



**INTERVENTION – RESPONSE BY
HIS EXCELLENCY THE PRIME MINISTER
KAY RALA XANANA GUSMÃO
ON THE OCCASION OF THE MOTION OF NO CONFIDENCE
(Plenary Session of the National Parliament – 12 October 2009)**

According to Section 111.1 of the Constitution of the RDTL, motions of no confidence against the Government must concern: 1 – the execution of its program or 2 – a matter of relevant national interest.

As such, the present motion of no confidence moved by Fretilin concerns a *‘matter of relevant national interest’* And the *‘matter of relevant national interest’* in question is Mr Martenus Bere, since he was the person who according to Fretilin was *‘released from the Becora jail in a clear assault on the Constitution of the RDTL and on the valid laws of our Country’*.

(The man would probably be most surprised to know he is classified as a *‘matter of relevant national interest’* in a country that is not even his own!)

The document of the Motion also reads that: *‘whoever decided this did so illegally’* and that: *‘the Prime Minister himself, who in his statements to the media ... admitted to have ordered the release of Martenus Bere from the Becora jail without a judicial document and accepted to take responsibility for this act’*.

In the same document, the Members of Parliament for Fretilin mention a supposed *‘amnesty proposal for all crimes committed in Timor-Leste from 1974 until now’*. But later on they say that *‘only a decision by the competent Court in view of the matter can be considered as a decision by the State’*.

Since I can see that the petitioning Members of Parliament for Fretilin are confused, I ask the honourable holders of this sovereignty body to allow me to divide my intervention / response in 3 parts, so that I may present a broader approach. Therefore my intervention will require more time than the 30 minutes allocated by your Regulation.

I wish to remind everyone that in March 1993, I was tried in Dili by an Indonesian Court. The panel of Judges, whose competence to try me I questioned, ordered me to stop reading my plea, thereby preventing me to continue presenting arguments in my defence.

I hope that, in view of the importance that such a *'matter of relevant national interest'* deserves, the honourable Members of Parliament, who are the true representatives of the democratic aspirations of our People, will not prevent me from speaking in my defence for the necessary period of time. Should you do so, you would be acting exactly like the Indonesian judges who sentenced me to life imprisonment without listening to my arguments. As for myself, I feel that it would not be fair for my defence to be limited by the internal rules of this Parliament.

PART I

National Interests – State Policies – State Decisions

I am aware that the Fretilin bench would like me to have come here just to speak about the illegality of my act, so that the National Parliament might conclude that the Government which I lead *'is not fit to guide the nation'*, as the motion of no confidence reads.

However one cannot discuss the illegality of the act without having a broader understanding of national interest issues. As I have stated before, the ground on which the motion of no confidence was accepted was the perspective of *'matter of relevant national interest'*, and that is why we are here today.

Therefore, in Part I of my intervention, I will be covering the subjects of national interests, State policies and State decisions.

For a start, what does NATIONAL INTEREST actually mean?

- I was a member of the Central Committee of the Fretilin:

- The changes that took place in 1986 for the establishment of the National Council of Maubere Resistance were done within the interest of the Struggle, within the national interest. When in 1997 the National Council of Maubere Resistance changed its designation to National Council of Timorese Resistance that was done within the interest of the Struggle, within the national interest.

- When in 1999 there were meetings between all Timorese, known as Dare I, in Dare, and Dare II, in Jakarta, they were held within the context of the national interest.

- When in August 1999 the FALINTIL decided not to engage the militias, which were killing our people, that decision was made within the context of the national interest.

- When throughout 2000 and 2001 there were reconciliation meetings between Timorese people at the borders, with the effective and often decisive participation of the honourable petitioning Member of Parliament Mr Mandati, without financial or logistic conditions, they were held within the context of the national interest.

- When in 2001, after the administration of the Country was transferred to the Timorese, the then Chief Minister Mr Mari Alkatiri went with Sérgio Vieira de Melo to Jakarta, in representation of Timor-Leste, to shake hands with Indonesian generals, this was understood within the context of the national interest.

