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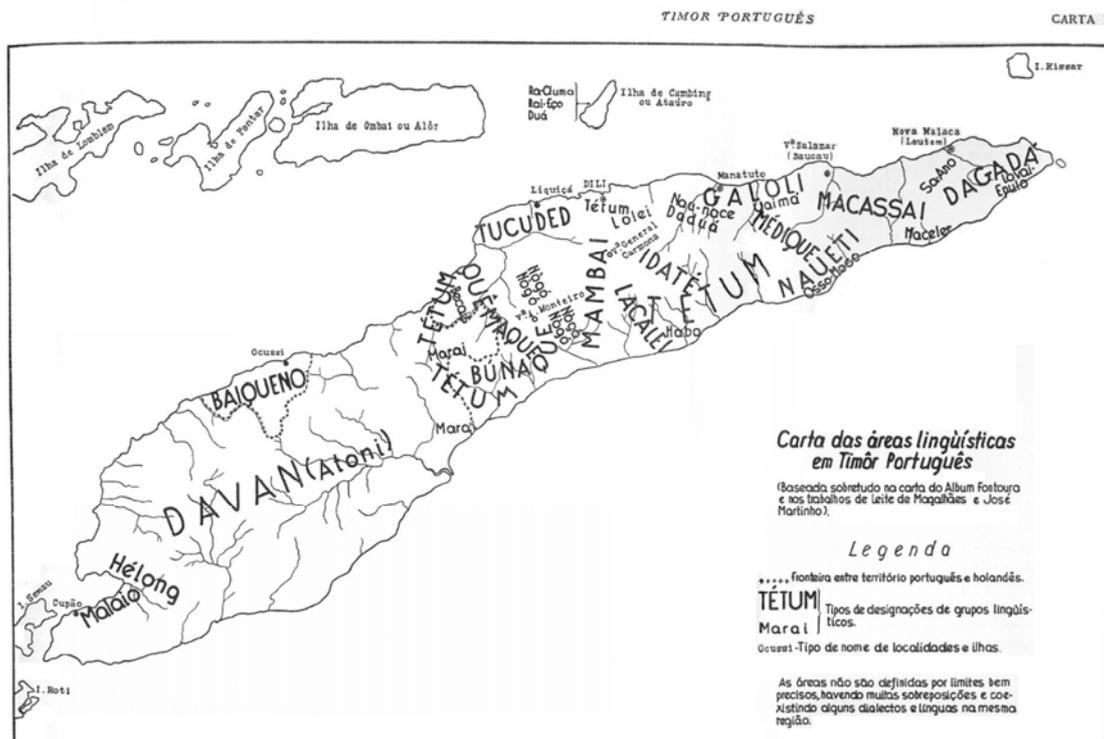
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## Exploring the Tensions of Nation Building in Timor-Leste

*SSEE Research Paper No. 1*

Proceedings of a forum  
held at The University of Melbourne  
15 September 2006

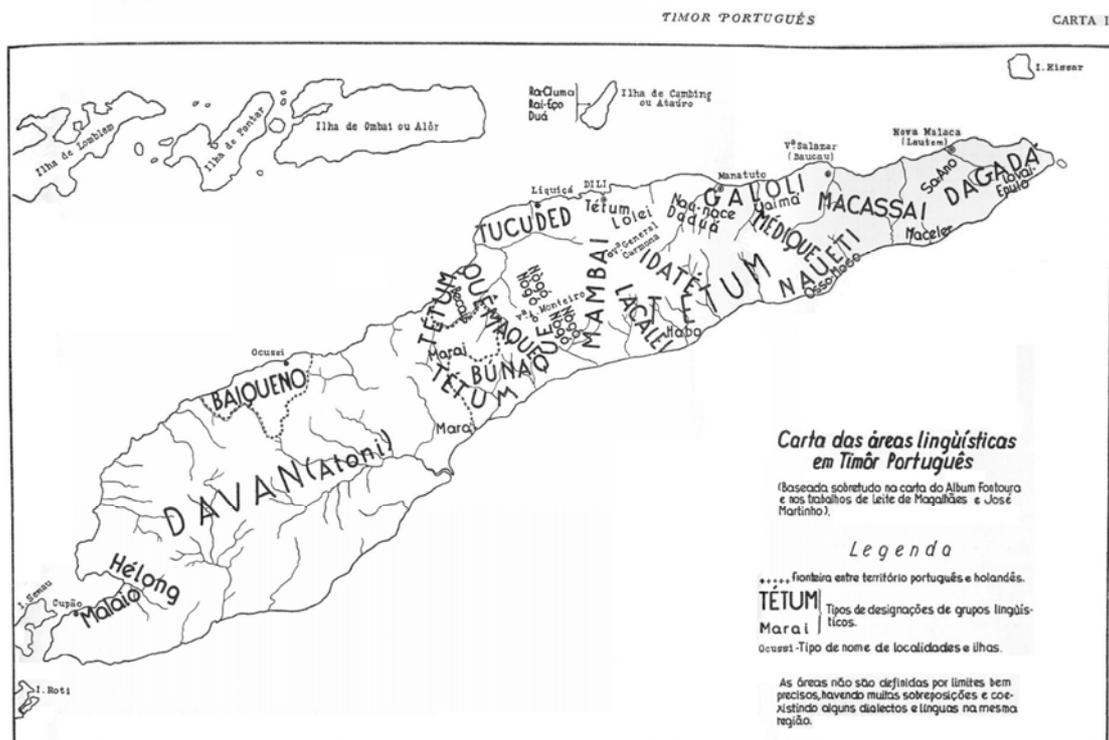
# SSEE Research Papers >



Edited by  
**Lisa Palmer, Sara Niner, Lia Kent**

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The views expressed in these proceedings are solely those of the authors of the individual contributions and are not necessarily those of the editors of the proceedings or the University of Melbourne.

**Lisa Palmer, Sara Niner, Lia Kent**

## Editors' Introduction

At the University of Melbourne on the 15<sup>th</sup> September 2006, around 40 Timorese and Australian academics, representatives of civil society organizations and others, came together for a one-day forum aimed at exploring the underlying causes of the 2006 crisis and the tensions of nation building in Timor-Leste. Central to our discussions and deliberations were themes of governance, social and political processes, development, land and natural resource management and environmental, human security, justice and legal frameworks.

### The 2006 Crisis

The newly independent Timor-Leste faces complex social and economic challenges as it attempts to rebuild itself as a modern nation state (Hunt 2004; Fox 2001; Hill and Saldanha 2001; Philpott 2006). The occupation of the country by Indonesia from 1975, following centuries of Portuguese colonial rule, resulted in the Timorese suffering severe human rights abuses for over two decades and the widespread destruction of life and property (Commission for Truth, Reception and Reconciliation (CAVR) 2006). In a 1999 referendum the vast majority of the population voted against continued Indonesian rule. This resulted in the much hoped for but violent withdrawal of Indonesian forces and set in train the course of events which in 2002 resulted in formal independence for the nation of Timor-Leste.

Since the withdrawal of Indonesia, the United Nations Transitional Administration in East Timor (UNTAET) (1999-2002) and the government of Timor-Leste (since 2002) have faced and have begun addressing enormous development challenges. The depth of these challenges was even more starkly highlighted when in May of 2006 the country's security forces – the *Falintil-Forças Armadas de Defesa de Timor-Leste* (F-FTDL)) and the *Polícia Nacional de Timor-Leste* (PNTL) – came into conflict with the latter completely disintegrating. These events were accompanied by the outbreak, often violent, of civil conflict amongst the broader population in the nation's capital Dili. In June 2006 as this conflict escalated, foreign peacekeeping troops arrived back in Timor-Leste having been invited by the country's President, Prime Minister and cabinet to restore law and order. It was a sequence of events which led, in July 2006, to the resignation of the nation's Prime Minister Mari Alkatiri.

A new Prime Minister, the 1996 Nobel Peace Prize laureate Jose Ramos Horta, was eventually sworn in and at the time of writing his government is still struggling to restore peace and security in the capital. During the period from May to December 2006 it has been estimated that there have been up to 150 000 internally displaced persons (IDPs) in the country, mainly living in designated camps. The continuing conflict between rival youth gangs and others in the nation's capital and the high degree of trauma amongst the general population means that at the time of writing the majority of the IDPs are still reluctant to return to their homes.

### **Forum Aims**

Held in the wake of the security crisis ('the crisis'), this forum was designed to investigate the complexity of issues that underpinned it. It was an attempt to move beyond the relatively shallow analysis which pervaded the Australian media and community at the time. Captivated by images of street violence and the destruction of property, Australian mainstream media analysis of the causes of the crisis focused on a seemingly 'natural' division between eastern and western region 'ethnic' groups and on the conflict at the elite political level. Yet the search for easy answers served only to confuse the Australian public's understanding of an extremely complex situation. As the images of street violence diminished in number, media attention moved to other issues. In reality there was no easy account of the causes or simple solutions to remedy the situation. Such complexity was meticulously highlighted by the subsequent *Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste* (2006) (see also Chronology and Crisis Schema here).

Recognizing this complexity, forum participants came together in the spirit of dialogue and intellectual inquiry to explore the deeper causes of such a seemingly rapid and divisive conflict. We were concerned to broach the issue of how Timor could move forward from here and rebuild again. We wanted to explore also what contribution we could make as an academic community to this process.

## PROCEEDINGS

### Keynote Presentation

#### ***Understanding the 2006 Crisis. Demetrio do Amaral de Carvalho (University of Peace, East Timor (UNPAZ) and Haburas Foundation).***

The opening forum presentation was delivered by Timorese academic and civil society activist Demetrio do Amaral de Carvalho. In 1998 de Carvalho founded the Haburas Foundation a civil society organization which aims to tackle the broad ranging environmental crisis which had emerged during the period of Indonesian rule. At the time of independence, he was a central figure in successfully advocating for the inclusion of environmental justice tenets in Timor-Leste's constitution. Both De Carvalho and another forum speaker, Rosalino Gomes, are lecturers in the Faculty of Social Sciences at Universidade da Paz – one of Timor Leste's leading tertiary institutions. Their reflections on their own first-hand experience of the 2006 crisis formed the basis of our day-long discussion. The major points from their respective presentations are set out below.

#### **Summary of presentation**

De Carvalho's opening address outlined a number of factors which he identified as central to the development of the crisis; a crisis which, at its deepest level, was the result of an accumulation of different issues manifest during Indonesian and Portuguese rule. Such issues include endemic corruption and violence, conflicts over land ownership and use and the unchecked exploitation of natural resources. These issues, which remain largely unresolved in the independence era, are today enmeshed in the additional problematic process of nation building – a process in which a range of different actors, operating under the broad United Nations (UN) platform, have brought to Timor-Leste a myriad of priorities relating to governance and development.

#### **Conflict within the security forces 2006**

In relation to the specific triggers for the current crisis, the first major factors identified by de Carvalho were the conflicts within and between the Timorese security forces. First, the role of the Timorese army – the F-FDTL – was discussed. Bearing the name of the Indonesian-era resistance guerrilla army, Falintil, the F-FDTL is influenced by this political legacy. Falintil was cantoned in 1999 to await a decision on its future role in the new nation; a Kings College Study in 2000/2001 suggested that the country did not need a large military, but rather a small number of professional soldiers (Conflict Security and Development Group, King's College 2003). Following the decision to reduce the numbers and professionalize the new military, many ex-Falintil soldiers were stood down from service and sent home. However, the majority of these men were ill-prepared to reintegrate into community life and establish alternative livelihoods. Many of them were also afflicted with deep psychological problems. Moreover, in many cases their home communities were now very different to the places they had left. While the Timor-Leste government has instigated some resettlement initiatives to prepare people to return to their communities, some of the approaches taken to help these former combatants have not

been appropriate. For example, one resettlement initiative distributed fishing materials yet most former combatants had never actually worked as fishermen.

Dissatisfaction about their role in the new nation and their dismal economic and social prospects led to the formation of 'veterans groups' whose vocal critiques of the Timor-Leste government have plagued policy development in this area. In early 2006 the discontent of these veterans was accompanied by another set of issues arising from within the F-FDTL. In February/March 2006 a group of 591 F-FDTL soldiers, predominantly from the western regions of Timor-Leste, left their posts in protest at what they saw as discrimination from within the force, between those who hailed from the eastern parts of the country (historically more strongly identified with the Falintil) and newer recruits from the western parts of the country. Continuing and unresolved tensions led to the so-called 'Petitioners' group staging a week long public demonstration in Dili in late April. It was on the final day of this demonstration that violence between demonstrators and the police broke out triggering mass panic amongst the Dili population and a rapidly escalating security crisis (see Chronology).

Post 1999, military training for F-FDTL soldiers was in most cases only three months long and in this context a professional military had always struggled to materialise. A combination of low salaries and the absence of firm policies and military legal procedures saw the emergence within the force of isolated incidents of violence and participation in illegal activities. There were reports of sandalwood and teak smuggling involving both veterans groups and, in some cases, serving F-FDTL officers in conjunction with members of local communities. High profile public figures in Timor, including the lead spokesperson of what was to become the 'Petitioners' group, were alleged to have been involved in such illegal activities (International Crisis Group 2006: 6). Yet perhaps because of the involvement of such high profile people prosecutions were difficult to pursue.

Concurrent with these issues was the fact that some ex-Falintil combatants who had failed to gain employment in the new F-FDTL, were later recruited into the PNTL. Hostility on the part of these recruits towards the F-FDTL was a cause of rivalry, jealousy, tension and even conflict between the two forces. In 2004, in Los Palos, there was an incident involving conflict between F-FDTL and PNTL, where members of the two institutions opened fire on each other (cf. *Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste* 2006: 53).

### **Political and economic influences on the crisis**

A second major set of factors identified by de Carvalho as triggering the crisis related to issues of political and economic justice in the development process. Since independence the government of Timor-Leste has embraced reconciliation with Indonesia. Such a process has involved measures which have focused on developing a strong political and economic relationship with the Indonesian government. In the eyes of many Timorese such processes have elevated diplomacy at the expense of seeking justice for the victims of Indonesian atrocities in 1999 and the 24 years prior to this.

At the same time as unhappiness has simmered over the issue of justice, lack of gainful employment in the nation's capital and widespread social and economic disparities between people have contributed to a powerful undercurrent of discontent most often directed at those governing the new nation. The adoption of International

Monetary Fund style free market policies has also adversely affected the lives of the general populace, particular in relation to the discontinuation of government subsidized rice and kerosene (one of the 'benefits' of the Indonesia era). There is also a chronic absence of viable systems of transport and markets in which to sell local produce. The livelihoods of many in the post-independence era seemed increasingly precarious.

Political and policy debates aimed at addressing such pressing development issues remained largely confined to the elite level of politics. Little information about the plans and strategies being debated were reaching the general population. As a result many came to see those in the upper levels of government as arrogant and aloof. Continual assertions on the part of government ministers that Timor-Leste lacks the requisite human resources capacity to staff the new nation's bureaucracy has alienated a generation of Timorese youth who had previously studied in Indonesian universities and who resent the lack of recognition of their skills base. In many cases international workers filled such positions, leaving local Timorese without gainful employment and increasingly disillusioned and bitter. The reliance, in all spheres of government, on the often conflicting advice of international advisors has, it is claimed, also eroded the avenues of communication between the Timorese themselves.

In the nation's capital and in the districts, the rapid post-independence introduction of democratic processes has resulted in both national and local government elections. Yet this swift role-out of democracy has also served to reignite the deep and simmering political divisions which had emerged during the civil conflict of the early 1970s. In the independence era the cohesive unity of Timorese society rallying against a common enemy (Indonesia) had evaporated and both old and new political divisions emerged to divide people in ways which the society was perhaps not yet ready to confront (cf. Hohe 2002). Important initiatives such as the national development plan have become politicized along factional and party lines, with a consequent lack of attention to its effective implementation and ongoing consultation with the local populations that it is designed to benefit.

## Session 1: Land, Resources and Economic Development

### ***Land and Governance issues in Timor-Leste. Summary.***

**Rosalino Gomes (UNPAZ)**

Rosalino Gomes' presentation focused on land and governance issues, in particular the way in which the different land tenure policies adopted by the Portuguese and Indonesian colonial regimes and the neglect of customary land rights, has contributed to ongoing land problems in Timor-Leste.

Prior to Portuguese colonization the Timorese had their own system of land allocation which recognized at least three categories of land ownership: land recognized as common property by the *liurai* (indigenous king or part of that royal class); land owned by one family being used by another family (who were required to pay a form of rent, such as a percentage of the produce); and land to which a family has full rights of ownership as the landowners. Land problems were resolved through customary mechanisms. During the Portuguese era a new system of land rights was introduced, much of which was based on the experience of Portuguese colonies elsewhere and was often tailored to benefit plantation owners. It involved a combination of customary land rights and Western-style land rights. Four categories of land use were recognized: full rights as a land owner; use rights; use for commercial purposes; and occupation rights. The Indonesian regime introduced another system of land rights, which included six categories of land user, one of which centred on providing opportunities for newcomers, such as the *transmigrasi* (transmigrants), to develop land.

The new nation of Timor-Leste is now developing a new land regime. Recent legislation recognizes all land rights created by the previous regimes and largely ignores customary land rights. The neglect of customary law has led to conflicts over land in many districts. For example, in Ermera, tensions have arisen between rights to coffee plantations derived from the colonial era, customary rights and the rights of land occupiers including plantation labourers. The issue of governance is central to resolving land conflicts, particularly the issue of centralization. The government of Timor-Leste has recently proposed legislation designed to decentralize governance arrangements; however this legislation needs to be closely investigated and discussed at the community level. The current proposal to divide the nation into thirty-three municipalities, without considering cultural issues, may potentially create future problems.

### ***Land Reform: Relevant Experiences from Africa. Summary.***

**Simon Batterbury (School of Social and Environmental Enquiry, University of Melbourne) and Judy Longbottom.**

Simon Batterbury and Judy Longbottom's presentation explored current debates over land access in Africa and considered lessons for Timor-Leste. For many years the World Bank focused on creating 'modern' systems of land tenure through registering title to land. However, some are now questioning the focus on land titling and private ownership and suggesting that it ignores the complex ways in which most Africans have maintained land access through other means outside the formal legal system. In Africa, land reform debates have occurred alongside the pursuit of 'decentralization'

policies, as in Timor-Leste. While the push to decentralize may seem sensible, it may also be problematic if local government becomes dominated by political parties or powerful local leaders.

In terms of land management policies, Timor-Leste will need to consider a number of important questions. These include: what choice of land reform is best? Should the system be centralized or localized? Should the systems be formalized or kept informal? What processes and structures should there be for dispute resolution? If land management and dispute resolution is done locally, how to ensure these systems are representative, adequately funded, and accessible? In considering these issues there are a number of lessons that can be learned from Africa where a number of different approaches to land management have been adopted. As the case of Kenya shows, formalizing property rights through issuing individual title may have pitfalls. The path of land privatization may result in financial and political manipulation by powerful actors. Another lesson can be learned from Mozambique, which has gone down the path of restoring customary rights after a long period of Portuguese rule and civil war. In Mozambique, communities can register community lands and hold collective titles. While the law is generally thought to be a good one, there have been some problems in its application including a lack of good community representation in the titling process. Another way that land could be managed is through informal documentation whereby, in the absence of legal codes and clearly defined land rights, people sort out their own documents attesting land ownership. Another possibility would be the development of 'conventions' or formal or informal codes which could be created in areas with overlapping claims. According to this model parties with a stake in the forest develop a convention concerning access to use of the land, which needs to be monitored and lodged with local government. Batterbury and Longbottom concluded by reiterating that in the African context it has taken a long time to recognize that the Western-style formal land registration may not always be culturally, financially or politically appropriate. Fully privatized land is only one option in Timor-Leste which may need to consider some combination of traditional and modern approaches to land management.

***Developing Timor Leste: Recognising the Role of Custom and Tradition.***

**Summary. Lisa Palmer (School of Social and Environmental Enquiry, University of Melbourne).**

Lisa Palmer's presentation focused on the role of custom and tradition in developing Timor-Leste. Taking as its starting point the Timorese constitution's recognition of customary law, Palmer examined what this recognition might mean in the context of national development, particularly in relation to the development of natural resource management regimes and sustainable livelihood systems. She argued that in the first few years of the new nation's independence it has been local people themselves who have seized on the possibilities of the constitutional recognition of their customary laws and who are pursuing strategies and activities which seek its effective implementation. As a result she argued that the state and others involved in the 'development enterprise' in Timor-Leste need to pay greater attention to recognizing and exploring the potential of the existing governance and exchange capacities of local customary institutions. Focusing on the ways in which local people are seeking to shape and intervene in the national development process, she described one instance where local level leaders have successfully activated their local capacities

and drawn in outsiders through the staging of a *tara bandu* or ritual prohibition ceremony.

***Building Social Tenures in Timor-Leste. Summary.***  
**Jude Wallace (Land and Geospatial Unit, University of Melbourne).**

Jude Wallace's presentation considered how Timor-Leste – a country with limited technical and institutional capacity – can build a land administration system that reflects the nation's needs. Most of the models of land administration systems come from highly developed Western countries with active land markets. These systems are not necessarily appropriate to the needs of developing countries.

In Timor-Leste much of the land outside of Dili and provincial towns has low monetary value but high spiritual and social value. The combination of 'market ready', transitional and non-market land raises issues for the Government of Timor Leste about how to recognize land that is held under some form of communal tenure. Communal tenures include land held by groups in some form of non-commodified arrangement; as it is based on social norms rather than legal systems, it is sometimes referred to as 'social tenure.' Wallace suggested that there is no single solution to the problem of incorporating social tenures into formal land administration systems. Rather, it is perhaps more appropriate to consider a series of tools that can be adapted to suit local situations. She suggested that the Timor-Leste Government's current approach of incorporating social tenures into its formal land administration system, in a cautious manner using methods based on collaboration and consultation rather than a formal legal approach, is suitable for Timor-Leste given the historical experience of land disputes and current post-conflict problems.

## Questions and Discussion

The main focus of the discussion was the conflict between official land laws and customary laws in Timor-Leste. The male dominated nature of traditional systems and the lack of women's rights to land ownership was raised as a key issue. How can we utilize customary methods to solve land issues when women have no rights in the process? It was suggested that the issue of gender is very important to consider in land policy. The question of what exactly we mean when we talk about customary land rights was also raised. How far back do we go? In the past land belonged to the clan but the clans were highly hierarchical and the *Liurai* made all the decisions. A view was expressed that Timor-Leste does not want to return to this system. One participant expressed a view that the Kota political party may use 'custom' to push for the rights of the *Liurai*. The conflict between individual rights and collective rights was also raised. In Timor land is connected to the 'household' and women's rights are recognized through their husbands. If we recognize individual rights and the equality of men and women, do we destroy the traditional ownership system?

Rosalino Gomes responded to a number of these points. He acknowledged that the customary law system is patriarchal. To solve land problem we need to ensure the equal rights of women and men. The issue is how to protect the rights of all and at the same time *build on* to local custom. Land issues cannot be solved by using local custom alone. It was also noted that according to the culture of one of Timor-Leste's distinctive ethnolinguistic groups, the *Bunaq*, land is owned by women. Judy Longbottom noted that some experiences in Africa have led to a call for an

examination of 'custom', as much of 'custom' was put in place by the colonizing powers. It is important to analyse what 'custom' means from the perspective of equity in the community, as there are disparities in any community. In some cases in Africa where there has been interest in equity, it has come from donors because there has been a considerable experience of 'elite capture' of customary law for business connections. Lisa Palmer suggested that the issue is not one of 'going back' to customary law. Customary law itself is dynamic and changing; it is not static. There is the possibility of customary law being abused by Liurais; however, at the same time people can use customary negotiation processes to challenge the Liurais' power. The language of gender and human rights is increasingly being incorporated into customary processes.

