

**Integrating Indigenous Approaches into a ‘New
Subsistence State’:**

**The Case of Justice and Conflict Resolution in
East Timor**

A thesis submitted for the degree of Doctor of Philosophy

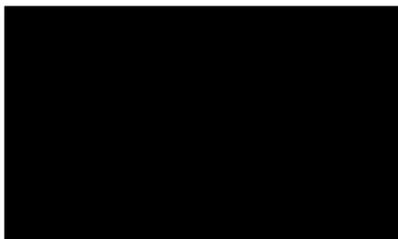
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I hereby declare that the work herein, now submitted as a thesis for the degree of Doctor of Philosophy of the Charles Darwin University, is the result of my own investigations, and all references to ideas and work of other researchers have been specifically acknowledged. I hereby certify that the work embodied in this thesis has not already been accepted in substance for any degree, and is not being currently submitted in candidature for any other degree.



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Abbreviations and Foreign and Technical Terms

Abbreviations

ABC	Australian Broadcasting Corporation
ADB	Asian Development Bank
AKI	Adnkronos International
AFP	Agence France-Presse
AMP	<i>Aliança para Maioria Parlamentar</i> (Alliance of the Parliamentary Majority)
APEC	Asia Pacific Economic Cooperation
APODETI	<i>Associação Popular Democrática Timorese</i> (Timorese Popular Democratic Association)
ASDT	<i>Associação Social Democrata Timorese</i> (Timorese Social Democrat Association)
AusAID	Australian Agency for International Development
ASEAN	Association of South East Asian Nations
ASIAT	Australian Society for Inter-Country Aid
ASPI	Australian Strategic Policy Institute
BAKIN	<i>Badan Koordinasi Intelijen Negara</i> ([Indonesian] State Intelligence Coordinating Agency)
BAPPEDA	<i>Badan Perencanaan Pembangunan Daerah</i> ([Indonesian] Regional Development Planning Board)
BNU	<i>Banco Nacional Ultramarino</i>
BBC	British Broadcasting Corporation
BPS	<i>Biro Pusat Statistik</i> (Indonesian Central Statistics Bureau)
CAVR	<i>Comissão de Acolhimento, Verdade e Reconciliação</i> (Commission for Reception, Truth and Reconciliation)
CEP	Community Empowerment (and Local Governance) Project
CFA	Central Fiscal Authority
CIA	Central Intelligence Agency
CIACL	Committee of Inquiry into Aboriginal Customary Law

CivPol	United Nations Civilian Police
CNE	<i>Comissão Nacional de Eleições</i> (National Electoral Commission)
CNIC	<i>Centro Nacional de Investigação Científica</i>
CNRM	<i>Concelho Nacional da Resistência Maubere</i> (National Council of Maubere Resistance)
CNRT	<i>Concelho Nacional da Resistência Timorese</i> (National Council of Timorese Resistance)
CNRT	<i>Congresso Nacional de Reconstrução de Timor</i> (National Congress for Timorese Reconstruction),
CFET	Consolidated Fund for East Timor
CPD-RDTL	<i>Concelho Popular pela Defesa da República Democrática de Timor-Leste</i> (Popular Council for the Defence of the Democratic Republic of East Timor)
CRJ	Community Restorative Justice
CRRN	<i>Concelho Revolucionário da Resistência Nacional</i> (Revolutionary Council of National Resistance)
DA	District Administrator
DNTP	<i>Direcção Nacional de Terras e Propriedades</i> (Directorate of Land and Property)
DPKO	(United Nations) Department of Peace Keeping Operations
DPRD	<i>Dewan Perwakilan Rakyat Daerah</i> (Provincial Council of People's Representatives)
ETA	East Timor Administration
ETAN	East Timor Action Network
ETTA	East Timor Transitional Administration
FALINTIL	<i>Forças Armadas de Libertação Nacional de Timor-Leste</i> (Armed Forces for the National Liberation of East Timor)
FAO	Food and Agriculture Organisation
F-FDTL	FALINTIL – <i>Forças Defesa de Timor-Leste</i> (East Timor Defence Force)
FRELIMO	<i>Frente de Libertação de Moçambique</i> (Mozambique Liberation Front).
FRETILIN	<i>Frente Revolucionária de Timor-Leste Independente</i> (Revolutionary Front for an Independent East Timor)
GDP	Gross Domestic Product
GIS	Geographic Information System
GPA	(East Timor) Governance and Public Administration

GPS	Geographic Positioning System
ICG	International Crisis Group
ICRC	International Committee of the Red Cross
INTERFET	International Force in East Timor
IEC	Independent Electoral Commission
IOM	International Organisation for Migration
JMOFA	Japanese Ministry of Foreign Affairs
JSMP	Judicial System Monitoring Programme
KOTA	<i>Klibur Oan Timor Asuwain</i> (Association of Timorese Heroes)
LLP	Land Law Program
LPU	Land and Property Unit
LTC	Legal Training Centre
MAFF	Ministry of Agriculture, Forestry and Fisheries
MFA	<i>Movimento das Forças Armadas</i> (Armed Forces Movement)
MHRI	Ministry of Health Republic Indonesia
MPF	Ministry of Planning and Finance
MPR	<i>Majelis Permusyawaratan Rakyat</i> ([Indonesian] People's Consultative Assembly)
MUITD	<i>Movimento para Unidade e Independência de Timor-Leste</i> (Movement for the Unity and Independence of the Timorese People)
NATO	North Atlantic Treaty Organisation
NCBA	National Cooperative Business Association
NC	National Council
NCC	National Consultative Council
NDI	National Democratic Institute
NGO	Non-Government Organisation
NLC	Northern Land Council
NTT	<i>Nusa Tenggara Timur</i> ([Indonesian province of] East Nusa Tenggara)
NZLC	New Zealand Law Commission
ODA	Official Development Assistance
ODJP	Oecusse Diversionary Justice Program
OECD	Organisation for Economic Co-operation and Development
PD	<i>Partido Democrático</i>
PDF	Peace and Democracy Foundation

PKF	Peace Keeping Force
PNG	Papua New Guinea
PNTL	<i>Polícia Nacional de Timor-Leste</i> (Timorese National Police)
PSD	<i>Partido Social Democrata</i> (Social Democratic Party)
RAMSI	Regional Assistance Mission to Solomon Islands
RDTL	<i>República Democrática de Timor-Leste</i> (Democratic Republic of East Timor)
RENETIL	<i>Resistencia Nacional dos Estudantes de Timor-Leste</i> (East Timorese Students' National Resistance)
SAPT	<i>Sociedade Agrícola Pátria e Trabalho</i>
SI	Solomon Islands
SRSG	Special Representative to the Secretary-General (of the United Nations)
TAA	Trans Australian Airlines
TAT	<i>Transportes Aéreos de Timor</i> (Timor Air Transport)
TFET	Trust Fund for East Timor
TI	Transparency International
TNI	<i>Tentara Nasional Indonesia</i> (Indonesian National Army)
UDT	<i>União Democrática Timorese</i> (Timorese Democratic Union)
UN	United Nations
UNAMET	United Nations Assistance Mission in East Timor
UNDP	United Nations Development Program
UNFPA	United Nations Population Fund
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNISCITL	United Nations Independent Special Commission of Inquiry for Timor-Leste
UNOCHA	United Nations Office for the Coordination of Humanitarian Affairs
UNOTIL	United Nations Office in Timor-Leste
UNTAC	United Nations Transitional Authority in Cambodia
UNTL	<i>Universidade Nacional Timor Lorosa'e</i> (East Timor National University)
UNTIM	<i>Universitas Timor Timur</i> (University of East Timor),
UNMIK	United Nations Interim Mission in Kosovo
UNMISSET	United Nations Mission of Support in East Timor
UNMIT	United Nations Integrated Mission in Timor-Leste
UNSC	United Nations Security Council
UNTAET	United Nations Transitional Administration in East Timor

US	United States (of America)
USAID	United States Agency for International Development
USIP	United States Institute of Peace
WFP	World Food Program
WHO	World Health Organisation

Foreign and Technical Terms

<i>Adat</i>	Customary/traditional laws, values and belief systems
<i>Aldeia</i>	Hamlet
<i>Babinsa</i>	Military village development officer
<i>Biti Boot</i>	Large (traditional) mat
<i>Bupati</i>	District administrator
<i>Camat</i>	Sub-district administrator
<i>Celcom</i>	Hamlet-level resistance structure (from <i>Célula da Comunidade</i> , or Cellular Community)
<i>Chefe de suco</i>	Village chief
<i>Camara municipal</i>	Municipality
<i>Capitação</i>	Head tax
<i>Conselho</i>	Council; administrative region
<i>Conselho de Katuas</i>	Elders council
<i>Krismon</i>	Monetary crisis (from <i>krisis moneter</i>)
<i>Dato</i>	Village chief
<i>Daerah</i>	Region, district
<i>Desa</i>	Village
<i>Finta</i>	Tribute system
<i>Firaku</i>	Population of ‘eastern’ East Timor
<i>Guia de trânsito</i>	Transit pass
<i>Hak milik</i>	Private freehold
<i>Kabupaten</i>	District
<i>Kepala desa</i>	Village chief
<i>Kaladi</i>	Population of ‘western’ East Timor
<i>Kecamatan</i>	Sub-district
<i>Katuas</i>	Village elder
<i>Kota</i>	Town

<i>Ladang</i>	Field (rain-fed)
<i>Lia nain</i>	‘Keeper of the word’
<i>Liurai</i>	King
<i>Lulik</i>	Magic
<i>Malai</i>	Foreigner
<i>Maromak</i>	God
<i>Maubere</i>	A term used by the FRETILIN political party in celebration of the East Timorese ‘common man’
<i>Meo</i>	Warrior
<i>Moradore</i>	Civilian militia member
<i>Nahe Biti</i>	Reconciliation
<i>Nurep</i>	Village-level resistance unit (from <i>Núcleos de Resistência Popular</i> , or Nucleus of Popular Resistance)
<i>Posto</i>	Sub-district
<i>Povoação</i>	Hamlet (now referred to using the term ‘aldeia’)
<i>Reino</i>	Kingdom
<i>Selatan</i>	South
<i>Suco</i>	Village
<i>Sumpah adat</i>	Ritual oath
<i>Surat jalan</i>	Travel pass
<i>Tanah</i>	Land
<i>Tengah</i>	Central
<i>Timur</i>	East
<i>Trabalhista</i>	Labour
<i>Tuasabu</i>	Distilled palm wine
Waypoint	Set of spatial coordinates
<i>Zona</i>	Sub-district level of resistance organisation (FRETILIN/CNRT term)

Abstract

This thesis begins by proposing the typology of the New Subsistence State as a conceptual tool for understanding governance challenges typically faced in jurisdictions characterised by subsistence social and economic relations. Defining features of the New Subsistence State include (1) an overwhelmingly subsistence economy corresponding to little or no historical experience of the generation and administration of large surpluses, (2) minimal workforce stratification and labour specialisation, (3) the predominance, especially in rural areas, of traditional authority relations, and (4) the realisation of statehood as a result of either the adoption or bestowal of the state *model*, rather than the autochthonous development of the state *form*.

The thesis then examines ways in which the case-study of East Timor conforms to the typology of the New Subsistence State. This analysis includes consideration of a range of geographic, historical and socio-political features, and some of the ways these aspects restrict the capacity of the new state to operate effectively in accordance with the modern state model. A particular theme concerns the minimal extent to which the territory of East Timor has experienced meaningful social and economic modernisation throughout any of the chapters of its history. Additionally, a range of other influences contributing to governance challenges in East Timor in contemporary times are examined, including post-conflict aspects, demographic trends and political antipathies which have their origins in the 1974–1975 period. The analysis demonstrates that East Timor faces major challenges in all main areas of public administration, with the justice sector an area of particular concern.

Whereas state institutions remain weak, the country has the option to draw on *suco* institutions to support some areas of governance, including justice and conflict resolution. In a number of comparable New Subsistence State contexts elsewhere, strategies have been implemented to link village-level forums to the state justice sector, yet no such initiative has been implemented in East Timor. However, a community justice and mediation program could be a relatively economical means of improving the efficiency of *suco*-level justice and conflict resolution forums, promoting human rights values and reducing the burden on the national courts system.

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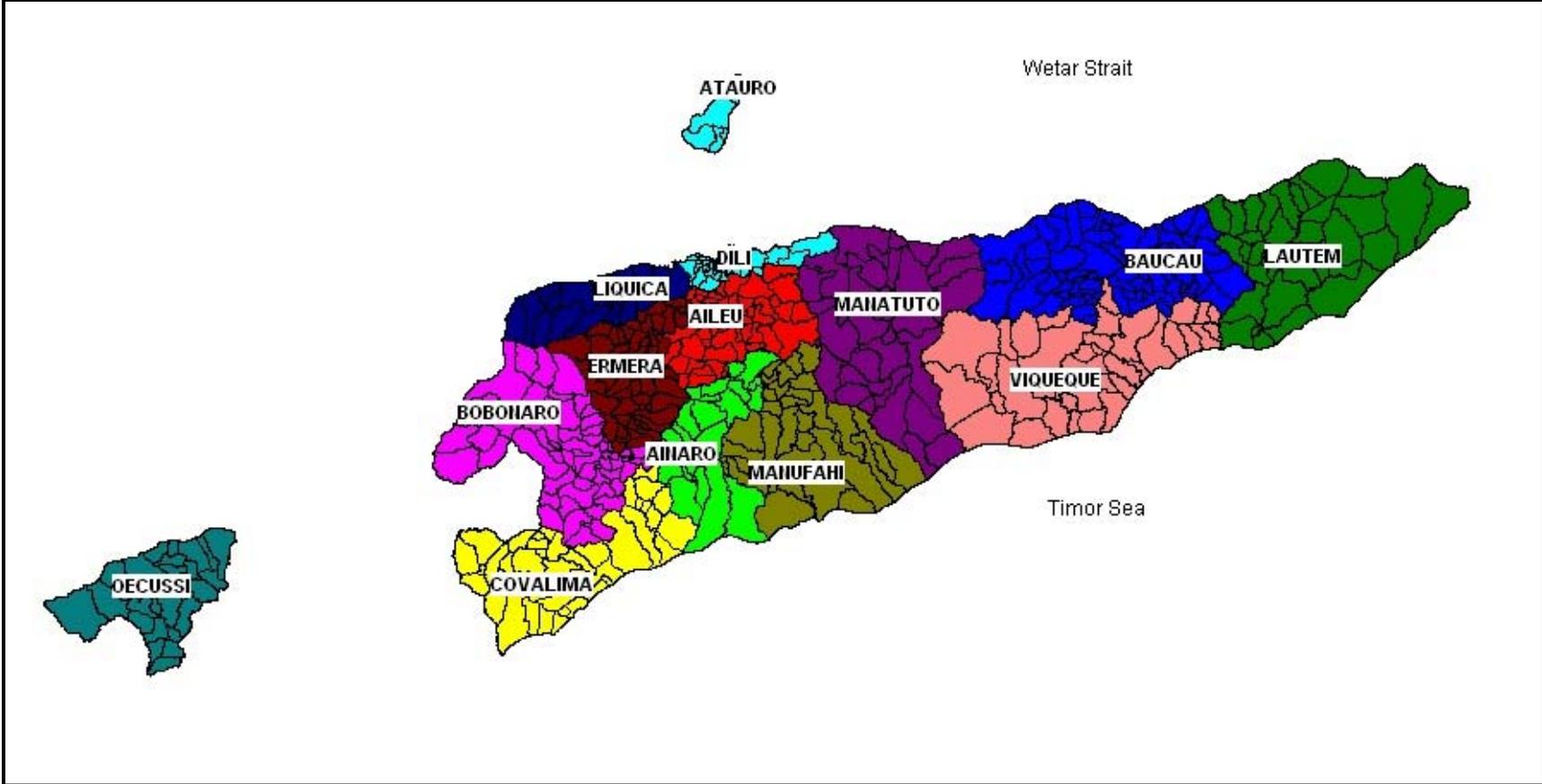
Since commencing this project I have been fortunate to have been involved in several programs initiated for the purpose of generating research-based policy recommendations in various areas. Specifically, my own study benefited substantially from my involvement in the United States Institute of Peace (USIP) Project on Peacekeeping and the Administration of Justice, and the United States Agency for International Development (USAID) East Timor Land Law Program (LLP), administered by ARD Inc. and undertaken in cooperation with the Timor-Leste *Direcção Nacional de Terras e Propriedades* (DNTP) and the Timor-Leste *Centro Nacional de Investigação Científica* (CNIC). For the rewarding experience of working on these projects, I owe my thanks to many. In relation to the USIP study these include Colette Rausch from the Washington office, Tanja Hohe, with whom I worked in Timor, and Aderito Punif, with whom I

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Map 1: República Democrática de Timor-Leste - Districts Boundaries¹



¹ Map prepared by Dr Howard Rogers from Booyong Forest Science.

Introduction

Since the commencement of the War against Terror, increased attention has been focussed on the problem of weak states and the need to prevent these from degenerating further to the point where they become failed or collapsed.¹ The dire levels of state capacity and reach which characterise failed and collapsed states have been associated with the increased involvement of non-state actors, sometimes portrayed in a sinister light in the weak state literature. As described by Rotberg (2002a; 2002b; 2003), non-state elements typically include terrorists and warlords who invade the state mandate as the state itself (usually rotting internally from maladministration and corruption) retreats to the capital, its regional influence extending only to milk available sources of mineral wealth. As the state's rapacious and decadent leaders reap the rewards of political office, the terrorists and warlords expand their grip over tracts of abandoned territory, posing a threat not only to the local population, but also to the stability of the region. Such a portrayal, however, fails to do justice to legitimate non-state actors and institutions which serve to support order and stability, including in contexts where state actors are failing to produce similar outcomes through the 'rule of law'.

The fact that political and social modernisation is a gradual process is reflected in the retention, by more than a third of the world's most developed nations, of unelected monarchs as heads of state.² Yet international state-building efforts in emerging nations can place such strong emphasis on democratic rights and legal processes that the transitional roles of locally legitimate actors and institutions become at risk of being ignored, potentially with serious consequences.³

¹ See, for example, former Australian Foreign Minister Alexander Downer's statement (2004) concerning the need to address the 'risks posed by state and institutional weakness in the Pacific.' For Australia, one manifestation of the results of this commitment has been the Regional Assistance Mission to the Solomon Islands (RAMSI).

² Taking member-states of the Organisation for Economic Cooperation and Development (OECD) as an example, the following twelve (out of a total of thirty) have monarchs as heads of state: Australia, Belgium, Canada, Denmark, Japan, Luxemburg, the Netherlands, New Zealand, Norway, Spain, Sweden, and the United Kingdom. Note that this is an observation rather than an argument in favour of monarchs as heads of state in developed societies.

³ In this regard, McGeough (2004) argues that in Iraq, the United States-led coalition reduced their chances of producing stability at an early stage, by sidelining the same Iraqi tribal leaders who assisted

The discipline of the social sciences recognises that different historical circumstances have produced different kinds of human societies, with different capacities for such undertakings as surplus generation and public administration. As discussed in detail in Chapter 1, countries composed predominantly of subsistence farming communities with no autochthonous experience of large-scale surplus accumulation or state development, typically struggle when faced with the challenge of operating in accordance with the modern state model. In such countries, referred to in this study as New Subsistence States, the state commonly (1) lacks the capacity for effective public administration and (2) has a population which, in the terms articulated by Weber (1978:227), is more inclined towards the observance of ‘traditional authority’ than state authority with its rationality-based democratic and legal institutions. In such contexts, the state may hold no monopoly over political legitimacy and may be incapable of delivering even modest benefits. Meanwhile, where the legitimacy and service-delivery capacity of non-state actors and institutions have never been extinguished in the course of an organic process of modernisation, they can continue to contribute to order. In a New Subsistence State, non-state actors and institutions perceived as legitimate by the population might not just be considered threats to state development or symptoms of state failure; they can also be seen as important elements for the construction of a stable future.

Structure of the Study

The present study endeavours to examine these ideas in relation to the East Timor case-study, with particular focus on the area of justice and conflict resolution. The breadth of the study includes consideration of historical influences, socio-cultural legacies and other factors which have contributed to the nature of the state of East Timor, as well as a

them prepare for the actual invasion. In his paper titled *Mission Impossible: The Sheikhs, the US and the Future of Iraq*, McGeough (2004) discusses how Iraqi tribal leaders played a role, together with United State (US) intelligence agents, in planning the overthrow of the regime of President Saddam Hussein. However, after the invasion had commenced and just as the Sheikhs were preparing to play their own hand in removing Saddam Hussein from office, the US made the decision to ignore a pact they had made with tribal leaders, and enter Baghdad independently. Shamed deeply by such disrespect for the role of the tribes in determining the future of Iraq, the sheikhs became alienated from the US-led intervention, and McGeough (2004:26-30) profiles the case of one sheikh who initially worked with the US to plan the ousting of Saddam Hussein, yet ended up supporting the resistance against the US-led invasion.

study of the indigenous institutions which continue to contribute to order and stability as the state struggles to maintain and expand its authority. This study is structured around three objectives, as follows:

Objective I

The first objective is to develop a conceptual and explanatory framework which fosters understanding of New Subsistence States and the particular public administration challenges which they face. This theoretical component, outlined in detail in Chapter 1, is informed by literature on weak states and literature examining the various processes associated with the autochthonous development of the first ‘traditional’ states in pre-historic times. This component of the study also includes preliminary consideration of the role which restorative approaches can play in supporting broader justice objectives in non-state social contexts.

Objective II

The second objective of this study is to examine the historical reasons why East Timor conforms to the typology of the New Subsistence State, and to explore how this heritage is impacting on governance. This objective is advanced first through an examination of East Timor’s geography, and an analysis of the territory’s history (Chapters 2-4) which draws on multiple secondary and some primary sources, and spans the pre-pacification to the late Indonesian periods.

Specifically, Chapter 2 discusses the prevailing geographic constraints of the island of Timor and the socio-political characteristics of Timorese societies at colonial contact. This is followed by an examination of how key elements of customary administration were preserved in East Timor until the end of the Portuguese period, in the context of a territory that experienced little meaningful modernisation throughout the entire colonial era. The chapter concludes with an evaluation, from a governance and public administration perspective, of the mixed legacy of Portuguese colonisation and Timorese socio-political institutions and martial traditions.

Chapter 3 continues with an analysis of the events of 1974 and 1975, during which time Portuguese Timor was abruptly delivered into a period of political awakening and turmoil, before becoming a target of Indonesian aggression. The chapter covers both international and domestic developments of this important period, but is particularly concerned with the emergence and dynamics of the new political elite, and the insights this period provides concerning the administrative capacity and stability of a future East Timor state.

Chapter 4 concerns the period of Indonesian occupation. The chapter begins with an analysis of the key developments of this period, including the dynamics of the East Timorese resistance. In accordance with the objective of evaluating state administration capacity, the chapter then explores the extent to which this capacity was advanced during the Indonesian years. The chapter demonstrates why the period of Indonesian rule failed to foster social and economic modernisation and the development of local administrative capacity, notwithstanding the resources allocated to East Timor by the government of Indonesia throughout the occupation. The final section of the chapter provides an analysis of a range of social and political legacies of the occupation period, and consideration of the impact these may have on future state-building prospects.

Chapter 5 examines East Timor's emergence as an independent state, with attention to the initial international intervention and the United Nations Transitional Administration in East Timor (UNTAET) mission with its public administration and governance components. The chapter includes consideration of what the international intervention might realistically have achieved in terms of creating state capacity, given the respective legacies of the pre-colonial, Portuguese and Indonesian periods, the capacity of East Timorese elites and the limitations of the United Nations (UN) intervention itself. The study draws on the considerable literature that has been produced concerning this period, supplemented by other sources.

Chapter 6 traces the development of the new *República Democrática de Timor-Leste* (Democratic Republic of East Timor or RDTL) and presents a 'state strength

assessment' of the RDTL after five years of independence, using a number of key criteria identified in the literature on this area. This assessment draws on primary and secondary source documentation, and information collected by the writer through interviews and other research activities. The latter include evaluations and surveys completed between July 2003 and October 2005, during which time the writer worked in connection with the RDTL Ministry of Justice land policy development process. In particular, these studies include an evaluation of administrative challenges prevailing within the RDTL Directorate of Land and Property (Land Law Program 2004), a survey of the Dili rental market (Leigh and Nixon 2005), and a national survey of 'non-customary primary industry land' (Nixon 2005; Nixon 2007). The chapter concludes that the RDTL faces substantial challenges in all main categories of governance, with the area of justice a major area of weakness.

Objective III

Following on from the conclusions of the 'state strength assessment,' the third objective of this study is to profile customary justice and dispute resolution mechanisms in East Timor (referred to in this study as *suco* processes)⁴ and evaluate the potential of these processes to continue to contribute to justice outcomes in this New Subsistence State context. The actual profile of *suco* mechanisms is presented in Chapter 7, and draws initially on descriptions dating from both the pre-pacification and late colonial periods. These historical descriptions are complemented, with particular focus on indigenous approaches to the resolution of land disputes, by more recent research findings, including data from both qualitative and quantitative research projects in which the writer was involved between 2002 and 2004. The first of these projects was the United States Institute of Peace (USIP) Project on Peacekeeping and the Administration of Justice, in association with which the writer undertook field-work in East Timor in late 2002 with German anthropologist Tanja Hohe. The brief for this project specified an

⁴ The term *suco* (sometimes referred to as 'princedom' in English) is used in reference to these systems because the *suco* is the largest indigenous unit of Timorese political organisation to remain in existence following the elimination of the kingdoms, or *reinos*, in the early 20th century (see Chapter 2). Although the *suco* may not have been a universal element of socio-political organisation throughout Timor, it appears to have been sufficiently common to merit use in this context. For further information, see Hicks (1976:4-8). See also Davidson (1994:109-112), who discusses variations to the *suco* model of socio-political organisation.

evaluation of the interface between traditional justice systems and formal justice as it operated in East Timor during the UN transitional period. The report was informed by interviews with UN officials, East Timorese non government organisation (NGO) representatives, and traditional leaders from four districts (Aileu, Bobonaro, Baucau and Oecusse), and resulted in a report (Hohe and Nixon 2003) titled *Reconciling Justice: 'Traditional' Justice and State Judiciary in East Timor*. Findings and analysis resulting from the writer's contribution to the preparation of this report (including interviews with around twenty-five key respondents in the districts of Dili, Aileu and Oecusse, and six written responses to questionnaires prepared by the writer and returned by international officials)⁵ are included in sections of this chapter relating to the nature of *suco* justice and conflict resolution systems in East Timor and the way in which they interfaced with state agencies during the transitional period.

Chapter 7 also draws on research coordinated by the writer in association with the United States Agency for International Development (USAID) supported East Timor Land Law Program (LLP), with which the writer worked between July 2003 and October 2005. The LLP required the completion of a number of social surveys to inform the RDTL legislative development process, including the development of a legal framework for land dispute mediation.⁶ Chapter 7 includes consideration of the key findings of the land dispute mediation survey, which was based on structured interviews with one hundred and forty-two key persons from around the country, each with knowledge of local land dispute resolution processes. A further thirty respondents (household heads) were randomly selected in each of two sub-districts in order to test the extent to which the views and accounts of members of the general community were consistent with those of members of the key person sample comprised of *suco*, sub-district and district-level officials. Later research coordinated by the writer in May 2004⁷ tested several key aspects further, using a sample of seven hundred and seventeen

⁵ See Appendix A for a copy of the main questionnaire prepared by the writer for this survey. See Hohe and Nixon (2003) for the full report.

⁶ Technical aspects relating to this survey are referred to in Chapter 7. See Urresta and Nixon (2004a) for the original report. The research findings have also been discussed in detail in Nixon (2008).

⁷ Technical aspects relating to this survey are referred to in Chapter 7. For the original report, see Urresta and Nixon (2004b).

randomly selected household heads from eleven sub-districts throughout the country. Based on the various research activities, this chapter demonstrates that *suco* justice and conflict resolution mechanisms continue to be highly regarded throughout East Timor, and that they present opportunities for strengthening the weak state justice sector.

Chapter 8 follows on from the conclusions of Chapter 7 with an examination of proposals which have been advanced, both in the transitional and post-independence periods, for integrating customary justice and conflict resolution systems in East Timor into state framework. Attention is also given in this chapter to the broader debate that has taken place on this theme. The analysis shows that in several equivalent jurisdictions elsewhere, strategies have been implemented to connect village-level justice forums to the state sector, yet no such initiatives have been implemented in East Timor, except on a temporary or an ad hoc basis. The chapter presents an outline of a community justice and mediation program which could prove a relatively low-cost means of simultaneously improving the efficiency of *suco*-justice forums, promoting human rights values in rural areas and reducing the burden on the national court system.

Literature Review

The present study examines historical developments and socio-political features in Timor (predominantly Portuguese, or East Timor) over a range of periods. The analysis has been able to draw on a remarkably rich stock of English language literature, with such accomplished nineteenth century scientists as Wallace (1962[1869]) and Forbes (1989[1885]) having published primary accounts of their visits. More recently, Timor's pre-history has been studied by Glover (1986),⁸ and underlying geographical factors have received attention by authors including Ormeling (1957), Metzner (1977) and Fox (1988).⁹ Meanwhile, socio-political, anthropological and historical aspects of the colonial period have been examined by multiple commentators including Capell (1944), Boxer (1960), Middelkoop (1963), Schulte Nordholt (1971), Hicks (1972; 1976; 1983), Fox (1982; 1996), Davidson (1994), McWilliam (1996), Francillon (1980), Gunn (1999)

⁸ Important new contributions in this area include those by O'Connor, Spriggs and Veth (2002) and Lape (2006).

⁹ See also Durand (2006). For further reading on the broader history of Southeast Asia, see Reid (1987).

and Farram (1999; 2004).¹⁰ The literature on colonial East Timor also includes a number of highly focussed studies on particular aspects of the colonial period, including papers on the 1959 Viqueque uprising by Chamberlain (2005) and Gunn (2006), and a study of small-holder agriculture by Clarence-Smith (1992).

A new body of literature on East Timor was spawned by the developments that followed the revolt of the *Movimento das Forças Armadas* (Armed Forces Movement, or MFA) in Portugal on 25th April 1974. This includes works by Dunn (1996), Hill (2002),¹¹ Jolliffe (1978), Nicol (1978), Ramos-Horta (1987) and Taylor (1991),¹² the first five of whom bore personal witness to some of the events which transpired at this time (and in Ramos-Horta's case, participated in them). These contributions present perspectives on the political developments of the period which range from the sympathetic to the critical, and a number of key individuals who remain involved in East Timorese politics today feature prominently in these accounts. In the course of a series of public hearings held in Dili from 15th – 18th December 2003 by the Commission for Reception, Truth and Reconciliation in East Timor (*Comissão de Acolhimento, Verdade e Reconciliação*, or CAVR), a number of main actors from the 1974-75 period provided public reflections on the events of that time, confirming much that has already been written by historians with personal testament (CAVR 2004).

The Indonesian occupation of East Timor resulted in a further new stream of literature, much of which aimed to raise awareness about the plight of the East Timorese. As indicated above, several works in this category also cover the historical background to the invasion.¹³ Political, economic and human rights aspects of the occupation have been variously covered by Gunn with Lee (1994), Budiardjo and Liong (1984), Inbaraj (1997) and Aditjondro (1994). In a different vein, some who visited East Timor during the occupation, and inadvertently witnessed human rights violations, ended up being drawn

¹⁰ See also Pelissier (1996).

¹¹ Note that Hill's account was originally completed as an MA thesis in 1978 (Hill 2002:xi).

¹² Other accounts include a moving memoir (Cardoso 2002) in which some of the events of the 1970s are described from the perspective of a teenage student (and seminarian), and a historically-based novel by Mo (1992). For Indonesian accounts, see Moerdani (1992), Tomodok (1994) and Subroto (1996).

¹³ This includes Dunn (1996) and Taylor (1991).

into the East Timor support movement and published their stories. McMillan (1992) provides such an account in *Death in Dili*. Further personal accounts of experiences during the occupation period, from both East Timorese and foreigners, are included in Michelle Turner's collection (1992).¹⁴

A number of high-profile East Timorese independence activists have recorded their contributions to the independence struggle. This category of literature includes a collection of writings by resistance leader Xanana Gusmão (2000a)¹⁵ and an account of the diplomatic struggle by East Timor's ambassador-at-large, José Ramos-Horta (1987). Meanwhile, in Pinto and Jardine (1997), Constâncio Pinto provides an account of his life during the Indonesian occupation, in the course of which he became leader of the underground resistance movement before escaping overseas in 1992.¹⁶ This last account is notable for the light it sheds on the extreme pressures faced by those who worked for the underground, and the circumstances which forged a new generation of East Timorese passionate about resisting the Indonesian occupation.¹⁷

Based on systematic research initiated under the UN transitional administration, the East Timor Reception, Truth and Reconciliation Commission (CAVR) released its final report in 2005.¹⁸ This resource represents the greatest single contribution to the historical record of the occupation period. A specific objective of the inquiry (CAVR 2005 Part 1:26) was to 'document human rights violations...by all parties...between April 1974 and October 1999', and based on its investigations the Commission (CAVR 2005 Part 8:6-7) found the Indonesian government and security agencies to be 'primarily

¹⁴ Turner's work (1992) is titled *Telling East Timor: Personal Testimonies 1942-1992*. As the title implies, the volume also includes stories from earlier periods.

¹⁵ Annotated by Editor Sarah Niner.

¹⁶ In his account, Pinto (in Pinto and Jardine 1997:209-211) provides details of his escape from East Timor on 16th May 1992, just over six months after the 12th November 1991 massacre at Santa Cruz. At the time, Pinto was the second most wanted person in East Timor, second only to Xanana Gusmão.

¹⁷ In relation to this generation, Gunn (1999:297) has remarked that 'it has struck many observers as remarkable – the 1996 Norwegian Nobel Peace Prize Committee included – that even a generation schooled by Indonesia has been in the forefront of actions that can be variously described as cultural defence and pro-independence.'

¹⁸ Based (2005 Part 1:26-36) on almost 8,000 statements, over 1,000 interviews, written submissions, a death toll research program, a series of public hearings and other research activities, the CAVR final report is around 2,500 pages in length.

responsible and accountable for the death from hunger and illness of between 100,000 and 180,000 East Timorese civilians who died as a direct result of the Indonesian military invasion and occupation.¹⁹ Some of the topics considered in the CAVR study (2005 Part 1:28) are of special interest in relation to the present study, including information concerning the administrative structures of East Timorese resistance organisations.²⁰ The conflict and the security presence of the occupation period presented clear obstacles to the economic development process and the various obstacles and economic distortion factors have been discussed by writers including Soesastro (1989), Saldanha (1994) and Beazley (1999). These contributions also contribute to the broader study of economic history in East Timor and possibilities for advancing development.²¹

A number of other works cover the final years of the occupation, the UN supervised ballot of August 30th 1999 and its bloody aftermath, and the early international intervention period. Dutch journalist Irena Cristalis (2002) and Australian journalist John Martinkus (2001) each contribute such accounts. A further commentary of this general period is provided by Lancel Taudevin (1999), who worked for the Australian Agency for International Development (AusAID) in East Timor from 1996-1999. Taudevin's reports to the Australian Embassy in Jakarta during this period indicated (1999:248) an 'overwhelming public support for independence,' and the political implications of his observations eventually resulted in Taudevin running foul of the

¹⁹ The commission (CAVR 2005 Part 8:6-7) found that the 'highest levels of the security apparatus and the civil administration' were complicit in the perpetration of war crimes and crimes against humanity, whereby 'Indonesian security forces implemented a programme of widespread and systematic arbitrary detention, which routinely involved the torture of thousands of East Timorese non-combatants.' The Commission documented a host of illegal warfare methods including 'the targeting of civilians in military attacks,' and the 'use of...napalm and chemical weapons.' The Commission documented widespread patterns of sexual slavery and rape, 'often inside military facilities, police stations and government offices.' Of 85,164 violations documented by the Commission (2005 Part 8:15), Indonesian security forces were found to be responsible for 71,917 cases (or 84.4%). FRETILIN (*Frente Revolucionária de Timor-Leste Independente*) and FALINTIL (*Forças Armadas de Libertação Nacional de Timor-Leste*) was found to be responsible for 8,306 cases (or 9.8%) and UDT (*União Democrática Timorense*) found to be responsible for 2,151 cases (or 2.5%).

²⁰ This is addressed in detail in Part 5 of the CAVR report. Broadly, the CAVR report highlights the severe extent of the maladministration that occurred over the course of the occupation. The Commission's findings help explain why traditional East Timorese non-state justice and conflict resolution procedures remained so strong at the conclusion of the occupation, as the Indonesian administration failed to inspire trust and confidence in its own agencies.

²¹ On this theme, see also Durand (2005).

Australian diplomatic service. A later work by Clinton Fernandes (2004) titled *Reluctant Saviour*, expands further on Australia's failure to exercise principled behaviour in relation to East Timor,²² while in *East Timor, Australia and Regional Order*, James Cotton (2005) examines policy aspects and their consequences, from a broad and regional perspective. Others who were closely involved in East Timor's independence struggle have published accounts in the years since independence. Juan Federer (2005) and David Scott (2005) both supported Ramos-Horta's diplomatic work, and their accounts provide insight concerning the resistance period and those who led it.²³ Again, a central theme to emerge out of Scott's account is a sense of the callous approach adopted by successive Australian governments, which deliberately frustrated the activities of support groups operating within Australia.²⁴ Federer (2005), meanwhile, complements his account of the resistance period with a detailed and critical assessment of the UN-supervised transition to independence that commenced in late 1999 onwards.

The high profile of East Timor in the international consciousness and the dramatic nature of the events which followed the August 1999 referendum have ensured that East Timor's path to independence under the guidance of the international community has received detailed attention by commentators. Several writers with long associations with the case-study, including Federer (2005) and Gunn (Gunn and Huang 2006) have contributed accounts spanning the initial international intervention, the period of transitional administration, and the first years of independence.²⁵ The historically unprecedented role of the UN in the transitional administration of East Timor also attracted the attention of new observers, with much commentary inspired more by the

²² With particular focus on the events surrounding the 1999 referendum on independence, Fernandes (2004:94-95) asserts that only at the last minute, under intense domestic pressure caused by the orchestrated violence in Timor that followed the 30th August 1999 referendum, did the Howard government change its pro-Jakarta position opposing an international intervention force. See also Ryan (2002:25-26) concerning Canberra's ultimate change of heart on the East Timor issue.

²³ For further reading on this area, see Webster (2003).

²⁴ Scott (2005:171-185) refers, for example, to the seizure by the Australian government of a radio used for receiving news from resistance forces inside East Timor, and the seizure of a fishing boat loaded with medicines, as it attempted to leave Darwin harbour bound for East Timor.

²⁵ In the case of Federer (2005), as noted earlier, developments of the resistance period are also discussed. See also Gunn (2007) for a review of some of the literature of the state-building period.

theme of UN state-building interventions than the study of East Timor per se or the broader study of state-building in non-state social contexts.

The broader diplomatic and organisational aspects of the international intervention have been explored by a number of commentators. James Cotton (2001) examines the specific factors and developments which resulted in so many regional states (including many Asian countries) participating in the East Timor intervention, when such involvement was ‘out of character,’ particularly for Association of South East Asian Nations (ASEAN) member states traditionally focussed on appeasing Jakarta (Cotton 2001:127).²⁶ Meanwhile, in a paper on ‘The Strong Lead-nation Model in an ad hoc Coalition of the Willing,’ Alan Ryan (2002) examines factors which contributed to the success of the peacekeeping component of the international operation in which so many countries were involved.²⁷ The commentary on this general period includes contributions by individuals who played key roles in events. Ian Martin, who led the United Nations Assistance Mission in East Timor (UNAMET), contributes accounts (2000; 2001) covering the UNAMET period as well as the diplomatic consequences of the post-referendum violence and the preparation of the international intervention. Major-General Michael Smith, who played a major role in the planning of the International Force in East Timor (INTERFET) and served as Deputy Force Commander of the UNTAET

²⁶ In this respect, factors referred to by Cotton (2001:132) include the position of Australia as a willing expedition leader, the support of the US, and the agreement of the Habibie administration. Cotton notes that the convenient timing of the 1999 Asia Pacific Economic Cooperation (APEC) conference also contributed to the successful organisation of the intervention. Concerning the number of regional states involved in the INTERFET and UNTAET missions, Cotton (2001:131) remarks that by the end of 2000 this list included Australia, Malaysia, New Zealand, the Philippines, Singapore, and Thailand, as well as Bangladesh, China, Nepal and Sri Lanka. Note that Cotton also discusses logistical aspects of the intervention and considers (2001:139) some of the implications and challenges of such broad-spanning peacekeeping interventions as those implemented in East Timor and Kosovo. For further reading on humanitarian intervention in East Timor and elsewhere, see Wheeler (2000), Wheeler and Dunn (2001) and Gunn (2008).

²⁷ Like Cotton, Ryan (2002:28) refers to the importance of US support. As implied by the title of his article, however, Ryan’s main focus concerns the ‘lead-model’ nature of the mission. He asserts (2002:32) that ‘[f]rom an operational viewpoint, particularly given the limited time, this was the best outcome since it allowed one country – Australia – to coordinate the deployment of all the contingents.’ Ryan provides interesting details concerning how the ‘lead-nation’ model was actually implemented in East Timor, including reference (2002:34-35) to how English-speaking contingents handled ‘no nonsense’ aspects of the mission, including interaction with militia groups, while other contingents focussed on humanitarian work in safe areas. Importantly, Ryan (2002:28,40) points out that the western border area was placed under ‘Australian tactical control,’ and that as well as providing the largest number of troops, Australia also ‘provided the first three deputy commanders’ of the UNTAET Peace-Keeping Force component.

peacekeeping component, contributes an account (Smith with Dee 2003) which discusses the organisational and logistical aspects of the intervention as well as an evaluation of the broader UN transitional administration.²⁸

Critiques of the actual UNTAET mission began to appear in 2000, commencing with Jarat Chopra's paper titled 'The UN's Kingdom of East Timor.'²⁹ Chopra (2000:29) was highly critical of the extensive power delegated by the UN to UNTAET Special Representative of the Secretary-General (SRSG) Sergio Vieira de Mello, as well as the time taken by UNTAET to involve East Timorese in both meaningful decision-making forums *and* meaningful tasks in the public administration (2000:33).³⁰ In a later paper, Chopra (2002) expands on his original critique concerning the non-participatory and autocratic nature of UNTAET, adding detail to original arguments and adding new ones.³¹ By the time Chopra's second paper appeared, others had also begun analysing UNTAET. Boris Kondoch (2001) situates the international intervention in East Timor and the associated UN mandates into an historical timeline encompassing post-war international peacekeeping deployments. Of four identifiable 'generations' of UN peacekeeping missions, Kondoch demonstrates why UNTAET is an example of the most complex generation.³² Although concurring (Kondoch 2001:250) with Chopra's

²⁸ See also King's College (2003) for further commentary on this area.

²⁹ As noted in the paper (Chopra 2000:27), Chopra's account was published some months after the author resigned from the position of head of UNTAET's Office of District Administration on 6th March 2000.

³⁰ Specific criticisms relate to UNTAET's opposition to the World Bank/Asian Development Bank (ADB) Community Empowerment and Local Government Project (CEP), a lack of overall planning for future governance of the country (2000:31), and de Mello's tendency to rely (2000:32) on a 'personal relationship [with *Concelho Nacional da Resistência Timorese* (CNRT) president Xanana Gusmão] almost exclusively to guide the mission.'

³¹ In this paper, Chopra (2002:988,981) makes specific reference to the sluggish rate at which UNTAET staff were deployed and an elitist culture that developed within the mission. Note that in his second paper, Chopra (2002:994,996) supports assertions by Hohe (2002) that UNTAET's failure to promote political participation in regional areas contributed to the FRETILIN victory in the 2001 election for a constituent assembly. This, however, is difficult to know for sure for reasons discussed in Chapter 5 and 6. See also Beauvais (2001:1162-1163) in relation to this theme.

³² As defined by Kondoch (2001:245-247), Generation I operations involved the monitoring of 'cease-fire agreements and buffer zones' in cases of conflict between nations. In these operations, the international presence was based on the consent of the relevant states. Only in self-defence was the use of force permitted. Generation II operations, common in the post-Cold War period, have the distinction of being 'domestic rather than international' actions. They have involved the deployment of public administration, police and military components into single states with the consent of conflicting parties who have agreed to an electoral resolution to their differences. Kondoch refers to the examples of Cambodia, Namibia and Mozambique. Generation III operations have involved peacekeeping deployments authorised under

evaluation that UNTAET failed to promote local involvement, Kondoch's overall assessment is more sympathetic.³³ In a further evaluation of 'U.N. State-Building in East Timor,' Joel Beauvais (2001:1104) ponders the challenge of transcending 'a situation, in which there is virtually no administrative class, organized civil society, or history of self-rule, to [create] a viable, independent, and democratic state.'³⁴ Broadly, Beauvais (2001:1106) endorses earlier assessments that '[i]n general, UNTAET's policies...underemphasized local participation and capacity-building with the effect of compromising the strategic objectives of democracy, effective administration, and rule of law.' He also places particular emphasis on contradictions inherent in UNTAET's mandate.

The absence of 'participatory mechanisms' under UNTAET receives further attention by Astri Suhrke (2001:2), who explores why such a comprehensive state-building mission was 'moulded in conventional peace-keeping form.' Suhrke proceeds to explain the lack of East Timorese participation during the transitional period by examining the diplomatic pressure to which the UN was subject in relation to East Timor operations in 1999. Similarly, in his use of the UNTAET case-study for an analysis of 'when and how

Chapter VII of the UN Charter. As Kondoch notes in reference to Articles 41 and 42 of the UN Charter (UN 1945), '[t]he consent of the parties to the conflict is not needed for chapter VII operations.' Kondoch remarks that '[i]n recent years the Security Council has also granted particular states or groups of states, such as NATO [North Atlantic Treaty Organisation] or INTERFET, a mandate to undertake specific enforcement actions.' As discussed above, Ryan (2002) has used the term 'strong lead-nation model' in reference to such operations. Finally, Generation IV missions are those authorised by the Security Council to 'exercise all legislative and executive powers...including the administration of justice.' Kondoch refers to UNTAET and the United Nations Interim Mission in Kosovo (UNMIK) as examples of this most comprehensive generation of mission. In relation to the breadth of Generation IV peacekeeping missions, Kondoch (2001:251-253) finds similarities to the UN trusteeships of earlier times, whereby states or groups of states were granted responsibility for administering other countries in the course of a transition to independence. According to Kondoch (2001:251-252), the UN trusteeship status was applied to a total of eleven territories, including (in the Pacific region) Nauru, Papua New Guinea and Samoa. Kondoch asserts that trusteeships are now inconsistent with the UN Charter and potentially (where former colonial powers participate in the trusteeship) could also be perceived as acts of 'neo-colonialism.'

³³ Kondoch concludes (2001:265) that '[t]he main achievement of UNTAET is that it created a stable and secure environment for a nation which has not lived in peace for decades,' and that '[m]any mistakes made by UNTAET appear to be excusable because of a lack of experience and the chaotic situation UNTAET met upon arrival.' Of interest in relation to justice aspects considered in this study (see Chapters 6-8), Kondoch (2001:249-250,258) considers the challenges faced by UNTAET in advancing the formal justice sector and its obligations with respect to universal human rights norms.

³⁴ Comparing East Timor to other countries which experienced decolonisation in the second half of the twentieth century, Beauvais (2001:1112) notes that there 'are few unambiguous success stories here,' and that '[m]any of the factors that have inhibited the development of democracy, effective administration, and the rule of law in post-colonial societies are [also] present in East Timor.'

[transitional] political power structures should be transferred to local hands,' Chesterman (2002:60,62-63) finds that UNTAET was designed essentially as a peacekeeping rather than a state-building mission, and that UN planners had devoted insufficient attention to realistic outcomes for the post-1999 referendum period.³⁵ Chesterman's paper differs from earlier papers in its consideration of East Timorese political factors and the agency of East Timorese political actors and organisations.³⁶

The role of East Timorese political actors and organisations in influencing the evolving governance landscape receives further attention in a broad paper by Paulo Gorjão, in which the author (2002a:321-327) provides perceptive political analysis concerning the preparation by FRETILIN (*Frente Revolucionária de Timor-Leste Independente*, or Revolutionary Front for an Independent East Timor) of the Constitution following its victory in the August 2001 Constituent Assembly ballot, and how this process was influenced by serious tensions between key East Timorese political figures. In broader discussion focussed on the 'Legacy and Lessons' of UNTAET, the author (Gorjão 2002a:316-321) considers the Department of Peace-Keeping Operations (DPKO) influence on UNTAET planning and the resultant emphasis on fast outcomes and limited engagement with local actors. Finding UNTAET neither 'an astounding success nor a complete failure' Gorjão (2002a:313,328-331) refers to key shortcomings in the areas of efficiency and accountability.³⁷

³⁵ This observation forms the basis of commentary (Chesterman 2002:64-68), similar to that discussed by other writers, concerning the 'contradiction' between UNTAET's peacekeeping mandate and its obligation to consult with the community.

³⁶ Note that in reference to East Timor's 'atypical...political life,' Chesterman (2002:64) refers to a suspicion of political parties that dates back to the events of 1974 - 1975. He also warns (2002:69-70) of 'authoritarian tendencies' and suggests (2002:73) that 'the view that the Timorese are budding democrats waiting to sprout may...be misplaced.' In contrast to those who place responsibility for the FRETILIN victory at the feet of UNTAET, Chesterman (2002:69-70) refers to the FRETILIN victory in the 2001 ballot as a 'certainty.'

³⁷ Specific shortcomings identified by Gorjão (2002a:325-326) include the 'serious lack of resources' allocated to the new national police force (*Polícia Nacional de Timor-Leste*, or PNTL), and delays in advancing land and property issues and the future of FALINTIL. Note that in the view of Gorjão (2002a:330-331), transitional administrations are incapable of meeting the expectations of local populations, and in future the UN should adopt 'a minimalist approach' to facilitating a 'transition to democracy and/or independence' within a specific time-frame while delegating such tasks as 'institution-building, rehabilitation, recovery, and reconstruction' to more appropriate outside agencies.

Building on themes relating to democratic participation in interim governance, several papers critique some of the fundamental assumptions and approaches associated with the East Timor state-building process. In a critique of ‘Totem Poles,’ Tanja Hohe (2002:85) asserts that the ‘free and fair’ elections in East Timor unwittingly supported the basis of ‘either one-party rule or violent political competition’ through enabling the party with the strongest regional support network, FRETILIN, to exploit traditional conceptions of political legitimacy. To overcome such a superficial approach to the promotion of independent governance, Hohe suggests (2002:84) that ‘the focus of the international community needs to shift from the electoral event to long-term assistance in nation building...in full recognition of the paradigmatic differences between the international community and local concepts, so national powerholders have full local legitimacy.’ This theme is investigated further in a later joint paper titled ‘Participatory Intervention’ in which Chopra and Hohe (2004:289-292) note the formidable challenges associated with imposing Western governance systems in traditional social contexts, and consider alternative strategies.³⁸

In ‘Divided Leadership in a Semi-Presidential System,’ Dennis Shoesmith (2003:231) elaborates on a theme considered by Gorjão, and examines ‘the ideological divisions and the history of rivalry’ between Xanana Gusmão and Marí Alkatiri. Considering the possible implications of these divisions in the context of the new RDTL semi-presidential political system, Shoesmith (2003:232,244) warns ‘that because of the long-standing antagonism between the two leaders, the semi-presidential system creates a rivalry...that could frustrate the attempt to establish an effective and...democratic state in East Timor.’³⁹ Many of Shoesmith’s concerns received endorsement by Anthony L. Smith (2004) in a paper titled ‘Timor Leste: Strong Government, Weak State.’ In this

³⁸ Specifically, the authors (2004:291-292) emphasise the need for a devolved approach to governance in states subject to international interventions, in which decision-making forums ‘guarantee representation upward’ instead of conforming to election-oriented ‘North Atlantic concepts of democracy that do not resonate with local communities and...are not translated into their paradigm.’ Chopra and Hohe’s ideas on how the World Bank/Asian Development Bank (ADB) Community Empowerment Project (CEP) might have facilitated this process in East Timor receive consideration in Chapter 5.

³⁹ Shoesmith (2003:232-234) also refers to an extensive range of social and political factors and developments that made the ‘long-standing antagonism’ between East Timor’s political leaders so potentially volatile. A particularly ominous risk factor, linked to the antipathy between prime minister and president, concerns the politicisation of the East Timor security sector.

paper, Smith (2004:280-288) referred to an alarming array of political risk factors, including the hostility prevailing between the incumbents of East Timor's two highest political offices, and asserted (2004:293) that it was the various *internal* factors which presented the 'real emerging threat' to stability. Many of the factors referred to by Shoesmith (2003) and Smith (2004) received further attention by Aurel Croissant (2006) on the cusp of the 2006 crisis. Croissant (2006:11-12) noted the indicators of state weakness in East Timor and suggested that despite a 'smooth' transitional period, the capacity of East Timor to operate as an independent state remained unclear.

The various worst-case predictions for East Timor were vindicated by the 2006 instability. In the wake of this crisis, Shoesmith (2007b:23-25) draws on political risk theory in combination with more qualitative approaches, to demonstrate why the odds were always against East Timor realising stability within the first half-decade of independence. Selver B. Sahin (2007), meanwhile, retraces some of the developments leading to the 2006 political crisis, noting (2007:245) that 'timely warnings' had been issued in relation to these various developments.

The case-study of indigenous administration mechanisms included in the present work concerns *suco* justice and dispute resolution mechanisms. Information pertaining to these mechanisms is sourced both from historical works and more recent contributions. Among the first body of literature, Forbes (1989[1885]) work, referred to earlier, stands out for its detailed English-language descriptions of aspects related to justice and conflict resolution in the pre-pacification period. Other important Portuguese and English language sources, generally from the post-pacification period, include the twin essays prepared by Moura (1937) and Gonçalves (1937) on *Adatrecht van Portugeesch Timor* (*Adat Laws of Portuguese Timor*), which have also been reviewed by Berlie (2000), and Capell's detailed article (1944) on the 'Peoples and Languages of Timor.' These various sources facilitate an examination of the historical and cultural basis of present East Timorese justice and conflict resolution approaches, and enable certain

common justice themes, including the emphasis on reparation, the role of the spirit world and the importance of reconciliation, to be identified.⁴⁰

The conclusion of Indonesian rule led to renewed interest in customary justice in East Timor, and this interest has generated a body of research and commentary, including some contributions by this writer. The role and importance of customary law in East Timor in the post-Indonesian period was first emphasised by Babo Soares (2001). Writing following the adoption by UNTAET of Indonesian law, Babo Soares refers to the historic circumstances that contributed to the widespread utilisation of customary law in East Timor and asserts (2001:24) that ‘any future government in East Timor should devote more attention to developing “customary law” and – if possible – adopt it as part of state’s law.’⁴¹

An early attempt at systematic evaluation of the role of *suco* justice and dispute resolution systems in the post-conflict period appears to be the unpublished ‘Traditional Justice’ report prepared by UN Civilian Police (CivPol) Districts Commander Adrian Norwell in early 2001. Conscious of the major contribution being made by non-state actors, Norwell (2001:7) interviewed a number of *suco* leaders and requested regional CivPol commands throughout the districts to forward two examples each of ‘representative cases of traditional justice which had occurred in the last twelve months.’ In his report, Norwell (2001:2-3) refers to the challenges associated with administering criminal justice in a post-conflict environment. He outlines the general nature of East Timorese traditional justice systems, and some of their advantages in comparison with the Western ‘criminal justice’ model.⁴²

⁴⁰ For broader reading on East Timorese culture, see Duarte (1984), Cinatti (1987) and de Almeida (1994).

⁴¹ In a later work, Babo Soares (2004) describes reconciliation rituals from particular parts of the territory in detail. Focussing on the challenge of achieving reconciliation between former *milisi* (militia members) and their victims and communities in the wake of the 1999 violence, Babo Soares contrasts ‘grassroots’ East Timorese conflict resolution practices with the ‘elite’ conflict resolution practices undertaken by state and international actors in East Timor and explains (2004:30) why ‘grassroots’ processes can make an important contribution to the reconciliation process.

⁴² The examples of traditional justice included in Norwell’s report (provided by ten of the thirteen district commands contacted) generally feature cases in which CivPol officers had some involvement, either by mediating cases personally or facilitating the mediation of cases by senior *suco* authorities. Whereas the involvement of these outside actors (CivPol officers) could be interpreted as meaning that the cases are

Although not primarily focussed on justice and conflict resolution, the 2001 Ospina and Hohe report on 'Traditional Power Structures' confirmed (2001:63-82) the extent to which East Timorese authority systems continued, in the post-Indonesian period, to be based on ritual or *adat* considerations. The authors (2001:72) found that '[e]ven in places where informants stated, "that the old system is over, everybody can become the village chief" and they have conducted democratic elections, the chiefs of the ruling families are still in place.' Of general interest in relation to local-level leadership in rural areas, these researchers found (2001:82) 'low trust towards leaders that are not connected with sacred items and ancestral legitimacy,' and concluded that the development of an understanding of democratic principles in East Timor would be a long process.⁴³

In November 2002, a report on 'local' East Timorese justice systems by David Mearns was released based on field-work completed the previous year. Core conclusions of the Norwell report are supported by Mearns, who refers to the difficulty faced by the courts in delivering culturally appropriate justice in a timely manner. Mearns (2002:42-43,55-56) emphasises the point that in East Timor, it is difficult for any dispute or injustice to be resolved in the absence of a compensation settlement, and recommends that '[t]he formal [justice] system should embrace the principles of victim compensation,' in addition to other measures such as involving elders and relatives of victims and offenders in the 'determination of punishment.' Mearns (2002:29,40-41,50,54) highlights the contradictions that prevail between 'universal' (or Western) conceptions of human rights, and the justice and conflict resolution practices of East Timorese *sucos*. However, in consideration of the severe challenges facing the state development process in East Timor, the conclusions arrived at by Mearns support the utilisation and strengthening of the established systems of conflict resolution that prevail throughout the country.

'impure' examples of *suco* justice, this would miss the point, discussed in detail later in Chapters 7 and 8, that justice and conflict resolution processes in East Timor typically draw on a range of available and appropriate authorities for the resolution of disputes.

⁴³ Justice and conflict resolution is not the main focus of the Ospina and Hohe study. However, the authors (2001:144-120) give attention to customary conflict resolution processes in the context of disputes relating to the CEP (Community Empowerment and Local Governance) Project.

Further pragmatic conclusions are arrived at in a paper on ‘Indigenous Justice and the Rule of Law in East Timor’ by Chris Lundry (2002), in which the author discusses the tensions that developed during the UNTAET period concerning the utilisation of indigenous East Timorese approaches to justice in a legislative jurisdiction in which Indonesian and UN legislation technically prevailed. With particular focus on militia-related crimes, Lundry refers to the appropriateness of restorative approaches to justice in view of the destruction perpetrated by militia members, and argues that terms of imprisonment alone (without compensation to victims) would be insufficient to enable the resumption of normal social relations once militia perpetrators returned to their communities.⁴⁴ Pragmatic approaches to transitional justice received further endorsement in the USIP study, in which it was recommended (Hohe and Nixon 2003:69-70) that in future transitional engagements in traditional social contexts, the international community should also ‘[t]ake into account the need for the [justice] system to be sustainable beyond the international intervention.’

Although a detailed review of land tenure systems in East Timor is beyond the brief of this study, attention *is* given to indigenous East Timorese land dispute resolution mechanisms.⁴⁵ The importance of these mechanisms was identified in the early transitional period, at which time, from the vantage point of the UN Land and Property Unit (LPU) in March 2000, Michael Brown (2000a:1) referred to ‘extensive illegal occupations of buildings’ and the loss of most land records. Daniel Fitzpatrick (2001)⁴⁶

⁴⁴ Concerning UNTAET’s decision to authorise community reconciliation approaches (associated with the CAVR process) for less serious crimes, Lundry (2002:2,8-10) asserts that this decision was ultimately influenced by the large number of former militia members and the limited capacity of the courts. See also Beauvais (2001:1155), who asserts that bottlenecks in the formal justice system resulted in the release of ‘a multitude of suspected perpetrators of serious crimes’ in early 2001, due to the incapacity of the courts to process the cases. By this time, according to Beauvais, ‘the backlog of unprocessed [serious crime] cases had grown to over seven or eight hundred...and detention facilities were filled to capacity with pre-trial detainees.’

⁴⁵ See Cleary and Eaton (1996:46-57) for a general overview of customary land tenure systems in the region. See Urresta and Nixon (2004b) for a profile of land rights in East Timor based on a survey of seven hundred and seventeen randomly selected respondents across the country. See Meitzner Yoder (2005) for a detailed study of land tenure aspects in the East Timorese enclave district of Oecusse, on which subject she completed her doctorate.

⁴⁶ Fitzpatrick’s evaluation (2001) of ‘Land Issues in a Newly Independent East Timor’ addresses the areas of land claims, land administration, conflict resolution and economic development.

also worked with the LPU during the transitional period, and his comments on conflict resolution are of particular interest to this study. Reflecting on experience in another regional New Subsistence State, Fitzpatrick (2001:16-17) warns that '[o]n paper...[Papua New Guinea (PNG)]...has highly credible laws to deal with land conflict, particularly in respect of customary land, but in practise these rules are all but meaningless as the relevant institutions lack the capacity, funding and political support to implement them.' Fitzpatrick (2001:16) recommends that in a traditional society such as East Timor, 'traditional processes must be respected,' with links for state support and intervention where necessary. In summarising his conclusions on this matter, he emphasises (2001:ii) that '[t]he obvious lesson is that conflict resolution institutions must be as self-funding and self-enforcing as possible.' Towards advancing this objective of a low-cost sustainable conflict resolution capacity, Fitzpatrick (2001:17) recommended research on 'who best performs a dispute resolution role in traditional communities,' and other relevant aspects.

As with the broader area of customary dispute resolution in East Timor, knowledge about East Timorese land rights systems and land dispute resolution mechanisms has expanded in the years since Fitzpatrick's recommendations. Laura Meitzner Yoder's paper (2003) on 'Custom and Conflict' profiles the basis of customary claims to land in East Timor, confirms earlier conclusions concerning the role of inherited authority, and refers (2003:5) to the ongoing deference to primordial land-occupiers in relation to the settlement of land disputes. The specific area of land dispute resolution mechanisms in East Timor was also the focus of the LLP research referred to earlier, which was aimed at informing the development of a legal framework for land dispute resolution.⁴⁷ This and other research activities in which the writer has been involved have taken place in a continuum of research which commenced during the period of the international intervention and which have often been intended to inform particular public policy objectives.

⁴⁷ The writer's findings in this area were first presented in Nixon (in Urresta and Nixon 2004a).

The objective of the present study is to contribute an evaluation of the extent to which East Timor's particular history and socio-political characteristics equip it to operate in accordance with the modern state model. Using field data accumulated by the writer in connection with various research activities, the study also aims to expand on the literature concerning how non-state mechanisms can contribute to public administration objectives in contexts characterised by subsistence social and economic relations. More broadly, through articulating (in Chapter 1) the concept of the New Subsistence State, the thesis endeavours to advance theoretical work aimed at highlighting the need to take historical and socio-political factors into account in connection with state-building and public administration endeavours in non-state social contexts.

Chapter 1

States, Weak States and New Subsistence States¹

Introduction

This chapter aims to provide a conceptual and explanatory framework for understanding some of the challenges faced today in such countries as East Timor. The chapter commences with a review of state development processes which occurred elsewhere in pre-historic times. Drawing on weak state writings and sociological theory, and with reference to the state development process as it unfolded in Europe, a critical examination of dominant prescriptions for state-building is then undertaken. Based on the sociological information considered, it is proposed that state-building strategies that may be appropriate for societies with experience of state social organisation and of the administration of large surpluses, may be inappropriate for societies which have experienced no internally-generated change in the direction of state social organisation. Yet countries characterised by these later kinds of society – referred to here as New Subsistence States – by nature possess a range of village-based administrative mechanisms capable of operating independently from the state in accordance with the principles of ‘traditional authority.’ These local administrative mechanisms have no reliance on the centralised accrual and management of large surpluses for their operation. It is argued, with a particular emphasis on the areas of justice and conflict resolution, that sustainable public administration in New Subsistence States can be advantaged by the formal recognition and integration of such local capacities.

State Development in Context

The origins of the modern state can be traced to the ancient civilisations of the Mesopotamian basin. It was here, around the third millennium BCE, that societies first began pursuing economic activities sufficiently complex to require the services of full-time administrative classes. With the substantial surpluses produced using irrigation

¹ This chapter has been published (see Nixon 2006) in substantially unaltered form as ‘The Crisis of Government in New Subsistence States.’

technology, these societies were able to accrue the necessary wealth to sustain their new administrative specialists, along with other members of an increasingly stratified labour force including technical and theological officials. In the words of Lewellen (1992:47):²

Previously, society had been structured according to kinship networks; now there appeared a permanent administrative bureaucracy that demanded loyalties transcending lineage and clan. Local chiefs relinquished much of their authority to a ruling class who had the power to gather the agricultural surpluses and call forth the labour necessary to create large-scale irrigation projects and monumental architecture... The state had been born.

It is believed by macro-sociologists that the independent emergence of states on a number of separate occasions and in a range of different locations including Mesopotamia, Egypt, India, Northern China, Mesoamerica and Peru, indicates the existence of a 'common pattern' (Mann 1986:73) of state development, among groups of people who were 'caged' into pursuing this path (Mann 1988:42). Although the precise factors that initiated state development are the subject of a range of theoretical approaches, there is general agreement that irrigated agriculture played a prominent role and that, as in Mesopotamia, the 'state developed through a long series of adjustments to a particular environment and a specific set of social problems' (Lewellen 1992:48). In the course of undergoing the state development process, therefore, each society that embarked on this path appears to have independently discovered what Lewellen refers to as 'a seed bearing the genetic code for the giant nation-states of the modern world.'

The state-development process, however, was less of a routine occurrence than an historical improbability that occurred only under particular circumstances. In the words of Mann (1988:124):³

Civilization was an abnormal phenomenon. It involved the state and social stratification, both of which human beings have spent most of their existence avoiding. The conditions under which, on a very few occasions, civilization did develop, therefore, are those that made avoidance no longer possible. The ultimate significance of alluvial agriculture, present in all 'pristine' civilizations, was the territorial constraint it offered in a package with a large economic surplus. When it became irrigation agriculture, as it usually did, it also increased social constraint. The population was caged into particular authority relations.

² See also Mann (1988:41,73)

³ Albeit a historically improbable process with the potential to exert massive changes on other nearby societies through such influences as trade, as Mann also notes.

Furthermore, historical evidence suggests that even for societies which independently began the process of developing agriculture and increasing surpluses, falling into step with a ‘common pattern’ of state development and independently discovering the code-bearing ‘seed’ of state development was less than inevitable. Archaeological work at Kuk Swamp in the PNG Highlands (Denham et al 2003:192-193), for example, indicates that intensive agricultural production employing complex irrigation systems occurred in this area several thousand years before the development of ancient Mesopotamian states. Yet despite this historical experience, the social structure in the region at the present time remains ‘still relatively egalitarian and characterised by “bigmen,” whose influence is largely persuasive and consensual.’ According to the authors, therefore, ‘[t]he evidence for early agriculture from highland New Guinea signifies the potential diversity of prehistoric trajectories after the inception of agriculture and challenges unilinear, often teleological, interpretations of human history.’ In this case, early experience with agriculture did *not* lead to ‘social stratification and the rise of “civilization.”’

Notwithstanding the rare and particular circumstances under which early states developed, the state has become the very model of modern social organisation. Migdal (1988:14), in his incisive work on weak states, notes that the modern state system developed ‘in the fifteenth to seventeenth centuries,’⁴ and since this time it has become accepted ‘that the state organization *should* provide the predominant (if not exclusive) set of “rules of the game” in each society. These game rules involve much more than broad constitutional principles; they include the written and unwritten laws, regulations, decrees, and the like, which state officials indicate they are willing to enforce through the coercive means at their disposal.’ Whereas the state was ‘a political form of a limited period of all human history’ it was ‘canonized’ and made ‘inviolable’ in the course of the development of the United Nations system, in the post-World War Two period during which the formation of states burgeoned (Migdal 1988:13). Perhaps the

⁴ With 1648, the year in which the ‘peace of Westphalia’ was formalised in the signing of a number of treaties following the Thirty Years War, being considered an important date in the development of the modern state. In the words of Hayes (1928:231) ‘[f]rom the treaties of Westphalia emerged a real state-system in Europe, based on the theory of the essential equality of independent sovereign states, though admitting of the fact that there were great powers. Henceforth the public law of Europe was to be made by diplomats and by congresses of ambassadors. Westphalia pointed the new path.’

contemporary fixation with the state has been most eloquently critiqued by Serge Latouche (1996:66-67) with his comments on ‘nationalitarianism:’

The nation state has been imposed worldwide as the only political form. The international community accords the status of legal person only to ‘modern’ states; only nations which have assumed the characteristics of the state can be part of the *society of nations*, which is institutionalized in the UN. Every human group or assembly, whether accidental or brought together by some profound common interest, tries to obtain this status. Decolonization produced a plethora of new states whose frontiers depended on the quite arbitrary scissor work of competing colonial powers. These often artificial Third-World states tried to impose on their ‘new citizens’ a national identity which was abstract and empty. And in doing so they struggled, with an ardour worthy of a better cause, against the cultural identity of genuinely different ethnic groups.

Not surprising given the contrived origins of many modern states, a danger associated with ‘taking the state for granted,’ observes Migdal (1988:17) is the assumption that ‘states in all times and places have had a similar potential or ability to achieve their leaders’ intentions.’

Given the historical importance of social behavioural patterns supporting the accumulation and management of large surpluses for effective social organisation in accordance with the state model, there are clear reasons why some societies have thrived in the new era of the state while others have not. In this respect, Mann (1986:51) notes that among hunter-gatherers, ‘everyone in the group is entitled to share in unexpected surpluses, however produced. Thrift does not bring its bourgeois reward! That is one reason why entrepreneurial development projects among today’s hunter-gatherers generally fail – no incentives exist for individual effort.’ Similarly, in many horticultural societies, even senior individuals such as ‘big men’ or chiefs have lacked the ability to accumulate wealth, since their status has depended on the distribution, as opposed to the accrual, of surplus. As Mann observes (1986:53) ‘[t]hey might distribute wealth around the group, but they could not retain it.’

Economic management practices such as those referred to above continue even as pre-state, or stateless⁵ societies are inserted into the outer shell of the state. Superimposing the model of the modern state, with its responsibilities for such matters as the defence of

⁵ The term ‘pre-state’ may be interpreted as implying inevitable state development. For the reasons explained in this section, therefore, the term ‘stateless’ is more appropriate.

territory and the organisation of customs provisions, the dispensation of justice, the promotion of economic activity, the collection of taxes and the delivery of services including education, healthcare and infrastructure, over societies which have not yet independently initiated change in the direction of state-like social organisation or internalised the principles of state organisation through infusion over time, invites responses informed by local practice. One colourful and notorious response to the institution of parliamentary democracy occurred, for example, in the course of the PNG elections in 1982, when Sir Iambakey Okuk disbursed, in true ‘bigman’ fashion, almost 100,000 beer ‘stubbies’ over nine hours in a failed attempt to retain the support of Simbu voters (Dorney 2000:11-12). Such outcomes raise the question of the extent to which the modern state in its conventional form is an appropriate universal model for all societies.

For the modern state to be successful and self-sufficient, its many functions must be managed within tolerable limits of efficiency and transparency. It should have the means of generating income through taxes and tariffs, and of targeting expenditure on services and infrastructure using a capable public administration system. However, a subsistence society will not have the surplus capacity to support an administrative bureaucracy without its economy undergoing dramatic expansion, and the development of an appropriate administrative ethos is also fundamental. As articulated by Latouche (1996:87), therefore, ‘[i]n our own day the rapid growth in the number of nation states, without any economic underlay, together with the farce of decolonization, has made very obvious the existence *a contrario* of a very strong link between the nation state, economics and development.’ For Latouche (1996:90), ‘[t]he aspiration to development felt by all Third-World countries,’ is aspiration to ‘economic nationality.’ Consequently, development fits ‘*hand in glove with the nation,*’ in a process designed to mimic the West:⁶

⁶ In his analysis, Latouche makes the point that the ideology of Westernisation is no longer just a phenomenon bound to the historical experience of European societies, but a ‘techno-economic machine’ (1996:92,99,121). The boundaries of Westernisation are not geographically confined, therefore, nor are the ethnic origins of those who have been Westernised. Accordingly, leaders and elites from countries outside of the traditional West, including Kemal Ataturk of Turkey and Peter the Great of Russia, have often been among the most dedicated disciples of Westernisation (1996:69-70).

[I]n both theory and practise, development is nothing but the sequel of colonization, a new and more radical kind of Westernization.