- When, on 20 May 2002, President Megawati Soekarnoputri was greeted with an ovation by the population and by all Timorese in attendance in Tasi Tolu, our People demonstrated a clear grasp of the concept of 'national interest'.

- When, on 12 June 2003, the then Prime Minister Mr Mari Alkatiri, during an official visit to Jakarta, gave an interview to Lusa stating that *'a general amnesty for those responsible for the crimes committed in Timor-Leste in 1999'* was *'the only solution to correct **'the injustice and inequity'** (Mr Alkatiri's words) that there was, with third grade Timorese citizens in jail and other responsible persons **'hardly to ever appear in Court'** (Mr Alkatiri's words).... in a clear acknowledgement that it would be **'impracticable'** to take the main responsible persons to court'. According to Lusa, *'for the Head of Government it was **'virtually impossible'** for the UN Security Council to approve the creation of any international court, knowing that it would be even more complicated taking an Indonesian soldier, police officer or civilian to a Timorese court'....* Also according to Lusa, the most important part of the statements made by the then Prime Minister Mr Mari Alkatiri was: **'Nobody denies or can deny justice. It is a sacred issue. The pragmatic vision seeks to let the social and political development procedures in each country run normally, until each side becomes aware of its responsibilities concerning these situations'** (Dr Alkatiri's words). All of this displays an exact understanding of the national interest, and would lead to State policies.*

- When in its First Legislature the National Parliament, where Fretilin held 65 out of a total of 88 seats, created the Commission for Reception, Truth and Reconciliation, that was done in the spirit of defending the national interest. I myself submitted the report of the Commission for Reception, Truth and Reconciliation to the National Parliament, in November 2005.

In the motion of no confidence, the petitioner Members of Parliament state that **'there is complete disrespect by the Government in relation to this sovereignty body and to the courts'**. The truth is that the First Legislature, in which Fretilin held a majority, never took the initiative to schedule a discussion on the report and its recommendations, which would have

been a tremendous help to the State in the definition of its policies – this showed a complete lack of interest by Fretilin regarding matters of ***‘relevant national interest’***.

- When in its First Legislature the National Parliament, where Fretilin held 65 out of a total of 88 seats, created the Commission of Truth and Friendship, working together with Indonesia, that too was done in the spirit of defending the national interest. The Prime Minister of the First Constitutional Government signed the agreement with Indonesia. Mr Mari Alkatiri was in attendance to receive the Report, showing that he had successfully completed the task he had begun.

However this Parliament never took the initiative to schedule a discussion on this Report, which the President of the Republic already delivered, thereby making it difficult to implement its recommendations. When they had a Parliamentary Leader who was a Commissioner in the Commission of Truth and Friendship and the President of the Commission for Reception, Truth and Reconciliation, Fretilin did not move a finger, and now they claim that ***‘there is complete disrespect by the Government in relation to this sovereignty body and to the courts’***. This shows lack of awareness regarding what the national interest is, and it is because of this that we now have Martenus Bere appearing as a ‘matter of relevant national interest’.

- When the Government of Mr Mari Alkatiri agreed to sign Status of Forces Agreements, namely with the USA, as the President of the Republic recalled on a recent interview, it was within the context of the ‘national interest’.

Honourable Members of Parliament,

National interest means developing the Nation! National interest means defending progress, political stability, economic stability and internal security.

National interest means defending the interests of each and every Timorese citizen. National interest also means creating an atmosphere of unity and cohesion, as well as promoting reconciliation!

But we cannot isolate ourselves from the world. Thus national interest assumes compliance with Section 8.4 of the Constitution of the RDTL, which Honourable Members of Parliament such as Francisco Branco, Joaquim Amaral, Elizário Ferreira, António Cardoso, Joaquim dos Santos and Manuel Tilman, who have now submitted the motion of no confidence, also signed on 22 March 2002.

The Constitution says ***‘The Democratic Republic of Timor-Leste shall maintain special ties of friendship and cooperation with its neighbour countries and the countries in the region.*** I ask you, gentlemen who drafted the Constitution of the Republic, what is or what should be the most appropriate meaning for the expression ‘special ties’?