## Session 2: Democracy and Institution Building

### ***A Reassertion of Customary Practices in Timor-Leste. Summary.*** **Dr. Sara Niner (Alola Foundation).**

A growing body of research on Timor-Leste suggests a significant revitalization or re-assertion of customary practices across the country. This can be attributed to national independence and a more assertive 'cultural identity politics'. The research supports common assumptions about an indigenous worldview that reflects common elements of philosophy, kinship and alliance systems and the primacy of these specific local systems. It appears to be a reasonable assumption that the surviving culture will provide a significant contribution to the rebuilding of the new nation and its recovery from its tragic history. It is critical to take this deeper perspective on events in Timor and consider how this may be occurring.

There appears to be a disconnection or tension in Timor-Leste between these 'traditional' – local or indigenous – practices and modern or Western systems which provides some insight into the 2006 crisis. There is a sense that during the crisis modern democratic institutions and procedures were either dysfunctional or were bypassed and reliance placed upon previously existing networks, power hierarchies and alliance systems.

The revitalization of customary practices also appears to be true for the traditional production of handcrafts and textiles and the organizational structures and practices that surround it. Since 1999 many women's co-operatives have formed, or reformed, representing the efforts of women to rebuild their communities. Much more research needs to be done to explore the revitalization and importance of customary practices surrounding weaving and its modern significance in the re-inscribing of tradition, community life and contemporary society.

### ***Refocusing the National Development Plan. Summary.*** **Emilia Pires (previously with the Government of East Timor's Ministry of Finance and Planning).**

People in Timor-Leste have not been talking to one another; they have been waiting for others to bridge the differences. There are so many different groups – growing ever more apart. We need to see antecedents to these problems; we need to understand history.

Two main institutions triggered the crisis: the PNTL and F-FDTL. With regard to the PNTL, there were so many influences in its creation it was no surprise that it disintegrated as it did. With regard to the F-FDTL it is important to understand the history of East Timor and the significance of the name 'Falintil'.

While PNTL disintegrated, F-FDTL did not. Instead it was reduced to a core group of Falintil veterans. There was a sense that if you were not a veteran of Falintil you were not a real member of F-FDTL. Discrimination was initially felt by the non-veteran F-FDTL from the west and this was exacerbated and contributed to what is now known as the east-west division.

Democracy is obviously one of the great contributions of the West. However, how is democracy introduced? Nations cannot just suddenly become democratic. The

idea of opposition parties has not yet worked in East-Timor because we have been in a 'solidarity phase' for so long. The CRNT (*Conselho Nacional da Resistência Timorese*/National Council of Timorese Resistance) umbrella took a long time to achieve. Then it was suddenly broken down. Timor-Leste has political parties but still so many unresolved issues.

Timor-Leste today is not a cohesive society. The idea behind the national development plan, based on a vision formulated after consulting with over 38 000 people, was to build cohesion and bring people together. The intention was not to implement the plan immediately but to move beyond the mindset of *ukun rasik an* (independence). People needed a new vision that could unite them, just like the dream of independence united them in the period of resistance. However time constraints have meant there has only been an initial consultation. There has been no time to return to the villages and discuss what the gathered data means and to discuss how the plan is an instrument which needs to be implemented in conjunction with the people to achieve that common vision.

A great deal of goodwill for Timor-Leste has been expressed from outsiders – many of these people can still see a vision for the country. However in Timor-Leste it is chaos: there is still so much trauma and reconciliation initiatives have not gone far enough. Foreigners need to understand this situation in a holistic way and to support unity rather than divisiveness.

***Perspectives of a Timorese Expatriate on Recent Events. Abstract.***  
**Salustiano Freitas (Timorese Community in Melbourne).**

In the lead up to the 2006 crisis the government of Timor-Leste displayed significant governance and structural deficiencies. However these structural deficiencies have been apparent within the Timorese political leadership since 1974 when Timor entered a phase of decolonization. A similar process of decolonization was initiated by the UN after the 1999 referendum and many of the same political actors have been present during both periods. The UN was negligent in its decision to transform the democratically elected Constitutional Assembly into the first government of Timor. With a parliamentary majority the political party Fretilin (*Frente Revolucionária de Timor Leste Independente*/the Revolutionary Front for an Independent East Timor) ignored the independence movement's policy of establishing a government of 'national unity' and began to govern in its own right. Many in the Timorese community including the President and the Church have been critical of this government. Some of the major criticisms are: weak parliamentary processes; heavy and unresponsive governance structures; biased staff selection processes; and misuse and politicization of army and police resources. These, along with a lack of management by the Prime Minister of the protests in Dili, during 2005-6, contributed to the current crisis.

## Questions and Discussion

One participant stressed the importance of capacity building and suggested that many had turned a blind eye to the problems in the F-FDTL and the bureaucracy. These issues need to be addressed. Many of those living in the IDP camps blame the leaders for not being united and are suspicious that outsiders are involved. A subsequent comment highlighted that the focus on foreign 'conspiracy theories' takes attention

away from problems existing at a deeper level in Timorese society. Another participant added that oil often brings tragedy and intrigue and wondered what the role of multinationals might be in this crisis.

One participant wondered about the impact of the destruction of *uma lulics* (the sacred house central to indigenous customary practices) and the importance of textiles to culture. Sara Niner replied that not much has been written about textiles in Timor-Leste, except during the Portuguese colonial era. Because of the Indonesia occupation there is a real lack of information about this important part of Timorese life. According to McWilliam (2005) the *uma lulics* are being rebuilt. However the ancient sacred objects which were stored there and which are so related to clan identity and history will never be recovered .

Another member of the forum referred to a recent Oxfam report on the Regional Assistance Mission to Solomon Islands (RAMSI), which found a disconnection between ordinary people and law and order and wondered if the situation could be similar in Timor. This participant also wondered at the influence, possibly destabilising, of Australia's labeling and perception of so-called 'fragile states' in the region.

Intergenerational tensions were also raised as a significant issue by one participant who felt an examination of young peoples' attitude to national identity was required. It was explained that contemporary youth feel and desire an identity unrelated to Portuguese colonialism and this is not reflected for them in the current regime. Concerning such modern cultural heritage, one participant noted that while there are monuments to the Falintil heroes there are no monuments to others such as to Renetil (resistance organization for Timorese students in Indonesia) or to the young people's participation in the clandestine struggle, such as the sacrifices made at the Santa Cruz massacre (November 1991). Another felt this was apparent also within F-FDTL; that the split that led to the crisis was ostensibly east and west but was also intergenerational. The 'petitioners' had mainly been the young soldiers.

A Timorese discussant expressed the view that there was never enough time, or resources, in Timor to meet and discuss issues, admit differences and arrive at a common vision. Issues need to be thrashed out and strategies developed such as during the 1999 CNRT strategic planning conference in Melbourne. This luxury has never been repeated again in Timor. It was felt that the elite leadership in Timor simply do not communicate in this way. One Timorese participant felt that there are a number of factions operating in Timor today, including F-FDTL fighters, the diaspora, including those who had lived in Indonesia, and that these disparate groups must be brought together in a process of national development. It is important to force the leadership to come together and talk in order to build bridges amongst community groups. The Timorese people should not need a 'common enemy' to be united. However a new common enemy was identified as poverty. Another significant issue raised in summing up was that the process of national development is continually muddied by the politics and divisions inherent in the leadership. There is a great need to separate development from politics.

## Session 3: Justice and Security Issues

### ***The Commission for Truth, Reception and Reconciliation (CAVR) and the Pursuit of Justice. Summary.***

**Lia Kent (Department of Criminology, University of Melbourne).**

Lia Kent's presentation focused on the pursuit of justice and reconciliation in Timor-Leste and, in particular, considered what insights could be gained from the recent violence about the effectiveness of transitional justice mechanisms. She commenced by providing an overview of the transitional justice mechanisms implemented in Timor-Leste following the 1999 referendum, including CAVR, the Serious Crimes Process, the *Ad Hoc* human rights court in Indonesia, and the recent Commission for Truth and Friendship jointly established by the governments of Indonesian and Timor-Leste.

A number of 'reconciliation' issues have become prominent during the recent violence. A key issue that has arisen is the extent of divisions amongst the population, including divisions between *lorosae* (easterners) and *loromono* (westerners), which suggests that distrust amongst the population, perpetuated by the colonial regimes, remains high. In addition, divisions amongst the East Timorese political elite have surfaced, suggesting that there remains an urgent need for 'political' reconciliation. The recent violence has also highlighted the extent of trauma experienced by the East Timorese population, many of whom remain fearful and reluctant to return to their homes. The recent violence has also contributed to a breakdown of trust in institutions and the rule of law and demonstrates the consequences of a 'culture' of impunity. The lack of accountability of those who have committed serious crimes in the past also continues to impact on victims' perceptions of the reconciliation process undertaken by the Commission for Truth, Reception and Reconciliation (CAVR). Many victims continue to believe that 'justice' must be a component of any meaningful reconciliation process. In conclusion Kent stressed that recent events in Timor-Leste suggest that reconciliation is a complex and long-term process that needs to occur at a number of levels. The recommendations of the recent report of the CAVR (2005), entitled *Chega!* (Enough!), provide an important basis for future justice and reconciliation initiatives. However, much depends on the process from here, including whether the government enacts the CAVR's key recommendations.

### ***Challenges to Sustainable Police Building. Summary.***

**Bu Wilson (Centre for International Governance & Justice (CIGJ), Australian National University).**

Bu Wilson's presentation focused on the importance of rebuilding the national police force. As the new United Nations Integrated Mission in Timor Leste (UNMIT) launches into this process it is important to consider lessons learned from other police-building experiences and from UNTAET's experience of creating the Timor-Leste Police Force (PNTL) in 2000. UNTAET made a number of significant mistakes, as did the Timor-Leste government, which contributed to the development of a politicized force. In particular, UNTAET's failure to consult on recruitment processes led to a decision to include 350 former officers of the Indonesian police, primarily

from the western part of the country, which laid the foundations for a severely factionalised police force.

An important lesson from global police-building experiences is the necessity to take local context into account. However, there may also be difficulties in dealing with local agendas often in highly politicized environments. In Timor-Leste there are particular issues that need to be understood in order to ensure that the concept of 'paying attention to the local' is meaningful. First, the centralized state has generally had little relevance to the day-to-day life of the largely rural population. Also, frameworks for understanding what is right and wrong differ significantly from those inherent in 'modern' legislature. External police interventions need to consider the realities of life outside of Dili and seek to understand and engage with broader security issues in order to be successful. It is important to act on the findings of the Special Commission of Inquiry in order to address the culture of impunity that currently exists. Screening of PNTL staff, to exclude those unsuitable to continue in a reconstructed force, should be carried out with regard for procedural fairness and the process of disarmament must continue in order to rebuild trust in the community. The politicization of the police and army also needs to be addressed. The determination of credible leadership for the security forces is essential to carry out reform and to address reconciliation initiatives between the PNTL and F-FDTL. In addition, coordination between the UN, bilateral providers and the Timorese government is essential and responsibilities need to be clearly determined.

## Questions and Discussion

The discussion touched on the limitations of truth commissions for dealing with trauma. A participant noted that in South Africa many lessons had already been learned about the limits of truth commissions in this regard. It was suggested that the lack of reparations in South Africa has led to disillusionment and disappointment amongst victims. The question of who would pay for reparations in the Timor-Leste context was also raised. Lia Kent responded that *Chega!* recommends that foreign governments and businesses who supported the Indonesian occupation contribute to a reparations program. A participant added that Kofi Annan's recent report on justice and reconciliation in Timor-Leste recommends the establishment of a 'solidarity fund', although the Government of Timor-Leste appears unwilling to endorse this. However Timor-Leste's advocates can put pressure on their governments to put money into a solidarity fund. Within the Australian context, *Chega!* has not yet been discussed by the Australian parliament.

Justice and reconciliation issues were also raised in relation to the current crisis. A participant pointed out that documents, including sensitive files, were stolen from the Serious Crimes Investigations Unit during the recent violence. Another participant clarified that this did indeed occur, however the files were eventually returned in exchange for a refrigerator. One participant asked what processes could be implemented to assist in bringing about reconciliation within the current crisis.

Lia Kent responded that there needs to be an official and credible state response in terms of charging people and in terms also of prosecutions to assist in ending the climate of impunity and in reinstating community trust. In addition, CAVR-type community reconciliation mechanisms could be used to facilitate

community reconciliation processes, given that this model is now familiar to the community and builds on customary dispute resolution methods.

The lack of regulation of the police and military was also discussed. Bu Wilson responded that there are many legislative gaps in terms of the police and military. There has been inertia within the parliament on this issue, perhaps because people do not want civilian oversight of these organizations. There is a lack of clarity on how these organizations should work together. The question of how the police interact with customary institutions was also raised. Bu Wilson responded that in reality, in rural areas, there is considerable interaction between the police and customary dispute resolution mechanisms.

## **Final Reflection**

**Simon Batterbury (School of Social and Environmental Enquiry, The University of Melbourne).**

Simon Batterbury summed up the day's discussion by highlighting five main themes. The first is that history matters – in Timor-Leste more than almost anywhere else. Issues of colonial legacy, violence, and the changing role of tradition, have ongoing relevance to Timor-Leste today. It is clear that 'context' matters and the international community does not yet know enough about Timor-Leste's history.

The second theme relates to issues of accountability and governance. Although Timor-Leste has received a 'good governance' report from the World Bank, it is clear that the models promoted by the international community during the transitional period have not always been appropriate. Perhaps these models did not resonate with Timor-Leste's history and context?

The third theme relates to land and environment. These issues continue to be important and are connected to the recent political tensions and the crisis. Questions of revenue, security, resources, land and livelihoods are fundamental to people's everyday lives. These issues are not unique to Timor-Leste but they are a challenge because of the youth of the nation. Oil will become an increasingly important issue and it will be important for governance issues to be resolved in order for oil revenues to be managed in an equitable and transparent manner.

The fourth theme is that conflict and trauma continues to have ongoing resonance and have caused severe psychological issues for the population. While many conflicts are never actually 'resolved', conflicts can be 'nourished' by reconciliation processes. Bringing conflicts into the open can make things worse, but it may also expunge some of the worst feelings.

The fifth theme relates to the role of academics. For what reason are academics having this discussion, and what action should we be taking?

## **Final Discussion**

The final discussion reiterated the importance of customary institutions for national development. There is great danger of destroying customary institutions and practices if the Government of Timor-Leste is not careful.

The discussion also focused on the importance of holding discussions on current issues in Timor-Leste. We are privileged to be able to discuss issues in Australia in safety and comfort. However it is important that discussions and critical analysis are shared and owned by the Timor-Leste population as well: these workshop proceedings should be distributed in Timor-Leste in the *Tetum* language. Civil society groups may be able to disseminate the information from discussions such as these.

The difficulty in relying on the media or heated debates amongst certain political communities to understand what is occurring in Timor-Leste was also emphasized. Therefore, there is a need for continuing discussion and exploration of actual events through forums such as these. There was hope expressed that this forum could stimulate further discussion both in Australia and Timor. There is a great need to have discussions in Timor-Leste amongst academics, politicians and non-government organizations to air problems and seek solutions.

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## Africa's Recent Land Reforms: Lessons for Timor-Leste

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*Judy Longbottom*

Current debates over land access in Africa may provide some lessons for Timor-Leste. For many years the World Bank focused on creating 'modern' systems of land tenure through registering title to land. However, some are now questioning the focus on land titling and private ownership and suggesting that it ignores the complex ways in which most Africans have maintained land access through other means outside the formal legal system. In Africa, land reform debates have occurred alongside the pursuit of 'decentralization' policies, as in Timor-Leste. While the push to decentralize may seem sensible, it may also be problematic if local government becomes dominated by political parties or powerful local leaders. In the African context it has taken a long time to recognize that the Western-style formal land registration may not always be culturally, financially or politically appropriate. Fully privatized land is only one option in Timor-Leste which may need to consider some combination of traditional and modern approaches to land management.

### Introduction

This paper explores some of the present debates over access to land in Africa, with a view to informing similar debates that are ongoing in Timor-Leste. In Timor-Leste the present government has yet to formulate and fully implement comprehensive systems of legislation, or even to survey land holdings and boundaries. The estimated cost of this operation is \$10million (United States Agency for International Development (USAID) 2006). Yet the growing population of the country, episodes of civil conflict (some of them expressed as battles for property and territory) and the uncertainties generated by four different governance regimes over the last 500 years, makes equitable decision-making on land tenure essential. Meanwhile in sub-Saharan Africa, the 1990s was a decade that saw overhaul of land legislation in many countries and considerable debate over systems of property rights. There are important comparative lessons to be learned from this experience.

Land is still *the* critical resource in sub-Saharan Africa. Much of the continent is still occupied by land-based households practicing farming and pastoralism alongside other activities. The population of West Africa, for example, is about 65% rural. Nonetheless, in rural areas of the continent the trend has been towards diversification of livelihoods rather than a reliance on farming and pastoralism alone (Bryceson and Mooij 2000). Diversification has occurred as rural populations have grown, placing increasing pressures on cultivable land and pastures and at the same time cash income has become more important. The growth of Africa's urban centres since colonial times has provided further opportunities for employment and other opportunities (Cour and Snretch 1998; Batterbury and Baro 2005). In addition, African rural land, particularly in peri-urban locations, is increasingly becoming a commodity which can be transacted through sales, rentals, loans, pledging, and share-cropping. In several countries this process is now well advanced. The commoditize-

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ation of land may provide security for the owners but it can undermine its social and spiritual significance, as a wider range of actors participate in these transactions than they have done in previous generations.

In almost all cases, gaining some form of ‘security of tenure’ is critical for rural people, especially to protect those who are more vulnerable to being deprived of access to land and its economic benefits. “Social tenures” (Wallace, this volume) need not occur only through land users “owning” land through formal titles or deeds, given the range of traditional systems by which Africans have maintained stable access to land for centuries (Berry 2004).

Whereas urban management in Africa has tended to adopt Western models of private property and/or state acquisition of land for public purposes and can be treated as a separate issue, various models have been followed to promote security of land rights for the rural population. The World Bank, which has funded millions of dollars of land reform research and policy in Africa, focused for many years on creating ‘modern’ systems of land tenure through registering title to land. The belief was that titled ownership would offer more tenure security and thus more efficient land use. This helps the rural poor, it argued, because the title may be used as collateral for loans to encourage investment and this assists the development of land markets through which more dynamic farmers could acquire additional land. The Bank’s well-known 1989 report on sub-Saharan Africa suggested registration – effectively privatization - would fuel economic growth (World Bank 1989). Remarkably, there has subsequently been a change of opinion among some of the Bank’s senior figures. A change in policy became viable in the Bank over the last five years as a response to years of lobbying by research organizations. Important Bank figures like Klaus Deininger now believe the almost exclusive focus on land titling and private ownership has been a mistake, since it ignores the complex ways in which most Africans have always maintained land access through other means outside the formal legal system (Deininger 2003). This shift in thinking, visible at successive conferences on land reform and in several key policy documents, has been important; and it has occurred at a time when Timor-Leste is making similar decisions to those faced by African countries.

This policy shift is not to suggest that people *themselves* will not seek exclusive ownership and title. Rural people *are* seeking security by trying to ‘formalize’ informal arrangements of land rights, where the latter are threatened or become insecure. But full privatization is just one option for developing countries. In fascinating studies in West Africa, it was found that households subvert emergent or existing national land laws by creating written documents asserting title and getting these witnessed by Imams and local leaders to give them an air of (false) legitimacy (Lund 1993; Lavigne Delville et al. 2002; Berry 2004). These ‘fictional’ transcripts have no legal standing but are a form of “social tenure” that can sometimes help to ward off hostile counter-claims. There are many existing institutional arrangements of this sort that can potentially offer increased local tenure security – but only if levels of transparency, accountability and dispute resolution are improved.

In addition, Africa has seen a big push to ‘decentralize’ government. This has often gone on, as in Timor-Leste, at the same time that land reform is being debated – particularly for the last 15 years. There can be confusions between land and governance reform, and they do not always work well together. But as Alden Wily

(2003) shows, in many cases new ‘decentralized’ local government bodies, or new local institutions, are also being given powers to manage land administration or to decide about land claims. There are positive lessons to be learned here, but weaknesses have shown themselves.

From a political perspective, after 60 or more years of colonialism and more than thirty years of, often poor, centralized governance, the push to decentralize may seem sensible and in the interests of the rural poor. But, in practice, decentralization is often not satisfactory at all; *real* decision-making powers are not transferred locally, so there is *deconcentration* of state power, not *devolution*. Either there is no revenue for the new local bodies that are expected to raise much of their own costs, or local government simply becomes dominated by political parties or powerful local leaders. Some of those leaders may be benevolent, others nepotistic and corrupt; many will not have the necessary experience. Decentralization may change little – powerful people still make decisions (Batterbury 2006). For Berry (2004: 82): “‘local empowerment’ is at best a work in progress”.

### **Issues and challenges**

Despite enormous geographical and historical differences, the recent phase of land reform in Africa raises similar issues to those being debated in Timor-Leste. We raise these in outline only:

1. What choice of land reform, leading to what type of management system, is best? Informal, customary systems predated the colonial period. But under colonial rule there were direct and indirect methods of controlling land, differing between ‘settler’ colonies (as in Kenya, where all the best land was taken from indigenous inhabitants) and ‘extractive’ regimes where fewer whites actually lived and money was made through extracting and exporting primary resources for the benefit of Europeans (like the Congo and Nigeria). The latter have certainly had fewer problems in restoring land to local control but raise new problems as to whom to restore the land: who, after all, is local? (Berry 2004).
2. Centralized or localized? Should a new land management system be formalized (which means working out who owns what at the national level, issuing land titles, taking any disputes to the courts and resolving them, and paying compensation to some parties); or should it be kept informal and under local management, as is presently the case in rural Timor-Leste and in much of Africa? If informal, then how will the written, oral, or witnessing processes that create local agreements be managed? Just as they are today? Or differently?
3. What process and structures should there be for dispute resolution? Will teams from a government ministry or consultants come out from the city to hold inquiries about disputed plots? Or will this be carried out locally by customary leaders, elected local government, legal tribunals, or other bodies? Should the decisions be taken by independent people from other regions or those not aligned to political parties?
4. The more central the land management system, the more cumbersome and costly it will be to administer and maintain. Centralized systems today involve creating a computerized national land register of land titles. This is not usually very accessible to the poor and vulnerable and it is easier to access and use by those who are educated, wealthy, or have other forms of information and contacts. It can be efficient but it requires considerable resources to maintain. For this reason formalized

tenure systems currently only account for about 10% of land in Africa (Deininger 2003). We know they are being discussed for Timor-Leste.

5. If land management and dispute resolution is done locally, as in most customary systems before colonialism, then there are important criteria to make them work well. These are i) representativeness of decision-making bodies; ii) availability of funding for the meetings and information-gathering that local leaders will be forced to undertake to resolve disputes; iii) having good dispute-resolution processes; and iv) good accessibility – documents and decisions pertaining to land need to be open for inspection, in the local language and in a convenient location. But there is a question: If ‘informal’ methods of validation are maintained in Timor-Leste for several more years, can they be strong enough to secure rights against powerful outsiders, such as plantation owners and agribusiness? Will those actors be able to ‘buy’ or ‘coerce’ themselves land from local people more easily under an informal system?