In fact, this view is supported beyond question by universal attempts to adopt the Western state's outer shell (remarkably at the cost of many traditional unities that could have proved beneficial to state-building, as noted by Latouche), complete with its internal complement of Western administrative mechanisms (courts and police forces, to name but a few) and the promotion of economic practices and patterns capable of sustaining the whole state model. If the global development processes showed signs of overwhelming success in underwriting the transition of all new states to stable members of the community of nations characterised by increasing Gross Domestic Product (GDP) and fully functional administrative systems, then the general area of this thesis – public administration in weak states – would not be such a concern. Meanwhile, theorists of development – at least from a Latouchian perspective, would have more time for contemplating their complicity in the successful creation of a global monoculture.⁷ However, as will be discussed in this chapter in the context of weak state theory, there are indications that a considerable number of societies have failed – despite the official adoption of many state-like institutions and administrative mechanisms – to successfully undertake social organisation in accordance with the principles and procedures of the state ideal. Latouche (1996:103) for one, would attribute this failure 'to the West and its universalist pretensions,' rather than to those societies which have failed to Westernise.

Independent States and the 'Democratic Development' Agenda

Established on 24th October 1945, the UN grew to a union of one hundred and ninety-one states when East Timor joined on 27th September 2002.⁸ An indication of the challenges faced by many societies as they seek to operate as modern states is broadly reflected in the high proportion of newly established states⁹ receiving development

⁷ For Latouche (1996) at least, the cultural uniformity created by the development/Westernisation process is a major concern.

⁸ For a full list of UN member states, see UN (2006). It is of note that some long-established states have been late to join the UN, such as Switzerland, which joined on 10th September 2002.

⁹ The term 'newly established states' refers to countries which achieved statehood after the end of the Second World War, but that in most cases would have been 'pre-state societies' in the socio-political sense used in the opening pages of this paper.

assistance. Organisation for Economic Co-operation and Development (OECD) data cited by the United Nations Children’s Fund (UNICEF) indicates (UNICEF 2004:126-129) that of one hundred and ninety-five ‘countries and territories’¹⁰ profiled, only forty-eight of these, or one quarter of the total, receive *no* Official Development Assistance (ODA). It is insightful to consider these countries, which have been included in Table 1 below:

Table 1: Countries and territories receiving *no* official development assistance¹¹

European states	States founded and occupied substantially by European settler-colonisers	Other states not in receipt of development assistance
Andorra, Austria, Belarus, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Holy See (Vatican), Ireland, Italy, Latvia, Liechtenstein, Lithuania, Luxembourg, Monaco, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, San Marino, Slovakia, Spain, Sweden, Switzerland, Ukraine, United Kingdom	Australia, Canada, Iceland, Israel, New Zealand, United States of America, Bahamas	Brunei Darussalam, Japan, Kuwait, Qatar, United Arab Emirates, Singapore

An assessment of the total group of forty-eight states receiving no development assistance indicates that thirty-five of these countries (those in the left-hand column) are European states.¹² A further group of seven states (in the centre-column) are countries founded substantially by settler-coloniser immigrants from European countries (or second generation settler-colonisers from colonial America, in the case of the

¹⁰ The term ‘countries and territories’ facilitates the inclusion of administrative entities that are not technically states, such as Occupied Palestinian Territory.

¹¹ Tabulated by the writer based on OECD data cited by UNICEF (2004:126-129). Note, however, that OECD figures are not perfectly consistent with other data. For example, the OECD data indicates that Israel receives *no* ODA, yet other information (CIA 2004a) indicates, as would be expected given Israel’s historic alliances, that Israel receives considerable military and economic aid from the United States. Similarly, it might be expected that Saudi Arabia, with its extensive oil reserves and aid programs to Arab and Islamic countries (CIA 2004b), would be among those countries *not* receiving aid, yet the OECD figures indicate that in 2001, it received US\$27 million ODA. While it is clear that strategic factors and definitions of aid influence the figures, the overall pattern remains insightful.

¹² Cyprus is included among European states on the basis of historical and cultural associations.

Bahamas)¹³ who brought with them trade connections and the European administrative ethos. A further group of states (in the right-hand column) can be sub-divided into two groupings. The first of these is a group of four oil states consisting of Brunei Darussalam, Kuwait, Qatar and the United Arab Emirates, the last three of which are also members of the Organization of Petroleum Exporting Countries (OPEC).¹⁴ The two remaining countries in the right-hand column are Japan and Singapore. While Japan possesses a tradition of surplus accumulation and bureaucratic administration dating back to ancient feudal times, the majority of the Singaporean population trace their origins back to the long-established state of China.

Notwithstanding the erroneous inclusion of Israel among aid-free states and the omission of Saudi Arabia from the fraternity of aid-free oil states (see notes 11 and 15), the breakdown indicates that with the exception of a small number of oil states, the only countries operating without ODA are established European states, European settler colonies, and select Asian societies with agrarian feudal heritages. African, Pacific, and Central and South American states are absent from the ranks of the aid-free states altogether. It is of note that while a small number of oil states (referred to above) operate free of ODA, others, including the OPEC members states of Algeria, Indonesia, Iran, Libya, Nigeria and Venezuela, do not.¹⁵

¹³ A former pirate haven, the Bahamas was settled during the American Revolution when, in the words of an unknown contributor to the *Colonial Magazine and East India Review* (1852:23), ‘a considerable number of [British] loyalists from Virginia, Georgia, and the Carolinas, emigrated thither with their slaves.’ From economic origins in the export of pineapples and salt to the United States referred to by this observer, the proximity to the United States and the business connections the planters brought with them enabled a string of legal and illegal business opportunities to be exploited. These have included the smuggling of ‘[a]rms and supplies to Confederate forces during the American Civil War,’ and the smuggling of liquor destined for American drinkers during the prohibition of the 1920s (NI 2003:2). While smuggling activities (relating to illegal drugs and illegal immigrants to the United States) continue (CIA 2004c:3), the economy of the Bahamas today is based on tourism and offshore banking. Tourism alone constitutes sixty per cent of Gross Domestic Product and provides employment for half of the archipelago’s 300,000 citizens. Reflecting the original mixture of slaves and slave owners, the present composition of this population is eighty-five per cent black and twelve per cent white, with the remaining three per cent Asian and Hispanic (CIA 2004c).

¹⁴ The full eleven members of OPEC are Algeria, Indonesia, Iran, Iraq, Kuwait, Libya, Nigeria, Qatar, Saudi Arabia, United Arab Emirates and Venezuela (OPEC 2004).

¹⁵ According to the OECD figures, Saudi Arabia and Iraq could be included here also. Saudi Arabia is not included here for the reasons outlined above (see note 11). Iraq is not included because the present conflict complicates the situation with respect to this country.

In this respect, Transparency International (TI) data indicating that ‘most oil-producing nations are prone to high corruption,’ suggests that corruption may be a factor preventing many oil states from developing the capacity to operate independently of ODA, regardless of their natural resource wealth. According to Chairman Peter Eigen (TI 2004:4), TI’s ‘Corruption Perception Index 2004 shows...[that]...oil rich Angola, Azerbaijan, Chad, Ecuador, Indonesia, Iran, Kazakhstan, Libya, Nigeria, Russia, Sudan, Venezuela and Yemen all have extremely low [transparency] scores.’ Of equal concern, TI also found ‘[a] total of 106 out of 146 countries score less than 5 against a clean score of 10.’ While finding that corruption is not limited to the developing world, TI’s Chairman asserted (2004:2) that ‘those countries in greatest need of support in fighting corruption’ are the ‘poorest countries, most of which are in the bottom half of the index.’

One response that can be made concerning the continued reliance of developing countries on ODA, and in relation to the corruption that continues to afflict a vast number of them, is the assertion that with the expansion of trade links and economic development, and with ongoing strengthening of state institutions of governance through international cooperation, the bulk of developing countries will eventually internalise the ‘common pattern’ of state development and adopt practices supporting the sustainable administration of their countries in accordance with the modern state system.

Certainly, Western development agencies continue to encourage less developed states to transform themselves into images of the West, in the belief or hope that even stateless societies, in the socio-political sense used earlier, will eventually accept state institutions and internalise the historical and rational basis of their existence, even though the host societies may lack experience of any internally generated *need* for state social organisation. And while development agencies have emphasised that the functioning of the state is dependent on a ‘social contract’ based on judicial processes and legal institutions,¹⁶ in reality many developing societies that have been inserted into the state shell over the past half-century – especially subsistence societies - already have

¹⁶ For example, see USAID (1998:19).

contracts of a more fundamental nature based on existential and ritual factors.¹⁷ And of great concern in relation to these existentially and ritually based contract arrangements is the extent to which they may be vulnerable to ‘legal processes and institutions.’ If ‘traditional authority’ systems are de-legitimised and shattered by attempts to socialise people into state justice and administration systems, and if this process for whatever reason fails (for example, through resource limitations), then a society might be left with no functional systems of justice or public administration at all. According to a report prepared by the Northern Territory Committee of Inquiry into Aboriginal Customary Law (CIACL), there are even indications that this problem has occurred in the case of some Aboriginal communities in the Northern Territory, despite Australia’s status as a well resourced Western country.¹⁸

Based on the foregoing examination of the factors leading to state development, it is subsistence societies, the main focus of this study, which are least likely to have been motivated by internally-generated changes towards the development of state organisation. It is therefore these kinds of societies that are most likely to retain pre-modern administrative institutions. As discussed throughout this study, the RDTL is a country which overwhelmingly conforms to the typology of the New Subsistence State, both in terms of the weakness of its state capacity, and the strength of its local capacities. These local capacities, not yet de-legitimised, relate to such areas as justice and conflict resolution, security and land administration, and represent a public administration resource that can live off the land and contribute to order in communities regardless of the condition of the country’s roads, government vehicles, telephone networks and computerised record-keeping systems.

¹⁷ Based on the socio-political factors examined later in this study, it could be claimed that the contract in societies characterised by what Weber (1978:227) would refer to as ‘traditional authority’ structures, is more a contract between the living and the ancestors. As such, general conformity (with appropriate interpretation) to the ways of the ancestors is rewarded with survival.

¹⁸ According to the Committee’s *Report on Aboriginal Customary Law* (CIACL 2003:13), ‘some Aboriginal communities have become dysfunctional, in the sense that *neither* Australian law nor traditional law is properly observed.’ While the reasons for this justice and administrative crisis were found to be complex, the findings indicated that ‘in these [dysfunctional] communities the authority of the elders was being challenged and their numbers diminishing.’ The Committee (CIACL 2003:14) concluded that ‘Aboriginal communities, and particularly strong Aboriginal communities, will welcome the opportunity to strengthen customary law.’

While the right of the West to impose its democratic development agenda over other societies may be a valid moral question, a central concern from a public administration perspective relates to the feasibility of the democratic development agenda in the first place. Just how realistic is it to superimpose the structure of the modern state indiscriminately? While it may be that eventually, at least in the majority of cases, societies will develop the capacity to administer themselves in accordance with the state model relatively independently, there are growing concerns that at the weak end of the state capability spectrum, present strategies are producing unsatisfactory results. The purpose of this study is to investigate alternatives to the pure state development and ‘rule of law’ approaches for promoting order in weak states, with specific focus on subsistence agricultural societies with minimal prospects of economic development in the short-to-medium term future (New Subsistence States), and drawing on data relating to the case-study of East Timor.

Weak and Failing States

The work of Joel Migdal (1988:xvi), for whom Third World analysis using a ‘state-centered approach’ is akin to ‘looking at a mousetrap without at all understanding the mouse,’ contributed to the construction of an improved framework for examining the relationship between societies and state capacity. Investigating the complex implications of the expansion of the state model during the second half of the twentieth century, Migdal (1988:11) critiques the post-Second World War naiveté which held that the process whereby newly formed states would acquire the ability to influence the behaviour of their citizens, would be relatively untroubled:

There was a stark confidence in the 1950s and 1960s that the chaos of the moment would pass as new and renewed states would pull themselves together and create ‘modern’ national societies. It was eagerly anticipated that the new states could lay the way for directing the economic and social changes already engulfing their societies.

Migdal’s work endorsed (1988:260) criticism of political scientists and economists for being preoccupied with formal mechanisms of state organisation and ignoring disparities between ‘declarations of intent by state leaders in the capital and the actual disposition

of state resources.’ Since the ‘very coherence and character of the state’ (Migdal 1988:5) would be affected by the inability of state leaders to influence the behaviour of their subjects living in remote villages, it was necessary to establish the impact of the state upon society, as well as the impact of society upon the state. Complicating matters, and supporting the conclusion that states in some form or other are here to stay, were reasons to believe that even in weak states (those with little ability to influence the behaviour of their citizens and hence galvanise human and material support for national development objectives) the less tangible qualities of the state could have a powerful impact (Migdal 1988:9):¹⁹

States have become a formidable influence in...[Third World]...societies, but many have experienced faltering efforts to get their populations to do what state policy makers want them to do. States are like big rocks thrown into small ponds: they make big waves from end to end, but they rarely catch any fish. The duality of states – their unmistakable strengths in penetrating societies and their unmistakable weaknesses in effecting goal-oriented social change – is my central concern.

Whereas weak state theory found a place in political science literature before the assault on the New York World Trade Centre of 11th September 2001 and the subsequent ‘war against terror,’²⁰ it has found an even more urgent relevance since that time, as attention has been focussed with renewed energy upon the weak states’ even more dysfunctional cousin, the failed or failing state. In his alarmingly titled paper *Failed States in a World of Terror*, Robert I. Rotberg (2002b:127), forcefully argues that ‘[i]n the wake of September 11, the threat of terrorism has given the problem of failed nation-states an immediacy and importance that transcends its previous humanitarian dimensions.’ No longer can failed states and potential failed states (weak states) be seen only as threats to themselves, their populations and neighbours. Now these states are a danger to everyone through their inability to regulate activities that unfold within their borders in accordance with international conventions and expectations. In the new climate of

¹⁹ Migdal (1998:13) returned to this theme in later work examining the question ‘Why do so many States Stay Intact?’, arguing that states can become ‘naturalised’ as a consequence of interaction between society and state. In Migdal’s words, ‘[n]aturalisation means that people consider the state as natural as the landscape around them; they cannot imagine their lives without it. If that belief is widespread, it provides a powerful antidote to disintegrative forces, even in the face of continued weakness in delivering goods, effecting policy, and gaining efficiency.’

²⁰ For example, see Dauvergne (1998).

vigilance, '[p]reventing states from failing, and resuscitating those that do fail, are thus strategic and moral imperatives.'²¹

In recent years, as the United States has been leading the charge diplomatically and/or militarily against prominent failed, failing or rogue²² states throughout the world (most significantly Afghanistan, Iraq, North Korea and Iran), the state capacity of Australia's near neighbours has been re-assessed with increased vigour. In an analysis of the progress of new states in Australia's vicinity it was noted (Duncan and Chand 2002) that in the course of only one year, '[a] wide arc of countries to Australia's north and northwest – including Indonesia, the Philippines, Papua New Guinea, Solomon Islands, Fiji and Vanuatu – have had one or more instances of civil unrest; some to the extent of destabilising the government.' In the Solomon Islands, the situation was ultimately sufficiently dire to provoke the Australian government into organising and leading the Regional Assistance Mission to Solomon Islands (RAMSI), an initiative undertaken in cooperation with the Solomon Islands government which commenced on 24th July 2002

²¹ In his paper, Rotberg (2002b:128-130) refers to specific indicators and implications of state failure. These are reflected in the following points:

- Elites direct scarce state resources towards specific family or clan groups, or invest this wealth in private 'hard-to-trace foreign bank accounts.' Accordingly, public infrastructure and services become chronically under-funded.
- '[L]eaders and their associates subvert prevailing democratic norms' through interfering with due process in the legislative, bureaucratic, judicial, defence and civil arenas. Specific interest groups generally benefit from this subversion of due process.
- An outcome of the above trends is that elites become conspicuously wealthier and more ostentatious in their behaviour, while the average citizen becomes poorer. Life for the average person becomes more treacherous as security, 'the most important political good, vanishes.'
- Finally, the state loses 'power and legitimacy.' With firearms 'cheap and easy to find,' the 'potential for violent conflict grows exponentially,' as citizens begin to demonstrate ('take to the street or mobilize along ethnic, religious, or linguistic lines') in the absence of recourse to democratic institutions. Alternative forms of social organisation ('separation, autonomy, or a total takeover') are contemplated on the basis of real or imagined 'historical grievances.'
- Failing successful 'preventative diplomacy, conflict resolution, or external intervention,' total state collapse or civil war can occur.

²² Rogue states may be capable of regulating activities inside their borders in accordance with international conventions and preferences, but unwilling to do so. Potentially, this can be perilous. North Korea is a good example of a rogue state, with North Korean state agencies believed (Stewart 2006:1-2) to be responsible not only for the production and distribution (in foreign markets) of heroin and a range of pirate products, but also for the printing of fake US dollars. According to Stewart (2006:2), '[i]n the 1990s, North Korea even invested \$US10 million to buy the same model printing press used by the US mint.'

and consisted of 2,225 personnel from cooperating regional countries divided into police, military and civilian contingents.²³

An architect of RAMSI, Elsin Wainwright (2003:485) from the Australian Strategic Policy Institute (ASPI), has remarked that '[r]esponding to state failure is at the top of the international security agenda, and it is likely that the incidence of interventions in failed or ailing states will increase.' As well as forecasting (2003:495-496) greater Australian involvement in preventing state failure in the region, Wainwright (2003:497) refers to Australian Government assessments suggesting that it is less expensive to prevent state collapse through strengthening failing states, than it is to attempt to rehabilitate them after they have deteriorated beyond a certain point. This raises the question of appropriate strategies for strengthening countries that, as Wainwright (2003:487-488) points out in relation to the case of Solomon Islands, may have minimal experience operating as functional states:

Solomon Islands became a British Protectorate in the late nineteenth century, but the British colonial presence was not as engaged in Solomon Islands as it was elsewhere. As a result, the institutions of statehood in Solomon Islands never firmly took root, even after decolonisation on 7 July 1978. A question therefore exists as to whether Solomon Islands was ever a properly functioning state. There remained an ill-fitting overlay of state institutions with traditional structures, and the traditional structures proved to be enduring. This contributed to the weakness of the state.

As Wainwright suggests, there is good reason to link dysfunctional governance in accordance with the state model, with enduring 'traditional structures.' However, in the Solomon Islands and throughout much of the region, these 'traditional structures' are the cultural bedrock on which future attempts at state-building must be constructed. This raises the question of the kinds of institutions of governance that might reduce the likelihood of state failure unfolding in the future, in the weak states of the neighbourhood. In her paper, Wainwright (2003:495) sketches a plan for the reconstruction of Solomon Islands that includes the central elements of traditional state-building. In this outline, the initial 'restoration of law and order' phase of the RAMSI operation must be followed by a 'long-term commitment' to creating 'functioning democratic processes, and a revived economy' in Solomon Islands. The institutional

²³ See Wainwright (2003).

capacity of this rehabilitated state must include ‘a robust Solomon Islands law and order sector – police, judiciary and correctional system.’ At face value, this rehabilitation program is identical to what we might expect to see prescribed for a post-conflict European country with historical experience of state organisation, yet experience indicates that state-building in accordance with the conventional formula has had little success among the New Subsistence States of the region.

With respect to institutions of governance, it is clear that colonial political models had little suitability to the South Pacific societies that adopted them at independence. As Ben Reilly (2000:265) notes in his paper titled *The Africanisation of the South Pacific*, ‘[i]n contrast to the ideal Westminster model of a relatively stable two-party system based around the class divisions that emerged in the British dominion states of Australia, Canada and New Zealand, the political party structures that emerged in much of the South Pacific have been weak, fragmented, amorphous and increasingly irrelevant.’ To this it might be added that the class divisions of British and other European settler-coloniser societies were themselves the outcome of complex historical development processes including events such as the growth of feudalism; state formation; the technological capacity and surplus expanding activities associated with colonial exploits; the scientific and industrial revolutions and associated transformation of values and belief systems; the rise of the bourgeoisie and the elimination of feudal power structures, and; the development of a delicate partnership between labour and capital – in short, experiences difficult to replicate in the course of five or ten-year transition-to-independence programs in societies with subsistence economies and systems of social organisation.²⁴

²⁴ Not surprisingly given the dramatic differences between the European societies in which parliamentary democracy originated, and subsistence societies of the South Pacific, there are indications that when European institutions of governance survive transplantation, it is because they serve functions other than those intended by proponents of the ‘democratic development’ agenda. Observers of PNG politics (May 1998:65; Reilly 2002:266) suggest that the vast benefits available to successful candidates – particularly in a first past the post electoral system which allows a political representative to be determined by only a small margin of the electorate - ensures that competition for political office is strongly contested by competing aspirants and their clan supporters. According to Reilly (2002:266), ‘[i]n 1997, 15 parliamentarians were elected with less than 10 per cent of the vote each,’ an outcome consistent with the expectation that members of parliament will have only small bands of constituents to whom they ultimately ‘owe their allegiance and parliamentary positions.’ Meanwhile, May (1998:65) notes that the PNG parliament has a high turnover of members - with fifty per cent or more of PNG members of

Given that New Subsistence States in the Southeast Asia and Pacific regions have different histories to the European countries in which the ‘democratic development’ model was forged, should this historic legacy – in combination with the known shortcomings of the European model within the region - be taken into account in future state-building endeavours? While there will inevitably be some role for Western governance and legal institutions in the commercial and urbanised sectors of New Subsistence States, how realistic is it to expect, in the absence of broad and dynamic economic development, that these same institutions will develop relevance in rural areas? And if it is appropriate for different institutions to have jurisdiction outside of metropolitan areas of New Subsistence States, then what might the nature of these institutions be? These questions are explored in relation to East Timor in this study, with consideration to constraints on the reach of the state caused by prevailing socio-political and economic factors. A preliminary response at the theoretical level, however, is appropriate at this point.

Sociology and the Weak State

Again at the macro-sociological level, to which specifics arising from the East Timor case-study will be added later, it is appropriate to consider that in subsistence societies the existential realm is intricately bound up with the political in a complex cosmology celebrated with ritual that unites the present social and natural order with a realm of *still* sentient and easily offended ancestors. To those who inherit such belief systems, the

parliament losing office every election – and the parliament prone to continually changing alliances by coalition partners, resulting in government changes every term from 1977 onwards. Suggesting that influencing government policy may not be foremost among those factors motivating individuals to run for public office, May (1998:69) asserts that ‘candidates have increasingly stood as independents (in order to maximise their bargaining position, should they be elected, in the process of government formation) and elected MPs engage in an ongoing process of bargaining to maximise the benefits from office to themselves and their line...’ While the PNG political system may have popular credibility on the basis that (May 1998:69) ‘no substantial social group (except women as a gender group) feels itself to be systematically excluded from the possibility of sharing in state power,’ the particular manifestation that parliamentary democracy has adopted in PNG is associated with unstable and short-sighted governance, incoherent policy and corruption. Diagnosed by Reilly (2002:265) as heading ‘towards an ongoing crisis of governance and governability,’ PNG is another country which has had its democratic institutions hijacked by ‘traditional structures.’ Whereas the Westminster system of governance is formally in place, in practise democracy operates as a state lottery disbursing scarce resources to a democratically determined, and steadily rotating, band of beneficiaries.

greatest transgressions possible are those committed against these ancestors, and as long as belief in the influence of the ancestors endures, their role as a social control mechanism continues. This form of governance, which accords with what Weber refers to as ‘traditional authority,’ frustrates the introduction of the kinds of administrative mechanisms associated with the modern state model, with its rationality-based democratic and legal institutions. In his consideration of the matter, Weber (1978:227) notes that ‘[i]n the pure type of traditional authority, it is impossible for law or administrative rule to be deliberately created by legislation. Rules which in fact are innovations can be legitimised only by the claim that they have been “valid of yore,” but have only now been recognized by means of “Wisdom.”’

Clearly, in societies where ‘traditional authority’ is strong, there are limits to the speed at which the full complement of state institutions can be introduced as legitimate instruments of governance. Change capable of creating a social environment suited to the survival of what Weber refers to as ‘legal authority,’ is of obvious benefit therefore to state-building in accordance with the conventional model. In such social environments, ‘traditional authority’ is transcended and, in Weberian (1978:217) terms, acceptance develops of the ‘validity...[of a number of]...mutually independent ideas.’ Among these is the principle ‘[t]hat the person who obeys authority does so...only in his capacity as a “member” of the organization and what he obeys is only “the law.”’²⁵ As articulated by Weber (1978:220-221), ‘[t]he purest type of exercise of legal authority is that which employs a bureaucratic administrative staff.’ In this ‘pure type’ of bureaucracy, officials occupy a multitude of different offices, each of which ‘has a clearly defined sphere of competence in the legal sense.’ Appointments are made on the basis of merit (not, for example, on the basis of any ‘traditional power’ a candidate may possess), ‘[t]he office is treated as the sole, or at least the primary, occupation of the incumbent,’ and the different offices will be organised in accordance with a clear hierarchy maintained with ‘strict and systematic discipline.’

²⁵ As opposed to the ‘traditional authority’ of any office holder within the organisation.

Returning to the question of the development of a suitable social environment for the survival of ‘legal authority,’ it is clear that the guaranteed availability of surplus – typically derived from agrarian or industrial activities - is essential to the maintenance of the kinds of bureaucratic administrative systems described by Weber, and referred to in the foregoing paragraph. Furthermore, as examined earlier, the link between surplus accrual and bureaucratic administration goes back to the origins of the earliest states, for which the production and management of increased surplus was a function of, as well as a factor reinforcing, the development of a stratified workforce. In this respect, Durkheim’s study of *The Division of Labour in Society*, to which Weber’s distinction between ‘traditional authority’ and ‘legal authority’ has parallels,²⁶ is insightful as a complementary theory for how the stratification of labour can influence the development of conditions suitable for the survival of the Weberian ‘legal authority’ administrative ethic.

Perhaps overstating the case to some degree, Durkheim (1984 [1883]:84-85) begins with the assertion that belief patterns characteristic of pre-modern or subsistence societies (governed in accordance with ‘traditional authority,’ in the terms later articulated by Weber) promote a high degree of social conformity and limit the latitude for personal expression so important to the development of the individual rights ethic emphasised so strongly within Western legal and democratic discourse:

[T]here is within the consciousness of each one of us two consciousnesses: one that we share with our group in its entirety, which is consequently not ourselves, but society living and acting within us; the other that, on the contrary, represents us alone in what is personal and distinctive about us, what makes us an individual. The solidarity that defines from similarities is at its *maximum* when the collective consciousness completely envelops our total consciousness, coinciding with it at every point. At that moment our individuality is zero...at the very moment when this solidarity exerts its effect, our personality, it may be said by definition, disappears, for we are no longer ourselves, but a collective being.

Durkheim (1984 [1883]:123) refers to the ‘kind of solidarity’ prevailing in societies with strong ‘collective consciousness,’ as ‘mechanical solidarity.’ This ‘mechanical solidarity’ would be progressively replaced by ‘organic solidarity’ as - in accordance with the march of progress - the ‘division of labour’ replaced ‘the role that once fell to

²⁶ Weber also gave attention to labour division. See, for example, *Economy and Society*, Volume 1 (1978).

the common consciousness.’ In the changing world of his time, Durkheim concluded that ‘organic solidarity’ is the stronger of the two forms of solidarity, as ‘even where it is most resistant, mechanical solidarity does not bind men together with the same strength as does the division of labour, and also that its sphere of action does not embrace most of present-day social phenomena.’

Indeed, the strength of ‘organic solidarity,’ may well be stronger than the ‘mechanical solidarity’ of subsistence societies, and the economic relations and interdependencies among individuals, businesses and nations spread around the globe certainly provide evidence in support of this. However, for subsistence societies with few prospects of entering an economic development phase capable of inducting broad sections of the population into stratified and exclusive spheres of economic activity, there is every reason, and alternatives must appear inconceivable in any case, for inhabitants of these societies to maintain practices that meet ongoing needs and accord with prevailing social realities. Certainly, in the view of Weber, transcendence from ‘traditional authority’ structures is no easy process. Writing in relation to peasants, for example, Weber (1976a [1915]:283) asserts that:

[T]hey have been inclined toward magic. Their whole economic existence has been specifically bound to nature and has made them dependent upon elemental forces. They readily believe in a compelling sorcery directed against spirits who rule over or through natural forces, or they believe in simply buying divine benevolence. Only tremendous transformations of life orientation have succeeded in tearing them away from this universal and primeval form of religiosity.

In fact, the reasoning to explain the conservative nature of subsistence societies is simple and sound: With minimal surpluses available to draw upon in case of disaster, limiting experimentation and adhering to proven practise is a sensible strategy and a means of avoiding extinction. For this reason, the inviolable will of ancestors serves to contain free thought within appropriately narrow margins, and constrain receptiveness to the logic of governance in accordance with the ‘legal authority’ ethos. Again, it might be observed in respect of this conclusion, that the promotion of ‘democratic development’ as a replacement for ‘traditional authority’ institutions – where this is at all an achievable objective - potentially places a society at risk of having few functional institutions of governance at all when there is no long-term guarantee of the economic

resources to support the state institutions. If the spirits and natural forces referred to by Weber are extinguished by rationality in the course of development and state-building, then what happens in the event that state-building turns out to be a ‘reversible’ process?²⁷

The considerations of Weber and Durkheim contribute to a theoretical framework for understanding some of the difficulties that have been experienced in promoting ‘democratic development’ in countries characterised by pre-modern social organisation, particularly where conditions of economic stagnation have prevailed. Yet in this, the era of the state, the absence in a subsistence country of strong economic development involving broad sections of the population, capable of fostering receptiveness to ‘legal authority’ through influencing such changes as workforce stratification, seems to make little difference to the kinds of governance institutions that such a state is encouraged to adopt. On the contrary, the institutions of modern state governance are advocated, and adopted, as though they have universal relevance and applicability independent of the historical, economic and social contexts in which they evolved. However, as has been already suggested, the fundamental changes necessary for members of any society to fully internalise new systems of governance and justice, may well be more substantial than has traditionally been appreciated by proponents of ‘democratic development.’ Indeed, the ambitious objective of introducing the state model in subsistence societies goes beyond the area of governance and administration, since governance and administration – through their ritual and cosmological associations in a subsistence social context - are themselves areas bound up with the most essential existential considerations.

The Western Experience

In considering the challenges associated with promoting the internalisation of Western governance and justice values among the populations of New Subsistence States, it also pays to review elements of the West’s experience in coming to terms with new systems

²⁷ In reviewing state-building experiences in a range of troubled countries, Hegarty et al (2004:4) assert that ‘[t]he fact that progress towards state and nation is often reversible should be recognised.’

of thought that challenged prevailing ideas about the links between existential beliefs and human social organisation. In the case of France, which under Napoleon spread post-feudal administration throughout large tracts of Europe during the early nineteenth century,²⁸ the Bourgeois revolution (1789-1799) that preceded Napoleon's adventures was the result of the long build-up period during which the moral basis for overthrowing feudalism became established, leading ultimately to the events of the revolution itself, including the execution of a great number of royalists and numerous collateral victims, and the passing of the constitution of the first French republic in 1795.²⁹ The sequence of events referred to as the Age of Enlightenment which unfolded prior to this point, included major challenges to prevailing religious beliefs that also had implications for the legitimacy of feudal governance systems. Concerning the influence of science in the broader social arena during the eighteenth century, Hayes (1928:465) writes that:

Scientists, of whom the period was full, had done much to exalt the notions that the universe is run in accordance with immutable laws of nature and that man must forever utilize his reasoning faculties. It was not long before the philosophers were applying the scientists' notions to social conditions. 'Is this reasonable?' they asked, or 'Is that rational?' Montesquieu insisted that divine-right monarchy is unreasonable. Voltaire poked fun at the Church and the clergy for being irrational. Rousseau claimed that class inequalities have no basis in reason. Beccaria taught that arbitrary or cruel interference with personal liberty is not in accordance with dictates of nature or reason.

The gestation period which modern social critique underwent was extensive, with the commencement of the process considered to have begun around the time of the publication of Copernicus' *De Revolutionibus*³⁰ in 1543, over two hundred and fifty years prior, for example, to the passing of the first French constitution in 1795. The

²⁸ According to the historian Carlton J. H. Hayes (1928:574), '[i]n all the lands annexed to France or included within the radius of Napoleon's direct influence, the forms and rights of feudalism and serfdom were abolished, and the social equalities embodied in the *Code Napoléon* were guaranteed. Throughout southern Germany, the Netherlands, the Iberian peninsula, and a great part of Italy, as well as in France, the social aspects of the old regime underwent a thorough transformation...'

²⁹ Refer to Hayes (1928:500-513), whose account provides a lesson to intellectuals on the advantages of maintaining a low profile during times of change. According to Hayes, the execution of dissident and out-of-favour revolutionaries continued for some years after the passing of the constitution of the first French republic.

³⁰ It is appropriate to see the work of Copernicus as a product of his time, as well as a major contribution to the developments of the time. According to Kuhn (1959:2), 'Copernicus lived and worked during a period when rapid changes in political, economic, and intellectual life were preparing the bases of modern European and American civilization...Initiated as a narrowly technical, highly mathematical revision of classical astronomy, the Copernican theory became one focus for the tremendous controversies in religion, in philosophy, and in social theory, which, during the two centuries following the discovery of America, set the tenor of the modern mind.'

rudimentary nature of some of the questions prompted by the circulation of the theories of Copernicus and his contemporaries are worthy of contemplation in relation to contemporary modernisation endeavours, to the extent they may offer insight into the existential challenges faced by societies characterised by ‘traditional authority’ structures at the present time, as these societies struggle to come to terms with the internally cohesive but confronting missile of values inherent in the ‘democratic development’ agenda. In *The Copernican Revolution*, Kuhn (1959:193) refers to some of the ‘many gigantic problems for the believing Christian’ which arose in the wake of Copernicus, noting that ‘Copernicanism required a transformation in man’s view of his relation to God and of the bases of his morality,’ and that ‘[s]uch a transformation could not be worked out overnight.’ The worst of the problems, asserts Kuhn, was that ‘if the universe is infinite...where can God’s Throne be located? In an infinite universe, how is man to find God or God man?’

The existential critique self-generated within European society ultimately had political manifestations in the questioning of the divine right to rule, amid an evolving scenario of economic, trade and technological development that affirmed and rewarded the logic of post-feudal social organisation. Even so, as noted above, it took two and a half centuries from the publication of Copernicus’ major work for the first institutions of the modern state to be inaugurated, and Copernicus was himself the product of a society which *already possessed* the capacities necessary to administer a feudal state, with its tax raising mechanisms, public administration, church and military institutions.

The argument that the role of ‘culture’ is exaggerated as an explanation for the successes and failures of societies, as they struggle to conform to the challenges of political, economic and social organisation in the era of the state, is not uncommon. Among the proponents of this argument is Hernando de Soto (2000), whose central theory attributes poverty in the Third World to informal property rights systems that leave billions of dollars worth of property outside the formal market, complicating access to land and

preventing the occupiers of informal properties from accessing capital.³¹ In the view of de Soto (2000:225), ‘a great part of the research agenda needed to explain why capitalism fails outside the West remains mired in a mass of unexamined and largely untestable assumptions labelled “culture,” whose main effect is to allow too many of those who live in the privileged enclaves of this world to enjoy feeling superior.’

While de Soto’s proposition may have currency in some contexts, his argument has limited relevance in situations where alienation of land from customary ownership is strongly opposed on cultural grounds, as has been the case to date among the New Subsistence States neighbouring Australia.³² In such cases, ‘culture’ clearly *does* hinder development in accordance with the capitalist formula, with flow-on implications relating to the development of social stratification and labour specialisation, the development of state institutions, receptivity to the logic of these institutions, and so on. Furthermore, to place the debate in the broader state-development context, the absence of capital among normal members of the population, for example, does not explain broader deficiencies in state administration capacity such as those that have prompted the Australian government to consider placing Australian officials in ‘line positions’ within the public administration of the New Subsistence State of PNG, including, according to former Australian Defence Minister Robert Hill,³³ ‘in command positions from platoon up to battalion level’ in the PNG defence force. Suggesting a realistic cause for PNG’s problems in an article supporting greater Australian intervention, Hugh

³¹ This argument has some bearing on the area of this study because, among other things, it assumes in relation to weak state scenarios, that a transition from customary land administration to state land administration is not only desirable but feasible. De Soto’s argument has been critiqued by Krueckeberg (2004:4) on the basis that ‘[o]ften, titling programs also replace a traditional or customary system of community land management, historically governed by chiefs and elders. In such cases, the customary system is sometimes viewed as more stable, reliable, and secure than government-issued land titles.’ The need for titling of customary land in Solomon Islands (SI) has been critiqued by Hegarty et al (2004:12-13) on a number of grounds. These include the availability of alternative means of accessing credit in the form of micro-finance schemes and the perceptive query ‘[w]hat bank wants to own a few hectares of land scattered over the SI?’

³² According to Larmour (1998:81), the proportion of land remaining under customary control in PNG is ninety-eight per cent. For Solomon Islands the figure is eighty-four per cent, for Vanuatu ninety-nine per cent, and for Fiji eighty-three per cent. Field surveys coordinated by this writer (see Nixon 2005:8; Nixon 2007:103) indicate that just over three per cent of agricultural land in East Timor has been alienated from customary tenure (this is discussed further in Chapters 4 and 6).

³³ Cited by Walters (2004) in an article published in the 15th December 2004 edition of the *Australian*. According to Walters, Robert Hill also referred to the need to support ‘PNG in downsizing its force basically to a force that it can afford.’

White (2004) asserts that like ‘other countries, in the South Pacific and beyond,’ PNG has limited identification of itself as a state and as a nation. In this country where politics becomes just a business opportunity, the law and order sector, among others, has degenerated because ‘a deeply dysfunctional system of government lacks the administrative capacity and budget discipline to spend the money that should be available effectively.’ The administration of a national budget is, of course, a sophisticated and abstract form of surplus administration, and an area of activity not historically undertaken by subsistence societies. Mindful of this reality, the suggestion of White (2004) that it could take ‘generations’ of assistance before PNG can function independently as a state, may well be realistic.

Based on the foregoing arguments, the substantial cultural changes associated with transcending ‘traditional authority’ structures and internalising values consistent with state administration are taken seriously throughout this investigation. In observing factors capable of limiting receptivity to the institutions and mechanisms of conventional state organisation, the writer pays heed to the analysis of Migdal (1988:25), who attributes a deterministic outlook, discernible in the work of Durkheim reviewed above, to earlier observers of state development:

The assumed inevitability of this powerful dynamic leading societies from lower stages to higher ones, or from traditional patterns to modern ones, obviated the need for scholars to analyse closely those forces of resistance that would, in any case, fall by the wayside. Such resistance, they implied, was crumbling.

As a further comment on this matter, which highlights the difficulty of imposing rational administrative hegemony on stateless societies - it is of profound significance that even wealthy European settler-coloniser states have found it inappropriate and in some cases even counter-productive to require their indigenous populations to conform to the full range of administrative, justice and property ownership institutions of the modern state. Australia’s Northern Territory, of which nearly half the land mass is legally controlled by indigenous people,³⁴ serves as an interesting example. Of particular interest is the management regime introduced over Aboriginal land in accordance with the principles

³⁴ The Northern Land Council (NLC) website indicates (NLC 2003) that almost half of the Northern Territory’s land mass is Aboriginal-owned, compared to fourteen per cent nationally.

enshrined in the *Aboriginal Land Rights (Northern Territory) Act 1976* (Commonwealth of Australia 1976). Under the 1976 Act, Aboriginal groups successful at claiming land on the basis of traditional ownership received ‘inalienable communal title’³⁵ to their traditional land. The legislation in fact recognised - as made clear in the *Aboriginal Land Rights Commission First Report* (Commonwealth of Australia 1973) - that Aboriginal groups continued to live and manage land in accordance with the principles of traditional authority, despite the advent of colonisation and the Australian national development project.³⁶ Of profound interest of relevance to the justice case study presented in the final two chapters of this study, are the findings of the 2003 Committee of Inquiry into Aboriginal Customary Law commissioned by the Northern Territory Government. While recognising (CIACL 2003:15) that ‘sometimes Australian law may be better suited [than traditional law]’, the Committee (CIACL 2003:6) has advanced the following recommendation in its report:

[E]ach Aboriginal community should be assisted to develop its own plan to incorporate traditional law into the community *in anyway that the community thinks appropriate*. The inquiry’s general view is that *each Aboriginal community will define its own problems and solutions*. Models may deal with alternative dispute resolution, family law issues, civil law, criminal law, or with relationships between Aboriginal communities and government officers/private contractors while in Aboriginal communities, and so on. This committee does not wish to limit the matters appropriate for inclusion.³⁷

It is appropriate to conclude this section with the observation that if it is neither feasible nor desirable to disregard local institutions of justice and land management in the relatively well resourced region of the Northern Territory of Australia, then it may be an even less productive strategy to disregard local institutions of governance in New Subsistence States where the reach of the state is extremely limited.

³⁵ Based on the findings of the Aboriginal Land Rights Commission headed by A. E. Woodward (Commonwealth of Australia 1973:20), which found that ‘inalienable communal title is quite basic to the Aboriginal system and so seems to provide the only possible way of dealing with reserve lands in the Northern Territory today.’ Notwithstanding this conclusion, the Commission also remarked that ‘at some time in the future, individual title to land may become appropriate.’

³⁶ Specific elements concerning the exercise of ‘traditional authority’ in relation to rights over land receive attention in the Aboriginal Land Rights Commission First Report (Commonwealth of Australia 1973:4-10). These include the observation (1973:7) that ‘[t]he link between an Aborigine’s spirit and his land is regarded as being timeless. The land-owning clan is merely a group of people who share the same links with the same land.’

³⁷ All italics in original.

Seeing Local Capacities as Strengths not Weaknesses

In the course of the Weak State debate, attention has been focussed on how weak states can have ‘hidden strengths,’ as well as how strong states can have ‘innate weaknesses.’³⁸ In his analysis of this area, Dauvergne (1998:7) suggests that customs and traditions can potentially contribute to either state strength or state weakness, depending on the state, the time and the situation. In the course of the discussion so far, concerns that the endurance of ‘traditional structures’ has hindered state development in Solomon Islands, for example, have already been explored. In response to such concerns, it has been argued that in New Subsistence States, such local forms of social administration are inevitable, and are unlikely to disappear in the absence of profound social change. In view of the alternative, they must therefore be seen as a strength. The relevance of this approach is highlighted by the analysis of Sinclair Dinnen (2003:1-2), who writes in reference to the discussion concerning ‘law and order’ in the Pacific, that ‘[m]uch of the policy debate...has been directed at the need to strengthen state agencies and processes of law enforcement. Less attention has been paid to the role, actual and potential, of those informal structures and processes that in many places continue to wield more influence than do the institutions of the modern nation-state.’ While it is clear that extreme problems such as heavily armed criminal gangs may be difficult or impossible to control without the intervention of coordinated and disciplined paramilitary operations and disarmament programs (such as RAMSI), local systems capable of resolving disputes and hence preventing – on a routine basis – the escalation of minor disputes into violent or otherwise destructive conflicts, must be considered an invaluable component of the extremely limited range of public administration tools available in the New Subsistence State.

The present analysis is written from a public administration and state development perspective. Its primary focus is on the use of local capacities to support conflict resolution and order in weak states, in particular, New Subsistence States. The analysis proceeds on the basis that sustainable, low cost local authority structures, resource

³⁸ Dauvergne (1998:3-8) articulates this in his synopsis of the papers, by various authors, in *Weak and Strong States in Asia-Pacific Societies*.

allocation systems and dispute resolution capacities are fundamental components of the framework necessary to provide basic security, that ‘most important political good’,³⁹ on an ongoing basis, and hence limit the potential for - or reduce the impact of - state failure with its serious human rights implications.

It is considered that two factors should contribute balance to the analysis of local justice and administration systems, where they are found deficient in respect to certain international human rights criteria (as discussed in relation to the East Timor case-study in Chapters 7 and 8). The first of these factors is that while local systems will have faults, they are also - as Dinnen has pointed out - often the only mechanisms available to dispense any kind of justice or administration in the places where they exist. In this respect, philosopher Onora O’Neill (2001:183-187) notes that whereas the Universal Declaration of Human Rights pays much attention to the range of rights that are theoretically universally applicable, it pays little attention to how these rights should be realised in the absence of a strong and committed state.⁴⁰ On this basis, if a realistic approach is to be adopted towards improving human rights standards in New Subsistence States, there is good reason to begin working with the mechanisms and institutions already in place, with a view to influencing reforms within these local systems where appropriate. Secondly, while local systems may well be imperfect in relation to some international human rights expectations, it should also be remembered that such countries as the United States and Singapore, both generally considered to have advanced justice and legal systems, have routinely found cause to impose the death sentence, undoubtedly the greatest human rights violation of all. It is clear, therefore, that even the West can learn valuable lessons from societies in which the main focus of the dispute resolution process is the reconciliation of differences between conflicting parties.

³⁹ Rotberg (2002:129)

⁴⁰ Perhaps reinforcing the need for increased attention to be placed on local systems, O’Neill is in fact more focussed on the real and potential roles of international organisations as ‘nonstate actors,’ of justice, than on the real and potential roles of local system actors. However, this focus does not diminish the validity of her argument (2001:186) that ‘giving priority to the perspective of recipients [of rights] distracts attention from the need to determine which agents of justice are assigned which tasks.’

Restorative Justice

The emphasis on the need for reconciliation between parties so central to the local justice and conflict mediation systems examined in Chapters 7 and 8 of this study, is recognised by Western advocates of restorative justice, so-named because of its focus on the need to *restore* relations between conflicting parties. For example, in the introduction to their book *Restorative Justice: International Perspectives*, which reviews restorative justice practise in Australia, Canada, England, Germany, Japan, New Zealand, the US and Wales, Hudson and Galaway (1997:1) point out, that ‘current restorative justice approaches mirror ancient ways of settling disputes.’⁴¹

The essentials of the ‘definition and practise’ of restorative justice within the framework of Western justice systems are reduced by Hudson and Galaway (1997:2) to three fundamental elements. The first of these is that from the restorative perspective, crime is perceived as ‘a conflict between individuals’ through which injuries to a range of parties, including offenders, occurs. Importantly, crime is seen ‘only secondarily as a violation against the state.’ Secondly, the objective of the justice process from the restorative perspective is to promote reconciliation between parties and repair ‘injuries caused by the dispute.’ Thirdly, ‘the process should facilitate active participation by victims, offenders, and their communities in order to find solutions to the conflict.’

The principle elements of restorative justice referred to by Hudson and Galaway, are reflected in the *suco* justice and conflict resolution practices described in the final chapters of this thesis in relation to the East Timor study. For this reason, the field of restorative justice has obvious value as a reference ground in relation to the study of local justice practices in subsistence societies. It will readily be seen, for example, that the emphasis on crime and conflict primarily as a problem for the individuals concerned, as opposed to the state, has theoretical advantages in relation to the development of

⁴¹ The study of indigenous justice systems in East Timor included in Chapters 7 and 8 indicates that there is general truth in this assertion. To avoid romanticising indigenous justice, however, it should be recognised that pre-pacification practise commonly involved severe means of dispensing justice and *restoring* relations between parties, notably homicide. However, as discussed in Chapter 7, this practise was for the most part eliminated in the late 19th and early 20th centuries with pacification and the disempowerment of the *liurais* (see Chapter 2).

justice and conflict resolution policy in a New Subsistence State – where social relations are stateless in the socio-political sense and where the state has limited influence.

In New Subsistence States, where resources are scarce and state administrative mechanisms have restricted reach, the question of which kinds of disputes the state should seek to control, and which should be left to local communities to regulate, is an important question which receives more detailed attention in the final chapters. From a pragmatic perspective, it appears appropriate to seek to gain maximum utility from those indigenous mechanisms which continue to operate in New Subsistence States, where resources to support prisons, courts and police patrols are minimal. This perspective is reinforced at the general level by the position of restorative justice theorist John Braithwaite. While recognising that restorative justice is not appropriate in all situations, Braithwaite (2003:38-39) argues that:

[T]he restorative justice advocate is reluctant to assume even that the tyranny of genocidal warfare or rape is always or generally best responded to punitively. For this restorative justice theorist at least, however grave the injustice, it is best first to explore the possibilities for a restorative resolution. On this view, we are best to be presumptively restorative and punitive only as a last resort.

Reflecting core restorative justice principles, Braithwaite (2003:35) argues that the ‘key value of restorative justice is non-domination,’ and the ‘active part of this value is empowerment.’ Empowerment is important, asserts Braithwaite (2003:35), because it means ‘preventing the state from “stealing conflicts” from people who want to hang on to those conflicts and learn from working through them in their own way.’ Again, the restorative approach has stark relevance in a New Subsistence State scenario, given the need for independent conflict resolution capacities to be maintained and even strengthened, in the absence of strong state institutions and in the absence of an established ‘legal authority’ ethic supporting the validity of state institutions. For Dinnen (2003:21), ‘[e]mpowering communities to take responsibility for maintaining peace at local levels’, will have the practical advantage of enabling ‘the formal sector to concentrate on more serious matters.’ Perhaps even more importantly, however, Dinnen argues that the creation of ‘appropriate linkages’ between local systems and the state

system could also increase the legitimacy of the state system that is often missing at present.

Conclusion

State-building endeavours traditionally undertaken in New Subsistence States have taken the modern state for granted as an appropriate social and political model for stateless societies. However, the socio-political features of stateless societies have commonly frustrated the introduction of the modern state model. Public administration in accordance with the state formula has provided constant challenges for societies with minimal experience of systematically generating and administering large surpluses, and in many cases the delivery of state services has proved unsustainable. Meanwhile, the 'legal authority' ethic has had difficulty establishing itself in a social and economic context in which the rationale for continued adherence to 'traditional authority' is constantly reinforced. For these reasons, there are strong grounds for promoting state-building approaches which seek to integrate indigenous restorative capacities into the formal institutions of New Subsistence States, at the very least as a transitional measure. The remaining chapters of this thesis represent an evaluation of the appropriateness and feasibility of this approach to the case-study of East Timor.

Chapter 2

State Development in East Timor: Geographic and Historical Factors in the Pre-Colonial and Colonial Periods

Introduction

In Chapter 1, a theoretical and conceptual framework was developed in which the typology of the New Subsistence State was proposed. It was argued that states fitting the New Subsistence State typology are characterised by pre-modern socio-political features which frustrate the adoption of the administrative ideals and mechanisms associated with the modern state model. These socio-political features, being subsistence in nature, have provided New Subsistence States with little or no experience or capacity concerning the generation and administration of large surpluses and associated public administration tasks. This chapter analyses some of the main geographic, historical, and socio-political features of the island of Timor. As well as providing an historical profile of the East Timor case-study, this exercise presents a range of reasons why East Timor, in terms of its pre-colonial and colonial history, conforms to the typology of the New Subsistence State. These reasons include the absence of an autochthonous heritage of advanced surplus generation, the minimal extent to which the territory was modernised during the Portuguese colonial period, and the extent to which authority relations within the East Timorese *suco* continued to conform to the ‘traditional authority’ model described by Weber until the end of the colonial period, despite the elimination of the traditional *reinos*, or kingdoms.

Timor: A Geographic Overview

Lying approximately seven hundred kms to the northwest of Darwin, Timor is an island of about 30,000 square kms¹ located in the ‘non-volcanic Outer Arc’ (Metzner 1977:21; Glover 1986:8) on the south-east perimeter of the Indonesian archipelago. The island is

¹ According to a GIS database based on orthophoto data collected by the Australian Defence Forces in August 2001 (accessed through the East Timor National Directorate of Land and Property), the area of East Timor is just under 15,000 square kms. Farram (2004:31) notes that estimates of the land mass of the whole island vary from 26,000 to over 33,000 square kms.

roughly between fifty and one hundred kms wide and close to five hundred kms long, with a range of mountains running from end to end. The highest point, at 2,960 metres,² is Mount Ramelau in the eastern part of the island. As described by the geographer Joachim Metzner (1977:22), the topography of the island is the product of ‘a turbulent geological past...broadly characterized by a core of rugged hill and mountain land consisting of a confused mass of knife-edged, highly dissected ridges trending in various directions and craggy upland blocks.’

Sailing around the eastern end of the island of Timor on 25th February 1843, the British officer Major Samuel William Russell (1843:29) was impressed by the high altitude of the terrain, noting in his diary that ‘a mountain 10,000 feet above the level of the sea’ existed on the south east coast. To Russell, Timor had ‘all the appearance of a rich fertile land,’ however, this assessment was perhaps optimistic. As a ‘non-volcanic Outer Arc’ island, the geology of Timor is characterised not by volcanic formations, as in the case of many islands in the archipelago,³ but by marine sediments and clays (Metzner 1977:21; Fox 1988:261). According to a report by the East Timor Ministry of Agriculture, Forestry and Fisheries (MAFF), an implication of this (MAFF 2004:1) is that ‘the island has relatively unproductive, low fertility, fragile soils.’ The cultivation potential of the island is further limited by the steep slopes that cover close to half the surface area, making the thin layer of soil vulnerable to erosion from the severe monsoonal rains that lash the landscape seasonally. North of the mountain range, these rains come between November and April, and are followed by an extensive dry season that results in widespread water shortages, imposing a further limitation on agricultural potential. Areas to the south and east of the range experience a later wet season and a less arduous dry season (MAFF 2004:1).⁴

² According to the government website (*Turismo Timor-Leste* 2005).

³ From his extensive travels in the area, Wallace (1962 [1869]:4-5) commented on the great degree to which the ‘Malay Archipelago’ was the product of, and was subject to, volcanic activity. Wallace observed (1962 [1869]:5) that ‘Timor itself consists of ancient stratified rocks, but is said to have one volcano near its centre.’ Glover (1986:8) notes that ‘Timor is the largest island in the non-volcanic Outer Banda Arc, which also includes the islands of Buton, Baru, Savu, Semau, Roti, Leti, Tanimbar, Kai and Seram.’ A ‘volcanic Inner Arc’ includes the islands of Alor, Bali, Ceram, Flores, Java, Lombok, Sumatra, Sumbawa and Wetar (Metzner 1977:21).

⁴ See also Ormeling (1957:11-29), Metzner (1977:61-84), Glover (1986:8-11), Fox (1996:1-2).

The unpredictability of the yearly rainfall is yet another factor that impacts upon agricultural production capacity, and droughts are likely to result in severe food shortages or famine (Ormeling 1957:21,239-240). According to Fox (1988:262), the capricious nature of the natural aquifer system, in which water is ‘trapped in limestone deposits by irregular sheets of clay’, complicates the matter of water supply even further, since earth tremors may interrupt the flow of spring water emanating from these aquifers, making new springs appear elsewhere. Fox explains that the hydrological features of Timor have implications on human settlement possibilities, necessitating ‘a scattered form of settlement and cultivation.’ As discussed in this chapter, the geographical constraints of Timor have influenced the nature of the political systems that have developed on the island.

Human Settlement

According to Glover (1986:212), who undertook detailed archaeological work in eastern Timor in 1966-67, the evidence ‘suggests that Timor was occupied before 13,500 years ago by groups, probably few in number...dependent on naturally-occurring food sources.’⁵ Agricultural production practices, supported by animals (pigs) and technologies (pottery) providing modest surplus storage capacity, appear to have commenced on Timor around five millennium ago. In the words of Glover (1986:12), ‘[a]bout 4500 years ago substantial changes occurred in the pattern of this archaic Timorese culture, for pigs and pottery then appeared in the archaeological record.’⁶ Glover speculates (1986:204) that the introduction of these important new economic features may indicate ‘an immigration of agricultural peoples into Timor some 5000 years ago,’ considering ‘the well documented reluctance of hunter-gatherers to take up agriculture except under considerable pressure and continuous example.’

The rich diversity of ethnic groups to have migrated to Timor, as reflected in a range of ‘physical types’ and fourteen or more languages, has drawn considerable comment from

⁵ Recent work by O’Connor, Spriggs and Veth (2002) suggests that human occupation of the east of Timor dates back 30,000 years or more.

⁶ According to Glover (1986:202-203), the ‘butchering marks’ found on pig bones aged between 2,000 and 1,500 years (approximately), ‘lend a certain amount of support for the introduction of metal into Timor well before the arrival of the Portuguese.’

observers.⁷ From his own review of the literature, Ormeling (1957:67) concluded that ‘the Timor archipelago is a transition area, where an Indonesian-Malay and a Melanesian population component meet and influence each other.’ With respect to linguistic diversity, Fox (1996:2-4) refers to the prevalence in Timor both of Austronesian languages related to those spoken on Flores, the Maluku islands and Solor; and of Trans-New Guinea languages related to those spoken on the nearby islands of Alor, Kisar and Pantar, as well as the *Vogelkop* region of Irian Jaya. In Ormeling’s (1957:236) assessment, despite their differences,⁸ ‘the various ethnic groups have developed a striking similarity in their material culture – shifting cultivation being the base of economy for all groups.’

Historical Agricultural Development Challenges

With particular focus on western Timor, Fox (1988:268-275)⁹ has described various developments that contributed to a ‘substantial’ population increase in Timor in the three hundred years prior to the twentieth century. The most prominent of these was the introduction of maize by the Dutch ‘shortly after 1672.’ Other developments included the introduction of muskets, increased trade in sandalwood and beeswax, and later, the introduction of Bali cattle, *Lantana camara*,¹⁰ *Leucaena leucocephala* (useful as cattle feed)¹¹ and cassava (useful as pig food). To these developments might be added the cash-crop of coffee, which has benefited Timorese smallholders in upland areas in the eastern half of the island since at least the early nineteenth century (Clarence-Smith

⁷ See, for example Forbes (1989 [1885]:424-425,464-467), Moura (1937:475-476), Gonçalves (1937:444-447), Capell (1944:194-196), Ormeling (1957:66-67), Hicks (1972:97), Glover (1986:12), Fox (1996:2-4), Gunn (1999:32) and Hull (2000:1).

⁸ According to Ormeling (1957:74), the ‘Indo-Malay affected part of the population’ (including the Belunese and Rotinese of West Timor) are more enterprising than the Melanesian population, utilising ‘the natural resources more fully’ and engaging ‘in a greater variety of economic activities.’ Fox (1988:259-260,269), however, rejects these assertions, arguing for example that the Rotinese were slower to adapt to the introduction of maize than the (Melanesian) Atoni Pah Meto (People of the Dry Land).

⁹ See also Metzner (1981:94-96) in relation to the *Lantana camara* and *Leucaena leucocephala* species discussed in the main text.

¹⁰ Fox (1988:272-274) describes how *Lantana camara* benefited the common farmer by reducing the expansion onto farmland of cattle owned by the ‘rulers and chiefs’ of western Timor. At the same time lantana was able to be cleared easily to enable farming activities, and also served ‘as a field restorative.’

¹¹ Fox (1988:275-277) explains how *Leucaena leucocephala* (known as *lantoro*) enabled the raising of Bali cattle under tethered conditions, and how this contributed to a broadening of cattle-keeping among the population. Unfortunately this plant was decimated by a parasite that struck in 1986.

1992:1; Davidson 1994:8,90).¹² None of these developments changed the position of shifting cultivation as the dominant mode of production in Timor, making the introduction of agriculture in this form (along with pigs and pottery) around 5,000 years ago, the most recent broad-scale revolution in agriculture and surplus-storage capacity which Timor has experienced.¹³ Even now, MAFF (2004:4) indicate that only a small proportion of arable land has been utilised to date for irrigated agriculture, with most of this land used for the production of only one crop per year.¹⁴ Broadly, recent MAFF figures (2004:1-2) indicate that eighty per cent of rural East Timorese households source their income wholly from farming, with thirty-nine per cent ‘engaged in subsistence farming, producing neither saleable surplus nor generating non-farm income.’ According to MAFF (2004:4) the two main subsistence crops are maize (estimated area 121,000 hectares) and cassava (estimated area 91,000 hectares).

Meanwhile, population growth on Timor has led to repeated warnings that the island’s carrying capacity is in danger of being exceeded, particularly given prevailing agricultural practices.¹⁵ Current demographic trends¹⁶ underscore concerns, suggesting

¹² Coffee was grown by Timorese smallholders for sale to Chinese merchants. See Clarence-Smith (1992:1) and Davidson (1994:8,90).

¹³ In this respect, Glover (1986:14) reports that Timorese pottery production practices have ‘remained remarkably constant’ since their introduction around 5,000 years ago.

¹⁴ According to the East Timor Ministry of Agriculture, Forestry and Fisheries (MAFF 2004:4) ‘there are some 420 irrigation schemes in total, of which only about 10 have modest water storage and thus the potential to produce two crops a year.’ The Ministry also notes that ‘even where water is available, farmers appear to lack the incentive to grow a second crop of rice,’ preferring to use the land for livestock grazing or vegetable production. Suggesting minimal autochthonous momentum for a leap to more productive technologies and the generation of increased surplus, MAFF (2004:4) note in relation to small-scale community irrigated agricultural programs that ‘[h]istorically, farmers in Timor-Leste have been unable or, in some cases, showed little interest to maintain these schemes, relying on government for maintenance and, eventually, rehabilitation.’

¹⁵ Writing in the mid-1950s primarily in relation to West Timor, Ormeling remarked (1957:240) that ‘[a]lready conditions are constantly changing for the worse. Migrations among the growing mountain population bring only temporary relief. In the new settlement areas more land is cleared for cultivation, burning takes place more frequently, fallow periods are shortened and, since anti-erosion measures are almost lacking, erosion is speeded up. Concentrations of growing cattle herds in lantana-free districts lead to the same results. Thus, the anthropogenic destruction spiral causes general deterioration of both man and his environment.’ Ormeling’s warnings were repeated by Metzner, informed by his study of the Baucau-Viqueque region of eastern Timor. ‘Provided the population remains low enough,’ writes Metzner (1977:293), ‘a balance, however delicate, may be attained at subsistence level even in such an environment [as Timor]. Yet once such population checks as tribal warfare (head-hunting), disease, and a high rate of infant mortality are at least partly removed...that precarious balance is upset.’ Metzner (1977:16-17) noted that an earlier balance in eastern Timor was upset when the pacification campaigns of the early twentieth century enabled people to move down from their fortified hilltop villages without fear

that the 2004 population of 924,642 may double in sixteen years. With a land area of 14,959 square kms,¹⁷ this level of population growth will increase East Timor's crude population density from around sixty-two people per square km in 2004, to around one hundred and twenty-four people per square km in 2020. Given the combination of geographic constraints and cultivation practices, this level of population density is alarmingly high,¹⁸ and highlights the need for primary industry and broader economic advances capable of markedly improving carrying capacity.

As well as advances in agricultural practices, revolutionising carrying capacity in Timor will involve substantial social and organisational changes (as discussed in the previous chapter), for which Timorese society has had little preparation. In his study of the 'interior of Timor' with specific focus on the West Timor district of Timor Tengah Selatan,¹⁹ Fox (1988:277-278) outlines the difficulty faced by Timorese in developing a cohesive societal response to the problems of rapid population expansion, the limitations of existing farming methods and environmental degradation:

Under these conditions the majority of mountain Timorese are too close to bare subsistence to be able to take risks and have so far been unable to develop indigenous social institutions that would facilitate cooperation among larger units of the population. They have segmented, truncated and scattered clans; the unit of production is the household and the maximum cooperative group consists of a number of related households. The result is that, as in the past, large groups of Timorese cooperate only on the orders of traditional figures of authority, or at least the behest of local government officials.

As Fox suggests in his assessment, developing new social institutions will be a crucial factor in meeting the challenges faced in Timor. In agriculture, as in other areas of society and governance, the respective roles of both traditional leaders and government

of being attacked by enemies. Once the population dispersed onto previously uncultivated fertile areas and commenced using these for shifting agriculture, population numbers began to increase. A consequence of this, asserts Metzner (1977:293), was that a 'rapid process of land degradation characterised by erosion, land slides, impoverishment of the soils, and formation of badlands, was thus set in motion. It is feared that unless rapid remedial action is taken, this adverse process will accelerate.'

¹⁶ For an overview of data from the 2004 United Nations Population Fund (UNFPA) East Timor Census, see UNFPA (2005).

¹⁷ Based on GIS calculations using data from the August 2001 aerial photo series prepared by the Australian Defence Force and donated to the East Timor Directorate of Land and Property.

¹⁸ Fox's (1988:274-275) assessment concerning West Timor is that '[a]t 30 persons per sq km, it is still possible to rely on a traditional swidden mode of subsistence based primarily on maize; at 140 persons per square km, this is utterly impossible.'

¹⁹ South Central Timor.

officials in developing and implementing these institutional arrangements are likely to be vital.²⁰

Socio-Political Characteristics at Colonial Contact

Consistent with the subsistence economic mode and pre-literate culture that characterised Timorese society historically, Gunn (1999:47) observes that ‘[t]here was no evidence of centralised state structures, at least along the lines of Indianised systems as found in islands to the west.’ Whereas elsewhere in the archipelago fertile soils and high rainfall characteristics supported the development of technically and administratively complex societies with broad-spanning interdependencies and surplus-generation capacities, the geographic constraints of Timor were uncondusive to such a development trajectory. In contrast to the irrigation-based states of Java with their webs of inter-reliant communities and bureaucratic service delivery,²¹ the political structures that had developed in Timor prior to the colonial consolidation of the late 19th and early 20th centuries, were characterised by unstable head-hunting micro-kingdoms constantly warring over entitlement to draw tribute from the narrow margin of surplus produced by subsistence farmers, supplemented by benefits derived from trading in such items as beeswax and the highly significant commodity of sandalwood (*Santalum album*).²²

²⁰ The conclusions of Metzner concerning the control of *Lantana Comara* in Amarasi, West Timor, are of note in this respect. Metzner (1981:104) concluded that ‘[t]he economic prosperity in Amarasi is unrivalled in Eastern Indonesia and primarily due to the discipline attained by the local population. Such discipline was only possible because all new regulations were backed by *adat* [traditional] law and the traditional ruler was still recognized as head. His dual capacity as head of *adat* and administrative head of the sub-district (*kecamatan*) created particularly favourable conditions in Amarasi.’

²¹ See Legge (1964:5), who remarks in reference to state development on parts of Java that ‘[w]here intensive agriculture prevailed, it was not possible for each village to be a completely closed and selfsufficient [*sic*] unit. Such agriculture required cooperation for the maintenance of the irrigation system on which a series of villages depended. It thus called for some sort of unit to overarch the individual communities. Hence the growth of principalities, supported by agricultural tribute and supplying in return a necessary bureaucratic service.’

²² The latter commodity was already renowned for its quality in pre-colonial times, and Boxer (1960:350) remarks that ‘[l]ong before Vasco da Gama rounded the Cape of Good Hope, Timor was known to the Chinese as their best source for the supply of sandalwood.’

Concerning head-hunting in western Timor, see in particular McWilliam (1996), who provides (1996:129) ‘a political analysis of headhunting’ demonstrating the centrality of conflict and headhunting to the traditional states which were brought into decline in western Timor in the early twentieth century by the encroachment of the Netherlands colonial administration. See also the authoritative three-volume work produced by Middelkoop (1963) titled *Head Hunting in Timor and its Historical Implications*, which includes accounts and analysis demonstrating the great extent to which headhunting was integrated into both practical and ritual aspects of life until relatively recent times. See also Schulte Nordholt (1971) who

Middelkoop (1963), Schulte Nordholt (1971) and McWilliam (1996) all give attention to anthropological aspects of life within the former kingdoms of western Timor, including ritual aspects of head-hunting and the use of *le'u musu* (enmity magic) within the *meo* (warrior) cults of the Atoni. However, McWilliam's study (1996) of the warring kingdoms of southwest Timor in the 19th century provides particular insight into the basis of the instability of the Timorese micro-kingdoms. Focussing on the Nabuasa clan, McWilliam (1996:128-129) explains how this clan progresses from being a 'warrior clan' on the periphery of a 'ruling center' or micro-kingdom, to a ruling centre in their own right, with their own peripheral and deferential warrior clans. This account demonstrates why traditional Timorese states were inherently unstable in terms of their core-periphery dynamic, since the peripheral warrior clans of any one state, charged with responsibility for waging head-hunting expeditions into outlying areas to facilitate a flow of wealth and authority to the centre, could be tempted to rebel against the principal central clan and establish themselves as centres in their own right, with satellites of their own. In later sections of this chapter and in Chapter 6, consideration is given to the extent to which Timorese political culture has continued to be influenced by such power patterns.

Certainly, Portuguese colonial accounts indicate that Timorese political organisation in the east of the island was similarly characterised by unstable and opportunistic alliance

includes a chapter titled 'Warfare, Administration and Adjudication' in which the matter is also addressed in detail.

Certainly, warfare and head-hunting appear to have been widespread throughout the island of Timor in the pre-pacification period. With his linguistic interest, for example, Capell (1944:217-218) noted that special words existed for such things as headless corpses and the 'head-sword' used for separating the head from the body, leading Capell to remark that 'cutting off an enemy's head was the custom that remained longest alive in the mind of the native out of all his old customs.' Reference to warfare and head-hunting rituals and practices can also be found in Forbes' account (1989 [1885]:450-452) of his travels in the interior of Timor. As outlined by Forbes, 'hostilities are carried on mostly by the offensive army pillaging and ravaging all they can lay hands on, robbing every undefended dwelling, ruthlessly decapitating helpless men, women, and children, and even infants.' Forbes also noted that the warriors of the south coast kingdom of Kabalaki would 'fight from horseback with their legs tied under their horses' bellies, so that, in the case of their being wounded or killed, they may be carried back to their own village with their heads on their shoulders.' Of special interest to the theme of this study (see Chapters 7 and 8), Forbes (1989 [1885]:451) also noted details of the rituals which would be performed in the event that kingdoms resolved to reconcile, and live in peace with one another. According to Forbes, this process would involve the return of captured heads 'by each side to the relatives of the deceased.'

patterns and core-periphery dynamics into the late 19th century, at least in relation to the interaction between the various kingdoms and the Portuguese colonial administration. In 1870, following a term as Governor of Portuguese Timor, Antonio Joaquim Garcia reported to his superiors in Macau (Garcia [1870] in Sherlock 1986a:62) that:

[O]ne cannot have nor should have real confidence in the *regulos* [*liurais*] even in those said to be vassals, for all of them are linked, some by barlaques (marriage) and other by blood oaths, and when they give 200 men to help the Government they give an equal or larger number to the enemy, and it is believed, Your Excellency, that this is without fail; there is one difference to be noted – that all the *regulos* inclined towards the Government give to it their best people, and, in time of combat, if realising that we have the advantage, those who are fighting on behalf of the enemy join with ours, and the action is soon decided; however, if they realise that we are at a disadvantage in position or strength, they are the first to betray us.

Notwithstanding the subsistence basis of Timorese society and the ongoing warfare, the political structures that characterised the kingdoms of Timor were highly ritually complex. Wehali, the ancient centre of ritual Timorese power situated towards the south coast of the island to the west of the present border, is perhaps the most recognised example of Timorese ritual complexity. Once headed by a powerful but ‘passive’ Tetum ruler known as the ‘Great Lord’ or *Maromak Oan* (Child of God), Wehali was closely connected to the vast realm of Sonba’i to the west of Wehali inhabited by the *Dawan* speaking Atoni, and possessed ritual power that spread widely throughout the island. Fox (1982:23-25) describes how the power of Wehali was not based primarily on military might but derived from the nature of its matrilineal descent practices in a land dominated by patrilineal descent systems, and because of the ‘female principle of authority’ which featured so strongly in Wehali society. As a centre of ritual power that traditionally dispersed its men in marriage to outside areas, Wehali is believed to have gained wide influence as a source of *liurais* (kings) to other prinedoms throughout the island, placing it in a key position in relation to the island’s trade in sandalwood and beeswax.²³ Although Wehali retains an historic profile in Timorese culture for the

²³ Fox (1982:23-25) remarks that ‘[t]o appreciate the importance of Wehale, it is essential to realize that its significance had nothing to do with military strength or prowess, but rather with an ideology of spiritual authority – a kind of receptive powerlessness that left it open to protection and vulnerable to intrusion. This is because, in the idiom of the Timorese, Wehale epitomized the female principle of authority.’ See also Fox (1996:10-14) for a summary of analysis concerning the nature of power in Wehali and surrounding areas, under the subheading ‘Timorese Ideas of Political Authority.’ See also Francillon (1980:251-253,259-261), Schulte Nordholt (1971:232-239) and Farram (2004:36-37).

influence it once held,²⁴ it was physically destroyed in 1642 (see note 29) as an outcome of the development of geopolitical tensions involving new players, themselves attracted to Timor by the abundant supplies of sandalwood (Boxer 1960:350; Schulte Nordholt 1971:163-165; Hicks 1976:4).

In the course of the ensuing colonial consolidation of Timor (discussed below in relation to East Timor), most *liurais* would ultimately be disempowered and the *sucos* of which their kingdoms were composed, integrated into colonial administrative units. Yet the demise of the formal authority of the *liurais* would by no means precipitate the destruction of the ritual and administrative authority that prevailed within the *sucos*, which became integrated into the Portuguese system of colonial administration. Indeed, the continuing strength and viability of the *suco* administrations after their integration into the Portuguese colonial administration supports the assertion of one commentator (Davidson 1996:11) that even prior to the subjugation of the *liurais* in the early 20th century, it had long been the authority of *suco* leaders whose ‘primary authority’ was most respected by the Timorese.²⁵ As Berlie (2000:139-140) later noted, at a point when East Timor was emerging from almost a quarter century of Indonesian occupation and preparing for transition to national independence, the hereditary authority of *suco* leaders remained a fundamental feature of life throughout this territory, the economy of which remained overwhelmingly characterised by subsistence agriculture.

²⁴ In September 2002, in the context of a discussion about the *Negara Timor Raya* (Nation of the Land of Timor) movement, a *katuas* (elder) from near Suai now living in Australia (Senior East Timorese Woman 1) asserted to the writer that ‘Kupang was never given to Indonesia. Timor is *still* one country. The story of Timor has nothing to do with the story of Indonesia...[and]...Wehali is Timorese, not Indonesian.’