- I do not know if Member of Parliament Arsénio Bano is aware of incursions by the TNI in Oecussi, the latest happening just 2 weeks ago! I do not know if he is aware of the difficulties in the border demarcation process in Oecussi. As he has also signed the motion of no confidence, I would assume that he is not. It is possible that he no longer goes to Oecussi, or perhaps he only goes there to consolidate his party's standing.

- I also do not know if Member of Parliament Aniceto Guterres is aware of the difficulties in the border demarcation process in areas of the Bobonaro district. It would appear that he does not, since the border demarcation is not a matter of national interest for Member of Parliament Aniceto Guterres; it is the issue of Martenus Bere that has relevant national interest.

- I do not know if the Members of Parliament for Fretilin are aware that there are over 8 thousand Timorese studying in Indonesia. I can understand if they do not, because the Members of Parliament for Fretilin never go to Indonesia, do not have any relatives living in Indonesia, and most of all do not have children studying in Indonesia. God forbid it should ever happen! Fortunately the Members of Parliament for Fretilin have a broader strategic vision that surpasses Indonesia. They can leave Timor-Leste by Air North or by Silk Air.

- I do not know if the Members of Parliament for Fretilin are aware that over 75% of trade movements in Timor-Leste are with Indonesia.

- Lastly, I think that the Members of Parliament for Fretilin, and since they have declared Martenus Bere a 'matter of relevant national interest', must have forgotten that Indonesia is the main reason why we were able to enter the ARF (Asian Regional Forum) and is lobbying to enable Timor-Leste to enter ASEAN.

Honourable Members of Parliament,

How can one define the interests and policies of the State? And for what? And why? These are difficult questions that I cannot answer! They go beyond my political competences. The true place for defining such interests and policies is the National Parliament. I look forward to it, since we all stand to gain by learning from you!

I would just like to say that the policies to be taken by our State must necessarily safeguard the national interests, and these interests must seek to:

- ensure sovereignty
- ensure stability and peace
- ensure diplomacy of insertion or regional integration

If we do not have clear goals to define the interests of the Nation, in order to set State policies, our Country will not know where to go.

During his official visit to Jakarta in June 2003, Mr Mari Alkatiri said to Lusa: **‘As the Government and the Office of the President of the Republic have to deal every day with bilateral relationship issues between the two countries, we seek a pragmatic approach that enables us to move the relationship forward. We do not want to use an approach that ultimately will not enable us to achieve a goal and that in real terms will only create more problems between the two countries’.**

If this political statement by Mr Alkatiri, which I have just quoted, cannot help the Members of Parliament for Fretilin to understand what a State must do, I shall be forced, by reasons of friendship and democratic solidarity, to tell the Secretary General of Fretilin that it is necessary to renew your Party.

PART II

Serious Crimes – Justice or Amnesty?

The petitioning Members of Parliament wrote in the Motion of No Confidence: ***‘The release of Martenus Bere has already been acknowledged... as a political decision...’***. Further on: ***‘Martenus Bere, leader of the Laksaur militias, which were responsible for the Suai massacre where around 200 people were killed... was released...’***

The document also reads: ***‘the current situation should be seen within a broader context of a willingness by the Government and the President of the Republic to present an amnesty proposal covering all crimes committed in Timor-Leste from 1974 until the present date’.***

If before I have said that the petitioning Members of Parliament must be confused, it is because they contradict themselves.

At the meeting with the benches represented in the Parliament, in the current Legislature, summoned by the President of the Republic, our Head of State submitted a draft and said: ***‘The decision is in your hands, in the hands of the National Parliament. If the Parties agree that this is a matter of national interest, then let it be discussed. Fretilin agrees, it is up to the other Parties to decide as well. But should you think that this matter is not important, then I assure you that I, while President of the Republic, will not pressure anyone’.*** It was the President of the PSD and then Member of Parliament Mr Mário Carrascalão who suggested changing “from 1999 to 2006” to “since 1974”.