### **Land management in postcolonial Africa**

Africa provides a few of the answers to these questions, but land tenure reform is far from complete and it is still hotly contested. Because the African colonies were supposed to be financially viable, most western administrators set up a private property model for valuable land – plantations, mines, cities, and settler areas – since this could easily protect and support foreign investment. But elsewhere (i.e. most of rural Africa), such legislation was rarely implemented because it was too expensive and local users kept their existing access to land through local systems of tenure. Rural people did, however, have to pay taxes of various sorts in return for very minimal state services.

In the post-colonial period (in most cases since about 1960), confusion has increased. Land systems have taken three main forms:<sup>2</sup>

1. All land was nationalized by the new independent state. There are various ways to do this and a host of different rules. Nationalization was a common outcome where independence was obtained by socialist parties or activists (for example in Zimbabwe, Tanzania, Burkina Faso, Guinea, Mozambique etc.).
2. Rural land is placed, or remains, in traditional (customary) ownership – as in Ghana. In Ghana the state has reaffirmed chiefs as customary authorities with ultimate rights over land (Berry 2004). Land is allocated by them on the basis of kin and community claims. Although this system is localized and therefore more accessible to local people, accountability can be weak, with many examples of chiefs being accused of abusing their power and selling community land for personal gains or for reasons not agreed with by their populations. The mechanisms for challenging chiefs’ actions are poor. Kojo Amanor, a highly respected writer on rural development in Ghana, argues against the chiefs as the best people to manage land access; he says they have repeatedly broken the trust of their subjects (Amanor 1999). A few customary land secretariats do exist in Ghana and these are being monitored by a donor-supported Land Administration Project to see whether this customary institution should be encouraged more widely.
3. Land redistribution and resettlement occurs to redress colonial imbalance or white ownership of the most productive areas (as in Zimbabwe). Land redistribution

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<sup>2</sup> A fourth category, conversion to private ownership, is mainly present in cities and commercial areas.

can also occur for insidious political purposes (as in Ethiopia under Mengistu who, using the famines of the 1980s as a pretext, shifted troublesome ethnic groups away from their customary territory). In some cases white-owned estates were converted into state farms and agrarian collectivized co-ops (in Mozambique and Angola). Most of these have not survived, being uncompetitive or poorly managed.

In the territory of Timor-Leste there were two successive colonial regimes operating different land tenure systems. In Africa, there were a few cases where colonial power also changed more than once. For example when Germany lost WW1 it also lost its colonies. Cameroon, Togo, Benin and some other countries were ruled by Germany until 1917, then by the UK or France, causing complications. Some 'old' regulations were not fully replaced by 'new' ones in these countries.

Although not so relevant to Timor-Leste, in most of Africa there remains the additional issue of pastoralists who move their herds frequently across large areas of land. Western-style land registration (and nature conservation projects that forbid cattle grazing in parks or protected areas) often disadvantage livestock herders, denying them access to traditional grazing areas or even forcing them to settle and to abandon their nomadic/semi-nomadic lifestyle.

### **Relevance to Timor-Leste**

Many lessons from Africa could apply in the 'new nation'. We have picked out a few key issues:

1. Formalizing property rights through issuing of individual title may have some pitfalls. This is essentially land privatization leading to a land market. Kenya chose to register all land in this way. Financial and political manipulation by powerful actors can occur in an inefficient legal climate or a financially driven 'free market'. Also, there have been major delays in the court system and international development donors, plus the general public, are not happy when titling becomes slow. Secondary rights to land, like share-cropping arrangements and livestock grazing, can suffer.
2. Restoring customary rights. Mozambique has gone far down the route of restoring customary rights after a long period of Portuguese rule and civil war, through a process of land registration (Box 1). Communities can register their *community* lands and hold collective land titles to these. This is thought to be a good law but there are problems in its application – a lack of good community representation in the titling process. Also some titling systems, particularly near the city, can be costly to survey and administer. There are interesting cases outside Maputo where squatters with no land rights paid a surveyor to map their settlement so that they could later have some power in the new system (Malauene et al. 2005). In Uganda the 1995 Constitution removed overall title from the state and vested it in landholders. The *Land Act* was passed in 1998, recognizing all existing tenure regimes as having equal legal weight, with non-compulsory registration possible at the local (district) level.
3. Informal documentation to manage land tenure. In the absence of legal codes and clearly defined land rights, people often sort out their own documents attesting 'ownership', as we have described above. These could be witnessed by respected figures – Church leaders would be one possibility in Timor-Leste. The argument is that this paperwork is better than nothing and may also be important if a national land registration system is ever introduced (Lund 1993). Timorese may seek these sorts of

### **Box 1 Mozambique**

In this former Portuguese colony, land was nationalized at independence in 1975 and the power to give land concessions was taken from traditional authorities and given to the government provincial services (in rural areas) and town councils (in urban areas). The first land law was in 1979, with the state renting land to users for 15 years as a renewable arrangement. Individuals were permitted half a hectare in irrigated areas and one hectare in rain fed areas. Registration was required and agricultural cooperatives, state farms and some private farms had to acquire formal land titles. Yet, perhaps as expected, few people registered land during the next 17 years. The law was amended in 1986 to increase the duration of concessions by private entities from 15 to 50 years, again renewable. After 16 years of war, the mass return of refugees and an influx of other foreigners (some from Zimbabwe and South Africa) led to increased land conflicts. A new land policy in 1995 set up wide public consultation processes and subsequently in 1997 a new land law was passed to respond to increased demand. It gave 'nationals' the use-rights to land which they had been occupying for more than 10 years without having to formally register it. The law also aimed to promote national and foreign investment without harming local people who had no formal registration. The law reaffirms state ownership of land, but safeguards rights acquired traditionally through occupation and inheritance. It still allows for concessions to be granted to private entities for 50 years. The law allows for community land registration and gives local communities the right to negotiate with outside interests. The main weaknesses of the system is that it remains centralized, with little support for local administration and the development of effective customary systems and that, in practice, it is failing to protect local land users against commercial interests (Chilundo et al. 2005).

solutions if there is little government action to formalize land rights and people continue to feel insecure.

Territorial units are devolved to local management committees given *communal* usufruct rights, similar to 2) above. One approach termed *Gestion des Terroirs* (village land use management) in francophone Africa was popular in the 1990s (Batterbury 1998). For this to be successful the communities need to be territorially bounded without many overlapping rights. Burkina Faso, a very poor country, pioneered this approach. Land is 'owned' by the state in Burkina, but village communities have been empowered to delimit their territories and practice conservation and land rehabilitation often working with local government or donors. There was little paperwork involved with this process and in the initial years it was a startling success. In the last five years, however, there was talk of these local territorial entities being the basis for new decentralized government structures as well as federations of village *terroirs* totaling populations of 20 000 people. This complicated matters too much and after wasting millions of dollars on studies of how to combine local land management with local political decentralization, the country is rethinking this relationship.

4. Conventions. Formal or informal codes are created for areas with overlapping claims to them. For example forests or other areas that provide common pool resources for gathering produce or fuel-wood or for grazing. All the parties with a stake in the area develop a Convention concerning access and use, which sets out use rights, timings, and penalties for misuse. The Convention itself needs to be monitored and may be lodged with local government (Hilhorst and Coulibaly 1998). The *tara*

*bandu* system (putting an area under ritual prohibition) in Timor-Leste may have some parallels with African cases (Palmer & do Amaral de Carvalho 2007).

## Conclusion

In a situation without full civic peace and a very complex system of extant land titles, claims and counter-challenges, it is difficult to see how the present lack of certainty over land rights in Timor-Leste can continue. There are many experiences of land registration and land management in Africa that may be relevant to the efforts of the new government to initiate reform and to provide decentralized systems for land management and administration (Cotula et al. 2004; Toulmin and Quan 2000; Kanji et al. 2005). Despite problems, there is now a strong trend towards striving for locally operated and locally controlled systems, not least to reduce costs, to reduce the backlog of disputes within the judicial system and also to be relevant and accessible to the majority of land users (Batterbury 2006). Enormous donor pressure has been exerted on African governments to 'solve' disputes over land and to assure land for the rural poor, but these have only been partially successful.

It has taken a long time in Africa to recognize that Western style formal land registration is not always culturally, financially, or politically appropriate and that it may have an adverse effect on poorer households who either do not qualify for land ownership, are excluded because of their limited means, or rely on complex access arrangements that would disappear under privatization. Other solutions than those tried in Timor-Leste may be appropriate, probably with some balance being struck between tradition and modernity. But the essential task today is to provide security in many other areas of life; security of livelihoods and personal security, as well as secure access to land. Land reform aimed at smoothing out the historic injustices of land access arrangements and providing opportunities for investment, is just one part of a larger struggle in which Timorese people are currently engaged.

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## Building Social Tenures in Timor-Leste

Jude Wallace<sup>1</sup>

Developing nations need to build land administration systems (LAS) capable of reflecting their needs. The models for LAS come from Western countries with successful land markets. The tools used in these systems require significant adaptation to assist developing nations to secure the land of their people. Timor-Leste is incorporating its social tenures into its formal LAS very slowly, using methods based on collaboration and consultation rather than formal legal approaches. This cautious approach suits their historical experience of land disputes and post-conflict problems.

### Designing a land administration system

Providing security of tenure for its population is difficult in Timor-Leste, as it is in most developing countries. How can a country with limited technical and institutional capacity build a LAS? A LAS contains the legal rights, the technical supports for record keeping, the parcel identification (or cadastral) system which provides the maps and unique identifiers, the land tax system, planning and development systems, and national land policy, ideally pursuing sustainable development. All of these facilities are built using 'tools'. To be really effective, the whole LAS, from its design to its practical day-to-day operations, must fit in with the way the nation's people think about their land. This consistency between the cognitive concept of land and the administration of land is a feature of successful LAS. Failure to achieve consistency dooms the administrative system to irrelevance, or worse, to failure.

The best practice tools used to build a LAS were invented and perfected by highly developed Western economies that run active land markets. Developing nations are seldom able to pay for these highly refined tools. Meanwhile, they must provide security for their people by stabilising their relationships with land. These nations actually operate a LAS, though it looks very different from the formal Western model. The tools they use and the design they implement is 'home grown'. For the Government of Timor-Leste, the key land issue is bringing informal social tenures into their tentative and partial LAS. While the Western style tools are appropriate for high value Timorese land in Dili and provincial towns, they are not the best tools for securing the majority of land in the nation which has low monetary value but high spiritual and social value. The Government of Timor-Leste shares this conundrum with most of the developing world, and will benefit from the global efforts of the United Nations Human Settlements Programme (UN-Habitat) for securing urban tenures and the United Nations Food and Agriculture Organization for securing rural tenures and the outcomes of efforts to build the Global Land Tools Network. The network will concentrate on pro-poor land tools including new tenures.<sup>2</sup> These international efforts will provide significant guidance for transitional countries in due course. Meanwhile, governments need to act to protect land arrangements and reduce uncertainties.

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<sup>2</sup> See UN-Habitat, Global Land Tools Network at [www.gltm.net/](http://www.gltm.net/).

Timor-Leste's incomplete LAS began with the intricate social tenures of its people, protected by village norms and practices (Sumardjono 2004). These informal tenures were not reflected in the law of East Timor under the Portuguese, or under the Indonesians. This is despite the Indonesian land law in the *Basic Agrarian Law, 5/1960 (BAL)* being theoretically constructed on *adat* (traditional) principles. The *hak ulayat*, a 'right' usually translated as a 'right of disposal' and used as a generic reference to traditional social tenures in the archipelago, is mentioned in the *BAL*, but is not recognised as a land right registrable by the National Land Agency. Moreover, the *hak ulayat* is ill defined and inadequate as a source of legal or administrative security for social tenures in Indonesia. The social tenures were not protected by the United Nations Transitional Administration in East Timor's (UNTAET) administrative framework, or by the Government of Timor-Leste's laws on property passed so far: see Table 1. Brief history of land and administration in Timor-Leste.

**Table 1. Brief history of land and administration in Timor-Leste**

Magellan voyage 1522	Beginning of European interest culminating in Portuguese colonisation which lasted until 1975
1515	Portuguese established in Oecussi.
1769	Dili established.
May 1901	Portuguese law made in Lisbon created overseas land concessions by giving title to the state in all land not proved to be based on Portuguese titles. This was the basis of an administrative separation of land controlled by a <i>liurai</i> (roughly translated into 'kings') and land 'without a master' which could become subject of issued land titles called <i>alvara</i> .
1910	Decree requiring transfers of native tenure to be approved by Governor and inappropriate definition of native land as cultivated among indigenous people who used shifting cultivation and hunting.
1912	<i>Liurai</i> opposition brought the Manufahi uprising led by Dom Bonaventura resulting in administration controlling <i>liurai</i> decisions and fragmenting power by recognizing the <i>suco</i> or principedom as the political unit in place of the kingdom.  Portugal considered that it had 'pacified' the eastern section of the Island.
1920-1975	During 450 years of Portuguese rule, 2 709 parcels of land were given to the colonial elites. Land ownership concentrated in five main groups: Catholic Church, the State Agricultural Company ( <i>Sociedade Agricola Partia e Trabalho</i> ), <i>liurai</i> in favour with the administration, an elite of mixed Portuguese and indigenous descent and Chinese-Timorese businesses. Significant dispossession of local people occurred, especially from fertile, arable land.
1942-1944	Japanese occupation in WW II. Estimated 50,000 died.
1975	Declaration of Independence by Fretilin.
1975	Brief war between <i>Uniao Democratica Timorese</i> (UDT) and <i>Frente Revolucionara de Timor Leste</i> (Fretilin), in which central issue is Fretilin's determination to break up the large Portuguese land holdings supported by UDT. <i>Forces Armadas de Liberatacao Nacional de Timor Leste</i> (Falintil) was established in August as the armed wing of Fretilin.
1975	By end of Portuguese occupation, records show 2 709 (or 2 843 in some sources) land titles were issued by the administration, 50% of which were in Dili.
1975	Indonesian invasion and gradual establishment of Indonesian land administration, at least in major settlements. National Land Agency office (BPN) established in Dili.

1975 onwards	Indonesian administration moved indigenous people out of highlands and into coastal areas as a strategy designed to contain the insurgency of Fretilin supporters and other anti-Indonesian groups. It is estimated that most East Timorese experienced forcible removal once in their lives through this process and transmigration policies which brought in people from other islands, particularly Java.
1983	Indonesian administration introduced elections for position of village chief – though outcomes remained controlled by the military or the East Timorese elders. Break down in indigenous patterns of organisation followed.
1991	Indonesia converted remaining Portuguese titles into lesser titles recognised under its <i>Undang Undang Pokok Agraria, Basic Agrarian Law, UU 5/1960</i> .
12 Nov 1991	Santa Cruz Massacre left many dead and wounded.
1998	Council of National Resistance for East Timor (CNRT), the successor of CNRM (Council of Maubere People's National Resistance), was established as political representative of East Timorese people.
1999	By end of the Indonesian 24 year occupation an estimated 44,091 titles were registered in BPN, mostly to non-Timorese. Most of these were in Dili or in transmigration centres of Suai, Liquica and Bobonoro. While the registration process was infected with fraud and the numbers must be discounted, many registrations were obtained by people acting in good faith.
3 June 1999	United Nations Assistance Mission for Timor Leste (UNAMET) was established.
30 August 1999	78.5% of East Timorese voters reject 'autonomy within the Indonesian state', effectively voting for independence.
Post referendum	Indonesian and local militia embarked on process of destruction, including most infrastructure, buildings and materials, and land records (though a land book was eventually recovered). More significantly, many people were killed, injured or disappeared.
25 October 1999	UN security Council Resolution No 1272 established UNTAET which took over the country.
1999	UNTAET regulation 1/1999 set the process for developing self determination of the Timorese people.
1999	UNTAET Land and Property Unit was established to provide temporary administration of land.
1999-2002	Massive people movement occurred through the mayhem and then by their return into remaining ruins and damaged buildings as UN administration tried to create stability. Impact on land use was dramatic and "a new jigsaw of land occupation" began. (Daniel Fitzpatrick on Law Report on Radio National, 13 April 2004). Land claims became a most significant social and economic issue. Given the history, the settlement of claims demanded development of new and inclusive approaches.
20 May 2002	Democratic Republic of Timor-Leste established. The Constitution recognised private property and right of Timorese (not foreigners) to own land. It set two major limitations on private property: that it be used to detriment of its social purpose and acquired by state with compensation and by legal process. (Patrick McAuslan was an advisor.) Natural resources are owned by the State.
20 May 2002	UN Mission of Support in East Timor, UNMISSET, established, to run to 20 May 2004, extended to May 2005 to assist in public administration, law and order and external security.
2002	Government of Timor-Leste established significant policy of using a local decentralized structure to implement community and national development as the focus of national

	development. By then the Land and Property Unit was in the Ministry of Justice and mapping in the Department of Agriculture. The 2002-2003 budget did not provide for land policy and land law development, nor did it provide for handling of disputes and claims. Donor funding was needed to make up the deficiency.
23 Sept 2002	Parliament passed the first law on land. The legal regime on immobile properties reduced the nature and number of land claims. By 11 March 2003, <b>Law 1/2003 <i>Juridical Regime on Immovable Properties</i></b> became effective. Urban and rural buildings were capable of being owned.
27 Sept 2002	Timor-Leste became the 191 <sup>st</sup> nation to become a UN member.
20 May 2004	Completion of second year of Republic. Stabilisation of land remained the key to poverty alleviation and economic stabilization. However new local approaches were invented to off-set the lack of technical capacity in cadastres and land registration systems and to allow the land law to develop in response to local needs and aspirations.
29 Dec 2004	<b>Government Decree-Law 19/2004 <i>Juridical Regime of Property: Official Allocation and Leasing of Private Property of the State.</i></b>
2 Sept 2005	<b>Law 12/2005, <i>Juridical Regime of Real Estate Part II – Leasing between Individuals</i></b> effective.

### Market and non-market land in Timor-Leste

UNTAET's recognition of occupation, developed through the licensing arrangements, created land that is 'market ready', particularly in Dili and provincial towns and which is marketed in informal and increasingly in formal markets. But most of East Timorese land is held in traditional arrangements. In between, land is in transition.

This configuration of market ready, transitional and non-market land is familiar in developing nations. The context creates issues about what tools to use to recognise and protect these traditional arrangements, and how to manage transitions. The assumption is that the standard tools (adapted to suit) are likely to be implemented to service land that is market ready. Meanwhile, Timor-Leste is recognised as having a major problem of land disputes (Fitzparick 2002; Wright 2006). The Government of Timor-Leste removed a considerable number of land claims from the agenda by formal means. The Constitution, in Section 54, allows ownership by citizens but not foreigners which presumably excises claims of Indonesians from the list. The land laws also used a process-based eliminator: a formal system and short time limit for lodgement of claims which will probably prove to be effective, though some question its fairness.

### Preliminary LAS

The Timorese, starting with the UNTAET administration and foreign aid support, meanwhile concentrated on getting their land into a basic LAS using mapping and geospatial information and creating a geodetic network to service spatial accuracy and eventually a cadastre, or large scale parcel map, for high value land. Aerial photographs and coordination of a geospatial information system are also priorities, with an intra-government protocol for administration of map data. The National Directorate of Land and Property in the Ministry of Justice is taking a key role in coordinating these efforts into a national spatial data infrastructure which organises information systematically. These efforts continue so that the Government of Timor-Leste has a rich collection of geospatial information and data, but needs to ensure

much more effort is made to use it (De Sousa 2006). This information does not contain cadastral or parcel boundaries, the principal tool of market based LAS. Nor does their LAS have exhaustive legal description of land rights.

Thus the Government of Timor-Leste must grapple with the problems of legal and administrative recognition of social tenures.

### **What is a social tenure?**

In land administration literature there are four types of tenures:

- Private ownership (commodified land held in individual or other ownership);
- Public ownership (state land);
- Communal land (native title, traditionally held land, common ownership);
- Open access.

Religious land of Islamic and Catholic countries could usefully be added, but these four tenure types generally function to frame the international discourse.

Communal tenures include situations where land is held in some form of non-commodified arrangement by groups. They include indigenous people's uses and non-parcel based tenures where itinerant grazing, collection of tree products and other seasonal or shared uses occur. Communal tenures are even common in Western style systems and form the basis for sharing facilities in high rise developments and retirement villages.

Many communal tenures are based on social norms and not legal systems and are conveniently called social tenures. They have special characteristics because they are created and protected by social norms and depend for their existence on the continuation of the social group. They provide housing and livelihoods for the group and are often associated with intensely held spiritual connections to land. Social tenures are a vital and vibrant form of land holding and derive their capacity to deliver security from the vast variety of social norms governing arrangements used by millions of people around the globe. They can no longer be ignored, whether they operate in urban, rural or forest land (UN-Habitat, Global Land Tools Network; Lee 2006). About four billion out of the world's six billion people do not have full property rights and the majority of them find their land security in some form of social tenure (Deininger 2003).

### **Some general characteristics of social tenures**

The variety of arrangements covered by social tenures makes it difficult to identify characteristics shared by all of them. In general they feature flexible, not definitive, physical boundaries – “as far as I can walk from the village”, “to the point at which one cannot hear the cock crow”, or a vegetation line or ridge. The normative system defining rights and obligations is social and not legal. The uses are frequently layered and complicated, reflecting the historical association of a group of people with their land and their complex social relationships. The cognitive appreciation of the tenure typically emphasises its life giving quality, not its capacity for generating money or capital worth. The idea of land used by the social group typically does not involve seeing the land itself as separate from the things produced and used by people in their daily lives. Hence, talking to them about “selling their land” has a quality of disassociation and frequently leads to fundamental confusion about transaction consequences.

### **Formalisation of social tenures**

No single system for incorporating social tenures into formal LAS is available; and perhaps none is needed. What is needed is a series of tools, like those indicated below, that can be adapted to suit local situations. Of these, the first tool is a method of defining when a social tenure exists for purposes of incorporating it into the formal LAS.

*Group recognition standards* can be framed to suit the local history, which in the case of Timor-Leste must include the substantial movements of people forced into villages from farms by the Indonesian administration during the 25 years of occupation. The idea of a social group, sometimes easily identified and sometimes not, needs to reflect the ways that members of the group recognise themselves.

*Land relationship recognition standards* can be framed to suit the actual relationship of people and land and depend on the physical expression of the tenure in daily lives. The possession of land needs to be framed outside the market-based model of exclusive use, ability to assign, ability to exclude and so on.

*Recognition by others of a group's land* is a major component of any tenure system (UN-Habitat 2003). Given post-conflict situations, this recognition might be parlous and slight, but it should be used as a verifier of a social tenure to the extent it is available.

*Boundaries* are regarded as a feature of any tenure system according to Western tenure models. Once the viewpoint is switched from Western to social tenure models, boundaries lose much of their magic. Their significance for parcel identification needs to be relegated behind the real question of the people-to-land relationships over time. If the relationship is established the social parcel is apparent, whether or not the participants have bothered to refine its boundary in terms of lines on the ground or in a map. Indeed, social parcels can be recognised in a LAS with boundaries left for later determination or even to constant renegotiation according to practices of cooperation among neighbouring groups. General boundaries, used for centuries by English law, provide a useful model for situations where land use has some physical monuments, such as rice paddy levies, or water boundaries.

### **Problems with social tenures**

The major issues with recognition of social tenures need to be addressed. These include the enigma that legalisation and formalisation inevitably replace the social constructs that defined the tenure with the apparatus of the new system. The legal recognition potentially corrupts the social norms. If this is anticipated, the formal processes can assist a positive transition of the social tenure into a protected and secure legal tenure where the social and legal norms are mutually compatible, although this is far from easy.

