Transcript:

Henrique Arevalo: Hello. My name is Henrique Arevalo. I'm a research assistant at Georgetown University, working together with Professor Jeffrey Fischer on the Stories of Democracy project. The 1999 East Timor popular consultation was a very important electoral exercise, both for the people of East Timor and the wider field of electoral assistance. We're very grateful today to have Johann Kriegler with us to tell his story from the election. Johann, thank you for taking the time to be with us.

Johann Kriegler: It's lovely to be here. Thank you for inviting me.

Henrique Arevalo: My first question to you will be, perhaps, to introduce yourself, and also tell us how you came to be involved in the referendum in East Timor.

Johann Kriegler: I'm Johann Kriegler. I'm a retired judge. In 1999 I was asked by the UN whether I would be prepared to be a panel member supervising the popular consultation that was planned in East Timor for the population to decide whether to accept substantial home rule under the Indonesian government, or whether to deny that, which automatically then would mean that it would fall under UN protection and wend its way to independence. I happened to have sabbatical leave available at the time, I got the permission of my Chief Justice, and I accepted the job.

Henrique Arevalo: Tell us a bit about the role itself.

Johann Kriegler: It was to me a very strange operation. The UN had agreed with the government of Indonesia that there would be this referendum called a “popular consultation”. It was to be conducted under the aegis of the UN, run by the UN, but while the control of the country remained under Indonesian military occupation. This requires a moment of explanation.

East Timor itself was the eastern half of the island of Timor, which is hidden way back, at the far end of the Indonesian conglomeration of [several] thousand islands. It had been a Portuguese colony for some [300] years. When the Portuguese Empire collapsed in [1974], with the Carnation Revolution in Portugal, [East Timor] was just abandoned. The Portuguese control ended: this very, very poor, very, very neglected, very, very forgotten little island was left to its own resources.

There was strong political pressure at the time to prevent Chinese influence in the Pacific expanding and with American support – in fact, encouragement – the Indonesian army invaded East Timor and just occupied it by military force. This was not accepted by the local populace. There was more or less armed and violent resistance for years thereafter, the bloodletting at times becoming quite fierce. But peace never quite settled, insomuch so that early in the nineties there was a major event in Dili, the capital of Timor, where a large number of [Timorese] were shot in a violent uprising, shot by the Indonesian forces.

Anyway, Portugal never let up. It kept pressure on through the UN for East Timor's occupation to be considered by the family of nations. Indonesia went through a very serious economic crisis; in the late nineties there was a change of government – in fact, President Suharto resigned under great pressure, inter alia from human-rights interests in Indonesia. The deputy took over. He agreed with the UN to allow this event [the popular consultation]. But Indonesia had remained in control, and indeed, East Timor had been more or less a fiefdom of the TNI, the Indonesian [military].

It was immediately apparent to me when I landed in Timor in mid-1999 to take up my position, that the Indonesian army was very, very much in evidence. Indeed, the Indonesians made it perfectly clear that they were not going to maintain an attitude of complete neutrality. The mere presence of a large number of Indonesian soldiers, the very multitude of soldiers, and the identity of the particular units, showed they meant serious business. By that I mean that I soon discovered that the special forces of the Indonesian army, Kopassus, more or less the equivalent of the SS in Nazi Germany – shock troops – were very much in evidence. They were actually constituting the major force that was visible. Also, on your way from the airport, as I discovered, this place was an armed, occupied territory, with banners, flags, notices in the colours of Indonesia, the red and white everywhere.

It soon became apparent, too, that the Indonesian armed forces were not the only worrisome presence in this election. The population, obviously, had different views about the choice with which they were confronted. A minority – it subsequently proved to be a minuscule minority –were in favour of retaining control [by] Indonesia. They were armed, supported both logistically and financially, by the Indonesian army.There were a number of these surrogate groups, terrorist groups, really, of which the most noticeable and most powerful in Dili itself was a group that called itself Aitarak. They constituted a terror group seeking to induce the population either to refrain from voting or to vote in favour of retention of Indonesian control. That remained the lasting influence in Timor throughout the months that I was there.

I think I've answered you very, very fully, and a little bit further than you had asked. Can we pick up the thread again?

Henrique Arevalo: Of course – that was the perfect introduction and great context to the 1999 consultation. Tell us a bit more about the exercise itself. You already described the themes of violence and repression. But what were the other challenges facing the consultation and your work there?