So that there can be no doubts, I would like to return to the interview that Mr Mari Alkatiri, then Prime Minister, gave to Lusa on 12 June 2003: **‘It is up to the Parliament to decide in**

relation to the amnesty, which I think is the only solution for the problem. This is an issue that deserved a national debate in Timor-Leste.’ Further on Mr Mari Alkatiri added: ‘I believe that the debate should review the entire policy concerning the issue (of justice). As a citizen and as Prime Minister I will defend amnesty in that debate, because I think that justice has already been served and that the time now is to bring those people back into society’.

Honourable Members of Parliament,

What was the purpose of the Commission for Reception, Truth and Reconciliation? To draft the list of criminals and hand them over to the Courts? What was the intention, as a State? Justice? And if so, what justice? An eye for an eye, a tooth for a tooth... or justice by one’s own hands? And justice for whom? For the Indonesian generals and they alone? Or should the militias be punished as well?

Is justice only good if it is applied for the cases of 1999? And what about the cases before 1999, should they simply sink into oblivion?

What is the notion of justice in relation to the Timorese? Would political parties have nothing to respond? What about UDT? What about Fretilin itself? And what about the remaining parties that signed the integration to validate the invasion and the occupation? Or are the outcomes of the Commission for Reception, Truth and Friendship no good? Or are the recommendations of the Commission for Reception, Truth and Friendship devoid of sense?

The petitioning Members of Parliament for Fretilin are completely wrong when they claim that there is *‘a willingness by the Government... to present an amnesty proposal’*, as in no occasion whatsoever did I, as the Head of Government, declare that my Government would take such an initiative.

The Parties that make up the AMP have no special interest in an Amnesty Law. Out of the 5 parties, only ASDT remembers participating in the process since 1974. PD and PSD only came from the Constituent Assembly, and UNDERTIM and CNRT only appeared at the time of the 2007 elections.

Who among the Government Parties would be interested in an amnesty law? What gains or benefits might this Government, which was formed only by Parties not directly involved in the killings of 1974 and 1975, derive from the presentation of a draft Amnesty Law? As Parties, there would be none!

- No AMP Party, therefore included in the Government that I lead, is accountable for the violence and killings that took place from April 1974 to August 1975!

- No AMP Party was involved in the civil war that took place in 1975!

- No AMP Party is accountable for the Aileu and Same massacres, which took place in December 1975!

- No AMP Party is accountable for the imprisonment and inhuman torture of Francisco Xavier do Amaral, and for the execution of dozens of innocent people, which took place in 1977!

- No AMP Party is accountable for the deaths of so many civilian and military resistance fighters during the Support Bases!

Therefore, speaking of 'willingness by the Government' would suggest that the Parties that form the IV Constitutional Government had crimes to redeem!

And, Honourable Members of Parliament, it is I who am addressing you – Kay Rala Xanana Gusmão! I was a member of the Central Committee of Fretilin from 1975 to 1986, leading a war when most of you had no responsibilities over your shoulders, since your main responsibility now is in overseeing the acts done by the Government.

In December 1986 I sent a mission to the comrades abroad, recognizing as was my moral and political duty that we, the Timorese, also committed crimes! I must say... that this message displeased many people!

I declared at the 1st Fretilin Conference, held in the Gymnasium in May 2000, that I and my Fretilin comrades assumed all errors we made up to December 1986. And I also said that the Timorese citizens might rest assured since I would be assuming every possible crime committed by the National Council of Maubere Resistance, the National Council of Timorese Resistance and the FALINTIL from 1987 to 1999, as it was I who was leading the struggle. I hope that His Honour the Judge of Suai is listening to me, so that he may believe he can give credit to the State decisions to be made by the District Court.

But the draft amnesty law, with effects from 1974, which does not even affect the AMP Parties, must be seen as a political act by the State. Such draft Amnesty Law, with effects from 1974, would imply the acknowledgment of crimes, some of which were 'war crimes', defined as Serious Crimes!

