the how Australian aid is spent was under the microscope.....
- Some Australians, including many at DFAT (but not all, as the leaks and debates over policy alert us) believe they are right to put Australia's own national interests before any other country and hold a pragmatic rather than a principled stance on East Timor, as Ambassador Wolcott advocated in relation to the 1975 Indonesian invasion.
- They also didn't think the Australian public would support this stance evidenced by their attempts to cover up and hide events
- 'pragmatism' is behind the current Government's refusal to negotiate a maritime boundary with Timor-Leste today and its dogged commitment to the terms of treaty allegedly negotiated in bad faith. This situation is fluid and talks continue.

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Prof Brett Inder

Campaigners for change in the developing world have a tendency to pin commendable aims on a shaky grasp of economics. Rather than join the chorus shooting holes in their arguments, Professor Brett Inder finds support in sophisticated economic theories and techniques for such concepts as fair trade and cancellation of debt.

- give a bit of economic context to the Oil & Gas revenue - how much it contributes to the Timorese economy
- indicate how much \$\$ value there is in the disputed areas

Kirsty Sword Gusmão, she remains the

- Goodwill Ambassador for Education and on the Education Commission for the TL government
- Advocate for mother-tongue education
- Timor-Leste National Commission for UNESCO
- She is also the President of the Alola Foundation, a women's advocacy organisation in Timor

on some personal reflections on the human capacity context in T-L against which the resource-sharing agreements were made, a bit of a snapshot of some of the overwhelming needs facing T-L today and where those missing 40 billion dollars might go.