²⁵ An account related to the writer by a *naizuf mnasi* (senior ritual leader) from *Nuno Heno* (meaning ‘many languages’ in the local *Baikeno*) in Oecusse (Ritual Leader 2, interviewed on 22nd March 2003), begins with reference to a time when the island of Timor was already populated, yet had no *rajas*. Then eventually, four brothers with advanced ritual powers arrived in different parts of the island, each becoming a *liurai*. It was the brother Benu Sila who settled in Oecusse, and so advanced was his ability to promote fertility and bring rain, that people of many languages joined together to follow him, a development now reflected in the name of the settlement. Such origin myths are common in Timor (see Schulte Nordholt 1971:159-163,232-238) and raise the question (Davidson 1994:112) of whether there was a separate class of *liurais* in Timor, and if so, ‘where did they come from?’ The possibility that in most cases, the *suco* was an early form of social organisation pre-dating the arrival of the *liurais* provides a possible explanation for the ease with which *suco* administration systems were integrated into the colonial administration following the elimination of the kingdoms.

At the comparative level, even if traditional Timorese social structures lack the administrative and organisational capacities which developed on Java, commentators (Glover 1986:12; Capell 1944:196) have remarked that the Timorese social institutions are highly structured in comparison to the Melanesian ‘big-man’ systems to the east, notwithstanding the mixed ethnic origins of the population that includes a Melanesian component. In this respect, Glover (1986:12) asserts that ‘Timor is basically Indonesian in culture and not Melanesian,’ and that:

Timorese culture can be distinguished from that of Melanesia by a number of traits such as a developed class system with hereditary chiefs, cattle-keeping, the predominance of cereals including wet rice over root crops, metal working (iron for swords, and gold and silver for ornaments), weaving of cotton, and a partial market economy with the production of goods for sale and export.²⁶

The Long Process of Colonial Consolidation

As documented by historians,²⁷ the Portuguese first reached Timor in the early 16th century following the 1511 conquest of the key trading port of Malacca. No substantial settlement was constructed in the region, however, until 1566, at which time Portuguese Dominican priests built a fort on Solor Island, to the north of Timor and the east of Flores. From this settlement originated a Portuguese-native *mestiço* population who came to be known as the *Topasses*, and who followed the Portuguese settlers to Larantuka on eastern Flores after the Dutch conquered the Solor fort in 1613. As the Dutch and the Portuguese settled into a regional conflict that would last almost half a century, the Dominican priests and their *Topasse* allies expanded their alliances over the island of Timor, with the *Topasses* establishing a trading base at Lifau, in what is now the East Timorese enclave district of Oecusse in 1641.²⁸ Nominally identifying themselves as Portuguese and cooperating with the Portuguese colonial authorities on an opportunistic basis, the *Topasses* developed as an independent force in their own right, cultivating strong local connections on the island of Timor and proceeding to dominate

²⁶ Also, as commentators including Wallace (1962 [1869]:151) and Gonçalves (1937:455) have noted, Timor’s ‘developed class system’ originally extended to include slavery, a possible fate for anyone captured by an enemy tribe. Gonçalves points out, however, that unlike in the Southern United States before the conclusion of the American Civil War, slaves in Timor would be integrated into family life.

²⁷ See, for example, Boxer (1960:350-354), Vaz (1964), Fox (1996:5-7), Gunn (1999:51-67), Schulte Nordholt (1971:159-181), Farram (2004:37-41).

²⁸ According to Fox (1996:7), this occurred after the native ruler of Oecusse was converted to Catholicism by a Dominican priest.

the contemporary sandalwood trade.²⁹ By the early 1660s when the Portuguese and Dutch finally resolved to end their regional conflict, *Topasse* powerbrokers were endeavouring to influence developments over the entire island (Boxer 1960:352).

After almost two hundred years of engagement with Timor, the Portuguese finally established a permanent settlement at Lifau on Timor in 1702. It was at this point the Portuguese first bestowed military ranks upon Timorese leaders for the purpose of integrating them into the framework of an incipient Portuguese colonial administration.³⁰ At Lifau the Portuguese faced constant insurgencies until being forced by the *Topasses* to relocate to Dili in 1769 (Fox 1996:8). During the first half of the 18th century, the *Topasses* also tried repeatedly³¹ but ultimately without success, to dislodge the Dutch from their base in Kupang. The scale of the *Topasse* defeat on their final attempt in 1749 was such that the Dutch were subsequently able to gradually expand their influence over much of the western half of the island of Timor, which at this time and for long after was regarded as comprising (see Map 2)³² the two native kingdoms of Bello (comprising up to fifty smaller kingdoms) in the east, and Servião (comprising around sixteen smaller kingdoms) in the west (Boxer 1960:352-354; Fox 1996:8). If the *Topasse* defeat and the subsequent expansion of Dutch influence in the west was the beginning of the eventual colonial division of Timor, then this process was extremely drawn out. Farram (2004:41) points out that following the *Topasse* defeat of 1749 the island became ‘divided into three spheres of influence,’ with the Portuguese in the east, the *Topasses* in the centre and the Dutch in the west. Whereas all three of the powers endeavoured to expand their control during the second half of the 18th century, the Dutch and the Portuguese had very little authority outside their respective settlements of Kupang and Dili during this time.

²⁹ Soon after the establishment of the *Topasse* presence at Lifau, the *Topasse* officer Francisco Fernandes led the expedition that razed Wehali in 1642. This expedition, which also subdued (although without destruction) the allied realm of Sonba’i, served as retaliation against an emerging relationship between the realm of Wehali and the Dutch, and also advanced *Topasse* control of sandalwood trading (Fox 1996:5-7; Schulte Nordholt 1971:163-165; Farram 2004:37-41).

³⁰ See Boxer (1960:353), Gonçalves (1937:457), Saldanha (1994:46), and Berlie (2000:145), who refers to the strong links between the first Governor (Antonio Coelho Guerreiro) and ‘local *adat* [customary laws, values and belief systems].’ Note that the bestowal of military rank on Timorese leaders is discussed in more detail under the section ‘Defence of the Province’ included in this chapter.

³¹ *Topasse* assaults on Kupang were made in 1735, 1745, and 1749 (Fox 1996:8).

³² Note that in view of the shifting alliances characteristic of the Timorese kingdoms of the period, the border between the kingdoms of Servião and Bello indicated on Affonso de Castro’s map of 1867 (see Map 2 below) may not reflect the situation in the mid-18th century.

As historians of Portuguese Timor have highlighted,³³ the Portuguese made few advances towards consolidating control of the eastern half of the island until the late 19th or early 20th century. By the 1850s, sandalwood stocks had become severely depleted, influencing Portuguese authorities in Macau to cut shipping services to Timor for almost four decades.³⁴ The territory experienced economic malaise while warfare between Timorese kingdoms and insurgencies against the Portuguese administration remained common features. The comments of British visitors to Portuguese Timor during this period were commonly scathing,³⁵ yet no less so were the comments of some Portuguese observers, whose accounts similarly portray the colonial administration of Portuguese Timor as under-resourced and lethargic with minimal reach into the interior. A Portuguese officer, believed to have been *Segundo Tenente* (Second Lieutenant) João Monteiro Pinto da Fonseca Vaz ([1870] in Sherlock 1986a:73),³⁶ published the following account of his 1869 visit to the Portuguese fort at Batugadé:

It is notable that the Portuguese, having been in Timor for centuries, have paid no attention to taking advantage of some strategic points which nature would seem to be indicating. The result of this is that, with insufficient forces and stationed in completely dominated places, we are everywhere at the mercy of the good or ill will of the indigenes...[who]...if they should have had

³³ See, for example, Boxer (1960:335) and (Fox 1996:8).

³⁴ For an historical overview of the financial crisis faced by Portuguese Timor during this period, see Davidson (1994:83-87).

³⁵ Based on his visit to Dili in 1861, Wallace (1962 [1869]:144-151) referred to a 'most miserable' Portuguese government, incompetent military officers, officials who robbed the natives and an administrative centre with the aesthetic attributes of a 'poor native town.' He also noted that exquisitely dressed administrative officials and military officers proliferated 'in a degree quite disproportionate to the size or appearance of the place.' Henry Forbes (1989 [1885]:415-417), who visited Portuguese Timor in the early 1880s with his wife Anna, observed that '[t]he lack of money to carry out efficiently the necessary municipal arrangements was painfully evident.' Forbes quickly determined the need to reside at elevated altitude when in the vicinity of Dili, in order to avoid the 'pestilence that nightly rises from the marshes surrounding the town,' although even this precaution did not prevent Anna Forbes catching fever, which she describes in detail in her own account (Forbes 1987 [1887]:287-300). Fortunately, Anna Forbes survived, unlike the entire crew of a wax and sandalwood trading ship which came to rest in Kupang in May 1803 after a visit to Dili. The party of de Freycinet (Freycinet and Péron 2003 [1824]:178-179) was also in Kupang at this time on a scientific expedition, and provided assistance to the crew of the trading ship, who 'had been attacked by the most frightful epidemics, dysentery and fever.' Despite the assistance rendered by de Freycinet's party, all hands perished. References to the hazardous nature of the Dili environs during this period were frequent, such that in the words of Gunn (1999:130), Portuguese Timor became '[n]otorious as a graveyard for residents and travellers alike.'

³⁶ Based on a detailed search of the Macau archives, Kevin Sherlock has compiled collections of articles (see Sherlock 1986a; Sherlock 1986b) on 'Timor in the Portuguese Periodical Press of the Far East' published during this period. A series of articles appear under the (often truncated) title 'Voyage of the Corvette *Sá da Bandeira* to Timor and Operations against the Ruler of Cová.' Although these articles are signed only with the initials 'F.V.', it is the view of Sherlock (based on a review of the manifest of the *Sá da Bandeira*) that the initials are likely to be those of João Monteiro Pinto da Fonseca Vaz.

some energy they would already have long ago put an end to that same shadow of dominion which they still today treat with contempt.

The stockade of Batugadé is also of loose stone... The few cannon with which it is fortified, respectable for their antiquity, are always pointing obstinately towards the same side; and there is no way of moving them...since the two wooden trestles on which each is mounted resist it. If necessity obliges the firing of a shot, the piece with which it is one is immediately castigated for its act...bringing the trestles crashing down.

Notoriously short of funds,³⁷ the Portuguese administration in the 19th century depended on Timorese *liurais* (as well as locally recruited and more highly regarded *moradore*³⁸ forces) for the security of the territory. However, as indicated in the following account of Antonio Joaquim Garcia ([1870] in Sherlock 1986a:62),³⁹ who had recently completed a term as interim governor; mobilising local support to help wage war against rebel kingdoms could take considerable patience:

[The colonial administration]...not having the military strength...to promptly subdue any attempt at rebellion against the legally constituted authorities, is subject to the will of different *regulos* [*liurais*] who make up their minds to support the Government with amazing slowness, and, even then, only after having carried out some tests at what they call an *estillo*,⁴⁰ which turns out to be the bringing together of the so-called men of war, which may take many days or even months; then they are tested for strength, many being rejected as a result of this trial. After that they go on to behead dogs, cocks, sheep, pigs and buffaloes in order to observe the way in which they fall, the direction in which the head is turned, and if the intestines are perfect; if the heads fallen at random are turned towards the side of the enemy, they become discouraged, some retiring to their houses, and the *regulos* do not then have the power to bring them together again; the rest march on, but always with the idea and fear of being defeated by the enemy. There is nobody who can make them deviate from these heathen manners and customs. It is worthy of note that this is the case only when it is to assist the Government, because when they are attacked they defend themselves courageously without resorting to the so-called *estillo*.

³⁷ In relation to his recently completed term of governorship of the Portuguese Timor, Antonio Joaquim Garcia ([1870] in Sherlock 1986a:62) referred to the severe financial conditions in the colony that necessitated the prioritisation of expenditure. Garcia remarked that 'I always had a lack of means to pay the public employees, whom I left with eight months in arrears, not failing however to have had the regular soldiers' wages paid up-to-date.'

³⁸ According to Garcia ([1870] in Sherlock 1986a:67) the most reliable local troops at this time were the *Moradores de Dilly*, who could be even sent if necessary to arrest *liurais* and other native officials, thereby saving 'a good sum of florins' on the cost of regular Portuguese soldiers. In later periods as the various kingdoms were integrated into Portuguese rule, the term was applied more broadly to locally recruited troops (for example, see Barata 1963:25). Literally meaning 'citizen,' in Portuguese, the Timorese have come to understand the term to mean 'warrior' as a result of the common Portuguese practise of drafting citizen (*moradore*) forces for security purposes. One of the results of this practise, as the writer found in the course of field-work in 2002, is that in the present day, *suco* security officers in some parts of Timor are referred to as *moradores*.

³⁹ See also Forbes (1989 [1885]:444-446) for a further description of the warrior selection process.

⁴⁰ Literally meaning 'style' in Portuguese, but comparable in the Timorese context to the Malay/Indonesian term *adat*.

Although patterns of power would change after the elimination of the kingdoms, the dependence on elements of Timorese social organisation for the security and administration of the territory would remain a feature of colonial administration in Timor until the end of the Portuguese period. This feature of colonial rule would have bearing on the nature of justice and conflict resolution processes practised throughout the 20th century, as well as on ongoing tensions between some ethnic groups.⁴¹

Despite and because of the prevailing economic stagnation,⁴² the period between 1851 and 1916 is significant, firstly because it was during this period that the colonial powers in Timor sought to reach agreement about the location of their respective domains in the Timor region and assert control over their colonial subjects, and secondly because of associated social and political changes that occurred. In his account of ‘The Partitioning of Timor by the Portuguese and the Dutch,’ Farram (1999:42-48)⁴³ outlines how a series of disputes between the Dutch and the Portuguese over their various claims in the Timor region during the first half of the 19th century led to these powers meeting in Dili on 1st August 1851 for the purpose of commencing negotiations concerning their respective territories. Whereas a treaty was finally concluded in 1859 (Farram 1999:44), this by no means finalised negotiations because no specific borders had yet been determined and neither the Dutch nor the Portuguese had asserted control over their territories by this time. By 1916, however, both the Dutch and the Portuguese had finally consolidated control over their respective colonies after centuries of presence in the region, and a final border settlement was able to be reached.⁴⁴ As Farram (1999:51) explains, the advances of colonial administration were such that by time the borders had been resolved, ‘[p]eople who had rarely seen Europeans were now forced to pay taxes and perform corvee labour.’⁴⁵

⁴¹ This matter is discussed, in relation to the Viqueque rebellion, in a later section of this chapter concerning ‘Defence of the Province.’

⁴² As discussed in the main text, many of the measures introduced by the Portuguese were designed (often without success) to raise revenue for the colonial administration.

⁴³ See also Saldanha (1994:38-39).

⁴⁴ In fact the finalisation of the borders has been a gradual process, and negotiations and disputes continue in some areas. The process of border demarcation continues, for example, in the enclave district of Oecusse, and has led to a number of misunderstandings and incidents. In a recent press statement released by United Nations Office in Timor-Leste (UNOTIL), reference (UNOTIL 2005) is made to these.

⁴⁵ See also Fox (1996:51) and Gunn (1999:159).

Gunn (1999:160-161) describes how in the years following the 1859 treaty between the Portuguese and Dutch (the ‘Lisbon Treaty’), the Portuguese created ‘the embryo of the modern politico-administrative system on Timor’, by establishing district military commands in Alas, Batugadé, Buursuco,⁴⁶ Cailaco, Dili, Lautem, Manatuto, Maubara, Oecusse,⁴⁷ Vermasse⁴⁸ and Viqueque. It was through these commands that the colonial administration sought to rule East Timor indirectly through the agency of the leaders of the East Timorese *reinos*, or kingdoms. As clear from the accounts of colonial officials cited earlier, however, maintaining the allegiance of the *régulos* or *liurais* during this period remained an ongoing challenge, and one not helped by the Portuguese administration’s new resolve to use the *finta* (customary tribute) system as a means for raising revenue for the colonial administration.

With sandalwood stocks exhausted since the early decades of the 19th century, the new revenue raising effort centred on coffee. This particular crop is believed to have arrived in eastern Timor independently of the Portuguese, and to have been cultivated by Timorese smallholders for sale to Chinese merchants since at least the early nineteenth century.⁴⁹ Historians (Gunn 1999:160-163; Davidson 1994:90-95; Clarence-Smith 1992:4-6) have outlined in detail the difficulties faced by a succession of Portuguese governors in the second half of the 19th century as they now sought to make coffee production a viable industry from which the colonial administration could benefit.⁵⁰ The original initiative launched by Governor Affonso de Castro in the early 1860s required that every family plant six hundred coffee trees and that a proportion of the harvest be collected via the *finta* system in each *reino* and forwarded to the colonial administration,

⁴⁶ Elsewhere (Sherlock 1983:49), the spelling ‘Bobucusso’ is used. Forbes (1989 [1885]:473) uses ‘Bibiçuçu’

⁴⁷ According to Gunn (1999:160), the Oecusse command was not established until 1863, whereas the other commands were established earlier.

⁴⁸ More usually spelt ‘Vemasse.’

⁴⁹ See Davidson (1994:8,90) and Clarence-Smith (1992:1). According to Clarence-Smith, coffee is believed to have arrived in Portuguese Timor via the Dutch enclave of Maubara, which was ceded to the Portuguese by the Dutch in the mid-nineteenth century as part of the border negotiations. Note that Clarence-Smith (1992:1) considers that the introduction of coffee may date back as early as the mid-eighteenth century.

⁵⁰ According to Gunn (1999:160), ‘[t]hose kingdoms not cultivating coffee were obliged to offer up one-tenth of their rice-harvest.’

minus a proportion to be kept by each *liurai* for facilitating the process. Yet despite the increase in coffee production that ensued as a result of the distribution of coffee seedlings, no proportionate increase in government earnings followed.⁵¹ This eventually led to a series of more resolute attempts at colonial domination, ultimately resulting in the introduction of the *capitação* (head tax) in 1908.⁵² There is broad agreement among commentators⁵³ that the intensification of colonial control, and in particular the introduction of taxes, increased dissatisfaction with the Portuguese colonial administration and contributed to the factors that led to the ‘Great Rebellion’ of 1911. The rebellion itself, which began in Manufahi under the leadership of Dom Boaventura and spread to other parts of Portuguese Timor including Dili, was only suppressed after a bloody campaign involving over 12,000 troops (many brought in from other colonies) and the use of the *Pátria*, a Portuguese gunboat, for shelling rebel positions.

The suppression of the Manufahi rebellion can be seen as a turning point in the administration of the colony. In terms of practical effects on the East Timorese socio-political structure, the suppression of the ‘Great Rebellion’ resulted in a dramatic change in the power held by the colonial administration vis-à-vis the power held by the *liurais*. Although a number of *liurai* families would continue to access privileges and hold authority in different forms into and beyond the 20th century,⁵⁴ at the level of day-to-day

⁵¹ Continued attempts to raise revenue for the colonial administration through coffee production were also frustrated by the spread of a coffee rust (*Hemileia vastatrix*) from Java, and a drop in world coffee prices (Davidson 1994:95; Clarence-Smith 1992:2).

⁵² According to Davidson (1994:104), the *capitação* (paid in Mexican *pataca*) initially applied only to adult males. The next year, however, all males of sixteen years or over were required to pay the tax. The preferred method of payment of the *capitação* was cash.

⁵³ See Clarence-Smith (1992:5), Davidson (1994:100-104), Jolliffe (1978:35) and Gunn (1999:169).

⁵⁴ Despite the dramatic intensification of Portuguese power following the suppression of the Manufahi rebellion, it appears clear that some elements of *reino* organisation persisted for some time. It is likely, for example, that ongoing hostilities from the *reino*-period formed the basis of the ‘local jealousies and rivalries’ referred to by Callinan (1984 [1953]:155) which contributed to incidents of ‘slaughter’ between native groups from different regions during World War Two. According to the detailed evaluation of East Timorese authority structures in the mid-20th century produced by Kevin Sherlock (1983:15), reference to *liurais* (as distinct from *chefes de suco*) and *reinos* (kingdoms) continued to appear in official records into the second half of the 20th century. Implying a gradual reduction in the profile of the *reinos*, however, Sherlock also notes that ‘[i]t would appear that the *suco*...or principedom, a grouping of *povoações* or settlements, was the largest indigenous political unit still in widespread and effective operation in East Timor in the 1945-1975 period.’ Concerning the *liurais* themselves, post-war observers (Landman and Plant 1948 Part 1:229) noted that ‘[t]he few remaining kings are recognised by the Government and are granted many privileges: their homes are provided by the Administration and they are free of the burden of head tax. They do not appear to have any very clearly defined legal powers, but apparently handle

administration, the office of *suco* head (*dato*,⁵⁵ or *chefe de suco*), a position typically filled by a ritual leader, became the highest level of traditional authority across most of Portuguese Timor. Capell (1944:198) refers to this development as follows:

At the present time the *dato*, as I gathered from conversation in a refugee camp, is rather an exalted personage with whom the average commoner has little to do. This is obviously the result of the political eclipse of the *leo-rai* [*sic*], and to this a great revolt against the Portuguese in 1911-12 largely contributed. After putting down that revolt, the Portuguese abolished for the most part these petty kings and divided their authority among the *dato* ruling different *suku* [*suco*]. Where the *leo-rai* [*sic*] is still found, he almost always represents a broken succession, the present ruler being elected from leaders of groups who were faithful to Portugal during the revolt, and not necessarily related in any way to the old rulers.⁵⁶

When British representative C.H. Archer (1941:7) visited Portuguese Timor in 1941, therefore, he observed the following system of colonial administration in the districts:

The circumscription [district, from *circunscricção*] is divided into a number of smaller administrative posts under officials known as ‘chefes de posto.’ It is the duty of these officials to collect the head taxes, supervise the work of the natives in their area, and attend to all the minor details of administration. They are assisted by native chiefs as unpaid functionaries and by bands of volunteers, known as ‘Moradoors’ [*sic*], who are also unpaid, and form the greatest value to the government.

It is also of note that at least by the early post-war period, the boundaries of the old kingdoms had ceased to play any role in the administration of the colony, and that by

matters concerning native custom.’ For a discussion on the authority wielded by *liurais* in more recent times in militias, resistance movements and politics, see Farram (2006).

⁵⁵ Note that the term *dato*, sometimes used in reference to the *suco* head, is also used (Saldanha 1994:45) as a term of address for other leaders of royal descent, including *liurais*. Meanwhile, as Hicks (1976:7) notes, ‘[i]n the Portuguese language the chief of a principedom is called the *chefe de suco*,’ however, ‘the indigenous title *liurai* is occasionally heard on the island.’ In the present day, the primary organisational unit in East Timor is considered to be the *suco*, and the *chefe de suco* the official leader of the *suco*. See also Gunn (1999:244-245).

⁵⁶ It is understood that the refugee camp referred to by Capell was at Bob’s Farm near Armidale, Australia. See also Hicks (1976:7-8), concerning the disempowerment of the *liurai* in relation to his Tetum case-study. According to Hicks, ‘the term *liurai* came to be applied to the chiefs, whose office was another innovation’ of the colonial administration. As Hicks describes in relation to his case-study, the indigenous political structure at this level is complex (see also Chapter 7 of this study for an indication of this complexity in reference to the Atoni administrative structure). Generally, however, an appreciation of the extent of the new socio-political reality in Portuguese Timor post-1912 is facilitated by reference to Forbes’ profile of Timor in the 1880s. As described by Forbes (1989 [1885]:425), ‘[t]he whole of East Timor is apportioned out under certain chiefs called *Leoreis* [*sic*], each of whom is independent and absolute in his own kingdom. At present there are forty-seven of these; but many of them possess far greater influence than, and exercise a sort of vassalage over, the others. Each *Reno* [*sic*], or kingdom, is divided into districts each of which is called a *Suku* [*sic*], ruled over by a *Dato*, who receives his orders from the *Leorei* by a special officer appointed for that purpose. The *Dato* has under him two other officials, a *Cabo* and a *Tenente* [both terms adapted from the Portuguese, Forbes suggests] who assist him in the regulation of the *Suku* [*sic*].’

this time, '[t]he divisions between the Postos cut across the ancient kingdom boundaries' (Landman and Plant 1948 Part 1:229).

Portuguese Timor in the Late Colonial Era

The disempowerment of the *liurais* in the early twentieth century was neither accompanied nor followed by any kinds of industrial development or social modernisation programs that may have forced the East Timorese to reevaluate and transform the remaining, fundamentally intact elements of their 'traditional authority' structures. Rather, Portuguese Timor in the years following the suppression of the 1911-1912 rebellion and as war broke out in Europe, has been described (Dunn 1996:16) as 'undoubtedly the most economically backward colony in Southeast Asia, its living conditions often a subject of derision to the few who ventured to it.' Despite a few positive indications stemming from agricultural improvements and the final settlement of borders, the territory soon drifted back into what Dunn (1996:18) refers to as 'a torpid state,' as 'the Portuguese returned to the earlier languid and apathetic form of administration.'

By 1941, when the territory was profiled by visiting British Representative C.H. Archer (1941:37), it was referred to as having 'long been in a precarious economic situation,' a condition that was being exacerbated by wartime developments.⁵⁷ Archer (1941:39-40) noted that the East Timorese struggled to pay the taxes required of them by the Portuguese administration, and that whereas in West Timor 'the Dutch native pays at most ten days' wage per annum in poll tax', those in Portuguese Timor had to pay between two and four months wages in poll tax annually. And, unlike the inhabitants of West Timor, Archer (1941:40) commented that 'the Portuguese native is subjected to a permanent curfew order', and subjected to severe beating if 'found on the streets after 8 pm without a pass from his employer.' Meanwhile, Archer reported that by Dutch calculations, the Portuguese employed 'at least eleven times as many European civil servants per head of native population' as did the Dutch. Notwithstanding the size of the

⁵⁷ Figures included in Archer's report (1941:44) indicate that the value of exports had been declining from 1938 onwards. In 1938, total exports were valued at 1,171,422 *patacas*. This declined to 930,657 *patacas* in 1939, then to 660,425 *patacas* in 1940.

colonial civil service and the heavy native tax rate, however, Archer commented on the minimal energy being directed towards the establishment of infrastructure in the territory and (as discussed later) the development of an education system.⁵⁸ Concerning infrastructure, Archer conceded that the foreign exchange drought impacted on the ability of the Portuguese to establish permanent bridges, but argued (1941:40) that:

[O]nly improvidence and slackness accounts for the failure to check erosion of embankments etc., before it has got a grip; yet it is the Portuguese practise seldom to do any repairs so long as a car can by any means crawl past. Such lack of foresight must cost a largely increased sum in the long run, and no doubt there must be many other similar examples of improvidence which less readily leap to the eye.

At a time when concern was growing about Japanese activity in the region, Archer (1941:33) claimed that the miserable condition of the Portuguese territory was not just apparent to outside observers, but also to the Portuguese. Even the Governor, wrote Archer, ‘considered the colony’s best defence [against invasion by the Japanese] to lie in its unattractiveness as a prize.’

Although education, along with medical and other services, would finally expand in the late 1960s and early 1970s,⁵⁹ the inhabitants of Portuguese Timor⁶⁰ in the first half of the twentieth century had little modernisation and few positive developments to look forward to for the remainder of the Portuguese period, which itself would end in civil war followed by invasion by Indonesia. Pacification and the determination of the colony’s borders coincided with the early years of what Jolliffe (1978:42) refers to as the ‘violence-wracked democratic republic’ in Portugal that held office from 1910-1926, only to be succeeded by ‘Europe’s most enduring fascist government,’ the dictatorship

⁵⁸ Based on a visit to West Timor, Archer made a number of comparative assessments regarding how well each of the colonies was run. In relation to infrastructure and education, he argued (Archer 1941:40) that ‘with a smaller total expenditure the Dutch are yet able to sustain considerable commitments in the way of education, of which the Portuguese have none; moreover Dutch Timor manages to find a greater sum, or at least lays out its money far more effectively, on roads and bridges.’

⁵⁹ The expansion of the education system is discussed in later pages.

⁶⁰ According to Archer (1941:7) the inhabitants of Portuguese Timor in 1941 comprised 300 Portuguese (including *deportados*), more than 2,000 Chinese, thirteen Japanese, approximately 450,000 natives and ‘less than a dozen’ non-Portuguese Europeans, Indians and others.

of António de Oliveira Salazar.⁶¹ For the East Timorese, the only break from Portuguese colonial rule was the period of Japanese occupation in the years 1942-1945, during which time it is likely that over 50,000 East Timorese died (Dunn 1996:22-23; Hill 2002:20), largely because of famine caused by a merciless Japanese food collection policy.⁶²

Administration

The resumption of Portuguese administration was marked, notes Hill (2002:20), by the arrival in Dili in late 1945 of a military contingent which had travelled by ship from Mozambique. Army officers arriving on this ship were to occupy many of the civil administration positions in Portuguese Timor, prior to being relieved by civilian officials late the following year (Eaton 1946 Despatch No.10:2). The Portuguese returned to a war-ravaged land. According to Dunn (1996:23), the destruction of agricultural land and stock was widespread, and even the plantation sector had been virtually abandoned. The war, wrote Dunn, ‘seemed to have taken the country back to the Stone Age’, and subsequent developments indicated that the Portuguese administration was ill-equipped to cope with the reconstruction challenges. In a despatch to the Department of External Affairs dated 25th March 1947, Charles Eaton,⁶³ Australia’s post-war Consul to Portuguese Timor, wrote that the Governor of Portuguese Timor, Oscar Ruas, had spoken of being ‘disappointed...with the frustration of his work in the rehabilitation of Timor and how the progress of his plans are upset and delayed by the non-arrival of very much needed supplies and materials.’ Eaton referred in the same despatch to a shortage of flour in the colony resulting from repairs being undertaken in Fremantle to the supply ship *Nova Dili*, and remarked that ‘it will be eight months between ships from Portugal

⁶¹ Salazar, due to poor health, left office in 1968 and was succeeded by Professor Marcello Caetano. See Hill (2002:28-34) for a discussion of the evolution of aspects of the Portuguese corporatist system under Caetano and resulting developments in East Timor.

⁶² The ‘human cost’ suffered in Portuguese Timor, according to Dunn (1996:23), was ‘far worse than [suffered in] any other Southeast Asian country occupied by the Japanese.’ According to Hill (2002:20), the number of East Timorese killed by the Japanese for assisting Australian commando forces, who landed on Timor before the Japanese, numbered ‘many hundreds.’ For further details of this period, see Dunn (1996:18-43), Hill (2002:19-22), Gunn (1999:223-237), Callinan (1984 [1953]), Turner (1992).

⁶³ See Eaton (1947 Despatch No.4:1-2).

if the next ship does arrive in June 1947.’⁶⁴ It appears that the difficulties of administering the colony at this time were compounded by the replacement of the first deployment of military administrators with an uninspired deployment of civilian administrators. Eaton (1946 Despatch No. 15:4) reported that ‘[f]rom general conversation with various new officials I am of the opinion that most of them are not very keen on their appointments in Timor mainly on account of lack of personal facilities, climatic conditions and general rehabilitation difficulties.’⁶⁵

Meanwhile, the Government of Portugal was not quite prepared to admit to the severity of the challenges it faced in the post-war period, as demonstrated by the following extract from an article published in the official bulletin *News of Portugal* in mid-1948:⁶⁶

Three years have passed since the liberation of Timor. The fertile soil unsuitable for war, which the Japanese occupation has rendered unproductive and impotent, has been made again to germinate with abundance and excess with the most varied products.

The fields are fully cultivated, and the trees become bent with the weight of their fruits. From the ruins of its houses, there has now emerged as by a miracle, new and magnificent dwellings; from its roads submerged by debris, other new roads have arisen and are better and more perfect in their ultra-modern lay-out. New bridges have replaced the ones destroyed; air and overland traffic modernised, churches and public buildings repaired, thus maintaining intact the sovereignty and prestige of Portugal.

Consistent with the continuing rule of Salazar in Portugal, the restoration of Portuguese administration was characterised by a resumption of the earlier forced labour practices. In the course of their six-week visit to Portuguese Timor in early 1948, Landman and Plant (1948 Part 3:35-36)⁶⁷ discovered that formal Portuguese colonial policy supporting

⁶⁴ In an earlier despatch dated 2nd June 1946, the Australian Consul (Eaton 1946 Despatch No.3:1) remarked on the fuel shortage that had been brought about by empty drums of ex-Japanese fuel being counted as full by Portuguese authorities, resulting in ‘a strict system of rationing.’ Options for sourcing fuel from Australia were being explored, as at this time, ‘a Portuguese ship is not expected at Dili until August or even September.’

⁶⁵ Eaton also made reference (1947 Despatch No.4:2) to the budget (totalling £660,000) being finalised for the territory for this period. From this amount, half was to be allocated to ‘the reconstruction and rehabilitation program.’ It was proposed that £300,000 of the total budget would be raised from local ‘revenue and taxation.’

⁶⁶ Translation of article titled ‘The Rebirth of Timor’ from the *News of Portugal*, appended to an Australian consular memo (White 1948) dated 16th August 1948. The article itself is not dated, but concerns events in East Timor on 28th May 1948 ‘commemorating the anniversary of the National Revolution.’

⁶⁷ Note that the introduction of this article (Landman and Plant 1948 Part I:225) indicates that one of the authors had previous experience in Timor with the 2/4 Australian Independent Company.

‘the full freedom [of the native] to choose his own form of work’ was not being applied in East Timor.⁶⁸ In reality, the authors found a general policy requiring male native subjects to provide one month’s labour to the administration every year, in return for lower wages than those paid by the few plantations in the colony.⁶⁹ Meanwhile, the prevailing governance system provided the East Timorese with minimal input. As described by Gunn (1999:244):

As in Macau, and indeed Hong Kong under British rule, membership of both the Governor’s Council and the Legislative Council were drawn from a combination of appointed and ‘elected’ members. In the early postwar Timor, the Council comprised four official members, including the Governor, and three unofficial members, all Europeans. Two of the unofficial appointees represented Timorese interests. While the system eventually made provision in the legislature for three elected Timorese members, this was unquestioningly an unrepresentative colonial setup.

If the governing institutions provided negligible opportunity for East Timorese participation, there was apparently little demand for such participation. Dunn (1996:24) writes that unlike colonial powers elsewhere in the post-war years, the Portuguese in East Timor ‘did not have to contend with agitation for self-government and the attendant unrest’,⁷⁰ although the absence of independence aspirations did not prevent occasional campaigning by East Timorese public servants for improved conditions.⁷¹ The lack of active dissidence, however, did not put the Portuguese at ease, and the colonial administration continued to restrict movements between areas, becoming increasingly vigilant after Indonesian independence. As early as April, 1947, an Australian consular report (Eaton 1947 Despatch No.6:1) indicated that the Governor of Portuguese Timor

⁶⁸ The authors (Landman and Plant 1948 Part 3:35) refer specifically to a policy speech made by Vieira Machado, Portuguese Minister of Colonies, on 17th August 1942; and sections of the 1935 *Acto Colonial*.

⁶⁹ The authors (Landman and Plant 1948 Part 3:35) also made note of the capacity for the forced labour system to be unevenly applied, since the selection of workers was undertaken by local *suco* chiefs in accordance with the number of labourers requested by each *posto* chief. In reality, therefore it was possible for wealthy natives to pay others to work their month. Meanwhile, those in poor favour with the *chefe de suco* could end up working more than a month while those in good favour could avoid working for the administration altogether. In his study of ‘[p]lanters and smallholders in Portuguese Timor in the nineteenth and twentieth centuries’, Clarence-Smith (1992:17) describes how events in African territories in the late 1950s eventually forced the Portuguese to pass laws against forced labour. Concerned about the impact of this development on the viability of the plantation sector, writes Clarence-Smith, members of the Portuguese district administration in East Timor sought to modify vagrancy legislation to ensure an adequate supply of labour for the industry. See also Dunn (1996:25), Jolliffe (1978:47-48) and Hill (2002:21).

⁷⁰ See also Gunn (1999:285-286).

⁷¹ Gunn (2006:10-11) refers to a petition concerning ‘a litany of complaints’ by East Timorese public servants, that was delivered to the governor in 1953.

felt ‘keenly the possibility of Indonesian agitation in the Dutch colony spreading to Portuguese Timor’, and that the ‘frontier province guard’ had been strengthened accordingly. Notwithstanding the general political tranquillity, a major incidence of unrest did eventuate in June 1959 in the form of an uprising that unfolded in the Uatalari sub-districts of Viqueque, before being ruthlessly crushed by Portuguese forces with the help of indigenous auxiliaries. This development is discussed later in this chapter in a section titled ‘Defence of the Province.’⁷²

Administratively, for the remaining decades of Portuguese rule, the territory comprised up to thirteen districts (or *concelhos*)⁷³ divided into around fifty or sixty sub-districts (or *postos*) and the municipality (*camara municipal*) of Dili. Each *posto* was further divided into a number of *sucos*, each comprising a number of hamlets, or *povoações* (Saldanha 1994:52; Gunn 1999:244-245).⁷⁴ As indicated in Archer’s account (1941:7), it was at the level of the *posto* that the colonial administration met the traditional administrative system that continued to operate within the *sucos*. Whereas the realm of *posto* administration and beyond was the preserve of colonial administrators, the realm within the *posto* continued to be influenced by Weberian principles of ‘traditional authority’ under a system of indirect rule. As a colonial official and ‘the main interface between the colonial administration and the Timorese’ (Gunn 1999:245-246), the *chefe de posto* was responsible for such duties as tax collection, labour supervision and liaison with other *chefes* (of *sucos* and *povoações*) within the *posto*.⁷⁵ Yet beneath this level of administration, the *sucos* and *povoações* continued to be administered by *suco* leaders, who retained responsibility for conflict resolution as well as for relaying the administrative requirements of the colonial administration (received via the *chefes de*

⁷² See Gunn (2006:3-4) and Chamberlain (2005:13-14) concerning this development.

⁷³ According to Hicks (1976:4-7), there were only ten districts in Portuguese Timor in 1966.

⁷⁴ See Saldanha (1994:52-53), who includes a diagrammatic representation of this administrative structure, and Gunn (1999:244-245). Note that in the present day, the term ‘*aldeia*’ is generally used to refer to hamlets. Note also that numerous changes to the administrative boundaries of Portuguese Timor were made during the 20th century. For details of these changes see Vaz (1964:55-87). Similarly, the number of administrative units also changed. According to a detailed review of records and published accounts concerning both indigenous and colonial administrative units undertaken by Sherlock (1983:76), Portuguese Timor in 1950 was comprised of fifty-four *postos* comprising 411 *sucos*. By 1968, this had increased to fifty-six *postos* comprising 415 *sucos*.

⁷⁵ See Gunn (1999:245-246), according to whom *chefes de posto* were often drawn from the ranks of ‘non-commissioned officers of the army, *deportados* and *assimilados* [assimilated natives]’

posto) to villagers (Saldanha 1994:51). Saldanha (1994:52) has observed that this administrative model was eminently suited to the under-resourced Portuguese colonial power, and that it also supported the functioning of the most fundamental units of social organisation (*sucos* and *povoações*) in accordance with local expectations:

It is evident here how the colonial government respected the socio-political structure of the people and used it to perpetuate colonisation. The East Timor people hold the leadership of their *suco* in high esteem. Therefore, the replacement of a *liurai* [*chefe de suco*] is of great importance. It surpasses the importance of the replacement of the *administrador de posto* or *concelho*, as well as the replacement of a governor because the formal officials were elected by the colonial government. The *chefe de suco*, however,⁷⁶ was elected by the people based on inherited power. They respected this institution of power transfer.

This administrative model continued until the end of the Portuguese period in the mid-1970s, and was reflected, as discussed below, in regulations pertaining to the various classes of person of which the population of the territory was comprised.

Assimilado Policy

Dunn (1996:48) has remarked that a process of Latinisation commenced early in the colonial history of Timor ‘in the days of the *Topasses*, who became Portuguese and then drifted into the ranks of the elite of Timorese society.’ However, the slow pace of colonisation in Timor meant that the transfer of Portuguese cultural influence was in fact largely confined to Timorese elites until relatively late in the colonial period.⁷⁷ The broadening of the education and Portuguese cultural conditioning program can be traced (Hill 2002:14) to the Colonial Act introduced by Salazar in 1930, which distinguished between indigenous and non-indigenous colonial subjects, as well as means by which indigenes were able to transcend their native status to achieve theoretical equality (as *assimilados*) with Europeans. Accordingly, the distinction which prevailed between the colonial realm of authority (*chefe de posto* upwards) and the traditional realm of authority (the administration of *sucos* and *povoações*) had parallels with the official class structure into which the East Timorese population was divided.

⁷⁶ Original ‘however’ also in italics.

⁷⁷ This matter is discussed in detail later in this chapter under ‘Education and the Role of the Catholic Church.’

As an example, the native head-tax regulations in force in the post-war period⁷⁸ differentiated clearly (see Article 1, Paras. 2 and 3) between native subjects, and the *assimilados* (assimilated natives), who were eligible for exemption from native head-tax⁷⁹ on the basis of ‘[h]aving abandoned entirely the uses of intimate customs of the socially aggregated natives’, developed competence in the spoken and written Portuguese language, adopted monogamy⁸⁰ and achieved ‘a professional art or office compatible with the European civilisation.’⁸¹ The benefits of *assimilado* status were considerable and also included (Hill 1975:15) exemption from conscription to labour gangs, freedom in theory from pay discrimination in government employment (vis-à-vis Europeans), the right to participate in the limited range of political forums which existed, and freedom from travel restrictions.⁸²

As specified in the regulations, *assimilados* shared their eligibility for exemption from the native head-tax alongside traditional leaders ‘who have a minimum of 50 natives who pay their taxes.’ In such a way were indigenous elites separated into those whose status was based upon the abandonment of native practices, and those whose status was based upon the perpetuation of native practices within the *sucos*.⁸³ Of course, the great

⁷⁸ See Appendix E for an abridged version of the ‘Native Head – Tax’ regulations in force in Portuguese Timor in the post-war period, based on an English translation of the full version appended to an Australian consular despatch (Eaton 1947 Despatch No.2:7-9) to the Australian Department of External Affairs dated 26th February 1947.

⁷⁹ According to Eaton (1947 Despatch No.2:6) the native tax at this time was between fourteen and sixteen *patacas* per year, depending on the district.

⁸⁰ As documented by observers (Moura 1937:487; Gonçalves 1937:451-454), polygamy and concubinage was common throughout Timor, although largely restricted to *liurais* and *chefes* (Forbes 1989 [1885]:458). Polygamy continues to be practised, despite the influence of the Catholic Church.

⁸¹ Note that Article 2 of the native head-tax regulations (see Appendix E) also include provision for those who succeed in the area of commercial agriculture to achieve *assimilado*-like status. However, it is unclear how the average subsistence farmer without a senior position in the traditional system would ever have managed to gain capital assets amounting to 3,000 coffee trees or 1,000 rubber trees.

⁸² Hicks (1983:24) notes that the requirement for a *guia de transito*, or ‘transit pass’ for travel outside of the *posto*, was maintained until the end of the Portuguese period, thereby limiting the extent to which East Timorese villagers were able to visit other *postos* and interact with their inhabitants. Later, the Indonesian administration imposed similarly tight controls over movements within East Timor, requiring that travel passes (now known as *surat jalan*) be carried specifying the details of each journey. Officially, at least, these controls were withdrawn in the late 1980s in association with the new ‘openness’ policy (Saldanha 1994:172-173; Budiardjo and Liong 1984:216-227).

⁸³ The social reality, of course, is likely to have been less clear-cut, and chieftdom was also a means in itself by which the descendents of traditional leaders, through access to education, could transcend native society completely. In this respect, Hicks (1983:30) found in his research that the sons of traditional leaders would often consider themselves too educated to accept leadership positions in the *suco*. As

majority of East Timorese remained for the most part insulated from the world beyond their own *posto*, and lived in a universe governed by the expectations and traditions of their ancestors, at least so far as these were interpreted by successive generations of traditional leaders. Through this system of colonial administration were key elements of *suco* justice and dispute mediation preserved in Portuguese Timor until the end of the Portuguese period. Meanwhile, *assimilados* and their families caught glimpses of a broader Catholic Lusophone universe and tasted some of the material benefits that it offered. This experience is referred to in an account by future leader Xanana Gusmão (2000a:5) concerning his childhood:

My father loved reading and subscribed to the Catholic magazines, *Flama*, *Noticias de Portugal* and others. He used to read to me and I began to read with him – little tales... My father had accumulated the ‘benefits of civilisation’ which, although not many, had nonetheless allowed him to clothe and educate all his children, something most Timorese would never be able to do.

At the conclusion of the Portuguese colonial period (see Chapter 3), *assimilados* would dominate the ranks of East Timor’s first generation of political leaders, and in her study of the FRETILIN (*Frente Revolucionária de Timor-Leste Independente*, or Revolutionary Front for an Independent East Timor) political organisation, Hill (2002:68-69) observes that most of the party founders were ‘first generation immigrants to Dili [from outlying districts]’, and members of the first generation to benefit from the expansion of the education system which was implemented in the post-war period and which came to fruition in the 1960s. Accordingly, and notwithstanding the fact that some of these individuals were the sons of *liurais* and other traditional leaders,⁸⁴ Hill notes that typically these individuals ‘would have internalized many of the values of the Portuguese colonial education. In many respects they thought like Portuguese and could be described as successful *assimilados*.’ In Chapters 7 and 8 of this study, consideration is given to the extent to which the *assimilado* background of senior members of the post-independence FRETILIN government (2002-2007) contributed to counter-productive policy positions in several areas. Specifically, these include FRETILIN’s strong support for the use of the Portuguese language and the FRETILIN government’s initial

explained by Hicks, ‘Education had raised him above his father’s level, and he often refused to accept a post which involved a diminution of his prestige.’

⁸⁴ This is discussed further later in this chapter, under ‘Education and the Role of the Catholic Church.’

opposition to proposals for promoting restorative-based justice and conflict resolution approaches as a means of reducing the load on the weak state justice sector.

Defence of the Province

In Archer's assessment (1941:8), the natives of Portuguese Timor were characterised by an 'extreme docility and inertia,' in large part because of the absence of state education. This conclusion is difficult to sustain, however, in view of Timor's history of inter-kingdom warfare and rebellions against colonial authority,⁸⁵ and Lee (2000:185) has more correctly observed that a '[f]ighting spirit...is the one commodity from which the island of Timor has always suffered an abundance.' Furthermore, as has already been discussed in relation to the early colonial period, the Portuguese sought to harness and exploit indigenous martial capacities for the objective of consolidating colonial authority. This practise continued until the end of the colonial period and appears likely (as discussed in this section) to have both encouraged the continuation of Timorese warrior traditions and perpetuated antipathies between particular ethnic groups.

As discussed earlier, Portuguese authorities began bestowing military titles upon cooperative Timorese leaders in the early eighteenth century, and continued to do so until the end of the Portuguese era.⁸⁶ According to Boxer (1960:353), Timorese leaders were 'inordinately proud of their honorific military ranks,' which initially entitled 'tribal heads' to the rank of colonel and other Timorese leaders to lower ranks. The ranks changed over time, and by the late Portuguese period (Barata 1963:25-26) a *liurai* or *régulo* (head of kingdom) was entitled to the rank of major, a *chefe de suco* to the rank of *capitão* (captain), a *chefe de suco dependente* (deputy *suco* head) to the rank of *tenente* (lieutenant), and a *chefe de povoações* (hamlet chief) to the rank of *sargento-ajudante* (assistant sergeant). As indicated by the perseverance of this tradition,

⁸⁵ For a brief overview of rebellions in Portuguese Timor, see Saldanha (1994:43), according to whom '[a]pproximately 550 large and small scale rebellions are recorded to have been staged by the people of East Timor against the power of the oppressor.' Also see Gunn (1999:160), who engages with earlier commentators to issue a reminder that not all of the rebellions were 'necessarily anti-colonial,' since many were primarily motivated by friction *between* kingdoms.

⁸⁶ According to Boxer (1960:353), it was Governor Antonio Coelho Guerreiro (who established the Portuguese colonial settlement at Lifau, Oecusse, in 1702) who first bestowed military ranks on Timorese leaders. See also Gonçalves (1937:457), Saldanha (1994:46) and Berlie (2000:145).

indigenous martial capacity remained central to the Portuguese security formula, and Filipe José Freire Themudo Barata (1963:25), Governor of Portuguese Timor in the late 1950s and early 1960s, looked to the administration's ability to raise an army of *moradores* as a '*pilar essencial da defesa de provincial.*'

Of course, a core element of the 'defence of the province' had historically involved the suppression of rebellions, and the associated dynamics could advantage Timorese traditional leaders as well as the Portuguese authorities. In addition to tax concessions and the bestowal of military rank, Farram (2006:72) points out that alliance with the colonial power enhanced the legitimacy of Timorese leaders and also provided them with occasional opportunities to 'profit from the suppression of "rebel" kingdoms by receiving increased lands and subjects.' For this range of reasons, therefore, the Portuguese encouragement of the Timorese martial heritage ensured that an association between the ability to command an armed force and the ability to advance one's political fortune remained current through to the very conclusion of the Portuguese period.

The Viqueque Rebellion, which commenced on 7th June with the theft of a cache of historic firearms and an assault on the Uatolari *posto*, or sub-district centre,⁸⁷ has been referred to by Gunn (2006:1) as '[b]y far the most serious challenge to Portuguese authority in East Timor in the post-war period prior to the decolonization crisis.' The event has received attention of late by both Gunn (2006) and Chamberlain (2005), and is of particular interest because of the range of individuals who participated in it. These (of whom fifty-two were later deported to Portuguese colonies in Africa) included subsistence farmers, East Timorese administrative officials from Dili, and a group of fourteen Indonesians who had sought asylum in Portuguese Timor. Of the latter group, some are believed to have developed compassion for the East Timorese in view of the conditions they (the East Timorese) endured under Portuguese colonisation (Chamberlain 2005:8-13,19-22; Gunn 2006:7-11). Despite indications of possible

⁸⁷ For details of the outbreak of the Viqueque rebellion, see Gunn (2006:3-4) and Chamberlain (2005:13-14). According to Chamberlain, forty-eight rifles were stolen, most of which were '1886-model Kropatschek bolt-action weapons.' Apparently, twenty-two of these were soon recovered.

Indonesian involvement,⁸⁸ however, both Chamberlain (2005:11) and Gunn (2006:5,12) observe that underlying causes of dissatisfaction prevailed in Viqueque, with local conditions even worse than in the rest of the territory and a corrupt, brutal and exploitative Portuguese administrator provoking broad resentment.

In accordance with historic precedent,⁸⁹ the Portuguese suppression of the rebellion was ruthless and is believed to have caused up to 1,000 deaths (Chamberlain 2005:18; Gunn 2006:4).⁹⁰ The nature of the Portuguese response also demonstrates how the prevailing security approach contributed to the perpetuation of regional instability, since in addition to mobilising security forces with modern weapons, the Portuguese also exploited prevailing ethnic antipathies, and encouraged auxiliary forces from Ossu to the north and from the easterly district of Lautem to participate in the assault, which resulted in the destruction of settlements in Uatolari and the looting of livestock (Chamberlain 2005:16-18; Gunn 2006:4). In a development that appears to have contributed to pervasive hostility, it appears that several Makassae-speaking *sucos* joined in the attack against the Naueti-speaking *sucos* in which the uprising originated (Chamberlain 2005:16-17).

Chamberlain (2005:17) refers to a controversial land-use agreement which may have been the basis of existing tensions between the Makassae and the Naueti. These tensions were exacerbated substantially by the 1959 instability, in the course of which the Makassae took advantage of the vulnerable position of the Naueti and seized Naueti

⁸⁸ The respective accounts of Gunn (2006) and Chamberlain (2005) indicate at least some basis for Portuguese concerns during the Sukarno era that interference in the affairs of the colony might arise from Indonesian territory. Gunn (2006:2) discusses the possibility that ‘anti-Jakarta rebel’ groups from Sulawesi were establishing links in Portuguese Timor. Chamberlain (2005:12) draws on Australian diplomatic sources indicating that the Indonesian Consul, Nazwar Jacob, actually supported the rebellion, but out of personal bitterness towards the Portuguese administration (caused by the death of Jacob’s wife in Dili hospital). Despite minimal evidence, an inquiry found the rebels to have been involved in an attempt to integrate East Timor into the Indonesian Republic (Gunn 2006:8). Gunn (2006:2) suggests that ‘[i]n their zeal to find an Indonesian connection’ to the uprising, the Portuguese are likely to have been ‘blind to the iniquities of late colonial rule.’

⁸⁹ Noting how Portuguese practices mirrored warfare between Timorese kingdoms in the pre-pacification period, das Dores (1903:29) remarked on the ‘inveterate practise among the natives to burn the settlements of the defeated who had fled, a practise always adopted by the Portuguese authorities who at times had seemed more savage than them.’

⁹⁰ Chamberlain (2005:15-16) refers to several occasions when captured rebels were shot. In one incident, according to Chamberlain, seven prisoners ‘were killed by automatic weapons fired by Administrator [Artur Franco] Ramos and Captain Barreiros – and their bodies mutilated with spears and machetes and then thrown into...[a]...flooded river.’

land. The renewed and inflamed tension between the two groups ultimately took on a political dimension, as evident in the account of a Portuguese intelligence officer received by Nicol (1978:290) in 1975:

The people do not easily forget the trouble there in 1959... People revolted against the government and were sent to Angola. They returned to Timor in 1968... The main problem now is the land and the cattle. They want everything that was theirs returned to them. But it has since been taken over by the other people there, who are now Fretilin⁹¹ [and]⁹² who want to keep it.

Meanwhile, by 1975, the repatriated *deportados* and other members of their community appear to have gravitated towards the pro-Indonesian *Associação Popular Democrática Timorese* (Timorese Popular Democratic Association, or APODETI) position,⁹³ hence '[w]hat had begun as basically a local domestic issue had become a clash between two political parties, with some violence resulting' (Nicol 1978:290).⁹⁴ In future years, the respective fortunes of the Makassae and the Naueti would continue to be influenced by political developments, and according to an UNTAET land and property unit report (Brown 2000), the pro-FRETILIN Makassae eventually lost land to the pro-Indonesian Naueti in 1979.⁹⁵ This development did not signal the end of the conflict, and the same report (Brown 2000) indicated that an area of rice cultivation land 'approximately the size of the City of Dili' remained in dispute in Uatolari sub-district. As well as illustrating the need for effective mechanisms for resolving land disputes in East Timor, this case-study highlights the potential long-term instability that can result from the use of ethnic rivalries for the suppression of rebellions.

⁹¹ *Frente Revolucionária de Timor-Leste Independente* (Revolutionary Front for an Independent East Timor). Note that the development of the FRETILIN organisation is discussed in the next chapter.

⁹² Brackets in original.

⁹³ See also Chamberlain (2005:22,46), who indicates that a number of those who participated in the rebellion eventually became linked quite closely with the pro-Indonesian APODETI party. Note that the development of the APODETI organisation is discussed in the following chapter.

⁹⁴ Nicol's information is supported by a more recent account from an UNTAET District Field Officer (Deligia 2000), who reported on 12th April 2000 how 'numerous disputes' between the Makassae and the Naueti communities prevailed in connection with the rich rice-farming lands in the Uatolari sub-district, deriving from 'the aftermath of the only up rise [*sic*] which occurred in 1959 under Portuguese domination in that very sub-district,' and in which rebellion '[t]he Naueti took part.' In the wake of the uprising and following the exile of some of the Naueti, Deligia continued, the Makassae appropriated Naueti lands and then became 'the first to join the resistance in 1975 when Indonesia started its invasion.' Note that according to Nicol (1978:290), the situation was 'the same elsewhere.' See also Gunn (2006:11).

⁹⁵ As discussed in Chapter 4, it was only in late 1978 that the last FRETILIN 'liberated zones' in the east of the territory fell to Indonesian forces. Accordingly, the Naueti may have taken advantage of this development to (re)claim land from the Makassae.

The Viqueque rebellion influenced the Portuguese to station secret police⁹⁶ in Dili from November 1959 onwards (Chamberlain 2005:20), and they continued to operate in East Timor until the overthrow of the Caetano regime on 25th April 1974 (Hill 2002:30; Taylor 1991:24). According to Hill (2002:30), they had the effect of almost completely suppressing ‘any form of political dissent or even expressions of opinion.’ Despite this, it is likely that the Portuguese practise of deporting political activists to, and around, the colonies⁹⁷ contributed to the dissemination of new political ideas throughout the realm.⁹⁸ At the very least, this is suggested by the fact that a small number of *mestiço* descendants of Portuguese *deportados*, were among the first generation of East Timor’s political leaders. Alongside the brothers João and Mário Viegas Carrascalão (Jolliffe 1978:62), these include José Ramos-Horta, who in fact claims (1987:6-8) to be descended from multiple generations of *deportados*, with his ‘notorious anarcho-sindicalista’ grandfather Arsénio José Filipe arriving in Portuguese Timor (via a string of other Portuguese colonies) in 1927. Ramos-Horta writes that over a decade later, Arsénio José Filipe was joined by his son,⁹⁹ who married an East Timorese woman of whom José Ramos-Horta was born. Ramos-Horta describes how he too, after commencing a career in journalism, was sentenced to a period of exile in Mozambique

⁹⁶ Specifically, the *Polícia Internacional de Defesa do Estado* (International Police for the Defence of the State, or PIDE). PIDE eventually transformed into an organ of the Ministry of Interior known as the *Direcção Geral de Segurança* (Directorate General of Security, or DGS) during the Caetano years (Hill 2002:30).

⁹⁷ According to Archer (1941:7-8) there were ‘slightly under 100’ *deportados* living in the territory in 1941, most of whom had been ‘banished from Portugal or other colonies...for political offences.’ Archer was informed by a *deportado* that ‘about 60 per cent were “democrats”, 30 per cent were communists, and not more than ten per cent ordinary criminals.’ Although living ‘at liberty,’ in which state they were encouraged to pursue activities ‘of benefit to the colony,’ Archer wrote that the *deportados* were ‘no doubt under surveillance.’ And yet, it was not uncommon for *deportados* to be allocated senior positions in the territory’s administration (Gunn 2006:11).

⁹⁸ Portuguese methods of controlling information were somewhat idiosyncratic. Archer (1941:30) refers to a prohibition current at the time of his visit against listening to radios publicly, while individuals remained free to listen to radios privately or in small groups. As discussed elsewhere in this chapter, the Catholic Church is also considered to have contributed to the spread of new ideas.

⁹⁹ According to Ramos-Horta (1987:7-8), his father was a former naval gunner exiled for participating in a failed attempt by naval personnel to abscond with two Portuguese frigates and assist the resistance of the Spanish Republic against General Franco’s July 1936 military coup d’état. Note that in this account, Ramos-Horta does not refer to his father by name. Despite being originally deported for his political views, Ramos-Horta’s father apparently exercised substantial influence in Portuguese Timor (Nicol 1978:110-111).

in 1970, as punishment for uttering ‘subversive’ statements after ‘an evening carousing with an American...and a group of Australian hippies.’¹⁰⁰

Although the Portuguese administration ceased deportations *to* East Timor in 1949 (Chamberlain 2005:5), the case of José Ramos-Horta indicates that the deportation of political activists *from* East Timor continued into the late colonial era, including to territories in which Portugal was fighting left-wing insurgencies. In what appears a counter-productive policy, Hill (2002:64) asserts that Ramos-Horta had a choice concerning the country to which he was exiled, and chose Mozambique for the purpose of establishing connections with the *Frente de Libertação de Moçambique* (Mozambique Liberation Front, or FRELIMO).¹⁰¹

Attempts at Economic Development

Although continued attempts to expand agricultural production were made under the administration of the Portuguese Republic (1910-1926) and under the subsequent Salazar dictatorship, these endeavours resulted in little modernisation of the broader rural economy. Clarence-Smith’s study (1992:11) indicates that in fact, some of the earliest coffee plantations consisted of areas that had been established by East Timorese cultivators, before being taken over by complacent colonial planters with little interest in introducing management advances. Meanwhile, other attempts at establishing new areas of plantation failed for reasons including poor technical practices, economic factors associated with the depression and the war, and what would now be referred to as unsatisfactory landowner consultation approaches.¹⁰²

¹⁰⁰ Note that Nicol (1978:112) suggests that Ramos-Horta may have engineered his exile to Mozambique for the purpose of avoiding military service. According to Ramos-Horta (1987:14), he worked in Mozambique ‘as a journalist on a local daily.’ Nicol (1978:111-112) asserts there was a pro-Portuguese element to Ramos-Horta’s writing activities in Mozambique, and that ‘[h]is role as a journalist in the colonial media of Portugal turned him into a skilled propagandist.’

¹⁰¹ Note in connection with Hill’s claim (1978:64) that Ramos-Horta wished to connect with FRELIMO, that Ramos-Horta (1987:37) claims to have long been a social-democrat.

¹⁰² As discussed in detail by (Clarence-Smith 1992:6,13-15), the first governor under the new Republic, Filomena da Camera, gave modest land grants to a number of associates, yet these grantees failed to develop successful plantations. A further program in which East Timorese were coerced into establishing new ‘communal’ coffee plantations for the administration also failed due to poor site selection, poor management and ill-will on the part of the East Timorese, on whose lands the plantations were established. Following the installation of the Salazar regime in 1926, a renewed attempt to promote the development of

Despite the difficulties experienced by the Portuguese authorities in promoting the plantation sector (of which coffee remained a major focus), coffee still developed into the dominant export commodity from the late nineteenth century onwards, taking over from sandalwood after stocks of the latter became depleted after centuries of over-exploitation.¹⁰³ At least from the mid-1920s onwards (excluding the period of Japanese occupation), coffee accounted for seventy per cent of the territory's exports in most years.¹⁰⁴ Yet even as the dominant export crop, the actual tonnage of coffee exports in the middle decades of the twentieth century was modest, and only in the very late Portuguese period did coffee exports definitively eclipse peak nineteenth century levels of over 2,000 tons per year (Clarence-Smith 1992:2).¹⁰⁵ Figures cited by Saldanha (1994:66) indicate that coffee exports increased from 1,698 tons in 1958 to 2,919 tons in 1968. By the 1970s, according to Clarence-Smith (1992:2), annual exports were in the range of between 4,000 and 5,000 tons.¹⁰⁶

Notwithstanding the increases in coffee production that occurred late in the Portuguese period, this increase cannot be wholly attributed to expansion of the plantation sector or the modernisation of production methods. Clarence-Smith (1992:16) refers to data

plantations commenced, partly because of a broader program encouraging colonial settlement in the territories. This endeavour was thwarted by the depression of the 1930s, then later by the onset of the Second World War. See also Gunn (1999:196-201), Archer (1941:22-23,37) and Lee (2000:187).

Concerning economic factors, note that by the mid-1930s even the biggest of the plantation operators were being hit hard by the recession. It was at this time that the ownership of almost half of the Sociedade Agricola Patria e Trabalho (SAPT) plantation business, originally established by Governor Celestino da Silva, was transferred to the government-owned Banco Nacional Ultramarino, or BNU (Clarence-Smith 1992:15; Gunn 1999:199). In the early 1940s, as the Japanese sought means to establish a presence on Portuguese Timor, the remaining large SAPT shareholder (a Dr Sales Luiz) sold his forty per cent share to the Japanese firm Nanyo Kohatsu (Archer 1941:22; Lee 2000:179). Eventually, the Japanese share of SAPT was forfeited to the Portuguese state as part of post-war reparations, in accordance with the Portuguese Minister of Colonies Cabinet Decree No. 35:751 (Portuguese Ministry of Colonies 1946).

¹⁰³ According to figures cited by Saldanha (1994:64-65), sandalwood exports fell dramatically from 998 tons in 1910 to twenty tons in 1926, in which year the export of sandalwood was finally banned.

¹⁰⁴ By the mid-twentieth century, other significant exports included copra and rubber, according to data cited by Saldanha (1994:66) and Gunn (1999:249).

¹⁰⁵ As outlined by Clarence-Smith (1992:1-2), world coffee prices dropped significantly in the late nineteenth century because of overproduction in Brazil, and this affected local production. In Timor, production was also affected by the arrival, in the mid-1890s, of the *hemileia vastatrix* disease.

¹⁰⁶ For comparative purposes, a recent study (Deutsch 2004:1-2) suggests that in 2002, around 8,000 tons of coffee was exported from East Timor, with around fifty tons being consumed domestically. Figures from the Food and Agriculture Organisation (FAO) suggest (FAO 2005) that exports may have been substantially higher (around 13,000 tons).

suggesting that even in the early 1970s, only forty-five per cent of the coffee produced in Portuguese Timor came from plantations. As Clarence-Smith notes, the large plantation companies acquired produce from smallholders in addition to producing their own crop, meaning that the amount of produce actually produced on the plantations could have been significantly less than forty-five per cent of total output at this time.¹⁰⁷

An interesting indication of the extent to which the broader cash-crop sector was ever modernised throughout the course of the history of East Timor, can be seen in present-day approaches to the pruning of coffee bushes. According to a coffee specialist with over a decade of experience working in East Timor,¹⁰⁸ it has been clearly demonstrated that the pruning of old coffee bushes improves productivity, and by association the cash income of coffee growers, yet East Timorese cultivators still refuse to prune coffee bushes on the basis that the practise may harm the spirits within the plants. As well as reflecting the continuing strength of local belief systems even in those parts of rural East Timor with the greatest historical exposure to commercial agriculture, this reluctance to prune suggests that East Timor's experience with plantation agriculture has resulted in little modernisation of cultivation practices.¹⁰⁹

As the Portuguese era drew to an end after almost five centuries of generally lax colonisation, the reality of the predominantly subsistence economy did not prevent founding FRETILIN member and current president of East Timor, José Ramos-Horta, from accusing the Portuguese of the kind of large-scale land appropriation that a more assiduous colonial administration might have actually perpetrated. In the course of a

¹⁰⁷ See also Gunn (1999:198-199), whose interpretation suggests that the plantation-produced share of the total output may have been above that indicated by Clarence-Smith. Concerning land area, however, Soesastro (1989:225) estimates that during the colonial period, the proportion of coffee plantation operated by government and companies did not exceed forty per cent. Soesastro also notes that this share was reduced further during the Indonesian period, and this matter receives further attention in Chapter 4 in the context of a discussion on developments of the Indonesian period.

¹⁰⁸ Based on email correspondence (received 12th June 2006) from David Boyce, coffee specialist who has worked in East Timor since 1993. Despite this outcome, the more professional plantation operations did attempt to introduce improved cultivation methods, and the post-war Australian Consul to Portuguese Timor (Eaton 1946 Despatch No.14:4) observed of the SAPT plantation at Fatubisse in Timor's central highlands, that it was 'well managed and organised.'

¹⁰⁹ Encouraging coffee cultivators in East Timor to improve production by replacing old coffee bushes and coffee shade-trees, also remains a difficult challenge to the present day. For further information, see Deutsch (2004:3-11).

visit to Darwin in early 1975, Ramos-Horta drew on the words of Moçambican writer and independence leader Eduardo Mondlane to assert (Ramos-Horta 1987:27; Nicol 1978:117) that '[w]hen the whites came to our country, we had the land and they had the Bible; now, we have the Bible and they have the land.' Ramos-Horta (1987:27) later admitted that his appropriation of Mondlane was rhetorical, and had 'little relevance to East Timor, where there were very few large properties, amounting to only a small percentage of the arable land.' This later assessment is supported by a field survey recently conducted by the writer indicating that only about three per cent (totalling approximately 47,000 hectares) of the land mass of East Timor has ever been alienated from customary tenure, including state land and land owned by the Catholic Church (Nixon 2005:8; Nixon 2007:103).¹¹⁰

Resource extraction was a further area which progressed only slowly, with early attempts at development sometimes based more on faith than on science.¹¹¹ The presence of onshore oil reserves in Timor has long been suggested by a scattering of sites where oil percolates to the surface, or where gas freely vents to the atmosphere, and Wallace (1962 [1869]:149) referred to '[a] fine spring of petroleum' that had been 'discovered far in the interior, where it can never be available till the country is civilised.'¹¹² Archer (1941:15-17) and Gunn (1999:202-206) have each profiled attempts at initiating petroleum exploration and development activities in Portuguese Timor

¹¹⁰ Of note in this respect is a further observation made by Clarence-Smith (1992:17), to the effect that there was 'remarkably little good agricultural land' in Portuguese Timor to begin with, yet of this, much was 'seized by the planters.' This view was shared by Australia's post-war consul (Eaton 1946 Despatch No.14:2,4), who referred to the 12,000 acres of SAPT plantation in Fatubisse in the mountains to the south of Dili, as 'probably the best country in Timor.' Eaton noted that 'the country here is very fertile and produces coffee, cocoa, rubber, kapok, Bees-wax, quinine, cinnamon, cocaine, etc.' Note that the matter of alienated land is discussed further in Chapter 6.

¹¹¹ Wallace (1962 [1869]:147-149), based on discussions with a Scottish mining engineer in 1861, describes how faith in old stories of a copper deposit to the east of Dili, inspired the Portuguese administration to arrange to mine it without first undertaking any systematic exploration. With the financial support of a 'Portuguese merchant of Singapore,' a ship was brought to Timor containing personnel, mining equipment and supplies for several years. As described by Wallace, the 'Governor could not believe his ears,' when told that no evidence supported the existence of a copper deposit at the site where it was said to be located. In fact, the rumours that the island was rich in minerals and other resources were not new, as the first governor of Portuguese Timor, Coelho Guerreiro, apparently advised Goa (Boxer 1960:353) in the early eighteenth century 'of the alleged natural riches of the island...[which included]...vast mines of gold, silver and copper, apart from agricultural resources of every description.'

¹¹² According to Gunn (1999:203), oil from Laclubar in Manatuto district was used to fuel lamps in Dili from 1884.

during the first half of the twentieth century. These studies include reference to the endeavours of a number of companies, including the Timor Petroleum Company Limited, Oil Concessions No Liability and Oil Search, aimed at securing concessions and (in some cases) undertaking field activities. Despite some initial promise, however, no commercial activities developed, and Archer was to note (1941:15) that [t]he quest for oil in Timor has so far been fruitful in company promotion rather than in oil.’ As the Second World War approached, interest intensified in securing petroleum rights in Timor by both the Australian and British governments, and the Japanese. Notwithstanding attempts on each side to secure concessions, Archer (1941:17) concluded in his 1941 assessment of the territory that ‘[t]he only oil production actually going on in Portuguese Timor is in the hands of the government itself, which runs a small kerosene refinery capable of producing eight tins of kerosene a day.’ The information provided by Archer (1941:17-18) and the historical analysis of Gunn (1999:205-206) indicate that mineral development activities in the pre-war period fared similarly poorly.¹¹³

In the early post-war period, petroleum production resumed in a manner reminiscent of pre-war production practices, although there are indications that some improvements to the production process (possibly including hand-pumps) occurred during the Japanese occupation. The post-war Australian consul (Eaton 1946 Despatch No.15:4-5) provides the following description of production at an ‘oilfield’ near Laclubar in Manatuto district consisting of three, ten-metre deep wells:

The oil is pumped straight from the well to a crude refinery constructed by the Japanese and then barrelled. Each barrel (45 gals.) is then lashed to poles and carried by 20 natives to...Laclubar along a mountainous track of some 17 kms, a day’s journey. From Laclubar the drums are transported by truck to Dili where the oil is sold at approximately 40 cents a litre (3/4d a gallon) as kerosene... Under present conditions it is stated that 25,000 litres [approximately 122 drums] a month can be obtained from the wells.

¹¹³ See also Lee (2000:178,188).



Figure 1: Recovering oil at Pualaca, Laclubar (Manatuto), November 1946.
(Charles Eaton. Courtesy of Charles S. Eaton)

In his dispatches concerning developments in the post-war period, Eaton reported that renewed interest in petroleum exploration and development in Portuguese Timor was being expressed by firms that included the Shell Oil Company and the Superior Oil Company of America.¹¹⁴ As more recent commentators (Gunn 1999:254; Hill 2002:31)¹¹⁵ have discussed, a range of petroleum exploration activities ultimately took place in the period between the end of the Second World War and the conclusion of the Portuguese period, both onshore and offshore. Even though no major exploitation of reserves resulted,¹¹⁶ Gunn asserts that the exploration activity in itself came to represent ‘the largest foreign investment’ component of the economy. Such a reality, of course,

¹¹⁴ See, for example, Eaton (1947 Despatch No.6:3-5).

¹¹⁵ See also Jolliffe (1978:99-100).