However, as the case of Martenus Bere is already considered a matter of relevant national interest, does the Fretilin Bench accept that an amnesty law does not go against the concept of Justice of Fretilin?

Amnesty means the political act of pardoning a crime. It is never an act taken by a Court. Why must we pardon a crime? Where is the notion of Justice? These are the questions that the

document of the Motion of No Confidence infers. Because the petitioning Members of Parliament know that I have not released Martenus Bere to go drown him in the sea.

If *'the decision by the Government to release Mr Martenus Bere from the Becora jail is a clear affront on the Constitution of the RDTL and on the valid Laws'*, I shudder to think how big an affront on our Constitution it would be if any Parliamentary bench would submit a draft amnesty law for the crimes committed since 1974. I will immediately ask my Party, CNRT, to avoid affronting the Constitution of the RDTL, thereby saving Fretilin the trouble.

This is because, Honourable Members of Parliament, I am trying to imagine the judicial and legal pandemonium it would be! Section 161 of the Constitution of the RDTL states (oh, I am sorry, it is not the Constitution that states but rather the 6 petitioning Members of Parliament for Fretilin and others, who have drafted the Constitution, that do): **'Acts committed between 25 April 1974 and 31 December 1999 that can be considered crimes against humanity, crimes of genocide or war crimes, shall be liable to criminal proceedings in national or international courts'**.

Still, we can view this from a more positive perspective: if Fretilin agrees with the draft Law, Fretilin will appear to be inconsistent regarding its values in terms of Justice. This is truly a major dilemma!

Should the Law be approved and promulgated, and should the Court of Appeal turn a blind eye when the Law is enacted the Parliament would have interfered in the competences of the Courts, as the very motion says that only a decision by the Courts is a decision by the State. The Parliament would be legalizing what is illegal and legitimating what is unconstitutional.

Can it be that only when a law legalizes what is illegal there is no violation of principles? If so, then if Fretilin takes part in the approval of an Amnesty Law, we can ask why all the fuss in relation to Martenus Bere, who by now must be proud to be a 'matter of relevant national interest' for Timor-Leste.

Let us assume the draft law is presented, the Members of Parliament for Fretilin do not sign it, the draft law is approved by the AMP majority and Fretilin submits to the Court of Appeal that the law is unconstitutional. And as I believe in the independence of the Courts, the law would be unconstitutional and the affront would be as big as the crimes committed since April 1974.

I repeat: the AMP Parties, while Parties, have nothing to lose if there is no Amnesty Law, as none of them intervened directly in the crimes that took place from April 1974 to December 1999.

PART III

State institutions: legalities and illegalities

The petitioning Members of Parliament also justified the Motion in the following manner: 'Martenus Bere... was released through a non-judicial act'. Also, 'releasing Martenus Bere from the Becora jail without a judicial act' and 'the Government's decision... is a clear affront on the Constitution and on the valid laws of our Country.' Lastly, 'whosoever decided this did so illegally'.

Our State has been being built for the last 7 years, and Timor-Leste is still in the list of fragile States. What I am now going to present to you is the actual situation of our State's development process.

I must do so to rectify some facts and to prevent politicians without much sense of responsibility from trying to spin the truth for their own advantage.

Let me now update you as to the chronology of the facts:

- Martenus Bere entered Timor-Leste legally on 9 August, i.e. his passport was stamped. There was an error by Government agencies;

- Relatives of victims saw him and beat him up – as a principle it is not admissible for one to take justice in his or her hands;

- The police prevented the worst and detained him. Knowing his identity, they delivered him unto justice;

- The District Court of Suai starts the process and orders his preventive arrest.

Clearly there was no knowledge regarding UNTAET's Regulation no. 2000/15 on the '*creation of chambers with exclusive and special jurisdiction over serious offences*', which establishes an exclusive and special jurisdiction, **expressly excluding any other Court**, belonging to the District Court of Dili and to the Court of Appeal. The Penal Procedure Code, through Decree-Law no. 13/2005 of 1 December, **expressly safeguards the regime** created by UNTAET's Regulation no. 2000/15.