One feature of legal systems is their slow pace of change. Their inherent inflexibility contrasts with the flexibility of social normative systems. Given that many situations of group or social tenures involve transitions from group economic support to markets in products and labour, flexibility is essential. The vulnerability of social tenures, whether formalised or not, to intrusion by resource-takers also remains an international problem. The common contexts are the aggressive harvesting of forest products through licensed or illegal forestry, or commercial fishing. Unless the

formalisation of the social tenures provides capacity of the group or its leaders to negotiate with resource takers, the viability of the social tenure is uncertain (Dalrymple 2006).

### **Social tenure recognition systems**

While systematic approaches to recognition need reconstruction to fit a local situation, these approaches provide a framework for analysis that frequently helps diagnose the issues to be confronted. One of the most recently proposed systematic approaches is described by Fitzpatrick (2005). The starting point with the Fitzpatrick plan is the collection of information about the existing situation. For example, the observations might be framed as contrasts between social and Western observations, as in Table 2: Contrasts of social and market tenures, below.

**Table 2. Contrasts of social and market tenures**

<b>Typical land feature</b>	<b>Social tenure</b>	<b>Market tenure</b>
<b>Organisation of access</b>	Social system announcing complicated range of social obligations and rights	Legal system announcing legal rights
<b>Disputes</b>	Local system and authority	National and highly formalized system
<b>Starting point</b>	Secure access	Secure rights
<b>Evidence</b>	Observable practices, oral transmission through song-lines, stories	Formal documents and registration
<b>Transitions of land users</b>	Inheritance systems, group membership recognition systems	Transaction systems
<b>Boundary delineations</b>	Unimportant, but observable practical responses including levees, paths, vegetation changes	Formal systems
<b>System type</b>	Local management system	National land administration system
<b>Cognitive capacity</b>	Socially internalized	Market understanding

Observation needs to be careful, without Western property systems in mind. Fitzpatrick's (2005) discussion for legal upgrade of social tenures includes boundary recognition, dispute systems, recognition of possession, recognition of local land management system, or a land commission system such as is used in South Africa, among others. One or other of the solutions found to work in other jurisdictions might prove adaptable to the Timor-Leste situation. But if history means anything, the national solution that eventually appears will very likely be unique and impressive.

### **Hastening slowly, or not at all**

Since its independence, experts have consistently demanded that the Government of Timor-Leste stabilise its land law. By 2002 experts were uninhibited about the problem. "It is clear from the literature and the team's discussions that land disputes

are a major threat to the security of East Timor” (Marquardt et al 2002: 6). Amid this pressure for introduction of formal approaches, others warned about the technical and empirical difficulties (Wright 2004).

By 2006 the Government of Timor-Leste had proceeded with significant deliberateness, if not tardiness. Land laws remain a low priority, though a legal and administrative framework is growing. Land issues are not at the forefront of national problems largely because occupancy is stabilised, despite the apparent legal vacuum. Even consultants who prefer formal approaches noted the special qualities of the Timorese people in relation to land management in the interim between independence and formal land laws:

**Restitution Research and Rule of Law:** The project's research into public opinion regarding land tenure in rural areas, especially regarding land parcels subject to claim by non-residents, revealed a surprising and encouraging appreciation for rule of law throughout the country. The research results indicated that Timorese by and large recognized and respected land ownership claims based on laws even when those laws were promulgated and applied by former regimes. Those same respondents by contrast roundly criticized land claims based on expropriation by force, demonstrating their clear grasp of the distinction between rule of law and rule of men (force). Their willingness to apply rule of law principles even-handedly to non-national claimants reveals a level of legal sophistication not often suspected in rural populations, and presumably reflects their strong desire to live consistently by those principles. (ARD Inc. 2006: 13)

Given East Timorese history and capacity, the hasten slowly approach combined with an informal regularisation of occupation, and community consultations, suits Timor-Leste, a country determined to work out its own destiny in its own way. The space created may well allow groups using social tenures to reconstitute themselves and their relationship to their land.

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## Developing Timor-Leste: The Role of Custom and Tradition

Dr Lisa Palmer<sup>1</sup>

Across the nation of Timor-Leste there has been a resurgence of traditional laws and customs relating to resource use. People are revelling in their freedom to re-institute many practices which were repressed during two and a half decades of violent Indonesian rule (do Amaral de Carvalho and Haburas Foundation, in preparation; D'Andrea et al. 2003; Yoder 2005; McWilliam 2003). One of these customary processes is commonly known in the Tetum language as *tara bandu* – putting an area under ritual prohibition. While this practice was not officially banned during the Indonesian occupation, it was effectively suppressed due to the consequences, potentially fatal, of congregating in large numbers to conduct ceremonies. Since independence, however, *tara bandu* and other such practices have reappeared in many communities across the country. With the support of elements of Timorese civil society, many communities have also begun to make use of the ‘power of spectacle’ to support such activities, with events captured on film and radio by a burgeoning media interest in Timorese cultural traditions (see Palmer and do Amaral de Carvalho 2006).

Timor-Leste is a country with extensive areas of customary land holding and a complex postcolonial land rights environment. The Government of Timor-Leste is currently devising legal and bureaucratic models of land titling and resource use and it is at this stage unclear what recognition will be provided to customary and local structures of owning and managing land and resources (Fitzpatrick and McWilliam 2005). In the struggle to rebuild Timor-Leste’s economy, infrastructure and institutions, the issue of power-sharing and centralisation is increasingly contentious: as starkly highlighted by the 2006 political and security crisis (see Paper 1). With most land and resource management laws as yet unformed, critical issues for debate include the extent to which the national development agenda is allowing spaces for the active involvement of indigenous Timorese traditions, practices and priorities in the governance of the nation.

While the recognition of local customs and traditions has been enshrined in the Timorese Constitution, State administrative regimes, laws and legislation have yet to be enacted to implement such Constitutional commitments.<sup>2</sup> In this paper I draw on fieldwork conducted in Timor-Leste from February to May 2006 and argue that local customs and traditions need to be carefully considered in relation to their potential or otherwise to assist in the ongoing development of systems for effective and sustainable Timorese livelihood.<sup>3</sup>

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<sup>2</sup> Section 2.4 of the Timorese Constitution provides: ‘The State shall recognise customary laws of East Timor, subject to the Constitution and to any legislation dealing specifically with customary law’. Section 6 (g) of that Constitution guarantees: ‘To assert and value the personality and the cultural heritage of the East Timorese people’.

<sup>3</sup> ‘A livelihood comprises the capabilities, assets (including both material and social resources) and activities required for a means of living. A livelihood is sustainable when it can cope with and recover

The reinvigoration or resurgence of custom and tradition in Timor-Leste is often criticized by those who fear that advocacy of such processes is promoting a return to the abuses of a feudal past, wherein local peoples were subservient and beholden to the grace and favour of powerful and frequently corrupt local *liurais* (leaders). While not arguing that such abuses did not occur, I suggest that central to many of these concerns are static understandings of custom and tradition which read only tyranny back onto the past. In contrast I argue, following Gibson-Graham (2005), for an anti-essentialist understanding of such terms,<sup>4</sup> wherein the resurgence of custom and tradition in Timor-Leste is understood according to specific and ever changing, not generalized, historical and present-day events and practices.

When seen in this light, the resurgence of customary laws and traditions in Timor-Leste is not about 'going back' to embrace a past era of feudalism (whatever that might be interpreted to mean), but is about recognizing the ongoing adaptation and dynamism which informs the customary law-making processes at work in people's everyday lives. In such a context change is the only constant variable, with local communities embracing the diversity of circumstances which they encounter and the opportunities to which they are exposed, including more recently an increased familiarity with global discourses such as gender and resource equality, human rights and environmental protection (Molnar 2006; Ospina and Hohe 2002; Tsing 2005). In such processes the possibility of elite capture, corruption and abuse of the customary sector remain, as ever, present and possible, but not inevitable or fixed (see for example Hohe 2002).

Framed analytically through an account of new nation-building, this paper examines a particular instance where the deployment of a globally generated discourse, in this case that of environmental protection, is being reworked by local peoples in Timor-Leste according to the priorities of their own life-worlds. Through this example I discuss also some of the implications for the national development process of a renewed local area interest and participation in customary resource management practices. I argue that rather than waiting for the enactment of central or regional legislation, local people in Timor-Leste are making and remaking their own laws, mobilizing their customary practices and increasingly 'performing' their traditions for a wider audience. In part this process can be read as a way of enticing in outsiders, representatives from national and international civil society and regional and national governments and making them a party to the law-making process.

### **National development**

The centerpiece of Timorese national development is the national plan. With the aim of fostering economic development and poverty reduction the priorities of the national development plan are fivefold: health, education, culture, justice and security (Timor-Leste National Planning Commission 2002). When this research was conducted (February to May 2006) local and regional level leaders had no autonomy or budget

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from stress and shocks and maintain or enhance its capabilities and assets both now and in the future, while not undermining the natural resource' (Department for International Development 2000).

<sup>4</sup> In such a reading the notion of feudalism for example is understood primarily through its 'emptiness as merely nomenclature' (Gibson-Graham 2005: 41). Empty that is 'until filled with meaning' (Gibson-Graham 2005: 41) by the specific constitutive contexts and agendas through which it is deployed.

of their own to implement this plan and remained largely passive recipients of policies and programs put in place by central government departments. Despite the rhetoric and promises of imminent decentralization, the task of district officials was simply to collect and feed information to central government that may be useful in implementing the goals of the national plan.<sup>5</sup>

Interestingly, in relation to land, resources and economic development, one of the ways that local peoples have been able to circumvent the grip of a centrist state approach to national development is by activating their interest in nature and conservation. As Tsing has written, in a different context in Indonesia:

[I]n the 1980s and 1990s, Indonesian activists built something rather exciting under the banner of environmentalism. This was a time of state repression. The environment was one of the few topics open for critical discussion. Environmentalism cleared the way for other movements in the 1990s, blossoming into human rights and labor concerns, as they became possible' (2005: 216).

While in the context of Timor-Leste state repression is not the issue, it is the case that the banner of environmentalism is seen as a legitimate means through which local peoples have been able to insert themselves and their customary laws into national debates. The Timorese government's own motivation to address issues of deforestation and natural resources management (see below) means that local appeals to environmental management carry immediate political currency. This concurs with the work of Tsing (2005) who has argued that there is a powerful inter-scalar collaborative potential embedded in concepts such as nature and biodiversity protection.

Across Timor there is widespread civil society and governmental interest in environmental protection. Relevant government departments are currently engaged in biodiversity surveys and the new nation is seeking to become a signatory to the Convention on Biological Diversity. It has already made plans to institute a network of national parks across the country and issues such as deforestation, land degradation and environmental protection have a relatively high profile within the national policy context (McWilliam 2003). In Timor-Leste, as in other parts of the world, local community leaders have recognized the use-value of such 'engaged universals' as the concept of nature (Tsing 2005) and are now actively seeking to engage with others in conversations about 'nature' and its protection whilst, as this paper demonstrates, simultaneously aiming to embed such concepts firmly within a framework of local jurisdiction and authority.

Here I examine one instance in which local leaders have successfully deployed and reworked the concept of 'nature' and 'environmental protection' in order to engage others in their own priorities.

### **A ritual response to poverty alleviation**

The widespread resurgence of *tara bandu* practices discussed above is an example of local peoples having been able to tap into the environmental concern prevalent in

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<sup>5</sup> Decentralisation is also enshrined in the Timorese Constitution. Section 5.1 states: 'On matters of territorial organisation, the State shall respect the principle of decentralisation of public administration'. At the time of writing the Timorese government is actively addressing the process of decentralization through the development of a 'Local Governance Support Programme' (United Nations Development Programme 2006).

global discourse and at the same time pursue their own development visions and aspirations. Yet whilst they are able to attract support for such environmentally friendly activities from the government and civil society, *tara bandu* is, for local communities, as much about the management of people's behaviours and local governance systems as it is about environmental management (Comissao Justica e Paz Parroquia Viqueque 2005).

To demonstrate this point, here I discuss a recent community initiative in the mountainous and coffee rich but poverty stricken Ermera district in Timor's western highlands. In April 2006 Haberan Kapasidadi ba Dezinvolvmentu (HaKDea), a student-based non-government organisation (NGO) from the Ermera district capital, approached the leaders from local *sucos* (villages) with the idea of reinvigorating local customary *tara bandu* practices in order to tackle timber felling and other natural resource management issues in the region. The local leadership from all 52 *sucos* in the district agreed to participate in the initiative, yet they also made it clear they had other purposes in mind for the undertaking.

Central reasons for the alarmingly high rates of poverty in the region are widespread chronic illiteracy and poor school attendance. While the region is relatively rich in coffee, excess wealth has traditionally been allocated to fulfilling the elaborate ritual obligations associated with harvests and life-cycle rituals. Such a focus leaves little available income to cover other necessary expenditures, particularly children's educational costs. In Ducurai, the first *suco* to undertake HaKDea's *tara bandu* initiative, local leaders decided to use their customary ritual prohibition laws to shepherd in a ritually sanctioned reduction in the exchange of goods and offerings associated with these ceremonies and customary exchanges. This included a five year ban on the elaborate ritual offerings associated with *estilo* (crop harvests) and a reduction in the currently onerous levels of dowry exchange between *omane* (wife giver) and *fetosan* (wife taker) groups across the full spectrum of life-cycle ceremonies. Other aspects of the *tara bandu* involved prohibitions on pre-marital sex, cutting young trees, burning the land, obligations to respect each other's fields and seeking permission before taking crops which belong to others.

Under the banner of a nature protection initiative, the community and their NGO collaborators invited an array of government officials, church clergy and the national media to a two-day ceremony. Here the law was danced, sung and, for the first time, even signed with a formal agreement<sup>6</sup> designed for the occasion by HaKDea. Both the government's participation in the event and the agreement itself were small steps forward in encouraging the government to implement the, as yet, largely dormant recognition of customary law in the Timorese constitution. For their part the local community were also taking the lead in implementing one of the national development plan's central objectives – poverty reduction. Although the Secretary of State for Youth and Culture, the highest ranking central government representative who attended the event, stated that he was not authorised to sign such an agreement, he did commend the initiative, particularly as it related to the implementation of the national development plan. While the local sub-district administrator did sign the agreement (along with an array of local community representatives), he did so on the proviso that the responsibility for the

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<sup>6</sup> *Lei Tara Bandu Suco Ducurai*, 25 April 2006.

implementation of the *tara bandu* prohibitions lay with the Ducurai community. Governmental fear at losing control over the development process was palpable.

The stated community aims of the *tara bandu* were to revitalise culture, protect the environment, improve education and health outcomes and decrease the burden/abuse of customary laws. In relation to the latter, people in the Ermera area have complained that some have abused the *fetosan/omane* tradition by asking for too much in the customary exchanges between these groups during *lia mate* (death-related ceremonies) and *lia moris* (life-related ceremonies). This *tara bandu* was effectively a case of tradition being used to manage its own excesses. It was also an especially significant event as it involved nine villages, whose residents participated in, witnessed and legitimised by their presence the *tara bandu* law-making process. Such widespread local participation also bodes well for the implementation of the *tara bandu*.<sup>7</sup> Local leaders have stated that if after five years there is little visible socio-economic benefit, further measures will be taken. HaKDea now has plans to facilitate similar ceremonies in all 52 *sucos* in Ermera.

## Conclusion

Accounts such as this draw on activities and views carried out and expressed from the margins – places where extant customary resource management processes are being reinvigorated to manage local environments and also, as we have seen here, to contribute to national development priorities. This example points to the potential importance in the pursuit of the ‘development enterprise’ of the existing governance and exchange capacities which are embedded in local customary institutions. Of course questions remain as to how these customary institutions might be better supported to extend their range of political and economic credibility (and adapt to other demands such as gender and resource equity). A failure to engage the strengths and import of these local customary institutions would appear to sideline a potentially strong ally in the implementation of Timor-Leste’s national development objectives. Alongside the resurgence of the local and/or the indigenous voices worldwide (Niezen 2003; Li 2003), in the politics of capacity in Timor-Leste there are voices from the margins demanding to be heard and, indeed, intervening at a variety of scales. Rather than a romantic return to a bygone or even feudal era, it is about local peoples embracing change and opportunity, such as that which is offered by an international discourse of nature conservation, on terms in which they themselves have an active decision-making role.

## Acknowledgements

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<sup>7</sup> The Haburas Foundation, one of Timor-Leste’s leading environmental NGOs and a participant in the Ducurai *tara bandu* ceremony was invited by the local leadership to return to Ducurai in April 2006 in order to undertake an evaluation of the implementation of the *tara bandu* commitments.

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## The Reassertion of Customary Practices in Timor-Leste and the Implications for Traditional Handcrafts Production

*Dr. Sara Niner*

In 2006 the new nation of Timor-Leste was in turmoil. After its hard won independence in 1999, formally declared in 2002, the process of national reconstruction was shattered by bitter internal conflict and a profound loss of faith in the direction of the political leadership. The conflicts and rivalries in Timorese society are multifarious but in 2006 they combined to create a crisis that saw approximately 100 000 persons internally displaced and development possibly set back to 1999 levels. Inherent in this crisis was a tension between the introduction of modernising development and democracy aided by new elites and the strong traditional Timorese power hierarchies and social organization. In these troubled times it is important to increase our understanding of the complex processes entailed in the reconstruction of political identity, gender dynamics, culture and community in this traumatised post-conflict society.

A growing body of research on Timor-Leste suggests a significant revitalisation or re-assertion of customary practices across various sectors, which includes political systems (Hohe 2002), reproduction of social organization (McWilliam 2005), reconciliation (Babo-Soares 2004) and local justice (Graydon 2005). All these articles provide clear evidence of the strength of customary practices and traditional beliefs in the majority of the population in Timor-Leste. Although these articles discuss different issues or elements in Timor-Leste today, they all refer back to a similar holistic indigenous worldview. McWilliam attributes this revitalisation to national independence and a more assertive 'cultural identity politics' (McWilliam 2005: 29).

All refer to attempts since 1999, introduced either by international authorities (primarily the United Nations (UN) and its agencies) or political elites in Timor, to impose 'other' or modern Western systems of organization. There appears to be a gaping disconnection between these modern or Western systems and 'traditional' – local or indigenous – ones, meaning many of these attempts have failed or have had unintended results unless, as Hohe argues, they somehow co-opted the traditional systems. This disconnection has divided rural from city, educated from uneducated, employed from unemployed, illiterate from literate and traditional from modern. Such fault-lines became even more pronounced during the violent breakdown of security and civil society. While these failures contributed to the 2006 crisis the reasons for the crisis are many and beyond the scope of this paper (see Annexure A). Suffice it to say there is a sense that during the crisis modern democratic institutions and procedures were either dysfunctional or were bypassed and reliance placed upon previously existing networks, power hierarchies and alliance systems.

Hohe (2002), Babo-Soares (2004), McWilliam (2005) and Graydon (2005) all describe a system of indigenous belief, social organization and customary practices that have survived both Portuguese colonialism and Indonesian occupation. In fact McWilliam argues that while such oppression and restriction has destroyed parts of this traditional political order it has also served to strengthen the underlying beliefs and particularly the 'organic familial bonds'. All of the above four writers are optimistic and admiring of the resilience and strength of indigenous systems to re-

constitute communities in the face of adversity and all offer descriptions of how this could productively serve the modern nation of Timor-Leste. It appears to be a reasonable assumption that the surviving culture will provide a significant contribution to the rebuilding of the new nation and its recovery from its tragic history. It is critical to take this deeper perspective on events in Timor and consider how this rebuilding and recovery may be occurring. In examining this process I have turned to the above four writers in the hope that their research will shed some light on current events.

A second motive in the analysis of these four research projects (Hohe 2002; Babo-Soares 2004; McWilliam 2005; Graydon 2005) is their implications for my own proposed research. I hope to investigate what could be a similar trend in the field of women's work. It seems that the plethora of women's co-operatives that have emerged since 1999 (many with the aim of producing traditional handcrafts and continuing the customary practices surrounding such production) also rely on indigenous forms of organising. I will return to these ideas again later.

The four writers support common assumptions about an indigenous worldview, the three most prominent being: a cosmic unity philosophy, the kinship and alliance system and the primacy of localised systems.

### **Cosmic unity philosophy**

A central concept described by the above authors and in other anthropological texts on Timor (Fox 1980; Traube 1986) is the aim for cosmic unity and balance. Babo-Soares (2004) describes two worlds that must be kept in balance: the physical, living or real world and the non-physical, made up of history, myth, ritual, ancestors and spirits. Babo-Soares describes the aim of reconciliation or *Nahe Biti* (stretching the mat) as consensus between the parties but also between these two worlds. This dual-level consensus is aimed at social stability, peace, tranquility and honesty. In Timor, he explains, reconciliation means consensus (rather than justice per se) aimed at harmony and stability.

Hohe (2002) demonstrates how this concept of unity affected the outcome of the 2001 elections. She argues that when the Timorese voted in the first free and fair democratic election most were not selecting a political platform or ideology or set of policies, as is expected in a democratic election. She declares that a multi-party system was in direct opposition to traditional beliefs (such as that described here) and in fact, for most, the idea of parties opposing one another at an abstract level was incomprehensible and shocking. People instead voted out of loyalty to the past. The party who represented the past most strongly was *Frente Revolucionária de Timor-Leste Independente* (the Revolutionary Front for an Independent East Timor) (Fretilin) with its central place in the Timorese independence movement. There was a strong sentiment expressed during the election that everyone must "walk one way" and vote in unified manner; Fretilin further benefited from this belief and used it to their advantage. Hohe calls the 2001 Election a "totem" poll meaning voters "expressed their honour and respect towards their history and cultural values" (Hohe 2002: 83). She cites respect to the martyred resistance fighters and to the warrior-ancestor tradition they are seen as part of. Within these traditions seniority equates to superiority which Fretilin also used to their advantage by describing new parties as still "breast-sucking". Hohe argues the Fretilin victory and belief in a unified political

system has resulted in a virtual one party state. This issue is central to current problems.

Graydon (2005) finds that a diverse range of traditional justice systems have common traits (such as moral authority; oral and public proceedings; mediation and arbitration; punishment and compensation) but all are based on a belief that a breach of social or community order also trespasses on the ancestral social order. This breach creates an imbalance in the cosmic order which unless rectified can lead to disaster. As well as settling the community dispute the processes of traditional justice also has the dual aim of rectifying this cosmic imbalance.

### **Kinship and alliances**

Much of the above literature also refers to the strength of kinship and alliances built by marriage and this is a strong focus of McWilliam's (2005) paper. He notes that the focal ritual or sacred houses burnt in 1999 are now being rebuilt. He describes the cultural significance of these houses as repositories of knowledge representing the moral order of society. Houses represent the social hierarchies of ancestry, of origin and descent which define marriage systems and forms of ritual exchange that reproduce Timorese society, including patterns of political leadership and power. Clandestine resistance structures were based on house-based affiliations of trust and obligation between descendents and affinal allies.

### **Importance of local systems**

Hohe (2002) finds that before the election most in Timor were more interested in leadership at the local rather than at the national level. McWilliam (2005) too, states that national level governance was almost irrelevant to most in Timor. Babo-Soares (2004) finds that formal reconciliation in the realm of national or elite level politics has failed and it was local level reconciliation that has been successful through an inventive adaptation of traditional practices concerned with process rather than outcomes.