¹¹⁶ It appears, however, that oil production as a ‘cottage-industry’ continued in the post-war period in a few locations much as it had before the war. Ramos-Horta (1987:10-11) refers to a relative who produced a modest supply of petroleum products in Laclubar using a rudimentary system that involved ‘[a] rope, a bucket, a few semi-enclaved workers’, and a refining process that functioned like a liquor still.

also says much about the undeveloped nature of the economy of the territory at this late stage. Visiting Portuguese Timor in 1974 for the purpose of studying decolonisation, Helen Hill (2002:40) found a lethargic and disease-ridden colonial backwater where, after nearly five centuries of Portuguese influence, important features of colonisation as it is normally understood, had barely even begun:

The general situation then, in the Portuguese province of Timor on the eve of the coup in Lisbon in 1974 was generally one of stagnation and neglect, a traditional society where capitalist penetration had hardly taken place at all, with a people relying overwhelmingly on subsistence agriculture and a colonial power which would not generate any kind of development.¹¹⁷

Education and the Role of the Catholic Church

Writing about Portuguese Timor between the wars, Gunn (1999:209) observes that unlike other parts of colonial Asia at this time, which ‘had generated a nucleus of colonial literates’, few literate commentators had yet emerged from Portuguese Timor. This dearth of literate commentators is perhaps unsurprising when the number of literate persons in the colony at that time is taken into account, and according to Gunn’s research (1999:214), fewer than two thousand members of the East Timorese population were able to both read and write by the late 1920s. As well as the underlying reality that East Timorese societies were pre-literate,¹¹⁸ little had been done by the colonial authorities to develop a public education system. Based on his 1941 visit,¹¹⁹ C. H. Archer referred (1941:8) to the lack of a state education system in Portuguese Timor (unlike in Dutch Timor), and reported that ‘the only education received by the natives is that given by the Roman Catholic priests to their own converts, who form but a small proportion of the whole.’¹²⁰

¹¹⁷ Not long before Hill’s visit, one of East Timor’s emerging political figures, José Ramos-Horta, returned home after a period of exile in Mozambique. In his account, Ramos-Horta (1987:14) remarks that ‘I found my beloved country much the same as I had left it. East Timor, under the Portuguese, seemed to sit still in history. The clock of development didn’t tick there.’

¹¹⁸ Consistent with the theoretical considerations discussed in Chapter 1, the absence of literacy (typically associated with complex surplus administration and governance tasks) might be considered one of the key features of a non-state society.

¹¹⁹ As discussed in the main text, education policy changes had in fact been formulated (but apparently not yet implemented) in the period prior to Archer’s visit.

¹²⁰ Note that Archer (1941:8) also referred to the existence of schools operated by the Chinese for their own community.

Although the key agent of education delivery in Portuguese Timor, the Catholic Church¹²¹ took centuries to establish itself as a popular institution, failing to do so in a profound sense until the territory fell under Indonesian occupation after 1975, when the Church developed a strong following as ‘a focus of opposition to Indonesian rule’ (Crow 1996:85; Smythe 1999:104-105). Even though Dominican priests were among the first Portuguese to visit Timor, and although the destruction of Wehali in 1642 led to many Timorese leaders declaring themselves Christian (Schulte Nordholt 1971:165), this did not translate to the widespread adoption of Christianity.¹²² In reference to the spread of Christianity in the seventeenth century, Boxer (1960:352) remarks that ‘[m]any of the natives accepted Christianity from the Dominicans, but in most cases it was only skin-deep. Their attendance at the mission churches alternated with their participation in animistic sacrifices and orgiastic war-dances.’¹²³ More than two centuries after the destruction of Wehali, Wallace (1962 [1869]:151) would remark, based on his visit to Timor in 1861, that:

Except a few half-breeds in the town, there are no native Christians in the island of Timor. The people retain their independence in a great measure, and both dislike and despise their would-be rulers, whether Portuguese or Dutch.

During the early colonial period, when the Church was influential in converting local *liurais* and *Topasse* leaders and influencing them to accept Portuguese sovereignty over their territory, it is clear that the Church and the Portuguese state shared overlapping

¹²¹ Referred to henceforth as the ‘Church.’

¹²² See Crowe (1996) for detailed consideration of a range of reasons why the Church failed to develop into a popular institution at an earlier date. According to Crowe (1996:28-58), the Portuguese initially encountered difficulties in receiving permission from local leaders to establish settlements in Timor. As the early colonial period unfolded, the Church, strongly in league with the state of Portugal and its mission to expand control over trading opportunities, focussed primarily on such matters as establishing ‘the formal demarcation of religious territories’ (Crowe 1996:31,35). Towards this objective, the Church energetically and successfully sought to convert *liurais* and *Topasse* leaders, and by the early eighteenth century, Catholicism had been widely adopted throughout eastern Timor by *liurais* who also acknowledged Portuguese sovereignty over their territory. Whereas the approach taken by the Church was successful at converting elites, however, it failed to develop a following for the Church among the broader population (Crowe 1996:29-35). Crowe (1996:31) refers to the ‘competition and conflict’ between the rival Portuguese and Dutch colonisers as a factor which failed to produce circumstances conducive to large-scale conversions during the early period. It is also of historical note that the events of the early colonial period transpired (Crowe 1996:27) under the spectre of ‘the fear of Islamic expansion’ within the region.

¹²³ As discussed in later chapters of this study, traditional or *adat* belief systems remain very strong in Timor.

aims. Notwithstanding this early confluence of objective, Crowe (1996:27,31-36) explains that relations between the two institutions were frequently tense, and that they weakened more enduringly after 1622, in which year the Vatican introduced a new policy of controlling Catholic missions in Portuguese and Spanish territories directly.¹²⁴

Yet even during periods when the Church was unpopular with the Portuguese authorities, the Portuguese state permitted members of the clergy to operate schools aimed at transmitting Catholicism and Portuguese values to Timorese elites (Crowe 1996:39-42). With the installation of the Salazar regime in 1926, the Church finally returned to state favour, and in 1940 education was identified as an official area of Church responsibility. According to Hill (2002:35), an agreement was reached with the Vatican in 1940 decreeing that as from 1941, Church missions would be allocated responsibility (and financial resources) for the delivery of education in the Portuguese colonies.¹²⁵ Little appears to have changed in the pre-war period in Portuguese Timor, however, as suggested by the earlier reference to Archer's 1941 assessment. In the post-war period, educational activities expanded markedly, with the Church now officially the dominant educational provider. Even so, according to figures cited by Taylor (1991:17), a ninety-three per cent illiteracy rate prevailed as late in the colonial period as 1973.¹²⁶ Meanwhile, despite the expansion of the education system via the Church, the spread of Catholicism itself among the broader population appears to have progressed at

¹²⁴ See also Boxer (1960:352-354) for references to relations between the Dominicans and the Portuguese colonial authorities in the seventeenth and eighteenth centuries. Concerning the Vatican control of religious missions, Crowe (1996:27-39) explains that although the Vatican originally planned to consolidate Catholicism in eastern Timor through the development of an indigenous clergy, this initiative failed to reach fruition. Accordingly, the power of the Church in Portuguese Timor continued to diminish into the twentieth century, with the Church being expelled from the territory altogether on several occasions. The most recent of these occasions was in 1910, when a number of religious orders were expelled, some for decades, as a result of political developments in Portugal. According to Crowe (1996:39), the Canossian and Jesuit orders were expelled at this time and did not return until 1923 and 1958 respectively.

¹²⁵ According to Hill (2002:35), the Church was considered capable of delivering education in the colonies more economically than the state.

¹²⁶ Notwithstanding an alleged increase in the number of primary school students from several thousand in 1946 to over 57,000 by the early 1970s (Saldanha 1994:59; Taylor 1991:17). Note that these figures are questioned by Jones (2000:44), who points out these figures would imply an improbably steep increase in enrolments from previous years. Jones points out only in 1952 did the first secondary school open, with enrolments 'remaining extremely small, with numbers fluctuating in the range from 200 to 800 students during the course of the 1960s.' Furthermore, the territory had no tertiary education facilities.

only a modest rate, in a country where local belief systems continued (and continue) to be widely practised.¹²⁷

Although educational activities broadened in the final decades of the Portuguese colonial period, the long history of focussing Church proselytising and educational activities on elites produced particular consequences. An eventual outcome of this heritage, notes Farram (2006:76), was the apparently contradictory development whereby so many of the FRETILIN radicals to emerge in East Timor in 1974 were themselves the sons of *liurais* and other traditional leaders.¹²⁸ Yet this is not so unusual, Farram observes, considering ‘the families of the traditional rulers were among the few people in East Timor who had access to any meaningful formal education and exposure to notions such as democracy and socialism.’ In this regard, the seminary established at Dare (near Dili) in 1958 is of particular note. Attended by those who would become the first generation of post-colonial East Timorese leaders, it is seen (Crowe 1996:57) as having ‘nurtured an attitude that questioned the colonial presence in East Timor.’

Portuguese Timor in the 1960s and Early 1970s

Dunn (1996:25) recounts that when he arrived as Australian Consul to Dili in early 1962, ‘[t]here were no sealed streets or roads and it was only later in that year that the citizens of the capital were to enjoy the luxury of a town electricity supply.’¹²⁹ As discussed in this chapter, little modernisation had occurred in the territory by the mid-1960s, and the population of Dili was estimated (Hicks 1976:7) at ‘about 10,000 Europeans, Timorese, Chinese, and Arabs.’ In rural areas, roads and bridges were in

¹²⁷ Crowe (1996:46-47) notes, for example, that thirty-eight of the forty-seven priests in East Timor in 1972 were foreigners, and that ‘[t]he scarcity of priests meant that there were long periods of time between Church services which were often filled in with a continuation of traditional ceremonies.’ As addressed later in this thesis, local belief systems continue to play a prominent role in daily life throughout Timor.

¹²⁸ Farram (2006:76) refers to sons of *liurais*; Nicolau dos Reis Lobato, Rogério dos Reis Lobato, Francisco Borja da Costa and Vicente Sa’he, and to Francisco Xavier do Amaral, the son of a *chefe de suco*. This matter receives further attention in Chapter 3.

¹²⁹ Dunn (1996:25) also notes that it was during the mid-1960s that the Baucau airstrip and the Dili wharf were constructed.

poor condition (or non-existent) until late in the colonial period, making travel around the territory difficult.¹³⁰

The lack of modernisation meant that anthropologists wishing to research traditional societies were attracted to the territory during this time. Field-work undertaken during the 1960s and early 1970s led to work by Hicks (1976) on the Tetum, Traube (1986) on the Mambai, Forman (1980) on the Makassae, Friedberg (1980) on the Bunaq and Clamagirand (1980) on the Kemak. These investigations provide detailed descriptions of belief systems, social structures and marriage patterns¹³¹ prevailing among a range of East Timor's ethno-linguistic groups. The resulting, albeit, incomplete mosaic, provides students of East Timor with a profile of East Timorese ritual and social organisation in the late colonial period, and indicates the great extent to which East Timorese social organisation at that time conformed to the Weberian model of 'traditional authority' discussed in the Chapter 1. As an example, Hicks' description (1976:76) of the criteria for appointment to the position of village headman illustrates the extent to which incumbency was influenced by hereditary factors, even though flexibility inherent in the indigenous political system also provides for adaptation where necessary:

The largest descent group to which a person can belong is his clan, so it is clan membership which makes him an aristocrat or a commoner. Likewise, his chances of playing an important role in Carubolo and Mamulak, are determined by what prancedom and villages his clan owns, not by his own talent or ambition. Ina-Aman clan owns the office of Mamulak village headman (*dato ua'in*), and within the Ina-Aman clan the Ina-Aman lineage owns this position. No one from the other four Ina-Aman lineages is even eligible for consideration when a Mamulak headman is chosen. Someone from this lineage must be picked... If it should happen that Ina-Aman lineage could not provide a worthwhile candidate, an able, willing man from another village in Ina-Aman clan would be ritually incorporated into Ina-Aman lineage. He would be 'reborn' into it, and would assume

¹³⁰ According to a former radio operator who served with the Portuguese army in East Timor in 1974 (interviewed while holidaying in Dili in February 2005), the roads were so bad that it took six hours to travel the eighty kms between Dili and Baucau by four wheel drive. River crossings posed a particular challenge in the wet (see also Dunn 1996:26). Positive aspects of being stationed in East Timor appear to have included opportunities for rest, and the former radio operator indicated that he had never slept so much in his life as when he was in East Timor.

¹³¹ Pioneering anthropological work undertaken by J. P. B. de Josselin de Jong and his student F. A. E. van Wouden (see Wouden 1968) drew attention to the marriage systems of eastern Indonesia (including Timor), and as Fox (1980:329) has remarked, '[t]he opportunity to study complex systems of marriage alliance has indeed attracted most anthropologists to the region.' Often marriage systems in the eastern Indonesia/Timor region are characterised by cross-cousin exchanges with complex systems of obligations between wife-givers and wife-takers, however, as Fox (Fox 1980:330) also asserts, a 'large number – possibly a majority – of the societies of eastern Indonesia do not structure their alliances on the basis of exclusive cross-cousin marriage.'

office as a member of the office-owning lineage. Ritual 'rebirth' can be used to fill any office and add to any descent group, so what seems on the face of it a rigid system is really quite flexible.

Whereas Hicks (1976:2-3) set out to study East Timorese society before it was 'overtaken by Westernization,' the process of Westernisation has in fact taken longer in East Timor than expected. As discussed in Chapters 5, 7 and 8, ritual and hereditary factors continue to influence many aspects of social organisation, especially in rural areas, in the present day.

Implications of Geographic, Socio-political and Historical Factors on State Development Prospects in East Timor

In his consideration of state development in Java and Indonesia more generally, Legge (1964:20-41) refers to the temptation for commentators to focus disproportionately on how socio-political organisation was influenced and developed by exposure to foreign cultures, without taking sufficient account of the role of local factors in social development. As well as applying this analysis to the influence of Dutch colonialism, Legge also asks whether the early influence of Indian civilisations definitively shaped Javanese socio-political culture, or whether the 'Indian influence' simply reinforced existing, autochthonous trends. In a discussion Legge (1964:26-27) opens with the question; 'Are foreign influences a thin, flaking glaze?'¹³² Legge notes that the complex architectural and organisational legacies of the early Javanese states mean that 'the temptation to read the early history of Indonesia in terms of Indian influence is a powerful one.' Legge goes on to observe, however, that even the strength of Indian 'cultural pressures' would not have been sufficient to 'suddenly create a new society':

Before Indian cultural influences made themselves felt, Indonesians, in parts of Java at least, had devised techniques of irrigation, domesticated the water buffalo, and developed the outlines of sedentary agriculture. These economic developments had replaced, presumably, some form of shifting cultivation, and they represented a considerable technological revolution.

At the political level, an interpretation that Legge deems probable (1964:35-36) 'postulates the emergence, at least on a small scale, of a degree of sophisticated political organization before the introduction of Hindu or Buddhist influence. The rulers of local

¹³² This term was first used by J. C. van Leur (see Leur 1967[1955]).

principalities themselves must have been ready to adopt appropriate elements from Indian culture that could bolster their own authority.’¹³³ As a poignant example of some of the considerations raised in the previous chapter, Legge’s analysis strongly supports consideration of geographical and cultural factors in any assessment of a society’s capacity to operate within the framework of the modern state. Perhaps a most important message relates to *receptivity* to the logic and rationale of strategies supporting state organisation.

Geographically, in terms of soils, hydrology and topographical features, Timor bears substantial differences to Java. In a land unsuited to the development of large-scale surplus accumulating civilisations, Timor is an island where rulers have neither had the opportunity to coordinate the activities of highly stratified workforces with advanced capacities in areas such as canal construction or architecture, nor been faced with the necessity of coordinating such workforces. The absence of such organisational experience in Timor’s history must be taken into account in any assessment of East Timor’s capacity to operate as a modern state.

Rather, as the historical research of McWilliam (1996) and others suggests, the shifting and unstable political structures and alliances that developed in Timor were based largely around competing kingdoms constantly fighting over entitlement to draw tithes from the narrow margin of surplus produced by subsistence farmers, supplemented by benefits from key trade items. Whereas the benefits to the rulers of petty Timorese kingdoms from the sale of sandalwood and other commodities are likely to have been considerable (Farram 2004:36), it is doubtful if the subjects of these various kingdoms could have expected the delivery of many benefits or services from their rulers, beyond protection from rival plunderers.

¹³³ Accordingly, Legge (1964:37-38) surmises, ‘[w]hat does seem clear is that Hinduism played a crucial part at least in consolidating the emergence of large political units, making available both organizational techniques and religious sanctions.’

It is not inappropriate in the context of this study to suggest that the socio-political characteristics of warring Timorese kingdoms and *meo* cults (and their equivalent in non-Atoni parts of Timor), may continue to influence aspects of modern Timorese political life. Specifically, if the temptation before each warrior clan leader, was the appeal of his own independent realm supported by his own deferential warrior clans, then this is likely to have produced particular kinds of tensions and manoeuvrings in the political life of the kingdom. Ritual displays of obeisance to petty kings, as in the presentation of smoked heads as chronicled by McWilliam (1996:143-147), may have been made concurrently with subtle demands for status recognition in various forms. As commanders of armed bands, warrior leaders would have posed real threats to their kings, and it is likely that these kings would have been acutely conscious of the need to appease their warrior leaders, in order to stabilise their territories and preserve their own power. Unfortunately, violence or the threat of it has been an on-going feature of life in East Timor in the post-Portuguese period. A corollary of this violence, as referred to in later sections of this study, is that the country bears a history of armed groups in various forms. These have ranged in type from political militias and guerrilla armies to martial arts groups and regular armies. And not uncommonly, individuals associated with these organisations have been successful at using their status as leaders of armed groups as a means of realising political office or other benefits. On the other hand, other socio-political features of Timorese society may exert a positive influence. Specifically, the comparatively highly structured nature of Timorese socio-political institutions (compared with Melanesian societies), as noted by Capell (1944:12) and Glover (1986:12),¹³⁴ may ultimately support greater political stability than has been achievable to date in other New Subsistence State contexts in the region.

It might be surmised, therefore, that the socio-political systems of Timor have aspects that support the development and sustenance of a large political unity, as well as aspects that frustrate this objective. Later sections of this study will be more focussed on the

¹³⁴ The nature of these structures receives more detailed attention in Chapters 5, 7 and 8.

challenge of how to recognise and support those traditional elements of social organisation which can benefit the new public administration of the RDTL.

As an additional layer of historical experience on top of East Timor's distinct pre-colonial history and traditional socio-political systems, what should be made of the Portuguese colonial legacy in East Timor? As reviewed in this chapter, the Portuguese engagement with the territory commenced as an initiative to profit from the sandalwood trade, and this objective was advanced through the establishment of political, religious and trade connections in a dynamic region characterised by opportunistic and uncertain alliances. The nature of the original colonial engagement may be at least partly responsible for the fact that so few sustainable post-subsistence agricultural activities were ever initiated in Portuguese Timor during the colonial period.

If the geographical and hydrological features prevailing in Timor failed to provide societies on the island with the basis for the development of large-scale surplus producing economies, with attendant developments in the areas of workforce stratification and technically proficient public administration systems, then the Portuguese colonisers also failed to provide the basis for such developments through other means. At the conclusion of the Portuguese period, only several per cent of the total land mass of the territory had been alienated from customary tenure, largely for the establishment of a plantation agriculture industry. Yet not only was the extent of the plantation sector too small to contribute to the development of substantial workforce stratification in East Timor, the cultivation methods employed within the sector in many cases appear to have been based on traditional practices. What modern methods were employed in the plantation industry do not appear to have made a significant impact on present-day cultivation practices, even in the cash-crop sector.

In addition to having failed to facilitate any broad-scale modernisation of the East Timorese economy, the Portuguese authorities in East Timor were resolutely unsupportive of international proposals for the preparation of Portuguese colonies for independence. In a detailed discussion and summary of failures in this area, Hill

(2002:22-28) has profiled Portugal as an exception to other European colonial powers in the late 1950s and 1960s, among whom ‘the ruling doctrine was that the role of a colonizing power should be to lead its colonies to early independence.’ Notwithstanding superficial concessions to international opinion, such as the 1951 decision to rename its colonies ‘overseas territories,’ Portugal ignored landmark developments in international decolonisation practise, sailing past these without introducing meaningful channels for broad political participation in its possessions.

At the governance level, the most substantial modernisation of the administrative structure during the Portuguese period was that which occurred following the suppression of the 1911-1912 rebellion. Yet even the administrative developments initiated at this time appear to have resulted in minimal disturbance to the elemental units of East Timorese social organisation that existed at the village and hamlet level. Whereas this outcome has benefits regarding the viability of *suco* administration and conflict resolution systems in the present day, it is also reasonable to conclude that the forces which supported the preservation of these mechanisms within the *posto* system, are the same forces which prevented the development of a broader proto-national unity during the later part of the Portuguese period. If, in the present day, ethnic tensions have developed in the expanding East Timorese ‘melting-pot’ capital of Dili, then a contributing factor to this may be the administrative system which maintained the *posto* as the largest social milieu with which the majority of East Timorese became familiar.¹³⁵

Conclusion

This chapter has provided an examination of geographic conditions on the island of Timor and socio-political and historical aspects related to the pre-colonial and colonial experience of Portuguese Timor. This has been undertaken firstly to provide a profile of the case-study of this thesis, and secondly for the purpose of establishing that historically, the case-study conforms to the typology of a New Subsistence State as defined in Chapter 1. As discussed in the foregoing section, the geographic and

¹³⁵ See note 82.

hydrological features of Timor never offered the kinds of possibilities that led to the development of large-scale irrigated agriculture elsewhere, and this is reflected in the pre-literate culture and absence of bureaucratic traditions which prevailed at the time of colonial settlement. Furthermore, very little change occurred throughout the colonial era in terms of social and economic modernisation, and at the conclusion of the Portuguese period the territory continued to present (as it largely still does) the profile of an overwhelmingly subsistence society. Indicators of the lack of development included the small amount of land alienated from customary tenure, the low level of urbanisation and the low levels of literacy. In sociological terms, these factors signified the absence of a highly stratified workforce and the persistence of 'traditional authority' relations. It was such features which made Portuguese Timor so attractive to anthropologists at the conclusion of the Portuguese colonial period.

In state-building terms, the legacy of East Timorese socio-political institutions in the form in which they emerged at the end of the Portuguese period may be mixed. The fact that traditional authority relations were preserved within the *postos* as a result of the practise of indirect rule means that customary mechanisms can continue to contribute to the promotion of order in the present day. On the other hand, the practise of confining most of the population (except for the minority assimilated into 'European civilisation') to their *postos*, is unlikely to have assisted the development of a national unity. Similarly, Timorese socio-political institutions are considered highly structured in comparison with those in Melanesia and therefore possibly more conducive to stability at some level. However, the use of martial force to achieve political and economic advantage has also featured prominently in East Timorese history, and East Timorese martial traditions were in fact actively preserved by the colonial administration. As discussed in later chapters, it is likely that the preservation of these traditions throughout the colonial period continues to influence political developments in the present day.

If some elements of East Timor's history are conducive to public administration and other elements appear likely to frustrate this objective, then ultimate outcomes are likely to be highly depended on the skills of East Timor's political leaders, themselves heirs to

the countries' socio-political heritage. The emergence of East Timor's first generation of political leaders and the circumstances surrounding their emergence is the subject of the next chapter.

Chapter 3

The Emergence of Politics and Political Conflict: Developments April 1974 to December 1975

Introduction

As outlined in the previous chapter, Portuguese Timor in the 1960s and 1970s remained a largely subsistence society with a colonial class structure, an emergent indigenous administrative elite but limited overall workforce stratification, and restrictions on free and open political debate. The present chapter explores the dramatic series of developments that unfolded following the revolt of the *Movimento das Forças Armadas* (MFA) in Lisbon on 25th April 1974, when for the first time, members of the small East Timorese middle class were able to openly engage in political debate and organisation. The chapter is divided into a section covering the genesis of political organisations in Portuguese Timor in the period following the ‘Dili Spring’ of 1974, and a section covering the period of FRETILIN interim governance from September to December 1975. The chapter concludes with an analysis of factors that frustrated the maintenance of stability in East Timor as colonial authority receded, and acted to inflame the developments that arose following the blossoming of political freedom in April 1974.

An important focus of this study concerns the inexperience with which the vanguard of East Timorese political leaders were burdened as they struggled to come to terms with and capitalise on the post 25th April 1974 political environment, and the resultant fractures that developed in the infant East Timorese political community. Other themes concern the lack of support for decolonisation in East Timor offered by Portugal and other significant nations, and the role of Indonesia. Whereas this latter matrix of factors has reduced bearing on East Timor’s future in the present post-cold war environment, in which independence for East Timor is now supported by the international community, the circumstances under which East Timor’s first generation of political leaders emerged continues to be of interest. Not only do members of this generation continue to play important roles in the political life of the RDTL, but the response of East Timorese elites

to the circumstances of 1974 and 1975 provides insight into important aspects of East Timorese political culture and aids understanding of developments that threaten the cohesion of the RDTL state in the present day.

The Formation of Political Organisations and the Discovery of Political Differences: April 1974 – August 1975

Political activity in East Timor in the years prior to the overthrow of the Caetano regime was confined to a small number of intellectuals, engaging in commentary and debate in the few forums available. Jolliffe (1978:55-56)¹ explains that the *Seara*, which enjoyed a period of immunity from censorship on the basis of being a Catholic publication, ‘became a focus for growing unrest’ in East Timor in the late 1960s and the early 1970s, until it was finally closed by the security services in March 1973. As Jolliffe indicates, the *Seara* published on a broad range of areas, and attracted contributions from future leaders of the two main political organisations² that would emerge in the 1974-1975 period. Those later prominent in ASDT (*Associação Social Democrata Timorense*, or the Timorese Social Democratic Association), and its successor party FRETILIN (*Frente Revolucionária de Timor-Leste Independente*, or the Revolutionary Front for an Independent East Timor) included Marí Alkatiri, Francisco Xavier do Amaral, José Ramos-Horta and Nicolau Lobato. Those later prominent in the UDT (*União Democrática Timorense*, or Timorese Democratic Union) included Manuel Carrascalão and Domingos de Oliveira.

While party politics was slow to come to East Timor, things changed rapidly after the MFA revolt of 25th April 1974, in the sequence of dramatic events associated with what has been referred to (Dunn 1996:50; Gunn 1999:264) as East Timor’s ‘political awakening.’ Taylor (1991:26) has written that whereas the changes stemming from the overthrow of the Caetano regime in Lisbon ‘had little impact on rural society with its

¹ See also Hill (2002:53-54).

² Jolliffe (1978:61) notes that ‘[t]here were technically no political parties in East Timor’ until the Portugal withdrawal following the UDT coup in August 1975, since no parties were permitted under Portuguese law except for the *Acção Nacional Popular* (Popular National Accord), the official party of the corporate state, and legislation permitting their formation had yet to be enacted. Accordingly, FRETILIN had its roots in the ASDT ‘association.’ Likewise, UDT was a ‘union.’

well-trying means of protecting itself from colonial interference’, they did have a ‘profound impact’ on East Timor’s ‘administrative elite,’ especially in urban Dili. Although a small number of educated East Timorese, including founding ASDT members Mari Alkatiri³ and José Ramos-Horta⁴ are said to have been involved in clandestine political organisations in the final years prior to the MFA revolt, the opportunity to participate in political discussions was a new experience for others. Commenting on the transformation of the political environment, Domingos de Oliveira (in CAVR 2004), a customs official at the time of the Lisbon coup, reflects (perhaps understating his participation in the intellectual forum provided by the *Seara*), that ‘before 25th April all we did was drink coffee and talk about football and so on...after 25 April, all we talked about were the consequences of 25 April.’ For de Oliveira, personal consequences included joining the UDT in May of 1974, and becoming secretary-general of that organisation in September 1974.⁵ For East Timorese society, the consequences of the ‘political awakening’ continued to reverberate into the twenty-first century.

UDT, as the first party to be formed, was established on 11th May 1974, and quickly developed a strong following. Created by relatively privileged Dili administrators⁶ and plantation owners, the party had strong support in the coffee-growing districts⁷ in the west of the territory, where traditional leaders created support for the party locally. Some of the founding members of UDT had previously been members of the official Portuguese *Acção Nacional Popular* (Popular National Accord), including (Dunn 1996:53; Ramos-Horta 1987:30-31) Mario Carrascalão, Cesar Augusto da Costa

³ According to Hill (2002:63-64), Alkatiri had previously participated in the establishment of a ‘clandestine anti-colonial group’ in Dili in 1970, before going to Angola to study surveying. Born into the Dili Arab community (by parents of South Yemen descent) in November 1948, Alkatiri would have been twenty-five years of age at the time of the MFA revolt. See also Shoesmith (2003:236-238) for a discussion concerning Alkatiri’s radical political background.

⁴ In his biography, Ramos-Horta (1987:26-27) refers to being a members of ‘an incipient nationalist organization’ that began to form early in the 1970s. Ramos-Horta claims to have been inspired at this time by Indonesia’s achievements in achieving independence from the Dutch.

⁵ Domingos de Oliveira held this post until retirement in September 2003 (CAVR 2004).

⁶ Domingos de Oliveira and Francisco Lopes da Cruz, for example, were both customs officials (Taylor 1991:26).

⁷ See also Nicol (1978:150), who refers to a conversation concerning UDT support in coffee-growing areas with UDT central committee member and coffee plantation owner, Manuel Babo.

Mousinho (the conservative mayor of Dili), and Francisco Lopez da Cruz, a former student of the Jesuits who had served in Mozambique with the Portuguese military, and who later became UDT president. The party has been characterised (Taylor 1991:26-27; Dunn 1996:53-54) as social-democratic in outlook, and according to Dunn (1996:53), ‘[t]he views and aspirations of Domingos de Oliveira and the Carrascalão brothers were, in those early days of Timorese political activity, not so very different from those of the moderates of ASDT/Fretilin.’ Significantly, however, UDT future president Francisco Lopez da Cruz appears to have been particularly opposed to communism, a factor which later made him receptive to Indonesian propaganda aimed at eliminating the emergence of an independent East Timorese state (Dunn 1996:104-105; Taylor 1991:41,46). In the early period of East Timorese political development when policy was being formulated in response to political events in Portugal, perhaps the major component of the UDT policy platform was the objective of realising independence from Portugal gradually, over a period of some years.⁸ A further notable aspect of the UDT policy program referred (Nicol 1978:70) to ‘[t]he defence of the integration of Timor into a Portuguese-speaking community.’⁹

In its initial guise of ASDT, FRETILIN formed on 20th May 1974. While noting that ASDT/FRETILIN formed without the rural support-base that UDT managed to harness through its connections with planters and traditional leaders, commentators¹⁰ have remarked that its founders originated from similar social backgrounds to the founders of UDT. The ASDT/FRETILIN president, Francisco Xavier do Amaral, was himself descended from traditional leaders in the central western highlands,¹¹ but had studied for the priesthood in Macau before returning to East Timor to work as a schoolteacher from 1963 to 1968, after which he joined the customs service to work alongside colleagues who would later be among the founding members of UDT (Nicol 1978:95). Xavier do

⁸ Nicol (1978:69) notes that UDT was not consistent on this, beginning with the policy of ‘a formal and lasting relationship with Portugal,’ and then specifying different time-frames, from three to twenty years, within which independence would be realised. In recent statements, Domingos de Oliveira (in CAVR 2004) has suggested that ten years might have been an appropriate period, while Mario Carrascalão (in CAVR 2004) has suggested twenty.

⁹ See also Nicol (1978:70) for the full UDT program.

¹⁰ Including Dunn (1996:56), Taylor (1991:27), Nicol (1978:78-79).

¹¹ According to CAVR (2004) information, do Amaral was born ‘the eldest son of the village chief’ of Turiscai in 1937.

Amaral shared his descent from traditional leaders with the brothers Nicolau and Rogério Lobato (Dunn 1996:56-57), the sons of a *liurai* from the Bazartete locality in Liquiça. Nicolau was a former teacher and government administrator who had previously risen to the rank of sergeant in the Portuguese military, and who rose quickly within FRETILIN to become what Dunn (1996:57) refers to as ‘the real leader,’¹² eclipsing the charismatic but more conservative Xavier do Amaral.¹³ Other senior FRETILIN members descended from traditional leaders included Francisco Borja da Costa and Vicente Sa’he, according to Hill (2002:67), who remarks (as discussed in the previous chapter), that ‘a large proportion of [FRETILIN founders] came from families of *liurais* or other local rulers who had access to better educations for their children than that provided by the local *suco* or *posto* schools.’¹⁴

Although Xavier do Amaral was thirty-seven years of age at the time of the formation of ASDT/FRETILIN (Dunn 1996:56), youth was a further factor shared by most senior FRETILIN members in 1974, and according to Taylor (1991:27), the average age of all members of the FRETILIN organising committee, many of whom were educated at the Jesuit seminary in Dare, was twenty-seven. Reflecting on the age and occupations of the respective members of the two major parties, Hill (2002:69) remarks that ‘[i]n general the UDT leaders were older than the ASDT founders and were employed at a higher level in the administration or engaged in private business ventures.’

¹² See also Nicol (1978:99-100), who points out that at the time of the formation of ASDT/FRETILIN Nicolau Lobato was twenty-eight years of age and Xavier do Amaral in his late thirties, and explains that ‘[t]he principal leaders in Fretilin had consciously chosen Xavier for party president and front-man because of his age. It was thought an older, more mature person at the head might command greater respect throughout the country.’

¹³ Dunn (1996:57) remarks that whereas the English-speaking Amaral was able to impress foreigners ‘with his moderation, tolerance, and charismatic influence on his audiences’, it was Lobato who possessed the military experience, discipline and determination necessary to develop FRETILIN into an organisation capable of organised armed resistance against the Indonesian invasion. It is of note that Rogério, Nicolau’s brother, also had military experience, achieving a rank equivalent to lieutenant in the Portuguese military and demonstrating an interest mainly in ‘military and strategic issues’ (Taylor 1991:48; Gusmão 2000a:24). Later, following the coup attempt initiated by UDT in August 1975, the Portuguese authorities would appoint Rogério Lobato to assist with negotiation a resolution to the crisis. He would take this opportunity to play a pivotal role in seizing power for FRETILIN. As discussed in Chapter 6, Rogério Lobato would later, as RDTL Minister of Police and the Interior, use his strategic talent for organising shady paramilitary organisations charged with intimidating or eliminating political rivals.

¹⁴ See also Jolliffe (1978:69).

The ‘guiding articles’ of ASDT/FRETILIN’s original political platform were claimed to derive from ‘universal doctrines of socialism and democracy’, and included, in common with the UDT platform, the objective of ‘progressive autonomy towards independence’ (Nicol 1978:77-78,80). As with UDT, the timeframe within which ASDT/FRETILIN leaders aspired to achieve independence changed over time, with a period of ten years being initially suggested by Xavier do Amaral, and shorter periods being suggested thereafter. Nicol (1978:77) has characterised ASDT/FRETILIN as ‘the most complex’ party ‘with members from the right to the extreme left.’ Those associated with the left included a core of political activists who returned to Dili from Lisbon over the course of the second half of 1974 and began agitating for the organisation to adopt a more radical political approach. This group included António Duarte Carvarino (Mau Lear)¹⁵ and Vicente dos Reis (Vicente Sa’he), both of whom had been studying in Lisbon at the time of the MFA revolt, and Roque Rodrigues, who had served with the Portuguese military in Mozambique (Taylor 1991:48; Hill 2002:66-67; Nicol 1978:102-107),¹⁶ and who later became the inaugural minister of defence of the RDTL in the post-Indonesian period. Several members of this group, including Mau Lear and Vicente Sa’he, are considered (Taylor 1991:48) to have ‘been formed as intellectuals’ in the course of the events that took place in Lisbon in April 1974, and to have returned committed to developing Marxist policies appropriate to East Timorese conditions. Both Vicente Sa’he and Mau Lear perished in February 1979 in the face of an intense Indonesian onslaught, after developing prominent profiles in the FRETILIN organisation at a time (discussed in the next chapter) when Marxist-Leninist ideology was exerting an extreme influence on the party. Vicente Sa’he was considered a gifted strategic thinker¹⁷ and is remembered in FRETILIN circles as an ‘independence martyr’ and for his work ‘implementing popular

¹⁵ For a brief biography of Carvarino, see Hill (2002:66-77), who writes that Carvarino adopted his traditional name Mau Lear upon returning from Lisbon. According to Ramos-Horta (1987:38), Mau Lear was a nickname, after ‘a sort of Timorese Al Capone.’

¹⁶ See also Ramos-Horta (1987:38), who rejects assertions that the ‘Lisbon group’ were responsible for all ASDT/FRETILIN’s ‘innovation and dynamism’ during this period. Note that there is some question concerning the intensity with which some of those who had been in Lisbon had studied radical political and social theory. In his biography, Xanana Gusmão (2000a:47) refers to the comments by former Lisbon student and FRETILIN Central Committee member Hata (full name unknown), who apparently stated in the context of a political discussion in 1976, ‘[d]on’t think, Xanana, that we are all well-versed in theory. In Lisbon, I spent most of my time with the Portuguese Communist Party painting slogans on the wall.’

¹⁷ See Niner, in Gusmão (2000a:28-29).

cooperatives and a literacy program inspired by Paulo Friere's method.¹⁸ By the time of his death he had been promoted to FRETILIN prime minister (Taylor 1991:97). Mau Lear is also recognised for his work with FRETILIN educational programs (Taylor 1991:35; Niner, in Gusmão 2000a:22). Eventually he became FRETILIN vice-president, and had just taken over from Nicolau Lobato as president (after Lobato's death) at the time of his own death in 1979.¹⁹

According to Nicol (1978:102), there were 'no more than seven' communists involved in the FRETILIN leadership, compared with fifty or sixty active Catholics, a phenomenon which again serves to highlight the role that had been played by the Catholic Church in educating East Timor's emerging political elite. Furthermore, the extent to which the radical elements of FRETILIN could move overall party policy to the left is said (Nicol 1978:105-106) to have been contained by more balanced ASDT/FRETILIN leaders, most notably Nicolau Lobato and José Ramos-Horta.²⁰ Despite any moderating influences exerted by these ASDT/FRETILIN powerbrokers, however, it appears clear that the left-wing radicals and intellectuals were effective in initiating the adoption by ASDT/FRETILIN of a number of initiatives that increasingly characterised it as a leftist party, not least the transformation of the original ASDT association to the more radical FRETILIN organisation on 12th September 1974 (Jolliffe 1978:63; Nicol 1978:79)²¹ based on the example set in Mozambique by FRELIMO (*Frente de Libertação de Moçambique*, or the Mozambique Liberation Front).

¹⁸ To commemorate Sa'he's contribution to the independence struggle, an 'education and advocacy' NGO (the Sa'he Institute of Liberation) was named after him. For details, see Backdoor Newsletter on East Timor (2004).

¹⁹ Nicolau Lobato was killed by Indonesian forces on 31st December 1978. Mau Lear took over Lobato's position but was killed on 2nd February 1979 (Niner, in Gusmão 2000a:63; Dunn 1996:280; Taylor 1991:97). The developments of this period are discussed in Chapter 4.

²⁰ Ramos-Horta became minister of foreign affairs and cooperation with the FRETILIN RDTL government, then prime minister following the April-June 2006 crisis, and then eventually President of the RDTL following the 2007 elections (see Chapter 6). However, he is no longer a member of the actual FRETILIN party (see Federer 2005:47-48). Biographical information suggests that Ramos-Horta has a pragmatic and sometimes eclectic political outlook. According to Dunn (1996:58), Ramos-Horta 'always preferred to operate behind the scenes, perhaps because of his reluctance to enter into total commitment to any political party, a trait that caused his detractors to question his loyalty, or to attribute sinister designs to some of his activities.' See also Nicol's revealing section titled 'Profile of a Pragmatist' (1978:110-147) in which Nicol (1978:143) describes Ramos-Horta as having the 'arch-pragmatist's ability to chop and change as occasion demands, making his personality enigmatic.'

²¹ See also Taylor (1991:48-49).

The purpose and significance of FRETILIN's decision to style itself as a liberation front has received consideration from a number of commentators.²² According to Hill (2002:92-93), by 'styling itself as a "front" rather than a party, FRETILIN hoped to appeal to a wider range of people than it had as a social democratic party.'²³ Yet although Hill (2002:xviii) has continued to advance the view that in the first years of its formation, FRETILIN 'did not see itself...as a political party rather a broad front or social movement for independence,' it is difficult to comprehend that FRETILIN was oblivious to the reality that it was competing for support with at least one other major political organisation. Seen from this perspective, FRETILIN's audacious claim, advanced on 12th September 1974 (in Nicol 1978:79), to be 'the only legitimate representative of the people of East Timor', does not speak highly of the organisation's democratic aspirations.²⁴ Recent commentary (Shoemith, in *Rear Vision* 2006) refers to the belief among senior FRETILIN members, as the reality of independence finally dawned following the Indonesian withdrawal in 1999, that the party had an 'historic right to govern', and as seen above, this belief can be traced back to within months of the foundation of the organisation!

Notwithstanding the logical explanations for the FRETILIN name, this choice, combined with the accompanying rhetoric, could only have supported the views of critical observers that the organisation had strong communist leanings. These views are likely to have received further confirmation by those parts of the new FRETILIN program (in Hill 2002:85) declaring that 'cooperatives will be the base of economic and social life of East Timor', and that 'all large farms will be expropriated and returned to

²² Including Jolliffe (1978:63-64,74), Nicol (1978:79-80) and Hill (2002:92-94).

²³ Hill (2002:92) describes how this development was framed in the post-April 1974 environment by receding Portuguese interest in East Timor and a lack of commitment to independence both within and outside the territory. Specifically, according to Hill, '[t]he task of the FRETILIN leaders thus was seen as twofold; convincing the Timorese people that they did want independence and that they could govern themselves and secondly convincing the Portuguese (and Indonesians and Australians, the UN and whoever else might be interested) that a sufficiently large number of Timorese were behind FRETILIN and its independence [sic], so that they could not be ignored.'

²⁴ An English translation of the full FRETILIN manifesto and program is included in Jolliffe (1978:330-333). This specific section (in Jolliffe 1978:327) proclaims that 'FRETILIN, being the only legitimate representative of the people of East Timor, aims to develop all efforts in order to be the only valid mouthpiece in the process of decolonisation.'

the people and will be used within the cooperative system. Fertile lands not under cultivation will be distributed to the people and will be utilised in cooperatives or by State enterprises.²⁵ Nicol (1978:83) has perceptively noted that this program ‘sounded more radical and dramatic than it really was,’ since large farms were few in number, and most land was already accessible to the population.²⁶

The third important political organisation, APODETI (*Associação Popular Democrática Timorense*, or the Popular Democratic Association of Timor) was formed on 27th May 1974 (Nicol 1978:55; Jolliffe 1978:64-65). Its founders wished for East Timor to integrate into Indonesia as an autonomous province and, according to Hill (2002:69-70), were distinguished by the fact that ‘almost without exception, they bore a personalized grudge against the Portuguese.’ As mentioned earlier, recent historical work (Chamberlain 2005:46) indicates that several of those who were exiled following the failed Viqueque uprising of 1959 are among those listed as founders of APODETI.²⁷ Reflecting on political developments that took place in East Timor during the 1974-1975 period in his recent testimony to the Commission for Reception, Truth and

²⁵ Note that FRETILIN Vice-President Nicolau Lobato is reported to have returned to his home village of Bazartete to establish agricultural cooperatives, but although these cooperatives were publicised by FRETILIN to demonstrate its commitment to the people, Nicol (1978:150-151) argues they failed both because no serious land shortages prevailed in the areas in which they were established (unlike in China, where the model ultimately originated) and because the cooperative model threatened local power structures. Interestingly, the land on which Nicolau Lobato endeavoured to establish collectives may have been Lobato plantation land. According to local informants interviewed by the writer in April 2005 in connection with a land survey (see Nixon 2005), the father of Nicolau and Rogério Lobato was the *liurai* of Leorama *suco* in Bazartete sub-district (although he worked for some time during the Portuguese period as catechist in Soebada, Manatuto), and owned twelve hectares of coffee plantation land in the Bazartete area, some of which was apparently gained in 1970 in exchange for settling the tax debts of smaller farmers. Note that according to the biography of Xanana Gusmão (2000a:49), Nicolau Lobato later pledged his coffee plantation to the (FRETILIN) state at a meeting of the FRETILIN Central Committee held in Laline in May 1977, however, this transaction is not recorded in any known land tenure records.

²⁶ Again, as discussed in earlier chapters (and in Chapter 6 in detail), only about 47,000 hectares (about three per cent of the land mass) of East Timor has been alienated from customary tenure, and this includes land alienated during Indonesian times. José Ramos-Horta (1987:37) acknowledges the small amount of alienated land, writing that ‘Communism means...the nationalization of enterprise. I cannot see what a country like ours, without industry, would have to nationalize! In the land sector, there are almost no landlords.’

²⁷ Chamberlain (2005:46) refers to Germano das Dores Alves da Silva and João Pereira da Silva. Other founders of APODETI included José Abílio Osório Soares; Pinto Soares, brother-in-law of José; Arnaldo Araújo, a former schoolteacher who had been imprisoned by the Portuguese; and Guilherme Gonçalves, the *liurai* of Atsabe whose son served in the Indonesian army (Jolliffe 1978:65; Nicol 1978:56-57; Hill 2002:69-70).

Reconciliation in East Timor, Major-General Mario Lemos Pires (in CAVR 2004),²⁸ the last governor of Portuguese Timor who arrived (with the rank of colonel²⁹) in Dili on 18th November 1974 (Nicol 1978:84) to oversee decolonisation, remarked that FRETILIN and UDT were the only important parties and that the others³⁰ were without strong support. Of APODETI, Pires remarked that ‘its leaders had close links with the Indonesian Consul [Elias Tomodok] and sometimes it was hard to understand who ruled the party...East Timorese leaders or Mr Tomodok.’³¹

It is clear that East Timorese society was unprepared for engagement with party politics at the time of the MFA revolt in April 1974.³² Lemos Pires, for example, noted that ideology was not a major factor contributing to party support, observing that ‘most people were in one party or another mostly due to their friendship or because they were contacted at an early stage.’ The uncertainty of emerging leaders, as they sought determine their course in the aftermath of the MFA revolt, is also clear from their own accounts. According to ASDT/FRETILIN founding member Marí Alkatiri (in CAVR 2004), who ultimately became the inaugural RDTL Prime Minister:

[W]e had a public meeting in the Acait (restaurant) before ASDT was born...it was a very hot discussion...we discussed ‘are we Portuguese, or not Portuguese’, there was no other political discussion... Sr Jose Ramos-Horta participated in all political meetings at this time. He participated

²⁸ Major-General Lemos Pires’ testimony to the CAVR hearing was submitted in the form of a video-tape and later transcribed.

²⁹ See Hill (2002:97).

³⁰ As well as APODETI, these included KOTA (Klibur Oan Timor Asuwain, or Association of Timorese Heroes) and the Trabalhista (Labour) party (Walsh 2001:16-17,24-25). Members of both parties (along with members of UDT and APODETI) signed the ‘Balibo Declaration’ of 30th November 1975 that was used by Indonesia as propaganda justifying the invasion (see, for example Republic of Indonesia 1977:37,76). According to founding KOTA member Clementino do Reis Amaral (in CAVR 2004), the ‘Balibo Declaration’ was signed by KOTA delegate Jose Martins ‘at five in the morning with pistols on the table’, and later refuted by KOTA members.

³¹ Originally from the island of Roti to the west of Indonesian Timor, Tomodok is believed (Taylor 1991:31; Dunn 1996:95) to have grossly misrepresented to his superiors, as Indonesia’s senior representative in East Timor, the degree of support within East Timor for integration with Indonesia. James Dunn met Tomodok in East Timor in mid-1974 while on his fact-finding mission, and found him ‘obsessed with stories of intrigue and with the view that East Timor must become part of Indonesia.’

³² As Lemos Pires stated before the Commission for Reception, Truth and Reconciliation (in CAVR 2004), ‘[n]obody prepared the Timorese, nor the parties, for political activity. How could they be prepared? The revolution did not ask for time to prepare the Timorese leaders before telling them that their country would be independent.’ See also Mario Carrascalão (in CAVR 2004), for a UDT perspective on the absence of civic education during the de-colonisation period. Scott (2005:82-84) also discusses this point in reference to his contact with East Timorese leaders from 1975 onwards.

in the meeting which formed UDT. He came and met with me and Nicolau Lobato³³ and said there is no need to form our own political party, we can just join UDT. I asked what is the ideology of UDT? He said a continuing link with Portugal. I said, okay, you go to UDT, we'll go ahead.

Xanana Gusmão (2000a:17-18), who later became a resistance leader³⁴ and then inaugural RDTL president, admits in autobiographical writings to having been 'frightened' by the arrival of party politics in East Timor after 25th April 1974 and the resultant 'feverish enthusiasm' among many of his associates. As Gusmão (2000a:19) explains, there was substantial pressure, at least among the community of civil servants in Dili, to identify with either UDT or FRETILIN:³⁵

People were incited to violence and I began to understand the mobilisation to action. I struggled between getting involved and keeping to the sidelines. It was not that I did not want to join in, but I could see that the situation could easily get completely out of hand... Friends avoided me until I identified myself politically, in writing, and once again I was greeted and could greet others with closed fist, the Fretilin salute! At first, friends and colleagues in the UDT continued to raise their hands and greet me. Then came indifference, until finally it became obvious that we were avoiding each other. This really was not what I had wanted. UDT parents, Apodeti uncles, Fretilin children. What shit this freedom was!

The deterioration in relations between UDT and FRETILIN members, to which Gusmão refers, is considered to have occurred in earnest over the second half of 1974, at least partly as an outcome of the radical agitating of the small group of left-wing intellectuals and radicals. Focussing particularly on the role taken by Roque Rodrigues, Nicol (1978:107) argues that when Rodrigues returned to East Timor, 'the leaders of ASDT were still friendly with their counterparts in UDT and, to a lesser extent, Apodeti. This was totally unacceptable to Rodrigues. To him, anyone in any way opposed to the independence³⁶ of Timor was an enemy of the state, a traitor.' Marí Alkatiri (in CAVR

³³ Nicolau Lobato later became vice-president of FRETILIN and was eventually sworn in as prime minister at the FRETILIN declaration of national independence on 28th November 1975 (Hill 2002:171). Lobato was a senior resistance leader following the Indonesian invasion and he became president in November 1977 following the arrest by FRETILIN of President Xavier do Amaral for treason. Nicolau Lobato was fatally shot by Indonesian forces on 31st December 1978 (Taylor 1991:202-203).

³⁴ According to his testimony (in CAVR 2004), Gusmão became a member of FRETILIN in September 1975, and subsequently demonstrated his leadership ability as a commander in the resistance against the Indonesian invasion. He became chief of FALINTIL (*Forças Armadas de Libertação Nacional de Timor-Leste*, or the Armed Forces for the National Liberation of East Timor) in March 1981.

³⁵ With APODETI receiving support only from (Gusmão 2000a:19) '[a] few frustrated racist [anti-Portuguese] individuals.'

³⁶ It is understood that 'independence' in this context may mean 'rapid independence,' given that both ASDT/FRETILIN and UDT (as we have seen) supported eventual independence. In this respect, ASDT/FRETILIN's demands for the rapid realisation of independence officially date to September 1974,

2004) has recently rejected assertions that FRETILIN's course was altered by the return of the radical agitators from Portugal. This view was not shared, however, by UDT leaders Mario Carrascalão and Domingos de Oliveira, with the latter (in CAVR 2004) asserting:

The students from Portugal spoke harshly on the radio against UDT, calling them ultra-conservatives and so on... UDT responded, then ASDT responded, and so the tension between the parties began... I need to admit that we did not act well between the parties.³⁷

In a short space of time following the events in Lisbon in April 1974, UDT and FRETILIN in particular discovered themselves to be politically at odds, even though important elements of their respective programs, notably the desire for an eventual transition to independence over an indeterminate period of time, overlapped. Some FRETILIN positions had the capacity to create political friction, yet had little relevance to local realities. In this respect the organisation's land reform program was frivolous in the context of an overwhelmingly subsistence economy. More broadly, FRETILIN's claim to be the exclusive 'legitimate representative of the people of East Timor', made after the organisation had been in existence for less than four months, was provocative in the absence of an election.

A Coalition of the Doomed: the FRETILIN/UDT Agreement of 21st January 1975

Notwithstanding the tension between the parties, a coalition was formed between FRETILIN and UDT on 21st January 1975 (Nicol 1978:87). This move was considered important by the new governor, Major-General Mario Lemos Pires, on the basis of the advantages of these two major parties jointly contributing to the development of a

during which month the ASDT general assembly took place at which the establishment of FRETILIN was declared (Jolliffe 1978:74).

³⁷ Although a number of central actors from UDT (see CAVR 2004), including Domingos de Oliveira, have admitted that severe difficulties prevailed between UDT and FRETILIN during 1974 and the first half of 1975, these difficulties appear to have been understated at times by commentators. For example, James Dunn (in CAVR 2004) asserts in regard to relations between the parties prior to the UDT coup of 7th August 1975, that '[I]n general, I would like to stress that the political attitudes of the leaders... [at] the time were manifestly moderate, and conducive to a reasonably harmonious decolonisation.' According to Dunn, the UDT/FRETILIN partnership could have endured 'had it not been for external influence, mounted by...[Indonesian intelligence]...whose aim was to destroy this manifestation of East Timorese unity.' Hill (2002:120), meanwhile, has characterised relations between FRETILIN and UDT in late 1974 as 'cordial, but competitive, in contrast to relations between each of them and APODETI, which they despised.'

legislative framework to guide East Timor into independence. Recently, Lemos Pires (in CAVR 2004) observed that the concept at the time (in early 1975) was of ‘a transitional government quite similar to the one created later in 2000 when UNTAET assumed Timor-Leste’s administration.’ Dunn (1996:76) has described how members of the Portuguese administration in East Timor at this time, although themselves of ‘left-wing bias,’ were conscious of the need for the political parties to ‘form some kind of common front that might persuade the Indonesians to come to terms with the realities of Timorese nationalism, and convince countries like Australia that they should take the Timorese independent movement seriously.’ It has also been asserted (Jolliffe 1978:94) that as the Portuguese were keen for the process of decolonisation to proceed as quickly as possible, a front united on ‘the common principle of independence’ was seen as a means of advancing this objective.³⁸ Meanwhile, Nicol (1978:84) has asserted that FRETILIN was motivated to join the coalition partly as a means of broadening its support base through a connection with UDT.³⁹

The actual coalition agreement between UDT and FRETILIN included (Nicol 1978:87-88; Hill 2002:120) clauses that expressed support for the ‘[t]otal independence for the people of East Timor’, repudiated APODETI and rejected ‘integration into...Indonesia’, supported a UN endorsed role for Portugal in the decolonisation process and the use of Portuguese as the official East Timor language, and supported the formation of a transitional government that would include FRETILIN, UDT and the Portuguese administration. Also in the joint statement were a number of ‘internal agreements’ between UDT and FRETILIN which, as Nicol (1978:87-88) points out, indicate the concerns and aspirations of each of the parties at the time the coalition was established. Among these was a clause enabling the establishment of a committee responsible for monitoring political broadcasts which, according to Nicol (1978:88), was a concession to initial UDT hopes (despite the lack of power of the committee finally agreed to) of forcing FRETILIN to moderate their ‘attacks against the Portuguese and anything

³⁸ With an additional factor also coming to bear, as Dunn (in CAVR 2004) has pointed out, involving increasing Indonesian pressure on Portugal to support the integration of Portuguese Timor with Indonesia.

³⁹ Jolliffe (1978:94) has suggested, however, that at least in the early part of 1975, it may have been UDT which gained advantage by the opportunity to connect with new FRETILIN links in rural areas. See also Hill (1978:120).

Fretilin regarded as neocolonial or neofascist.⁴⁰ A further provision was aimed (Nicol 1978:89) at reducing public hostilities between the parties. As mentioned by several commentators (Nicol 1978:91; Jolliffe 1978:94), the coalition agreement contained *no* call for a referendum on independence, suggesting that FRETILIN in particular was concerned that an element of doubt prevailed about whether such a referendum would be successful.⁴¹

According to Hill (2002:123-124), the UDT/FRETILIN coalition was strongest from late February to early March 1975, during which period two visits were made to East Timor by Australian delegations (a trade union delegation and a government Foreign Affairs and Defence subcommittee delegation respectively), amid intense fears of an approaching Indonesian invasion.⁴² In April the Portuguese administration formally accepted the right of East Timor to achieve independence, proposing that a transitional government be established in October 1975. An initial round of talks aimed at determining the allocation of portfolios in the proposed transitional government and preparing for a national election planned for late 1976, was held in Dili on 7th May, overseen by Governor Lemos Pires and attended by FRETILIN and UDT representatives. Although invited, APODETI representatives refused to attend on the basis that a non-negotiable commitment to integration into Indonesia was a prerequisite for their participation (Hill 1978:128-129; Jolliffe 1978:113-114).

According to former governor Lemos Pires (in CAVR 2004), legislation supporting the establishment of a transitional government was formally approved by the Portuguese

⁴⁰ Note that in early November 1974, FRETILIN's broadcasting rights had been suspended by the Portuguese authorities for what Nicol (1978:84) refers to as propagating 'racial and national slander.' This suspension was overturned upon the arrival of the administration of Governor Lemos Pires on 18th November 1974.

⁴¹ Nicol (1978:91) asserts that throughout the first months of 1975, FRETILIN worked hard to convince UDT to drop its demands for a referendum, with UDT only agreeing in February, after APODETI commenced propaganda activities supporting an Indonesian invasion. Nicol asserts that FRETILIN used APODETI's activities to convince UDT that 'Indonesia would use whatever tactics it could, be they fair or foul, to get the people to vote in favour of integration.'

⁴² See also Dunn (1996:79,103), according to whom, in early 1975, the Indonesian military had been undertaking exercises especially designed as preparation for an invasion of East Timor. The results of this exercise (including a crashed aircraft, a grounded ship, poor shelling accuracy and paratroopers dropped in the wrong location) convinced the Indonesian military to focus for the time being on the 'political manipulation and intimidation' of East Timor, as opposed to an immediate military assault.

government on 17th June 1975, and it was originally intended that the passing of this legislation would be followed by ‘specific programmes and a firm intention to deliver the territorial administration to the East Timorese within a three year term [in 1978].’ This legislation was not followed up with strategic action, relates Lemos Pires (in CAVR 2004), ‘due to the political situation in Portugal.’ Adding to the lack of follow-through stemming from the weakness of the Portuguese state, the Portuguese government refused to act on Lemos Pires’ suggestion to request the UN to support the decolonisation process in East Timor.⁴³ Furthermore, historical accounts claim that by late June 1975, the Portuguese government was reviewing its earlier acceptance of East Timor’s right to independence, since at the same time as hosting talks with East Timorese political parties concerning the transition to independence (the last of which were held in Macau in late June 1975), the Portuguese government had been simultaneously conspiring with Indonesia and Australia to contrive circumstances whereby East Timor could be delivered into the hands of Indonesia (Hill 2002:136; Jolliffe 1978:112-113; Dunn 1996:85).⁴⁴ Reflecting on the political manoeuvrings which

⁴³ According to Pires (in CAVR 2004), ‘Portugal was focussed [in 1975] on the African decolonisation process, in which they did not want the United Nations involved.’ See also Jolliffe (1978:98), who explains that the refusal of the Portuguese to request UN support was caused by the Portuguese being ‘[c]onscious of their limited capabilities’ and their possible ‘future inability to supervise decolonisation.’ On the basis of these weaknesses, according to Jolliffe, they ‘were not eager to expose themselves to international scrutiny.’ As Dunn (in CAVR 2004) points out, however, the Portuguese later (in August 1975 after the UDT/FRETILIN violence) sent the emissary Dr Almeida Santos to Australia to ‘seek support for an international peacekeeping force,’ a request which Australia apparently denied.

⁴⁴ Important developments in Portugal’s acquiescence to Indonesian designs on East Timor are considered (Jolliffe 1978:112) to have taken place at a meeting in London held in late March 1975, attended by senior Indonesian and Portuguese officials. Despite these talks, Portugal also went ahead with decolonisation talks with the East Timorese political parties. Talks held in Dili on 7th May 1975 (boycotted by APODETI) were followed by talks held in Macau from 26th to 28th June 1975. The Macau talks were boycotted by FRETILIN on the basis that decolonisation could not be discussed with a party (APODETI) wishing only to change ‘the form of East Timor’s colonial status’ (Dunn 1996:85; Hill 2002:136-137; Jolliffe 1978:116). Despite FRETILIN’s boycott, the Macau talks proceeded, and resulted in the development of plans for the transitional administration that would govern East Timor until October 1978 (Jolliffe 1978:116). However, Dunn (1996:85) asserts that while formal arrangements were being made for a transitional government to administer East Timor, the ‘real fate’ of the territory ‘rested with what was going on beneath the surface...[including]...separate talks that took place between the Portuguese and a special Indonesian delegation, most of whose members were drawn from the operatives of *Operasi Komodo*, and who were in regular contact with Apodeti and Lopes da Cruz throughout the conference.’ Note that according to Dunn, Governor Lemos Pires ‘was neither consulted nor informed about this briefing arrangement.’ Concerning FRETILIN’s decision to boycott the Macau talks, José Ramos-Horta (who at the time was undertaking external relations duties for FRETILIN in Canberra) writes (1987:53-54) that this decision was made against his advice, observing that the decision was ‘one of our tactical political errors for which I could never find an intelligent explanation.’ Xavier do Amaral, FRETILIN president at the time, has recently claimed (in CAVR 2004) that Portugal’s duplicity influenced FRETILIN’s decision

transpired at that time, Dunn (in CAVR 2004) has recently restated the conclusions at which he arrived in the period following his participation as head of an Australian government fact-finding mission to East Timor for the Australian government in June and July of 1974:

[I]t was clear to me...that as far as the future was concerned, there were only two options [for East Timor], continuing a post-colonial relationship with Portugal, or independence... [I]ntegration with Indonesia...was an option virtually forced on the Timorese people by the Portuguese administration, in deference to pressures from Indonesia.

Based on his own observations during late 1974 and throughout 1975, former governor Lemos Pires (in CAVR 2004) has supported Dunn's conclusions, stating that 'in my opinion...Indonesia decided that East Timorese integration was not only the best political solution but the only solution... Everything about Indonesia's actions deteriorated from the time that the agreement between UDT and FRETILIN was made. Indonesia did not accept independence as a political solution for Timor-Leste.'

Indonesian Involvement and the Militarisation of Politics

As indicated by Lemos Pires, Indonesia adopted increasingly mischievous and aggressive tactics for the purpose of engineering a scenario appearing to justify military intervention in East Timor by Indonesia. Notwithstanding a written assurance to FRETILIN official José Ramos-Horta by Indonesian Foreign Minister Adam Malik (in Jolliffe 1978:66) dated 17th June 1974,⁴⁵ senior military intelligence officers from BAKIN (*Badan Koordinasi Intelijen Negara*, or the [Indonesian] State Intelligence Coordinating Agency) were already planning a campaign aimed at ensuring the integration of East Timor into Indonesia, initially drawing upon erroneous advice from the Indonesian consul to Dili, Elias Tomodok, that East Timorese support for

concerning whether to send a representative to the Macau conference. Do Amaral stated that 'I saw the attitude of Portugal, they were helping to put Timor into Indonesia's hands... Portugal wanted to wash its hands of Timor and give us to Indonesia...therefore ASDT did not want to participate in the Macau meeting.' For further information, a concise and chronological outline of diplomatic meetings involving Portugal, Indonesia, Australia and the US can be found in the CAVR final report (CAVR 2005 Part 3:34-39). Nicol (1978:300) offers yet another insightful perspective.

⁴⁵ Malik's letter (in Jolliffe 1978:66) asserted that the 'Government of Indonesia until now still adheres' to principles that include the 'right of every nation' to independence, 'with no exception for the people of Timor.' Malik's letter included an assurance that 'the Government of Indonesia will always strive to maintain good relations, friendship and cooperation for the benefit of both countries.'

integration was strong, and support for independence weak (Dunn 1996:95-96). According to Taylor (1991:31), BAKIN had already ‘finalized the general details’ of their integration strategy (which became known as Operation Komodo) by the middle of 1974, around the time Adam Malik’s letter was written. That such an inconsistency of policy could prevail between the foreign minister on the one hand and senior military officers on the other, serves to highlight the tensions between military and civilian officials that have prevailed in Indonesia since the time of the struggle for independence against the Dutch.⁴⁶

The architects of Operation Komodo included senior BAKIN officers Major-General Benny Moerdani, Major-General Ali Murtopo, Lieutenant-General Yoga Sugama and Major-General Sudomo (Taylor 1991:30; Dunn 1996:97). Referred to by Taylor as ‘the godfathers of Indonesia’s New Order regime,’ these senior officers and their colleagues had broad influence both domestically and in the international arena. While New Order Indonesia had not been troubled unduly by the presence of the Portuguese territory in Timor,⁴⁷ the situation changed with the MFA revolt in April 1974 and the prospect of an independent East Timor.

⁴⁶ See, for example, Vatikiotis (1998:64). In regard to the letter written by Malik endorsing East Timor’s right to independence, José Ramos-Horta (in CAVR 2004) has recently reflected that ‘[t]his was Adam Malik’s opinion. The Indonesian military opinion was different.’ See also Dunn (1996:96-97) in relation to Malik’s relative weakness vis-à-vis the ‘military-dominated’ leadership of Indonesia. A diplomatic cable (in Scott 2005:104) sent by Australian Ambassador Richard Woolcott to Canberra on 19th October 1975 in the aftermath of the Indonesian military incursion into western East Timor and the killing in Balibo of the five international journalists, provides clear confirmation of this point. In the cable, Woolcott asserts that although the military operation was already underway, few Indonesian diplomatic officials were aware of this, including the Indonesian ambassador to Australia (Her Tansing), the Indonesian ambassador to the UN (Anwar Sani), ‘or possibly even [Adam] Malik’, the Indonesian foreign affairs minister.

⁴⁷ As Chamberlain (2005:26-38) has demonstrated based on a detailed examination of Australian foreign service and intelligence archives, the Sukarno period posed the very real possibility of friction between the pro-Third World Indonesia and the territory of the Salazarist Portuguese regime (see also Dunn 1996:91-93). As observers (Dunn 1996:91-93; Chamberlain 2005:38) have noted, however, the possibility of Portuguese sovereignty of eastern Timor being undermined by Indonesia blew over in the mid-1960s with the installation of the conservative and anti-communist New Order administration in Jakarta. For the government of Suharto, the presence in East Timor of what Dunn refers to as a ‘regime equally vehemently opposed to communism, and generally intolerant of radical influences of any kind’ was a positive element. It is also of note, however, that according to Dunn (1996:93-94) there were already some indications that the Australian and US diplomatic services were informally promoting the view that the eventual integration of East Timor into Indonesia was an inevitability, and that this view was shared by sections of the Indonesian administration.

The reasons why Indonesia's 'godfathers' favoured the integration of East Timor into Indonesia in the wake of the MFA revolt of April 1974, and why this position received strong support by such important countries as the United States and Australia, has received speculation over time from commentators.⁴⁸ As articulated by Dunn (1996:97), Suharto's senior generals were concerned that an independent East Timor would encourage separatist movements in a region 'largely neglected by national development strategies, where the majority of the local populations were non-Muslim, and where separatist movements were never far beneath the surface.' Additionally, there was the possibility of East Timor developing into a hazardous left-wing Cuba in the middle of the archipelago and the region,⁴⁹ although Simpson (2005:282,303) has argued, in a recent analysis utilising newly declassified documents from the United States, Australia and the United Kingdom, that this particular factor has often been attributed exaggerated importance as the reason why Indonesia received such strong support for its integration strategy from these Western allies. Noting that little interest in East Timor was being shown by the Soviet Union,⁵⁰ Simpson argues that the main reason why Western nations supported Indonesia's integration strategy was the widely-held view that East Timor (like West Papua before it) was simply 'too primitive to survive on its own.' Other arguments have linked the support from the United States and Australia to (respectively) naval navigational concerns and the petroleum wealth of the Timor Sea.⁵¹

⁴⁸ Commentators (Jolliffe 1978:112; Dunn 1996:99-100) have also noted that some of those involved in planning Operation Komodo, including Murtopo, had played a leading role in the 1969 'Act of Free Choice' through which West Papua was integrated into Indonesia.

⁴⁹ This factor is also referred to by Dunn (1996:97).

⁵⁰ Elsewhere, in relation to the post-invasion reaction of communist countries, Simpson (2005:299) also refers to China, asserting that '[e]ven ostensible opponents such as the Soviet Union and China failed to act, undermining arguments that the invasion stemmed the possible spread of communism in the region.' In the recent Truth and Reconciliation hearings, Dunn (in CAVR) is recorded as asserting, based on meetings with both Soviet and Chinese officials in 1974, that the Chinese were sympathetic to East Timorese independence, but that they did not view East Timor as having strategic importance. Dunn claims that the respective interest of Soviet and Chinese officials was in whether the other power had agents operating in East Timor.

⁵¹ In regard to the support for integration received by Indonesia from the United States, Australia and the international financial sector, for example, Taylor (1991:74-77) refers to US interest in maintaining unfettered access to the underwater sea-lanes of the Ombai-Wetar Straits, which it feared could have been compromised by the emergence of an independent East Timor, Australian interest in accessing the petrochemical wealth of the Timor Sea, and international financial sector interest in supporting access of Indonesia's struggling national petroleum corporation (Pertamina) to new fields. Admitting to have been swayed by such arguments in the 1970s, David Scott (2005:94) has recently reflected that '[i]n fact, US submarines could go through the 2000-metre deep straits whenever they wished to and the possibility of large volumes of oil potential on any scale had not begun to be proven.'

Whatever the relative weight of the various factors contributing to Indonesia's integration policy and the support that it attracted elsewhere, Indonesia's 'godfathers' did not miss the opportunity to exploit Cold War tensions as a backdrop for the staging of Operation Komodo. It is not difficult to arrive at the view that their ability to do this was unwittingly assisted by FRETILIN leaders themselves, who as already discussed, increasingly adopted some of the trappings of a left-wing revolutionary front. Consistent with the broad-ranging influence of its leaders, Operation Komodo employed a range of strategies. Indonesian media channels were used from early 1975 to propagate false and provocative information, including radio bulletins broadcast into East Timor from Indonesian West Timor warning of the imminence in East Timor of a communist takeover, and press articles alleging that APODETI supporters in East Timor were being repressed. Later in 1975, according to Mari Alkatiri (in CAVR 2004) 'Radio Kupang was broadcasting that UDT was communist pro-Soviet, and Fretilin communist pro-China', supporting the conclusion that 'communists or no communists, Indonesia was coming.'⁵²

Also during the early months of 1975, Indonesian agents are said to have infiltrated East Timor for the purpose of communicating with APODETI officials, bribing people to join APODETI, and recruiting East Timorese for military training in West Timor (Jolliffe 1978:96; Dunn 1996:79-80,100). It was at this time, in early 1975, that Australian pilot Roger Rudduck,⁵³ who flew for *Transportes Aéreos de Timor* (Timor Air Transport, or TAT) from early 1974 to August 1975, recalls taking an Indonesian 'businessman' on a weekend charter flight around Portuguese Timor, ostensibly for the purpose of gaining an overview of the territory's forestry resources. Tomas Gonçalves (in CAVR 2004), the son of Atsabe *liurai* and APODETI co-founder Guilherme Gonçalves, provided background to the relationship between APODETI and Indonesia in his testimony to the Reception, Truth and Reconciliation Commission hearings, explaining how he first went to Atambua in West Timor in August 1974 for the purpose of establishing a military

⁵² Indonesia's labelling (on Radio Kupang) of UDT as communist during the second half of 1975, as well as FRETILIN, was also noted by João Carrascalão (in CAVR 2004).

⁵³ Interviewed by telephone, 9th February 2006.

force. This led to the receipt of military uniforms from the Indonesian military, meetings with senior military leaders,⁵⁴ and the commencement in December 1974, of training operations with Indonesian soldiers by around one hundred and ten APODETI members at a camp just outside of Atambua.

As Gonçalves outlines in his testimony (in CAVR 2004), the East Timorese ‘partisans’ were later employed, at least in a symbolic capacity, by the Indonesian invasion force in December 1975. According to Gonçalves, the East Timorese ‘partisans’ were called upon by the Indonesian military to participate in the assault on Balibo that commenced on the night of 15th October 1975 (in which five foreign journalists were killed), as well as with later stages of the invasion.⁵⁵ In his testimony, Gonçalves claims that it was the Indonesians who planned the campaigns and did the fighting, while the East Timorese obeyed and followed them in ignorance of the overall plan. Notwithstanding the minimal involvement of East Timorese ‘partisans’ in the Balibo assault, and indicating the kind of tactics employed by Indonesian strategists, the CAVR commission (CAVR 2005 Part 3:51) found that the guileless ‘partisans’ were rewarded for their attendance at the Balibo attack, by being blamed by the Indonesian authorities for the murder of the five foreign journalists.

Among the more alarming events that unfolded after April 1974, was the tendency of the new political organisations to develop armed wings. In the case of APODETI, as indicated in the account of Tomas Gonçalves above, the organisation was seeking to organise military training for its members within three months of its formation. APODETI was not the only political organisation to develop an armed wing, and Nicol

⁵⁴ Including Dading Kalbuadi, who according to Dunn (1996:165,280) was a colonel at the time, but who later became a brigadier-general. In his testimony, Gonçalves also refers to the involvement of the East Timorese ‘partisans’ in an advance from Baucau to Dili to Aileu which took place during the major Indonesian assault on East Timor that commenced in December 1975. According to Gonçalves (in CAVR 2004), ‘the Timorese “partisans” did not kill one Timorese person’ in the course of this advance.

⁵⁵ For further details, see CAVR (2005 Part 8:85-86). The Reception, Truth and Reconciliation Commission determined that around two hundred APODETI followers participated in Indonesian military training programs in West Timor from late 1974 onwards. The Commission found that ‘[t]his training was undertaken for the explicit purpose of preparing for military action within Timor-Leste’, although participants probably had little idea of the particulars of the Indonesian strategy. The Commission noted that the APODETI followers involved, refused a direct request by Portuguese officials to return to East Timor to ‘play a constructive role in the decolonisation process.’