- I am sure you will all agree that the District Court of Suai did not order the arrest of Martenus Bere because he had been beaten; it would be completely irrational to think such a thing!

Section 30.2 of the Constitution of the RDTL states that *'no one shall be arrested or detained except under the terms expressly provided for by the applicable laws'*. A detention or arrest must always be submitted to the appreciation of a competent judge within the legal timeframe, which ***did not happen***.

Therefore I must ask the Honourable Members of Parliament for Fretilin: **Who is violating the Constitution and the applicable laws in our Country after all? Just because the decision is the District Court's to make (which is not even competent in relation to the matter) can it be considered... a decision by the State? And what about the affront that the District Judge is doing on the Constitution, the Penal Procedure Code and UNTAET's Regulation no. 2000/15?** Must we all bow down here to the independence of the Courts and to the separation of powers? Just because the Court has made a decision, that decision is already the State's? Regardless of whether the Court is competent or not?

- On the 26th, when meeting with the Speaker of the National Parliament (at that time I was precisely here, at this Noble Hall), the President of the Republic called me on the telephone. I told the President of the Republic that I would join him and the Speaker. When I arrived, the President of the Republic was talking to Minister Hassan Wirajuda on the telephone.

The President of the Republic then told me that the Indonesian minister had called him and asked him to look into the case of Martenus Bere, within the spirit of the Commission of Truth and Friendship, saying that it had been our mistake since he was not prevented from entering Timor-Leste. In one of its recommendations, the Commission of Truth and Friendship suggests greater coordination in terms of border activities, precisely regarding this matter. Hassan Wirajuda asked our President of the Republic to intercede before the in relation to this case.

- Regretting the mistake of having let Martenus Bere enter Timor-Leste – and this means that the socialization process concerning the recommendations by the Commission of Truth and Friendship is not yet complete – I asked the President of the Republic to talk with the Prosecutor General of the Republic, as she reports to the President of the Republic. I made this request to safeguard the independence of the institutions and to prevent interferences by the Government.

- Then I spoke with the Minister of Justice regarding this case, who informed me later on that she was trying to contact Martenus Bere's Attorney, who is a Public Defender, to look into the best legal ways to handle the case – the Government was indeed moving, but in order to facilitate the process without intervening in it directly;

- On 28 August the President of the Republic, after having spoken with the Prosecutor General of the Republic, called me on the telephone so that I would speak with the Deputy Prosecutor General and with the international Prosecutors, on the recommendation of Ms Ana Pessoa, who was presently in Singapore. I immediately called Mr Vicente, the Deputy Prosecutor General, as well as the international Prosecutors Mr Arlindo Figueiredo and Mr

Luís Landim, but they all ensured me that the Office of the Public Prosecutor was simply not involved in the case. Although they were unfamiliar with the case, they offered to provide the due support to Martenus Bere's Attorney, in order to find the proper legal way for solving this problem. It was suggested that the Attorney could present a request to the Court asking for Martenus Bere's release due to health reasons.

- The Minister of Justice also offered to establish contact between the Attorney and the 3 Prosecutors.

- On the 29th we learned that Martenus Bere's Attorney had already submitted such request and that the Court only required confirmation from a medical panel. The Minister of Health was called and offered to help in the search for a solution. For legality reasons we used as an example the case of Mr Rogério Lobato, which the III Constitutional Government offered us as a gift on the day we entered into office.

- On 30 August, being concerned with the lack of information on the case, I was at the Palace of the President of the Republic well before 8 AM. The Commander General of the PNTL then told me of the lack of progress on the case, as the Judge of the District Court of Suai was hard to reach, having decided to spend the weekend in Oecussi.

And I believe – as I always want to believe in the good faith of people – that His Honour the District Judge entered through Atambua and Kefa, since the Indonesians did not close the borders just because of internal problems in Timor-Leste. Should they have closed the borders because of Indonesian issues, I would not have an answer for that. At our request, during the crisis, the Indonesian State accepted to close the borders, so as to safeguard the national interests of Timor-Leste.