All of the above four writers recommend constructive solutions based in or mobilising parts of the local indigenous systems. Hohe (2002) for instance, believes that in the 2001 election the people of Timor were given a choice but, as it was based on assumptions of a foreign system, the desired result was not achieved. Her recommendation is not the imposition of elections in the short-term but long-term nation-building.

McWilliam (2005) argues that while a formal role might be rejected for traditional leaders, customary relationships and beliefs could not be treated in the same way. He asks how to constructively integrate elements of the enduring house-based nature of Timorese society with the new national and local politics and economy. He gives two examples of this already happening: the World Bank funded Community Empowerment Program which includes the democratic election of both male and female representatives and secondly, instances of communities democratically electing individuals who hold traditionally inherited rights of leadership. McWilliam advocates supporting or mobilising 'traditional' practices and relationships rather than marginalising them in favour of some external system of idealised political process. A practical recommendation is that a more formal system

of local governance and administration needs to be strengthened for the purpose of nation building.

Babo-Soares (2004) offers detailed description of how local-level reconciliation ceremonies work in communities. He believes using these methods would encourage even more refugees to return from Indonesia (this paper was presumably written around 2000 when many refugees remained in West Timor following the post-ballot violence). He offers a solution to internal reconciliation and how this can be implemented within existing state law so as to recover and re-establish the devastated social order using familiar customary practices.

Due to the failure of the UN-established Western justice system, Graydon also recommends the continued use of local systems but with a creative 'cultural transformation' (Graydon 2005: 68). This transformation is required to address issues of inherent bias and accommodate the modern concept of equality, primarily based on a more gender sensitive model. In her view culture is dynamic, responds to social change, and undergoes transformation over time, especially during a post-conflict period. She believes that the indigenous system is open to questioning and reform and that there is a national mood conducive to change. She gives the example of the local village and hamlet elections. Also during her field-trips she found local justice leaders open to engagement in debate and training around human rights and that they craved the opportunity to talk with each other and government on how to best fulfill their roles.

### **The production of traditional textiles**

The revitalisation of customary practices also appears to be true for the traditional production of handcrafts and textiles and the organizational structures and practices that surround it. Since 1999 many women's co-operatives have formed or reformed representing the efforts of women to rebuild their communities. It has been demonstrated in other parts of the world that women play an influential role through their work in grassroots organizations, such as these co-operatives, to build a new culture of peace and prosperity in post-conflict societies (Sorenson, 1998; Centre for Conflict and Post-Conflict Studies, Asia-Pacific 2002). The obvious aim of many of these groups in Timor-Leste is economic development and creating livelihoods for their members by producing handcrafts and textiles for sale. This is crucial in the midst of extreme poverty that affects most in Timor-Leste. Yet recent evidence suggests that the primary reason for weaving is not economic, but social and cultural (Alola Foundation and Oxfam-GB<sup>2005</sup>). In a recent newsletter the Alola Foundation reported that amidst the recent political crisis women fled to camps for internally displaced people (IDP) with their looms and continued to weave (Alola Foundation 2006). Not only does this act of saving the "means of production"<sup>1</sup> demonstrate the economic importance of these practices but also its central cultural and social significance.

### **Customary practices surrounding textiles**

Textiles and other handcrafts are an invaluable expression of traditional knowledge and East Timorese culture. The designs and techniques to produce textiles have been

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<sup>1</sup> As per Karl Marx, Capital, Vol. 1, Part III, ch 7: *The Labour Process and the Process of Producing Surplus Value*. (First published 1867).

handed down matrilineal lines recording a woven narration of the culture, lore, paradigms and stories of Timor-Leste's history. There are strict rules about ownership of patterns, styles and knowledge based on inheritance and social status (Forshee, 2001). The weaving, wearing and use of the textiles are essential to the Timorese sense of being and was a way of asserting their difference during Indonesian occupation (Cristalis and Scott 2005). Women appear enthusiastic to utilize these skills and to pass the knowledge on to future generations (Alola Foundation 2002; Niner 2002, 2003). Much more research needs to be done to explore the revitalisation and importance of customary practices surrounding weaving and its modern significance in the reinscribing of tradition, community life and contemporary society.

### **Healing Trauma & Community**

I have observed that the carrying out of these complex crafts provides a familiar and meaningful structure around which a community renews itself and has been part of the efforts of women to overcome the tragedies of the past. After the trauma of recent history craft has provided a sense of continuity with the past and fostered a pride in traditional ways. There is some evidence that craft activities assisted many women during the occupation and especially after the 1999 emergency phase, to cope with emotional trauma and to bring some type of normalcy to day-to-day living (Alola Foundation and Oxfam 2002).

### **Co-operative Structure: traditional or modern?**

While the co-operatives appear to draw on traditional ways of organising based on family alliances, leadership and locations, there are also influences based on more modern women's organizations. Some of these organizations were created in the early 1970s in response to political independence and resistance (such as *Organização Mulher Timorese* (National Women's Organization), associated with *Conselho Nacional da Resistência Maubere* (National Council of Maubere Resistance)/*Conselho Nacional da Resistência Timorese* (National Council of Timorese Resistance) and *Organização Popular Mulher Timorese* (Popular National Women's Organization) associated with Fretilin) although we must also realise that these organizations were also often based on pre-existing structures. They functioned under the Indonesian occupation and did much to assist the independence movement – a matter of pride for many women.

While international organizations have insisted on Western gender policies in programs they fund, much of these policies have been top-down and had little effect on the every day lives of men and women in Timor-Leste. It would be interesting to not only investigate the role of these women's organizations and activities and how they support their members but also the importance of these types of cultural practices for women in the renegotiation of identity, gender roles, status and power in a post-conflict situation. For instance if traditional elites have a monopoly on patterns and styles as they do in other weaving cultures how does this affect production by others? Have these practices undergone change? It is also important for institutions assisting these co-operatives to understand how these organizations are structured and what inherent power hierarchies exist. The effect also of work and business practices on the producer's lives should be understood.

### **Conclusion: disconnection between modern and traditional society**

There is a disconnection between modern and traditional culture in the new nation of Timor-Leste which has had a significant impact on the new nation and has contributed to the current crisis. Some harmony and balance must be found in the interaction between traditional and modern systems: political, economic, judicial and social. There have been many suggestions across the different sectors for improving the situation but it is unknown if there is the political will to tackle the issues.

On 4 August 2006 the new Prime Minister Jose Ramos Horta “acknowledged that the State institutions are young and therefore the government is conscious that it must work with institutions like the Church and customary authorities”, He intends to hold discussions with “heads of villages to mobilize the society towards the development process” (Suara Timor Lorosae Newspaper 2006).

An interesting conclusion to these ideas is the solution to the crisis recently advocated by prominent young activist Josh Trindade to Ramos Horta. In a very public letter to the President he writes:

[T]he constitution alone is not good enough to unite the people. In fact many still don't know what is exactly stated in the constitution and the purpose of why it exists. Many East Timorese see the constitution as a means to defend the interests of an elite few, just like in Indonesian and Portuguese times. The constitution is too foreign for a common East Timorese person to understand. It is a tool of alienation for most East Timorese and does not reflect the needs of the people.

The other divisive factor that I feel is contributing to people's discontent is that, the foundations for East Timor to form a solid, national, post-independence identity have not yet been laid. The country has no spirit or soul. The country is a stand-alone thing with no values or principals attached to it. The country is like a walking corpse; alive, yet inanimate. So far, we have been building the country by imitating values and beliefs from other countries without taking into consideration to our local traditions and culture. We don't yet have a base to put our nation on. (Public letter from Josh Trindade to the Prime Minister, August 2006).

Trindade's solution is a *Juramentu*, a national traditional ceremony and oath-swearing reuniting the thirteen sacred houses that make up Timor. This, along with a plethora of other measures that are being put in place in Timor currently, are the start of recovering from the 2006 crisis. Women's work, their co-operatives and their traditional practices also deserve a place in this process of recovery.

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## Challenges to Sustainable Police-Building: the Development of the Polícia Nacional Timor-Leste

*Bu V.E. Wilson*

As the new United Nations Integrated Mission in Timor Leste (UNMIT) launches into the rebuilding the national police force it is important to consider lessons learned from other police-building experiences and from UNTAET's experience of creating the Timor-Leste Police Force (PNTL) in 2000. UNTAET made a number of significant mistakes, as did the Timor-Leste government, which contributed to the development of a politicized force. An important lesson from global police-building experiences is the necessity to take local context into account. However, there may also be difficulties in dealing with local agendas in highly politicized environments. In Timor-Leste there are particular issues that need to be understood. A key issue is that the centralized state has generally had little relevance to the day-to-day life of the largely rural population. Additionally, frameworks for understanding what is right and wrong differ significantly from those inherent in 'modern' legislature. External police interventions need to consider the realities of life beyond the capital and seek to understand and engage with broader security issues.

### Introduction

For the second time in six years the United Nations (UN) in Timor-Leste is engaged in the process of (re)building a national police force<sup>1</sup>. This followed the dramatic and bloody events of April and May 2006 when the leadership of the Polícia Nacional Timor-Leste (PNTL) deserted their posts, the Minister of the Interior is alleged to have distributed weapons to civilians, clashes between the Falintil - Forças Armadas de Defesa de Timor-Leste (F-FDTL)<sup>2</sup> and the PNTL resulted in the deaths of a significant number of PNTL, and PNTL fractured along factional lines (UN 2006). At the request of the Timor-Leste Government an international intervention force of both police and military arrived to maintain law and order in May 2006, followed by a new UN Mission in August 2006.

The new United Nations Integrated Mission in Timor-Leste (UNMIT)<sup>3</sup> has a mandate that includes "the restoration and maintenance of public security", assisting the Timor-Leste Government with "the further training, institutional development and strengthening of the PNTL as well as the Ministry of the Interior", and assisting the Timor-Leste Government to conduct "a comprehensive review of the future role and needs of the security sector, including the ... FDTL, the Ministry of Defence, the PNTL and the Ministry of the Interior" (UN Security Council 2006).

The crisis unfolded quickly, resulting in widespread unrest in the capital, and the internal displacement of some 150 000 people. Although the form of the crisis had

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<sup>1</sup> On this occasion the United Nations Integrated Mission in Timor-Leste (UNMIT) is working together with the Government of Timor-Leste (RDTL). During the UNTAET period it was initially a UN responsibility that was later supported by bilateral assistance.

<sup>2</sup> F-FDTL is the Timor-Leste military, often referred to in an abbreviated form - FDTL

<sup>3</sup> UNMIT was established by Security Council Resolution 1704 of 25 August 2006.

not been anticipated, institutional weaknesses in both the PNTL and F-FDTL and their respective Ministries had been matters of concern for some time. In these circumstances it is timely to look at the sustainability of externally assisted police development in Timor-Leste.<sup>4</sup> As the process starts for a second time it is important to ask the question “Did we learn anything the last time around?”

This paper will provide a very abbreviated review of the development of the PNTL, place it in the global context of post-conflict police-building under international auspices, and examine some challenges specific to the Timor-Leste context.

### **Global post-conflict police-building challenges**

The attempt to build a post-conflict police force in Timor-Leste occurs against a backdrop of similar processes happening in many other countries and it is useful to examine the difficulties in this process that have been observed in other situations.

However, establishing whether a police-building or reform project has actually been successful is a complex undertaking. The difficulties include the diverse and comparatively recent approaches being trialed, the long time frames one needs to assess the success of the process and lack of agreement on what exactly one is trying to attain or when it is that one has “arrived” (Bayley 2005).

Also, the success of any such process will depend as much, or probably more, on the broader nation-building “project” as well as the success or otherwise in addressing key economic and social issues and underlying political divisions. Separating out the effect of a specific police-building project and determining whether the success was due to, or even in spite of, external assistance remains a monitoring and evaluation challenge (Bayley 2005).

Other authors elaborate on lessons learned, including the need to understand the slow pace of reform that involves transforming fundamental power relations, that the exercise is more than a matter of technical input and equipment, the need to focus on institutional and management capacity as well as personnel development and the importance of creating and resourcing independent oversight mechanisms (O'Neill 2005; Rees 2006). Some analysts argue there are particular issues when building police forces in the context of ongoing peacekeeping missions; highlighting inadequate attention to demobilisation and reintegration issues, the problem with viewing development of local security forces as an endpoint rather than something to be integrated into a peacekeeping mission from the outset, the rapid transfer from foreign to indigenous public security management and lack of focus on overarching security policy, management and oversight structures (Rees 2005; Rees 2006). There are nearly always difficulties coordinating different donor's assistance with varying approaches, mandates and, not uncommonly, hostility and suspicion towards each other's efforts (Mobekk 2005).

Increasingly attention is being paid to the foreigners who are charged with carrying out the reform or the assistance. In cases where the assistance to develop or

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<sup>4</sup> Some matters in this paper have been updated since it was presented at the University of Melbourne Roundtable Discussion Exploring the Tensions of Nation Building in Timor Leste on 15 September 2006 to take into account the subsequent release of the Report of the United Nations Independent Special Commission of Inquiry in October 2006.

reform a local police force is happening at the same time as a peacekeeping mission, it has been noted that both the skills-sets and the time-frames required for these two tasks can be very different. The rapid turnover of international advisers, trainers and mentors mean that important trust relationships have little chance to develop and that the advisers never gain an adequate appreciation of the local context (Call 2003; Mobekk 2005). The difficulty of getting foreigners to think beyond replicating what they know from Washington, Sydney, Lisbon or Suva remains a challenge. The lack of regular debriefing of personnel upon return from overseas means that donor organisations are not demonstrating a commitment to learning as they go (Bayley 2005). The need for better briefing, training and preparation of staff to be deployed overseas and the need to have a section of deploying organisations devoted to this matter, or to have staff dedicated to this task, has begun to be appreciated both internationally and in Australia (Panel on United Nations Peace Operations 2000; Wainwright 2004)

However, it is still the case that the planning and implementation of these programs will be undertaken by many who lack experience either in the particular country or region or in the principles of development assistance (Dinnen 2003). It is arguable that police reform is far too important to be left to police experts, but must involve area specialists, social scientists and historians, with time allocated for collection and analysis of information about the traditions and practices of the police as well as about society more broadly (Bayley 2005). The shortage of police on the ground in donor countries is believed to mean that the most suited personnel can often not be chosen. In the case of the UN, widely differing backgrounds among the United Nations Civilian Police (CIVPOL) contingents has meant a lack of coherence in approaches to policing or police training (Hood 2006).

The need for police reforms to be accompanied by development of other related arms of government such as the courts, the prosecution service, the prisons as well as relevant ministries and the parliament is often stressed in a security sector approach or a whole-of-government approach (Cawthra and Luckham 2003; Mobekk 2005). The need to clearly separate the roles of the police and military to ensure stability has been stressed (Rees 2004).

### **Engaging with the local**

Almost universally, the importance of paying attention to the local context is listed by analysts as being of paramount concern in attempts to explicate generic lessons learnt. The record of transplanting models from one context to the other has tended to be problematic. Various authors stress the importance of local ownership of the process, understanding the history of the conflict, paying attention to the balance of ethnic groups in the current or proposed police force, ensuring that structures will be economically sustainable, the need for cooperation with local leaders, or advocating a country specific approach (see e.g. Sismanidis 1997; Bayley 2005; Mobekk 2005; Organisation for Economic Co-operation and Development (OECD) 2005).

However, some authors note that sections of existing government or security services may have a vested interest in not reforming or democratising their security forces, or keeping formal structures contradictory or vague (Scheye and Peake 2005; Rees 2006). Moreover, even where members of the recipient country are involved in designing the process or program they will inevitably draw on foreign models and experiences. This is problematic as relatively few successful models of policing exist

anywhere and furthermore the models with which the recipient countries are most familiar will frequently be those of a former colonising power or authoritarian regime. Often these will not be underpinned by a commitment to human rights or citizen service (Call 2003). The pitfalls and difficulties of dealing with local agendas in an often highly politicised environment that are anything but homogenous, and the accompanying danger of being “captured” by a particular faction during early attempts to understand a complex situation have been noted (Rees 2002).

Whereas all the above issues impacting on sustainability of a police-building process are drawn from global concerns, there are additional factors specific to Timor-Leste that need to be understood to ensure that “paying attention to the local” is a meaningful refrain. Timor-Leste has only recently become an independent state, following a brutal occupation that has conditioned people’s ideas of appropriate conduct for police. Despite much state-building activity at the centre, the population is predominantly rural, and still relies on enduring local authority structures. Traditional frameworks for understanding right and wrong are often at odds with the ostensibly “modern” legislative framework. Throughout all strata of society people’s local identifications remain important and are an influence on national level politics (Bennett 2002; Hohe and Nixon 2003; Kabutaulaka 2005; McLeod and Dinnen 2006).

The general lesson that inherited or transferred institutions often do not transplant well has particular relevance in societies where the centralised state, and its abstractions of legal order, in pre-independence times as well as the present, often has had little relevance to the day-to-day life of the population (Hegarty, May et al. 2004). It may be possible to create a quasi-functioning state that is able to restore law and order and serve the interests of the intervening forces, but it often does not address the underlying causes of civil unrest, nor can it build long-term peace. Almost invariably such external interventions do not engage extensively with the realities of existence outside the national capital, and can be characterised by a failure to engage with non-state or sub-national actors. Consequently the social foundations of such new institutions are markedly absent, with serious consequences for the sustainability, legitimacy and effectiveness of those organisations. (Lawrence 1969; Dinnen 2000; Dinnen 2003; Hohe 2003; Hohe and Nixon 2003; Kabutaulaka 2005; Nixon 2006).

### **Development of Polícia Nacional Timor-Leste**

In Timor-Leste the creation of the Police Force was commenced by the United Nations Transitional Administration in East Timor (UNTAET) in early 2000, with the first class of recruits starting in March that year (Hood 2006). An initial period of police development under the auspices of the UN was followed by a shift to a bilateral development program primarily under Australian auspices<sup>5</sup> with continued input from the UN.

Although the establishment of an indigenous police force formed an explicit part of the responsibilities of the UNTAET administration the process was slow to get started, poorly planned and resourced and overwhelmingly failed to pay attention to the local context. No CIVPOL were specifically allocated to this task until mid 2000

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<sup>5</sup> The Australian program is known as the Timor-Leste Police Development Program (TLPDP) and is a cooperative venture between the Australian Federal Police, AusAID and an Australian Managing Contractor. Some specialized units of PNTL were being trained by the Portuguese special forces. Following the crisis of April/May 2006 the TLPDP program was suspended until further notice.

and no staff recruited for the task of training or capacity-building. A lack of consultation on the process of recruitment resulted in a decision to include 350 former officers of the Indonesian police, primarily from the western part of the country. This laid the foundations for a deeply factionalised force and severe animosity between the PNTL and the FDTL. Poor recruitment decisions for both PNTL and army that did not take account of local political realities are widely believed to have sparked the beginning of the widespread violence and subsequent fractures within the PNTL (Hood 2006).

New police recruits were given only three months of formal training,<sup>6</sup> followed by field training of six months which was the responsibility of CIVPOL officers on the ground and was characterised by a lack of coherent strategy and dependent on the quality and approach of the CIVPOL in any particular district. The majority of police received no training on the laws they were expected to uphold and little training in human rights. The highly inadequate nature of recruitment and training during this period was compounded by an almost complete failure to address institution-building. By late 2002 concerns about the lack of progress with the development of the force led to a Joint Assessment Mission (JAM) that was not well supported by the UN Police Commissioner, poorly resourced by CIVPOL and had almost no East Timorese involvement. The highly critical report resulted in what can only be described as half-hearted, feeble and uncoordinated responses from the United Nations Mission of Support in East Timor (UNMISSET). This eventually gave the impetus for Australia and the United Kingdom to begin to design what became the Timor-Leste Police Development Program under Australian auspices (JAM 2003; Graydon 2004; Rees 2004; Hood 2006).

Significant mistakes were made by UNTAET in establishing the PNTL. However, the Timor-Leste Government further contributed to the poor record of the PNTL through politicisation of the security forces, the failure to develop critical policy and legislation, and the rumoured creation of shadow forces. Similarly, the arbitrary and violent ways in which the security forces conducted themselves lead to a lack of confidence in centralised institutions (Amnesty International 2003; Mobekk 2003; Human Rights Watch 2006; ABC News online 2006).

### **Challenges in rebuilding the police force**

Although the international police under UN auspices has now taken executive policing responsibility in Timor-Leste, security still remains uncertain in the capital. Significantly, the perception of lack of security is important in that it is preventing tens of thousands of people having the confidence to leave the internally displaced camps throughout Dili, and return home. There are pressing security imperatives that cannot be addressed solely by development of policing. However, in order for those police-building initiatives to be successful they will need to engage with and understand the broader security issues at stake. There is a need to understand that law and order are not synonymous with peace and security; that the former is comparatively easy and the latter quite difficult, multifaceted and, by definition, requires the engagement of a far broader range of actors than external police assistance is conventionally comfortable with (Powles 2006). The extent of violence

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<sup>6</sup> Former Indonesian era police were given only four weeks formal training.

and insecurity that has been witnessed in Timor-Leste requires a major and ongoing commitment to peace-building.

### ***Coordination and political will***

The coordination and respective responsibilities for police-building between the UN, any bilateral providers and the Timorese Government need to be determined early on. Arguably all of these actors previously made critical mistakes and it is hoped that those previous efforts can be evaluated before embarking on similar processes.

### ***Culture of impunity***

The failure to deal with criminal activity in the current context extends the culture of impunity in Timor-Leste. Historically, people are aware of the lack of progress in the Special Panels for Serious Crimes (SPSC)<sup>7</sup> (see e.g. Judicial System Monitoring Program 2005; Cohen 2006). There has also been a pattern of failure of the security forces to regard their members as subject to the law, as well as to deal with complaints at an institutional level. More recently people are asking whether the charges brought against the former Minister of the Interior and the former Prime Minister will be progressed and why there is an apparent failure to adequately address gang violence. The importance of acting on the findings of the Special Commission of Inquiry<sup>8</sup> with due attention to process and procedural fairness will be critical to addressing the malaise of impunity, and crucial to the future operation of the PNTL.

### ***Screening and demobilisation issues***

The current process of screening PNTL staff to exclude those considered unsuitable to continue in a reconstructed force needs to be carried out with due regard for procedural fairness. The way in which those who will not continue are demobilised will be critical to future stability of both the PNTL and society more broadly.

### ***Disarmament***

The international forces report considerable success in retrieving weapons that during the recent unrest dispersed into the community from the armouries of both the PNTL and the FDTL. However, the significant number of unaccounted for weapons remains a major threat to the community, is a disincentive for people to consider leaving the camps and makes the task of re-establishing security extremely difficult. The incentive for people to give up weapons is not high in a situation where trust levels are low, the future appears uncertain and there is no convincing security apparatus.

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<sup>7</sup> The Special Panels for Serious Crimes were established by UNTAET Regulations 2000/11 and 2000/15 with exclusive jurisdiction for the trial of persons accused of serious crimes committed between 1 January 1999 and 25 October 1999, as well as for genocide, war crimes, crimes against humanity and torture without this temporal restriction. When the SPSC was adjourned in May 2005 only 100 of those indicted had been tried, had their cases withdrawn or were ruled unfit to stand trial with an additional 339 defendants beyond the reach of the jurisdiction. United Nations Security Council Resolution 1704 of 2006 that established the new United Nations Integrated Mission in Timor (UNMIT) also makes provision for "assistance to resume investigative functions of the former Serious Crimes Unit, with a view to completing investigations into outstanding cases of serious human rights violations committed in the country in 1999".