(1978:101,164-165,194-195) makes a number of references to the FRETILIN ‘army,’ or People’s Security Organisation (PSO), that was in existence by the time of his visit in early 1975. According to Nicol (1978:101), the PSO was widely known, and its existence, largely dedicated to opposing support for integration into Indonesia, also gave ‘added strength and credence to Fretilin’s self-appointed image as the dispenser of justice.’ Of great interest in relation to the PSO is Nicol’s claim (1978:101) that the armed wing of FRETILIN was under the direct command of the FRETILIN vice-president, Nicolau Lobato:

The most important element in Lobato’s separate power base was a ‘security’ body he set up on Fretilin’s behalf, but which was directly responsible to himself alone. This was the People’s Security Organisation, otherwise known as the ‘Fretilin Army’. It was much more than just an intelligence body...[and]...not called an army for nothing. Its existence was well known in East Timor, although it was designed as a secret organisation and its membership was difficult to pin down. Its activities included organising Timorese warriors to use strong-arm tactics on some people who were not doing what some people wanted.

The army’s actions were primarily aimed at any one or any group Lobato considered to have engaged in ‘traitorous’ activities. More often than not the army was used against Apodeti...[b]ut neither did UDT escape the army’s attention, particularly around towns like Maubisse where Fretilin conducted a very strong campaign to increase its support.

Although the actions of Indonesia contributed substantially to the development of antagonism between political parties, the Timorese martial heritage must also be considered a major contributing factor to the readiness of the political parties to respond to the evolving political situation with armed force. As subsequent events demonstrated, UDT would soon also resort to this tactic. In Chapter 2 of this thesis, attention was given to the socio-political characteristics of pre-colonial Timorese society, in which a dynamic mosaic of micro-states transformed in accordance with the fortune and initiative of the leaders of armed groups. This socio-political landscape was at last tamed in East Timor (for the most part) by the Portuguese in the early twentieth century, yet the association between the command of armed force and the potential for maintaining or expanding political influence was conserved within the Portuguese colonial system. As descendents of traditional leaders, APODETI’s Tomas Gonçaves, FRETILIN’s Nicolau Lobato, and others who engaged with national politics in 1974, would have understood the rationale of using personal armed forces for the pursuit of political objectives. This heritage can be seen as a factor which contributed to the instability that developed in

1975, and as discussed in later chapters (especially Chapter 6), it continues to play a role in promoting instability in the present day.⁵⁶

Deterioration in UDT/FRETILIN Relations

From the high point in relations between UDT and FRETILIN that had prevailed in the first months of 1975, matters steadily deteriorated amid increasing UDT concern about left-wing tendencies in FRETILIN and as the popularity of FRETILIN appeared to increase. This period was also characterised by followers of the major parties forcing rural travellers to accept membership of their respective parties, and to surrender other membership cards.⁵⁷ Issuing a statement accusing FRETILIN of endangering the internal and political security of the territory, UDT withdrew from the UDT/FRETILIN coalition on 27th May 1975 (Hill 1978:130-131). The East Timor Reception, Truth and Reconciliation Commission (CAVR 2005 Part 3:32) heard from witnesses that the end of the FRETILIN/UDT coalition led to an increase in ‘tension and the threat of violence’, and heralded the commencement of a long estrangement of the parties from one another. By the middle of June, tensions in Oecusse between UDT and FRETILIN had developed to the point that FRETILIN forces staged a mini-coup and briefly took over the enclave. In so doing, FRETILIN became the first of the two major parties to seize power by force. Jolliffe (1978:273) writes in relation to this event, that this action was led by Hermenegildo Alves, a pro-FRETILIN soldier who would later co-lead, alongside Rogério Lobato, the FRETILIN counter-coup against UDT.⁵⁸ Not long after,

⁵⁶ In a notable recent development resembling FRETILIN Vice-President Nicolau Lobato’s cultivation of the FRETILIN ‘army’ in 1975, his brother Rogério Lobato was found guilty, in association with the 2006 violence, of illegally distributing firearms to militias for the purpose of eliminating government opponents (Jolliffe 2007; BBC 2007). As discussed in Chapter 6, Rogério Lobato was Minister of Police and the Interior with the FRETILIN Government at the time of this transgression.

⁵⁷ Domingos de Oliveira (in CAVR 2004) referred to the practise of FRETILIN followers forcing UDT followers to surrender UDT memberships cards and accept FRETILIN cards in the lead-up to UDT’s withdrawal from the coalition. See also Manuel Freitas (in CAVR 2004), whose testimony illustrates the difficulties faced by members of the rural community as they used public roads at times when tensions between the major parties were high; never knowing which party membership cards to produce in order to avoid being assaulted. Nicol (1978:196) also notes that the when the Portuguese commenced staggered elections for chiefs in March 1975, widespread clashes occurred between supporters of UDT and FRETILIN.

⁵⁸ According to Jolliffe (1978:273), the Portuguese sent a ‘negotiating force,’ which arrived at a settlement whereby FRETILIN and UDT would administer the enclave jointly. Hermenegildo Alves, meanwhile, received twenty days imprisonment. It is likely that this event has received less historical commentary

according to Jolliffe (1978:117), armed UDT supporters attended a farewell demonstration for their delegates to the June conference in Macau, and FRETILIN followers threw stones at UDT trucks in response. Illustrating the tragic and futile nature of the evolving conflict between UDT and FRETILIN, it appears that UDT's determination to work towards independence became further consolidated in the course of the Macau conference (Dunn 1996:174), notwithstanding their worsening relationship with FRETILIN.

Jolliffe (1978:117-118) writes that the month of July 1975 was rife with rumours of planned coups, not only by UDT and FRETILIN, but also the small traditionalist KOTA organisation. Also during this month, following the Macau talks, senior UDT representatives visited Jakarta and met with Major-General Ali Murtopo. According to the account of João Carrascalão (in CAVR 2004), the UDT leaders present at this meeting included himself, Domingos de Oliveira and the ardently anti-communist UDT president, Francisco Lopez da Cruz, who is considered to have been coopted by this time to work for the Indonesians.⁵⁹ At their meeting with Murtopo, which bears hallmarks of an Operation Komodo set-up, the UDT leaders were warned of Indonesia's increasing concern about FRETILIN's left-wing tendencies.⁶⁰ Taken in isolation, this information

than it merits, since it indicates that FRETILIN, not UDT, was responsible for the first attempt at attaining power by force.

⁵⁹ See also Dunn (1996:83,87,104-105,148) and Taylor (1991:41,46).

⁶⁰ See also Jolliffe (1978:117-118), whose version of events (in particular in relation to the travel details of the UDT leaders) is slightly at variance with that outlined above. The version of events outlined in the final report of the Reception, Truth and Reconciliation Commission (CAVR 2005 Part 3:40-41) differs again, referring only to the presence of João Carrascalão and Domingos de Oliveira at the meeting with Murtopo, and making no mention of UDT president, Lopes da Cruz. The presence of Lopes da Cruz at the meeting, however, is referred to in the testimony of João Carrascalão (in CAVR 2004) to the Reception, Truth and Reconciliation Commission. Dunn (1996:83,87) has referred to Lopes da Cruz as a 'weak link' who by the time of this meeting had 'already been secretly recruited to the Indonesian cause.' In his recent account of the meeting, João Carrascalão (in CAVR 2004) describes how he and Domingo de Oliveira attended the meeting with Murtopo to find that 'the president of UDT [Lopes da Cruz] was already inside...the President of UDT didn't open his mouth, only I talked.' Carrascalão's account hints at the possibility that Lopes da Cruz was knowingly participating in an event designed to provoke the other UDT leaders into taking action against FRETILIN. Taking Carrascalão's testimony into account, the most complete published accounts of this meeting are likely to include those of Dunn (1996:104-105) and Taylor (1991:49-50). Note that in his writing on the early period of political organisation in Portuguese Timor, Ramos-Horta (1987:29-31) offers brief character assessments of the UDT leaders in attendance at this meeting. Ramos-Horta characterises Domingos de Oliveira as quiet and apparently lacking initiative. Francisco Lopes da Cruz, meanwhile, is referred to as 'a perfect example of a figurehead...[who]...never made any contribution to the party he was supposed to lead. At meetings he remained silent for hours. He

may have exacerbated the UDT leaders' existing concerns about FRETILIN's political trajectory, and spurred them to take action against FRETILIN in order to appease Indonesia and head off a possible Indonesian invasion. However, both Domingos de Oliveira (in CAVR 2004) and João Carrascalão (in CAVR 2004) also indicate in their testimonies to the Reception, Truth and Reconciliation Commission, that when they stopped in Kupang on their return from Jakarta to Dili and met with Colonel El Tari, governor of Nusa Tenggara Timur⁶¹(NTT), they were told that Indonesia would invade East Timor regardless of FRETILIN.⁶² That the UDT leaders had already been warned of an impending and inevitable Indonesian invasion, makes their decision to return to Dili and launch a coup aimed at eradicating leftist FRETILIN extremism more difficult to understand. This is precisely what they did, however, prefaced by a demonstration held on 27th July 1975 calling for key communists to be expelled from East Timor.⁶³ In respect to this outcome, and the extent to which exaggerated political rhetoric by both parties contributed to it, Gunn (1999:275) makes the following observation:

At a junction when the two parties stood to gain more by solidarity in the face of a common enemy, it is especially tragic that such spurious ideological claims fuelled civil war, bloodshed, and a bitter legacy of recriminations down until the present.

The Reception, Truth and Reconciliation Commission (CAVR 2005 Part 3:41) noted the emphatic claim by UDT leaders that the aim of the UDT coup attempt launched on the evening of 10th August 1975 was 'not to take power but to redirect the decolonisation process which UDT believed had been hijacked...and to pre-empt a coup planned by Fretilin, allegedly planned for 15 August.' The Commission also concluded that while the testimonies of key participants threw light on some aspects of the UDT coup, 'many unanswered questions remain.' Whereas the objective of the UDT coup may have been to curtail extremist tendencies in FRETILIN, it had the ultimate effect of appearing to

could not formulate a single coherent thought or idea.' Of João Carrascalão, Ramos-Horta comments that he was 'the brains behind UDT...whose major problem was that he was stubborn.'

⁶¹ The Indonesian province of East Nusa Tenggara, of which Kupang in West Timor is the capital.

⁶² See also CAVR (2005 Part 3:40-41).

⁶³ See Nicol (1978:302), according to whom the expulsion call applied to FRETILIN cadres Roque Rodrigues and António Carvarino; and Portuguese Majors Mota and Jonatas. Nicol writes that '[m]atters almost reached a flash point' as a consequence of the demonstration, and refers to the account of a Portuguese administrative official claiming that fifty FRETILIN men were on the street the next day bearing Portuguese-supplied G-3 (automatic) rifles.

provide some legitimacy to an Indonesia invasion. With respect to the role of Indonesian players in promoting factors contributing to the coup attempt, Dunn (1996:106) has remarked that there ‘is little doubt that the subversive and disinformation activities mounted by Murtopo’s *Operasi Komodo* command, against the background of Jakarta’s looming threat, were indirectly responsible for the sharp deterioration of the political situation in East Timor between May and August, and for UDT’s precipitate “show of force” which led to the civil war.’ Yet whatever the role of Indonesian meddling in corrupting elements of the UDT leadership, exaggerating FRETILIN left-wing ideologies, fabricating news stories, training pro-Indonesian militias, and undertaking behind-the-scenes negotiations in the international arena, the recent testimonies to the Reception, Truth and Reconciliation Commission show 1975 political leaders to be aware of how they contributed to the escalating crisis themselves by failing to develop mechanisms for resolving their differences peacefully.⁶⁴ Future generations of East Timorese political leaders would do well to learn from the events of 1975, in order that East Timor be less vulnerable to future destabilisation strategies (internal as well as external) which exploit traditions of armed rebellion.

The UDT Attempted Coup d’etat

Along with subsequent events and the broader political context, the UDT attempted coup that unfolded on the evening of the 10th August 1975, has been subjected to analysis in a number of detailed accounts. These include descriptions by Jolliffe (1978:120-143), Taylor (1991:50-65), Dunn (1996:150-158) and CAVR (2005 Part 3:40-45).⁶⁵ Specific responsibility for the coup attempt has been attributed (Dunn 1996:150) to João Carrascalão, who (in CAVR 2004) has claimed that ‘the movement of 11 August’ was neither ‘an anti-Fretilin movement’ nor aimed at taking power. According to TAT pilot Roger Rudduck,⁶⁶ who along with another Australian (Randall Riseley)⁶⁷ assisted in

⁶⁴ See for, example, FRETILIN’s Marí Alkatiri (in CAVR 2004) and UDT’s Mario Carrascalão (in CAVR 2004). Meanwhile, first FRETILIN president Francisco Xavier do Amaral observed in relation to the 1975 events, that ‘we were not well prepared...our blood was hot...this is part of our character.’

⁶⁵ See also the personal account of Gusmão (2000a:21-31), in which he describes his arrest by the pro-UDT Portuguese police chief and incarceration by ‘familiar [UDT] faces.’ Gusmão notes (2000a:29) that ‘[m]ost of the UDT were drunk’, at the time he was held at the UDT headquarters.

⁶⁶ Interviewed by telephone, 9th February 2006.

preparations for the UDT coup attempt, the reason why the movement was launched on the evening of 10th August 1975 (a Sunday) was because José Ramos-Horta was booked to return to Dili from Darwin on the next mornings' TAT flight, and UDT leaders were completely convinced that FRETILIN were planning on launching their own coup immediately upon Ramos-Horta's return to East Timor.⁶⁸ Although it is difficult to know whether or not FRETILIN would have actually undertaken such an action, it is possible to imagine how UDT may have arrived at this conclusion amidst the heightened political sensitivities of the moment, influenced by a worldview in which political ascension is associated with the use of armed force.

An early component of the UDT action involved the arrest of the Portuguese police commander, Lieutenant Colonel Rui Maggiolo Gouveia, who in actuality appears to have been a key UDT supporter (Nicol 1978:302).⁶⁹ Historical accounts (Jolliffe 1978:120; Dunn 1996:150-151) based on statements made by João Carrascalão at the time, indicate that the police commander was ostensibly held hostage after being invited to UDT headquarters, while a UDT emissary visited the police barracks and threatened Maggiolo Gouveia's death unless the police supported the coup. With the support of the police⁷⁰ and with the police arsenal at their disposal, UDT coup participants then seized strategic sites, including several key road junctions, the water station, the Marconi

⁶⁷ See Jolliffe (1978:136,138), who suggests that Randal Riseley, a friend of the Carrascalãos who worked for the SAPT company, may have been involved in planning the coup. According to Roger Rudduck (interviewed by telephone, 9th February 2006), Riseley spent about six hours per day working for SAPT, and his main activity in the period leading up to the coup involved completing the construction of a boat using local teak.

⁶⁸ See also Dunn (1996:150), who makes reference to rumours circulating among members of each of the main parties in the days before the UDT action, suggesting that the other party was on the brink of launching a coup. A further account of the events that transpired at this time is presented by Ramos-Horta (1987:44-45).

⁶⁹ By the 13th August 1975, Lieutenant Colonel Maggiolo Gouveia had declared himself pro-UDT and was later seen participating in UDT security activities (Jolliffe 1978:123,128).⁶⁹ Later, as hostilities began to increase in scale, Roger Rudduck, the TAT pilot who assisted UDT with aerial support, recalls 'the half-mad police chief' attempting to install a mortar in the rear of a TAT aircraft, from which it had to be removed, for safety reasons, in favour of adapted rifle-grenades taped into beer glasses (see main text, below). Later still, after FRETILIN forces had gained the advantage over UDT, Colonel Maggiolo was taken prisoner by FRETILIN. He was held first in Dili, then in Alieu, and then executed by FRETILIN in December 1975 (CAVR 2005 Part 7.2:22).

⁷⁰ The accounts of Jolliffe (1978:120) and Taylor (1991:50) suggest that ninety per cent of the police supported the UDT coup attempt. The account of Dunn (1996:150) is less definitive.

communications facility and the airport (with its control tower and radio equipment).⁷¹ They also surrounded the governor's palace and the Taibesse military barracks, although they did not seal the latter site off (Jolliffe 1978:20-21; Taylor 1991:50-51; Dunn 1996:150-151; CAVR 2005 Part 3:41). According to Roger Ruddock, who operated the radio in the control tower at Comoro Airport (outside of Dili) for UDT coup organisers, messages were then sent to the Darwin Base Commander and the Darwin Airport Flight Services Unit to advise that a coup had taken place and that it was unsafe for the TAT F27 flight from Darwin to land at Dili. Through this action, UDT plans to thwart the return of Ramos-Horta were realised.⁷²

In the days following the coup, UDT forces launched incursions against FRETILIN areas⁷³ and commenced detaining individuals thought to be FRETILIN supporters across the country. As well as having the support of the majority of the police force, UDT also gained the support of some military units, including the Lospalos and Baucau companies (CAVR 2005 Part 3:42). The Reception, Truth and Reconciliation Commission (CAVR 2005 Part 8:80) has found that over the course of the 'internal armed conflict' that developed between UDT and FRETILIN in later weeks, nine hundred and fifty individuals were arrested by UDT, of which one fifth were arrested on the first day of the action and a further fifth over the next ten days. The Commission found that over the course of the conflict, UDT arrested FRETILIN supporters in all districts except for Oecusse, and its findings indicate (CAVR 2005 Part 8:81-85) that acts of torture and 'unlawful killings' commenced at an early point following the initiation of the coup attempt. These included, on 11th August 1975, the killing of a FRETILIN supporter in Same, and the arrest, detention and severe beating of others. In the strongly UDT sub-

⁷¹ Several accounts (Jolliffe 1978:121; Taylor 1991:50) indicate that the Marconi communications facility was used by Roger Ruddock for communicating with Darwin in the days following the coup. In interview (by telephone, 9th February 2006), however, Ruddock stated that he used the radio located in the control tower at Dili airport for communicating with Darwin.

⁷² Jolliffe (1978:121) writes that radio messages sent to Darwin around this time (by Ruddock) requested assistance to prevent 'Communist Portuguese Army officers' from 'attempting to massacre the population to make them surrender,' and also asked that 'the base commander also contact Guam.' Ruddock (interviewed as above) recalls making reference to a communist threat, but denies making requests for Guam to be contacted.

⁷³ According to Jolliffe (1978:123), these included a FRETILIN camp at Bucóli near Baucau, which UDT followers took over on 13th August 1975, arresting senior FRETILIN cadre Vicente dos Reis (considered dangerously left-wing by UDT), among others.

district of Liquiça⁷⁴ to the west of Dili, members of UDT were responsible for the deaths of thirteen or more people in a range of incidents across a number of *sucos* between 11th and 13th August 1975. Three of the victims were beheaded, with two of the heads displayed outside the homes of local political leaders (FRETILIN and UDT respectively). In the nearby district of Ermera, also a UDT stronghold with a strong coffee plantation sector, the Commission found that three FRETILIN officials were killed by UDT members in three different sub-districts between 11th and 15th August 1975. In Dili, according to Jolliffe (1978:122), ‘two or three deaths’ occurred on the night of the coup, at which time UDT militia members (often children) commenced street patrols, preventing people from leaving their houses.

The main actors on the political stage in East Timor in August 1975 reacted to the new post-coup environment according to their respective agendas and predicaments. Early on the morning of 11th August 1975, a meeting took place between João Carrascalão and Governor Lemos Pires at which Carrascalão advised the Governor that UDT intended to oust communists from FRETILIN, as well as from the colonial administration⁷⁵ (CAVR 2005 Part 3:41). According to Dunn (1996:151), who later discussed the matter with João Carrascalão, the coup leaders’ intention was to ‘force Fretilin into talks, to expel from East Timor the more radical elements of that party, and then set up an anti-communist coalition that would head off Indonesian moves to intervene.’ Several days after the initial action on the morning of 13th August 1975, UDT leaders made a further announcement of their demands. According to (Jolliffe 1978:123-124), these included ‘[a] meeting with the moderate members of FRETILIN to work together to constitute a movement for independence,’ as well as further calls for the expulsion of communists from East Timor. On this same day, UDT established an organisation dedicated to ‘unity, independence and anti-communism.’ This was called the *Movimento para*

⁷⁴ Liquiça sub-district is the district-centre sub-district of the broader Liquiça district.

⁷⁵ According to Jill Jolliffe (1978:121-123), UDT were particularly concerned that Majors Mota and Jonatas, both members of the Decolonisation Commission and considered communist sympathisers, be expelled from East Timor. Jolliffe (1978:23) writes that UDT threatened Governor Lemos Pires that UDT would mortar the Dili wharf area (where the family members of Portuguese administration officials were boarding a vessel for evacuation) if the Governor did not accede to this demand. The two majors were sent to Lisbon on 17th August 1975, ‘ostensibly to keep the central government abreast of developments in Timor-Leste’ (CAVR 2005 Part 3:42).

Unidade e Independência de Timor-Leste (MUITD), or Movement for the Unity and Independence of the Timorese People) and was envisaged as an umbrella organisation that would replace all existing pro-independence parties (CAVR 2005 Part 3:40-41). A further development that occurred following the coup, was that Francisco Lopez da Cruz was put under house arrest by João Carrascalão and Domingos de Oliveira, who now suspected that Lopez da Cruz was working with Indonesia (Dunn 1996:151).⁷⁶ Roger Rudduck's recollection of this event is that the detention of the UDT president was undertaken in a very low profile manner, probably to avoid creating alarm among the UDT support base at such a sensitive time.

Dunn (1996:150) has asserted that in the days before the coup, members of the Portuguese administration had been approached by representatives of both UDT and FRETILIN, each claiming the other party was planning a coup. The former governor (Lemos Pires in CAVR 2004), however, claims that he had no prior warning of the UDT action.⁷⁷ In his testimony to the CAVR, Lemos Pires indicated that once he heard of the coup attempt, the options available to him to control the situation were limited. Whereas the East Timorese colonial force under his command could theoretically have been used to stabilise the situation following the UDT coup attempt, in reality these troops were more 'a factor of insecurity', than a factor supporting security. Although well trained, Lemos Pires found members of the East Timorese military to be as caught up in the politics of the day as members of the wider community,⁷⁸ with the result that the governor was left with only several Portuguese paratrooper units (totalling around seventy soldiers) on which he could depend.⁷⁹ Lemos Pires asserts that as governor, he was concerned to avoid the outbreak of hostilities between Portuguese and East Timorese. In his recent testament, he pondered the possible consequences, had 'the Portuguese governor...made a political alliance with one of the parties in the middle of a

⁷⁶ According to Dunn (1996:151), Lopes da Cruz later escaped with the assistance of APODETI and the Indonesian consul, and was taken to West Timor. See also Taylor (1991:52).

⁷⁷ See also Dunn (1996:150), Taylor (1991:51) and Nicol (1978:202-203).

⁷⁸ As Jolliffe (1978:127) points out, and as subsequent events revealed, there was strong support for FRETILIN among the East Timorese troops. In his testimony, Lemos Pires (in CAVR 2004) elaborated on his inability to interfere in the coup militarily using the colonial troops, stating that 'I believed that my orders would not have been followed.' See also CAVR (2005 part 3:43).

⁷⁹ According to his testament, the former governor (Lemos Pires in CAVR 2004) had requested two companies of paratroopers from the Portuguese government, but this request was only partly met.

decolonisation process.’ Had the Portuguese administration cooperated with UDT for the purpose of fighting communism, observed Lemos Pires, ‘[t]he most likely result would have been for Fretilin to run to the mountains and start a guerrilla war.’⁸⁰ And had the Portuguese administration been seen to cooperate with FRETILIN against UDT, Indonesia would have had clear evidence of a communist conspiracy. It was in accordance with this reasoning, Lemos Pires explained, that the remainder of the Portuguese administration eventually withdrew, without explanation, to the island of Atauro to the north of Dili.⁸¹

Commentators (Jolliffe 1978:127; Dunn 1996:152; CAVR Part 3:43) have noted that during the decolonisation phase, the Portuguese administration emphasised the principle of *apartidarismo*, whereby members of the armed forces should remain distanced from politics. This strategy proved unsuccessful in East Timor following the UDT coup attempt. As Jolliffe (1978:127-128) suggests, UDT’s activities in the week following the coup, including the shooting of several prisoners in the UDT gaol and other killings (such as those referred to above), would have made the prospects of continued *apartidarismo* increasingly remote. Albeit under-resourced and themselves under pressure to respond to UDT demands (particularly for the expulsion from East Timor of the Portuguese Majors Mota and Jonatas), the Portuguese also failed to appoint a politically neutral envoy to the task of making contact with the FRETILIN leaders. Instead, they chose Rogério Lobato, a junior officer with the Portuguese military, brother of FRETILIN Vice-President Nicolau Lobato, an active FRETILIN supporter⁸² and a man who would co-lead the FRETILIN counter-coup as a commander of

⁸⁰ See also Taylor (1991:55).

⁸¹ According to the CAVR (2005 Part 3:42-44), the Portuguese withdrawal occurred on the night of 26th August 1975. Since 18th August 1975 however (one week after the UDT coup attempt), the skeleton crew of the Portuguese administration that remained in Dili had been confined to the wharf-side suburb of Farol. Gunn (1999:275) cites a diplomatic cable from the Portuguese president, Costa Gomes, received by Governor Lemos Pires on 26th August 1975, instructing the Governor to leave Dili to eliminate the possibility of being taken hostage.

⁸² Rogério Lobato had already been instrumental in coordinating pro-FRETILIN student activities (Nicol 1978:100-101).

FRETILIN's armed wing, the *Forças Armadas de Libertação Nacional de Timor-Leste* (the Armed Forces for the Liberation of East Timor, or FALINTIL).⁸³

As developments unfolded, a number of important alliance shifts were coming to light, reminiscent of earlier periods of Timorese history. The erstwhile leader of UDT, Francisco Lopez da Cruz, was finally found to have shifted his alliance to an Indonesian-integrationist position. Meanwhile, Rogério Lobato, a serving member of the Portuguese military, was about to use his mission on behalf of the Portuguese administration to help organise a FRETILIN counter-coup. Yet it would be unfair to suggest that alliance-shifting or violation of the principle of *apartidarismo* was uniquely demonstrated by East Timorese political players on this occasion, as demonstrated by Portuguese Police Chief Maggiolo Gouveia's decision to side with UDT.

The Organisation of the FRETILIN Counter-Coup

With advance warning of the UDT action,⁸⁴ a core of FRETILIN leaders had left Dili and gone to the mountain town of Alieu to the south of Dili, at that time a FRETILIN stronghold and the site of a Portuguese military barracks (Jolliffe 1978:120-121,129-131; CAVR 2005 part 3:41). Rogério Lobato was first sent to the mountains by the Portuguese administration on 11th August, for the purpose of initiating negotiations with FRETILIN leaders. Whereas he returned the next day with a list of demands from the FRETILIN leadership, and went on further negotiation missions to the mountains for the Portuguese administration, Rogério Lobato's activities over the course of the week also included consolidating support for FRETILIN among the military, in collaboration with the FRETILIN Central Committee (Jolliffe 1978:122,129-131). The Reception, Truth

⁸³ FALINTIL was formed on 20th August 1975, as FRETILIN prepared to counter UDT's coup attempt. Rogério Lobato became a FALINTIL commander, and later defence minister after FRETILIN's declaration of independence on 28th November 1975. Along with José Ramos-Horta and Mari Alkatiri, Rogério Lobato left East Timor (for two and a half decades of exile) on 4th December 1975, several days ahead of the Indonesian occupation (Rogério Lobato in CAVR 2004; Rees 2004:2,7). See also CAVR (2005 Part 3:42).

⁸⁴ See also Gusmão (2000a:22-23).

and Reconciliation Commission (CAVR 2005 Part 3:42) has noted, in this respect, that the Portuguese administration's choice of envoy 'backfired' on them.⁸⁵

The list of conditions⁸⁶ made by FRETILIN and received by the Portuguese on 12th August 1975, reportedly included demands for the disarmament of UDT, the entrustment of security to the military, and the cessation by UDT of provocative and hostile activities (Jolliffe 1978:122; CAVR 2005 Part 3:42). By 17th August 1975, the FRETILIN leadership determined that little hope remained of a negotiated solution to the crisis, and set about coordinating their own counter-action to UDT's coup attempt. Their prospects of achieving this objective were enhanced by their success in winning the support of the military units in Aileu and Dili, which they secured with the help of Rogério Lobato (Jolliffe 1978:130-133). The FRETILIN counter-coup was launched in the early hours of 20th August 1975, at the Taibessi military barracks in Dili (CAVR 2005 part 3:42). At an early point, the FRETILIN endeavour was strengthened by access to the Portuguese military armoury, and from this point on, both in terms of trained military personnel and in terms of equipment, FRETILIN now held the upper hand.⁸⁷

In relation to FRETILIN's appropriation of the armoury, Taylor (1991:51) writes that on the 20th August 1975, 'a Timorese corporal named Ponciano, capitalizing on the Portuguese having given him custody of the keys to the Dili barracks and arsenal, opened them to Fretilin supporters in the army, who used the arms against UDT.' Whereas this account may be accurate, Rudduck asserts that the view held by UDT leaders at the time was that the keys to the armoury were deliberately given to FRETILIN by the Portuguese administration, as the administration planned its

⁸⁵ In his testimony to the Reception, Truth and Reconciliation Commission (in CAVR 2004), Rogério Lobato indicated how his perspective in the days following the UDT coup attempt differed from that of the Portuguese administration. From Lobato's perspective, the Portuguese military 'could have restored law and order...but they had to wait for orders from Lisbon...we have asked them, if you give the order we can restore order in Timor, but there was only indecision from them... [I]f Portuguese soldiers had worked with Timorese soldiers, we could have controlled the situation.'

⁸⁶ According to CAVR (2005 Part 3:42) this list included thirteen conditions. According to Jolliffe (1978:122), there were fifteen conditions.

⁸⁷ According to Dunn (1996:157), FRETILIN forces quickly gained access to the armoury. In his account, '[b]y 20 August the Portuguese colony was in the throes of civil war, and more than 2000 Timorese soldiers had left their barracks with their weapons, providing Fretilin with military superiority from the outset.'

withdrawal from Dili.⁸⁸ However FRETILIN managed to gain access to the armoury and appropriate its contents, UDT's discovery that they were doing so led to Roger Rudduck being requested by UDT leaders to bomb the armoury using a TAT de Havilland Dove passenger aircraft.⁸⁹ Is it likely, however, that this action was initiated by UDT at too late a stage to make much difference. Rudduck's account of the subsequent bombing attacks highlight the fact that whereas both sides of the conflict now possessed ample small-arms,⁹⁰ UDT lacked more substantial armaments. According to Ruddock, UDT were limited to generally old and unreliable munitions, with none designed for aerial use. Ruddock recalls devising bombs out of grenades designed for launch from rifles. With their short fuses, the grenades were unsuitable in their original form for dropping out of aircraft. With mixed results, this problem was addressed by removing the safety pins, and keeping the detonation mechanisms depressed while inserting the grenades into beer glasses and taping them into place.⁹¹

The FRETILIN counter-coup led to some weeks of conflict, after two weeks of which FRETILIN was in the ascendancy and UDT was fleeing to the west towards the border with West Timor (CAVR 2005 Part 3:42-44).⁹² The Reception, Truth and Reconciliation Commission (CAVR 2005 Part 7.2:8) considers that between 1,500 and 3000 people were killed in the fighting, and quotes a period report from the International Committee of the Red Cross (ICRC) suggesting that '[t]he majority of victims seem to be non-combatants who it seems have been killed during the street fighting or executed in reprisal from the Fretilin as well as from the UDT.' The ICRC report cited by the

⁸⁸ Brief and inconclusive comment is passed on this matter by Dunn (1996:157), who writes that '[i]t is difficult to support allegations that the Portuguese handed over their armoury to the troops of Fretilin. With only 70 paratroops, another 150 officers and NCOs, and miscellaneous non-combatant troops at its disposal the Portuguese military command was in a helpless and demoralised position.'

⁸⁹ This aircraft is now on display at the Australian Aviation Heritage Museum, in Darwin.

⁹⁰ In this respect, Mario Carrascalão (in CAVR 2004) has observed that a legacy of the Portuguese administration, now distributed respectively among UDT and FRETILIN, was an abundance of firearms; 'so many guns...we couldn't use all of these in five years.'

⁹¹ According to Roger Rudduck, not only did the UDT bombers fail to destroy the armoury, but a box of explosives successfully dropped through the doors of the Dili radio station (after it had been taken by FRETILIN), 'didn't go off, unfortunately.' Ruddock was evacuated from Baucau to Darwin with appendicitis in late August/early September 1975, after he which he worked for the Northern Territory Police Force.

⁹² According to Hill (2002:152), the fighting concluded in Dili around 27th August 1975. Elsewhere (Atabae, Balibó, Liquiçá, Maubara), however, outbursts of fighting continued until 24th September 1975.

Commission also suggests that many of the deaths are likely to have been vendetta killings. Elaborating elsewhere on the aspect of vendetta-related violence, the commission notes (CAVR 2005 Part 3:42) that the ‘highest death toll was in the rural areas, where tensions based on long-standing clan feuds and personal grudges, intensified by more recent militant party ideological divisions, exploded into violence.’ In the course of CAVR hearings, some of the political leaders of the period reflected on how the violence got out of control in unforeseen ways. UDT’s João Carrascalão (in CAVR 2004) stated, in relation to the UDT coup attempt, that ‘we did not want blood to run, we didn’t want violence...[but]...this violent action happened spontaneously from the base.’ Similarly, and again making reference to the vendetta aspect which has been attributed as a factor in much of the violence, FRETILIN’s Rogério Lobato (in CAVR 2004) testified that:

[P]eople entered the prison [after FRETILIN had taken Dili] and beat people...not always because of political reasons – sometimes because of reasons like jealousy about love. But some were truly angry... I was angry because of the death of my young brother Domingos...as a Falintil Commander I could have killed... I did beat Francisco de Oliveira – I could say I did nothing, but I will say this, what I did. But I did not kill Francisco de Oliveira.

Interestingly, one witness to the Reception, Truth and Reconciliation hearings (Mário Carrascalão, in CAVR 2005 Part 3:42) suggested that alliances throughout the course of the conflict were not always ideologically consistent. According to Mário Carrascalão, APODETI members fought with FRETILIN members against UDT forces in some places, but with UDT members against FRETILIN forces in other places. Elsewhere again, APODETI members came up against a *united* UDT/FRETILIN force. Carrascalão’s observation appears to suggest that weaknesses and inconsistencies prevailed in the areas of coordination and even political alignment within each of the various groups, enabling such factors as regional rivalries and vendettas to drive the conflict. Reflecting on the 1975 Civil War, Hicks (1983:22) comments that at this time, ‘Western notions of right wing and left wing, capitalist and communist, were meaningless to the vast majority of the Timorese population.’ Hicks even suggests that ‘old rivalries and loyalties’ dating back to the nineteenth century or longer, may have played a role in fuelling the 1975 conflict.

The Period of FRETILIN Interim Governance: September to December 1975

By early September 1975, with UDT heading west and the Portuguese administration remaining in retreat on the island of Atauro, FRETILIN became the nominal governing authority. Seeking to attract international legitimacy to their administration in the hope of preventing an Indonesian invasion, FRETILIN continued to acknowledge Portuguese sovereignty, and attempted unsuccessfully to resume de-colonisation talks with the Portuguese.⁹³ The Portuguese, however, appeared to be disengaging from East Timor and even in this first month of post-Portuguese administration, the Indonesians were already commencing military operations along the western border.⁹⁴ After approximately three months of nominal authority and increasingly anxious about the need for international support, FRETILIN made what has become known as a ‘unilateral declaration of independence’ in Dili on 28th November 1975 (CAVR 2005:46-56).⁹⁵ Although a public event observed by an audience of several thousand, and involving military parades, ceremonial gunfire and the use of the departed governor’s black Mercedes-Benz, the declaration had been prepared in haste and was made with no official foreign delegations in attendance, although twenty-five countries had agreed to recognise East Timor in the event that independence was declared. Foreign witnesses are said to have amounted to a handful of aid workers and journalists,⁹⁶ and the international media appears to have been notified after the event (Jolliffe 1978:208-220; Scott 2005:12-15; CAVR 2005 Part 3:54-55).

⁹³ Based upon the principle that they had won the internal conflict, FRETILIN wanted the Portuguese to negotiate with them alone. These terms were unacceptable, however, to the Portuguese (CAVE 2005 Part 3:46).

⁹⁴ See, for example, CAVR (2005 Part 3:46).

⁹⁵ See also Gusmão (2000a:36-37).

⁹⁶ Jill Jolliffe (1978:208-220) was present for both the declaration ceremony and the subsequent signing-in ceremony. David Scott, who had just arrived from Australia (on the same plane as FRETILIN Central Committee members Alarico Fernandes and José Ramos-Horta) was only present for the signing-in ceremony, held later in the departed governor’s residence in Dare, above Dili. According to the account of Scott (2005:12-15), the signing-in ceremony was witnessed by himself, Jill Jolliffe, journalist Roger East (executed some days later by Indonesian forces), Melbourne journalist Michael Richardson and retired defence worker Sam Krueger. Meanwhile, Scott recalls that the ceremony was photographed by Xanana Gusmão, who would later achieve prominence as resistance leader before assuming consecutively the positions of president and prime minister of the RDTL.

Meanwhile, the Truth, Reception and Reconciliation Commission (2005 Part 3:44-45) heard how once seeking sanctuary in Indonesian territory, UDT leaders, along with leaders of the APODETI, KOTA and Trabalhista parties, had been immediately pressured to appeal for Indonesian intervention against the unfolding FRETILIN victory.⁹⁷ Later, following the FRETILIN independence declaration on 28th November 1975, Indonesia responded with the ‘Balibo’ declaration, dated 30th November 1975 and bearing the signatures of exiled individuals associated with each of the defeated parties (UDT, APODETI, KOTA and Trabalhista).⁹⁸ Subsequently used for Indonesian propaganda purposes (Republic of Indonesia 1977:73-74), the ‘Balibo’ document declared ‘the independence and integration of the whole former colonial Territory of Portuguese Timor with the Republic of Indonesia, which is in accordance with the real wishes of the entire people of Portuguese Timor.’ The declaration also called for Indonesia to take action to mitigate ‘the terror and fascist practices of the FRETILIN gang, armed and supported by the Portuguese Government.’

As is clear from the earlier discussion concerning APODETI’s involvement in Indonesian military activities in the west of East Timor, and as Jolliffe (2001) has highlighted in her recent book titled *Cover-Up: The Inside Story of the Balibo Five*,⁹⁹ the Indonesian assault on East Timor had already commenced well over a month before the ‘Balibo’ declaration was signed,¹⁰⁰ although the full-scale invasion of Dili and other parts of East Timor, undertaken by the Indonesian military with ruthless violence and indiscriminate killing, was not launched until the morning of 7th December 1975.¹⁰¹

⁹⁷ According to CAVR (2005 Part 3:45), Indonesian officials began (successfully) pressuring members of these parties to petition for Indonesian assistance in early September 1975, in the western (East Timor) border towns of Suai, Maliana and Batugade..

⁹⁸ See also Ramos-Horta (1987:186-187) for commentary on this matter. Concerning the signing of the declaration by UDT members (Domingos de Oliveira and Francisco Lopes da Cruz, the latter of whom was already known to have changed sides), Ramos-Horta writes that ‘[i]t is significant that the UDT leaders who stayed behind in Dili denounced their comrades’ action. UDT’s platform called for the independence of East Timor, and whatever support UDT enjoyed...was based on the party’s original platform.’ Of further note in relation to the ‘Balibo’ declaration is that the signatures of some of the party ‘representatives’ are misplaced under the wrong party headings. Presumably the minor detail of who belonged to which party was not important to the Indonesian organisers of the signing ceremony.

⁹⁹ See also Ball and McDonald (2000).

¹⁰⁰ See also CAVR (2005 Part 3:46).

¹⁰¹ Descriptions of the invasion include those by Dunn (1996:247-259), Jolliffe (1978:1-11,223-232), Gunn (1999:286-288), Gusmão (2000a:38-39), Scott (2005:27-28) and CAVR (2005 Part 3:60-67).

The invasion of East Timor concluded a three month period during which FRETILIN, in the absence of the erstwhile colonial authority, had been abruptly faced with the need to exercise authority over a range of administrative activities. This period can be identified as the first period in the history of East Timor during which a form of national post-colonial self-government prevailed, notwithstanding the fact that Portuguese sovereignty was still symbolically recognised by FRETILIN. A number of published accounts contain discussions concerning this FRETILIN ‘interregnum’ period, including Dunn (1996:184-194), Hill (2002:145-163), Gunn with Lee (1994:101-102), Gunn (1999:270-273), Taylor (1991:54-58) and CAVR (2005 Part 3:46-52).¹⁰² The extraordinary circumstances prevailing throughout the FRETILIN ‘interregnum,’ as well as its brevity, make a detailed assessment of FRETILIN’s administrative capacity during this period difficult. Furthermore, as some commentators (Dunn 1996:186; Hill 2002:156) have highlighted, the ability of FRETILIN to exercise initiative during this period was stymied by their hope and expectation that the Portuguese would return to resume oversight of both public administration and decolonisation activities. Notwithstanding these aspects, a review of some of the developments and commentary associated with this period provides insight into factors which continued to impact upon politics and governance in East Timor in the present day.

The accounts of the FRETILIN ‘interregnum’ (referred to above), describe how, in the aftermath of brief civil war and in the face of increasing Indonesia aggression, the FRETILIN interim administration faced a number of pressing issues. These included: food shortages in a number of urban centres; a fiscal crisis arising from the closure of the Portuguese BNU (*Banco Nacional Ultramarino*), causing currency shortages within the territory; the requirements associated with supporting and processing several thousand prisoners captured in the course of the conflict; an urgent need to advance diplomatic initiatives, and; Indonesian incursions on the western border.

¹⁰² See also ACFOA (1975), and the personal account of Gusmão (2000a:31-37).

According to an assessment undertaken by the Australian Council for Overseas Aid (ACFOA) during the FRETILIN 'interregnum' period (ACFOA 1975:4,7), eighty per cent of East Timor's three-to-four thousand professionals and administrators (East Timorese and expatriate) fled in the course of the civil conflict (many for foreign destinations), leaving the country short of skilled workers.¹⁰³ Responding to the sudden power vacuum, FRETILIN expanded its central committee with representatives from the various regions as well as an increased representation from the military. The later reflected (CAVR 2005 Part 3:49) 'the military's influence after the internal conflict.' In October 1975 as Indonesian aggression intensified, it was observed by the leader of the ACFOA assessment, James Dunn (in ACFOA 1975:18) that the influence of the 'military men' was being exaggerated further, as it became clear that 'the survival of Fretilin and the prevention of forced integration into Indonesia will depend on their military genius.' In Dunn's view, the increasing dominance of the 'military men' had the effect of reducing FRETILIN's willingness to engage in negotiations with Indonesia, Portugal and UDT, a course which may have been followed had more moderate leaders such as Xavier do Amaral, José Ramos-Horta and security chief Alarico Fernandes had more authority.¹⁰⁴

In order to govern the territory, FRETILIN established 'Regional Committees' to administer each of the districts and, by the middle of September, had introduced an 'Executive Committee' to supervise an interim government comprising thirteen departments (CAVR 2005 part 3:49). Dunn (1996:186) explains the FRETILIN interim administration model as follows:

¹⁰³ See also Dunn (1996:184) and CAVR (2005 Part 3:49). This development would, of course, be repeated in the wake of the Indonesian withdrawal in 1999 (see Chapter 5).

¹⁰⁴ In this regard, Taylor (1991:57-58) observes that over the course of the three-month period of FRETILIN governance, the increasing military pressure from Indonesia influenced 'an ascendancy of the Lobato group, which had always had closer ties with the military.' Note also in relation to the comments by Dunn (in ACFOA 1975:18) referred to above, that he also refers to the 'military men' as a 'conservative' influence. Hill (2002:150) correctly remarks that without further interpretation, the meaning of this is unclear. The interpretation offered by Hill (2002:151) is that the 'military men' are likely to have been conservative in relation to their 'commitment to the maintenance of a hierarchically structured' army, where FRETILIN political leaders favoured a military system where ranks were abolished and leaders elected. In relation to Alarico Fernandes, see also note 113 this chapter.

The Fretilin government was designed essentially to be a temporary one. The leaders acknowledged that the movement lacked the personnel and experience to conduct the affairs of an independent state, and they therefore called on the Portuguese to return and resume the decolonization program... In the meantime, pending a negotiated settlement with the Portuguese, the Central Committee of Fretilin was to function as the government, through a number of commissions. A kind of 'troika' principle was applied, with each commission being administered by a member of the Central Committee, a member of Falintil... and a 'technocrat.'¹⁰⁵

An important commission responsible for overseeing a number of departments was the 'Commission for the Control and Supervision of the Economy.' This agency, which has featured prominently in the accounts of commentators (Dunn 1996:186; Hill 2002:55-57; CAVR 2005 Part 3:49; Jolliffe 1978:162-164; Scott 2005:19), was jointly run by the economist Dr José Gonçalves (son of APODETI leader Guilherme Gonçalves),¹⁰⁶ FRETILIN Central Committee member Juvenal Inácio and FALINTIL representative Domingos Ribeiro. This commission was involved in coordinating the delivery of aid supplies (in collaboration with donor agencies) and organising for workers with the interim administration to be reimbursed for their services in-kind, as a consequence of the currency shortages.¹⁰⁷ A further initiative by FRETILIN aimed at overcoming the fiscal crisis was the establishment of a number of trading-centres for the bartering of goods (ACFOA 1975:9).

As noted by aid officials at the time¹⁰⁸ as well as in more recent literature (CAVR 2005 Part 3:49), the subsistence nature of the East Timorese economy meant that most of the country was in the fortunate position of being self-sufficient in relation to food production. Additionally, even now, routine administration in East Timorese villages is

¹⁰⁵ Elsewhere, Dunn (1996:189) elaborates on the rationale of the FRETILIN administrative model, explaining that '[t]he new breed of field commanders, on whom the very survival of Fretilin now depended, made it clear that they wanted to be consulted in all major areas of government, hence the evolution of the 'troika' principle.

¹⁰⁶ The extent to which senior officials of the various conflicting political parties were related to each other, highlights yet again the tragedy of the period. According to Scott (2005:19,383), José Gonçalves was also Nicolau Lobato's brother-in-law. Later, José Lobato, the orphaned child of Nicolau Lobato and his wife Isabel (executed during the invasion by the Indonesians) was to be brought up by the Gonçalves family. In a similar vein, FRETILIN leader Ramos-Horta (1987:3) writes that he was himself both the brother-in-law and friend, of UDT leader João Carrascalão (to whom Ramos-Horta's sister, Rosa, was married).

¹⁰⁷ See Hill (2002:156-158).

¹⁰⁸ Based on his visit to post-coup East Timor with the ACFOA mission, Father Mark Raper (in ACFOA 1975:4) concluded that '[t]he subsistence economy sector [was] proving itself fairly war-proof,' although food supplies had been seriously disrupted in places by inter-family and inter-tribal conflicts.

still largely undertaken independently of government.¹⁰⁹ These factors are important to appreciate to avoid over-estimating the level of public administration required in a country with an overwhelmingly subsistence population of under 700,000,¹¹⁰ since in many areas of governance, the cessation of service-delivery would have had little impact on daily life for the majority of East Timorese. In this environment where national governance represented an overlaying and relatively weak tier of administration atop a series of largely autonomous *sucos*, different public administration portfolios appear to have fared variously. ICRC personnel, supported by East Timorese medical staff, operated hospital and medical services in Dili and Baucau and organised ‘itinerant missions’ in the districts (ICRC 1975:16). Other health services were provided by the Australian Society for Inter-Country Aid (ASIAT). The public education system, meanwhile, ‘came to a virtual standstill’ due to lack of personnel (CAVR 2005 Part 3:50).

Notwithstanding the subsistence economy, a number of urban centres were experiencing food shortages due to the civil conflict. A summary of the situation by the ICRC (1975:17) stated that ‘East Timor was no longer receiving its normal supplies of food, and shortages were developing. These did not reach dangerous proportions however. The ICRC dealt with local needs but distribution of food continued to be limited.’ ACFOA also provided aid at this time, which was distributed with the assistance of the interim East Timorese public service. The assessment of Dunn (1996:188), based on his experience with the ACFOA mission and widely referred to elsewhere, credits the FRETILIN interim administration with reasonable competence in relation to aid delivery and a number of other areas, asserting that already in the early stages of the ‘interregnum’,¹¹¹ ‘the wounds of war seemed to be healing speedily. The economy appeared to be slowly recovering and the Fretilin administration was being surprisingly effective in the distribution of food, and in the restoration of law and order.’

¹⁰⁹ This is discussed further in Chapters 5 and 7.

¹¹⁰ See Dunn (1996:3) for a summary of population estimates for Portuguese Timor at this time.

¹¹¹ Dunn (1996:188) divides the ‘interregnum’ period into two phases. The first phase was characterised by post-victory ‘hope and enthusiasm’, and lasted until Indonesian aggression began to intensify in mid-October. The second phase lasted from mid-October until the December invasion.

When the Indonesian invasion of 7th December 1975 forced FRETILIN leaders into the mountains or into exile overseas, or resulted in them being captured or killed, FRETILIN's aspirations to preside over decolonisation and reshape the territory in accordance with their program were thwarted. Perhaps influenced by the barbarous nature of the subsequent Indonesia invasion and occupation, and the shameful failure of the international community to support humane decolonisation in East Timor¹¹² and prevent Indonesian aggression against it, commentary on the FRETILIN vision that might have been realised, has sometimes been glowing.¹¹³ In this respect, Gunn (1999:268) has suggested that the extraordinarily advanced nature of the FRETILIN vision, was itself a factor that contributed to its own downfall:

Arguably, it was the Jesuitical skills of the Timorese nationalist elite that Indonesia and the West together found so threatening as much [as] the brilliant development anti-model that Fretilin sought to construct in the half-island. Nothing in the range of Indonesian (or Australian) historical experience could grasp the sophistication of Fretilin's model.

As sophisticated as the FRETILIN model may have been, however, uncertainty hangs over the question of how effectively it would have been implemented had East Timor, under FRETILIN, achieved sustained independence at that time. Although it appears that the financial aspects of an independent East Timor in 1975 could have been surmounted

¹¹² A considerable bank of literature has rightly highlighted the moral failings of Indonesian leaders and those on the international stage who either actively supported Indonesia's 1975 invasion of East Timor or failed to intervene to prevent it. This includes works by Gunn with Lee (1994), Gunn (1999:262,273), CAVR (2005 Part 8:87-93), Dunn (1996), Taylor (1991), Jolliffe (1978), Jolliffe (2001), Scott (2005), and Simpson (2005).

¹¹³ Some of the less attractive aspects of the FRETILIN interim administration also appear to have been glossed over at times. Taylor (1991:57), for example, writes that FRETILIN permitted the ICRC 'free access to all prisons during the post-coup period', and notes that 'news of maltreatment would have surfaced quickly if it had occurred.' In fact, some UDT leaders were beaten while in FRETILIN custody and this was referred to by writers including Dunn (1983:210-211,216) and Ramos-Horta (1987:56) some years prior to the publication of Taylor's book. The most recent information on this matter, based on testimonies to the Reception, Truth and Reconciliation Commission (CAVR 2005 Part 8:79), suggest that 'members of the Fretilin Central Committee were directly involved in or witnessed the torture and killing of prisoners during and after the internal armed conflict and took no action to halt it.' Note also that the FRETILIN security chief of the 'interregnum' period, Alarico Fernandes, was later accused (see Niner, in Gusmão 2000a:22) of massacring UDT prisoners following the Indonesian invasion. Both Fernandez and Hermenegildo Alves have been referred to by Gusmão (2000a:32) as 'real executioners with a frenzied thirst for vengeance.'

relatively easily,¹¹⁴ the initial assessment of James Dunn's ACFOA team (ACFOA 1975:16) suggests that severe capacity deficiencies would have had to be overcome:

Although Fretilin's position in East Timor appears strong, its strength may rest largely on the support it has been able to muster from the population at large, rather than on its performance in administration. I have been impressed with most Fretilin leaders in terms of their spirit of dedication, their will to resist an invasion, even in face (*sic*) of very little moral support from the outside world and their moderation and tolerance in most social and political matters. Practically all Fretilin leaders are young and inexperienced, and therefore administrative and technical skills are spread very thinly. Professional qualifications are almost non-existent. The results of these weaknesses are weak infrastructure in virtually every aspect of Fretilin's activities. Perhaps the army is best off, with its number of 2 to 3,000 trained soldiers, but only one of them held commissioned rank prior to 10th August. Thus, though the troops fight well, communications are poor, intelligence is weak, and most supporting services virtually non-existent. In administration the Fretilin officials are barely keeping essential services going. Though the leaders seem strongly committed to a just distribution of food and other needs, one cannot but doubt whether their policies are being effectively implemented, through sheer lack of trained personnel.

Dunn (in ACFOA 1975:18) also noted that the FRETILIN leadership structure, with its Central Committee, Executive Committee and Political Military Committee, was 'rather ponderous and clumsy', resulting in 'slow and painful' decision-making. Meanwhile, the additional challenge of maintaining transparent practise arose once FRETILIN assumed office, as highlighted in the following passage by Gusmão, who witnessed this development first-hand (2000a:32):

Members of the Central Committee with three or four cars were taking trips to the beach with their girlfriends. I saw box-loads of '555' cigarettes in a Fretilin member's house. I took a packet and left despondently. It must be the same in all *coup d'état* situations in Third World countries; excesses, privilege-seeking by politicians, discontent within the army, social disorder, uncontrolled paramilitary forces.¹¹⁵

Furthermore, it appears that the sudden reality of autonomous administration was generating a degree of confusion, now that the current of political rhetoric that had been sweeping through East Timor for the previous sixteen months, was moving the population into uncertain territory. There was 'a general mobilisation of forces to defend our homeland which had finally become free,' reflects Gusmão (2000a:33), 'But free

¹¹⁴ According to the 1975 ACFOA assessment (ACFOA 1975:9-10), the East Timor annual budget (over half of which was raised locally) could have been balanced with an annual subsidy of as little as \$2.5 million. This also indicates, of course, the minimal extent of the services provided at this time by the state.

¹¹⁵ Gusmão (2000a:37) also refers to greater temptations with which he was faced, reflecting on how he received 'a new car, taken from a Chinese individual. I exchanged it two days later as I felt uneasy about driving it. Instead, I asked for an old vehicle that had belonged to the colonial government.'

from whom? No one knew for sure. From Portugal? From capitalism or imperialism? From colonialism? Or from itself?’

Based on their performance in repelling border incursions, Dunn (in ACFOA 1975:17) concluded that the ‘experienced and motivated’ FRETILIN/FALINTIL troops were capable of putting up a good fight, but would not be able to resist a full ‘Indonesian backed assault’ (which Dunn envisaged would occur as a naval-backed advance along the northern coast route to Dili). Dunn correctly foresaw that FRETILIN resistance forces would take sanctuary in the mountainous interior, ‘from which they will be able to struggle on as guerrillas for months, even years.’¹¹⁶ This, of course, is exactly what happened following the massive offensive launched by the Indonesian military on 7th December 1975.¹¹⁷

With the outbreak of civil war and the exodus of members of UDT and other non-FRETILIN parties to West Timor, a time-bomb was set that would effectively postpone independence for a quarter century. For a little over three months, as the fuse ticked, the victorious FRETILIN party resisted preliminary Indonesian advances and endeavoured to operate an ad hoc administration. With the support of aid agencies and heavily reliant on the few technocrats available to the government, aid was delivered to several regional centres and a minimum of other government services were provided. The time-frame and the events which subsequently unfolded, prevent a full assessment of how the FRETILIN administration might have developed under different circumstances. However, it is likely that the ad hoc administration would have faced crippling capacity challenges and, as Gusmão’s observations suggest, the need to impose discipline over party cadres tempted to exploit their newfound status and power. There are also indications that the FRETILIN decision-making model would have proved cumbersome.

¹¹⁶ In the ACFOA report completed in October 1975, Dunn (in ACFOA 1975:16-17) predicted that great ‘loss of life and other suffering’ would result from an invasion. He also expressed concern that the invasion of East Timor by Indonesian forces ‘may well mean that the territory will be sealed off while resistance continues’, thereby preventing aid deliveries.

¹¹⁷ According to the Reception, Truth and reconciliation Commission (CAVR 2005 Part 3:61) the resistance force available to FRETILIN included 2,500 professional East Timorese soldiers and 7,000 ‘trained civilians.’ The force was well equipped with North Atlantic Treaty Organisation (NATO) standard equipment, and ample ammunition.

In anticipation of the Indonesian offensive, a number of senior FRETILIN leaders went abroad only days before the full Indonesian assault was unleashed, there to begin a diplomatic struggle for national independence that would last a quarter of a century.¹¹⁸ Other leaders fled into the hills, as Dunn predicted, to lead an armed resistance that would lead to the establishment of ‘liberated zones,’ and last, in some form, throughout the period of the Indonesian occupation. As resistance against the occupation developed into a sustained campaign, new leaders and resistance activists would emerge to join the armed resistance, and a national clandestine network.¹¹⁹ In the course of their participation in this range of resistance activities that lasted throughout the campaign for independence, East Timor’s political leaders would variously have their organisational, political and diplomatic capacity tested and developed. As will be discussed in the next chapter, however, it does not necessarily follow that this process provided East Timor’s new leaders with skills and experience in the area of public administration.¹²⁰

Whereas some members of this first generation of post-colonial leaders would perish in the course of the conflict, some key leaders, including senior UDT member Mario Carrascalão, would participate in the East Timorese provincial government to be established by the Indonesians, while a number would survive to take prominent positions in the government of an independent East Timor that would emerge in the first years of the twenty-first century. Meanwhile, especially in rural East Timor, for reasons discussed in the next chapter, traditional social institutions would remain strong. Founding FRETILIN member Ramos-Horta (1987:14) has observed that ‘[f]ive hundred years of Portugal’s “civilising mission” had little if any impact on Timorese animist religion and culture’, and a corollary of the political inexperience of the East Timorese elite at the conclusion of the Portuguese colonial period, was the continued strength of

¹¹⁸ Most notably, a delegation of three newly appointed FRETILIN ministers left Dili on 2nd December 1975 to raise awareness internationally of East Timor’s plight (CAVR 2005 Part 3:58). This group consisted of José Ramos Horta (External Relations and Information Minister), Marí Alkatiri (Economic and Political Affairs Minister) and Rogério Lobato (Defence Minister). Note that in his published account, Ramos-Horta (1987:101) implies that he, Alkatiri and Rogério Lobato left Dili on 4th December 1975.

¹¹⁹ For detailed information concerning the various political and resistance activities associated with this period, see CAVR (2005 Part 5).

¹²⁰ See Federer (2005:90) for existing commentary on this matter.

the traditional social structure outside of Dili. And far from the Indonesian occupation proving a period during which East Timorese society became uniformly modernised, the harsh and brutal nature of the occupation often caused the East Timorese to seek sanctuary in traditional social and political practices.

Conclusion

Following their emergence in the post-25th April 1975 'Dili Spring' environment as members of a youthful and inexperienced class of aspiring political elites, the first generation of East Timorese political leaders were thrown from the sleepy and lethargic periphery of a declining colonial power, onto treacherous and explosive post-colonial terrain. Subject at times to poor judgement and impetuous behaviour, East Timor's new political class was unable to resist the manipulative and divisive tactics of the Indonesian military. Abandoned by influential near neighbours and powerful members of the international community, and with the new yet weak Portuguese administration lacking the capacity and resolve to undertake peaceful decolonisation, the territory fell victim to Indonesian plotting and internal rivalries and weaknesses. Exaggerated political and ideological posturing, bickering over trivial political differences and simplistic means of expanding support bases all played a role in increasing hostilities between the parties. Normal characteristics of democratic life in other contexts, these features combined to ill effect with the willingness of the various political parties to use martial means to realise political objectives, and the tendency among members of the security forces to align themselves politically.

In the chaos that ultimately resulted from the abrupt collapse of Portuguese authority, recent political alliances and doctrines sometimes blurred, as ancient rivalries emerged and opportunities for retributive killings were created. These developments perhaps indicate, to paraphrase Legge (1964:26-27), what a 'thin flaking glaze' party politics really represented, in the subsistence social context of East Timor at this time. And yet, the political divisions that emerged in the 1974-1975 period have also had enduring and serious consequences which threaten the stability of the RDTL state in the present day. As discussed later in this study (including in Chapter 6), these divisions continue to be

exacerbated by the same connection between political aspirations and martial organisation which featured so prominently in the period following East Timor's 'political awakening.'

Chapter 4

The Indonesian Period: An Assessment of the Consequences for State Development

Introduction

In Chapter 3, the disastrous results of East Timor's initial experience with the possibility of decolonisation were examined. Factors including a lack of international support for independence, a lack of political maturity among key East Timorese players and malicious intervention by Indonesia, combined to see the half-island pass from a non-self-governing territory of Portugal to the target of Indonesian aggression in about twenty months. Despite the reality that considerable territory remained under the control of the resistance until the late 1970s, East Timor was officially declared an Indonesian province on 17th July 1976 (Republic of Indonesia 1977:96-97 Annex XIII), and remained under Indonesian control until September 1999. Over the first five years, as the Indonesian military gradually suppressed resistance forces and exerted administrative control over the territory, the weakened East Timorese armed resistance was complemented by a civilian clandestine movement in which youth and students were pre-eminent, and which became skilled in attracting international support for the independence cause. Ultimately, amid the Indonesian financial crisis that struck Indonesia from 1997, Indonesia's President B.J. Habibie agreed to a referendum on East Timor's future. Following this decision, a series of events unfolded that led to this former Portuguese territory which had spent almost a quarter-century as Indonesia's twenty-seventh province, becoming an independent state.

The present chapter endeavours to achieve two objectives in relation to the Indonesian period. The first is to examine key developments and turning points associated with the invasion and the resistance, so that present-day RDTL governance challenges can be placed in some historical perspective. The second objective is to examine the consequences of the Indonesian period in terms of preparing East Timorese society and East Timorese leaders for independent statehood. In accordance with the theoretical

framework outlined in Chapter 1, therefore, the investigation evaluates the extent to which the Indonesian period ushered the East Timorese out of a socio-political context characterised by subsistence agriculture and ‘traditional authority’ relations, and into a socio-political context characterised by workforce stratification, ‘legal authority,’ and bureaucratic administration. The chapter is divided into three sections. The first section provides an examination of historical developments associated with the invasion and the resistance. The second section discusses social and economic developments in East Timor under Indonesian administration, and concludes that whereas many resources were invested, few meaningful economic and social development outcomes were realised. A final section presents a range of further social-political factors with the capacity to influence governance in the present day.

The Invasion and the Resistance: Developments and Turning Points¹

Development of the FRETILIN Resistance Model

Indonesian forces took until mid-1976 to take control of urban areas, and the main east-west and north-south connecting roads. Meanwhile, outside of Indonesian-controlled areas, FRETILIN cadres established a national network, based on the basic administrative structures that existed throughout the districts and *sucos* of East Timor, and the interim administration that FRETILIN had developed after crushing the UDT coup attempt (CAVR 2005 Part 5:4-6). Military organisation and resistance in this early period was based around FALINTIL members who had returned to their own *zonas* (or sub-districts, equivalent to the Portuguese *postos*) and formed *zona*-based companies. The activities of these companies were technically coordinated by the FALINTIL command structure which was controlled by the Ministry of Defence (CAVR 2005 Part 5:6-7).

The FRETILIN national administration model (for both civil and military affairs) was refined at a FRETILIN Central Committee conference held at Soibada in Manatuto from

¹ See also Budiardjo and Liong (1984:viii-xiv), Taylor (1991:200-213), Niner (in Gusmão 2000a:xii-xvi) and CAVR (2005 Part 5:2-4) for detailed chronological outlines of landmark developments in the progress of the war and the resistance effort.

15th May to 2nd June 1976. At this meeting, the country was divided into six sectors, each under the control of a political commissar.² The political commissars held responsibility for both military and political affairs, and had assistant commissars whose responsibilities included agriculture, education, health, political propaganda and women's affairs. These sectors, from which the Oecusse enclave was excluded, were Ponta Leste (the eastern end consisting of Lautém *região*, or district), Centro Leste (the central east, including Baucau and Viqueque districts), Centro Norte (the central north including Aileu, Dili and Manatuto districts), Centro Sul (the central south including Ainaro and Manufahi districts), Fronteira Norte (north-west areas including the Ermera and Liquiça districts and sections of Bobonaro district), and Fronteira Sul (the south-west of the country including Covalima district and sections of Bobanaro district).

As indicated above, each sector consisted of a number of districts, and each of these districts comprised a number of *zonas*. Each *zona* comprised a number of *sucos*,³ and each village comprised a number of *aldeias* (hamlets).⁴ The FRETILIN resistance structure operated within each of these levels of the national administration, with the appointment of officers (secretaries) responsible for such portfolios as agriculture, education and health and political propaganda (CAVR 2005 Part 5:4-7). Based on what is known of the resistance structure in later years (as discussed later in this chapter and in Chapter 5), it is highly likely that individuals with ritual authority featured prominently in the resistance structure at *zona*, *suco* and *aldeia* level.

Marxism and its Consequences

At a meeting of the FRETILIN Central Committee held in Laline in Viqueque district in May 1977 (which President Xavier do Amaral, a political moderate, *did not* attend),

² All political commissars were members of the FRETILIN Central Committee (CAVR 2005 Part 5:5). See also Niner (in Gusmão 2000a:42). According to CAVR (2005 Part 5:7-8), the introduction of the sector model at the Soibada conference also improved military operations, since it reorganised all *zona*-based companies into a hierarchically tiered (national-sector-district-*zona*) system which gave military commanders at the national, sector, and district levels greater flexibility regarding the deployment of troops.

³ The resistance structure at this level became known as the *nurep* (from *Núcleos de Resistência Popular*, or nucleus of popular resistance).

⁴ The resistance structure at this level became known as the *comcel* (from *Célular da Comunidade*, or community cell).

FRETILIN became a Marxist party (Gusmão 2000a:47-49). Gusmão's description of the meeting includes reference to 'arduous, passionate discussions' that took place 'interminably', facilitated by a humourless organ called the *Departamento de Orientação Política e Ideológico*, or Department of Political and Ideological Orientation. As subsequent developments (see below) indicated, the adoption of Marxism was accompanied by the promotion of several prominent left-wing FRETILIN cadres to senior positions in the party, and extreme sanctions against moderates. A further major development that occurred at the Laline meeting was the adoption of an official position opposed to negotiation with the Indonesians.⁵ Both the Marxist orientation and the anti-negotiation position were to be officially maintained until April 1984, at which time both policies were abandoned (at a further Central Committee meeting) in conformity with a softening of political perspective (CAVR 2005 Part 5:32).

As the war progressed, hardship in the FRETILIN-controlled areas (*zonas libertadas* or liberated zones) intensified, with implications on the internal dynamics of the FRETILIN party. The recently adopted Marxist ideological orientation and hardline position against any negotiations or concessions had serious consequences for the moderate President Francisco Xavier do Amaral and his followers. In September 1977, Xavier do Amaral was arrested after FRETILIN Vice-President Nicolau Lobato signed an order accusing him of charges that included treason and defeatism. Xavier do Amaral's arrest followed his support for the policy that the civilian population sheltering in the 'liberated zones' should surrender and move to Indonesian-controlled areas to reduce hardships. Following his arrest, supporters of Xavier do Amaral were publicly executed or otherwise mistreated. Xavier do Amaral himself was beaten and kept in a hole,⁶ before eventually escaping during an attack by Indonesian forces. Nicolau Lobato, meanwhile, ascended to the presidency on 16th October 1977 (CAVR 2005 Part 3:77-78).⁷ In the wake of the overthrow of the moderate Xavier do Amaral, the increase in influence of prominent left-wing cadres was reflected in the appointment of Mau Lear

⁵ Referred to in CAVR (2005 Part 5:32) as the 'principle of "Negotiation – No and Never."'

⁶ A common form of incarceration used in FRETILIN 'liberated zones.' See CAVR (2005 Part 5:12).

⁷ See also Cristalis (2002:113-124), Gusmão (2000a:49) and Niner (in Gusmão 2000a:49). For a perspective sympathetic to the anti-Xavier do Amaral position, see Budiardjo and Liong (1984:64).

(António Duarte Carvarino) to the vice-president position vacated by Nicolau Lobato (CAVR 2005 Part 5:26; Niner, in Gusmão 2000a:63). Vicente Sa'he (Vicente dos Reis) is also known to have been appointed to the post of FRETILIN Prime Minister by the time of his death in February 1979.⁸

The purges carried out against supporters of Xavier do Amaral were not the first to take place, and the identification of 'reactionaries' and 'traitors' had already occurred in the 'liberated zones'⁹ prior to the targeting of the FRETILIN President. It is clear that the FRETILIN purges of the 1970s continue to generate ill-will, and in a recent speech, RDTL President Xanana Gusmão (2006b) criticised FRETILIN for having failed to apologise and reconcile with families of those killed by FRETILIN in the 1970s because of their rejection of Marxist-Leninism. President Gusmão referred to requests he had made of FRETILIN in 2000, including that the party review Xavier do Amaral's case, as 'he was not a traitor of our country...[but]...simply did not accept the ideology issued by the Central Committee of Fretilin in May 1977.' As discussed in Chapter 6, the fractures generated in the period of ideological extremism combined poorly, post-independence, with the choice of a semi-presidential governance system.

Encirclement, Annihilation and a Revised Resistance Strategy

A major Indonesian military offensive commenced in September 1978, causing large scale population movement and extensive disruption to agricultural production (CAVR 2005 Part 5:9). After first launching intensive campaigns in west and central East Timor, the Indonesians then forced FALINTIL, accompanied by tens of thousands of civilians, to retreat to the sanctuary of Mount Matebian in the east. Through forward planning, sufficient crops had been planted in this area and sufficient food supplies were available. However, following the 'encirclement and annihilation' campaign that targeted this region, Indonesian forces succeeded in destroying the last FRETILIN-administered area

⁸ See Taylor (1991:97). The date on which Sa'he was appointed to the position of Prime Minister is unclear. In May 1976, however, Sa'he occupied the position of Minister of Labour and Welfare (CAVR 2005 Part 5:5).

⁹ See CAVR (2005 Part 5:19-20)

in the east of the territory in November 1978.¹⁰ The fall of Matebian was accompanied by great loss of life and weapons, and was a great blow to the armed resistance. FALINTIL units were reduced to isolated bands¹¹ and the population was forced to live in Indonesian-controlled areas (Budiardjo and Liong 1984:66-67; CAVR 2005 part 5:26).

Although a clandestine resistance network had developed in the towns soon after Indonesian invasion and provided logistical and intelligence support to FALINTIL, the destruction of the FRETILIN ‘liberated zones’ resulted in an increase in reliance on the clandestine movement, which (as discussed in the following pages) gradually increased in strength and organisational integrity. By the 1980s, student networks both in East Timor and other parts of Indonesia were also supporting resistance activities and eventually, following the ‘opening up’ of East Timor (as addressed later in this section), the student movement would play a major role in promoting independence. After the realisation of independence, key members of the clandestine movement, including Fernando ‘Lasama’ de Araujo (profiled later in this chapter), would achieve prominence as leaders of a new, Indonesian-educated generation of political actors.

In a further landmark development, the FRETILIN President, Nicolau Lobato was killed by Indonesian forces on 31st December 1978. As noted earlier, Lobato’s death was followed soon after in February 1979 by the death of his successor, António Carvarino (Mau Lear), and FRETILIN Prime Minister Vicente dos Reis (Vicente Sa’he). In the void that remained following the elimination of the senior resistance hierarchy, Xanana Gusmão emerged as a promising new leader (Gusmão 2000a:65-68; Budiardjo and Liong 1984:69-70; CAVR 2005 part 5:26; Shoesmith 2003:240). According to Dunn (1996:281), strategies for the broadening of the resistance to include a coalition of East Timorese political organisations, can be traced to the early days of Gusmão’s leadership.

¹⁰ A final base in Ermera (at Fatubessi), lasted until 16th February 1979, at which time it also fell (CAVR 2005 Part 5:25).

¹¹ Following the destruction of the ‘liberated zones,’ according to CAVR (2005 Part 5:27), the remaining FALINTIL mostly operated in groups of between three and four.

Reorganisation and the Beginnings of Reconciliation

At a ‘First National Conference for the Reorganisation of the Country’ held in March 1981, a number of important events took place. The first of these was that Xanana Gusmão was appointed Commander in Chief of FALINTIL. Secondly, the *Concelho Revolucionário da Resistência Nacional* (Revolutionary Council of National Resistance, or CRRN) was established, and Xanana Gusmão appointed president of it. Thirdly, armed resistance policy was changed to favour mobile units of FALINTIL guerrillas, operating with intelligence and logistical support provided by clandestine operatives in occupied areas. The clandestine networks were highly secretive to avoid detection by Indonesian security, and many in number. According to one report (Cristalis 2002:57), there were 1,700 resistance cells across the territory, each pursuing a specific objective with minimal contact with other cells. The national resistance network spanned across the country, with every village having a *nurep* (from *Núcleos de Resistência Popular*, or nucleus of popular resistance) and every hamlet a *celcom* (*Célular da Comunidade*, or community cell).¹² The CRRN administration was based in the bush, with links into the occupied areas, and an administrative structure known only to a few. A further change made at the ‘Conference for the Reorganisation of the Country’ was the reorganisation of the country into three sectors (roughly east, central and west) instead of five (Gusmão 2000a:68; Niner, in Gusmão 2000a:68; Budiardjo and Liong 1984:68-71,82-83; CAVR 2005 Part 5:27-29; Cristalis 2002:57).