Johann Kriegler: Aha – most certainly, I would say the very remoteness of East Timor in itself constituted a major challenge. It is very, very remote from anywhere. It is a very small island just below the Equator, north of Australia, not served by any international airline. Getting there, at the time, was quite an undertaking through a regional airline of which Dili was the remote turning-point. You had to take a hop from Jakarta eastward via Bali, and eventually to Timor. To get there was an exercise. To get the equipment and staff there was difficult. I may say, I was thrilled when I landed in East Timor to see two major aircraft with UN colouring, the white universally recognised white identification of UN aircraft, but with South African registration numbers, and I was proud to be associated in this remote little way with the job.

Even Timor itself, as I have said, was a neglected, forgotten little place. It was grossly underdeveloped. The infrastructure was all but nonexistent. Electricity rudimentary. Road system, very, very poor – many, many roads barely trafficable. The population – small, less than a million, but spread over this ill-developed country, of which not only was the road system poor, but there was very, very rudimentary telecommunication.

The topography was difficult. There was a central spine along the length of the island. I would say Timor is about [100] kilometres wide, at that point where it becomes East Timor, and from there it's about [250] kilometres to the eastern tip of the island. Along the spine of this island is a mountain range, quite steep in parts, many parts impenetrably wooded. Were it not for this feature, the resistance would long since have been blotted out. At the time when I arrived there,

there were still rudimentary elements of the original resistance force holed up in one last little stronghold.

In any event, this topography made communication difficult. In terms of language it was a major problem. The indigenous people spoke largely the native language of Tetum, but it wasn't the only language. There were other dialects and sub-dialects within the island. The official language had for hundreds of years been Portuguese, so the educated, sophisticated and relatively small group of the people spoke Portuguese. And then for the last 25 years it had been under the heel of Jakarta, and the language of control was Bahasa Indonesia – a totally different language from either of the other two. Merely communication was therefore difficult – communication in terms of language, in terms of roadway, in terms of telecommunication, was equally rudimentary and tricky.

To establish an electoral management body – to run it – in that kind of jurisdiction was extremely challenging. I must say I was astounded at the rate at which the body of internationals who descended upon the island managed to establish themselves, to set up an organisation, to recruit sufficient locals to form the rank-and-file of the [election] day staff. I was astounded that they managed. For me it was an object lesson, of course. Although I'd been involved in one election in my own country – I'd actually chaired our elections of transition – I was an amateur in terms of electoral administration, and I learned my trade as such actually in Timor in '99.

The major problem, however, in the setting up of the referendum process was this looming, threatening presence of the Indonesians. I wondered at the time why it was tolerated. In fact, it was not only the presence, but the open connivance of the military in the acts of overt terrorism by Aitarak and the other surrogate groups. They would ride on motorcycles and scooters, with their characteristic headbands and shirts in the colours of the grouping. They would actually threaten UN staff, let alone the population, by riding full tilt at you and then swerving away at the last minute, sometimes wielding a machete just as an indication. They actually, in more remote areas, not that far distant from [Dili], on occasion killed people. They burnt down local structures, and they made it perfectly clear that the choice was peace under Indonesian rule, or bloodshed if they chose independence.

This constituted a major handicap to my mind at the time in voter education and in voter stimulation to participate in the process, so much so that one of my colleagues and I, one of my fellow commissioners and I, formally addressed a letter to the UN Secretariat. We had no response. I couldn't understand it at the time. My subsequent reading made it perfectly clear that the UN was completely powerless. Notwithstanding the signature to the agreement that was signed in March '99, the Indonesians had no real intention of allowing a free and fair process. Indeed, there's a very strong argument presented that they had determined that if they lost the referendum they would in any event refuse to accept the result, and would retain control by brute force. I did not know that at the time. I did not suspect it. I actually thought that the Indonesian military was acting as rogues, contrary to or without the express consent of their central government. Whatever the truth is, the fact is that the local, massive military presence was there in order to threaten – and indeed post-election, if the result went against the Indonesians, to destroy and terrorise, and if necessary take control of the country by brute force.

Henrique Arevalo: I think this is a perfect moment to ask my next question for you, [as you just described] a very charged and violent environment. Were you personally in danger? What was your experience living in that environment?

Johann Kriegler: On many occasions, particularly when you were on foot in a village outside the central, controlled area of Dili, where the international presence was quite evident, you would have them [Aitarak etc] […] brushing past you with their motorcycles, walking towards you in groups of two or three and at the last minute separating so that you could pass through having hesitated and stopped – having intimidated, compelled you into acknowledging their superior force.