<sup>8</sup> The Independent Special Commission of Inquiry was established under the auspices of the UN High Commissioner for Human Rights following a request from the then Minister for Foreign Affairs of Timor-Leste to the Secretary General. Its mandate was to report on the facts and circumstances relevant to incidents that took place on 28-29 April and 23-25 May 2006 and related events or issues that contributed to the crisis, clarify responsibility and recommend measures of accountability (UN2006).

### ***Dealing with the establishment legacies of FDTL and PNTL***

Arguably the decisions made by UNTAET in how the police and army were recruited and managed set some very difficult footings for the two forces and contributed to the politicising of the forces. In the case of PNTL, heavy reliance on police from the former Indonesian forces, predominantly from the west of the country, inflamed relations with veterans and former combatants. The low esteem in which Indonesian police were held has not contributed to building rapport with the community and contributed to the extremely difficult relationships with FDTL (Rees 2004).

Leaving the selection of the FDTL up to the Falintil high command, without consultation with Fretilin, meant that parts of the government never entirely trusted FDTL. Subsequently, members of the government sought to build PNTL capability and firepower as a counter to the power of FDTL (Rees 2004).

The issue of determining credible leadership for the security forces is now imperative. Credible leadership will be required to anchor reconciliation initiatives between the forces, as well as to carry out the necessary reforms.

### ***Separating the role of PNTL and FDTL***

Conflict between PNTL and FDTL is further underwritten by the difficulty of defining a role for FDTL. Although the Constitution makes a clear separation between the role of the police and the military, the details of how the forces should work together has never been articulated in the form of a national security policy. It is further confused by lacunae in legislation including how military aid to a civil power should work (eg in cases where the police are unable to manage an internal security issue or in other cases of emergency such as natural disaster).

Unfortunately, early ideas about not having an army dissipated, partly as a result of the violence of 1999 and partly as a belated concern within UNTAET about what to do with the increasingly unhappy conditions of Falintil who had been kept in cantonment for up to 14 months (McCarthy 2002). However the ostensible role of an army to deal with external threats is problematic in Timor-Leste, as FDTL does not have the capacity to deal militarily with any threat from a foreign power. Additionally, decisions made early on not to deploy FDTL in a border patrol role and subsequently the creation of a special Border Patrol Unit within PNTL was not well received by FDTL as it represented the closing of one of the few possibilities for them to have a meaningful role. The difficulties associated with a force with realistically little to do, fewer resources than PNTL, less pay, poor living and working conditions and almost non-existent policy and management development, is of course not a recipe for stability.

Consideration will also need to be given as to how to include rebels and petitioners in a process of dialogue. Unless people have a place at the table they will continue to be or continue to be perceived to be a destabilising force. Similar consideration needs to be given to carrying through the processes of the three veterans commissions.<sup>9</sup>

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<sup>9</sup> Two veterans commissions were established in 2002 by President Xanana Gusmao to research and register veterans of the resistance. The *Comissão para os Assuntos dos Antigos Combatentes* (Commission for Matters of Ex-Combatants) focuses on those who fought between 1975 and 1979 and the *Comissão para os Assuntos dos Veteranos das Falintil* (Commission for Matters of Veterans of Falintil) relates to those who fought between 1979 and 1999. The *Comissão para os Assuntos dos*

## Conclusion

Clearly making a success of police building is a complex matter, which in turn is dependent on many factors extrinsic to the project. However, it is only through an appreciation of these factors and ensuring that a commitment and flexibility to engage with the local context survives the transition from policy document to practice, is there a possibility of creating a secure environment. The role that PNTL will play in the creation of security is also a matter of paying attention to the local context.

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## The Pursuit of Justice and Reconciliation in Timor-Leste: Some Insights from the Recent Violence

*Lia Kent*

The emergence of violence and divisions in Timor-Leste has once again brought issues of justice reconciliation to the fore. It has provided a stark reminder that there are no 'quick fix' solutions to deep-seated divisions in the Timor-Leste community that have become entrenched over many years by the colonial regimes. These divisions been exacerbated by more recent failures of the leadership to build an inclusive political community. While Timor-Leste's Commission for Truth, Reception and Reconciliation (CAVR) has made a valuable contribution to a 'public remembering' of the past, the lack of accountability of those who have committed serious crimes in the past remains a key issue for many victims. The establishment of functioning state institutions and attention to justice for past violations are essential components of any meaningful reconciliation process. While recommendations of the recent report of the CAVR (2005), entitled *Chega!* (Enough!), provide a valuable framework for future justice and reconciliation initiatives, much depends on the governments response to the report's recommendations.

*With the collapse of authoritarian regimes there emerge new nations, full of needs and full of rage.* Scheper-Hughes (2000: 429).

### Introduction

The recent violence that has engulfed Timor-Leste from early 2006 is a stark reminder that the pursuit of reconciliation in societies emerging from conflict is a long-term and complex process.<sup>1</sup> While Timor-Leste's Commission for Truth, Reception and Reconciliation (CAVR) has made a valuable contribution to a 'public remembering' of the past through its truth-seeking and reconciliation processes and the production of a comprehensive report on the history of the conflict, the current crisis suggests that the journey towards 'reconciliation' is far from over.

This paper is in three parts. Part one provides a very brief overview of the transitional justice mechanisms implemented in Timor-Leste following the 1999 referendum, with a particular focus on the CAVR. Part two examines what insights can be gained regarding the recent violence about the limitations of these transitional justice mechanisms. It suggests that while the CAVR has made an important contribution to public debate on questions of justice, reconciliation and the history of the conflict, the process has not been sufficient to tackle deep-seated divisions within the community and, in particular, those within the political community. Part three suggests that despite these limitations, the recommendations contained in the CAVR report *Chega!* constitute a valuable starting point for the development of future justice and reconciliation initiatives.<sup>2</sup> Much however, rests on the process from here on.

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<sup>1</sup> Despite its generally acknowledged importance, there remains great disagreement over what reconciliation means and how it relates to other concepts such as justice, forgiveness, peace-building and democratisation. I use the term, as Bloomfield (2006) does, to refer to a process of relationship-building.

<sup>2</sup> *Chega!* is Portuguese for Enough!

## Part 1: Transitional justice mechanisms in Timor-Leste

‘Transitional justice’ is increasingly promoted by the United Nations (UN) and a range of other international organisations as an essential element of reconstruction and reconciliation in societies emerging from conflict. There are growing expectations that transitional justice mechanisms, which may include trials and truth commissions, as well as a range of other legal and quasi-legal responses, will contribute to individual healing and societal reconciliation and facilitate the transition to a democratic future.

The transitional justice strategy developed in Timor-Leste under the United Nations Transitional Administration in East Timor (UNTAET) consisted of a number of key elements. The first was the establishment of a ‘serious crimes’ process in May 2000 in order to prosecute the large numbers of murders, sexual offences and other serious crimes perpetrated during the Indonesian occupation and in the lead up to the international intervention.<sup>3</sup> In response to international pressure, the Indonesian government created its own mechanism – the *Ad Hoc* human rights court – based in Jakarta, to try Indonesian perpetrators who had played a leading role in the violence. It was expected that prosecutions in Timor would focus on local perpetrators while the trials in Jakarta would target Indonesian suspects.

A subsequent initiative, a Commission for Truth, Reception and Reconciliation (CAVR) was established in 2001 in order to deal with the thousands of other ‘less serious’ crimes that the courts would not have the capacity to deal with. The CAVR was given three central functions: i) ‘truth seeking’; ii) facilitating community reconciliation processes for ‘less serious crimes’, and iii) writing a report containing its findings (UNTAET 2001).

Unfortunately, the overall approach to transitional justice in Timor-Leste has suffered from a lack of coherence and conflicting political goals. The serious crimes process has been criticized by a number of commentators for a range of shortcomings, including a lack of community outreach, inadequate resources (including the defense council) and its reliance on inexperienced Timor-Leste judiciary (Cohen 2006; Hirst and Varney 2005; Reiger and Wierda 2006). Its main limitation has been the failure to prosecute over 75% of indicted suspects, due to the fact that most perpetrators are in Indonesia. Almost all of the 83 individuals convicted by the process were low level perpetrators from Timor-Leste. Relying on the Indonesian judicial system to prosecute war criminals also proved to be poor judgment on the part of the UN. The *Ad Hoc* human rights court in Indonesia has been widely condemned as a failure by the international community, including by a Commission of Experts appointed by the UN Secretary General to investigate its progress (Cohen 2003). The court resulted in only six convictions; all, except one, were overturned at the appeals phase.<sup>4</sup>

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<sup>3</sup> The serious crimes process concluded in May 2002. It consisted of a specialised investigation, prosecution and judicial process. Serious Crimes were defined as genocide, war crimes, and crimes against humanity committed at any time, as well as murder, sexual offences, and torture committed between January 1 and October 25, 1999. See Sections 10.1 and 10.2, UNTAET Regulation 2000/11, March 6, 2000

<sup>4</sup> The one conviction was an East Timorese, Eurico Guterres. A Commission of Experts appointed by UN Secretary General Kofi Annan in January 2005 to investigate progress on serious crimes prosecutions found that the trials were ‘manifestly inadequate’ and recommended that Indonesia be given six months to prepare credible trials and that, if it did not comply, the UN should invoke its charter to set up an international war crimes court.

By contrast the CAVR has been viewed as more successful. Both its truth-seeking and its reconciliation processes involved significant community participation. Its nationwide community reconciliation process (CRP) successfully adjudicated almost 1400 cases of minor crimes. One of the more novel features of the CRP was its attempt to mesh aspects of customary dispute resolution methods into its reconciliation framework, in particular the Timorese concept of *nahe bitu* (lit. stretching, rolling the mat) which involves a process of meeting and discussion in order to seek consensus amongst opposing parties.<sup>5</sup> Thus, hearings often involved a role for traditional elders and the chewing of betel-nut, sacrificing a chicken or pig, a symbolic rolling up of the *bitu* (mat) at the conclusion of the hearing, and a celebratory feast. A prominent ceremonial role was given to *lia nain* or traditional elders. CRP panels were convened at the local *suco* (village) or *aldeia* (hamlet) level and were comprised of local community leaders, including women and youth leaders, in addition to CAVR staff. Some commentators have suggested that these elements contributed significantly to the CRP's local legitimacy (Zifcak 2005; Pigou 2004).

As part of its truth-seeking function the CAVR took over 8000 statements primarily from victims and held nationwide public hearings on thematic issues such as 'Famine and Forced Displacement' and 'Self-Determination and the International Community'. These hearings, like those organized as part of the CRP, were also highly participatory and were broadcast widely on the radio and television.

The final report of the CAVR, *Chega!*, has recently been completed. At over 2000 pages long, it provides a detailed analysis of human rights abuses committed between 1974-1999. It holds high levels of the Indonesian military responsible for such violations and recommends, among other things, reparations from Indonesia (with contributions from other nations and institutions which supported the occupation), a renewal of the mandate of the serious crimes panels, and an investigation by an international tribunal should other measures be deemed to have failed. *Chega!* was presented to the Timor-Leste President in October 2005 and provided to the Parliament on 28 November in the same year. However, the Parliament has not yet debated or responded to the report.

It would be fair to say that the report has been given a lukewarm reception at the official level, in part as the governments of Timor-Leste and Indonesia have recently established a new bilateral commission to rebuild relationships between the two countries. In March 2005 Timor-Leste and Indonesia agreed to form a Commission of Truth and Friendship (CTF). Like the CAVR, the CTF is also tasked with establishing the 'truth' about the past – indeed, it is tasked with reaching the 'conclusive truth' in order to bring about 'definitive closure of the issues of the past'. However, the CTF is purportedly based on a 'forward looking' and 'reconciliatory approach' (Department of Foreign Affairs Republic of Indonesia 2005). The CTF's terms of reference explicitly state that the commission will not lead to prosecutions and that the commission has the power to recommend amnesties. The CTF has been widely condemned by national and international human rights organisations who see it as a means of evading the prospect of an international tribunal. Indeed, the timing of the CTF, which was established just as the CAVR was about to complete its report

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<sup>5</sup> Tradition and custom in East Timor is neither uniform nor static, however there are certain common key elements and practices (Babo-Soares 2004).

making recommendations for future processes of justice, seems to be less than coincidental.

## **Part 2: The recent violence**

The emergence of conflict in Timor-Leste in early 2006 has brought to the surface a myriad of complex divisions. It shows without a doubt that there can no glib assumptions about the process of national reconciliation. A key division that has emerged is that between *lorosae* (easterners) and *loromuno* (westerners). While these divisions appear to have little historical basis (and indeed, nothing in *Chega!* indicates any basis for an historical divide between east and west), they suggest that the level of distrust amongst East Timorese people remains high, that perceptions of discrimination and nepotism are widespread, and that the government has failed to cultivate a sense of political inclusion. There is no doubt an historical link to divide-and-rule strategies used by the Indonesian and Portuguese regimes. Particularly insidious was the cultivation of a deliberate system of spies and informers by the Indonesian security apparatus. This system sowed misinformation, creating a complex web of distrust and fear amongst the community, destroying social bonds and contributing to the creation of sharp divisions between perceived collaborators and opponents of the regime. Babo-Soares (2003) suggests that a chief catalyst of east/west rivalry is linked to disputes over who 'won' the war, with easterners claiming the major contribution to the resistance and labelling westerners as collaborators or 'militia.' These divisions have been exacerbated in the post-conflict period by perceptions that collaborators have benefited more than those who opposed the regime; also with the departure of the 'common enemy.'

One of the most serious fault lines that has emerged is the division amongst the Timor-Leste leadership. This division has its roots in the brief, but brutal civil war between *União Democrática Timorense* (Timorese Democratic Union) (UDT) and *Frente Revolucionária de Timor Leste Independente* (Revolutionary Front for an Independent East Timor) (Fretilin) in the months of August-September 1975 and was further entrenched in the late 1970s through a series of Fretilin purges against those perceived to have committed treason and also during the 1980s, particularly following Xanana's decision to withdraw the *Forças de Armadas de Libertação Nacional de Timor Leste* (Armed Forces for the Liberation of Timor-Leste) (Falintil) from Fretilin. These events and the civil war in particular – which involved the committal of horrific human rights' crimes by both UDT and Fretilin – left deep scars (Aarons 2006). Indeed, a recent report by the International Crisis Group (ICG) goes so far as to suggest that 'the entire crisis, its origins and solutions, revolve around less than ten people, who have a shared history going back 30 years' (ICG 2006: 1). The ICG suggests that 'the crisis escalated because of individuals with personal interests and power bases, individuals making decisions without consultation [and] individuals trying to determine policy unilaterally' (ICG 2006: 22). These divisions, which continue to play out in the political arena today, have contributed to the creation of a dysfunctional government and demonstrate there is an urgent need for 'reconciliation' amongst the Timor-Leste leadership, including a commitment to building legitimate institutions that are not based around personal interests and power bases. While the CAVR's reconciliation process quite legitimately focused on 1999 crimes and

reconciliation within local communities, it was perhaps limited in tackling some of the more intractable divisions in society, including those amongst the leadership.<sup>6</sup>

The recent violence also illustrates how deeply the population has been traumatised. As other commentators have noted, there is a direct link between the extent of trauma that East Timorese people have experienced in the past and the fear that many of the thousands of internally displaced people are currently displaying in not wanting to return to their houses (Byrne 2006; Terrall and Miller 2006). According to the findings of a study published in the *Lancet* in 2000 all Timorese people were traumatised in 1999 and in the months following, a third of the community met the criteria for post-traumatic stress disorder (Modvig et al. 2000).

While there was an assumption that the CAVR would contribute to restoring the dignity of victims by providing them an opportunity to speak about their experiences in public truth-telling or reconciliation hearings, the recent violence sadly shows that healing is a long-term process that can sometimes be hindered by reminders of past trauma, even several year later. While some victims no doubt benefited from the opportunity to tell their stories, growing evidence from psychological studies suggests that exposure to memories through truth and reconciliation hearings – usually one-off public events – has limited therapeutic impact (Silove and Zwi 2006).

The consequences of a climate of impunity have also become apparent during the conflict. As others have commented, the lack of justice for crimes committed during the Indonesian occupation has directly contributed to the development of a climate of impunity where there is a sense that it is possible to get away with murder and that justice is dispensable (Timor-Leste National Alliance for an International Tribunal 2006). The violence has contributed to a breakdown of trust in institutions and the rule of law, which is unsurprising given the fragility of this trust and the fact that these institutions were responsible for human rights violations in the not too distant past. The recent report of the UN Independent Special Commission of Inquiry for Timor Leste (UNISCOI), established to investigate the violence of April and May, also concluded that ‘the violent events of April and May were more than a series of criminal acts. They were the expression of deep-rooted problems inherent in fragile State institutions and a weak rule of law’. Their findings echo popular concern for an end to the ‘culture of impunity’ (UNISCOI 2006: 74).

The culture of impunity has also influenced victims’ perceptions of the legitimacy of the CAVR’s community reconciliation process. Inevitably, failures of the serious crimes process to establish accountability in respect of the most serious crimes have had an impact on the success of the CRP as many victims continue to believe that justice must be a component of any meaningful reconciliation. Unintentionally, the CRP has contributed to the raising of expectations in the community about the eventual prosecution of serious crimes. Many victims and deponents participated in community reconciliation hearings on the understanding that serious crimes would be addressed at a later point (Kent 2004). The lack of progress

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<sup>6</sup> It should be noted that the CAVR did hold a public hearing on the internal political conflict as part of its truth-telling process, during which Timor-Leste’s leaders spoke about learning from the mistakes of the past. This hearing was well received by the community. However, there is still a long way to go.

on this front remains a source of frustration for many victims, who feel betrayed by the government's 'forward looking' focus on building relations with Indonesia.

### **Part 3: Implementing the recommendations of CAVR**

Notwithstanding the CAVR's limitations in terms of fostering societal reconciliation, the commission has made a significant contribution to the more modest goal of a public 'remembering' of the past, through the production of a final report, *Chega!* The report constitutes an extraordinary history of the conflict and of the resistance and provides a starting point for further public debate on questions of justice, reconciliation and the history of the conflict. The ownership of this story may be extremely important for cultivating a sense of national identity.

Following a brief delay due to the crisis, the process of disseminating *Chega!* to the districts is now underway by the post-CAVR secretariat.<sup>7</sup> Seminars have also been organised in the districts to coincide with the dissemination process to discuss the report's recommendations. Despite these welcome developments, *Chega!* must be more than an exercise in public remembering. *Chega!* needs to be debated in the Parliament and a formal response given. Official recognition and response to the crimes of the past is important to victims, many of whom desire to know that the government is listening to them, recognising the harms they have experienced and responding to their needs. An official response is also important for the credibility of the CAVR's work and to future reconciliation processes. There is a danger that the absence of political will to enact key recommendations will further undermine people's trust in the state.

In addition, a number of *Chega!*'s recommendations will be important for the reconciliation process from here. The need for reconciliation amongst the political community and the development of effective institutions are amongst the most important.<sup>8</sup> Bloomfield (2006) describes 'political' reconciliation as involving a gradual nurturing of respect both for new institutions and for former enemies, with the aim of developing the habits of operating shared processes and institutions of society and politics. Acknowledgement by the leadership of past mistakes and a commitment to political reform and the building of a more open, transparent political culture, in particular by Fretilin, would go a long way to restoring the community's trust in the state. Allied to this, reform of Timor-Leste's security services including the police and defence force and strengthening the judicial sector, is essential to build public confidence in public institutions.

*Chega!* also contains a number of recommendations on 'justice.' It recommends that the serious crimes process should be reinstated and an international tribunal established if necessary. It tacitly acknowledges the huge difficulties in the Timor-Leste government pursuing this and recommends that the UN takes a leading role. Pursuing justice is important for meaningful reconciliation for a number of reasons. At the interpersonal level, ensuring that perpetrators do not enjoy impunity is

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<sup>7</sup> A 'Post-CAVR' Secretariat was inaugurated by President Xanana Gusmao in consultation with the Government of Timor-Leste on 20 December 2005. As of 20 October *Chega!* had been distributed to Aileu, Ainaro, Baucau, Bobonaro, Covalima, Ermera, Manatuto and Viqueque (Post-CAVR Secretariat: 2006).

<sup>8</sup> See *Chega!* Section 9 and Sections 5 and 6.

essential for the restoration of victims' dignity. For many victims justice is an essential component of lasting reconciliation. At the societal level, justice is also an essential step towards developing public confidence in public institutions and helping to overcome the climate of impunity that currently prevails.<sup>9</sup>

The establishment of a reparations program for the most vulnerable victims is another of *Chega's* important recommendations. In a context in which prosecutions are difficult to achieve and very slow and in a context of the real impoverishment of victims, reparations could make a practical and symbolic contribution to their lives. For victims, reparations can be an important means of restoring dignity. They can constitute a manifestation of the seriousness of the state in its efforts to re-establish relations of equality and respect. Reparations also send a strong message about inclusiveness in a political community. In addition, by providing a form of 'recognition', reparations may themselves constitute a form of justice for victims.

Finally, *Chega!* also recommends the establishment of a community-focused mechanism for conflict prevention and resolution based on the model of the CRP. It is recommended that this mechanism would be mandated to address both past political conflicts in Timor-Leste and recent crimes that are considered to be 'minor.' It has been suggested that a CRP-type mechanism could be used to respond to some of the crimes committed in the recent conflict. Although a credible idea in principle, particularly as the CRP is already familiar amongst local communities, it is important that a focus on 'community' reconciliation does not overshadow the need for justice for past atrocities, institutional reforms and political reconciliation. It is arguable that these processes themselves would do much to restore the community's faith in public institutions and to overcome divisions.

## Conclusion

Amid the growing popularity of truth and reconciliation commissions as mechanisms for grappling with the challenges of 'reconciliation' in post-conflict societies, it is important to bear in mind their limitations. The transition period is, as Scheper-Hughes suggests, a 'dangerous hour'; the collapse of authoritarian regimes quickly brings forth new nations full of needs and full of rage (Scheper-Hughes 2000: 429). The resurgence of violence in Timor-Leste shows that there are no 'quick fix' solutions to the deep-seated divisions that have become entrenched over many years by the colonial regimes and exacerbated by more recent failures of the leadership to build an inclusive political community. In Timor-Leste reconciliation is a long-term, intricate process that requires attention both at the community level and amongst the elite. The establishment of functioning state institutions that are perceived as legitimate and an attention to justice for past violations are essential components of this process. The CAVR's contribution to this process, particularly the production of *Chega!*, has been valuable. However unless key recommendations are enacted, much of this contribution may be eclipsed.

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<sup>9</sup> At this stage it appears that although the new UN mission will have a serious crimes component, its focus will only be on completing outstanding investigations and not undertaking prosecutions. It is unclear what will be achieved in such a short time.

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## Overcoming the 2006 Crisis in Timor-Leste: More Dialogue and Social Solidarity

Balthasar Kehi<sup>1</sup>

This paper focuses, to the exclusion of other issues, on the practice of dialogue and social solidarity in Timor-Leste, the lack of which has contributed to the 2006 and ongoing crisis in that country. In order to overcome this crisis and to prevent similar crises from happening in the future, greater practice of dialogue and social solidarity is needed. The practice of dialogue and solidarity has been part of the social fabric of the traditional Timorese society. The government and the educated elites, therefore, need to humbly recognize and appreciate this practice carried out by ordinary people in the rural areas. Dialogue and social solidarity implies social trust and the inclusion of others in the building process of nationhood and in the pursuit of collective interests.