Further important strategic changes took place during the first half of the 1980s. Under Xanana’s leadership, support developed in the FRETILIN resistance movement for reconciliation between the political parties of 1974 and 1975 (particularly between FRETILIN and UDT), and this position became official policy in 1983. A related development involved a move away from revolutionary political ideologies, which laid the foundations for an eventual improvement in relations with UDT. Support developed

¹² Similarities can be seen between this network and the earlier resistance administration which sprung into existence at the time of the Indonesian invasion. The resistance structure would remain in existence as a shadow administration throughout the occupation and form the basis of the CNRT ad hoc administration which would undertake a range of public administration tasks following the Indonesian withdrawal. As discussed Chapter 5, the shadow administration is notable for the extent to which it included members of the traditional authority structure.

among FRETILIN members for the principle of a UN-supervised referendum on East Timor's future, a position previously rejected on the basis that the will of the people was adequately expressed through the FRETILIN 'unilateral declaration of independence' of 28th November 1975. To help facilitate the objective of a referendum on East Timor's future, policy turned in support of negotiations between the resistance leadership and the Indonesian authorities (Budiardjo and Liong 1984:72-73; CAVR 2005 Part 5:31-32).¹³

It was also in the first half of the 1980s that Carlos Felipe Ximenes Belo was appointed head of the East Timor Catholic Church. According to Crowe (1996:70-73), other East Timorese clergy were originally critical of what they perceived as an 'accommodating' position being taken by Belo towards the Indonesian occupation. By the mid-eighties, however, Belo was taking a strong stand on human rights issues and the Church was developing into a central pillar of the resistance movement (see next section). In 1989 Belo would write to the UN Secretary-General, urging for a referendum on independence.

The 'National Unity' Reorganisation of the Late 1980s

In 1987-1988 some of the developments of the previous years became formalised in a further program of reorganisation. Xanana consolidated the pro-'national unity' policy emphasis in favour of a depoliticised resistance movement, by removing FALINTIL from the control of FRETILIN (CAVR 2005 Part 5:35; Shoesmith 2003:240-241). Although this proved an effective strategy, it also provoked lasting resentment, and Shoesmith (2003:241) would observe during the Prime Ministership of Mari Alkatiri (2002-2006) that 'the 1987 split continues to divide the president and the Alkatiti government today.' This antipathy would, of course, contribute to the instability experienced in East Timor in 2006.¹⁴

The move towards de-politicisation of the resistance movement was associated with the replacement of the CRRN with a new organisation called the *Concelho Nacional da*

¹³ The pro-negotiation position resulted in talks being held between Xanana and Colonel Purwanto in March 1983 (Budiardjo and Liong 1984:72-73).

¹⁴ Again, this matter receives attention in Chapter 6.

Resistência Maubere (National Council of Maubere Resistance, or CNRM) in December 1988 (CAVR 2005 Part 5:35-36). According to José Ramos-Horta, the term ‘Maubere’ had been a common Mambai name used during the Portuguese period as a term of derision, but which he (Ramos-Horta) rehabilitated for the purpose of contributing to the development of a FRETILIN-East Timorese national identity.¹⁵ The term ‘Maubere’ therefore, had FRETILIN connotations, and its application in the context of the new CNRM multi-party umbrella council does seem unusual.¹⁶ In fact, given the importance of a unified resistance movement during this period, it might be observed that the development of such a movement took an extraordinarily long time to achieve, largely as a result of the use of the ‘Maubere’ term. Only after more than a decade, for the purpose of finally appeasing UDT sensitivities about the term ‘Maubere,’ did the CNRM umbrella organisation eventually undergo a final transition to become the *Concelho Nacional da Resistência Timorese* (National Council of Timorese Resistance, or CNRT).¹⁷

The CNRM resistance leadership comprised a ten member in-country leadership that included two FRETILIN officials, three commanders of FALINTIL and five clandestine

¹⁵ In his book, Ramos-Horta (1987:37) explains how, inspired by social democracy models elsewhere, he developed ‘our own version of social democracy’ by coining the word *Mauberism* – from Maubere, a common name among the Mambai people that had become a derogatory expression meaning poor, ignorant. Though vaguely defined without any serious theoretical basis, *Maubere* and *Mauberism* proved to be the single most successful political symbols of our campaign. Within weeks, *Maubere* became the symbol of a cultural identity, of pride, of belonging.’ Of course, the instability that developed in 2006 associated with an ‘east’–‘west’ division (see Chapter 6) indicates that the concept of Mauberism failed to provide the basis for an enduring national unity. See also Shoesmith (2003:238-239) for a discussion on ‘Mauberism.’

¹⁶ Juan Federer (2005:53), who worked with the CNRM secretariat throughout this period, explains how divisive the use of the ‘Maubere’ term was, since ‘it alienated the UDT leadership abroad.’ Accordingly, writes Federer, ‘CNRM – supposedly the umbrella organisation of all the various East Timorese groups – was never able to genuinely incorporate those who identified with UDT, despite the strenuous efforts of Horta, the appeals of Gusmão, and the recommendations of international supporters to that effect.’ See also Babo Soares (2000a:60-61).

¹⁷ See CAVR (2005 Part 5:36-37) for further details. Historically, it is of note that Xanana Gusmão, key proponent of the de-politicisation of the resistance, used the ‘Maubere’ term in good faith in his writings during the CNRM period (see Gusmão 2000a). In a speech to the National Parliament on national reconciliation delivered on 21st October 2002, Gusmão (2005:104) was critical of the reluctance of UDT to embrace the CNRM because of the use of the ‘Maubere’ term, stating that ‘UDT...did not accept CNRM’s abbreviation and postponed its membership of it from 1987 to 1998 when they accepted the new abbreviation. Though the principle was the same and the politics were the same, there was no political courage on the part of UDT to accept CNRM. The only difference lay in a single letter – ‘M’ for Maubere instead of ‘T’ for Timorese.’

members. As senior FALINTIL commander, Xanana Gusmão led the organisation. Diplomatic support was provided by an external, multi-party resistance network led by José Ramos-Horta, who in 1989¹⁸ was appointed the CNRM Special Representative Abroad and the Personal Representative of Xanana Gusmão. Notwithstanding the continuation of tensions between members of the respective parties, the CNRM multi-party diplomatic network led by Ramos-Horta is credited with achieving improved diplomatic representation overseas, and diplomatic activity became characterised by a multi-party approach (CAVR 2005 Part 5:36-37). Ramos-Horta is reported to have resigned his FRETILIN membership in 1988 (Murdoch 2006b).

Events Contributing to an Increased International Profile in the 1990s

A number of important events took place in the late 1980s and the first half of the 1990s which increased the profile of the East Timor independence struggle on the international stage. According to clandestine leader Constâncio Pinto (in Pinto and Jardine 1997:105-106), the visit to East Timor of Indonesian President Suharto in November 1988, at which time Suharto ‘opened up’ the territory to foreign visitors, was a defining moment for the clandestine movement.¹⁹ Until this time, East Timor had remained a closed province with restrictions in place against the movement and (theoretically) the immigration of people from elsewhere in Indonesia. As discussed later in more detail, the official justification of this ‘closed’ status was said to be based on the objective of protecting opportunities for local people, as well as controlling security aspects (Soesastro 1989:212; Saldanha 1994:172). However, the objective of protecting opportunities for the East Timorese does not explain the tight restrictions which had been in place on movement between villages, clearly motivated by security objectives.²⁰

¹⁸ The exact date this development occurred is unclear. In a recent speech, Gusmão (2006b) remarks that it was in 1990 that Ramos-Horta first offered to become his Special Representative and the CNRM Overseas Representative.

¹⁹ See also Federer (2005:43-44). For commentary on the background of the new ‘openness’ policy, see Saldanha (1994:173), according to whom the new ‘openness’ policy arose from a request to President Suharto from East Timor governor, Mario Carrascalão, for East Timor to be given the same status as other Indonesian provinces. Carrascalão’s main reason, writes Saldanha, ‘was to attract the private sector to invest in the region in order to create employment opportunities for the increasing amount of school graduates.’ Accordingly, the military theoretically switched from ‘a security approach to a prosperity approach.’ Note that the economic theme is addressed in greater detail later in this chapter.

²⁰ An ‘Instruction Manual’ for village security personnel including *Babinsas* (*Bintara Pembina Desa*, or military village development officers) prepared in 1982 by Major Williem [*sic*] da Costa and appended to

On the basis of promoting economic development in the province, former UDT leader Mario Carrascalão, who governed East Timor from 1982 to 1992, successfully persuaded President Suharto to overturn East Timor's closed status in mid-1988 (Saldanha 1994:173). Suharto's 'opening up' policy was introduced in advance of a visit to East Timor by Pope John Paul II, which occurred on 12th October 1989. In his account, Pinto (in Pinto and Jardine 1997:106-110) describes the first public demonstration undertaken in East Timor against the occupation. The event, undertaken by members of the Catholic Church Scout movement, and witnessed by international media representatives, involved the unfurling of banners and the shouting of independence slogans at the conclusion of a Mass delivered by the Pope.²¹

Some months later, a further public demonstration was undertaken at the Hotel Turismo in Dili, coinciding with the visit to East Timor of the US Ambassador to Indonesia, John Monjo, who arrived on 17th January 1990 (Pinto and Jardine 1997:115-118). Both demonstrations served to increase awareness overseas of the plight of East Timorese under the Indonesian occupation. The later event, which resulted in the death of at least one demonstrator at the hands of Indonesian security forces, was witnessed by two Australian tourists visiting Dili, again an outcome facilitated by the 'opening up' policy. One of these tourists, photographer Jenny Groves, captured photographs of the event which were subsequently printed in newspapers internationally.²² Meanwhile, her companion Andrew McMillan authored a book on the occupation (McMillan 1992). Subsequent events which continued to highlight the severity of the occupation included Australian Robert Domm's interview with resistance leader Xanana Gusmão, which took place in September 1990. Domm was able to gain entry into East Timor by posing as a tourist, and his interview with Xanana was broadcast by the Australian Broadcasting Commission (ABC). This was the first interview between a foreigner and an East

Budiardjo and Liong (1984:216-227) states that '[e]very time anyone goes out of the village, he/she must have a travel pass (*surat jalan*), and every person who comes into the village from another village must report.' Additionally, this document outlines a range of other measures clearly aimed at preventing contact between villages and resistance elements, including patrols, inspections posts and surprise roll-calls.

²¹ See also CAVR (2005 Part 3:112).

²² See McMillan (1992:124).

Timorese resistance leader to take place since the invasion (Pinto and Jardine 1997:126-134; CAVR 2005 Part 3:113).²³

The most dramatic, tragic, and commemorated event of the early 1990s, which served to indelibly mark the East Timorese cause on the international human rights agenda, was the Santa Cruz Massacre of 12th November 1991. This massacre, in which hundreds of East Timorese students were killed when Indonesian security forces used automatic weapons and bayonets against a peaceful assembly of independence supporters, was filmed by British journalist Max Stahl and served to galvanise broad overseas support.²⁴ In the years following the Santa Cruz massacre, a series of further events unfolded which kept East Timor in the international spotlight. Among these, less than six months after the Santa Cruz Massacre, was the voyage into waters off the coast of East Timor, via Darwin, of a chartered Portuguese car-ferry, the *Lusitania Expresso*. Attempting to visit Dili in March 1992 with an international team of activists and journalists aboard, the *Lusitania Expresso* was turned back by the Indonesian navy. Although the vessel never arrived in Dili, the incident kept East Timor alive in the international media.²⁵

It was not long after the voyage of the *Lusitania Expresso*, 20th November 1992, that resistance leader Xanana Gusmão was finally captured by Indonesian security forces. As noted by the CAVR Commission (CAVR 2005 Part 3:118), Gusmão's capture 'was a major blow to the resistance,' yet 'it ultimately created the conditions for him to emerge as a world statesman.' Incarcerated first in Semarang Prison then in Cipinang Prison

²³Constâncio Pinto played a prominent role in organising Domm's interview with Xanana, and the event is outlined in detail in Pinto's account. The repercussions of the release of Domm's interview included an Indonesian attack on the guerrilla camp in which the meeting with Xanana Gusmão took place, resulting in the death of a number of resistance fighters. A further repercussion was the arrest and torture of Constâncio Pinto (see Pinto and Jardine 1997:135-157). An extract from Domm's interview with Xanana is included in Gusmão (2000a:142-143).

²⁴ For details, see Pinto and Jardine (1997:188-199), Inbaraj (1997:87-103) and CAVR (2005:115-118). In these accounts, the number of people killed is said to be around 271, with many more wounded or missing. The dead and injured included foreigners, with New Zealand activist Kamal Bamadhaj killed and American journalists Allan Nairn and Amy Goodman severely beaten (Pinto and Jardine 1997:189). It is of historical note that the Santa Cruz Massacre occurred following the cancellation of a Portuguese fact-finding mission which had been planned for 4th November 1991. The cancellation of the Portuguese mission was announced on 26th October 1991, as East Timorese independence supporters were preparing for the arrival of the Portuguese delegation (Inbaraj 1997:92-96).

²⁵ For a detailed description of the voyage of the *Lusitania Expresso*, see McMillan (1992:171-226).

until 1999, Xanana Gusmão managed to send letters to supporters and world leaders, and was occasionally permitted to be interviewed. And although confined to prison, Gusmão continued to lead the resistance movement.²⁶

An ongoing international media focus on East Timor was maintained into the mid-1990s and beyond, as subsequent developments unfolded. The trial of Xanana Gusmão took place in Dili in May 1993, and although denied a fair trial and the right to read his detailed defence plea in its entirety, a copy of Gusmão's defence statement (the original of which was confiscated by the Indonesian courts) was passed to human rights activists and publicly released in the weeks following the sham trial (Gusmão 2000a:184-193; CAVR 2005 Part 3:118). Meanwhile, during the course of the 1990s, East Timorese student organisations, including RENETIL (*Resistencia Nacional dos Estudantes de Timor-Leste*, or the East Timorese Students' National Resistance) increased their participation in the broader Indonesian democracy movement, and implemented other new initiatives. The Asia Pacific Economic Cooperation (APEC) forum held in Indonesia on 11th – 12th November 1994, coincided with the third anniversary of the Santa Cruz Massacre, and was chosen for the staging of a dramatic stunt that served to embarrass the Indonesian administration. On the 12th November 1994, twenty-nine students jumped the fence into the American embassy in Jakarta, and demanded to speak with senior US officials. The sit-in only ended on 22nd November 1994, after the protesting students accepted an asylum offer from Portugal (Inbaraj 1997:150-164; CAVR 2005 Part 3:119-120).

The demonstration at the US embassy of November 1994 was neither the first nor the last time that East Timorese protestors sought asylum in embassies in Jakarta; further similar events, though on a lesser scale, continued into late 1995. Such actions, like the tragedy of Santa Cruz, indicate the important and substantial contribution being made by the new generation of Indonesian-educated students to keep East Timor in the spotlight. The string of developments that had served to keep East Timor on the international

²⁶ A selection of writings produced during Xanana Gusmão's incarceration is included in his biography (Gusmão 2000a:178-242). See also Cristalis (2002:122-123).

agenda throughout the 1990s was followed, in 1996, by the joint award of the Nobel Peace Prize to José Ramos-Horta and Bishop Carlos Felipe Ximenes Belo (CAVR 2005 Part 3:120-121).

The Indonesian *Krismon* and a Change in Fortune²⁷

In his commentary on the final decade of Indonesian occupation, Federer (2005:43-44) notes that the ‘most active decade’ for East Timorese independent activists was the 1990s, but that even the events of this decade would not have led to a successful outcome were it not for the ‘fortuitous’ arrival of the East Asian economic crisis in 1997.

The *Krismon*²⁸ which struck Indonesia as a result of the East Asian economic meltdown of 1997, resulted in a series of student demonstrations. These culminated in riots in Jakarta in May 1998 that were followed by a student occupation of the People’s Consultative Assembly (*Majelis Permusyawaratan Rakyat*, or MPR). Amid a cabinet coup, Suharto left the presidency to an appointed successor, B.J. Habibie, who promised a process of democratisation that would include free and fair elections and the removal of restrictive press laws (Liddle 1999:35-37). The subsequent recession of the authoritarian New Order state since 1998 has been an uneven process,²⁹ and in 1999, the uneven progress was clearly demonstrated in relation to events that unfolded concerning East Timor.

²⁷ Several of the following paragraphs are drawn from a paper prepared by the writer titled ‘Indonesian West Timor: The Political Economy of Emerging Ethno-Nationalism’ (Nixon 2004).

²⁸ Indonesian term derived from *krisis moneter*, or monetary crisis.

²⁹ Whereas the events of 1998 led to democratic reforms, elections and the release of a number of political prisoners, veteran observers quickly began lamenting the prospects for meaningful change under B.J. Habibie’s presidency. George Aditjondro (1998:212-215) noted some months after B.J. Habibie’s ascension to the presidency that the vast majority of political prisoners remained in custody, and that East Timorese, West Papuan and Acehnese activists were still being ‘confronted by armed forces and hired thugs’. Noting that General Wiranto retained his position as Armed Forces Commander and Defence Minister, Aditjondro concluded that the regime still represented the interests of the same old military and business elites as under Suharto, that the reforms amounted to ‘no substantial political change’, and indeed, that B.J. Habibie’s ‘velvet glove tactics...[provided]...a much better “public relations” cover for the interests of the oligarchy, than Soeharto’s iron fist approach.’ Harold Crouch (1998:210) meanwhile, predicted that ‘ultimately the pace of reform will be determined by the military leadership’, with its continuing interest in politics.

The Establishment of the *Concelho Nacional da Resistência Timorese* (CNRT), and the Appearance of a Unified Independence Movement

In a timely development, the various East Timorese organisations and individuals associated with the long-divided pro-independence movement, were able to be brought closer together in 1998, when Xanana Gusmão, president of the CNRM resistance council, replaced the word *Maubere* with *Timorese*. The long-awaited appearance of unity and inclusion was rewarded with Portuguese funding support, and a conference was held in Portugal in April 1998. Federer (2005:53-55), who observed developments at close range, notes that whereas the CNRT gave the impression of being a unified organisation, it had many flaws which took until the early years of independence to become apparent. These included schisms between those who favoured traditional forms of social organisation and those who supported modernisation; a preoccupation with generating ‘pompous sounding titles’ for distribution to the many ‘vociferous’ participants, and an absence of meaningful documentation or procedures for advancing the independence agenda. Ironically in terms of long-term state-building outcomes, Federer suggests that the most serious flaw of the CNRT was perhaps the very fact that irrespective of the many internal rifts, pretensions and incompetencies, the CNRT managed to present the façade of a functional pro-independence organisation:

CNRT became dysfunctional to the process of building a stable, modern, democratic state in East Timor. It conveyed an illusory and misleading appearance of a modern organisational maturity of the East Timorese pro-independence population. This illusion may have been an important factor leading to the subsequent lack of sufficient international tutelage to prepare the country for successful independent statehood.

In the short-term, however, under the leadership of CNRT President Xanana Gusmão, the CNRT became an important symbol and coordinating body for the sequence of events that unfolded. Pro-independence youth organisations would campaign together as part of a CNRT youth presidium, and the CNRT flag would be printed on the ballot papers for the August 1999 referendum as the signifier of the independence option (Araujo 2000:112-117; Federer 2005:54). As Federer and de Araujo’s accounts both indicate, the CNRT umbrella organisation provided the basis for a pro-independence support network that quickly developed in the period prior to the ballot and endured into the post-Indonesian era. Importantly, and as described in detail later in this study based

on interviews with former CNRT officials, those who assumed positions in the CNRT national network at grassroots level in the sub-districts and *sucos*, did not conform to the typology of the CNRT's elite-level membership. Whereas the latter often brought with them modernist aspirations and unresolved tensions from the 1975 civil war, those who assumed positions in the CNRT national network were characteristically leaders in the traditional administration system. In essence, the CNRT national grass-roots structure was similar if not identical to the national shadow administration and resistance networks that developed following the Indonesian invasion and which utilised existing, customary, *suco* and *aldeia*-level administration mechanisms.³⁰ As with earlier resistance administrative structures, the CNRT network was an autochthonous response to the need to coordinate *sucos* on a national basis.

Events Associated with the Declaration of the Referendum and the Indonesian Withdrawal

Whereas, in the spirit of *reformasi*, President Habibie announced on 27th January 1999 that a referendum would be held to determine the future of East Timor, no such democratic spirit characterised the subsequent behaviour of the Indonesian security forces and some of their pro-integration allies in East Timor. As considerable analysis has confirmed beyond any doubt, the Indonesian security forces responded to preparations for the 'popular consultation' on the political future of East Timor, which eventually took place on 30th August 1999 under the supervision of the UNAMET,³¹ by

³⁰ According to Norwell (2001:2), the resistance structure commonly overlapped not only with the customary structure, but also with the official village administration system during the Indonesian period. Based on discussions with *suco* leaders during the early UNTAET period, Norwell (2001:2) asserts that during the Indonesian period, pro-independence customary leaders commonly held both the position of village head (or *kepala desa*) with the Indonesian administration, and the *nurep* coordination position with the resistance. Only where opposition to Indonesian rule was too obvious, notes Norwell, were such leaders replaced 'with more loyal subjects.' The area of customary administration systems and the CNRT network is discussed in more detail in Chapter 5. See also McWilliam (2005:34-38) for an historical and anthropological overview of this area.

³¹ Following an agreement reached between the governments of Indonesian and Portugal on 5th May 1999, and a subsequent agreement reached between the UN and the governments of Portugal and Indonesia (also on 5th May 1999), the United Nations Security Council (UNSC) passed *Resolution 1246* establishing UNAMET on 11th June 1999 (UNSC 1999a). *Resolution 1246* mandated UNAMET to conduct a 'popular consultation' to determine the preference of the East Timorese population between a 'special autonomy' framework within the Indonesian Republic, or 'separation from Indonesia.' Originally, the 'direct, secret and universal ballot' was to be held on 8th August, and the UNAMET mission scheduled for deployment until the end of that month. However, on 3rd August 1999, a further resolution (*Resolution 1257*) was

expanding their recruitment, training, arming and mobilisation of pro-independence militias.³² In fact, these militias were by no means a new innovation. Hooded ‘ninja’ gangs, Tim Alpha and Gada Paksi (Guards for Integration) among others, had been intimidating and terrorising independence activists throughout East Timor since the mid-1980s and mid-1990s respectively (Dunn 2002:66-68; Cutter et al 2004:23), and the new wave of militias can be seen as a development of these. An annexure of the CAVR report (CAVR 2005 Part 8:94-116) concludes that not only were the militia groups established and funded by senior Indonesian military officers, but that serving Indonesian military personnel operated as members of the militia groups and in some cases commanded them.

After months of intimidation and militia violence, in the face of which the CNRT chose to maintain a low-profile in its campaigning,³³ the East Timor popular consultation, was finally held with only one serious incident, in which two East Timorese UNAMET workers were killed by militia members in Atsabe, Ermera (CAVR 2005 Part 3:134-143).³⁴ It is notable that during the lead-up to the ballot and during the violence and destruction that unfolded in its wake, FALINTIL troops and their commanders

adopted postponing the ‘popular consultation’ until 30th August 1999, and extending the UNAMET mission until 30th September 1999 (UNSC 1999b). Aspects of the developments of this period are discussed further in Chapter 5.

³² As explained in the main text, militias were no new phenomena, yet expansion of the militias had commenced in late 1998. Following Habibie’s announcement, a further wave of militia organisation was undertaken in which militias throughout East Timor were established. An early, large-scale militia strike in the post-announcement period occurred in Liquiça on 6^h April 1999, when a military-backed militia gang slaughtered up to one hundred unarmed civilians gathered in the church grounds (Babo Soares 2000a:67-69; Cristalis 2002:84-89; CAVR 2005 Part 8:98). See also CAVR (2005 Part 3:128-129,131). On militias generally, and for details and analysis of the events of this period, see Babo Soares (2000a), Martin (2000), Crouch (2000), Haseman (2000), Cotton (2005:117-119), CAVR (2005 Part 3:126-152), Fernandes (2005), Cristalis (2002) and Kingsbury (2000:71-72).

³³ This low profile approach was specifically ordered by CNRT President Xanana Gusmão to prevent provoking extra violence and deaths by militia. Instead, youth organisations affiliated with CNRT undertook a door-to-door campaign nationally, which has been described by CNRT Social Communications Coordinator Fernando ‘Lasama’ de Araujo (2000). An exception to this low-profile campaigning appears to have occurred, one week before the referendum, at a festival held at a FALINTIL camp, attended by thousands. Cristalis (2002:196-197), who was in attendance, recalls that here, away ‘from the relentless pressures the militias and Indonesian army exerted’, the trees were covered with placards of Xanana Gusmão. Cristalis commented that the atmosphere ‘resembled something between Woodstock and a political protest camp.’ A further exception was one major day of campaigning held in Dili on 25th August 1999, which was followed by a day of violence organised by the pro-autonomy militias (Araujo 2000:122-123).

³⁴ There is evidence (CAVR 2005 Part 3:148) that East Timorese UNAMET staff became a particular target for militia and Indonesian security force violence following the ballot.

demonstrated extraordinary discipline in observing instructions from Xanana Gusmão to confine themselves to a number of cantonment sites. The objective of this policy was to reduce casualties, by demonstrating that the pro-independence side was not perpetrating violence, and making the point that the militias should therefore be disarmed (CAVR 2005 Part 3:142). With some exceptions, the restraint demonstrated at this intense time was exemplary, with East Timorese resistance leaders for the most part refusing to be baited by the diabolical trap set for them by the Indonesian security forces.³⁵

The results of the popular consultation were announced by UNAMET in Dili on the morning of Saturday 4th September 1999, confirming that an overwhelming majority of East Timorese (in excess of seventy-eight per cent) had rejected ‘special autonomy’ within Indonesia in favour of independence (CAVR 2005 Part 3:144). It was in this post-referendum period that the carnage and destruction peaked, as the Indonesian security forces and their militia allies unleashed a brutal finale to a quarter century of violent occupation. According to the CAVR commission (CAVR 2005 Part 3:145), between twelve hundred and fifteen hundred people were killed by the Indonesian security forces and the militias throughout 1999, and nine hundred of these were killed in the closing phase of Indonesian custodianship in the wake of the popular consultation. In the course of the post-referendum violence, over half the population are believed to have been forced to flee their homes, while a quarter of a million either elected to flee to West Timor or were intimidated into doing so. On top of the carnage and the creation of a refugee emergency, the final orgy of destruction resulted in massive damage to buildings and widespread looting.

³⁵ Cristalis (2002:260-261) discusses this matter in some detail, drawing on a series of interviews and discussions with FALINTIL commander Taur Matan Ruak in the lead up to the ‘popular consultation,’ and in the wake of the frenzy of Indonesian security forces/militia violence which followed the poll. The credit for resisting the temptation to engage with the militias at this point, appears to go largely to Xanana Gusmão, and Cristalis writes that ‘[a]sking Falintil not to fight had been one of the most difficult decisions Xanana had ever had to make... But if he had not stopped Falintil, the Indonesian army would have had an excuse to kill even more people.’ Securing this outcome from FALINTIL evidently required much pleading from Gusmão, and was ultimately not totally successful. The FALINTIL commander L7, (Ely Foho Rai Bo’ot, or Elle Sette), was one who refused to comply completely with the cantonment orders and engaged with Indonesian forces (from the infamous 745 Battalion) retreating from the north-east of the country. According to Cristalis (2002:261), this was not a successful action for the guerrillas.

Both Cristalis (2005:217), who experienced the events personally, and Fernandes (2005:88), have referred to a strategy deployed by the Indonesian security forces in the post-referendum period, aimed at intimidating all foreign witnesses to flee East Timor so that the final destruction of the country and its population could be undertaken free from international scrutiny.³⁶ Yet the systematic and carefully prepared and orchestrated mayhem forced international UNAMET staff, observers and journalists into the UNAMET compound, which itself became a focus of intense international media scrutiny in the period leading up to the evacuation to Darwin on 14th September 1999 of the entire UNAMET mission and the many hundreds of East Timorese who had sought shelter in the compound.³⁷ The response provoked by the post-referendum events internationally, and particularly among the Australian public, has been discussed in detail by Fernandes (2005). In his book, Fernandes (2005:86-114) provides a detailed analysis of how public pressure in Australia influenced the Howard government to abandon its pro-Indonesian position, and lobby internationally for an international peacekeeping force.

On 15th September 1999, following receipt of a statement from President Habibie agreeing to the deployment of an ‘international peacekeeping force’ in East Timor, the UN Security Council (UNSC) passed *Resolution 1264* authorising the establishment and deployment in East Timor of a ‘multinational force’ (UNSC 1999c).³⁸ This force became known as the International Force in East Timor (INTERFET). *Resolution 1264* (1999) also invited the Secretary-General of the United Nations ‘to plan and prepare for a United Nations transitional administration in East Timor, incorporating a United Nations peacekeeping operation.’ This concept was realised on 25th October 1999, with

³⁶ Cristalis (2002:217) suggests that informed by experience, the Indonesian military wished to avoid the killing of foreign journalists and foreigners generally, as this could lead ‘to much longer-term repercussions than killing Timorese.’ Notwithstanding this presumed policy on the part of the Indonesian security establishment, one foreign journalist, Norwegian Sanda Thoenes, was killed by militia during this period (see Cristalis 2002:250,261).

³⁷ For descriptions of the siege of the UNAMET compound, see for example Cristalis (2002:236-248) and Savage (2002:342-356).

³⁸ As Chesterman (2002:61-62) observes, there appears to have been no legal reason why Indonesia’s consent for the deployment of an international intervention force was required, since Indonesian authority in East Timor was not recognised by the UN. Yet in reality, as Chesterman notes, ‘it was clear that no form of enforcement action was possible in the absence of...[Indonesian]...consent.’ See also Cotton (2001:130-137) for an analysis of the background to the INTERFET deployment.

Resolution 1272 (1999) on the establishment of UNTAET (UNSC 1999d). *Resolution 1272* vested UNTAET ‘with overall responsibility for the administration of East Timor’, and empowered it ‘to exercise all legislative and executive authority, including the administration of justice.’ In the following two chapters, key aspects of the subsequent state-building process in East Timor are reviewed. First, however, it is important to assess the extent to which the public administration capacity of East Timor was developed in the course of the Indonesian occupation.

Developments of the Occupation Years of Significance to State Development Prospects in East Timor

The determined nature of the Indonesian occupation as well as the hostile series of events perpetrated by the Indonesian military in the wake of President Habibie’s January 1999 announcement of a referendum on East Timor’s future, show that the Indonesian administration, like the Portuguese administration prior to the MFA revolt, had no intention of preparing East Timor for independence. Yet the Indonesian withdrawal signified the conclusion of another episode of East Timorese history, and it is appropriate to broadly review some of the major events and developments of this period in order to establish what if any impact they had on the capacity of the East Timorese people to administer and participate in the affairs of independent country conforming to the model of a modern state.

A Mixed Legacy: the Indonesian Development of East Timor

Under the leadership of President Suharto, the Indonesian New Order became recognised for its promotion of national development. As described by Vatikiotis (1998:34-35), the ‘repression and carnage’ associated with the birth of Suharto’s New Order Indonesia in the mid-1960s, soon became overshadowed by the success of the regime in achieving development indicators, with advances relating to such areas as food production and population control becoming evident from the 1970s onwards. These successes, writes Vatikiosis, meant that the national development program of the New Order, ‘became a slogan with a mesmerising effect on Indonesians and outsiders alike.’ In 1983, after almost two decades in office, the development mantra still retained its

power, and as the New Order's third five-year development plan neared completion, the Indonesian People's Consultative Assembly marked the occasion by bestowing upon President Suharto the title 'Father of National Development' (Republic of Indonesia 1994:5). Meanwhile, for the inhabitants of East Timor 'development' under Indonesian administration would prove to be a mixed experience, with one of the most significant factors (discussed below) being a broad basic education program which would introduce a cohort of East Timorese youth to the frustration of unrealisable expectations of employment and/or further study opportunities. At a more general level, the fact that East Timor was under foreign occupation would continue to frustrate development outcomes throughout the Indonesian period. As characterised by Beazley (1999:12-13), Indonesia's strategy for the integration of East Timor was 'based on a combination of tight internal security and efforts to promote economic and social development.' Yet as Beazley observes, with up to fourteen battalions stationed in East Timor, with intelligence activities operating throughout the villages, and with Indonesian security activities frequently resulting in acts of terror and intimidation, the internal security agenda acted to suppress the social and economic development component of the equation. Writing for AusAID in early 1999, Beazley remarks that whereas Indonesian security forces are 'said not to be severely threatened by guerrilla resistance or civilian unrest, the intensity of their approach has ensured that any progress made through development spending in order to placate the people has been neutralised.'

As outlined in the previous section, it was not until the late 1970s that Indonesian forces succeeded in eliminating the last remaining FRETILIN 'liberated zones' in East Timor. The impact of the invasion had been devastating, resulting in widespread famine and disease (CAVR 2005 Part 8:6-7). Saldanha (1994:136) observed first-hand the unsanitary and overcrowded conditions of the internment camps, which frequently resulted in sickness and death. The dire food shortages, meanwhile, can be largely attributed to the destruction of agricultural capacity (resulting from disruption to clearing, planting and harvesting cycles) caused by internal dislocation and forced internment. According to the CAVR (2005 Part 3:84-85), the number of East Timorese held in 'resettlement villages' and 'internment camps' at the end of 1979 following the

fall of the FRETILIN strongholds, was more than 300,000 and possibly more than 370,000. In addition to the agricultural disturbances caused by the confinement of approximately half the population, the invasion resulted in substantial livestock losses, the impact of which was felt for many years. Saldanha (1994:339) has estimated that the destruction of livestock amounted to nearly eighty per cent, and Aditjondro (1994:12-13,35) cites figures suggesting that numbers of cattle, buffaloes, horses and poultry continued to decline steeply into the second half of the 1980s.³⁹ Another factor related to the early conflict period which may have had an ongoing impact on agricultural productivity, and hence nutrition, concerns the suspected use of defoliants, particularly in eastern parts of East Timor (Aditjondro 1994:10; Beazley 1999:17-18).

In the years of 1982-1983, now some years after the crushing of the ‘liberated zones,’ the majority of those held in the camps were allowed either to return to their villages or resettled onto new sites (CAVR 2005 Part 3:88).⁴⁰ In either case, it is likely that severe food shortages would have continued to prevail for some time given the reduced livestock numbers, the disruption to cropping patterns and the need to establish new crops. The economic desperation of returning villages also impacted on remaining forestry resources. A retired Liquiça forestry officer interviewed by the writer⁴¹ outlined the impact on two state forests in Liquiça district (the Geluquarabo and Cardosvoa forests)⁴² following the return of *Suco* Guiço and *Suco* Lisadila villagers in 1981-82, after an absence of three years during which FALINTIL guerrillas in the area were ‘cleared-out’ by Indonesian security operations. Whereas the lowland Cardosvoa site (planted with teak) was harvested for the purpose of house construction and to clear land

³⁹ According to Aditjondro (1994:12-13,35), the populations of cattle, buffalos, horses and poultry continued to decline dramatically from 1979 to 1987. Meanwhile, the population of goats and pigs increased. Aditjondro (1994:13) attributes part of the diminution of cattle numbers to theft by soldiers, noting also that the reduction in the size of the herd also impacted on rice output because of the East Timorese use of cattle (and buffaloes) in the rice cultivation process. See also Budiardjo and Liong (1984:85) and Beazley (1999:12).

⁴⁰ In some locations, this occurred earlier. See Saldanha (1994:136).

⁴¹ Retired Forester 1, interviewed in Liquiça (26th May 2005). This individual joined the Portuguese forestry service in 1965, and later also worked for the Indonesian forestry service. The interview was one of a number carried out in relation to the forestry sites referred to in the main text, which were visited in the course of land tenure research.

⁴² According to Retired Forester 1, the forests at the Geluquarabo and Cardosvoa sites were established by the Portuguese forestry service in 1950.

for farming, the upland Geluquarabo site (planted with sandalwood) was harvested at the unofficial request of the Indonesian military, who reportedly paid villagers one hundred *rupiahs* per kg for the sandalwood.⁴³ The sandalwood (like the teak) was a state resource, and its unofficial harvest by the Indonesian military served as an introduction for the villagers to the military's self-serving function under the Indonesian New Order.⁴⁴

It is clear that chronic deprivation and instability were common features of life under Indonesian occupation into the early 1980s, and Indonesian development activities up until this time could have produced few if any improvements to overall living conditions in the face of so much loss of life and suffering.⁴⁵ By the early 1980s, hostilities were at a reduced level, and the return of people to settlements (which occurred by 1983) was accompanied by the implementation of the first Indonesian five-year development plan for East Timor. Although the first such plan for the province, the time-frame would overlap with that of the fifth five-year development plan for the rest of Indonesia. For East Timor, the plan would focus (somewhat unevenly, as discussed below) on the areas of government administration, communications, agriculture, health and education (Saldanha 1994:139-141). Commentators (Saldanha 1994:180-182; Costa and Soesastro 2002:2-3) have remarked that the initial upheaval of the invasion period was followed by

⁴³ In the present day, sandalwood is valued at twenty US dollars per kg or more.

⁴⁴ Following the stabilisation of the Indonesian administration, the Geluquarabo site was replanted with sandalwood in 1985. However, after the violent Indonesian exodus of September 1999, a similar state of desperation prevailed to that of the early 1980s. One again, the forests were illegally harvested, and when the writer visited the site in May 2005, only several immature sandalwood trees remained.

⁴⁵ Saldanha (1994:135-138) provides an outline of Indonesian development activities during the early years of integration, which centred on a three-phase 'crash programme.' This program comprised, respectively, a 'rehabilitation stage' (September 1976 – March 1977), a 'consolidation stage' (April 1977 – March 1978) and a 'stabilisation stage' (April 1978 – March 1979). The 'rehabilitation stage' focussed primarily on the rehabilitation of physical infrastructure and restoration of basic services, but also endeavoured to introduce 'Indonesia to the local people.' The 'consolidation stage' focussed on addressing the administrative challenges posed by large numbers of people concentrated into specific 'urban areas or areas that had been made safe by the armed forces.' The first East Timorese were sent to Indonesia for administrative training during this time. The final 'stabilisation stage' endeavoured to normalise public administration; a difficult challenge at a time when large numbers of refugees from the crushed FRETILIN 'liberated zones' were still being 'accommodated' in camps, and while the Indonesian authorities were still fighting a guerrilla war. All three stages of the crash development program were administered by the Indonesian Internal Affairs Department under a Central Development Executive Team chaired by General Benny Moerdani. As noted earlier, Moerdani had been active in the planning and execution of the initial invasion. See also Soesastro (1989:213) for comments on East Timor's economic performance in the late 1970s and early 1980s.

a period of high economic growth, with annual growth rates averaging 7.8 per cent from 1983 until 1990, and then around ten per cent per annum until 1996, after which growth rates declined dramatically as a result of the Asian economic crisis.⁴⁶

The high growth rate of the East Timorese economy was fuelled by a substantial flow of Indonesian government funds to development and administration activities, estimated at around US\$100 million annually in the 1980s (Costa and Soesastro 2002:2-3) and referred to by Soesastro (1989:207) as ‘by far the largest central government financial allocations (on a per capita basis) of any region in Indonesia.’⁴⁷ According to Saldanha (1994:168-169) the province remained almost fully dependent on support from Jakarta, with ‘authentic income of East Timor’ averaging less than five per cent of ‘total regional income.’ The contribution of private sector capital to the overall economic growth rate was minimal since East Timor attracted almost no private investment throughout the entire Indonesian period due to limited investment incentives combined with a prominent range of investor disincentives, including the security situation, land access delays, corruption and transport challenges (Saldanha 1994:151-152,176-178; Costa and Soesastro 2002:2-3).⁴⁸

Given the high dependence of the regional economy on central government funding, it is unlikely that empirical development indicators would have improved significantly in the final years of Indonesian rule following the onset of the financial crisis. It is therefore of

⁴⁶ The effects of the Indonesian *krismon* resulted in growth rates slowing to four per cent in 1997 and then minus two per cent in 1998 (Costa and Soesastro 2002:2).

⁴⁷ Assessments (Soesastro 1989:220; Saldanha 1994:142-143) suggest that the amount of public investment during the 1980s had the potential to be even higher than this, had budget execution rates not been so low. Soesastro points to the ‘low absorptive capacity’ as a factor; Saldanha refers to an inefficient government ‘apparatus’ with a low rate of budget execution. Even so, Soesastro (1989:214) has calculated that economic growth in the province between 1983 and 1986 was approximately fifty per cent above the growth rate nationally. Notwithstanding the substantial nature of Indonesian budget directed at East Timor, it should also be noted that a significant proportion of the funds were for payment of military salaries, much of which is reported to have been repatriated to other parts of Indonesia (Soesastro 1989:214). Note also that the RDTL in the present day continues to suffer from low budget execution rates (as discussed in Chapter 6).

⁴⁸ According to Saldanha (1994:168-169) the province of East Timor was almost fully dependent on support from Jakarta, with ‘authentic income of East Timor’ averaging less than five per cent of ‘total regional income.’ Soesastro (1989:216-217) also remarks that the relatively undeveloped infrastructure also deterred investment. As an indication of the severity of this lack of investment, Soesastro reports that manufacturing comprised less than one per cent of GDP in 1986 and showed no signs of improvement.

interest to review figures concerning some of the key development and public administration activities that occurred in the period between the early 1980s and 1996/1997, which was also the last year of Indonesian administration in which comprehensive figures were prepared for East Timor by the Indonesian Regional Development Planning Board.⁴⁹ Existing analysis indicates that the term of Indonesian administration is recognised as a period of mostly poor development outcomes, despite substantial capital flow and a mostly high economic growth rate.⁵⁰ Reference is made to the reasons for this in the following summary of some of the key development themes of the Indonesian period.

Education and Capacity Development

Jones (2000:45) has referred to the ‘provision of basic education’ to the East Timorese population as ‘[t]he greatest source of pride for Indonesian since its annexation.’ The dramatic expansion of the primary education system during the Indonesian period is reflected in data assimilated by Jones (2000:46, Table 1)⁵¹ from official figures, indicating that primary schools increased from forty-seven schools with 13,500 students in 1976/1977, to three hundred and seventy-six schools with 90,400 students in 1982/1983, to six hundred and fifty-two schools with 128,000 students in 1993/1994. More recent figures (BAPPEDA 1997:77, Table 4.1.3) indicate that the trend continued through the 1990s, and that by 1996/1997, there were seven hundred and thirty-six primary schools in East Timor with 143,958 students (representing approximately seventeen per cent of the total population of East Timor at the time).⁵²

Junior secondary schools also experienced substantial growth, with the data assimilated by Jones (2000:47, Table 2) indicating an increase from two schools with 315 students in 1976/1977 to twenty-eight schools with 5,453 students in 1982/1983, to one hundred

⁴⁹ The figures prepared by the Regional Development Planning Board (*Badan Perencanaan Pembangunan Daerah*, or BAPPEDA) were finalised late in 1997 (see BAPPEDA 1997). Some of the tables include 1997 data, but most data is from 1996. As indicated in this document, East Timor during the Indonesian period retained thirteen districts, divided into sixty-two sub-districts and four hundred and forty-two villages (BAPPEDA 1997:35, Table 2.2.1).

⁵⁰ See for example, Aditjondro (1994), Saldanha (1994), Soesastro (1989), Beazley (1999), Jones (2000), da Costa and Soesastro (2002).

⁵¹ Jones (2000) uses BAPPEDA data published in 1993.

⁵² Based on BAPPEDA (1997:43, Table 3.1.1) estimates of a 1996/1997 population of 857,029.

and three schools with 21,779 students in 1993/1994. Limited expansion of the sector continued, and in 1996/1997 there were one hundred and twelve junior high schools with 26,445 students (BAPPEDA 1997:78, Table 4.1.3a). Again, if the numbers of primary and junior secondary students are combined, the total amounts to 170,000, twenty per cent of the total population at the time. The senior high school sector underwent similar expansion, and from one state senior high school in 1975 (Beazley 1999:47), government information (BAPPEDA 1997:87-92, Tables 4.1.9, 4.1.10) indicates that in 1996/1997, senior secondary institutions included thirty-seven senior high schools and sixteen vocational senior high schools, with total enrolments of 14,396.

At tertiary level, two institutions were operating in East Timor by the 1990s, plus the Indonesian Open University.⁵³ Official figures (BAPPEDA 1997:100, Table 4.1.13) indicate that in 1996/1997 there were 2,221 students enrolled in the *Universitas Timor Timur* (University of East Timor, or UNTIM), which had commenced operation in 1992 as a result of the advocacy of Governor Mario Carrascalão (1982-1992), and had faculties of Agriculture, Social and Political Sciences, and Education.⁵⁴ Following the establishment of UNTIM, the Department of Education opened the *Dili Politeknik* (Saldanha 1994:125), at which enrolments averaged around two hundred students per semester (BAPPEDA 1997:93-96, Table 4.1.11). Concerning the Open University, Beazley (1999:52) comments that enrolments numbered over four hundred, but that this number of students was not reflected in graduation figures. Indeed, BAPPEDA (1997:97-99, Table 4.1.12) data indicates that between 1990 and 1996/1997, total graduates of the Open University in East Timor numbered just sixty-four.

In fact, despite the dramatic expansion of basic education activities in East Timor, the province remained far behind other provinces in the achievement of important educational indicators, into the later years of Indonesian administration. Data from the

⁵³ Not including the Catholic Church Catechist Academy (*Akademik Kateketik Dili*), at which three hundred and six students were enrolled for 1996/1997 (BAPPEDA 1997:102, Table 4.1.14). See also Beazley (1999:53) for details concerning other non-state education institutions.

⁵⁴ As an initiative of the provincial Government of East Timor, UNTIM was funded by the provincial government with additional support from Catholic Church foundations. For further information on the foundation of UNTIM, see Saldanha (1994:124), Beazley (1999:52) and Jones (2000:50).

1995 intercensal survey (BPS 1996:213, Table 22.9), for example, indicates that East Timor was behind all other provinces in the realisation of literacy outcomes by a clear margin. At this time East Timor was found to have an illiteracy rate of 48.75 per cent. The next highest rate was found in Irian Jaya, with a rate of 28.02 per cent. Data from the same 1995 intercensal study can be used to enable a comparative assessment of the educational levels of the over-ten population in East Timor against other Indonesian provinces at that time (refer Table 2 overleaf):

The data presented in Table 2 (below) indicates that of the national 1995 over-ten population, East Timor ranked lowest nationally in a number of categories. In particular, East Timor had the highest proportion (69.9 per cent) of those who had either never attended school or not yet completed primary school. Again, there appears a clear margin between East Timor and a next highest ranking group-of-four provinces (West Nusa Tenggara, West Kalimantan, Irian Jaya and East Nusa Tenggara), in which just over half of the over-ten population had either never attended or not yet completed primary school. Corresponding to the low level of primary education participation and completion in East Timor, the province also had the lowest proportion of the over-ten cohort who had completed junior high school. However, at 7.1 per cent, East Timor now ranks close to East Nusa Tenggara, the province with the second lowest junior high school graduation rate (7.9 per cent). In contrast to its ranking in primary and junior secondary completion rates, East Timor surpasses (by a narrow margin) East Nusa Tenggara in the senior high school completion-rate category, and ranks (equally with Central Java) above five other provinces (West Kalimantan, East Nusa Tenggara, Lampung, South Sumatra and West Nusa Tenggara) in the advanced qualification category. Both the low basic education achievements of the East Timor province (relative to other provinces) and the relatively high proportion of senior high school and advanced qualification graduates receive further attention in the following paragraphs.

Table 2: Educational achievements of over-ten population throughout Indonesia in 1995⁵⁵

District	Not yet completed or never attended Primary School		Completed Primary School		Completed Junior High ⁵⁶		Completed Senior High ⁵⁷		Completed Advanced Qualification ⁵⁸		Total
	No	%	No	%	No	%	No	%	No	%	
Aceh	1016363	33.3	921285	32.0	445123	15.5	418359	14.5	75184	2.6	2876314
North Sumatra	2710812	32.5	2571369	30.8	1494064	17.9	1346721	16.2	208205	2.5	8331171
West Sumatra	1307604	39.5	912190	27.6	491185	14.8	500185	15.1	94464	2.8	3305628
Riau	1005781	34.3	1002319	34.2	437653	14.9	426222	14.5	62130	2.1	2934105
Jambi	721417	40.0	596568	33.1	247678	13.7	200407	11.1	35912	2.0	1801982
South Sumatra	2167868	40.0	1836991	33.9	740698	13.7	590993	10.9	81111	1.5	5417661
Bengkulu	436234	40.9	334502	31.4	139989	13.1	131135	12.3	23173	2.2	1065033
Lampung	2227039	43.8	1702730	33.5	604021	11.9	469520	9.2	76989	1.5	5080299
Jakarta	1168831	15.5	2055917	27.3	1532203	20.3	2196866	29.1	583245	7.7	7537062
West Java	10902279	35.5	11479660	37.4	3626579	11.8	3951840	12.9	757428	2.5	30717786
Central Java	9994714	42.2	8455764	35.7	2591421	10.9	2217653	9.4	400788	1.7	23660340
Yogyakarta	823282	33.4	628231	25.5	395236	16.0	506586	20.6	110352	4.5	2463687
East Java	12647310	45.9	8414716	30.5	3070644	11.1	2894068	10.5	516156	1.9	27542894
Bali	910239	37.9	748396	31.1	284910	11.9	375727	15.6	82791	3.4	2402063
West Nusa Tenggara	1489529	55.2	669902	24.8	258455	9.6	235662	8.7	44330	1.6	2697878
East Nusa Tenggara	1369971	52.5	794047	30.4	2071146	7.9	200127	7.7	36506	1.4	2607797
East Timor	397644	69.9	76328	13.4	40328	7.1	45067	7.9	9655	1.7	569022
West Kalimantan	1479873	53.6	695017	25.1	292540	10.6	260537	9.4	32764	1.2	2760731
Central Kalimantan	449127	36.5	439448	35.7	181453	14.7	134887	11.0	25531	2.1	1230446
South Kalimantan	979960	43.5	697411	30.9	264376	11.7	270699	12.0	41802	1.8	2254248
East Kalimantan	605672	34.2	508257	28.7	274901	15.5	319325	18.0	61028	3.4	1769183
North Sulawesi	632009	30.0	718028	34.1	348038	16.5	341772	16.2	62967	3.0	2102814
Central Sulawesi	518002	34.9	546656	36.8	187553	12.6	198341	13.4	32741	2.2	1483293
South Sulawesi	2540907	43.5	1593398	27.3	705750	12.1	831723	14.2	171748	2.9	5843526
Sulawesi Tenggara	469265	40.8	333066	28.9	160743	14.0	153587	13.3	33582	2.9	1150243
Maluku	510045	33.3	536582	35.0	235755	15.4	216246	14.1	33663	2.2	1532291
Irian Jaya	731568	53.1	318201	23.1	142980	10.4	154795	11.2	29923	2.2	1377467
Total	60213345		49586979		19401422		19589050		3724168		152514964

⁵⁵ Prepared by the writer using data from the 1995 *Intercensal Population Survey* (BPS 1996:129, Table 10.9)

⁵⁶ Includes both General and Vocational categories.

⁵⁷ Includes both General and Vocational categories.

⁵⁸ Includes all diplomas and university qualifications.

The most important feature of Table 2 (above) is its illustration of the great extent to which East Timor lagged behind other provinces in the area of basic education, despite the expansion of the sector undertaken during Indonesian times. More obvious factors likely to have contributed to poor educational outcomes include the neglect of the education sector during Portuguese times (Jones 2000:46) and the use of Indonesian as an instruction medium (Beazley 1999:49; Jones 2000:53) to people largely unfamiliar with it, at least initially. Other factors that have been reported (Beazley 1999:48-51) include shortages of books and other teaching equipment due to high transport costs from Java, inexperienced, newly graduated teachers from Java or elsewhere in Indonesia lacking appropriate cross-cultural and communication skills, a low nutritional and health status among students which prevented concentration and educational performance, lack of attendance for various reasons,⁵⁹ and a range of irregular (including corrupt) practices and behaviours that serve to compromise the learning environment.⁶⁰ The end result of this combination of factors included high drop-out rates and the highest repeat rate in Indonesia (Beazley 1999:50).

Despite the good intentions of Governor Mario Carrascalão in establishing UNTIM, and the relatively high levels of advanced education indicated in official statistics (refer Table 2 above), success in this sector is also believed to have suffered deficiencies in key areas. Using data on education completion rates combined with data on the birthplace of household heads, Jones (2000:47-51) has demonstrated that in the mid-1990s, the education levels of those living in households headed by individuals born *outside* of East Timor were substantially higher than the educational levels of those living in households headed by individuals born *within* East Timor. This reflects the advanced (upper secondary, as well as tertiary) education levels of the many Indonesian

⁵⁹ Beazley (1999:50-51) reports that reasons for non-attendance include work obligations of children, an apathetic view about the value of education, and the refusal of parents to allow their daughters to attend school because of fear of birth control programs.

⁶⁰ Beazley (1999:49) refers to contemporary claims that teachers from outside East Timor (representing the majority) 'do not understand the local population, do not speak a local language, and lack cultural sensitivity', and also refers to reports of Indonesian teachers demanding payments for class attendance and bribes for advancement to higher classes. Meanwhile, Indonesian teachers complained 'about the children having short concentration spans, coming late to class, not wearing uniform, being disobedient and undisciplined, being only interested in talking about East Timorese independence, and of walking out of class.' Consequently, Indonesian teachers assumed the students had no desire to learn.

officials stationed in East Timor and implies that the completion rates at these levels among the East Timorese themselves were considerably lower than the raw figures would suggest.

Additionally, Beazley (1999:52) reports that the tertiary education available in the province was said to rival even the school system in terms of poor learning outcomes. This was especially believed to be the case at UNTIM, East Timor's main university which catered mainly for local students.⁶¹ This institution, according to Beazley, suffered from a lack of learning materials, a high student to lecturer ratio, 'lack of a stimulating academic environment', and insulation from outside knowledge and participation. The end result was said to be that 'few, if any graduates' were able to find work, with many complaining about the educational standards.⁶² Although based on anecdotal accounts, Anderson (1993:25) estimates that thousands of other East Timorese students went to Indonesian universities to study yet suffered high drop-out rates. Again, language difficulty is suggested as a contributing factor, supplemented by 'an intolerable social climate' characterised by ongoing allegations that the East Timorese failed to demonstrate appropriate gratitude for being integrated into Indonesia.

To summarise some of the education trends in East Timor during the Indonesian period, it can be seen that substantial expansion of the basic education sector occurred, but complicated by language, cultural and quality issues. Although undoubtedly an overall improvement on the basic education programs of the Portuguese period, the educational outcomes achieved did not compare favourably with outcomes in other Indonesian provinces. At the higher levels, including at tertiary level, there are indications that educational activities were also plagued by quality issues and low completion rates. Yet despite the doubtful standards and low graduation rates, the educational activities

⁶¹ According to Beazley (1999:52), students from elsewhere in Indonesia commonly went to Java for university study.

⁶² In the post-independence period, UNTIM has transformed into the Universidade Nacional Timor Lorosa'e (East Timor National University, or UNTL). Teaching remains largely based on the original curriculum, and the institution continues to attract criticism. In a radio interview in April 2006, José Ramos-Horta (in *Saturday Extra* 2006), speaking as Senior Minister of Foreign Affairs and Cooperation, despairs that many of UNTL's 8,000 students are enrolled 'in a particular degree that was invented by the Indonesian side, and is almost useless, and they call it Social Politics... In my own ministry I have already said, no-one with that degree will be allowed into the Foreign Ministry.'

undertaken during the Indonesian period had a profound impact on East Timorese society by awakening a broad cross-section of East Timorese youth, on a scale unprecedented in the Portuguese period, to the possibilities of life outside the confines of subsistence agriculture. As commentators (Soesastro 1989:219; Saldanha 1994:167; Jones 2000:54) have noted, the scale of this awakening appears to have been matched only by the magnitude of the shortage of employment and further study opportunities faced by East Timorese youth once out of the school system. As discussed further below, the result of the development of this gulf between aspirations and opportunities, only fed resentment against the Indonesian administration.

East Timorese Participation in Public Administration

As Indonesia's twenty-seventh province, East Timor retained the thirteen districts (*kabupaten* or *daerah*) in existence at the conclusion of the Portuguese period. Under Indonesian administration, these districts comprised a total of sixty-two sub-districts (*kecamatan*) which comprised a total of four hundred and forty-two *sucos* (*desas*) (BAPPEDA 1997:35). Although the administrative system installed by the Indonesians might be expected to have presented possibilities for the accrual of public administration experience by East Timorese, in reality this never occurred for reasons examined in the following paragraphs.

Structurally, in accordance with the Indonesian administrative model during the New Order period, provincial governance in East Timor was overseen by the *Dewan Perwakilan Rakyat Daerah* (Provincial Council of People's Representatives, or DPRD). Theoretically the DPRD had responsibility for promulgating provincial legislation and for choosing the governor, yet in reality provincial governance was tightly controlled by the Indonesian central government. The promulgation of provincial legislation was contingent on Ministry of Home Affairs endorsement, and the choice of governor contingent on presidential approval. Public officials were subjected to ongoing monitoring to ensure compliance with Jakarta's policies, as demonstrated by the near-dismissal of long-serving Governor Mario Carrascalão in 1989 after reports that he had pro-independence sympathies (Vatikiotis 1998:153). Similarly, although the governor

had responsibility for appointing district level officials including district administrators (*bupatis*), sub-district administrators (*camats*) and village heads (*kepala desa*), these appointments were also subject to approval by the Ministry of Home Affairs (Beazley 1999:24-25). Clearly, therefore, the composition of the provincial administration was closely controlled by the Indonesian central government, in a regime where democratic participation at both national and provincial levels was severely limited to the point of non-existence.⁶³

Because of the ongoing security crisis that prevailed throughout the Indonesian occupation, central government control over public administration activities in East Timor remained even tighter than elsewhere in Indonesia. Despite the advantages to be gained by placing East Timorese in visible positions in the public administration (particularly *bupati* and *camat* positions), it is reported that it was not until the 1990s that some of the Indonesians (often military officers) occupying these positions were replaced by East Timorese appointees. Tellingly, the *Babinsas* (*Bintara Pembina Desa*), military village development officers posted in every village largely for the purpose of preventing contact between villagers and resistance activists, are reported to have remained mostly Indonesian appointees.⁶⁴ Yet even after the installation of East Timorese administrative officials, the East Timorese provincial and district administration agencies had minimal discretionary capacity due to Jakarta's special interest in maintaining central control. Provincial and district agencies therefore acted more 'as executing agencies of Indonesian central government' (Beazley 1999:27).

⁶³ In this respect, noting the official rationale of 'economics first, politics later', Vatikiotis (1998:93,200) has described New Order democratic processes as rituals, whereby 'orderly running was considered more important than the actual results. Strict control over the three sanctioned political parties, and the government's final say in who was appointed to the MPR, made the choice of presidential candidate a foregone conclusion.' In East Timor, the model of strictly controlled elections was reflected in all levels of governance, with participation restricted to authorised political parties and evidence of vote-rigging obvious. According to Taylor (1991:132-133), basic calculations indicate that more than one hundred per cent of enrolled voters are recorded as having cast ballots on a routine basis, with the 1987 election results for the district of Aileu indicating that votes were cast by more than three times the number of eligible voters! In character with the national pattern, therefore, the East Timor DPRD was overwhelmingly dominated by representatives from the ruling Golkar party, supplemented by military representatives (BAPPEDA 1997:29). See also Durand (2001) for an historical study of electoral processes in East Timor.

⁶⁴ This is the impression of Maria Fernanda Lay (email correspondence received 11th September 2006) who as a senior civil servant travelled widely throughout East Timor during this time. See also UN (2000b:14). For details concerning the intrusive nature of Indonesian military monitoring activities in the villages of East Timor, see Budiardjo and Liong (1984:102-103).

Accordingly, the parameters within which public officials could develop and exercise administrative initiative were correspondingly narrower than elsewhere in Indonesia, compounding the lower educational standards of East Timorese officials with restrictions on the ability of the few East Timorese district administration officials to accrue meaningful public administration experience.

Bupati and *camat* positions in the districts were perhaps atypical in that East Timorese candidates were eventually appointed to a number of these relatively senior posts, even if the incumbents did have little real authority.⁶⁵ More broadly, official data (BAPPEDA 1997:61, Table 3.2.8) indicates that the number of civil servants in East Timor increased steadily from 11,299 in 1985 to 33,078 in 1996, yet serious concerns remained into the 1990s (Saldanha 1994:139) that public administration appointments remained dominated by migrants, despite a decade under the governorship of Mario Carrascalão (1982-1992), who is recognised for his attempts to increase the participation of East Timorese in the civil service and formal economy generally.⁶⁶ Again, as indicated above, the absence of East Timorese from senior positions remained a particular issue. Although accounts indicate that junior and middle levels of the civil service were split between local employees and employees from other parts of Indonesia, Indonesians dominated senior level appointments. Among other factors (including superior educational qualifications, as discussed earlier), Indonesian migrant workers were strongly advantaged by their Indonesian language skills, as proficiency in this area was highly valued in the civil service.⁶⁷ Soesastro (1989:221) asserts that the vast majority of East Timorese civil

⁶⁵ The role played by East Timor's *bupatis* in the militia organisation of 1999 provides an indication of the extent to which the East Timorese district administration remained subservient to Indonesian security objectives through to the end of the occupation. According to Kingsbury (2000:71-72), the militia network was organised using the district administration system, with *bupatis* (district administrators) required to arrange the hiring of 'local toughs', who would then recruit militia members.

⁶⁶ Based on personal email communication received from Maria Fernanda Lay (former manager of Timor Telekom during the Indonesian period) received on 1st August 2006. For more general information on Carrascalão's advancement of regional development objectives and opportunities for local people, see Saldanha (1994:122-126) and Soesastro (1989:212).

⁶⁷ Information received from Maria Fernanda Lay (see above). See also Beazley (1999:28), who asserts that senior civil service positions were dominated by Javanese. Note in relation to the account of the first informant, that Timor Telekom itself is said to have employed a higher proportion of local employees (about sixty per cent) due to the introduction of a policy preventing immigrant mid-level and junior-level employees from going 'back to Java' until they had trained local recruits. However, not all immigrants

servants were employed at the two lowest civil service levels, with some illiterate. Overall, it appears that even when East Timorese were able to secure civil service employment, the public administration experience gained was of a rudimentary nature.

Little change appears to have occurred within the civil service right up to the end of the Indonesian period. In early 1999, for example, locally recruited teachers are reported to have comprised only 11.5 per cent of all teachers (427 of 3,698) in East Timor (Beazley 1999:49). Similarly, in the area of public health, the Office for the Coordination of Humanitarian Affairs (UNOCHRA) reported (UNOCHRA 1999:63,95) in the wake of the post-referendum chaos that ‘managerial and senior’ levels of the East Timorese public health service had been ‘largely staffed by Indonesians’ prior to the 1999 crisis, thereby contributing to the difficulty of restoring health services in the post-crisis period.

As well as reducing the capacity for East Timorese administrative self-reliance post-independence (a capability the Indonesian administration never consciously intended to advance), the heavy reliance on public servants from other parts of Indonesia contributed to the failure of the Indonesian administration to win favour among the East Timorese people. Saldanha (1994:147) refers to the frustration experienced by East Timorese senior high school graduates who had limited opportunity to join the civil service and felt discriminated against in relation to openings for advanced study. Accordingly, secondary school graduates would become ‘disappointed when they found out that...[the limited scholarships available]...were awarded to government officials’ children with low academic performance and outsiders who were less capable.’ The resulting resentment was exacerbated by the large numbers of migrant workers (referred to below) who competed with aspiring East Timorese workers in the wider (but limited) economy, especially after the ‘opening up’ of the province.

From a state-building perspective, the minimal participation of the East Timorese in the administration of the province can be seen as a missed opportunity. Given the significant

were so keen to complete their initial contract and leave, and some are said to have stayed for five, ten or more years. See also Saldanha (1994:175) on this matter.

size of the public administration during the Indonesian period, greater East Timorese participation could have contributed, in Weberian terms, to a transition from the dominant ‘traditional authority’ ethic to a ‘legal’ or ‘bureaucratic’ understanding of public administration. Instead, as discussed later in this section, the nature of the Indonesian administration of East Timor merely acted to undermine the legitimacy of state authority and *reinforce* the prevailing ‘traditional authority’ ethic.

East Timorese Participation in the Broader Workforce

With their language and educational advantages, Indonesian migrants were able to compete with East Timorese in the broader economic arena as well as in the civil service.⁶⁸ As a general indication of the migrant population, it has been suggested (Beazley 1999:15) that by the late 1990s, the numbers of migrants from Indonesia residing in East Timor numbered between 150,000 and 200,000,⁶⁹ resulting in stiff competition for any East Timorese trying to participate in the formal (as opposed to the subsistence) economy.

A lack of entrepreneurial ability among the East Timorese, probably linked to both the subsistence nature of the economy and the legacy of a quarantined existence under the Portuguese *posto* system and the early Indonesian period, has been widely referred to by commentators (Soesastro 1989:212; Saldanha 1994:193; Beazley 1999:22,28). Soesastro (1989:212) has remarked that East Timor was not the only province where the entrepreneurial skills of outsiders eclipsed those of the population, and Beazley (1999:15) has referred to the resentment caused by the common sight of immigrant workers and entrepreneurs throughout the markets and along the road systems of East

⁶⁸ See note 67 above.

⁶⁹ It is not possible for this figure to be validated using official figures. Official data from the 1995 intercensal population survey tabulated by the *Biro Pusat Statistik* (Central Statistic Bureau, or BPS) indicates (BPS 1996:109-111, Table 08.9) only that in 1995, East Timor had a total population of 700,416 of whom 21,415 had been resident outside of East Timor five years previously (implying that many of these originated in other provinces). Clearly, therefore, these figures would not include migrants from other parts of Indonesia who came to East Timor prior to 1990. Furthermore, whereas the stream of migrants from other parts of Indonesia is said to have increased substantially following the ‘opening up’ of the province at the turn of the decade, da Costa and Soesastro (2002:2-3) contend that aspiring migrants had always been able to secure their way into East Timor prior to the 1989 ‘opening up’ policy by bribing officials. As suggested by Beazley (1999:15), therefore, the extent of migration to East Timor from other parts of Indonesia may not be reflected in any official figures.

Timor; driving taxis and tending stalls and shops.⁷⁰ The presence of transmigrants, with their unfamiliar farming practices, also contributed to the sense of intrusion.

The lack of employment and advanced education opportunities for young East Timorese has been suggested as a factor in the development of tensions prior to the fateful events at Santa Cruz of 12th November 1991 (Saldanha 1994:176).⁷¹ Similarly, a dispute between East Timorese and Bugis traders at a Dili market has been suggested as the basis of riots in Dili in 1994 (Beazley 1999:15). Greater East Timorese participation in the economy and the civil service may have gone some way towards sweetening life under Indonesian rule and possibly also overcome what Saldanha (1994:159) refers to as the 'Jakarta-centred' nature of East Timor's development trajectory. Had this happened, it is possible that the calls for independence may have reduced in intensity, although the brutality of the invasion itself and the subsequent military excesses would have remained an impediment to acceptance of Indonesian rule.⁷² Of course, no participatory approach was ever to characterise Indonesia's annexation of East Timor, and Jones (2000:54) remarks appropriately that '[t]he Indonesian authorities in East Timor always had trouble coming to terms with the fact that it was the young people, born since Indonesian occupation of East Timor and given educational opportunities, who were the most vocal critics of the regime.'⁷³ Meanwhile, from the theoretical perspective outlined in Chapter 1, it can be seen that the limited participation of East Timorese in the post-subsistence economy meant that little movement was made towards the development of a stratified workforce, a sociological criteria closely associated with modernisation and state development.

⁷⁰ Soesastro (1989:215) cites a study indicating that of three hundred and seventy-six traders surveyed in Dili market in 1982, only twenty per cent were East Timorese. The remainder included a large number of Bugis (comprising forty per cent of traders) and Makassarese (comprising thirty-five per cent of traders).

⁷¹ Saldanha (1994:167) estimates that by the mid-1990s, there would have been 300,000 school graduates seeking employment in East Timor. Meanwhile, official statistics (BAPPEDA 1997:58) indicate that in 1996, job vacancies totalled 1,230.

⁷² In this respect, Beazley (1999:12) informs an Australian Government audience in her AusAID report that '[t]he way in which the Indonesian military has allegedly dealt with opposition and critics to its administration (through intimidation, terror and violence) has actually sustained resistance to Indonesian rule in the region.'

⁷³ See also Vatikiotis (1998:184).

Health

Official figures (BAPPEDA 1997:105-107, Tables 4.2.1, 4.2.2, 4.2.3) indicate substantial expansion of public health facilities and staffing levels from the mid-1980s up until 1996. Between 1985 and 1996, according to these figures, hospitals increased in number from five to ten;⁷⁴ public health centres increased from twenty-eight to sixty-seven; public health sub-centres increased from 117 to 287, and pharmacies increased from three to seventeen. During the same period, total numbers of medical and paramedical staff⁷⁵ increased steadily from 354 to 1,831. A corollary to this increase in health personnel, which clearly outstripped demographic growth, was a reduction in health staff to population ratios. According to official figures (BAPPEDA 1997:107, Table 4.2.3), whereas in 1985 there was one doctor for every 7,358 people, by 1996 there was one doctor for every 5,639 people. Over the same period the ratio for nurses improved from one nurse to 2,643 people to one nurse for every 784 people. Meanwhile, the midwife ratio improved from one midwife for every 30,834 people to one for every 1,762 people. National figures for 1997 presented by the Ministry of Health Republic Indonesia (MHRI) indicate (MHRI 2000:33-52) that in 1997, the health personnel to population ratio in East Timor compared favourably to other parts of Indonesia. In 1997, East Timor had the third highest ratio of total health personnel to population in the country,⁷⁶ and the third highest ratio of nurses to population in the country.⁷⁷ Whereas the military presence in East Timor may have been a contributing factor to this relatively high deployment ratio of health personnel, the figures suggest that the health sector staffing levels were relatively high even in technical areas unrelated to military activity. Of the twenty-seven provinces in Indonesia in 1997, for example, East Timor had the ninth highest ratio of midwives to population.

⁷⁴ The data (BAPPEDA 1997:105, Table 4.2.1) indicates that five hospitals were already operating in 1985, and that another five opened in 1988.

⁷⁵ These figures refer to the combined categories of specialists, doctors, dentists, general nurses, dental nurses and midwives.

⁷⁶ For details see MHRI (2000:35, Figure III.A.2a). The regions with the highest and second highest total health personnel to population ratios were, respectively, Jakarta and Irian Jaya.

⁷⁷ For details see MHRI (2000:49, Figure III A.18). The regions with the highest and second highest nurse to population ratios were, respectively, South Sulawesi and West Kalimantan.

Despite improvements to health infrastructure and staffing levels in East Timor over the term of the Indonesian occupation, to the point where East Timor was relatively better resourced in a number of important areas than many other provinces, this advantage was not reflected in a number of crucial health outcomes. According to figures published respectively by the Indonesian Ministry of Health and the World Health Organisation (WHO), the infant mortality rate in East Timor in 1997 was over seventy per thousand, the highest of any province and close to twice the national average (MHRI 2000:129, Figure V.B.1; WHO 2006:13). Furthermore, life expectancy rates were reported to be significantly lower than the national average, at 55.3 for men and 58.6 for women compared with a national average of 61.5.⁷⁸

Given the undeveloped nature of the territory at the time of the Indonesian invasion, it would be unreasonable to hold the Indonesian government responsible for all public health and development failures during the term of its administration. However, it must again be recognised that a factor which appears likely to have contributed to the poor health statistics in East Timor even after such expansion of the sector, relates back to the authoritarian nature of the Indonesian administration and the underlying fact that the territory was experiencing political conflict, and under occupation. According to a news report written by journalist Karen Polglaze in early 1999 (Polglaze 1999), villagers, at least at this time, were often afraid to go to the health clinics, while public health staff had similar concerns about visiting the villages. Other reasons that have been suggested for East Timor's poor health statistics include (Beazley 1999:33-35) cross-cultural and communication difficulties, avoidance of health services by young women concerned about being coerced into 'over zealous' birth control programs, the Indonesian practise of attracting inexperienced medical staff to hardship posts like East Timor,⁷⁹ and shortages of medical supplies.

⁷⁸ See UN (2000b:119) and Beazley (1999:37). Note that the former source (UN 2000b:119) refers to WHO warnings about the accuracy of health data from the Indonesian period. In reality, the health status of the population of East Timor during the Indonesian period may have been significantly worse than indicated by the figures referred to in this section.

⁷⁹ According to Beazley (1999:35), medical doctors are unable to graduate in Indonesian until they have accrued five years 'easy' experience or three years experience in a 'difficult' post. In East Timor, the doctors would reportedly be given responsibilities beyond their experience and competence, contributing to poor health outcomes.