I should mention, though, that it got immeasurably worse [as voting day approached]. Let me put it this way: I worked peacefully and fruitfully for many weeks in Dili, so much so that this atmosphere was so conducive where I was working that I asked my wife to join me, and she actually made things easier for me to concentrate on my work, by seeing to our daily requirements. We lived in a residential area, in peace and harmony with the community, who were very friendly – greeted us. And then, suddenly, […] as if a cold blast from the North Pole had struck us, the atmosphere changed. People turned their backs on you. Mothers gathered their children and ran into the house when we approached. It was quite clear that a massive message had gone out, contrasting sharply with the atmosphere that had been before.

And then it became quite clear that the intention was to drive the foreigners out of the country, and to terrorise the locals. We were shot [at], fired upon, […] while driving. The compound in which we had our offices was on the side of a hill. There were marksmen sitting up in the hills, shooting at the building, firing at the lights to such an extent that if you worked at night, you turned your computer sideways, so that there would be no light visible from there to attract firing from the hillside. Our driver was terrorised into leaving, and I had to take over driving the vehicle in conditions with which I was not familiar. You would find streets blocked, and you would have to divert.

And at one stage, then, the compound was actually surrounded by – not soldiers, not Aitarak only – but Aitaraks with Kopassus trousers and boots and Aitarak shirts and headbands. How many of them were just clothed by Kopassus, and how many of them were actually Kopassus wearing Aitarak garb, I cannot say, but the fact is that we were surrounded by hostiles, and the community, civil society, had fled into the compound, and we felt embattled, surrounded by hostiles shooting occasionally at us. You don't ask whether the particular bullet has your name on it. I had never been under fire before in my life. It was an experience I didn't like. I didn't get used to it, either.

Henrique Arevalo: Of course, a very complex and scary situation even. What was the role there of other international actors or domestic actors that you worked with? […]

Johann Kriegler: There were three distinct groups of people with whom we worked – internationals.

There was the CIVPOL [UN police], the Australian police force that ostensibly was in charge of ordinary civilian policing. That was a fiction, they had no power. They were overborne by the Indonesians, and I subsequently established that indeed, at a political level, the Australians were actually supporting Indonesia until the actual bloodshed at the end shamed them into going in and taking the lead in – what was it? – UNTAET [United Nations Transitional Administration in East Timor] that then came to take over in [late October], after a [period] of terror by the Indonesians.

It was the Australian police, and the international staff from all over the world, many of them volunteers. People like Jeff Fischer – I can’t remember names at the moment! – but

professionals from EAD, from the UN Electoral Assistance Division, and supporters from elsewhere – allies in electoral administration. As I said, truly a universal grouping, many human-rights volunteers from international human-rights organisations, notably Indonesian human-rights activists. I remember an organisation, KIPER, which was a remarkably courageous body of Indonesian human-rights workers who joined in, in not only voter education and [publicity], but formed part of the general body politic in East Timor at the time.

The third grouping was my own little body of electoral workers, the people with whom we worked closely. Bong-Scuk Sohn, from Korea – a most remarkable woman – and Patrick Bradley from Northern Ireland, a seasoned and extremely useful electoral administrator of many years in a conflict situation – who had many wise suggestions at the time – the three of us formed the tribunal at the end that dealt with various complaints about the elections (about which, now that I'm talking about it, would you mind if I continued along that, just told you a little about it?).

Henrique Arevalo: Of course. Yes, please do.

Johann Kriegler: As is usual in electoral administration, we constituted a special tribunal which was open to any complainants about any process relating to the election, whether it be in the run-up to the election, the campaigning, the planning, and the actual balloting on polling day, or the count, or anything else relating to the election.

This tribunal was publicised, it was made known. We had no complaints until post-polling day, when we had, I think, three dozen complaints that we dealt with individually. We took a number of days, I think, two-and-a-half days, when we heard evidence. We gave people the opportunity to address us orally, to come and give evidence. They were questioned, and we heard argument and determined those issues – not one of them we found to be properly substantiated, or, if substantiated, as having any real bearing on the outcome.

If you think of it, the [valid] voter turnout was close to 100%, I think it was 98% as I recall, the majority in favour of shedding the yoke of Indonesia was 78-point-something % – overwhelmingly in favour of independence. Not one of the complaints was a systemic complaint. There were individual complaints of a particular polling station staff manifesting bias, somebody being rude, an individual being refused access at a particular point. All of them were individual complaints, about individual acts of malfeasance on the part of electoral staff, none of them conceivably having any effect on the outcome, and certainly not evidencing any organised attempt to influence the result. There was manifest overwhelming evidence of an attempt to influence the result on the part of the Indonesians, which was obviously the main feature of the day for months on end, but from the independence side not a single incident evidencing controlled systemic attempts to affect the outcome unfairly.