There are many factors, internal and external, that contributed to the 2006 crisis in Dili, the capital of Timor-Leste. Two significant internal factors were, and still are, the lack of dialogue and the lack of social solidarity. The inability and unwillingness of Mari Alkatiri's Fretilin<sup>2</sup> government, including the armed and the police forces, to communicate and negotiate effectively (both internally and externally) have made it very difficult for any genuine dialogue to be achieved between the government and political opposition parties, the Catholic Church, civil society and the general population, especially the socially, politically, linguistically and economically marginalized youth in Dili. In addition there is also a lack of solidarity between powerful elites, the new rich, the political opposition and the common people. This lack of social solidarity is reflected in the politics of exclusion of most people from political and economic participation. To overcome the present crisis and prevent anything similar from happening again it is necessary to create greater genuine dialogue and meaningful social solidarity. Much needs to be learnt from traditional Timorese knowledge and the wisdom and values of rural people on how to live together peacefully in the spirit of solidarity and to resolve conflict – both violent and non-violent – and how to engage in community dialogue and reconciliation. Perhaps peace, the purpose and meaning of life in Timor-Leste, can be found in our own backyard.

### Dialogue

Since independence and during the 2006 crisis, many people, particularly the politicians in Timor have spoken of *halo dialogo national* – national dialogue. Three months after the violence broke out and after the resignation of Prime Minister Mari Alkatiri on 26 June it was proposed that the government should organize a national

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<sup>1</sup> Balthasar Kehi was unable to deliver this paper at the forum Exploring the Tensions of Nation Building in Timor-Leste on 15 September 2006, as he was working in Timor-Leste for AUSTCARE on their peace education program from July to October 2006. This paper was completed on his return to Melbourne in November 2006 and includes information about events observed by him during that time. The editors felt it important to reproduce here.

<sup>2</sup> *Frente Revolucionária de Timor Leste Independente* (the Revolutionary Front for an Independent East Timor).

dialogue. A commission for national dialogue, called *National Dialogue to Overcome the Crisis*, was then set up by President Xanana Gusmao.<sup>3</sup> Supporting the Commission the new Prime Minister Jose Ramos-Horta said in November 2006 that Timor-Leste's problems could be solved only through dialogue amongst the Timorese: "It is dialogue that will contribute to peace and harmony and not crime and violence. There is no other way".<sup>4</sup> Although Timorese traditional society as it still exists in the rural areas does not use the word 'dialogue', just as it does not use the word 'thank-you', the practice of dialogue, like the practice of gratitude, is always present. Action is considered more concrete, convincing and important than words. In many of the Timorese traditional societies of each of the thirteen distinct ethno-linguistic groups, dialogue takes the form of community meetings where people still trust one another (*fiar malu*) and trust their community elders, listen to one another (*rona malu lian*), value or respect one another (*hafoli malu, hakneter malu*), accept each other (*simu malu*) and love one another (*hadomi malu*).

The 2006 crisis proves that "there is a widespread loss of social trust" (Curtain 2006: 25). A civilized and decent community is built upon social trust. When social trust is lost, suspicion and fear prevail, and a genuine dialogue is rendered impossible. Social trust, therefore, needs to be recovered if the country is to move forward in a spirit of social cohesion, national unity and peace. This will take time. The Catholic Church, in spite of its own weaknesses, is the only nation-wide institution that people still trust and Bishop Belo, noble-prize winner, is the individual whom most people still trust. Bishop Belo could become a unifying figure for the healing of the ethnic division of the *Lorosae* (the east of Timor-Leste) and the *Loromonu* (the west of Timor-Leste). Unfortunately, Bishop Belo has been out of the country since 2003.

During the 2006 crisis in Dili there was much rhetoric about creating a 'national dialogue' between the people of the *Loromonu* and those of *Lorosae* between whom a violent conflict had developed. Yet it is amongst the political elites that there is a problem with dialogue – dialogue between themselves and with the general population. This can be traced back to 1975 when civil conflict between Timorese political elites was followed by the Indonesian invasion. Without genuine dialogue between the government, the population, civil society, the Church, political elites and ordinary people there is little hope for a genuine reconciliation, for healing divisions and restoring social trust and also promoting a politics of inclusion of the other.

In July 2005 a World Bank Report criticised the government's "poor outreach" to the population. The report stated that, "communication between the Government and the population is inadequate and often ineffective, resulting in limited mutual understanding" (World Bank 2005: 5; see also Curtain 2006: 8). The government, according to the World Bank Report, is reluctant to collaborate with civil society especially the Church, let alone the opposition political parties. It "has not yet succeeded in engaging constructive critics or in maintaining an effective dialogue with communities" (World Bank 2005: 5). Instead of engaging in dialogue with the

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<sup>3</sup> Presidencia da Republica, Gabinete do Presidente, (2006). *National Dialogue to Overcome the Crisis*. Palacio das Cinzas, 25 August. Presidencia da Republica, Gabinete do Presidente. Media Release, Palacio das Cinzas, 21 November 2006. Lusitania Lopes, Media Officer <mailto:lusitaniapresidente-tl.org>lusitania@presidente-tl.org +670-3339008: National Dialogue to Overcome the Crisis Reaches the High-Level Meeting.

<sup>4</sup> Jose Ramos-Horta, AKI, 22 November, "Timor problems can be solved only via dialogue".

people it represents, it is alleged in a United Nations (UN) Report (2006) that the government bought and distributed weapons that were subsequently used to intimidate its opposition and critics. Former Latvian President Valdis Birkavs, coordinator of the Club of Madrid's<sup>5</sup> efforts to promote dialogue in Timor, said he was concerned that despite peace rallies organized by Timorese youth groups and a symbolic joint parade by the police and army units in November 2006, little evidence exists that any parallel reconciliation moves have been made by Timor's leaders and main political parties (Lusa 2006).

In November 2006, also, the East Timor Crisis Reflection Network (ETCRN)<sup>6</sup> called upon the state leaders in Timor-Leste, including political leaders, to demonstrate political maturity and courage by engaging in dialogue and reconciliation. In its first forum held in Dili in September 2006, ETCRN called upon those leaders to contribute to a youth initiative for dialogue and peace and also to the *Simu Malu* (mutual acceptance) processes in different *bairros* (neighbourhoods) instigated in August 2006 by the Ministry of Social Affairs, Labor and Solidarity and to a general movement for national reconciliation taking place in Dili. ETCRN called upon the leaders to work towards overcoming the crisis of confidence and the loss of social trust in the general community. Further, it called upon all leaders to humbly acknowledge their mistakes and to courageously make public apology to all Timorese people who have suffered because of their actions. Calls have been made to the majority party Fretilin and the President to resolve their political differences through face-to-face dialogue. In November 2006 with great humility President Xanana Gusmão appealed for reconciliation saying: "We must be honest enough to recognize our wrongdoings, be humble to forgive others and by doing so, we must embrace dialogue because we realize that reconciliation is the process of searching peace within ourselves".<sup>7</sup> However, who is the "we" that the President refers to? All Timorese? Or the leaders, including the President himself? Who is supposed to set the example for the general community and the youth?

Urban elites from the capitol have gone to different districts such as Oecussi, to preach dialogue and reconciliation. Political and non-political leaders and educated elites in Dili perhaps could learn from traditional practices of dialogue and reconciliation of the rural people who are able to live peacefully side by side and who in 2006 painfully watched the continuing violence in Dili. The crisis took place and continues to take place not in the rural areas but in Dili.

Although the former Prime Minister Mari Alkatiri is responsible for many good works, he has not engaged in a genuine dialogue with the people of Timor-Leste and the Church; this has alienated many people. The leaders should set the example for the young people. They should listen to them, seeing them as great assets for nation-building instead of treating them as trouble-makers. If there had been a process of genuine dialogue then 600 members of the Armed Forces would not have been

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<sup>5</sup> The Club of Madrid (Club de Madrid) is a Madrid-based independent organization of democratic former heads of state and government dedicated to strengthening democracy around the world and was established in Madrid in October 2001.

<sup>6</sup> ETCRN is a network of individual Timorese who wish to facilitate a wider discussion on how to resolve the current national crisis in Dili and how to reconcile and promote national unity.

<sup>7</sup> Lusitania Lopes, Media Officer. *National Dialogue to Overcome the Crisis Reaches the High-Level Meeting*. Presidencia da Republica Gabinete do Presidente, Palacio das Cinzas, 21 November 2006. [lusitaniapresidente-tl.org](mailto:lusitaniapresidente-tl.org), [lusitania@presidente-tl.org](mailto:lusitania@presidente-tl.org), +670 33390008.

dismissed and their problems would have been peacefully solved within the Army. Instead of accepting the invitation of President Xanana Gusmao (2006) to come to a meeting to solve the problem of the dismissed soldiers, the Head of the Armed Forces, Brigadier-General Taur Matan Ruak turned away saying: “If you want to fight, let’s fight!”<sup>8</sup>

Without the intellectual and moral humility to learn the practice of dialogue from rural people, I fear that the word dialogue and the National Dialogue Programme has no moral weight and may simply become full of empty rhetoric. Padre Martinho G. da Silva Gusmao, Director of the Churches, Commission of Justice and Peace and Integrity of Creation, in the Baucau Diocese, wrote last August 2006:

Today the word dialogue has become a strong term in the national political constellation. Whoever wants to show him or herself to be a good person, must mention the word dialogue. Anyone who wants to be a sympathetic political master has to use the word *dialogo*. The dirty politicians also now talk about dialogue.<sup>9</sup>

The word dialogue was also used during Suharto’s dictatorial regime. For the Suharto government, to engage in dialogue meant to listen to the voice of the common people, to register it but then to forget it. For the common people it meant to listen to authority and quietly obey. Closely related to the idea of dialogue is the idea of participation. During Suharto’s repressive regime in the 1970s and early 1980s ‘participation’ became a mantra; any official speech was incomplete if that word was not mentioned. What was really meant here by participation was the act of taking part in obeying and executing, blindly and without question, the orders or decisions from above.

Dialogue is a critical conversation in which each participant is given an equal chance to freely express his or her view: firstly, regarding what is or is not the case in the world of empirical facts (truth); secondly, what is morally right or wrong, fair or unfair in the world of moral norms, values, and laws (justice); and thirdly what is honest or dishonest, truthful or untruthful in the subjective or private world of feelings, beauty, tastes and religious convictions. Dialogue is aimed at an agreement on truth and justice, no matter how provisional that agreement might be and at a mutual understanding of personal beliefs and convictions.

What counts in the dialogue process, in the case of pursuing truth and justice, is the strength of arguments to convince others, supported by evidence or facts. Any genuine dialogue is rendered impossible when there is no intellectual modesty or humility. Dialogue is impossible when one party thinks that s/he has the truth and wisdom, while others do not. Arrogance makes dialogue impossible. It closes the door to truth and, consequently, to justice and to genuine self-revelation. Instead of recognizing and elevating the young people as a great asset for the nation, the government of the former Prime Minister Alkatiri made fun of their academic degrees

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<sup>8</sup> This statement of General Taur Matan Ruak has become common knowledge among the people.

<sup>9</sup> Fr. Martinho G. da Silva Gusmao, director of the Commission of Justice and Peace and Integrity of Creation, Baucau diosis, *Suara Timor Lorosae*, Kinta, 10 Agustus, 2006: 5: “*Ohin loron liafuan ‘dialogo’ sai tiha ona terminologia forte ida iha konstelasaun politika nasional. Se deit mak hakarak hatudu an nudar ema diak, nia tenki tem ilia fuan. Sa tan, se hakarak sai politika nain nebe simpatiku, entaun ko’alia lalai dialogo. Iha politika nain balun nebe uluk ‘matrubu’ deit mos oras ne’e hakarak halo dialogo*”.

from Indonesian universities by calling those degrees *sarjana supermi*, or ‘instant noodle degrees’.<sup>10</sup>

As Freire wrote in *Pedagogy of the Oppressed* (1970) dialogue or dialogical action is perhaps the best means for liberation, for conflict resolution and peace. It is the best means for cooperation, social cohesion, unity and cultural enrichment as well as individual and social development. Unlike dialogical or inter-subjective action, anti-dialogical action is a means of oppression, colonization, conquest, intimidation and manipulation. The tactics of divide and rule, the tactics of *futu manu* (cockfighting) – of *manu Lorosae* and *manu Loromonu* – are anti-dialogical actions. What surrounded the 2006 violent conflict was anti-dialogical action, especially amongst political elites, and between those elites and the socially, politically and economically excluded population. The 2006 crisis would not have occurred if there had been genuine dialogue amongst elites and between the elites and the general population. The anti-dialogical action practised during colonization (both Portuguese and Indonesian) seems to have been unconsciously transmitted into the psyche of newly born Timor-Leste by those who grew up during these times.

### **Social Solidarity**

The famous motto of the French Revolution (1789) is *liberte, egalite et fraternite* (liberty, equality, fraternity (brotherhood)). One hundred and fifty-nine years later in 1948 the UN Universal Declaration of Human Rights (Article 1) adopted and rephrased the above motto as follows: “All human beings are born *free and equal ...* and should act towards one another in *the spirit of brotherhood*” (emphasis added). While the first and the second concepts are easily defined and individually oriented, the third concept, which is community oriented, is often neglected. While the first and the second emphasize individuality and individual rights the third, solidarity, emphasizes the sociality or communality of human beings and their social rights.

Solidarity is an act of empathizing with others, of genuinely and compassionately putting oneself in the world of the experiences of the other. It is an act of imagining how you would feel and what you would do if you were in another’s situation (such as being excluded, marginalized, displaced, discriminated against, etc) or of perhaps being the victim of injustice or natural disaster. Solidarity is also an act of sharing with and caring for each other in hardship. It is also an act of including the other in, not excluding the other from, participation in common projects and goals – from collective memories and dreams.

Timorese traditional society is community oriented. There is a strong feeling of solidarity among the Timorese. This feeling of solidarity is embodied, for example, in mutual caring and communal sharing of possessions amongst community members. There are, for example, no beggars in rural areas, unlike in Dili. The act of begging is considered as bringing shame to a whole community as it is an indication of the community’s indifference. The presence of the increasing numbers of beggars in Dili is a recent phenomena which began during the Indonesian occupation and has increased since 1999 with the presence of a wealthy international community. In rural areas traditional social fabric and cohesion are still strong whereas in Dili they have

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<sup>10</sup> The words *sarjana supermi* were used by former Prime Minister Mari Alkatiri and become common knowledge in Dili, especially among young people with academic degrees from Indonesian universities.

broken down due to selfish individualism, the spirit of competition and private ownership and the selfishness of those who want to advance their own political and economic interests, or the interest of their own political party, ahead of the collective interest of all citizens.

Many young people in Dili uncritically welcome new values and degrade their indigenous values and knowledge. They appear to have abandoned and are no longer interested in learning traditional Timorese values, wisdom and knowledge, which are seen as inferior, uncivilized and primitive. They no longer have any substantial value system to guide them. They release their pent-up frustration in acts of violence and are labelled by Timorese leadership as ‘hooligans’, ‘rampaging youth’, ‘thugs’, ‘*bandidos*’ (bandits) and ‘vandals’. Such labels reinforce their behaviour. It is interesting to note here that the powerful authority of the state that can be seen as responsible for the 2006 conflict is not so negatively labelled.

In traditional Timorese society no member of the community, especially the elderly and the hungry, is abandoned. This strong sense of community explains why there is hardly any suicide in Timorese society and the absence of loneliness amongst the elderly. Suicide is not just an individual problem but is also a social problem. Society as a whole bears responsibility for the suicide of its members. Perhaps the sense of purpose and meaning of life is not just to be found in individual achievement alone, especially economic achievement and growth, but also in the community, in one’s dialogical or intersubjective relations with others and in social growth. The strong sense of community or solidarity in Timor-Leste’s traditional society was recently manifested, for example, in the caring and hospitality of those in rural areas towards family members who fled the violence in Dili to the homes of their relatives in the districts. The host families shared what little they had with their displaced relatives.

Most religious institutions (especially the orders of nuns) opened their doors to welcome and host the internally displaced people (IDPs). There remains a strong sense of social trust between the population and the nuns who worked very hard in 2006 caring for the IDPs. Instead of apologising for the 2006 crisis and thanking the nuns for their work the government, according to Madre Gulhermina Marcal,<sup>11</sup> accused the nuns of undermining the power of the ruling party by welcoming and caring for the IDPs in their convents.<sup>12</sup> What these religious people did during the crisis was simply to practice their spirit of solidarity with the poor and the weak – the victims of violence created by the government’s failure. Prime Minister Mari Alkatiri made a public remark in May 2006 that the displaced had left their homes and gone for a picnic.<sup>13</sup> Many displaced citizens were hurt and insulted by this remark – a remark that indicates lack of compassion and empathy. A study undertaken by the Catholic Relief Service in five IDP camps in Dili found that a dream of the IDPs was “to have a government that has responsibility, *compassionate heart and wisdom* [and

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<sup>11</sup> Head of the Cannocian Convent in Balide and coordinator of the largest IDP camp in Dili at the Balide Cannocian Convent.

<sup>12</sup> Public statement made by Madre Gulhermina Marcal, July 2006 during a meeting of international and local NGOs, the UN and the Minister of Social Affairs, Labor and Solidarity.

<sup>13</sup> This remark, made by the former Prime Minister Mari Alkatiri in May 2006, has become common knowledge for the Timorese.

which also has] economic development plans that are *sustainable for and benefit the poor first*" (2006: 3) (emphasis added).

The traditional Timorese values of communality and solidarity need to be restored, maintained and nourished if social cohesion and national unity are to be achieved and maintained. The practice of solidarity was strong during the resistance against Indonesian occupation. But why has it weakened since independence? For centuries, even thousands of years, the Timorese have had their own traditional values which, in spite of many weaknesses, gave purpose and meaning to their lives both as individuals and as communities. Should they abandon all their traditional values and embrace for example, the Capitalist or Communist values, in order to have a sense of meaning and purpose in their life – in order to be happy? Certainly no tradition is perfect or infallible, since traditions are given existence by human beings who are imperfect. Traditions need to be selectively and critically transmitted and transformed, preserved and revised. In spite of its limitations and negative aspects Timorese society, like any society in the world, has its own particular cultures, traditions, values and knowledge that sustains and gives meaning to life. Timorese society is not a blank sheet on which outside ideas, knowledge, norms and values can be written. The Timorese, like people of any other nation, are not mere biological beings lacking institutions, cultures, values, knowledge and historical experiences. These things should not be annihilated or destroyed in order to be replaced with new institutions, cultures, knowledge and values devised externally and seen as civilized and superior. The preservation of traditional Timorese values, institutions and knowledge and the incorporation of external values needs to go through a fine selective and critical filter if there is to be any benefit for the Timorese.

Finally, with regard to the practice of solidarity and the politics of inclusion of others, the following ethical questions are perhaps worth raising. Whose interest should the government represent: the interest of *all* the people as a *collective* interest or the interest of the ruling party and/or a certain group? What is really more important, the wellbeing of *all* Timorese citizens or the wellbeing of the ideology of the ruling party and of the uncritical party members at the expense of the exclusion of the rest? Who should be included in the process of building Timor-Leste – this very tiny nation that was born out of unspeakable collective suffering – into a free, fair, caring and economically decent and sustainable, inclusive and peaceful nation coloured by its own particular cultural, historical and ecological experiences?

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## Timor-Leste 2006: Layers of Conflict Schema (Sara Nina)

Understanding the 2006 crisis in Timor-Leste is made difficult due to its considerable complexity. A deeper appreciation of the crisis may be gained by considering a holistic perspective that permits a view of the interaction between the different layers of the conflict that contributed towards the situation. This schema highlights the more visible layers together with those less obvious and deeply problematical. An instance of how the different layers interacted is how the dispute within the army that ignited the crisis (ostensibly over the east/west divide but also including generational and political dimensions) then interacted with the frustration felt by young men in general who, also, ostensibly embraced the east/west conflict, creating an increasingly violent and anarchic conflict within the general population. NB. This list is not exhaustive but an attempt at a deeper and clearer understanding.

### 1. Male Elite Political Divisions

- Army vs Army (east/west divide) \*\*\*Apparent cause of 2006 crisis
- Police corruption (border smuggling including links to militia and Tentara Nasional Indonesia (Indonesian National Armed Forces); extra-judicial imprisonments). This level of government corruption has significant implications for management of income from oil and gas in the future.
- Police vs Army (politicisation of security sector along divisive lines as noted here).
- Political differences between ex-PM Alkatiri/Lobato (Fretilin: exclusive; partisan) and President Xanana and Jose Ramos Horta (inclusive; non-partisan).
- Structural conflict inherent in constitution between Government and President: Presidency has little power.
- Old unresolved divisions between Fretilin leadership and Xanana as head of National Council of Resistance.
- Divisions within Fretilin party: understood by few outside the party.

### 2. Differences within General Community

- Ethno-linguistic groupings including east/west: *Loromonu/Lorosae*, not previously divisive and clearly politically manipulated but with antecedents in a perceived economic disparity between 'entrepreneurial easterners' and more 'passive westerners' and a long-term tension over perceived differences in commitment to independence struggle.
- Generational: lack of engagement, deep sense of powerlessness and exclusion by young males leading to current street gang violence (added factor of possible political manipulation) and problems within Army.
- Gender inequalities: women have little power and suffer much discrimination and domestic violence leading to discontent. Little recognition of their service and sacrifice to independence.
- Split between diaspora-returnees with resources, education and government jobs and 'insiders' who suffered the occupation.
- Class: deep divide between political/cultural elite (mostly male) and mass of population that has deep historical roots.
- Modern/traditional worldview: fundamental differences on solutions for societal problems: justice, conflict resolution, resource allocation, religion, gender inequality and violence.
- Rural/urban disparity: higher levels of service and employment in city created sense of discrimination and urban drift and its inherent problems particularly following withdrawal of UN.
- Much of this fuels a lack of trust between civil society and government.

### 3. Bed of Endemic Poverty & Disillusionment with Independence

Despite substantial government efforts over the last 3-4 years the indicators for income, unemployment, education and illiteracy, malnutrition, life expectancy, child and maternal health and domestic violence are horrifying. 40% of people live below the poverty line and can see no improvement in their lives over this time. Most post-conflict societies find high levels of disillusionment with independence. This has been largely directed at the government but also internationally.

### 4. Underlying Pain, Trauma, Lack of Justice

The pain and trauma resulting from 24 years of occupation and the violence of 1999 is still strongly felt as made clear by the Commission for Truth, Reception and Reconciliation Report (2005). The growing realisation that there will be no international justice for the perpetrators of this violence has created a deep sense of betrayal and disappointment amongst many. With the Timorese leadership arguing so strongly against pursuing such justice and instead privileging the crucial bilateral relationship with Indonesia the people must feel once again that their rights and interests are being sacrificed for the perceived 'common good' and strategic interests of the powerful. Many citizens do not agree with the political leadership and government on this fundamental issue.