Broader Development Outcomes

By the late Indonesian period, substantial infrastructural development had been undertaken in East Timor, and according to official figures (BAPPEDA 1997:325, Table 8.1.2) East Timor had 6,363.39 kms of roads by 1996, of which 3,513.61 kms was asphalt. Vehicle testing figures (BAPPEDA 1997:332, Table 8.2.5) indicate that the roads catered for a fleet of vehicles that had expanded from 118 registered vehicles in 1978 to 4,969 registered vehicles in 1996. Again, despite such empirical indicators, commentators have pointed to a number of more general failings associated with the Indonesian administration and development of East Timor. As the earlier reference to illegal sandalwood trading by the Indonesian military suggests, corruption was a common feature of the Indonesian period, and the matter of embezzlement and misallocation of substantial amounts of development funds has received attention by commentators (Saldanha 1994:143; Beazley 1999:19; Costa and Soesastro 2002:3).⁸⁰ To this can be added irregular commercial advantages gained by businesses associated with the Indonesian military, related to areas including the coffee, sandalwood and marble quarrying industries (Aditjondro 1999:16-17).

At the broad policy level, Indonesian development objectives have attracted criticism for being out of step with local realities, as well as being imbalanced in focus due to the underlying security considerations. Saldanha (1994:131-178), who has undertaken the most systematic critique of Indonesian-period development, characterises the development process as centrally controlled (from Jakarta) and of a ‘high technology’ nature (focussed largely on construction)⁸¹ such that it could only be undertaken with imported labour from elsewhere in Indonesia. Remote from the skill bases and requirements and often even the participation of local communities, the Indonesian development program caused resentment through the involvement of large numbers of outsiders, and focussed on the development of physical infrastructure at such a rate that it was ‘difficult for the other sectors to catch up’ (Saldanha 1994:146). Meanwhile, the

⁸⁰ For specific examples of corruption and misappropriation of development funds, see Saldanha (1994:122,152,165).

⁸¹ See Saldanha (1994:145).

integrity of an already non-participatory and overly rapid development agenda suffered even further compromise because of the tendency for ‘extravagance and corruption’ within the civil service.⁸²

The security emphasis that prevailed throughout the Indonesian occupation of East Timor was manifested in a number of ways that impacted upon the nature of development outcomes. Commentators (Aditjondro 1994:19-20; Beazley 1999:14) have remarked that resettlement and housing construction projects were often motivated less by agricultural objectives than by the desire to resettle local populations in places where they could be easily supervised and controlled by Indonesian security forces, away from areas of guerrilla activity. Consequently, resettlement programs are believed to have had implications on health and nutritional standards. Similarly, Aditjondro (1994:57) argues that the geographic distribution of infrastructure projects has been primarily influenced by security considerations, supplemented by the objective of supporting transmigrants.⁸³ Highlighting the security-related emphasis of rural and regional development objectives and the neglect of meaningful outcomes, Saldanha (1994:149,161,166-167) notes that budget allocations for the communications sector typically approximated thirty per cent, whereas allocations for agriculture were usually only around ten per cent.⁸⁴

The nature of agricultural development policies during Indonesian times also attracted criticism, with Soesastro (1989:222-223,227-228) asserting that the Indonesian emphasis on agricultural self-sufficiency (including in rice production) for East Timor was misguided, and that a better approach would be to focus on areas of comparative advantage (taking into account climatic and geographic factors), including estate crops

⁸² See Saldanha (1994:143). It seems likely that the ‘extravagance and corruption’ may have been promoted partly by the unrelenting flow of central government development funds. Saldanha (1994:145) notes in this respect that unlike other regions, East Timor ‘does not have to consider whether development funds are available or not because it is already a commitment of the central government to accelerate the development of the area.’ More generally, Saldanha (1999:165) refers to a tendency among contractors to spend advance payments for contracts on personal electrical goods instead of the supplies and equipment necessary to complete the contracts, with the result that the money is wasted and the contracts not completed.

⁸³ See also Beazley (1999:19-20).

⁸⁴ See also Beazley (1999:55).

and livestock.⁸⁵ Soesastro's conclusions in this regard appear well founded and of even greater relevance in the present day because of the various geographic and demographic factors discussed in Chapter 2 of this study, all of which indicate that the present rate of demographic expansion on the half-island will make subsistence agriculture unviable within the coming two decades. Furthermore, as discussed earlier, the durability of sophisticated irrigation systems has proved challenging in the post-Indonesian period, adding to Soesastro's concerns about the extent to which East Timor could ever become a competitive producer of rice, and highlighting the importance of identifying feasible areas of comparative advantage.⁸⁶

In fact, Soesastro (1989:225) does refer to a coffee replanting program that was said to have been implemented by Indonesian authorities in the late 1980s (when the coffee industry was still controlled by the Indonesian military), in accordance with an ambitious objective of raising coffee production by a factor of four. However, there are doubts about whether such a program really took place (as discussed below), or if so, how successful it was. No quadrupling of coffee production has been documented, even though one set of figures (FAO 2005) suggests that coffee exports increased from 8,000 tons in the early 1990s, to 14,000 tons in the years 2001-2003. According to David Boyce,⁸⁷ who managed the US-supported National Cooperative Business Association (NCBA) which broke the military monopoly on coffee purchases from East Timorese farmers after 1993, any increase in exports is more likely to have been caused by other factors. Specifically, these include the fact that from 1994 onwards, NCBA offered

⁸⁵ Soesastro (1989:228) also refers to tourism as a further (non-agricultural) potential growth area. Note also that at the time Soesastro's wrote his paper (1989), up to 200,000 Indonesian migrant workers were living in the province (as discussed earlier) whose food preferences may not have been met by the East Timorese subsistence economy. Note also that despite the limitations on agricultural production in East Timor, the province was apparently producing a surplus of maize and possibly other carbohydrate crops in the late 1980s (Soesastro 1989:223). The tradeable value of these crops, however, would not be substantial (compared with sandalwood, coffee or teak, for example).

⁸⁶ Soesastro (1989:223) questioned whether East Timor could ever become an efficient producer of rice on the basis of geographic and climatic factors. Furthermore, as discussed earlier, the viability of irrigation systems in East Timor has historically depended 'on government for maintenance and, eventually, rehabilitation' (MAFF 2004:4). The combination of geographic, climatic, social and political factors suggests that there are limits to the extent to which the irrigated agriculture sector can be developed in East Timor, particularly in the short-to-medium term.

⁸⁷ Personal (email) communication from David Boyce received 10th August 2006. NCBA became established in East Timor in 1993, and began purchasing coffee cherries in 1994.

farmers four times the price for coffee cherries that had previously been offered by the Indonesian military-owned monopoly PT Salazar/PT Batara.⁸⁸ Boyce suggests that this price increase is likely to have stimulated increased exports of coffee that would otherwise have been consumed by households or sold at local markets. This tendency for increased sale of coffee to the export market would have been further supported by the rise in international coffee prices that occurred in the 1990s, with the price per kg peaking at more than one US dollar in 1996.⁸⁹

A further development to which Soesastro (1989:225) refers, is that production of the dominant export crop, coffee,⁹⁰ became even more smallholder-dominated during the Indonesian period than it was at the end of the Portuguese period. Specifically, Soesastro asserts that the share of smallholder-operated coffee plantations increased from sixty per cent (of a total of 48,000 hectares of coffee producing land) during Portuguese times, to eighty per cent during Indonesian times. This conclusion is supported by survey work undertaken by the writer, indicating that in the Indonesian period, local communities took over the harvesting of abandoned plantations that had formerly been leased to Portuguese-period planters who fled during or following the disorder of 1975.⁹¹ According to Boyce,⁹² even the harvesting of the SAPT plantations (which were technically taken over by the Indonesian military monopoly PT Salazar after 1975), was organised by East Timorese smallholders, who themselves relied on a labour system that

⁸⁸ According to Soesastro (1989:225) the fixing of coffee purchase prices at a low rate in the days of the Indonesian military coffee-monopoly, were 'justified on the grounds that coffee producers have tended to use their increased earnings for festivities'!

⁸⁹ Boyce also refers to a number of further factors which may account for the indicated increase in sale of East Timorese coffee into the export market during the 1990s. These include an improved road network that improved access to Dili, the main market point, which could have resulted in a real increase in the sale of coffee to the export market. A further possibility suggested by Boyce is that prior to 1993/1994, the Indonesian military had not been disclosing their true income to the provincial administration. After 1993/1994, however, when NCBA took over the coffee export industry, the 'books became transparent.'

⁹⁰ FAO figures (FAO 2005) indicate that coffee has continued to dominate agriculture exports from the 1970s to the present, with coffee exports comprising more than ninety per cent of all agricultural exports in all periods.

⁹¹ The survey data indicates at least twelve instances where plantations were abandoned by Portuguese-era planters following the events of 1975, and subsequently harvested by smallholder groups. For details, see Nixon (2005:19-23).

⁹² Personal (email) communication received 10th August 2006.

had evolved from the Portuguese slave-labour system.⁹³ Given the skill-levels of smallholders as apparent in the present day (as discussed earlier), and what is known about crop conditions and management practices, it appears that plantation management capacity underwent no significant improvement in the period during which it was controlled by the Indonesian military monopoly, and that East Timor passed through yet a further era with no modernisation of its most important export crop. Raising questions about what happened to the various funds earmarked for coffee rehabilitation during the Indonesian period, Boyce makes the following comments about the sector during the time which it was controlled by the Indonesian security forces:⁹⁴

The army officers of course knew very little about coffee except that it was a good money earner, and that was their only interest. I think I am pretty safe in confirming that PT Salazar undertook no coffee planting or replanting while it had control of the company. In fact that was part of the problem, over the years the quality of coffee produced fell to virtually unsaleable levels. The army really did not care, because they were mainly selling it into their own businesses through the port of Surabaya (using army ships).⁹⁵

Given East Timor's history, plantation forestry would appear to be a further area of potentially strong comparative advantage. In fact, the plantation forestry sector appears to have expanded significantly during the Indonesian period, and survey work coordinated by the writer indicates that of approximately 14,213 hectares of state plantation land (including seedling production sites) identified in East Timor in 2005, around 13,616 hectares (about ninety-six per cent) dates from the Indonesian period (see Table 3 below). Much of this land remains forested with commercial species of timber, although in some cases high-value crops such as sandalwood have been removed (as discussed earlier) or crops have failed for other reasons. Between two and three

⁹³ Aditjondro (1994:16) asserts that abandoned plantations 'fell into the hands of a small group of East Timorese and Indonesians working for the new power holders in Dili.' The role of this group, however, is not entirely clear. One possibility that seems likely is that members of this elite pro-Indonesian group were given the right to purchase coffee (at the prescribed low rate) from smallholders who organised harvesting activities, in order to sell it on to the military. See also Robinson (1986).

⁹⁴ Written (email) correspondence received from David Boyce dated 10th August 2006.

⁹⁵ In the years following the 1994 cessation of the military control of the coffee industry, NCBA also endeavoured to promote pruning and rejuvenation activities. However, 'along with the government extension officers', comments Boyce (email correspondence dated 10th August 2006), 'it was found that the farmers were reluctant to harm the "spirit" of their trees by pruning.' Note also Boyce's comment about the use of military ships for the export of coffee from East Timor, a factor which serves to highlight the lack of transparency associated with the business activities in which the security forces were engaged. This lack of transparency may also explain why no signs of coffee rehabilitation activities dating to the late 1980s are in evidence, despite Soesastro's reference to such activities having been commenced.

thousand hectares is believed to have failed, for example, due to poor site selection and/or inappropriate management in early years.⁹⁶

Table 3: Identified state forestry plantations and seedling production sites in East Timor, 2005⁹⁷ (continued overleaf)

Location	Year ⁹⁸	Claim Info.	Presently Managed?	Area (Hectares)
Aileu, Aileu, Malere (AIK5) ⁹⁹	1989	No Claim	No	1
Aileu, Laulara, Talitu (AILA2) ¹⁰⁰	1997	No Claim	No	2
Aileu, Laulara, Talitu (AILA3) ¹⁰¹	1930	Claim	No	1
Ainaro, Hataudo, Leolima (AHU5)	1997	No Claim	Yes	57
Baucau, Bagueia, Aalwaw Craic (BB2)	1930	Claim	No	4
Baucau, Bagueia, Larisula (BB1)	1930	Claim	No	40
Bobonaro, Atabae, Aidabalete (BOA1)	1991	No Claim	Yes	450
Bobonaro, Balibo, Koba (BOBA2)	1978	No Claim	Yes	15
Bobonaro, Maliana, Lahomea (BOM2) ¹⁰²	Portuguese period (year unknown)	No Claim	No	2
Bobonaro, Maliana, Odomau (BOM1) ¹⁰³	1968	No Claim	No	2
Bobonaro, Maliana, Ritabou (BOM6)	1970	No Claim	No	4
Bobonaro, Maliana, Ritabou (BOM9)	1968	No Claim	Yes	40
Covalima, Fatumean, Nanu (CFA1) ¹⁰⁴	1997	No Claim	No	2000
Covalima, Maucatar, Belikasa (CM3)	1995	No Claim	No	800
Covalima, Maucatar, Hoges (CM1)	1997	No Claim	No	2000
Covalima, Maucatar, Matai (CM2)	1994	No Claim	No	1110
Covalima, Suai, Labarai (CSK1)	1994	No Claim	Yes	1200
Covalima, Tiloma, Foholulik (CT4)	1992	No Claim	Yes	500
Covalima, Tilomar, Maudemo (CT1)	Portuguese period (year unknown)	No Claim	Yes	6

⁹⁶ In one case, a 2,000 hectare site at Fatumean in Covalima district (see CFA1 in Table 3) is reported to have failed completely due to unsuitable soil and intrusion by buffaloes (which ate surviving seedlings). A further 1,700 hectare site (CZ2) is known to have been only partially planted, with the remaining land used for community garden production. Detailed field verification of all sites would be necessary to accurately determine the volume and condition of commercial timber species growing on state plantation land in East Timor.

⁹⁷ Based on non-customary primary industry field survey conducted April-June 2005. Full details of the methodology are outlined in Nixon (2005:1-5).

⁹⁸ Note that as all data is derived from interviews with RDTL officials and village authorities, some dates may be inaccurate and the indicated years should be used as a general guide only.

⁹⁹ Seedling production site.

¹⁰⁰ Seedling production site.

¹⁰¹ Seedling production site.

¹⁰² Note that this land was identified as the site of a seedling production area during Portuguese times, however, no development took place until 1988.

¹⁰³ Seedling production site.

¹⁰⁴ Completely failed teak plantation.

Table 3 (continued...)

Location	Year	Claim Info.	Presently Managed?	Area
Covalima, Tilomar, Maudemo (CT2)	1992	No Claim	Yes	50
Covalima, Zumalai, Fatulete (CZ3)	1994	No Claim	Yes	875
Covalima, Zumalai, Loore (CZ4)	1994	No Claim	Yes	800
Covalima, Zumalai, Mape (CZ1)	1992	Claim	No	2000
Covalima, Zulmalai, Raimea (CZ8)	1991	No Claim	No	6
Covalima, Zumalai, Zulo (CZ2)	1992	No Claim	No	1700
Lautem, Lospalos, Bauro & Irafai (LLO9)	1992	No Claim	Yes	25
Lautem, Lospalos, Fuiloro (LLO1)	1955	No Claim	Yes	4
Lautem, Lospalos, Lore (LLO10)	1930	Claim	No	3
Lautem, Lospalos, Lore (LLO11)	1966	Claim	No	10
Lautem, Luro, Afabubu (LLU1)	1966	No Claim	Yes	25
Lautem, Luro, Kotamutu (LLU2)	1966	No Claim	Yes	40
Liquiça, Maubara, Guiço (LMA6)	1950	Claim	No	6
Liquiça, Maubara, Guiço (LMA10)	1950	No Claim	No	12
Liquiça, Maubara, Vatubou (LMA9) ¹⁰⁵	1983	No Claim	No	5
Manatuto, Laleia, Kairui (MLL7)	1962	No Claim	No	200
Manufahi, Same, Letefoho (MSA2)	Portuguese period (year unknown)	No Claim	Yes	1
Oecusse, Nitibe, Suniufe (ON1) ¹⁰⁶	1952	No Claim	No	60
Oecusse, Oesilo, Bobometo (OO1)	1985	No Claim	No	20
Oecusse, Oesilo, Bobometo (OO2)	1949	No Claim	No	20
Oecusse, Pantai Makassar, Costa (OPMA5)	2005 ¹⁰⁷	No Claim	Yes	25
Viqueque, Ossu, Loihunu (VO5)	Portuguese period (year unknown)	No Claim	No	17
Viqueque, Ossu, Ossu (VO4)	1925	No Claim	No	10
Viqueque, Uatocarbau, Afaloicai (VUC4)	1937	No Claim	No	10
Viquequ, Uatocarbau, Afaloicai (VUC6)	1920	No Claim	No	4
Viqueque, Uatocarbau, Irabin (VUC1)	1930	No Claim	No	10
Viqueque, Uatolari, Afaloicai (VUL2)	1920	No Claim	No	3
Viqueque, Uatolari, Matahoi (VUL1)	1910	No Claim	No	10
Viqueque, Uatolari, Matahoi (VUL5)	1932	No Claim	No	3
Viqueque, Uatolari, Matahoi (VUL6)	1935	No Claim	No	25
Total Hectares				14,213

Of further interest is the finding that whereas six of the twenty-eight forestry sites (over one fifth) established during the Portuguese period are now under claim by members of the community, only one of the twenty forestry sites established during the Indonesian

¹⁰⁵ Seedling production site.

¹⁰⁶ This site (visited by the writer in mid-2005) is completely failed as a forestry operation. The site is discussed further in Chapter 6 in the context of the administrative challenges facing the new RDTL state.

¹⁰⁷ New RDTL agroforestry project initiated by MAFF in 2005.

period is under claim by members of the local community. Given the much greater land area covered by the Indonesian period plantations and seedling production sites, this low claim rate would appear to indicate that the Indonesian forestry service put considerable effort into negotiating appropriate settlements with land owners during the site selection phase, whatever the failings of the Indonesian administration in other areas. Still, despite the growth of the sector under Indonesian administration, the total area of state plantation forestry and other state forestry sites in East Timor at the conclusion of the Indonesian era appears to have amounted to only 14,188 hectares, just under one per cent of the land area of East Timor. Furthermore, the delivery to the East Timorese of long-term benefits associated with timber production would have also depended on the establishment of local value-adding activities in which the East Timorese had the opportunity to participate. Yet given prevailing employment patterns, migration patterns and existing skill-levels among East Timorese (as discussed above), it is unclear that this would have happened.

Another area of primary industry production which expanded significantly during the Indonesian period, and which has received little coverage elsewhere, is that of aquaculture.¹⁰⁸ Although aquaculture was a small sector to begin with, and remained modest at the end of the Indonesian period, some aquacultural developments (specifically, freshwater facilities) appear to hold promise and may represent a suitable focus for future efforts. The data outlined in Table 4 below indicates that of the fifteen existing (functioning *and* abandoned) state aquaculture sites identified in 2005 survey work (see Nixon 2005:32-35), one was established during the Portuguese period and thirteen were established during the Indonesian period.¹⁰⁹

¹⁰⁸ In his economic assessment, Soesastro (1989:228) noted that East Timor had the lowest consumption of fish of all Indonesian provinces, and highlighted the economic and nutritional advantages of improving fish production. However, in promoting this area, Soesastro appears to be primarily urging the expansion of the small coastal fishing industry through private sector participation.

¹⁰⁹ The remaining development (BVM3), which has unfortunately failed, was established in 2004 under the RDTL administration.

Table 4: Identified state aquaculture sites in East Timor, 2005¹¹⁰

Location	Type	Year ¹¹¹	Management Profile	Claim Info.
Aileu, Aileu, Sarin (AIK3)	Freshwater/Hatchery	1992	Scheduled for reopening	No Claim
Baucau, Baucau, Bucoli (BK8)	Freshwater/Production	1984	Managed by MAFF	No Claim
Baucau, Vermasse, Kampung Baru (BVM3)	Freshwater/Hatchery	2004	Unsuccessful RDTL fishery site	No Claim
Bobonaro, Balibo, Leohito (BOBA1)	Freshwater/Production	Post-1975	Operated by Community	No Claim
Bobonaro, Maliana, Raifun (BOM3)	Freshwater/Production	1988	Managed by MAFF	No Claim
Covalima, Suai, Suailoro (CSK8)	Coastal/Production	1986	Abandoned	No Claim
Dili, Metinaro, Benunuk (DM1)	Coastal Production	1983	Abandoned	No Claim
Ermera, Ermera, Riheu (EK3)	Freshwater/Production	1988	Managed by MAFF	No Claim
Lautem, Lospalos, Soro (LLO15)	Freshwater/Hatchery	1981	Operated by individual	Under claim by operator
Liquiça, Bazartete, Tibar (LB4)	Coastal/Production	1989	Abandoned (but used for salt production)	No Claim
Liquiça, Maubara, Watuboro (LMA1)	Coastal/Production	Indonesian period	Abandoned	No Claim
Manatuto, Manatuto, Ailili (MK1)	Freshwater/Production	1987	Abandoned	No Claim
Manatuto, Manatuto, Maabat (MK6)	Coastal/Production	1979	Abandoned	No claim
Manufahi, Same, Letefoho (MSA1)	Freshwater/Hatchery	1953	Managed by MAFF	No Claim
Viqueque, Ossu, Loihunu (VO1)	Freshwater/Production	1990	Managed by MAFF	No Claim

The diverse range of variables examined above indicates that despite high levels of public sector spending, the overall extent to which social and economic modernisation was realised in East Timor during the Indonesian period was minimal. As commentators

¹¹⁰ Based on non-customary primary industry field survey conducted April-June 2005. Full details of methodology are outlined in Nixon (2005:1-5).

¹¹¹ Note that as all data is derived from interviews with RDTL officials and village authorities, some dates may be inaccurate and the indicated years should be used as a general guide only.

(Soesastro 1989:212; Saldanha 1994:142; Beazley 1999:13; Costa and Soesastro 2002:2) have observed, the prevailing security and political environment served to discourage investment, balanced development and the involvement of East Timorese in a process of economic advancement and modernisation. Meanwhile, a great proportion if not most of the available opportunities were exploited by migrant civil servants, contractors and sundry workers from other Indonesian provinces. Although of a questionable standard, however, the basic education program delivered in East Timor during the Indonesian period *was* sufficiently effective to encourage tens of thousands of young East Timorese to aspire towards post-subsistence career and lifestyle options. The impossibility of these aspirations being realised due to the domination by outsiders of economic opportunities and administrative posts, acted to reinforce opposition to Indonesian rule.¹¹²

At times the recipient of the greatest per capita allocation of central government funds of any Indonesian province, the nature of the Indonesian approach to development caused concerns about the proportion of revenue that was disappearing into infrastructure projects of questionable value (Saldanha 1994:145) and the proportion that was disappearing with no trace at all. Whereas ‘extravagance and corruption’ is believed to have been a feature of Indonesian development efforts from a relatively early stage (Saldanha 1994:143; Beazley 1999:27), it is asserted (Costa and Soesastro 2002:3) that by the final years of Indonesian administration, corruption had become even more entrenched in the provincial administration.

Although the Indonesian government expanded some parts of the primary industry sector, including plantation forestry, aquaculture and quarrying activities, the scale of industrial activity was insufficient to promote the kind of workforce specialisation and stratification that would be associated sociologically with economic and social modernisation. Indeed, at the end of the Indonesian era it was reported (Beazley 1999:59) that ninety per cent of rural dwellers remained ‘subsistence farmers with

¹¹² Jones (2000:54-55) noted perceptively in this respect, as the dust was still settling on the Indonesian withdrawal, that future governments of East Timor would come under similar pressure to meet the aspirations of the younger generations. As discussed further in Chapter 6, this is indeed a pressing issue in the present day.

minimal participation in the cash economy.’ Certainly the military coffee monopoly that prevailed until 1994 failed to support rural modernisation, highlighting one of the major dysfunctions of the New Order state. Despite central government intentions, it appears that nothing was done under the military monopoly to expand the territory’s most valuable industry and improve its future prospects, while much was done to deprive farmers of scarce income in the interests of military profits.

Notwithstanding the various impairments to good governance from which East Timor suffered under Indonesian control, it may still be difficult to determine exactly the degree to which the Indonesian administration is responsible for failing to realise a range of development indicators more fully. In this respect Saldanha (1994:131) aptly comments that ‘to date there is no model which can...change a traditional society into a modern one.’ Whatever might have been possible under different circumstances, East Timor towards the conclusion of Indonesian administration remained, by a clear margin, the least urbanised of all Indonesian provinces (MHRI 2000:11, Figure II.A.3).¹¹³ Furthermore, with four hundred and fourteen of its four hundred and forty-two villages (around ninety-three per cent) still officially considered ‘backward’ in 1995 (MHRI 2000:17, Figure II.B.3), East Timor at the conclusion of the Indonesian period remained among the least developed regions in the archipelago.

Socio-Political Legacies of the Indonesian Period

In addition to the absence of substantial economic and social modernisation during the Indonesian period, the special circumstances surrounding the occupation of East Timor and the movement for independence mean that a range of additional factors and questions are of interest concerning the challenge of developing a state administration in the post-Indonesian period. These aspects, mostly relating to socio-political aspects of a territory under occupation, receive attention below in the final section in this chapter.

¹¹³ According to Indonesian figures (MHRI 2000:11, Figure II.A.3) 10.1 per cent of the East Timorese population was urbanised in 1998. The next lowest rate of urbanisation was in Lampung (Southern Sumatra), with 16.8 per cent.

The Impact of the Occupation Period on Social Capital

Social capital is a concept sometimes used in reference to the capacity of a population to advance socially and economically. The World Bank (2004) defines social capital as ‘the norms and networks that enable collective action,’ and refers to ‘[i]ncreasing evidence [which] shows that social cohesion - social capital – is critical for poverty alleviation and sustainable human and economic development.’ Theorists of social capital assert that societies which have experienced internal conflict characteristically suffer erosion of their social capital reserves, and Colletta and Cullen (2002:279) explain this reasoning in relation to the case studies of Rwanda and Cambodia:

Intrastate conflict divides the population, undermines interpersonal and communal group trust, and destroys norms and values that underlie cooperation and collective action for the common good. This damage to a nation’s social fabric impedes the ability of states and communities to recover after hostilities cease.

Clearly the East Timorese experience under Indonesian occupation differs in important respects to that of other countries which have experienced internal conflict between indigenous ethnic groups. However, the concept of social capital provides a useful reference point when considering the impact of the Indonesian period on the capacity of the East Timorese population to collectively advance state-building activities, as a result of the divisive social impacts of the Indonesian period.

As discussed earlier, the East Timorese resistance effort was supported by a complex web of secretive resistance cells, each operating largely independently from other cells. Furthermore, as Pinto’s (in Pinto and Jardine 1997:157-174) account of life in the clandestine movement highlights, activists identified by the Indonesian security forces could find themselves being pressured to work not only for the resistance movement, but also for the authorities. In this context where fear was constant, suspicion, secrecy and duplicity became core components of everyday behaviour.¹¹⁴

¹¹⁴ Pinto’s account (in Pinto and Jardine 1997:157-174) of life as a ‘double agent’ provides an indication of the suspicion with which resistance activists could regard other activists who had been arrested by the authorities, even if the latter had chosen *not* to collaborate with the Indonesians (as in Pinto’s case). In relation to the early clandestine period in the early 1980s, Pinto (in Pinto and Jardine 1997:95) writes that ‘[i]t was not easy to get involved in the underground because the networks and groups were small, and people were very secretive about their organizations. Such caution was necessary. Even if you were

As discussed in earlier chapters, the East Timorese population had barely any experience as a united community when they were invaded by Indonesia following the 1975 civil war. This was both because of the subsistence nature of social conditions and because of the regional segregation imposed since Portuguese times. Furthermore, as is clear from the overview of the invasion and the resistance presented earlier, the development of unity was challenged further as a result of the political divisions arising from the civil war period. Although the majority of the East Timorese population ultimately demonstrated their opposition to Indonesian rule in the 30th August 1999 referendum, the climate of fear, secrecy and suspicion which prevailed throughout the Indonesian period and was an ever-present factor in clandestine activities, did not contribute to the development of a united society. A specific example of the divisive impact of the Indonesian occupation concerns the exploitation of the security presence by some East Timorese against others. Drawing on Neonbasu's work, Aditjondro (1994:12) refers to the development of an 'intel [from *intelijen*] culture', characterised by 'the emergence of an appalling habit among East Timorese of spying on their compatriots, trying to solve the conflicts between them by making – often false – reports about the activities of their rivals to the security forces in East Timor.' This 'intel culture' clearly represents the antithesis of the kind of culture which could support the accrual of social capital, a commodity which would benefit from the proliferation of such features as trust, transparency, openness and cooperation.¹¹⁵

Martial Organisation

If the East Timorese had long been familiar with the principles of martial organisation, this tendency received profound reinforcement in the course of the Indonesian occupation. The legacy of this experience was clearly visible in the post-Indonesian period, and security and governance observers (Wainwright 2002:12-13; Brown et al 2004:24,41-42) noted the abundance of secretive groups, some inclined towards the use

already part of one organization, you didn't know other organizations because each had its own channels to the armed resistance.'

¹¹⁵ Shoesmith (2006) makes a similar assessment of the legacy of conflict and clandestine social organisation on East Timor society, using a reference framework drawing on social psychology rather than social capital theory.

of embellished rituals and traditions,¹¹⁶ which were in existence in the first years of independence and which had their immediate origins in the armed resistance and clandestine networks of the Indonesian period. These groups were complemented by numerous martial arts groups, which established a visible presence throughout the country in the years following the Indonesian withdrawal. Again, the specific origins of these groups can be traced to the Indonesian period, when they were formed by groups of youths to defend neighbourhoods from attacks by pro-integration ‘ninja’ gangs (Cutter et al 2004:23).¹¹⁷ As examined in Chapter 6, the existence of such groups, combined with a continuing lack of economic opportunity, would contribute to the scale of the instability experienced following the mid-2006 political crisis.

Of course, the most notorious martial groups in recent history remain the Indonesian-supported militias responsible for the mayhem in the period surrounding the 30th August 1999 referendum on independence. Historically, the lineage of these pro-integration militias is traced back to the pro-Indonesian partisan forces of 1975 (Dunn 2002:66-68;

¹¹⁶ One prominent group was Sagrada Familia, led by former FALINTIL commander Cornelio Gama, or L7 (now a member of the RDTL parliament). Sagrada Familia was profiled (McCall 2003) as a ‘quasi-religious clandestine movement...founded over a decade ago to undermine Indonesian propaganda against the resistance.’ Known as a movement supported by disgruntled ex-veterans keen to access the benefits of independence, Sagrada Familia was suspected of inciting instability. McCall notes that when he interviewed L7 in 2003, the latter held no government post, yet was in possession of a government vehicle for his own use. Along with Gunn and Huang (2006:126-127), McCall refers to Sagrada Familia’s enthusiasm for an idiosyncratic synthesis of Catholic and animist or *lulik* iconography and rituals. This is doubtless partially due to the eccentricities of L7 himself, in reference to which Rees (2004:42) referred to Sagrada Familia as a ‘quasi - religious personality cult.’ Another significant ‘political security’ (Rees 2004) group is, or was, the *Conselho Popular pela Defesa da Republica Democrática de Timor-Leste* (Popular Council for the Defence of the Democratic Republic of East Timor, or CPD-RDTL). As implied in the name, CPD-RDTL rejected the new RDTL state on the basis that the foundation of the East Timorese state dates back to the original declaration of independence on 28th November 1975. Although characterised by a weak ideological framework, CPD-RDTL was the largest anti-government political organisation in the early years of independence and was linked to acts of violence and intimidation (Gunn and Huang 2006:127-128; Rees 2004:43,50,54-55; Brown 2004:41). Colimau 2000, a disaffected animist cult distinguished by the belief that dead independence fighters would someday return to lead the group, presented as a further ‘blip’ on the security screen. Based in the western border area, Colimau 2000 is alleged to have maintained contact with militia figures and engaged in extortion activities (Brown et al 2004:42).

¹¹⁷ According to Brown et al (2004:8) there were twelve martial arts groups in East Timor in the early years of independence (the largest with at least 20,000 members), and the groups had been associated with organised violence. According to a more recent report by Scambary (2006:22-23), ‘gangs and youth groups in Dili’ may total over one hundred.

Kingsbury 2000:71).¹¹⁸ As Dunn explains, significant advances in the genesis of the militias included the ‘civil defence’ units established in the late 1970s¹¹⁹ and pro-integration para-military organisations established in the 1980s and 1990s. The latter include Tim Alpha, formed in 1986 in Lautem, and the pro-integration Gada Paksi youth organisation formed in 1994. The active promotion by the Indonesian administration of the various pro-integration ‘ninja’ gangs and militias (and instability generally) left East Timor in the early years of independence with a multitude of unresolved disputes, thereby contributing to the potential for new cycles of violence. Again, this matter receives further attention in Chapter 6.¹²⁰

A further legacy of the Indonesian occupation and its violent conclusion, as security and conflict analysts (Wainright et al 2002:14; Cutter et al 2004:24-25; Brown et al 2004:5) noted in the post-Indonesian years, was that the RDTL entered independence with several hundred self-exiled and hardened militia members, including a handful of high-profile leaders, living along the border areas in Indonesian West Timor, surrounded by thousands more displaced individuals who represented a pool of potential recruits for future conflicts.

Generational Differences

A further basis for future divisiveness stemming from the Indonesian period concerns tensions between the different generations involved in the resistance effort. Whereas those educated during the Portuguese period learnt to speak Portuguese, those educated

¹¹⁸ See also Farram (2006:76-77) whose analysis indicates that following colonial precedents, the Indonesian administration in East Timor sought the cooperation of East Timorese traditional leaders during the occupation, including in the final period during which the formation of pro-integrationist militias burgeoned in association with the 1999 referendum. However, although a number of traditional leaders led militias in the 1999 period, including Cancio Lopez de Carvalho (Mahidi militia, Covalima) and Edmundo da Silva (Tim Alpha militia, Lautem), other traditional leaders refused to support the militias, a position which cost some (including *Liurai* Mendes of Balibo and CNRT leader *Liurai* Virissimo Dias Quintas of Los Palos) their lives.

¹¹⁹ According to official figures (BAPPEDA 1997:34), the total membership of ‘civil defence’ units in East Timor in 1996 came to 10,434.

¹²⁰ A further legacy of the Indonesian occupation and its violent conclusion, as security and conflict analysts (Wainright et al 2002:14; Cutter et al 2004:24-25; Brown et al 2004:5) note, was that East Timor entered independence with several hundred self-exiled militia members, including a handful of high-profile leaders, living along the border areas in Indonesian West Timor, surrounded by thousands more displaced individuals who represented a pool of potential recruits for future conflicts.

during the Indonesian period learnt Indonesian. And whereas the original FRETILIN leadership and those who took to the hills to resist the Indonesians were members of the last generation to be educated during the Portuguese period, and therefore socialised into the *assimilado* value system (discussed in Chapter 2) in which the achievement of civilised status was associated with Portuguese language proficiency, the clandestine and student movements were based around the younger generation educated under the Indonesian system. As noted by conflict analysts (Cutter et al 2004:21; Brown et al 2004:3,5,12) this language rift produced tensions in the post-Indonesian period, following the revival of Portuguese as an official national language and the perception of members of younger generations that they were being excluded from opportunities on the basis of language. There were indications in the early years of independence, that the generational and language divide was being reflected at the party political level, with FRETILIN founders of the 1974/1975 generation prominent in the governing FRETILIN party, and the largest single opposition party (Partido Democrático, or PD)¹²¹ led by Fernando ‘Lasama’ de Araujo, a high-profile student leader of the 1990s who coordinated the Social Communication section of the CNRT during the 1999 campaign for independence.¹²² Providing his own perspective on distinctions between the two generations, de Araujo (2000:108) makes the following comments:

Geração foun or younger generation refers to those who were *not* part of the 1975 leadership generation (now in their fifties and above) and who do not have the same long-standing factionalisms and party conflicts as the older generation. Among other things, intellectual formation under Indonesian colonialism and language facility are also different.

¹²¹ Second to FRETILIN, PD won the second highest number of seats in the 30th August 2001 elections for the East Timor Constituent Assembly. Of the eighty-eight seats, FRETILIN won fifty-five, PD won seven, and the remainder were won by a range of other parties (UN 2001).

¹²² Biographical details concerning Fernando ‘Lasama’ de Araujo (in Fox and Babo Soares 2000:xi) indicate that he founded and led the East Timor student resistance movement RENETIL (*Resistência Nacional dos Estudantes de Timor-Leste*), and that following the Santa Cruz massacre in November 1991 he was charged with ‘subversion against the state’ and imprisoned in Cipinang prison for six and a half years with future president Xanana Gusmão (among other East Timorese activists). This latter aspect is quite important, as it serves as an example of how Xanana Gusmão, whose political activism dates back to the mid-1970s, shared important aspects of the Indonesian period in common with the younger generation of Indonesian educated activists. Obviously such experiences were never shared by senior FRETILIN leaders living in exile in former Portuguese colonies in Africa, who Gusmão (2006b) alleges (with particular reference to Marí Alkatiri) lived a life of ‘tranquillity’, studied ‘to become doctors,’ and occupied themselves tending ‘rabbits and chickens in Maputo.’

Interviewed by the writer in September 2003,¹²³ de Araujo asserted, in reference to the pro-Portuguese language stance of the post-independence FRETILIN government, that ‘speaking Portuguese put people above others in 1975, and the same is happening now.’ De Araujo emphasises that for his generation, the Indonesian period is an indelible part of the nations’ experience, and this must be recognised: ‘They talk [now] about the Indonesian law,’ he argues, ‘but they should talk about *our* law.’ Clearly the defining experiences of each generation differ in important respects and the memory of the resistance period is not a shared one. Whereas founding FRETILIN members might reflect on their victory over UDT and the armed resistance against Indonesian invasion; the younger generation of activists were forged by a different series of events. De Araujo refers to his arrest and imprisonment following the Santa Cruz massacre on 12th November 1991, at which time he was studying literature in Bali. Meanwhile, another former political activist present, refers to his own activities at this time in Dili, where he was occupied searching for survivors. More broadly, while the FRETILIN founding fathers were influenced by the socialist movements in Portuguese Africa, the Indonesian-educated generation of East Timorese activists have been connected with the Indonesian democracy movement and its objective of advancing human rights and political freedom across Indonesia.

It is of particular note in respect to the generational divide in East Timor, that Xanana Gusmão (see note 122), through his long working association with the student and clandestine resistance networks and imprisonment with members of the *geração foun*, is perhaps one of the few members of the older generation of political leaders to have formed strong bonds with the younger generation of activists.

The Failure of the Indonesian Period to Engender Confidence in State Institutions and the State Justice Sector

As the CAVR inquiry highlighted,¹²⁴ trauma from activities perpetrated by state institutions was a common part of life for the East Timorese under Indonesian

¹²³ Interviewed at the Acait Café, Dili, 13th September 2003.

¹²⁴ See CAVR (2005 Part 8:6-7) for a concise summary of the crimes committed by the Indonesian state between 1975 and 1999.

occupation. Anyone associated with pro-independence activities was particularly at risk, not only from extra-judicial acts of brutality from the security forces, but also from the corrupt use of the judicial system itself. In the course of the investigation, CAVR (2005 Part 8:7) documented ‘several hundred’ cases where multiple Indonesian officials (including judges, security officials and even defence counsels) had collaborated to undertake ‘sham trials’ of independence activists. According to the CAVR, ‘[t]hese trials involved the systematic use of torture to produce confessions, the fabrication of evidence and the manipulation of judicial proceedings.’¹²⁵

It is clear that the routine perpetration of crimes against humanity by the Indonesian administration failed to engender confidence in state institutions in general and in the state justice system in particular. This point is of particular interest in relation to the discussion concerning customary justice systems presented in Chapters 7 and 8 of this study, in which the enduring contribution of *suco* conflict resolution mechanisms is examined. In relation to this matter, Babo Soares (2001:40-41)¹²⁶ summarises the legacy of the Indonesian period, on top of earlier periods, in the following terms:

During the 24 years of Indonesian administration, although the government recognised the existence of traditional institutions, they were given no role to play as had been the case of the previous colonial governments. Nevertheless, those 24 years were also characterised by the degradation of public credibility on the judicial system. This has prompted people to rely on traditional ways of solving disputes rather than on state groups.

The Growth of the Catholic Church

As discussed earlier, the Catholic Church experienced a marked improvement on its tenuous status in earlier centuries, after it was delegated with official responsibility for education during the Salazar period. Notwithstanding its improved fortunes at the end of the Portuguese period, however, the Catholic Church only really developed into a popular institution during the Indonesian occupation. According to commentators (Aditjondro 1994:34-40; Crow 1996:78-79) the number of East Timorese who had embraced Catholicism prior to 1975 numbered less than a third of the population. By 1992, however, more than ninety per cent of the native East Timorese population had

¹²⁵ See also Beazley (1999:24).

¹²⁶ See also Babo Soares (2000b:287-288) for further discussion of the ‘degradation’ of the credibility of the formal justice sector during Indonesian times.

embraced Catholicism. As Crow acknowledges, ‘the search for meaning, hope and religious belief’ fails to account for all the new conversions, and a number of other contributing factors have also been identified. Among other things, the Indonesian requirement that citizens identify with an official religion doubtless played a role, since local animist beliefs were not recognised as official religions by the Indonesian state. However, the mass identification with Catholicism over alternative official religions is attributed to what Crowe refers to as ‘a rejection of the Indonesian regime and an emerging Timorese nationalism.’¹²⁷ In this respect, the role of the Catholic Church was by no means merely symbolic, and the leader of the Catholic Church in East Timor after 1983, Bishop Carlos Filipe Ximenes Belo, was specifically recognised for his work advancing the human and political rights of the East Timorese under Indonesian occupation.¹²⁸ Furthermore, as Aditjondro (1994:35) observes, the status of the Catholic Church as an official institution meant that it became the only means available for East Timorese to congregate together in large numbers. The Catholic Church’s attraction was improved further by its acceptance of Tetum as the language for liturgies.

Aditjondro (1994:35) also contends that the characteristic use of icons further enhanced the appeal of the Catholic Church, since these ‘served as substitutes for many indigenous forms of ancestor worship’ that had become more difficult to practise under Indonesian occupation. Yet as discussed in Chapters 5 and 7 in reference to traditional authority patterns in East Timor, there is overwhelming evidence that as in other parts of the region, local belief systems retained their legitimacy throughout the ‘Catholicisation’ of the national community, and that this is one of the main factors underwriting the strength of village authority structures in the present day.¹²⁹

¹²⁷ Albeit a fragile and incomplete ‘emerging nationalism’, as the developments of 2006 indicate (see Chapter 6).

¹²⁸ The role of the East Timorese Catholic Church under Bishop Carlos Felipe Ximenes Belo in supporting the human and political rights of the East Timorese, was recognised in 1996, when Bishop Belo and José Ramos-Horta were jointly awarded the Nobel Peace Prize. The Nobel Peace Prize Presentation Speech (Sejersted 1996) made specific reference to Bishop Belo’s support for the East Timorese right to independence.

¹²⁹ See also Ospina and Hohe (2001:75-77), who describe how Catholic beliefs are generally seen as complementing *adat* beliefs.

The ongoing strength of local beliefs in East Timor suggests that the strength attained by the Catholic Church during Indonesian times was less due to its religious teachings than its political function, raising the question of the future role of the institution. In the early post-Indonesian period, Ospina and Hohe (2001:71) reported that within the Catholic Church itself, there was concern that the institution was facing the possibility of diminishing profile and influence now that the war of resistance against Indonesia had been won. Post-independence events such as the Catholic Church demonstration held on the Dili foreshore for around three weeks in April 2005, observed by the writer on a daily basis, demonstrate the determination of the Church to defend the religious integrity of the faithful (and the Catholic Church's influence) in the new East Timor. The April 2005 development was provoked by the Church's opposition to the FRETILIN government's removal of compulsory religious education from the state school curriculum, in reaction to which the Church organised a lengthy live-in demonstration along the Dili waterfront calling for the resignation of the Alkatiri government.¹³⁰ Supported by meal tents, a fleet of yellow transport trucks ferrying demonstrators in from rural areas and a row of rented portable latrines along the seafront, the demonstration gave the impression of being a highly organised event, and identified the Catholic Church as a serious political actor.

Other Resistance Legacies

As discussed earlier in this chapter, FRETILIN's resistance campaign in the first years of the Indonesian invasion was characterised by the administration of 'liberated zones' in parts of the territory not yet under Indonesian control. Despite some inspired attempts to advance agricultural practices, health outcomes, gender equality and the development of a national consciousness (CAVR 2005 Part 5:9-15), key areas of activity appear to have been heavily ideologically oriented.¹³¹ According to the CAVR inquiry (2005 Part 5:12-14), FRETILIN detention, interrogation and justice dispensation practices, were frequently ad hoc and unsystematic and too often resulted in brutal outcomes. In particular, the ruthlessness with which Francisco Xavier do Amaral and his supporters

¹³⁰ See also Jolliffe (2005) and Gunn and Huang (2006:130-131) in relation to these events.

¹³¹ Concerning the FRETILIN education program, for example, the CAVR (2005 Part 5:10) found that '[t]he most common educational activity was political education.'

were treated by ascending Marxist ideologues, for the crime of being political moderates, stands out as a low point in the history of the resistance movement. As well as representing a gross abuse of power, this ideological extremism generated tensions that continue to divide the East Timorese community in the present day (as discussed in Chapter 6).

Indications that disunity prevailed among exiled FRETILIN leaders during the resistance period are also of interest, given that key individuals including Marí Alkatiri, Rogério Lobato and Roque Rodrigues would return following the Indonesian withdrawal to assume senior positions in the first RDTL government. Perhaps the most serious documented incidence of rivalry in the history of the exiled FRETILIN movement surrounds the arrest of José Ramos-Horta in Maputo in the late 1970s, at the hands of other FRETILIN leaders (Federer 2005:47; Scott 2005:257-262).¹³² Other ominous developments include a term of imprisonment to which Rogério Lobato was sentenced in 1982 in Angola for diamond smuggling (Shoesmith 2003:238), and corruption scandals associated with FRETILIN-related activities in Angola and Darwin (Federer 2005:46-47).

If the resistance period drew to a close with serious rifts remaining both between and within the major pro-independence parties, and with indications that few independence leaders had the skills necessary for public administration and state-building,¹³³ then there were also some optimistic signs. In particular, the development of the CNRT umbrella organisation under Xanana Gusmão stands as an impressive example of the leadership capacity of a key group of individuals, even though the final result was fragile and ephemeral. Furthermore, and importantly in terms of the primary focus of this investigation, the national resistance network based on village administration systems that prevailed at least from the early 1980s onwards, which morphed readily into the

¹³² Gusmão (2006b) implies that Rogério Lobato had a major role in this incident. More broadly, Gusmão (2006) has accused exiled East Timorese political leaders of squabbling over leadership positions instead of ‘focussing their attention on the suffering of the people.’

¹³³ See the account of Federer (2005:50), who worked closely with the East Timorese resistance councils and had the opportunity to assess the capacity of those involved. This matter is discussed in more detail in Chapter 5 and 6.

CNRT national network in advance of the 1999 referendum and again into an ad hoc national administration following the Indonesian exit, stands as an impressive demonstration of innovative public administration throughout a period of crisis. As has also been noted elsewhere,¹³⁴ the ability of the East Timorese to sustain an administrative network based on ‘traditional authority’ principles and operate it in the interests of realising the national independence of a subsistence society, invites exploration of the potential of this structure to be integrated into the framework of the New Subsistence State of East Timor post-independence.

Conclusion

Despite substantial capital flow and investment in infrastructure (including the construction and staffing of schools and hospitals), and notwithstanding the modest expansion of the primary industry sector, the Indonesian period of administration facilitated minimal movement towards the overall social and economic modernisation of East Timor. At the conclusion of the Indonesian occupation, the economy remained overwhelmingly subsistence, with little evidence of modernised cultivation practices and no more than three per cent of the land mass alienated from customary tenure for commercial primary industry activities. Significantly, the territory held the status of the least urbanised region in the archipelago, and this standing was accompanied by a range of other dire development indicators, including record-low levels of infant mortality, life expectancy and educational achievement.

Again, notwithstanding the expansion of the public administration, East Timorese civil servants were largely relegated to junior roles. Engagement in the broader post-subsistence sector was similarly limited because of competition from immigrant workers, and altogether, few gains were made in preparing members of the population for leadership roles and careers in governance and business, and large numbers of secondary school graduates with heightened material and life-style aspirations struggled to get any foothold at all in the post-subsistence economy.

¹³⁴ See, for example, McWilliam (2005:39-41).

Socially, East Timor experienced multiple destructive developments with the capacity to compound the damage wreaked upon the incipient national community by the events of 1975. The purges of the FRETILIN Marxist period, the Indonesian-backed militias and ‘ninja’ gangs, the reinforcement of martial traditions, the clandestine culture which created suspicion and eroded trust even among independence activists, all presented obstacles to social capital accrual and presented additional challenges for future state-building. Meanwhile, the nature of the Indonesian administration promoted distrust in state mechanisms of public administration, while simultaneously encouraging reliance on *suco* administration systems linked into a national resistance network and shadow administration. The continuing interface between these two systems receives further attention in the following chapter.

Chapter 5

The Transition to Statehood

Introduction

It is clear from the discussion included in earlier chapters that the economy and society of East Timor remained characterised by subsistence agriculture through to the conclusion of the Indonesian period. Corresponding to this reality, and further reinforced by public distrust of Indonesian state institutions, ‘traditional authority’ structures also remained strong. Furthermore, a low level of East Timorese participation in administrative or industrial activities meant that a minimum of labour specialisation had occurred or administrative experience accrued. Following the results of the 30th August 1999 referendum on East Timor’s future, the withdrawal of Indonesia and the passing of UN Security Council *Resolution 1272* on 25th October 1999 (UNSC 1999d) in which the UN Transitional Administration in East Timor (UNTAET) was mandated, East Timor entered into a process through which it would realise statehood on 20th May 2002. On this date, in accordance with the definition proposed in Chapter 1, East Timor achieved the status of a New Subsistence State.

The purpose of this chapter is to profile the key developments of the transitional period. Whereas the chapter critically evaluates UNTAET’s role in advancing East Timor towards independent statehood, this evaluation is balanced with consideration of such prevailing limitations as baseline socio-political and economic factors, local public administration capacity and the aspirations of political elites. The chapter is divided into three sections. The first section discusses the deployment of INTERFET, the emergency period, and the planning for reconstruction. A second section discusses the UNTAET mandate, the nature of the public administration established by UNTAET, the role played by the CNRT resistance structure in the districts during the early transitional period, and the matter of East Timorese participation in transitional governance. A further section discusses the final developments associated with the realisation of

independence in East Timor, including the elections for a constituent assembly and president, and the determination of a constitution.¹

INTERFET and the Emergency Period

The International Force in East Timor (INTERFET) was authorised by UN Security Council *Resolution 1264 (1999)* on 15th September 1999, in response to the violence associated with the 30th August 1999 referendum on independence (as discussed last chapter) and following written approval from Indonesia's President Habibie (UNSC 1999c). Referred to by one of the missions' key planners, Australian Major-General Mike Smith, as an 'unforecasted deployment',² INTERFET (or 'Operation Stabilise') was sent to 'restore order and maintain security' while the UN prepared a more comprehensive transitional administration with a peacekeeping force (PKF) component (Smith with Dee 2003:19; UNSC 1999c).³ A notable aspect to the INTERFET mandate was the 'robust' rules of engagement with which it was equipped, enabling PKF forces to 'engage the militias without warning' if threatened (Smith with Dee 2003:71). Although INTERFET included no formal US ground deployment, Ryan (2002:27-28) points out that the world's only superpower bestowed unambiguous legitimacy on the mission by stationing a US Marine Expeditionary Unit offshore. This enabled the INTERFET leadership to 'speak softly', notes Ryan, in negotiations with the Indonesian military.

INTERFET operations commenced on 20th September 1999, five days after the adoption of *Resolution 1264* and twenty days after the 30th August 1999 referendum.⁴ The operation involved approximately 11,000 troops (at peak deployment) from twenty-two nations. INTERFET was led by Australian Major-General Peter Cosgrove, and

¹ For a chronology of developments of the early post-Indonesian years, see UNTAET (2002c).

² The reasons why INTERFET was 'unforecasted' remain controversial. As discussed in the last chapter, Fernandes (2004) has written a critical assessment concerning the reluctance of the Australian government to support the planning of an intervention force for East Timor at an earlier point (despite fears of organised violence), attributing the reluctance to do so to the strong relationship between the governments of Australia and Indonesia.

³ For a concise overview of the organisation and deployment of INTERFET, see Gunn and Huang (2006:31-40). See also Ryan (2002:26-29).

⁴ Prior to 20th September, however, it is reported (Forbes 2001) that small Australian Special Air Services units were deployed to East Timor for intelligence gathering purposes.

Australia was the largest single troop contributing nation, providing approximately 5,000 troops (Smith with Dee 2003:19). The Deputy Force Commander, meanwhile, was Major-General Songkitti from Thailand (Howard 1999), and Gunn and Huang (2006:39) have noted in this respect that Australia was concerned to involve neighbouring countries in the intervention force ‘to allay hard-line ASEAN concerns of Western interference.’ Notwithstanding the substantial representation from Asia and elsewhere, INTERFET was clearly an Australian-led operation and has been praised as an example of the advantages of ‘strong lead-nation’ interventions over intervention models with less clearly defined leadership structures (Ryan 2002:23,40-41). The force was supported by a trust fund to which a number of countries contributed, including Japan which gave US\$100million (Gunn and Huang 2006:39; Howard 1999).⁵ The initial Australian contribution to peacekeeping activities in East Timor (for the 1999-2000 financial year) was estimated at over AUS\$1 billion. However, this figure included AUS\$279 towards the establishment of two new infantry battalions in response to the increased demand for military capability highlighted by the East Timor situation (Howard 1999).

INTERFET remained deployed for five months until February 2000, when the UNTAET PKF contingent took over security responsibilities. In the period between late September and November 1999 (at which time the UN transitional administration commenced operations, as outlined below) INTERFET also exercised what Smith with Dee (2003:18-19) refer to as ‘de facto’ administrative authority, together with a small core of officials from the UNAMET mission. Federer (2005:69), who arrived in Dili one week after the arrival of INTERFET to find ‘[m]ore than half the buildings in Dili’ destroyed and East Timor ‘a land without governance, without an economy, no basic services, no food, no law and almost no visible inhabitants’, observed that difficulties in the evolving governance scenario soon became apparent, as ‘[n]either UNAMET or INTERFET...had been designed to carry out the duties of an administration.’ Nevertheless, INTERFET succeeded in stabilising East Timor in the aftermath of the

⁵ Howard (1999) points out that Japan was unable to contribute troops to INTERFET because of constitutional factors. Later, however (under UNTAET), Japan contributed one of the more active engineering contingents. For further reading, see Gorjão (2002b).

violent Indonesian withdrawal and preparing the basis for a more comprehensive intervention.⁶

Humanitarian Emergency and Refugee Return

In addition to the nine hundred East Timorese believed to have been killed in the violence that followed the 30th August 1999 referendum on independence, the tumultuous Indonesian withdrawal is considered to have resulted in over half the population being forced to flee their homes.⁷ Of these, a quarter of a million either elected to flee to West Timor, or were intimidated into doing so (CAVR 2005 Part 3:145). The swift reaction to the humanitarian emergency caused by so many displaced people has been identified (Gunn and Huang 2006:56-57) as one of the strongpoints of the international response to the East Timor crisis. The assistance provided by international agencies was coordinated by the United Nations Office of Coordination of Humanitarian Affairs (UNOCHA), and the organisations active in the relief effort included the United Nations Children's Fund (UNICEF), the World Food Program (WFP), the United Nations High Commission for Refugees (UNHCR), as well as the International Committee of the Red Cross (ICRC) and other NGOs.⁸

The return of displaced persons commenced almost immediately. By mid-October, more than two thousand refugees had been flown back to East Timor by UNHCR flights from Kupang, and negotiations were underway with Indonesian authorities for the return of refugees by road (UNOCHA 1999:1-2). It was later reported (UNTAET 2000c) that by mid-March 2000, there had been a total of 152,551 'organised and spontaneous' returns from locations outside of the territory. Those assisted by the International Organisation for Migration (IOM) alone numbered around 136,000 by July 2001.⁹ Of particular

⁶ For an outline of the challenges and achievements of INTERFET written from a peacekeeping perspective, see Smith with Dee (2003:45-52).

⁷ An early humanitarian assessment estimated (UNOCHA 1999:13) that over seventy-five per cent of East Timor's population had been displaced that that over seventy per cent of housing, utilities and public buildings had been destroyed.

⁸ For details of the initial humanitarian response, which involved multiple UN and non-governmental agencies, and included food drops by air and sea even in advance of the arrival of INTERFET, see UNOCHA (1999:1-4) and Gunn and Huang (2006:56-57).

⁹ According to the IOM (2001), this included approximately 19,000 who returned by air, 77,000 by land and 40,000 by sea. With respect to the latter, relocations by sea from West Timor were facilitated between

interest in relation to the theme of this study is that those returning from West Timor or elsewhere, typically returned to settlements devoid of functioning public administrations in the conventional sense, as a result of long delays associated with the establishment of a UN transitional administration (discussed further under ‘UN state-building in East Timor’).¹⁰ As discussed later in this chapter, an interconnected network of *suco* and resistance administrative structures played a vital role in relation to the reintegration of returnees during this period.

Funding Appeal

In April 1999, months prior to the 30th August referendum on independence, contingency ‘reconstruction’ planning for East Timor was already being undertaken. The violence, destruction and displacement associated with the ballot, however, meant that fundraising for East Timor took on a new urgency (Cliffe 2000:252-253).¹¹ A major appeal for international funding to cover ‘emergency and transitional programmes’ was prepared in the first weeks of October 1999 by UNOCHA, which sought US\$183 million for forty-eight projects in East Timor and US\$16 million for sixteen projects in West Timor (UNOCHA 1999:2-3). At a meeting of donors held on 16th and 17th December 1999 in Tokyo, a total of US\$520 million was pledged by participating nations for a broad program of emergency and state-building activities.¹² Gunn and Huang (2006:63) suggest that the popularity of the East Timor cause among donors contributed to the quick and generous (in terms of ‘aid per capita’) nature of the response. According to the Japanese Ministry of Finance (JMOFA 1999), the US\$520 million pledged at the December 1999 donors’ conference comprised:

January 2000 and July 2001 by the *Patricia Anne Hotung*, a ship provided for the use of the IOM by Hong Kong philanthropist Eric Hotung.

¹⁰ In the terms used by UNOCHA (1999:1), the withdrawal of Indonesia resulted in the collapse of ‘all Government functions, including public services and law and order.’ See also Cliffe (2000:255-256), who participated in the World Bank Joint Assessment Mission of October and November 1999, where she noted the continuing capacity of resistance and traditional authority structures at local level.

¹¹ See also Chopra (2000:28), who refers to the UNAMET II and UNAMET III missions which were originally intended to oversee East Timor’s transition to independence in the event of a vote in favour of this option.

¹² As noted by commentators (Cliffe 2000:257; Gunn and Huang 2006:58), this occasion was notable as the first donors’ meeting to be chaired jointly by the UN secretariat (represented by SRSG Sergio Vieira de Mello) and the World Bank (represented by World Bank Vice-President Jean-Michel Severino).

1. A US\$150 million fund for humanitarian assistance, consistent with the UNOCHA appeal for funds for ‘emergency and transitional’ activities.¹³
2. An allocation of US\$147 million to a fund called the Trust Fund for East Timor (TFET), managed by the World Bank in association with the Asian Development Bank (ADB).¹⁴
3. An initial allocation of US\$32 million to fund transitional public administration activities in East Timor. This responsibility was later mandated to UNTAET (as discussed below) and the funds were used to support the East Timor Governance and Public Administration (GPA),¹⁵ which transformed into the East Timor Transitional Administration (ETTA) in July 2000 and eventually provided the basis of the public administration of the East Timor government at independence on 20th May 2002 (*La’o Hamutuk Bulletin* 2001:3-4; Federer 2005:90-91). This fund became known as the Consolidated Fund for East Timor (CFET) and had to be supplemented by additional resources by mid-2000 in order to provide for even the most minimalist public administration (*La’o Hamutuk Bulletin* 2001:4).

¹³ According to the Asian Development Bank (ADB) and the Japanese Ministry of Foreign Affairs (JMOFA), whose government contributed US\$28 million to this humanitarian assistance budget, the fund totalled US\$150 million (JMOFA 1999; ADB 2006). However, the sum is elsewhere cited as US\$157 (UN 2000b:29) and US\$156 (Gunn and Huang (2006:57). The initial objective was for this fund to support emergency and transitional activities between mid-October 1999 and June 2000 (UNOCHA 1999:2), but Gunn and Huang indicate the fund supported a range of humanitarian and emergency activities undertaken by multiple agencies, including WHO, WFP, UNHCR, UNICEF, IOM, ICRC and the United Nations Development Program (UNDP), until December 2000. For a broad overview of the funding of emergency and transitional programs in East Timor post-September 1999, see Gunn and Huang (2006:49-63) and *La’o Hamutuk Bulletin* (2001).

¹⁴ For details, see ADB (2006), which indicates that TFET remained in operation beyond the immediate emergency and transitional periods. As outlined in the *Report of the Trustee* delivered to the Oslo TFET Donors’ Council meeting in December 2001 (TFET 2001:3), the focus of TFET was to facilitate ‘basic post-conflict reconstruction, including physical rehabilitation of key social and economic infrastructure, core sectoral policy development, and...recovery of the private sector and the economic institutions.’ The TFET was planned as a participatory institution whereby spending priorities ‘are established by Timorese officials in coordination with the World Bank and the ADB, TFET donors and other stakeholders...and are implemented by government with support from the World Bank and the ADB. Originally it was planned that TFET would disburse a total of US\$172.01 million, but it took some time to raise this amount. As at November, 2001 TFET had disbursed US\$67.31 million, and commitments from donors had totalled over US\$150 million. By March 2006, over US\$177 million had been donated to this fund, for spending on a range of projects related to agriculture, education, economic development, public health and infrastructural rehabilitation activities (World Bank 2006b; ADB 2006).

¹⁵ Note that the GPA was also known as the East Timor Administration (ETA).

Note that this budget was distinct from the budget used to fund UNTAET, which relied upon ‘assessed contributions.’¹⁶

4. The remaining funds consisted of multilateral and bilateral allocations (JMOFA 1999).¹⁷

UN State-Building in East Timor

UNTAET and its Mandate

In the same UN Security Council resolution (*Resolution 1264*) in which INTERFET was authorised (UNSC 1999c), the UN Secretary-General had been invited ‘to plan and prepare for a United Nations transitional administration in East Timor [UNTAET], incorporating a United Nations peacekeeping operation.’ The mandate for a transitional administration was realised on 25th October 1999 with the passing of *Resolution 1272* (UNSC 1999d). Under *Resolution 1272* (UNSC 1999c), it was clearly outlined that UNTAET had ‘overall responsibility for the administration of East Timor and will be empowered to exercise all legislative and executive authority, including the administration of justice.’¹⁸ The three ‘pillars’ of the UNTAET mandate consisted of the PKF component which superseded the INTERFET mission; the emergency humanitarian

¹⁶ UNTAET in fact received the greatest allocation of all funds spent in East Timor during the transitional period, with these averaging around US\$ half a billion per year. Furthermore, as a UN peacekeeping and transitional administration mission, UNTAET was funded by ‘assessed contributions’ to the UN (routine contributions by member states based on each country’s GDP), and did not depend on voluntary special contributions from donors for its own expenses. However, the UNTAET budget was for UN deployment costs (personnel, vehicles, facilities and communications, etc) and did not cover broader public administration activities, which had to be sourced elsewhere (*La’o Hamutuk Bulletin* 2001:3; UN 2002a). Not surprisingly, it has been asserted (Smith with Dee 2003:63) that confusion prevailed concerning which funds (assessed UN contributions or East Timor trust funds) should be used for which aspects of administration.

¹⁷ It was later estimated by the East Timor Central Fiscal Authority (CFA) that bilateral aid transfers totalled over US\$90 million in the 2000-2001 financial year and were likely to total around US\$113 million in the 2001-2002 financial year (CFA 2001:2).

¹⁸ Specifically, *Resolution 1272* (UNSC 1999c) referred to the following components of the UNTAET mandate:

- (a) To provide security and maintain law and order throughout the territory of East Timor;
- (b) To establish an effective administration;
- (c) To assist in the development of civil and social services;
- (d) To ensure the coordination and delivery of humanitarian assistance, rehabilitation and development assistance;
- (e) To support capacity-building for self-government;
- (f) To assist in the establishment of conditions for sustainable development.

element (coordinated by UNOCHA, as outlined above), and the governance and public administration element (GPA).¹⁹ Because of its special relevance to state-building, the governance and public administration component receives particular attention later in this section.

The human resources approved for the UNTAET mission totalled almost 10,000, including contingents of troops (8,950),²⁰ military observers (up to two hundred), and a ‘governance and public administration component, including an international police element with a strength of up to 1,640 officers.’ The UN Special Representative to the Secretary-General (SRSG) appointed to head UNTAET was the respected Brazilian, Sergio Vieira de Mello. The PKF component (responsible to the SRSG) was commanded by Lieutenant General de los Santos from the Philippines,²¹ but significantly in terms of the Australian-led nature of the mission, Australian Major-General Michael Smith was appointed to the position of Deputy Force Commander.²² In the initial instance, UNTAET was authorised until 31st January 2001. However, a series of subsequent Security Council resolutions resulted in the mission surviving until 20th May 2002, on which date East Timor became an independent nation.²³ As discussed further below, the series of short-term mandates on which the UNTAET mission was based has been criticised (Federer 2005:73-74) as one of a number of factors which contributed to the failure of the mission to accomplish meaningful ‘long-term state-building’ outcomes.

¹⁹ See the UN Country Team report (UNCT 2000:25), Smith with Dee (2003:62-63) and Federer (2005:80).

²⁰ Troops were drawn from over thirty nations. An Australian Ministry for Defence media statement released in February 2001 indicated that about 1,600 members of the multinational force were Australians.

²¹ De los Santos was succeeded in July 2000 by Lieutenant-General Boonsrang Niumpradit from Thailand. Later again, Major-General Winai Phattiyakul (also a Thai national), took over as Force Commander (Smith with Dee 2003:72; UNTAET 2002b:1).

²² Note that Smith was succeeded in the position of Deputy Force Commander by two other Australian officers; Major-General Roger Powell and Major-General Ian Gordon (Reith 2001; UNTAET 2001e; Ryan 2002:28,40). Further reflecting the influence of the ‘strong lead-nation model’ (Ryan 2002) on the design of the PKF component, Australian and New Zealand PKF contingents were deployed in the sensitive western border region (known as Sector West) in the districts of Bobonaro and Suai, while contingents from other countries were deployed in central and eastern parts of East Timor (Ryan 2002:34-35). For a map of PKF deployments during the UNTAET period, see UNTAET (2002b:2).

²³ In accordance with *Resolution 1338* of 31st January 2001 (UNSC 2001a), the UNTAET mandate was extended until 31st January 2002. Subsequently, *Resolution 1392* of 31st January 2002 (UNSC 2002a) provided a further and final extension of the UNTAET mandate until 20th May 2002.

Commentary on UNTAET commonly refers (Gorjão 2002a:314; Chesterman 2002:45-46; Chopra and Hohe 2004:290) to the unprecedented breadth of the UNTAET mandate (whereby the UN exercised sovereign control over East Timor) and the insufficient clarity of this mandate.²⁴ Attention has also focussed (Suhrke 2001:2; Beauvais 2001:1106-1108; Chesterman 2002:62-68) on the tension between the peacekeeping aspects of the UNTAET mission and its obligation to promote participatory governance.²⁵ In this respect, Chesterman (2002:62-63) points out that even though the initial INTERFET intervention had successfully influenced the withdrawal of Indonesian-backed militia forces and created the conditions for peace, its successor mission (UNTAET) was *also* designed ‘primarily as a peacekeeping operation’ along the lines of the Kosovo mission.²⁶ Accordingly, even as UNTAET arrived with eight thousand troops, the peacekeeping imperative was *already* being ‘overtaken by the demands for political and economic development in preparation for independence.’

Analysis of the origin of UNTAET’s failure to promote political participation refers (Chopra 2000:28,32; Suhrke 2001:1,9) to a transfer of responsibility for the East Timor portfolio from the UN Department of Political Affairs to the DPKO, a development that occurred following the referendum violence and which resulted in a poor selection of personnel²⁷ and a reduced emphasis on political aspects.²⁸ Chopra (2000:28,32) asserts

²⁴ The King’s College assessment (2003:Para.28), for example, found the ‘distinction between UNTAET as a UN mission and as a government was blurred from the beginning.’ Particular areas affected by this lack of clarity included those relating to legal and human rights matters. Beauvais (2001:1114) asserts that UNTAET’s response to the complexity of its mandate was to invest ‘primarily in building its own capacity to function as a *de facto* state, effectively deprioritizing the move toward independent statehood.’ The question of the extent to which UNTAET improved its approach, notes Beauvais, has been subject to some debate. See also Chopra (2000:29-30) for a critique of the great authority granted to the transitional administration under the UN mandate.

²⁵ On a related theme, the UNTAET SRSG, Sergio Vieira de Mello (UNSC 2000), is also reported to have claimed that ‘imperatives to act speedily were in conflict with sound management practices and the need for consultation’ in an address to the Security Council on 27th June 2000. See also Croissant (2006:8) for further reference to this matter.

²⁶ In contrast to other commentary, Chesterman (2002:62) suggests it is somewhat understandable that the UN based UNTAET on the United Nations Interim Mission in Kosovo (UNMIK) model (which was designed for a ‘deeply polarized society’ and ‘the continued threat of violence’) as ‘Kosovo represented the most relevant experience the UN had in pacifying territory that had come under the control of the UN.’

²⁷ Chopra (2000:28) suggests that mission planners neglected to integrate experienced UNAMET officials into the new UNTAET mission.

that mission planners failed to integrate East Timorese perspectives into the mission planning stage, despite the expressed preference of the CNRT president.²⁹ Kondoeh (2001:250), meanwhile, points out that UNTAET's subsequent failure to 'consult and involve the people of East Timor' was contrary to the provisions of the UNTAET mandate.³⁰ Shedding light on background factors which contributed to reduced emphasis on political participation, Suhrke (2001:4-6) asserts that the basis of the 'initial non-inclusion of Timorese in the transitional administration' originates in the negotiations between the UN and Indonesia concerning the 1999 ballot, from which East Timorese actors were excluded in order to appease Jakarta. In the wake of the ballot, Suhrke refers to an 'implicit message' in Security Council instructions specifying that 'in deference to Indonesian sensibilities, the East Timorese resistance movement should keep a low profile in the governing structures of the transitional state.'³¹

Of course, as discussed above, UNTAET *did* end up with specific instructions to work closely with the East Timorese (implicit messages notwithstanding). This fact is also noted by Suhrke (2001:4,12-13), who remarks on the resulting disparity between the New York 'template' supporting consultation and local participation, and the reality whereby 'UNTAET was established as an exclusively UN-staffed entity' with no 'political mechanisms for local consultation.' Substantial progress in these areas was only made, she asserts (2001:4,12-13), 'in the second half of 2000 after an intense political struggle that pitted...[East Timorese and international support groups]...against

²⁸ As outlined by Suhrke (2001:5-7), the transfer of authority for East Timor occurred after the DPKO insisted that 'the deployment of international troops in a peacemaking or peacekeeping capacity', was cause for the mission to be placed under their control. Accordingly, the civilian component of the mission would now be run by 'a department [DPKO] that had little experience of "governance missions", no country-knowledge of East Timor, and whose standard operating procedures were designed for military and preferably short-term operations.' Suhrke also refers to 'inter-departmental personality clashes' prevailing between PKO and Political Affairs.

²⁹ In this respect, Chopra (2000:32) refers to a proposal submitted to the UN on 19th October 1999 by CNRT president Xanana Gusmão suggesting 'a Timorese role [in the transitional administration] in the form of a Transitional Council.' This proposal was 'ignored', according to Chopra, who points out (2000:32) that at the end of the month (*after* the passing of UNSC *Resolution 1272* on 25th October 1999) Gusmão issued statements referring to the 'need for the Timorese to organise themselves', which resulted in the CNRT network initiating village elections.

³⁰ For specific reference to this requirement, see Article 8 of *Resolution 1272* (UNSC 1999d).

³¹ In 'colonial terms', notes Suhrke (2001:6) this 'was a model for direct rather than indirect rule.'

the heavy weight of a UN-staffed state that resisted becoming superfluous.³² The expatriate-dominated nature of the transitional administration receives further attention in the remaining commentary on the state-building period.