I emphasise this because the Indonesians were quite clearly astounded by the result. I was in close contact for months, and actually became friends, with the Indonesian representative, a principal observer of the process. I cannot remember the gentleman's name. I know he was a colonel in the TNI. We met frequently, and I've said before and I say again, were things different, he and I could have become friends. I could have spent many happy days discussing things [of] mutual interest. He turned on Day 3 after the count had started, and when the process was nearing its end and the result was obvious, he switched. He became hostile, he became cold, he became suspicious. He then avoided any contact with me.

I had an unpleasant confrontation with Ali Alatas [Indonesia's Foreign Minister] and General Wiranto [who commanded the Indonesian military] at Dili Airport, round about the 6th or 7th of September, in which they said that the election had been manipulated, that it had been unfairly conducted by the UN, and that I and my two colleagues on the panel had collaborated in a dishonest process.

As I say, it was an unpleasant confrontation, which resulted in my being flown to Jakarta to go and face the media and government officials in Jakarta. I enjoyed it a great deal. I was a combative trial lawyer in my day, and I had been frustrated on the bench as a judge. I loved the occasion to get to deal with it. There is no doubt at all that the electoral process was not [conducted] immaculately, [but] as well as conceivably possible, in the very difficult circumstances. There were mistakes – shortcomings that there were, were trivial. The people spoke, and they spoke loudly and unequivocally, and I was honoured to have been a witness to a very, very moving process of re-establishment of a national identity by an oppressed group of people. I enjoyed being able to go and defend the process in the face of those that were clearly hostile to the exercise.

Henrique Arevalo: Of course, no better person than a former lawyer and a senior judge to defend the elections in Jakarta. Looking back now at 25 years or longer after the consultation, what are the key lessons that you draw from that experience? How do you think this consultation contributed to the wider field of electoral assistance?

Johann Kriegler: I can answer one of those two quite easily. The other is a little bit more difficult. I think it would be presumptuous of me at that stage, having been very nearly a rank amateur, to express a view on the international effect of the process. I don't know of the lessons that were learned by the international community yet, I didn't know it yet, and I don't think I speak with any qualified voice.

As for myself, I learned a number of things. I certainly learned that international cooperation is always possible, if there is unity of purpose and inspired leadership. The electoral management, as distinct from the overall civil presence of the UN, was extremely impressive. I was not impressed with Ian Martin's [Special Representative of the UN Secretary-General for the East Timor Popular Consultation] attitude and the general administration. I don't think I can blame them. They were – the UN is -- powerless itself in the face of hostility. I learned that for the first time: I saw it subsequently in many other places that I worked – Sierra Leone, Liberia, Afghanistan – the UN needs the muscle, the backup, of one of the major powers. It usually was the US that was that force for good.

I also learned, and this is the most important lesson, that if the people so wish, notwithstanding the shortcomings of an electoral process, the election will go on and will go through and will be accepted. It's Jeffersonian in its simplicity, the people are the source of the power. If the election is believed by the people, if the election is supported by the people, it will be a success. I also learned subsequently in other places, that where people do not accept the election, however technically correct it may have been, it would not be accepted as a true reflection of the will of the people.

The elitist view held by many on the right that illiterate people are not capable of taking decisions for themselves is a dangerous fallacy. In Timor it was perfectly clear that the simplest of peasant people knew precisely what the issues were, knew what they wanted and were prepared to die for it. I was extremely impressed by it, and to this day I'm still deeply moved by the courage and the determination of those stubborn little people to tell the Indonesians to take

their fancy cathedral that they wanted to build or to take their Christ statue that they built, and go. “We want to revert to what we were without you.”

Henrique Arevalo: Thank you very much, Johann, for those key lessons and for telling your story. It is fascinating to hear that such a complex, violent environment was able to, in the end, produce a successful election, with high turnout, lots of participation, and overwhelming vote against Indonesian rule and for independence. I'll leave it to you for any parting words or concluding remarks, but, again, it has been great having you tell your story here.

Johann Kriegler: Thank you for the opportunity, and thank you to Jeff and the others involved in the project to record these recollections. Good luck with the process as a whole.

Henrique Arevalo: Thank you.