- Meanwhile I received a telephone call from Minister Zacarias, who was waiting for Minister Hassan at the Dili airport, conveying to me the concerns of the Indonesian minister regarding the lack of solution in the case of Martenus Bere. I asked the Commander General of the PNTL to try to establish contact with Minister Lúcia, with the Defender-General Mr Sérgio Hornai and with the interim President of the Court of Appeal, Ms Natércia. When the interim President of the Court of Appeal and the Minister of Justice arrived we assembled at the entrance room of the Palace.

Ms Natércia said that there was nothing she could do, since the case belonged to the District Court of Suai. I told her that we needed to consider the problem from a political viewpoint, rather than from a legalistic one, but as the legal path was barred we ended up going in and sitting down with the guests.

I knew deep inside that the President of the Republic was also waiting for me to inform him as to any solution, but since I had not found any – instead I had only come across various types of difficulties – I remained silent and avoided contacting the President of the Republic.

- Later on, with the guests, I received another telephone call from Minister Zacarias telling me that Minister Hassan stated he would only come if he was assured of a solution for the case. Minister Hassan recalled again the good faith of both States in the establishment of the Commission of Truth and Friendship, and said that should there be no solution to the case of Martenus Bere, it could affect the relationship between the two countries. He added that our refusal to cooperate in such a sensitive matter for Indonesia might force the Indonesian state to review their diplomatic policy towards Timor-Leste.

- At this time I requested the presence of the interim President of the Court of Appeal, Her Honour the Judge Natércia, at an emergency meeting in the Waiting Room of the Palace. I also called the Minister of Justice and the Commander General of the PNTL.

I explained to them that we needed to make a decision, and that it had to be a political decision. I insisted with the interim President of the Court of Appeal to help solve the problem, so that we could find a way out of this situation. Because I raised my voice during our discussion, Ms Natércia told me: 'Prime Minister, the time of the guerrilla is over'. And I replied: 'Indeed, and it is because of that that I have called you all here, so that we can solve this problem together. Let us all accept that in reviewing this case it is vital to consider many factors, and let us be more than merely legalistic. This case concerns State policies?'

I then turned to the Minister of Justice and told her to release Martenus from the Becora jail. The Minister reminded that she could only order such release with an authorization by the Court. Although she kept insisting – and I appreciate her consistency – that in legal terms there was nothing she could do, Ms Natércia suggested an alternative – and this is something I appreciate a great deal more, as she understood there had to be some flexibility in order to preserve the legal system but at the same time responding to the interests of the Country – and turning to the Minister of Justice she said: 'Since the prisons are under your charge, you can have Martenus transferred to another location, outside Becora?'

Being thankful for the idea and knowing that otherwise we could not move on with this case, I ordered the Minister of Justice have Martenus Bere transferred from the Becora prison to the Indonesian Embassy. In view of her refusal, I said: "If you do not do it, I will go there and get him myself."

- The Minister contacted the Indonesian Embassy and it was agreed that Martenus Bere would be transferred there immediately but that he would not return to Indonesia, instead awaiting the completion of the rest of the process.

- The Minister also called the Head of the Prison Guards on the telephone, but when the police arrived in Becora without a document from the Court the Head of the Prison Guards refused to comply with the order of the Minister. This should be praised, as it displays a great deal of professionalism. I told the Minister to convey to him that I would assume all the responsibility but that he had to obey the command he was being given. Consequently THE

ORDER WAS CARRIED OUT AND MARTENUS BERE WAS TRANSFERRED TO THE INDONESIAN EMBASSY, IN DILI!

- Before noon, during my meeting with Minister Hassan, I told him that we could not send Martenus Bere back immediately, that Minister Hassan would have to respect the rules of the Country and system of the country and that Martenus Bere could only be returned after the process had been concluded, therefore maintaining respect for the system of separation of powers.