## Glossary

- (i) Indonesian word;  
(p) Portuguese word;  
(t) Tetum-Timorese word
- Adat (i)*: traditional ‘custom’  
*Apartadarismo (p)*: neutrality, nonpartisanship  
*ABRI (i)*: *Angkatan Bersenjata Republik Indonesia*, Armed Forces of the Republic of Indonesia  
*Apodeti*: *Associação Popular Democrática Timorese*, Timorese Popular Democratic Association  
*ASDT*: *Associação Social Democrática Timorenses*, Timorese Association of Social Democrats  
*AST*: *Associação Socialista de Timor*, Socialist Association of Timor  
*Aswain (t)*: brave warriors  
*BAL*: Basic Agrarian Law, 5/1960  
*Barlake (t)*: traditional Timorese family exchange rituals of marriage  
*Bapak (i)*: deferential Indonesian term of address meaning ‘father’  
*BPN*: National Land Agency Office  
*Bupati (i)*: administrator  
*Cadre*: member of resistance  
*CAVR*: Commission for Truth, Reception and Reconciliation  
*CC, CCF*: *Comité Central Fretilin*, Fretilin Central Committee  
*CEP*: Community Empowerment Programme  
*CIVPOL*: United Nations Civilian Police  
*CNRM*: *Conselho Nacional da Resistência Maubere*, National Council of Maubere Resistance  
*CNRT*: *Conselho Nacional da Resistência Timorese* National Council of Timorese Resistance  
*CRRN*: *Conselho da Resistência Revolucionário Nacional*, National Council for Revolutionary Resistance  
*CRP*: community reconciliation process  
*CTF*: Commission of Truth and Friendship  
*DRET*: see *RDTL*  
*ETCRN*: East Timor Crisis Reflection Network  
*Falintil*: *Forças Armadas de Libertação Nacional de Timor-Leste*, Armed Forces for the National Liberation of East Timor.
- In the Portuguese style this word is not a strict acronym (i.e. *FALNTL*)  
*FDTL*: *Forças Armadas de Defesa de Timor-Leste*  
*F-FDTL*: *Falintil-Forças Armadas de Defesa de Timor-Leste* (the Timor-Leste military)  
*Fataluku (t)*: people from the far eastern tip of Timor  
*Fetosan (t)*: wife taker  
*Firaku (t)*: people from the eastern half of East Timor  
*Fretilin*: *Frente Revolucionária de Timor Leste Independente*, the Revolutionary Front for an Independent East Timor  
*Hak ulayat*: a “right” usually translated as a “right of disposal” and used as a generic reference to traditional social tenures in the archipelago  
*ICG*: International Crisis Group  
*IDP*: internally displaced people  
*InterFET*: International Force in East Timor: UN-authorized armed force led by Australia to East Timor in September 1999  
*JAM*: Joint Assessment Mission to Timor (1999/2000?)  
*LAS*: Land Administration Systems  
*Leste (p)*: East  
*Liurai (t)*: indigenous king or part of that royal class  
*Loro Monu (t)*: where the sun sets, Western part of East Timor; westerners  
*Loro Sa’e (Lorosae) (t)*: where the sun rises; Eastern part of East Timor; easterners  
*Lulik (t)*: adjective or noun, describing a sacred item or pertaining to the indigenous belief system of Timor with sacred or supernatural qualities e.g. *Uma Lulik* sacred house, *lulik rai* sacred land, *dato lulik*, priest or ritual practitioner  
*Luta (p)*: the struggle; the fight for independence  
*Mambai (t)*: one of the largest of the 13 main ethno-linguistic groups in East Timor  
*Maubere (Mau Bere) (t)*: Son of Timor; originally ‘My Brother’  
*Maun (Mau) (t)*: Brother, form of address for younger, usually unmarried male  
*Maun Bo’t (Maun Boot) (t)*: Elder or Big brother, form of address for male of high status

- Mestiço (mestizo) (p)*: people of Portuguese and Timorese mixed race
- Nahe biti*: lit. stretching, rolling the mat, a traditional Timorese form of conciliation and arbitration
- NGO: Non Government Organisation, usually referring to aid or humanitarian agencies
- OECD: Organisation for Economic Co-operation and Development
- OMT: *Organização Mulher Timorese*, National Women's Organisation (CNRM/CNRT)
- Omane (t)*: wife giver
- OPMT: *Organização Popular Mulher Timorese*, Popular National Women's Organisation (Fretilin)
- Pembangunan (i)*: official Indonesian development program
- PKF: Peacekeeping Force (UN)
- PNTL: *Polícia Nacional Timor-Leste* National Police of East Timor since independence
- Polwil (i)*: Indonesian Regional Police Command
- Polri (i)*: **Polisi Republik Indonesia**, Indonesian Police Force
- Posto (p)*: an administrative district within a *concelho*. There were 58 *Postos* in Portuguese Timor.
- RDTL: *República Democrática de Timor Leste (p)*, the Democratic Republic of East Timor (declared 28 Nov 1975 and current name of government)
- RER: *Reajustamento Estrutural do Resistência (p)*, The Reorganisation of the Structure of the Resistance in December 1988 that established CNRM.
- SPSC: Special Panels for Serious Crimes
- Suco/Suku (p/t)*: a village administration unit, several of which make up a *Posto*.
- Tetum/n (t)*: indigenous *lingua franca* of East Timor
- Tara bandu (t)*: putting an area under ritual prohibition
- UDT: *União Democrática Timorese - Timorese Democratic Union*
- Ukun rasik an (t)*: self-determination
- UN: United Nations
- UNAMET: United Nations Mission to East Timor (May-October 1999)
- UN Habitat: United Nations Human Settlements Programme
- UNISCOI: United Nations Independent Special Commission of Inquiry for Timor Leste
- UNMISSET: United Nations Mission of Support in East Timor
- UNMIT: United Nations Integrated Mission in Timor-Leste (2006?)
- UNTAET: United Nations Transitional Administration in East Timor (2000-2002)
- USAID: United States Agency for International Development

## Chronology of Timor-Leste Crisis (1999-2006)

### 1999

- 30 Aug Referendum Day: more than 97% of East Timorese vote  
4 Sep Official announcement of the results: 344 580 East Timorese (78.5%) vote in favour of independence. Almost immediately, pro-Indonesian militias begin a rampage of shooting, burning and herding people out of their homes.  
17 Sep Indonesian Army begins its withdrawal from East Timor  
19 Sep INTERFET Commander Major General Peter Cosgrove arrives in Dili.  
27 Sep The UN High Commission for refugees (HCR) demands the setting up of an international inquiry commission  
13 Oct A first count by the UN indicates that 400 000 East Timorese (45% of the population) are reported missing  
25 Oct The Security Council sets up a provisional administration, UNTAET, under the direction of Sergio Vieira de Mello who consults an East Timorese national advisory council (CN)  
1 Nov Departure of the last of the Indonesian troops from East Timor  
17 Dec International Donors meet in Tokyo. \$500 million is released for reconstruction

### 2000

- Early 2000 UN Civilian Police (CivPol) begins recruitment drive for the new East Timorese police service.  
31 Jan The Indonesian Commission on the Violation of Human Rights in East Timor, formed in 1999, submits its report. The Commission declares that the facts reveal crimes against Humanity and demands the constitution of an international tribunal  
27 Mar Basic training for Timorese police recruits commences by UNTAET.  
May Establishment of a 'serious crimes' justice process  
12 Jul First fifty graduates of the Police College take up positions as police officers.  
17 Jul A Transitional Cabinet (four East Timorese; four UNTAET reps) holds first meeting in Dili  
Aug Xanana Gusmao is re-elected as President of CNRT  
Oct Inaugural meeting of National Council (NC) consisting of 36 East Timorese reps)  
Creation of East Timorese police force (PNTL) under UNTAET  
11 Dec First indictments for Crimes against Humanity by the Dili Court of Justice under the aegis of the UNO for acts committed in 1999

### 2001

- 25 Jan First conviction of a militiaman by the Dili Court of Justice (Joao Fernandes, of *Dadurus Merah Putih* militia, is sentenced to 12 years in prison for murder)  
1 Feb Dissolution of pro-independence resistance army Falintil and founding of new East Timor Defence Force (FDTL). Falintil Commander Taur Matan Ruak appointed as the Commander-in-Chief of the Force.  
16 Mar UNTAET Decree passed to carry out elections for a Constituent Assembly  
19 Mar Xanana Gusmao dissolves CNRT in order to allow free competition among the parties.  
8 Jul National Unity Pact made by all political factions in Timor during the election of the Constituent Assembly. With the approach of the elections, the UNTAET dissolves the advisory National Council (CN).  
13 Jul UNTAET establishes a Commission for Reception, Truth and Reconciliation (CAVR) to collect evidence of events from April 1974 to Oct 1999.  
10 Aug UNTAET formally establishes the East Timor Police Service  
30 Aug Democratic elections held for the Constituent Assembly: Fretilin wins 57.4% of the mandate with a participation of 94% of the voters enrolled.  
Sept 88 elected members begin the task of drafting the Timor-Leste constitution. 24 members of new all-East Timorese Council of Ministers of the Second Transitional Government are sworn-in.  
12 Sep First meeting between the new Indonesian President Megawati Sukarnoputri and Timorese leaders (Sergio Vieira de Mello, Xanana Gusmao, Mari Alkatiri and José Ramos Horta)

### 2002

- 21 Jan CAVR National Commissioners are sworn in by the SRSG.  
22 Mar The final draft of the constitution was presented at a plenary session of the CA which approved and decreed the document

- 20 May The Democratic Republic of Timor-Leste established during a lavish independence ceremony attended by the Indonesian President, Australian Prime Minister and President Bill Clinton. The 88 member CA was transformed into the National Parliament and Xanana Gusmao sworn in as President. The UN Mission of Support in East Timor, UNMISET, was also established. An agreement signed outlining the terms and timetable of the handing over of full policing duties from CivPol to the PNTL.
- 5 Aug Indonesian ad hoc Human Rights Court on East Timor acquits six Indonesian military and police officers of charges of crimes against humanity committed in 1999, contrary to a wealth of well-documented evidence.
- 27 Sep The Democratic Republic of East Timor gains membership in the United Nations and becomes the 191 nation to join the UN.
- 25 Nov East Timorese security forces face anti-government confrontation.

### 2003

- Jan Report of the Joint Assessment Mission (Government of Timor Leste, UNMISET, UNDP and Development Partner Countries) for the Timor-Leste Police service recommends a number of measures to strengthen the PNTL, including the establishment of a Committee and Working Group.
- 4 Mar The Indonesian government dismisses the prosecution of top Indonesian officials accused of committing crimes against humanity in East Timor.
- 20 May The International Federation for East Timor (IFET) urged the UN Security Council to establish an international tribunal on the crimes against humanity committed in the territory from 1975 to 1999.
- 6 Jun East Timor becomes the 191st country to sign up to the Geneva Conventions.

### 2004

- 19 Apr Demetrio do Amaral de Carvalho, a former clandestine resistance leader and leading environmentalist, receives the US-based Goldman Environmental Prize
- 16 May President Xanana Gusmão meets Indonesian President Megawati Sukarnoputri in Bali to discuss bilateral relations.
- 24 May Indonesian Supreme Court clears 3 Indonesian officials for their roles in the church killings of 27 East Timor independence supporters in 1999.
- 28 May U.N. peacekeepers mark their withdrawal from East Timor after a nearly five-year mission. From 3,000 troops, the remaining contingent is reduced to 1,800 soldiers.
- 22 June PNTL detain 26 people after two recent incidents of mob violence involving martial arts groups leave four people dead
- 19 July The Judicial System Monitoring Programme (JSMP) send a statement to the Secretary-General of the United Nations, calling to establish a Commission of Experts to analyse the trials of the Special Panel for Serious Crimes in Dili and the Ad Hoc Human Rights Court for East Timor in Jakarta.
- 14 Sep Announcement of the first results of the new National Census. The population of Timor-Leste is up to 924 642, an increase of 17.4% since the 2001 Suco Survey.
- 17 Dec A group of F-FDTL members attacks Becora Police Station seriously injuring 3 PNTL

### 2005

- Jan A Commission of Experts appointed by UN Secretary General Kofi Annan to investigate progress on serious crimes prosecutions
- 19 Jan Six armed alleged pro-Indonesia militiaman arrested after armed clash with PNTL
- 20 Jan Indonesia and East Timor to form a "Truth and Friendship" Commission.
- 31 Jan President Gusmão dismissed domestic criticism over efforts to normalize relations with Indonesia.
- 14 Feb All 22 Timorese judges fail probationary evaluation.
- 14 Mar East Timor's first president: Francisco Xavier do Amaral, resigns from legislature, citing government failures.
- April Mass demonstrations against government policy in Dili led by the Catholic Church
- 28 Apr The UN Security Council Resolution 1599 establishes one-year political mission UNOTIL, replacing UNMISET, to remain until 20 May 2006.
- 7 May Three weeks of anti-government demonstrations came to an end after Prime Minister Mari Alkatiri and East Timor's two Catholic bishops, Alberto Ricardo da Silva of Dili and Basílio do Nascimento of Baucau, signed a negotiated Joint Declaration.
- 19 May End of the United Nations peacekeeping operations on East Timor. A scaled-down UN presence remains, the staff being reduced from 900 to about 275 military, police and government advisers.
- 13 Jun Formal close of Australia's six-year military presence since 1999
- Jul World Bank Report criticises the government's "poor outreach" to the population

- 31 Oct Commission for Truth, Reception and Reconciliation (CAVR) final report, *Chegal*, presented to President Gusmão and provided to the Parliament on 28 Nov. No official response was received from either. Due to be released in Dec, it estimates the total number of conflict-related deaths during the period 1975-1999 is between 102,800 and 183,000.
- 20 Dec 'Post-CAVR' Secretariat inaugurated by President Xanana Gusmao in consultation with the Government of Timor-Leste.
- 2006**
- 9 Jan F-FDTL soldiers submit a written petition to Brigadier General Taur Matan Ruak and President Gusmão.
- 8 Feb A group of about F-FDTL 350 troops (of a total 1,800) protest against discrimination, working conditions and other grievances in front of the presidential palace in Dili.
- 10 Feb An inquiry commission began hearings on the East Timorese soldiers protesting alleged discrimination and ill-treatment by commanders.
- 17 Feb Petitioners abandon their barracks.
- 22 Feb Brigadier General Taur Matan Ruak indicates during a meeting with members of the bilateral Commission of Truth and Friendship in Dili that he wants to normalize military relations with Indonesia, despite unresolved human rights cases.
- 16 Mar Dismissal of 591 petitioners is announced. The effective date is 1 March 2006.
- 17 Mar Gastao Salsinha, the leader of the group of 593 East Timorese soldiers dismissed from the armed forces for going on strike appeals to President Xanana Gusmão to mediate in their row with the military leadership
- 23 Mar President makes a speech criticizing the decision to dismiss and referring to the "east versus west" issue.
- Apr *Haberan Kapasidadi ba Dezinvovmentu (HaKDea)*, a student-based NGO from Ermera district approach local village leaders with the idea of reinvigorating local customary *tara bandu* practices in order to tackle timber felling and other natural resource management issues in the region.
- 18 Apr Petitioners submit a letter to the General Commander of PNTL seeking permission to hold a peaceful demonstration from 24 to 28 April inclusive.
- 24 Apr Petitioners' demonstration begins in front of the Government Palace.
- 26 Apr About 2,000 protesters held a demonstration in support of dismissed soldiers
- 28 Apr Violence erupts outside the Government Palace on the last morning of the demonstration. Two civilians are killed, four persons suffer firearm injuries, two others suffer serious injuries. More violence occurs at Comoro Market. One civilian is killed, eight persons suffer firearm injuries, four others suffer serious injuries. At Raikotu/Taci Tolu violence occurs within the F-FDTL operational area. Two civilians are killed, five civilians suffer firearm injuries. F-FDTL is deployed to assist PNTL to restore order and contain the petitioners.
- 29 Apr The decision is made to withdraw F-FDTL.
- May Civil unrest, causing more than 20 dead, drives 100,000 people (65,000 around Dili) from their homes to emergency IDP camps
- 1 May Joint F-FDTL Military Police and PNTL operations commence.
- 3 May Major Alfredo Reinado abandons the F-FDTL Military Police taking with him other military police officers, PNTL officers and weapons.
- 4 May Withdrawal of F-FDTL is completed.
- 8 May Incident of violence in Gleno in which eastern PNTL officers are attacked. One officer killed, one officer seriously injured. Minister of the Interior Rogerio Lobato arms two groups of civilians - the Rai Los and Lima Lima groups - with weapons and ammunition belonging to the Border Patrol Unit (UPF) of PNTL.
- 13 May UN Security Council unanimously approves a one-month extension of the UN mission in East Timor until June 20 and urged East-Timorese authorities to address the causes of the recent wave of violence in the territory
- 17 May Fretilin Party National Congress begins in Dili (until 19<sup>th</sup>).
- 18 May Prime Minister Mari Alkatiri is re-elected as head of Fretilin, despite criticism about the April crisis.
- 21 May Minister of the Interior Lobato distributes additional UPF weapons to the Rai Los group.
- 23 May F-FDTL and PNTL officers are ambushed by Major Reinado and his group. Five persons are killed, 10 persons are seriously injured.
- 24 May Attack on F-FDTL soldiers in Taci Tolu/Tibar by the Rai Los group, petitioners, and PNTL. Five persons are killed two persons are seriously injured. Attack on the house of Brigadier General Taur Matan Ruak. One person is killed, two persons are injured. F-FDTL arms civilians with the knowledge of Minister of Defence Roque Rodrigues.

- In response to ongoing clashes between the East Timor Defence Force (FDTL) and rebel soldiers and police, Xanana Gusmão and Mari Alkatiri ask the Australian government to send troops as part of an international force to restore security
- 25 May The house of in-laws of Minister of the Interior Lobato is burnt. Six civilians trapped inside the house are killed.  
An armed confrontation between F-FDTL soldiers and PNTL officers centred on the PNTL headquarters in Dili is followed by the shooting of unarmed PNTL officers escorted under United Nations protection. Nine persons are killed, twenty-seven persons suffer serious gunshot injuries. A shooting occurs at Mercado Lama. One civilian is killed, two civilians are wounded.
- 26 May 350 Australian troops arrive in Dili, out of 1,300 soldiers committed for a peace-keeping forces in East Timor. 500 are to come from Malaysia, 200 from Portugal and 100 from New Zealand.
- 1 Jun Minister of the Interior Lobato and Minister of Defence Rodrigues resign.
- 25 Jun Minister for Foreign Affairs Ramos-Horta resigns.
- 26 Jun Prime Minister Mari Alkatiri steps down, as demanded by Xanana Gusmão, after the President threatened to resign.
- 8 Jul José Ramos Horta is appointed Prime Minister. He offers a weapons amnesty.
- 10 Jul José Ramos-Horta is sworn in as Prime Minister.
- July/Aug Establishment of *National Dialogue to Overcome the Crisis* by President Xanana Gusmao
- 25 Aug The UN Security Council votes to authorize 1,600 international police and 34 military liaison officers for a follow-on mission in East Timor. The UN mission will support the government in the presidential and parliamentary elections, scheduled for 2007.
- 25 Aug Establishment of United Nations Integrated Mission in Timor Leste (UNMIT)
- Sept East Timor Crisis Reflection Network (ETCRN) first forum in Dili. ETCRN calls upon leaders to contribute to a youth initiative for dialogue and peace and for a mutual acceptance processes in different neighbourhoods, instigated in Aug by the Ministry of Social Affairs, Labor and Solidarity as part of a general movement for national reconciliation.
- Oct United Nations Report released alleging that the government bought and distributed weapons that were subsequently used to intimidate its opposition and critics
- Nov ETCRN calls upon the state leaders, including political leaders, to demonstrate political maturity and courage by engaging in dialogue and reconciliation. President Xanana makes a public appeal for reconciliation. Peace rallies organized by Timorese youth groups and a symbolic joint parade held by the police and army units.

## Biographical Notes for Contributors

### Simon Batterbury

Simon Batterbury is a senior lecturer in the School of Social and Environmental Enquiry, The University of Melbourne, and has taught at Brunel, the London School of Economics, Arizona, Roskilde, and Colorado. He first visited Timor-Leste in 2006, and has conducted research on resource management and community development in dryland West Africa for 15 years.

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### Salustiano Freitas

Salustiano Freitas is an expatriate Timorese, living in Melbourne since leaving East Timor in August 1975. He is a graduate of Victoria University Technology with a BA (Hon) majoring in Community Development and Asia Pacific. He also completed an Associate Diploma of Welfare and Community Studies from Footscray TAFE. He has been an activist for East Timor since April 1974. He was student leader, founding member of UNETIM (*Uniao Nacional de Estudantes de Timor*, the National Union of Timorese Students) and later LESVALT (*Liga de Estudantes para Valorizacao de Timor*, the Student League for Timorese Development) and became secretary of the former. He has held various positions within the Timorese Association in Victoria. He is currently employed in Australian Federal public service.

### Balthasar Kehi

Balthasar Kehi is a part-time Research Fellow at The University of Melbourne working on the Agreements, Treaties and Negotiating Settlements project. Born in Timor Leste he did his undergraduate studies in philosophy and theology in Indonesia, graduate studies in psychology and philosophy at Loyola University of Chicago, United States International University in San Diego and Columbia University in New York where he received a PhD degree in philosophy and education. He has taught in Jakarta, Melbourne and Dili and was recently three months in Dili working as a volunteer with AUSTCARE on their peace education project.

### Lia Kent

Lia Kent is a PhD candidate in the Department of Criminology at the University of Melbourne. Her thesis explores community expectations of transitional justice in Timor-Leste. Since 2000 she has worked in Timor-Leste for a wide range of organisations including Oxfam International and the UNTAET Human Rights Unit. In 2004 she conducted a qualitative research project in Timor-Leste which explored expectations and attitudes towards the CAVR's community reconciliation process, and involved interviews with victims, deponents and community members in five districts. The research report, *Unfulfilled Expectations: Community Views of the Community Reconciliation Process*, is available on the website of the Judicial Systems Monitoring Programme.

### **Judy Longbottom**

Judy Longbottom worked on land tenure systems in anglophone and francophone Africa as Research Associate of the International Institute for Environment and Development (IIED), UK from 1995-2001 and from 2001-4 she was at the Bureau for Applied Research in Anthropology, University of Arizona, USA. She lives in Melbourne. judylongbottom@hotmail.com.

### **Sara Niner**

Sara Niner recently completed her PhD titled '“Our Brother, Maun Bo't: The Biography of Xanana Gusmão, Leader of the East Timorese Struggle' at La Trobe University. Since 2001 she has worked with the Alola Foundation in East Timor and Australia in various positions, as member of the Board of Directors and as an advisor to their Handcrafts Development Project assisting local producers. From 2000 to 2003 she worked in various positions in Timor-Leste. She published *To Resist is to Win: the Autobiography of Xanana Gusmão with selected letters and speeches* in early 2000. She lives in Melbourne. sara@alolafoundation.org

### **Lisa Palmer**

Dr Lisa Palmer is a lecturer in the School of Social and Environmental Enquiry at the University of Melbourne where she teaches and researches in the fields of indigenous and local people's natural and cultural resource management. In 2006 she conducted fieldwork in Timor-Leste examining issues surrounding customary land and resource management laws and the influence of these law-making processes on nation-building and development. This research was conducted under the auspices of the Australian Research Council research project *The Implementation of Treaties and Agreements with Indigenous and Local Peoples*.

### **Jude Wallace**

Jude Wallace is a lawyer specializing in international land policy and land administration systems. She has worked in academia, the legal profession and government. She focuses on developing appropriate legal and administrative frameworks for land administration in tenure and titling, especially in the Asia Pacific region. Her special interests are human rights and pro-poor land tools.

### **Bu Wilson**

Bu Wilson completed her Honours degree in Environmental Science at Murdoch University and a Master of Laws in Comparative Law through the Northern Territory University. Bu worked for several years in Timor-Leste variously with the Land and Property Unit and the Oecussi District Administration (UNTAET), as Director of Judicial System Monitoring Programme and Country Director of Caritas Australia. Previously she worked as East Asia Program Coordinator for Oxfam Australia in Melbourne and with the National Native Title Tribunal in Perth, Darwin and Adelaide. An interest in organisational development in post conflict situations has led to commencing a thesis that examines influences on the development of the East Timorese police force.

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