- At the evening, during the award ceremony with the President of the Republic, Ms Natércia told me: 'Prime Minister, we are going to have problems. Aniceto knows of this and will raise the issue in the Parliament', to which I responded: 'Tell him to do so!'

- The Government continued its efforts and on 1 or 2 September. Mr Sérgio Hornai arrived, at our invitation, to see how the process of the medical panel was moving along. As I have said before, this was similar to what happened with Mr Rogério Lobato.

- To our great amazement, His Honour the Judge of the District Court of Suai sent an order to the UNPOL Commissioner asking him to determine the whereabouts of Martenus Bere, capture him and return him to the Becora jail. I assume that His Honour the Judge of the District Court of Suai already thinks as the Honourable Members of Parliament for Fretilin do: ***'only a decision by the competent Court... can be considered a decision by the State'***.

It seems that our State, the State of Timor-Leste, already has an address – it is located at the District Court of Suai! I do not know why we are losing time here in this Parliament, since our State is in Suai!

- On 2 September the President of the Republic summoned the Speaker of the National Parliament, the Secretary General of Fretilin Mr Mari Alkatiri and me to review the issues concerning Martenus Bere. Mr Mari Alkatiri, the Secretary General of Fretilin, said that the decision had to be a political one. Mr Mari Alkatiri also suggested the medical panel as an alternative to facilitate the release procedure. I said that I was against it, but only because we had already tried it to no avail, as there was no political willingness by the Justice.

- All individuals in Dili received the invitation to attend the ceremony on 8 September in Suai, well before 30 August.

Reporter Jill Jolife also wrote an Article in Australia claiming that I had travelled to Suai 2 days before to convince the two bishops to change the celebrations to the 8th, so as not to coincide with the day of the massacre, which happened on the 6th.

Well, I only arrived in Suai on the afternoon of the 7th, where I met with relatives of the victims to explain the decision by the State. These relatives displayed maturity and only requested the Government to improve roads, supply water and power, repair bridges, build more schools and expand medical coverage.

I must also add that on 4 March 2003, the day when the monument to the victims of Suai was dedicated, I was there to place flowers and pray for the victims... and I cannot recall seeing the face of even one of the Members of Parliament who have submitted this motion.

- On 10 September the media asked me my reaction to the press released by the President of the Court of Appeal. Contrarily to what the document of the motion of no confidence says, I did not admit anything, since I HAD ALREADY ASSUMED the responsibility and am currently waiting to go to the District Court of Suai, where our State is located, whenever His Honour the Judge asks me to. But if the State has already relocated to the Court of Appeal then that suits me just fine, since it is closer to my home.

- The document of the Motion of No Confidence reads: "The President of the Superior Council of the Magistracy and of the Court of Appeal of Timor-Leste has himself decided to order an investigation on the 'Bere case', to determine whether there was an illegal release and, if so, to start the corresponding penal and disciplinary proceedings".

As you can see, I am confused and I do not know if the State is still located at the District Court of Suai or if it has already moved to the Court of Appeal, in Dili. I like to believe in the good faith of people, and as such I want to believe that the case of Martenus Bere has entered the Court of Appeal, at least on 9 September, the date of the press release by the President of the Court of Appeal. When I was in the woods I learned something: those who do not know something should not try to speak about it. This saying still guides my actions today.

And it is precisely to be ready for the penal action that is going to be moved against me that I have drafted this chronology of the facts, also including the weaknesses of other institutions in the process of State building.

In conclusion, Honourable Members of Parliament, I want to state that since the IV Constitutional Government entered into office it has been giving priority to the system of Justice in Timor-Leste. Despite the allocation of more funding and more national and international human resources, the volume of cases pending at the Office of the Prosecutor General of the Republic is still high. The number of prisoners not yet presented to the Courts is also high, with many of prisoners doing sentences when they could very well be innocent.

The Ministry of Justice adopted vital legislation pieces and is now giving special attention to the material and human situation at the courts.

Only this Government, which I lead, may be able to defend the interests of the State, meet the expectations of our People and develop our Country.

Thank you very much!

Kay Rala Xanana Gusmão

12 October 2009