Establishing a UN Governance and Public Administration (GPA)³³ Structure

In common with the other two ‘pillars’ of its Security Council mandate (peacekeeping and emergency humanitarian assistance), UNTAET assumed responsibilities for advancing governance and public administration objectives in East Timor in November 1999. At the time of UNTAET’s commencement, INTERFET had already established a military presence. Similarly, considerable momentum had already developed towards addressing the humanitarian emergency under the auspices of UNOCHA. Yet as noted by Federer (2005:69), ‘[n]either UNAMET nor INTERFET...had been designed to carry out the duties of an administration.’ Whereas the GPA component was identified (Fox 2001:2) as ‘certainly the most important’ element of the subsequent UNTAET mission, it would be this third pillar of UNTAET’s mandate that would achieve prominence as the weakest element of the international intervention.³⁴

Although the SRSG arrived in East Timor on 16th November 1999, the arrival of many crucial senior personnel and supplies was delayed until early 2000. This slow rate of deployment has itself been a point of criticism, and referred to as an obstacle to ‘building confidence with the East Timorese’ during the early period (Smith with Dee 2003:60). Deployment to outlying areas was particularly slow. Even though some UN administrative staff began arriving in the districts in November and December 1999, personnel numbers, vehicles and other resources were few in the beginning and

³² In further explanation of the basis of UNTAET’s shortcomings, Suhrke (2001:14) remarks that ‘meaningful contingency planning [for a state-building mission] had not started before September [1999], ostensibly because it would appear to prejudge the outcome of the referendum.’ Accordingly, whereas planning for such a mission as UNTAET would normally have taken six months, it had to be undertaken in only one month. Then (2001:9), in the fallout of the transfer of operational authority from Political Affairs to DPKO, ‘the issue of Timorese participation receded into the distance’, as relations between individuals and sections within the UN deteriorated bitterly. According to Suhrke (2001:8-11), further factors which acted to limit consultation with the East Timorese included an (DPKO) emphasis on quick outcomes and a general UN tendency to recognise the CNRT political umbrella organisation only as ‘just another faction.’

³³ Also known as the East Timor Administration (ETA).

³⁴ Smith with Dee (2003:62-63) refer to the GPA element as the ‘most difficult’ component of the mission.

UNTAET personnel would have only a limited presence in parts of rural East Timor throughout the entire mission. A UN military observer stationed in Oecusse from March – September 2000, and in Suai from October 2000 – January 2001, provides the following account of the presence of CivPol and other UN staff in the field:³⁵

My mission as Military Observer was to patrol, many times to remote areas to see the situation. In those places we seldom saw any kind of representative from UNTAET. What you see out in remote places is some NGOs. If there is an incident you will see CivPol and representatives from UNTAET but never in any kind of prevention operations. People always tend to spend a lot of time in [the] office and in meetings. If you saw someone from Dili HQ they are just out for a short visit. I had expected to see more people out in the fields. But as usual in peacekeeping operations everything is concentrated in the main city.

After a slow start, UNTAET pressed forward with the organisation of a public administration structure; attempting, in the words of Federer (2005:80), ‘to set up the embryos of the most urgently required institutions of the state using UN supplied models.’³⁶ However, the channels of communication within UNTAET and the mission’s ability to formulate and implement policy throughout the territory appear to have been weak from the beginning, leading to an ad hoc and uncoordinated approach to policy implementation. To give one example, sources close to the district administrator (DA) of Aileu (for the period late 1999 – mid-2000)³⁷ claim that the DA wrote twelve long memos to his superiors in Dili requesting guidance on a range of simple matters over the term of his employment, yet received *not a single* reply. Another informant referred to the situation thus:

You got the impression there was a basement under the UNTAET building in Dili with a fax machine and an infinite supply of paper. And that every few weeks, truck loads of faxes would be taken out and dumped in the ocean without being read.³⁸

As noted by commentators (Fox 2001:6; Federer 2005:80), the East Timorese governance and public administration structure created by UNTAET was essentially, in

³⁵ Written correspondence received (2nd December 2002) from a UN military observer (UN Military Observer 1) who served in Dili, Oecusse and Suai for a twelve month period commencing January 2000. See also King’s College (2003:Para.211).

³⁶ According to one evaluation (King’s College 2003:Para.28), UNTAET attracted criticism for introducing the Kosovo model of UN administration without appropriate adaption, indicated by the initial omission of a customs service for East Timor because no such service was been required for the ‘non-sovereign’ territory of Kosovo.

³⁷ Interviewed in Dili, 9th November 2002.

³⁸ UN Political Affairs Officer 1. Interviewed in Dili, 5th November 2002.

its initial form, an organisation staffed by international UN personnel, with East Timorese employees often working only as drivers, language assistants and security guards. Fox (2001:6) refers to the expatriate-dominated nature of UNTAET during the early period as ‘perhaps UNTAET’s most striking policy inconsistency,’ given its ‘primary role....of providing for East Timor’s transition to independent status.’ Similarly, Beauvais (2001:1146) remarks that ‘by failing to integrate East Timorese into the administration of the reconstruction process at an early date, a crucial opportunity for capacity-building through on-the-job training was missed.’

The logic of establishing a public administration dominated by international staff was based on the local skills shortage, as indicated by UN documentation published at the end of the first year of the transitional administration (UN 2000b:97), which asserted that although ‘a number of well-qualified and experienced East Timorese...have returned to help rebuild the country, they alone cannot fill even a small percentage of the 9,000 or so posts in the public service.’³⁹ One example of the low capacity of available recruits concerns the East Timorese judiciary which UNTAET created after its arrival. As noted by Beauvais (2001:1155-1156), of the fields of justice, political authority and public administration, justice was the ‘only sphere...in which, virtually from the mission’s outset, UNTAET established genuinely East Timorese-staffed institutions and made intensive investments in capacity-building.’ Yet despite these efforts, the justice portfolio has consistently faced serious challenges, with capacity aspects (see Chapter 6) being a major contributing factor. In April 2002, as the date of East Timor’s declaration

³⁹ Some indication of the capacity of potential local public service recruits might be gauged from the quality of applicants who applied for international study opportunities in English speaking countries in the years following the establishment of the transitional administration. Geoff Etches (interviewed by telephone, 2nd November 2006), who administered the East-West Centre East Timor scholarship program between 2001 and 2005, found that of the total pool of applicants in every year, it was consistently difficult to find more than three who clearly demonstrated the ability to succeed at tertiary study at an overseas institution, supporting the conclusion that the prevailing educational culture in East Timor had not prepared students for the demands of tertiary study at an international standard. Furthermore, as the period between 2001 and 2005 elapsed, the number of applicants who had studied in Indonesian universities decreased, while the number who had studied at UNTL (known for its educational shortcomings) increased. English speaking scholarship applicants are not a perfect sample on which to evaluate the administrative capacity of a population, however English is widely spoken among young, educated and ambitious East Timorese.

of independence (20th May 2002)⁴⁰ approached, the UN Secretary-General, Kofi Annan (UNSC 2002c:2-3), noted that although almost 11,000 East Timorese public servants had been employed by this time (of 15,000 approved positions), ‘the appointments have been mainly at the lower levels and less than 50 per cent of management positions have been filled thus far.’⁴¹ Annan referred to ‘the lack of suitably qualified candidates’ as the major factor complicating the recruitment of senior staff and remarked more broadly that ‘[b]uilding an East Timorese public service has been one of the most difficult aspects of UNTAET’s mandate.’

With the exception of the justice sector, therefore, potential East Timorese recruits were initially unable to gain administrative experience on the basis that they lacked the necessary capacity. However, the ability of many of the expatriates deployed on UNTAET to either perform online administrative functions *or* capacity-build those local staff who were eventually employed has also been called into question. Dr Roger Hearn, the last international director (during 2001) of the transitional Administration for Local Government and Development (ALGD) agency, has in fact suggested that the poor quality of UNTAET staff was the single greatest cause of the mission’s failings. In reference to the one hundred and forty international staff working for the ALGD, Hearn referred to twenty per cent as ‘good,’ twenty per cent as ‘mediocre,’ and sixty per cent as ‘incompetent’, an outcome one imagines was partly due to UN recruitment practices.⁴² As discussed in the final chapter of this study in more detail, the internal

⁴⁰ On 31st October 2001, two years after the deployment of UNTAET, the UN Security Council approved the recommendation of East Timor’s new Constituent Assembly that the country be declared independent on 20th May 2002 (UNSC 2002a:1).

⁴¹ At least half the public servants (almost 6,000) were teachers. Other large components included the police and the military (UNSC 2002a:7).

⁴² Dr Roger Hearn was interviewed in Dili on 16th October 2001, at which time ALGD had one hundred and forty international staff and one hundred and two local staff. Supporting aspects of Hearn’s assessment, the decision to create an internationally-staffed public administration is widely considered (Suhrke 2001:11-12; Beauvais 2001:1140-1141; Fox 2001:6; Federer 2005:88; Gunn and Huang 2006:88) to have resulted in the recruitment of personnel of perhaps comparable utility to local staff but at far greater cost and with fewer long-term advantages; with incoming short-term officials often lacking basic qualifications in the areas of language skills, regional knowledge and professional capacity. As articulated by Federer (2005:79), ‘[p]eople arrived from the four corners of the earth to a remote country they had previously never heard of, whose history they did not know, to difficult living conditions... What outputs they could have produced in such a short period is anyone’s guess.’ The writer, who was not intentionally researching the matter, was surprised to meet UNTAET employees in 2001 who told of being recruited without having any referees consulted and without being interviewed. See also Gunn and Huang (2006 88-

capacity limitations of UNTAET appear to have contributed to serious administrative shortcomings and the absence of a coordinated approach to a range of areas (including the question of how to interface with customary justice processes).

As observers (Beauvais 2001:1143-1145; Suhrke 2001:2,13; Gorjão 2002a:320; Smith with Dee 2003:64-66; Gunn and Huang 2006:93-94; Federer 2005:88-91) have documented, UNTAET finally undertook a ‘Timorisation’ process in mid-2000, after the UNTAET Governance and Public Administration (GPA) component had been criticised for being exclusive and Dili-centred. The ‘Timorisation’ process had two dimensions, consisting of increased local participation in the public administration component (discussed here) and increased participation in governance (discussed below under ‘East Timorese participation in governance’). The commencement of ‘Timorisation’ was announced on 5th April 2000 with reference to the employment of 7,000 civil servants, the appointment of East Timorese candidates to deputy leadership positions in districts and departments, and the establishment of a Civil Service Training Academy (Beauvais 2001:1143-1145). The structural changes associated with ‘Timorisation’, the replacement of the GPA with the East Timor Transitional Administration (ETTA) and the replacement of the original National Consultative Council (NCC) with the more expansive National Council (NC), which would have limited authority over ETTA, were later outlined in UNTAET regulations dated 14th July 2000.⁴³

UNTAET’s modified approach and institutional changes failed to stem the criticism. As articulated by Suhrke (2001:13), ‘[a]lthough some ETTA portfolios were put under Timorese leadership...international staff continued to dominate both in the central administration and at district level...[and]...[b]y March 2001 only a couple of the 13 District Administrators were Timorese.’ ‘Timorisation’ was, in fact, advancing slowly by this at this time and it was announced (UNSC 2001b:3) in July 2001 that ‘all 13 district administrators and their deputies are now East Timorese.’ Still, the fact that the

89,182) for reference to UNTAET recruitment practices, and how this contributed to limit the capacity of the UNTAET mission.

⁴³ Details of the broader institutional changes are outlined under UNTAET *Regulation No. 2000/23 on the Establishment of the Cabinet of the Transitional Government in East Timor* (UNTAET 2000f). See also UNTAET *Regulation No. 2000/24 on the Establishment of a National Council* (UNTAET 2000g).

ALGD component of ETTA employed one hundred and forty internationals but only one hundred and two East Timorese as late as October 2001 (over a year after ‘Timorisation’) certainly lends support to the unrelenting focus of critics concerning the lack of East Timorese participation in the public administration.⁴⁴

Furthermore, as independence approached, there were concerns about the extent to which the new public administration would be financially viable. Overall, the UNTAET mission expended around half a billion dollars (US) per year,⁴⁵ however ETTA was supported by the relatively small CFET account comprised mainly of donor contributions supplemented by Timor Sea petroleum revenues and tax revenues.⁴⁶ For the 2001-2002 financial year the ETTA budget covering such essentials as local wages, facilities and vehicles was set at US\$65.4 million (CFA 2001:17). Of this, ALGD had a core budget of US\$800,000 to support 102 East Timorese staff stationed throughout the country, whose responsibilities included coordinating the district activities of other agencies. According to the ALGD Director,⁴⁷ the budget was barely enough to cover the salaries of the East Timorese staff, and the agency was challenged to fulfil its mandate. Of the view that similar funding short-falls also applied to other ETTA agencies, Hearn was concerned that on the brink of independence, East Timor was in danger of inheriting ‘an administration without a budget.’ Hearn criticised UNTAET for presiding over a Dili-centred administration which, as late as October 2001, had neither a ‘service delivery mentality’ nor a ‘plan for the districts post-UNTAET.’ He predicted a post-independence public administration that would be of only ‘marginal viability.’

Leaving aside the question of the security forces (discussed in Chapter 6), a balanced assessment might conclude that UNTAET could have deployed fewer, more carefully selected personnel on longer contracts, focussed more attention on suitable training activities, adopted a less centralised approach and channelled more realistic resources to

⁴⁴ Interview with Dr Roger Hearn, Dili, 16th October 2001.

⁴⁵ For details of the overall UNTAET budget, see UNSC (2002a:12-13), *La’o Hamutuk Bulletin* (2001). See United Nations General Assembly (2001) for a breakdown of the UNTAET budget for 2001.

⁴⁶ As of December 2001, CFET had received approximately US\$60 million in voluntary contributions from donors (UNTAET 2001f:2).

⁴⁷ Dr Roger Hearn, Dili, 16th October 2001.

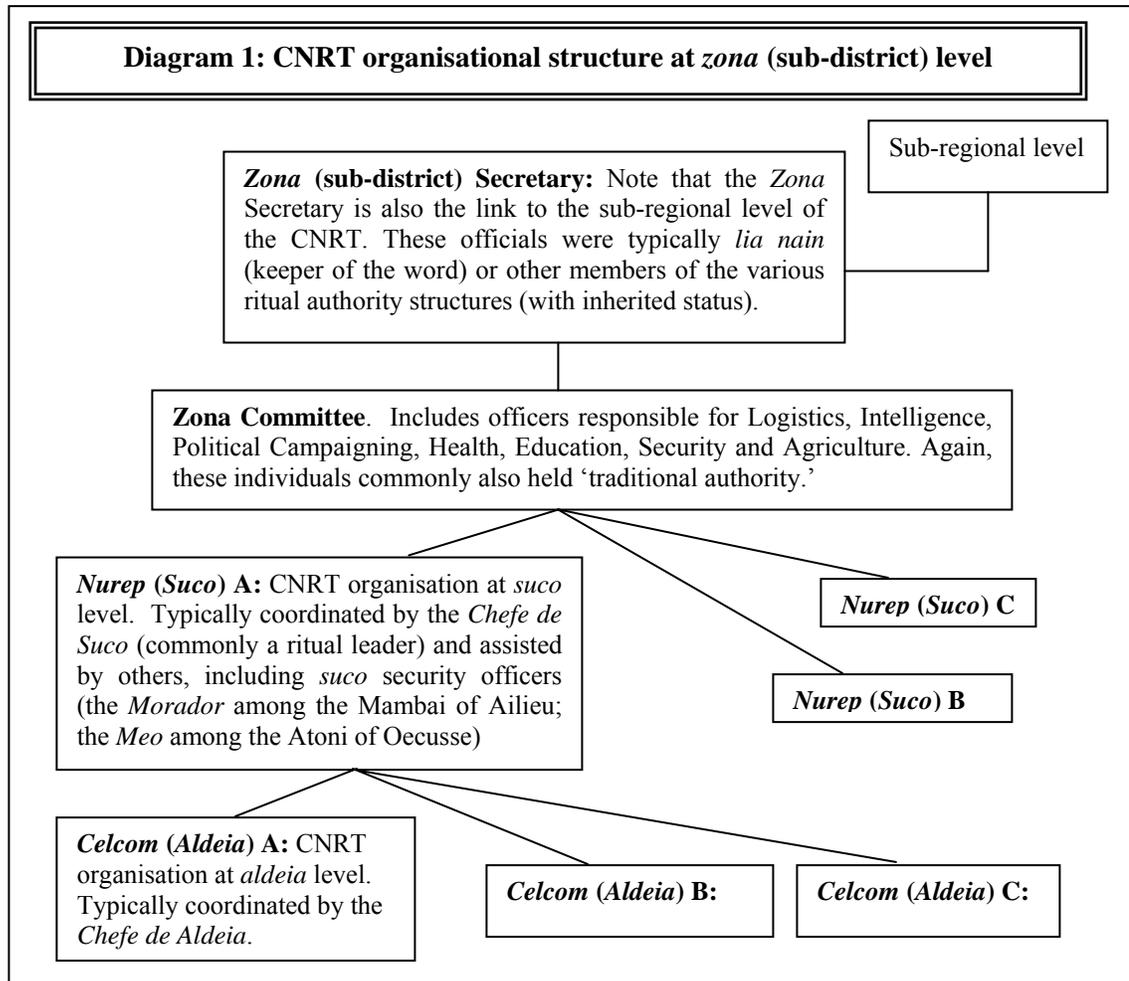
the incipient state bureaucracy. However, UNTAET would *still* have faced staggering challenges in establishing a modern administration in a non-state social context where no legitimate centralised administration had ever previously existed. It is necessary to be realistic in evaluating what UNTAET could ever have really achieved in a period of transitional administration shorter than the time required to complete an undergraduate degree or vocational apprenticeship. Some criticisms of UNTAET ignore aspects of the non-state social context in which the mission operated. For example, Chopra's reference (2000:34) to an unemployment rate of over eighty per cent, repeated by a brace of later commentators (Chesterman 2002:63; Gorjão 2002a:321; Croissant 2006:11-12), fails to recognise the overwhelmingly subsistence nature of the East Timorese economy (in which at least eighty per cent of the population are farmers) and the fact that no short or even medium-term transitional administration would have been capable of transforming this reality.

The Role of Non-State Actors in the Early Transitional Period

Following the exodus of UNAMET and the degeneration of the Indonesian administration into total chaos in early September 1999, a vacuum of state authority prevailed for at least three months (depending on location) during which the East Timorese relied on an interconnected network of *suco* and resistance administrative systems while the UN went about planning and implementing the UNTAET mission. Chopra (2000:32) has referred to the discrepancy that prevailed at this time 'between the UN's *de jure* authority on paper, and the CNRT's *de facto* control in the field.' This shadow administration continued to function in some form well into 2001, and is interesting to consider in terms of the contribution of non-state actors to public administration and order during this period.

As discussed earlier, the INTERFET intervention enabled East Timor's dispersed population to begin returning to whatever remained of their settlements almost immediately, and it was in this period, according to Ospina and Hohe (2001:64) that new *suco* and *aldeia* leaders were appointed based on agreement between the CNRT,

FALINTIL and *suco katuas*.⁴⁸ The following diagram (Diagram 1), based on information received from former CNRT officials, profiles the CNRT organisation structure as it prevailed within the *zona* or sub-district in the immediate post-Indonesian administration. Importantly, the table indicates the extent to which status and responsibility within the ‘traditional authority’ structure of the *suco* commonly overlapped with status and responsibility within the CNRT structure.⁴⁹



⁴⁸ Ospina and Hohe (2002:64) report that the CNRT issued a directive in March 2000 specifying that local elections be undertaken for *suco* and *aldeia* level leaders. These authors also indicate, however, that no elections had been held in some places by 2001. For reasons referred to in the main text, it appears likely that the outcomes of elections were commonly influenced by *adat* criteria concerning leadership eligibility.

⁴⁹ Informed by interviews with former CNRT officials in the districts of Aileu and Oecusse. Informants included (1) *lia nain* and former CNRT district/sub-regional representative for Aileu (Ritual Leader 6, interviewed in Aileu, 19th November 2002), (2) *lia nain*, former CNRT Aileu Kota *zona* secretary, and sub-district coordinator (Ritual Leader 5, interviewed in Aileu on 8th and 19th November 2002), (3) former Oecusse district CNRT spokesperson and *meo* (Ritual Leader 4, interviewed in Oecusse, 11th November 2002) and (4) former CNRT *nurep* coordinator of Baqui, Oecusse and also *chefe de suco* and *naizuf* (Ritual Leader 3, interviewed in Oecusse, 14th November 2002).

Later, under UNTAET, CNRT officials were commonly appointed to these same positions under the official structure, resulting in an almost seamless transition from official to customary authority at the sub-district level.⁵⁰

Whereas at national level the CNRT leadership assumed (Walsh 1999) responsibility for facilitating a ‘transition to self-government and independence, empowered and supported by the UN’, at district level the overlapping CNRT/*suco* administration network assumed immediate responsibility for a range of post-conflict activities including the reintegration of displaced persons, the distribution of aid, justice-related matters and reconstruction challenges. When the new UNTAET DA and other UN staff arrived in Aileu in early December 1999, it was clear that the CNRT was firmly established as the de facto administration. On the mistaken assumption that the new DA would have access to a reconstruction budget, the CNRT invited him to a town planning meeting that had been arranged for the following week. In the course of this meeting, the CNRT officials were dismayed to learn that UNTAET had arrived with neither an infrastructure budget nor an infrastructure officer.⁵¹ This lack of support impacted on the ability of the district staff to establish a credible presence, and has prompted the UNTAET DA of Aileu at the time to remark that ‘UNTAET is considered a success only because of the patience of the CNRT.’⁵²

At this time (late 1999) in Aileu,⁵³ the CNRT was increasingly busy facilitating the reintegration of refugees and militia members, who by late December 1999 were being

⁵⁰ Based on the same sources as listed in reference to Diagram 1. Based on further visits to sub-district officials in Aileu and Oecusse in March 2003, the writer found that most CNRT-era sub-district administrators had been replaced by FRETILIN officials.

⁵¹ As discussed earlier in this chapter, funding for actual infrastructural development projects was sourced mainly from the Trust Fund for East Timor (TFET), a separate budget from the one funding UNTAET activities. The CNRT district council, however, was initially unaware of how the international funding was set up. Sources close to the district administrator who wish to remain anonymous (interviewed in November 2002) consider that based on their experience with the Indonesian administration, the CNRT at first suspected that the district administrator did have access to a significant budget, but was simply choosing to keep it.

⁵² Based on information received from the UN district administrator for Aileu (UN District Administrator 1, interviewed in Dili, 9th November 2002).

⁵³ Unless otherwise indicated, the information concerning developments in Aileu during this period is based on an anonymous account received in November 2002 from a UN official who worked in Aileu in late 1999 and early 2000.

returned to the district by the UNHCR and the IOM at the rate of between one and two hundred individuals per day. This process involved high levels of cooperation between formal and de facto realms of authority. In Aileu, returning refugees were being handed over to FALINTIL and the CNRT, who kept returnees in their compound for a processing period that lasted on average several days. This processing period included searches and questioning sessions aimed at determining if individuals had been involved in militia activities. Returning refugees and the majority of those with militia involvement were handed over to *chefes de suco* at the conclusion of this process and returned to their communities. Those suspected of involvement in militia crimes were then diverted into reconciliation programs based on *suco* justice principles (profiled in Chapter 7). These justice and reconciliation processes were organised by the East Timorese, and held without attendance by CivPol or other UN staff. Of note in relation to this process is that in Aileu district, all but three individuals with militia involvement were deemed suitable for re-integration into the community. The remaining three were sent to Dili for formal processing.

Notwithstanding this success, the nature of the cooperation between IOM, UNHCR and UNTAET on one hand, and the CNRT, FALINTIL and *suco* authorities on the other, is known to have provoked controversy within the ranks of UN staff. There was concern about the possible implications of handing returnees over to unofficial (non-state) actors, fuelled by fear of a retributive slaughter of returning militia members and pro-autonomy/integrationist sympathisers. An anonymous account indicates that in order to prevent this outcome, requests were made for armed FALINTIL guerrillas (another non-state actor) to guard the returnees against possible reprisals, and that this request was complied with. Similarly, some UN officials are known to have been concerned about the questioning, and more particularly the searching, of returnees by non-state authorities (the CNRT) as a breach of human rights. Ultimately these activities proceeded, but with UN officials or other UN staff in attendance. Especially given the limited resources of UNTAET and the importance of reintegrating former militia members at this time, the developments profiled in the foregoing paragraphs provide an example of the contribution to order

which the non-state CNRT/*suco* shadow administration made in the early post-Indonesian period.⁵⁴

East Timorese Participation in Transitional Governance

Apart from the 1999 ballot, the East Timorese had little experience with transparent and modern democratic decision-making processes. As already discussed in relation to the UNTAET mandate, they were not to gain much further experience in this area during the transitional period either, apart from the opportunity to participate in two further polls which ultimately determined the post-independence political landscape. The first transitional governance initiative commenced on 2nd December 1999, when the National Consultative Council (NCC) was established with *Regulation No. 1999/2* (UNTAET 1999). The NCC was an advisory body only and the SRSB retained ‘final authority’ for all decisions. Furthermore, although the NCC was theoretically representative of ‘the people of East Timor’, the East Timorese NCC members were appointed by the SRSB.⁵⁵

Beauvais (2001:1126-1127) refers to a ‘crisis of legitimacy’ which befell UNTAET in the first half of 2000 and which precipitated the governance changes associated with the broader ‘Timorisation’ program.⁵⁶ The governance changes were outlined in twin UNTAET regulations passed on 14th July 2000. *Regulation No. 2000/24 on the Establishment of a National Council* (UNTAET 2000g) replaced the original NCC with an expanded National Council (NC) intended to enhance East Timorese participation in the transitional ‘decision making process.’ The NC was an all-East Timorese forum of

⁵⁴ Anonymous sources close to the UN district administrator during this time indicate that a number of returning militia members were beaten in Aileu, but there are no reports of retributive killings. Indeed, there are reports that on a number of occasions CNRT members stepped in to prevent possible killings from occurring, and that overall the reintegration of returnees in Aileu was undertaken peacefully and smoothly. Although the UN district administration attempted to secure funding for the construction of a transit station to enable them to facilitate the return of refugees themselves, resources for this were not forthcoming. Without a venue from which to operate a returnee program themselves, and with minimal local links established, the UN district administration had little choice in Aileu but to permit the CNRT facilitated process to proceed as a semi-formal operation.

⁵⁵ Curiously, Section 2 of the *Regulation* (UNTAET 1999) specified that the eleven East Timorese members of the NCC would be chosen to reflect the results of the 1999 popular consultation. Accordingly, seven seats were allocated to the CNRT and three seats to non-CNRT groups. A further seat was allocated to the Catholic Church. Four non-East Timorese seats were allocated respectively to the SRSB and three of his nominees.

⁵⁶ See also Chopra (2000:34-35).

(initially) thirty-three members.⁵⁷ Like the earlier council, it was required to consult with the East Timorese population, and it had authority to issue recommendations pertaining to UNTAET regulations and to question members of the new transitional cabinet (see below). Notably, however, the SRSG retained authority over both the appointment process and the approval process pertaining to UNTAET regulations.

The regulation establishing the NC was accompanied by *Regulation No. 2000/23 on the Establishment of the Cabinet of the Transitional Government in East Timor* (UNTAET 2000f), which aimed ‘to enhance the participation and responsibility’ of East Timorese in day-to-day governance. The Cabinet was a forum distinct from the NC,⁵⁸ with more direct control of public administration. Some functions were similar to those of the NC and Cabinet had authority under Section 4.1 of *Regulation No. 2000/23* to ‘recommend to the Transitional Administrator the approval and promulgation of regulations as adopted by the National Council or to return the draft regulations to the National Council with the cabinet’s recommendations for further consideration.’ Other responsibilities included recommending policies, programs and directives and, importantly, supervising the East Timor Administration. Section 13 of the *Regulation* referred to the establishment of portfolios covering the areas of internal administration, infrastructure, economic affairs, social affairs, police and emergency services, political affairs, justice and finance. Again, Cabinet officials and their deputies were to be appointed by the SRSG, to whom they would be responsible. Furthermore, as Gorjão (2002a:320) notes, Cabinet appointees were not exclusively East Timorese, with half of the original appointees consisting of UNTAET staff.

If UNTAET salvaged a degree of legitimacy among East Timorese elites by implementing these changes in the second half of 2000, then it appears that this was only temporary. Commentators (Beauvais 2001:1129-1130; Chesterman 2002:65-68; Gorjão

⁵⁷ Specifically, these comprised (UNTAET 2002g) seven CNRT representatives, three non-CNRT political representatives, representatives from each of the districts, religious representatives (Catholic, Protestant and Moslem), a women’s representative, a youth/student representative, an NGO forum representative, a professional association representative, a farming community representative, a business community representative and a labour organisation representative.

⁵⁸ Under Section 3.5 of UNTAET *Regulation No. 2000/24* (UNTAET 2000g), individuals serving as cabinet officials were banned from serving on the NC.

2002a:320) note that the frustration experienced by the East Timorese NC and Cabinet members (most of whom were drawn from the CNRT, as discussed below)⁵⁹ caused by their limited influence and resources was intense, and this was reflected in multiple resignations in the second half of the year.⁶⁰ Gorjão (2002a:320) remarks that the Timorisation process was ‘mainly cosmetic’ since ‘political power continued to lie solely in UNTAET’s hands.’ He asserts that this was a major reason why East Timorese elites demanded that independence be granted in 2001.

The commentary on UNTAET has often been lacking in compliments. Chopra (2002:981,992) portrays a cumbersome and unrepresentative body characterised by a ‘corrupting’ culture of ‘malevolence’ and ‘colonial style behaviour.’ Autocratic by nature, the mission ‘could not tolerate other bodies being more representative.’⁶¹ Chopra and Hohe (2004:297), meanwhile, refer to a mission with a ‘hierarchical institutional culture’ and reluctance to devolve power. Suhrke (2001:12-13) characterises the UNTAET mission as a ‘UN-staffed state that resisted becoming superfluous’ and even UN documentation (UN 2000b:15) refers to a transitional administration that replicated the centralised administration of the Indonesian period. Yet does UNTAET’s reluctance to allow local participation in governance mean that increased local participation in transitional forums would have automatically led to improved short to mid-term governance outcomes? Informed by a long association with the East Timorese resistance movement, Federer’s account (2005:88) of returning members of the political elite suggests that those malevolent UNTAET officials referred to by Chopra had no monopoly on selfish motivations, in the context of the tussle to control transitional governance:

The dissatisfaction that soon emerged with UNTAET did not escape the attention of the more prominent politically active East Timorese returning from the diáspora, who saw in it an opportunity to politically exploit. In most cases, during their decades of exile, these people had not achieved positions of much significance in their countries of residence. They speedily returned to

⁵⁹ See Chesterman (2002:66).

⁶⁰ In an observation which may indicate a specific dimension of East Timorese political culture, Chesterman (2002:68) notes that both Xanana Gusmão and José Ramos-Horta resigned from the NC on multiple occasions.

⁶¹ Chopra (2002:998) notes that one reason why participatory governance presented such a challenge to a UN transitional authority was because UNTAET’s ‘real constituency’ was not the East Timorese population but an assemblage of ‘UN member states and donor governments.’

East Timor in the early months of UNTAET, seeking new opportunities for themselves. With the exception of Horta...[and Xanana Gusmão]...the returning Fretilin and UDT politicians had few professional achievements to leave behind. They did, however, generally have a very high opinion of their capacities and of the entitlements their self-styled leadership activities had earned them. They were very displeased at the exclusive nature of the UNTAET government they encountered upon reaching Dili. Their need for employment and income was pressing, and the UN system offered no opportunities, either in this mission or elsewhere, for people with their limited professional achievements.

Federer (2005:90) asserts that 'the UN yielded to the most vociferous and ambitious...regardless of their track record' when it came to appointing East Timorese candidates to senior posts in the NC and the transitional cabinet following the July 2000 changes.⁶² Because of the status of the CNRT as the united (if internally fractious) pro-independence organisation, CNRT leaders and their nominees were prominent among those appointed to these positions (Federer 2006:90-91; Chesterman 2002:66).⁶³ Federer observes that apart from Father Filomena Jacob S.J. from the Catholic Church, all senior appointees 'were drawn from the exiled Portuguese-speaking élite of the past.' The unrepresentative nature of the NC was apparently not lost on the population. An NDI governance report based on focus groups conducted around the country in February 2001 (NDI 2001:iv) found that those that knew about the NC 'did not regard it as being a representative body', and that 'East Timorese from the districts believe the existing political process is dominated by a Dili-based elite and that they have been left out of it.' Confirming such views, when Xanana Gusmão resigned as President of the NC on 28th March 2001, his reasons included the unrepresentative nature of the NC with its thirty-six UN-appointed members. A more ominous reason in terms of long-term developments, however, was Gusmão's anger that East Timor's strongest political party, FRETILIN, was opposed to the principle of consulting the public in relation to the future constitution (BBC 2001). Certainly this indicated that UNTAET was not alone in its desire to centralise control.

Concerning the CNRT itself, there appears to have been a clear distinction between those who assumed CNRT leadership roles at the local level and those who assumed

⁶² The NC was inaugurated on 23rd October 2000 with Xanana Gusmão as the Speaker (Federer 2005:90).

⁶³ For further reading concerning how the CNRT was regarded within the context of the UNTAET mandate, see Suhrke (2001:8-11). See Chesterman (2002:66) for discussion concerning the allocation of portfolios following the July 2000 changes.

leadership roles at the national level. As discussed earlier in this chapter, CNRT leaders in the districts appear to have been perceived as legitimate authorities by the local population. This is reflected in National Democratic Institute (NDI) research findings based upon a series of district focus-groups conducted by the organisation (NDI 2003:20-21) from January 2001 onwards which describe how decision-making structures operating in the districts drew jointly on the regional CNRT resistance structure and the traditional authority structures of the *sucos*:

The existing structure of village level government was based on traditional structures and reinforced by the CNRT in the vacuum left behind in the wake of the violent Indonesian withdrawal and the return of the displaced population. The CNRT disbanded in July 2001 and UNTAET never formally incorporated these positions into any government structure, using liaison with *Chefe de Suco* on an ad hoc basis... The CNRT based its resistance structure on traditional local structures to enhance its appeal and reach.

There seems to be mostly high regard for those occupying these positions, due to their closeness with the people during the struggle, but there remains a desire, first detected in focus group research in February 2001, to have their status clarified by law.⁶⁴

Meanwhile, the legitimacy of members of the national CNRT leadership (with several notable exceptions including Xanana Gusmão) with its contingent of 1975 political leaders recently returned from exile, has been questioned. In contrast to the view expressed by the CNRT National Congress in August 2000 (CNRT 2000:14) that CNRT 'represents the aspirations of the people', Chesterman (2002:64) asserts that '[t]he questionably representative nature of CNRT was reflected in its August 2000 decision to adopt Portuguese as the official language of East Timor, a language understood by fewer than ten per cent of the population and by virtually no one under 30.'⁶⁵

If, indeed, the transitional governance initiatives were insufficiently participatory and the majority of the CNRT leadership insufficiently representative, how else could East Timorese participation have been promoted? Chopra's assault (2000:29; 2002:984,991)

⁶⁴ Note that in regard to the desire for the status of members of village governance structures to be clarified by law, the NDI (2003:22) found 'unanimous' support for the appointment of these officials by direct election. As discussed elsewhere, however, this does not necessarily mean that traditional/ritual considerations pertaining to the various candidates would not influence the vote.

⁶⁵ See also Beauvais (2001:1123) concerning the Lusophone dominance of the CNRT. More broadly, note that commentators (Chopra 2002:32; Chesterman 2002:66; Beauvais 2001:1123-1124) have referred, sometimes critically, to the SRSG's practise of using CNRT president Xanana Gusmão as his almost exclusive point of contact with the East Timorese population.

on UNTAET, which included condemnation of the SRSB's control over the membership of the transitional governance forums and sole discretionary authority over legislation, includes criticism (Chopra 2002:992) of UNTAET's failure to promote democratic decision-making processes throughout the territory (including in relation to the World Bank/ADB Community Empowerment Program, or CEP) when 'it was quickly apparent that some kind of imperfectly elected bodies, which were adequate for the transitional period, could be formed in the space of weeks.' Elaborating on how the CEP proposal for East Timor might have been used as the foundation of a national democratic governance structure extending from the *sucos* upwards, Chopra and Hohe (2004:295-297) explain how the original proposal for the election of gender-balanced councils at hamlet level was intended to form the basis, sequentially, for the election of village councils and sub-district councils along similar gender-balanced lines. Development funding would then be allocated by sub-district councils based on proposals submitted by community members. Chopra and Hohe remark that 'the CEP aimed to establish the actual local administration of the country', and speculate that the model could have been 'extended further upward' to facilitate national governance. Although a weakened version of the CEP was ultimately implemented,⁶⁶ the authors (2002:295-297) explain that the full potential of the program was never realised due to factors that included a lack of support from UNTAET. Of particular interest, the authors (2002:295-297) argue that a failure to appreciate the nature of traditional power structures led to the policy decision preventing traditional leaders from standing for election to CEP councils, and that this in turn resulted in the councils being unable 'to compete with the social power of the village chief who they had excluded.'⁶⁷

⁶⁶ UNTAET passed *Regulation 2000/13 on the Establishment of Village and Sub-district Development Councils for the Disbursement of Funds for Development Activities* (UNTAET 2000b) on 10th March 2000. Although granted no 'legislative, executive or judicial power' and forbidden to 'duplicate or replace the role of the traditional and local leaders of...villages and sub-districts', (under Sections 1.3 and 1.4 of *Regulation 2000/13*) the CEP initiative is of interest for the control of development funding (from the TFET account) it placed in the control of decentralised, democratically 'selected' councils.

⁶⁷ Chopra and Hohe (2004:296-297) also link the origin of the decision banning 'traditional or local leaders' from standing for election to CEP councils to the fact that prior to the implementation of the CEP, the East Timorese had independently commenced the election of local bodies. Traditional leaders were consequently excluded from CEP councils as part of a resulting 'rudimentary kind of separation of powers.' Note that despite its unrealised potential the CEP was still implemented in diluted form, and Chopra and Hohe (2004:295) refer to it as '[p]erhaps the most extensive experiment of its kind.' And yet the exclusion of *suco* leaders appears to have taken its toll. According to NDI governance research

Notwithstanding the strength and legitimacy of the administrative structures in the *sucos* and sub-districts, it is interesting to speculate how an UNTAET-supported grass-roots democracy program would have been received by elites, some of whom had been striving to become national leaders for a quarter-century. Beauvais (2001:1126) reports that CNRT president Xanana Gusmão was critical of UNTAET for failing to support the CEP, but how would other elites have reacted? Would they have resisted such a program or would they have accepted it and sought to achieve their own goals within it as FRETILIN successfully did in relation to the 2001 election for a Constituent Assembly?⁶⁸

* * *

For Chopra (2000:34), UNTAET's most scathing critic, the mission had already lost its 'window of opportunity' to promote a democratic and possibly *suco*-based transitional governance system as early as January 2000, even though the mission had only been deployed several months earlier. In fact, given the capacity of administrative capacity of UNTAET,⁶⁹ the limited reach of the mission in the sub-districts, the brevity of the transitional period, prevailing historical political legacies and antipathies and the motivations and determination of some East Timorese political actors, the extent to which a participatory governance structure might have influenced mid-term governance outcomes or seeded a vision for a longer-term participatory governance framework remains open to question. In any case, East Timorese political figures were now

conducted in early 2001 (NDI 2001:7), rural East Timorese referred to *chefe sucos*, *suco* elders and church leaders in the context of 'discussions of local institutions', but made no reference to CEP councils. The NDI (2001:20-21) also found that the CEP 'working at the sub-village, village and sub-district level, was kept at a distance by the formal UNTAET structure that barely extended to the sub-district level.' For further commentary on CEP, see Gunn and Huang (2006:91-92). For a detailed study of the CEP and how it related to traditional power structures, see Ospina and Hohe (2001).

⁶⁸ Hohe (2002:85), for example, asserts that 'free and fair' elections facilitated by the international community in East Timor unwittingly supported the basis of 'either one-party rule or violent political competition' through enabling the party with the strongest regional support network, FRETILIN, to exploit traditional conceptions of political legitimacy in rural areas to ensure electoral victory. The question remains, however, whether FRETILIN could also have exploited traditional conceptions of political legitimacy to achieve a similar outcome using a devolved governance structure.

⁶⁹ In relation to mission efficiency, Chopra (2000:35) makes the valid point that '[a]s with the use of force, perhaps coalition missions led by single countries may be more effective for temporary government.'

proposing a swift transition to independence (Gunn and Huang 2006:87) and at its August 2000 National Congress, the CNRT (2000:26-29) outlined a proposal for the election of a Constituent Assembly in August 2001 for the purpose of shaping an East Timor state in the model of a modern liberal-democracy with a presidential system.⁷⁰

Realising Independent Statehood

Consistent with the developments discussed above, UNTAET passed *Regulation No. 2001/2 on the Election of a Constituent Assembly to Prepare a Constitution for an Independent and Democratic East Timor* (UNTAET 2001b) on 16th March 2001. The *Regulation* specified the election of an eighty-eight seat assembly to be comprised of seventy-five national representatives and one representative from each of East Timor's thirteen districts. Under Section 2.2, the vote of sixty of the eighty-eight representatives would be required for the constitution to be passed. With *Regulation No. 2001/2*, the countdown to independence was underway.

In his account of state-building in East Timor, Federer (2005:98) writes that after an initial, failed attempt to organise a civic education program towards the end of 2000, a second attempt was organised the following year in preparation for the Constituent Assembly election. This campaign, notes Federer, was launched only three months before the election (in May 2001) and was largely 'an exercise in training on electoral procedures' for a ballot that was to be 'conducted on [political] party lines' rather than being aimed at electing respected individuals from throughout the community to develop a constitution. Federer (2005:98), based on his capacity-building experience with some of the multiple⁷¹ 'so-called parties' which competed at the election, developed first-hand

⁷⁰ The CNRT Congress was held from 21st – 30th August 2000. Note that it was in this document (2000:17) that the CNRT stated its preference for 'Portuguese to be adopted as the official language and Tetum as the national language.' Meanwhile, English and Indonesian were given the status of 'working languages.' See Gunn and Huang (2006:87) for commentary on this congress. According to the latter, UNTAET announced in July 2000 that 'election would be held in August 2001' in advance of independence prior to 2002. See also Beauvais (2001:1131-1132) concerning the circumstances of this decision.

⁷¹ Sixteen parties (plus independents) competed at the August 2001 election for a Constituent Assembly (Asia Foundation 2001b:26-39).

experience ‘of how utterly remote the conventional concept of a political party and its organisation was to their members.’

Interviews with civil society figures conducted by the writer in advance of the 2001 election identified concerns about party-based politics in East Timor given the territory’s socio-political profile and history. A senior Protestant Church official⁷² pointed out that the East Timorese had no experience living in a democracy and questioned how this could be changed in the course of a three-month civic education campaign. He expressed a preference for a governance system with *no* political parties and a parliament in which dialogue and debate occurred. Similar sentiments were expressed by prominent civil society figure Aderito de Jesus Soares,⁷³ who referred to the difficulty of overcoming past legacies including East Timor’s original, scarring experience with party-politics in 1975⁷⁴ and the period of Indonesian occupation during which a clandestine political culture prevailed. His perception was that the country was rushing towards an election with too little preparation and too little information. Soares referred to the romantic historical notions often associated with FRETILIN, and the view in some parts of the country that the country should simply be governed by FRETILIN. There was, therefore, limited understanding of the meaning of political parties and the country faced the danger of becoming a ‘cosmetic democracy.’⁷⁵

Meanwhile, UNTAET was more optimistic. An UNTAET civic education coordinator interviewed in May 2001⁷⁶ was confident that despite the knowledge deficit pertaining to human rights and democratic principles stemming from the Portuguese and Indonesian periods, the UNTAET effort would make up for this in the few remaining months before the election. Furthermore, East Timorese were to have a prominent role in

⁷² Reverend Francisco Vasconcelos (interviewed in Dili, 17th May 2001).

⁷³ Aderito de Jesus Soares, Sa’he Institute of Liberation (interviewed in Dili, 18th May 2001).

⁷⁴ See also NDI (2001:6) and Hohe (2002:17), who remarks in respect to public perceptions of the 2001 election, that ‘[t]he idea that more than one party existed seemed shocking.’ Meanwhile, Chesterman (2002:70) found that ‘[f]ew UN staff felt comfortable even discussing the idea that good governance might not always be coterminous with multiparty democracy.’ See also Chesterman (2002:64).

⁷⁵ Note that Soares became a (FRETILIN) member of the Constituent Assembly (RDTL 2002:68). See also Federer (2005:97) for a discussion of the initial confusion in the community concerning the purpose of the 2001 election.

⁷⁶ UN civic education coordinator 1. Interviewed in Dili, 15th May 2001.

the civic education work undertaken in the field, and UNTAET was planning on documenting this well in order to contradict the views of critics that UNTAET was unable to work with the East Timorese. One way in which the UN supported East Timorese participation in civic education activities was by distributing grants to NGOs and other organisations based on proposals for civic education promotional activities in the community. UNTAET Civic Education Grants Scheme documentation from mid-2001⁷⁷ indicates that a diversity of initiatives were considered for funding, including a democracy and general election song-writing competition, a mock election program, a proposal for the performance of democracy poetry, drama and music at district marketplaces, and a range of proposals for touring programs featuring speakers and seminars on such themes as constitutional development, citizenship, party-political and electoral processes, the rule of law, human rights and women's rights. UNTAET optimism aside, it is likely that few of the participating East Timorese NGOs had much experience of constitutional development and the workings of representative democracy, and would have been challenged to introduce these concepts to a subsistence population in such a short space of time.

As organisation of the UN-supported civic education program began, political party formation also got underway, a process that heralded the formal closure of the CNRT umbrella organisation. Despite early predictions by East Timorese political figures that the CNRT would 'self-destruct' in the first half of 2000,⁷⁸ the organisation had remained intact until the August 2000 Congress. However, following the Congress at which Mario Carrascalão was elected one of two vice-presidents (alongside José Ramos-Horta), both FRETILIN and UDT ceased their involvement in CNRT's 'Permanent Council', thereby reducing CNRT 'to a forum for minor parties' and 'weakening its national unity role'

⁷⁷ Civic Education Grants Scheme (2001).

⁷⁸ According to Dodd (2000), José Ramos-Horta predicted as early as January 2000 that the organisation had only a six-month life expectancy. Meanwhile, other East Timorese political figures from the UDT party (Dodd refers to Mario, João and Manuel Carrascalão) were predicting that the CNRT would disintegrate sooner. Dodd (2000) refer to a dispute underway at the time between Ramos-Horta and the Carrascalão brothers concerning the Carrascalão's involvement in the Timor Lodge Hotel, which was situated (irregularly) on state land.

(Walsh 2001:9).⁷⁹ As the elections scheduled for 30th August 2001 approached, the CNRT was formally disbanded (in June 2001) to create space for other political organisations to participate in democratic processes (Dodd 2001; Grant 2001; Beauvais 2001:1132).

By August 2001, sufficient political space had been created for no less than sixteen political parties, thirteen of which had signed a Pact of National Unity dated 8th July 2001 obliging them to respect the results of the election (*Tais Timor* 2001).⁸⁰ Just at national level, and not including independent candidates, no less than nine hundred and sixty-seven candidates (more than one in every thousand citizens) would stand for election with these parties. However, as Gunn and Huang (2006:104) remark, some of the small parties were ‘hardly serious contenders.’ Meanwhile, as almost 1,000 East Timorese were named as candidates for the election for a Constituent Assembly, the advent of multi-party democracy continued to alienate others. Over a year after the election, a *chefe de suco* in Oecusse remarked to the writer⁸¹ that ‘when we had the CNRT, all parties were under the umbrella and now they are not. But now nothing is happening and everybody is confused.’

Hohe (2002:75), who worked for UNTAET Political Affairs at the time of the 2001 election, reports that the resources for campaigning in most parts of the country were only available to three of the parties. These were FRETILIN, *Partido Democrático* (PD), and *Partido Social Democrata* (PSD).⁸² Whereas PSD was a new party led by former UDT leader and former Indonesian-era governor Mário Carrascalão, PD was a party popular with the young Indonesian-educated sector of the population, led by the unassuming former student activist Fernando ‘Lasama’ de Araujo, who had spent some

⁷⁹ Gunn and Huang (2006:87) refer to the dissatisfaction of senior FRETILIN member Mari Alkatiri over the appointment of UDT leader Mario Carrascalão as a CNRT vice-president at the August 2000 Congress. As well as providing a possible reason for the two parties effectively withdrawing from the organisation at this time, this development also highlights how fragile the CNRT really was. See also Beauvais 2001:1122).

⁸⁰ For profiles of the sixteen political parties which contested the 2001 election, see Walsh (2001) and de Sousa (2001:301-306).

⁸¹ Ritual Leader 3, interviewed in Oecusse, 14th November 2002.

⁸² Of these three parties, remarks Hohe (2002:75), only FRETILIN was able to visit all parts of the country twice. Smaller parties, meanwhile, simply concentrated on areas where they had good prospects.

years in prison with Xanana Gusmão.⁸³ Such parties as FRETILIN and PD clearly had existing support bases among specific sectors of the population, and as campaigning got underway it became clear that the parties were seeking support based on *who they were* rather than what their vision of the future nation was. A joint statement issued by the East Timor Local Election Monitoring Organisations (ETLEMO) one week before the poll (ETLEMO 2001), noted that concerns related to the constitutional development process had featured minimally in the campaigning:

[M]ost political party candidates were not able to convey in their speeches messages relevant to the context of this election. Some candidates were intentionally discrediting other political parties, while others tended to talk about their glorious and heroic actions in the past. In these instances, relevant messages, such as the details of issues related to the new constitution; the ideology and eventual political system of the country; the national and official language; and specific party programs were not widely heard during the campaign. Only a few independent candidates conveyed these relevant messages.⁸⁴

If policies and ‘party programmes were a minor aspect’ of the campaigning period, explains Hohe (2002:74-77), they were more than made up for by references to traditional iconography. Hohe describes how FRETILIN, as well as being the best organised party with the greatest reach into the districts, was strongly advantaged by its historical pro-independence credentials, and quickly mobilised to claim “ownership” of the resistance heroes.’ Hohe (2002:83) refers to the election as an occasion in which ‘voters expressed their honour and respect towards their history and cultural values’ and remarks that the outcome ‘reflected the will of a small elite, the diaspora and overseas-educated individuals who knew how to exploit local beliefs.’⁸⁵

⁸³ Note that whereas Mário Carrascalão left UDT to lead the new PSD party, his brother João remained (as leader) with UDT (*Tais Timor* 2001). See Chapter 4 for a brief profile of PD leader Fernando ‘Lasama’ de Araujo.

⁸⁴ Remarking on the campaigning period in sharper terms, Federer (2005:99) noted the ‘poverty in terms of policy proposals’ and stated that ‘[i]t is no exaggeration to say that nothing of a conceptual nature was proposed.’ Federer (2005:99) also referred to the ‘boisterous and intimidating nature’ of the FRETILIN rallies.

⁸⁵ As discussed earlier, Hohe’s conclusions have been incorporated into the analysis of Chopra (2002:994,996). See also Niner (2007:42).



Figure 2: East Timorese voters outside the Bobometo polling station, Oecusse, 30th August 2001.

As expected, the 30th August 2001 ballot was won by FRETILIN. With 57.3 per cent of the vote, FRETILIN secured a total of fifty-five seats (forty-three of the national seats plus twelve of the thirteen district seats) as outlined in Table 5 (below). Only minor campaign infringements were reported to the Independent Electoral Commission (IEC), which determined (IEC 2001:1) on 9th September 2001 that ‘the criteria for a free and fair election had been met.’⁸⁶

⁸⁶ As witnessed by this writer as an International Observer, the polling at Bobometo in Oecusse went smoothly, with large numbers lining up to vote in several rehabilitated school classrooms in the early morning.

Table 5: Distribution of seats in Constituent Assembly⁸⁷

Party	National	District	Total
FRETILIN (<i>Frente Revolucionária de Timor-Leste Independente</i>)	43	12	55
PD (<i>Partido Democrático</i>)	7		7
PSD (<i>Partido Social Democrata</i>)	6		6
ASDT (<i>Associação Social Democrata Timorese</i>)	6		6
UDT (<i>União Democrática Timorese</i>)	2		2
PNT (<i>Partido Nacionalista Timorese</i>)	2		2
KOTA (<i>Klibur Oan Timor Asuwain</i>)	2		2
PPT (<i>Partido do Povo de Timor</i>)	2		2
PDC (<i>Partido Democrata Cristão</i>)	2		2
PST (<i>Partido Socialista de Timor</i>)	1		1
PL (<i>Partai Liberal</i>)	1		1
UDC/PDC (<i>Partido Democrata-Cristão de Timor</i>)	1		1
Independent		1	1
Total Seats	75	13	88

As noted by commentators (Shoesmith 2003:242; Smith 2004:280; Gunn and Huang 2006:104) FRETILIN's fifty-five seat majority was five short of the number required to pass the constitution. In due course, in February 2002, the constitution (to take effect at independence on 20th May 2002)⁸⁸ would be passed in the FRETILIN-dominated Assembly with support from ASDT, and then signed on 22nd March 2002, only weeks before the presidential election scheduled for 14th April 2002.⁸⁹ Before considering these developments, however, there was the question of the level of consultation and debate that would take place surrounding the formulation of East Timor's *Lai Ina*, or Mother Law.⁹⁰

UNTAET *Regulation 2001/2* (UNTAET 2001b:Section 2.3) required the Constituent Assembly to adopt a constitution within ninety days of its first sitting, although even before the poll this requirement had attracted criticism on the basis that it would not allow time for sufficient consultation with the public.⁹¹ Although the timeframe was

⁸⁷ Based on UN (2001) and de Sousa (2001:308).

⁸⁸ Federer (2005:101) explains that 20th May was chosen as the date of Independence because it was on this date that FRETILIN was formed (as ASDT) in 1974. See also Gunn and Huang (2006:115). As discussed in Chapter 3 of this thesis, ASDT/FRETILIN was East Timor's second political organisation, since UDT was formed on 11th May 1974.

⁸⁹ See Gorjão (2002a:321-327), Jolliffe (2002a) and RDTL (2002:67). Note also that ASDT was led by original ASDT/FRETILIN president Xavier Francisco do Amaral (*Tais Timor* 2001:8).

⁹⁰ The Constitution was referred to thus in UN literature (*Tais Timor* 2001:7).

⁹¹ For example, see the open letter to Peter Galbraith, head of UNTAET Political Affairs, drafted by Aderito de Jesus Soares and Filomena Barros dos Reis on behalf of the East Timor NGO Forum (Soares and Reis 2001). In this letter, the authors assert the difficulty of accomplishing 'an effective information dissemination process and meaningful consultation' in such a short period.

ultimately extended on several occasions (Gunn and Huang 2006:104-105), the extent to which the final document was shaped by meaningful consultation has been legitimately questioned, validating the concerns expressed earlier by independence leader Xanana Gusmão (BBC 2001) that FRETILIN had little interest in consultation on this matter. Chesterman (2002:69) correctly predicted that the constitution would probably be adopted without a referendum, and (Gorjão 2002a:321-322) observed that FRETILIN's domination of the Constituent Assembly (with ASDT's support) made consultation even with other parties unnecessary.⁹² Gorjão, who takes particular interest in the respective powers of president and prime minister outlined in the constitution (see below), remarks that the passing of the constitution by a seventy-two members of the FRETILIN-dominated Constituent Assembly suggests 'a misleading sense of broad legitimacy.'⁹³

The final constitution has been referred to (Gunn and Huang 2006:111) as a 'highly secularized reading of state formation drawing heavily upon Western models (Portuguese African), offering major concessions to Fretilin/RDTL history, but symbolically offering considerable ballast to East Timor traditions.'⁹⁴ Apart from recognition of local languages included in Section 13 (RDTL 2002:16), other 'ballast' in the final document includes several clauses of interest in relation to *suco* justice (discussed in Chapters 7 and 8). These include a clause under Section 2.4 (RDTL 2002:12) stating that 'the State shall recognise and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing with specifically with customary law', and reference to the possibility that the 'law may institutionalise means and ways for the non-jurisdictional resolution of disputes.'⁹⁵ Of significance in terms of the transfer of power from the UN and as forecast (Gorjão 2002a:321; Gunn and Huang 2006:105) by earlier developments, the Constitution

⁹² Note that Chesterman (2002:68-69) was concerned generally that the constitutional development process would be an elite-controlled process. See also Shoemith (2007a:221-224), who concludes that 'the Fretilin majority in the Assembly did not seriously respond to a popular consultation process that, in the first instance, they did not regard as necessary.' See also Gunn and Huang (2006:107-111).

⁹³ Gorjão (2002a:326) predicts that '[t]he fact that the Constitution was drafted by FRETILIN alone means that sooner or later the document's legitimacy will be questioned.'

⁹⁴ See also McDonald (2002), who notes that despite concerns about FRETILIN's one-party state tendencies, 'the constitution and Fretilin's contemporary platform is replete with commitments to pluralistic democracy and a free economy [albeit with some qualifications].'

⁹⁵ This reference is made under Section 123 on 'Categories of courts' (RDTL 2002:52).

(RDTL 2002:65) specified under Section 167 that the Constituent Assembly would transform into a National Parliament at independence. This development was a controversial one, and was opposed by Xanana Gusmão and other opposition political figures.⁹⁶ Perhaps most significantly, however, the ‘Portuguese African’ (specifically Mozambician) model on which FRETILIN based the RDTL Constitution, resulted in the adoption of a semi-presidential governance system (Shoesmith 2007a:220). It now appears likely that FRETILIN may not have fully appreciated the implications of adopting this semi-presidential system, which had the effect of establishing ‘a dual leadership system’ which would fatefully and dramatically dovetail with the historical antipathy that had developed between FRETILIN leader Mari Alkatiri, and former FRETILIN member, resistance hero and champion of national unity, Xanana Gusmão (Shoesmith 2003:232). Further attention is devoted to this theme in the next chapter.

By the time the Constitution had been passed, other elements of the state-building process had also moved forward. Soon after the Constituent Assembly had first convened on 15th September, a Council of Ministers was also formed to replace the NC based on an UNTAET regulation passed on 19th September 2001 (*Regulation 2001/82*) outlining procedures for the appointment of a Council of Ministers based on ‘consultation with the [newly] elected representatives of East Timor.’ As before, the Council was ultimately responsible to the SRSG, but had advisory powers.⁹⁷ Federer (2005:101) notes that one of the ‘first acts’ of the FRETILIN-dominated Council of Ministers was to propose the 20th May 2002 Independence date, a proposal accepted by the UN Security Council within the month. Suggesting shared irresponsibility for such an early transfer of power, Federer observes that this insistence on an early independence by the UN’s ‘impatient, immature wards’, was welcomed by the UN, ‘[c]onfident that it had effectively sold the image of a successful operation in East Timor.’

⁹⁶ Jolliffe (2002b) refers to a letter sent by a group of opposition politicians (not including Gusmão) to the Secretary-General of the UN demanding fresh elections. See also Smith (2004:280) and Gunn and Huang (2006:105).

⁹⁷ For details, see UNTAET *Regulation No. 2001/28 on the Establishment of the Council of Ministers* (UNTAET 2001d).

Meanwhile, the usual organs of a modern state were being rapidly installed. Commenting in April 2002 on recent developments, the UN Secretary-General (UNSC 2002c:1) reported that despite the challenges associated with organising a public administration, ‘further progress has been achieved in consolidating the political and institutional structure of the new nation, with the adoption of a Constitution, the election of the country’s first President [Xanana Gusmão] and the hand-over of most executive and operational functions to the East Timorese.’ Already, noted the Secretary-General, 1,552 police officers had been trained at the Police College and training and recruitment for the East Timor Defence Force was underway. Again, aspects related to the presidency and the development of East Timor’s security institutions are considered further in the following chapter.

As planned, East Timor became the world’s newest state on 20th May 2002, although a successor UN Mission of Support in East Timor (UNMISSET) was mandated to ‘provide interim law enforcement and public security’, to assist with border security, and support a range of administrative programs.⁹⁸ Reflecting on the increasingly complex nature of international interventions in non-state social contexts such as East Timor, Cotton (2001:139) had observed earlier that ‘UN peace-keepers now bring not only police, but also laws and courts; not only administrators, but administrative structures and tribunals; indeed, almost all the requisites of a modern state except modern citizens.’ Indeed, by May 20th 2002, the key institutions of the modern state had been implanted in East Timor, and the country was theoretically ready for (supported) self-governance. Observers would watch this process unfold with some apprehension, for if there had been earlier questions about the effectiveness of the UNTAET mission, there were also questions about the wisdom of cutting the umbilical cord to the UN so quickly.⁹⁹

⁹⁸ The Security Council adopted *Resolution 1410* (UNSC 2002d) authorising the UNMISSET mandate for an initial period of one year on 17th May 2002. Subsequently, the mandate was renewed for a further year (20th May 2004) by *Resolution 1480* of 19th May 2003 (UNSC 2003). UNMISSET was renewed for another six months (until 20th November 2004) by *Resolution 1543* of 14th May 2004 (UNSC 2004a), and for a final six months (until 20th May 2005) by *Resolution 1573* of 16th November 2004 (UNSC 2004b). See main text later in this section for an outline of UNMISSET’s successor mission, UNOTIL.

⁹⁹ See, for example, Federer (2005:99-105).

Conclusion

Emphasis has been placed on how the international community arrived in East Timor well prepared for peace-keeping and humanitarian relief but under-prepared for implementing meaningful strategies to guide the country to independence. Identified shortcomings in the international commitment are numerous and include planning deficiencies, a relatively brief transitional period comprised of a series of short-term mandates, poor recruitment, a minimal presence outside of Dili, poor communication with regional offices, an ad hoc approach to policy development and implementation, an absence of meaningful capacity-building activities at multiple levels (from public administration to civic education) and a failure to involve an appropriate range of East Timorese actors in an appropriate range of sufficiently resourced transitional administration activities and transitional governance forums.

If the international mission was ill-prepared for the challenge of state-building in East Timor, then the East Timorese had also undergone little preparation for the transition to self-governance in accordance with the modern state model. Although the CNRT resistance structure serves as an example of the potential governance utility of traditional authority structures in non-state social contexts, East Timor had experienced little social and economic modernisation and there were few individuals with the technical skills necessary to support a *modern* public administration. Meanwhile, despite the shortage of modern public administration capacity and the absence of a heritage of socially legitimate centralised governance, the dominant political party, FRETILIN, was demonstrating non-consultative tendencies that rivalled even those of UNTAET. Notwithstanding the limitations of both UNTAET and the East Timorese, East Timor was transformed, at least superficially, from a subsistence province of Indonesia to a modern state in little over two and a half years. What remained now was to see how East Timor would function as a modern state, and whether, in Cotton's terms, its population, including its leaders, would 'behave as modern citizens.'

Chapter 6

The RDTL State: The First Five Years

Introduction

The purpose of this chapter is to trace governance developments, and profile the capacity of the New Subsistence State of East Timor, in the five years following independence. This profile is drawn on in the final chapters of this study to inform an evaluation of the advantages of integrating indigenous justice and dispute resolution systems into a state framework. This chapter is divided into three sections. The first section discusses the emergence of vulnerabilities in the years following independence, and discusses a number of key developments that led to the 2006 political crisis. The second section discusses the 2007 elections that resulted in a change of government. The final section comprises a ‘state strength assessment’ based upon a number of key indicators that have been identified in the specialist literature on this area, and concludes that the RDTL faces major challenges in all main areas of governance.

The Emergence of Vulnerabilities

In the previous chapter, reference has been made to concerns associated with numerous aspects related to East Timor’s transition to an independent state. These include the brevity of the transitional period, the low levels of East Timorese public administration capacity, the limited experience of elites, the minimal level of involvement of the broader population in transitional governance initiatives, the rapid transition to multi-party democracy, and the decision of the Constituent Assembly to transform itself to a parliament at independence. As East Timor’s transition into independence progressed, analysis began to focus on developments related to the interlinked areas of East Timor’s foundation elections, the respective powers of the offices of prime minister and president as set out in the new constitution, and political and recruitment processes associated with the creation of the country’s security forces. The profile and aspirations of key individuals also began to feature prominently in this analysis.

Even before the election of Xanana Gusmão as president on 14th April 2002, tensions between the popular Gusmão and the FRETILIN leadership (as discussed in Chapter 4) had become apparent. Although there was an abundance of good-will between Xanana Gusmão and rival presidential candidate Francisco Xavier do Amaral,¹ the same could not be said of the relationship between Gusmão and FRETILIN transitional chief minister Mari Alkatiri. Notwithstanding the fact (discussed above) that the support of do Amaral's party ASDT had enabled FRETILIN to pass the constitution, FRETILIN (and Alkatiri in particular) was accused of sabotaging the ballot by encouraging voters to place a tick against both candidates. This strategy was seen as a means of reducing the magnitude of the inevitable Gusmão victory, and consequently the magnitude of Gusmão's moral mandate vis-à-vis that of FRETILIN (Jolliffe 2002b; Jolliffe 2002c; McDonald 2002).² In the event, Gusmão's broad popularity resulted in him receiving 82.7 per cent of valid votes, with the remainder going to Francisco Xavier do Amaral. Of the total vote of 378,548, less than four per cent were invalid (UN 2002b). The result was a profound victory for Gusmão.

Following the instability of mid-2006 (discussed later), Sahin (2007:254) noted that 'timely warnings' were issued, but not adequately heeded, concerning the 'internal dimension of the security threat posed by rivalries among political groups' in East Timor. As already seen, much of the abundant commentary on the transitional period tended to focus on the nature of the UN administration itself, often ignoring the fact that the specific motivations and historical antipathies prevailing among local actors could potentially foil even the best made and implemented plans of UN transitional administrations.

The Bicentric Governance System and Control of Security Forces

If Chesterman's remark (2002:73) that the East Timorese may not be 'budding democrats waiting to sprout' was a general warning, then some specific aspects

¹ Francisco Xavier do Amaral is reported (McDonald 2002) to have stated that he decided to run against the popular Gusmão, because '[i]f there was only one candidate, there would not be a choice.'

² Gusmão was reportedly (McDonald 2002) aiming for ninety per cent of votes so that he would have 'moral ascendancy over the Fretilin government, likely to be led by...Mari Alkatiri.'

pertaining to the new constitution were increasingly becoming of interest. East Timor's new semi-presidential constitution granted extensive legislative and executive powers on a broad range of portfolios (including foreign affairs) to the prime minister and the council of ministers but also gave the president the power to impose a temporary veto on legislation, request a judicial review of legislative constitutionality, and under particular circumstances initiate a referendum, dismiss the government and dismiss the parliament.³ Significantly, especially in view of the resistance profile of the country's first president, Xanana Gusmão, the constitution determined that the president would be supreme commander of the defence force.⁴

A 'timely warning' issued by Gorjão (2002a:322) referred to the 'serious personal and political differences' between President Gusmão and Prime Minister Alkatiri and the 'potential for political (and perhaps violent) conflict [that] remains beneath the surface.' In Gorjão's assessment (2002a:322), FRETILIN had anticipated 'that it would not be able to control the presidency,' and therefore 'decided to draft a constitution...where executive power is exercised by the Prime Minister, and not by the president of the Republic.' However, if FRETILIN was so acutely aware of the importance (from their perspective) of avoiding the advent of Xanana Gusmão as a rival political authority, there still remains the question of why they did not pass a constitution granting the President *even fewer* powers. Whatever the reason for this oversight, Shoesmith (2003:232) explains that once Xanana Gusmão was installed as president the bicentric implications of the semi-presidential model were dramatically reinforced by the resistance profile of the incumbent president and his strong ties with the new defence force chief, Brigadier-General Taur Matan Ruak.⁵ Juxtaposed against the office of president occupied by Gusmão, of course, was the FRETILIN government led by prime minister and Gusmão adversary Marí Alkatiri. The result, warned Shoesmith (2003:232),

³ See respectively Section 95-105 (RDTL 2002:41-46) and Sections 86-88 (RDTL 2002:37-38).

⁴ See Section 74 (RDTL 2002:32).

⁵ See also McDonald (2002), who drew attention to various parts of the unfolding scenario even before Gusmão was elected president. At this early stage, McDonald could not decide whether to be alarmed at developments or not.

was ‘a rivalry...that could frustrate the attempt to establish an effective and...democratic state in East Timor.’⁶

Clearly, the severity of the evolving bicentric political dynamics would never have reached the proportions they did, had an original CNRT vision for a nation without a defence force had never been revised. That this policy was changed at all is attributed (Gorjão 2002a:316) to the events of 1999 and the threat of continuing militia activities during the early transitional period. The 2000 CNRT Congress (2000:22-23) urged the finalisation of a suitable military model for the nation, and on 31st January 2001, UNTAET passed *Regulation No. 2001/1* (UNTAET 2001a) *on the Establishment of a Defence Force for East Timor* based on recommendations provided by a King’s College evaluation completed in the first half of 2000.⁷ The force would be known as FALINTIL – *Forças Defesa de Timor-Leste* (F-FDTL), and *Regulation No. 2001/1* referred to a volunteer force consisting (see Section 5) of a regular component supplemented by a reserve component.⁸

The full implications of the new East Timor semi-presidential system began to emerge as the recruitment process commenced for the F-FDTL. Shoesmith (2003:246-250) observed how the recruitment process for the first of two F-FDTL battalions (the first consisting of veteran FALINTIL fighters, the second of young recruits) led to the selection of a force personally loyal to President Xanana Gusmão and F-FDTL chief Taur Matan Ruak.⁹ Moreover, Shoesmith noted the ‘potential fault-line in East Timorese politics’ between the eastern *Firaku*, associated most closely with the independence

⁶ See also Smith (2004:280-282), who noted the antipathy between the incumbents of East Timor’s two highest political offices, and the fact that in July 2002, only months after independence, President Gusmão already used his veto powers in relation to legislation proposed by FRETILIN.

⁷ Gorjão (2002a:325) is critical of UNTAET for only beginning to consider options for FALINTIL in March 2000, once discipline problems had already developed.

⁸ See *La’o Hamutuk* (2005) for an analysis of the decision-making process concerning the creation of the F-FDTL. Note also that under UNTAET *Regulation No. 2002/1*, F-FDTL members were banned from involvement in political activities.

⁹ Shoesmith (2003:246-250) explains that veterans with uncertain political orientations were also excluded from the second battalion, as youth was a requirement for recruitment to this battalion. See also Cotton (2005:161) concerning the ‘non-transparent criteria’ on which recruitment to the new F-FDTL was based. Note that anecdotal accounts suggest that those excluded from the first F-FDTL battalion included those who left the cantonment sites during the 1999 instability, and engaged with militia and Indonesian forces against the orders of the FALINTIL command.

struggle, and the western *Kaladi*, and the possibility for this to be inflamed by the fact that most members of the first battalion were *Firaku*. The outcome of the overall recruitment process, remarks Shoesmith (2003:236-247), was that '[t]he core of the new defence force is identified...not only with the president and commander-in-chief, rather than the government, but with one ethnic collectivity rather than another.' Furthermore, Shoesmith (2003:248-249) observed that as the new F-FDTL was struggling with discipline issues, evidence was mounting that Rogério Lobato, the original defence minister from 1975 and the new FRETILIN minister of police and the interior, was developing a politicised police force.¹⁰ This plan was achieved with the help of Lobato's support base of disgruntled ex-veterans, and to the displeasure of PNTL Chief Paulo Martins (a former senior Indonesian police officer), around five hundred ex-veterans who had been rejected by the F-FDTL were recruited into the PNTL in September 2002 (Sahin 2007:265).¹¹

As discussed in Chapter 4, Rogério Lobato was a known one-man risk factor who had been associated with a host of irregular activities, including diamond smuggling in Angola, contact with the Khmer Rouge during the second half of the 1970s and illegal sandalwood trading (as the suspected sandalwood 'Mr Big') in East Timor.¹² Again, warnings sounded (Rees 2003) when Lobato secured the position of Minister of Internal Administration and Police by manipulating disgruntled ex-veterans into organising anti-government protests in the first days of independence.¹³ Sympathetic observers of the FRETILIN government have privately excused Alkatiri's decision to take Lobato into

¹⁰ Prophetically, Shoesmith (2003:234) concludes that only with luck would the East Timorese 'avoid a period of political turbulence in the months and years ahead.' See also Rees (2003).

¹¹ See also Shoesmith (2003:248-249) and Rees (2004:22,54-55) on this subject.

¹² See Shoesmith (2003:238), Smith (2004:281), Aarons (2006), ICG (2006:4-6) and Jolliffe (2007). See also Gusmão (2006b), in which reference is made to Lobato's sandalwood activities, diamond smuggling, and intimidatory tactics towards other FRETILIN officials during the period of exile in Mozambique. Giving substance to rumours prevailing throughout Dili in recent years, Gusmão (2006b) remarks that 'everyone knows about the holes that were dug in Tibar and other places because Rogério tried to find the gold which he heard was buried by the Japanese.' This various information appears to indicate that national development was not the main priority of the minister of interior of the first constitutional government of RDTL. Note that Smith (2004:281) referred to Lobato as a 'potential rival' to Alkatiri for the leadership.

¹³ Rees (2003), who was observing developments closely, explains how Lobato manipulated disgruntled ex-veterans into engaging in a number of protest marches and challenging 'the legitimacy of the F-FDTL' until such time as Lobato received a prominent position in the council of ministers. See also Rees (2004:51-52), ICG (2006:4-6) and Sahin (2007:265).

the council of ministers, where he could be closely watched. As evidenced by the events of mid-2006 (discussed below), however, which resulted in Alkatiri being forced to resign from office, the end result does not support Alkatiri's decision to take Lobato on-board as good judgement. After being appointed to the government, Lobato used state resources to develop paramilitary forces, and proceeded, in the words of Sahin (2007:265), to attempt to 'establish a state of his own within the state of Timor-Leste.' Ultimately Lobato was sentenced to seven and a half years imprisonment in March 2007 after being found guilty of illegally distributing firearms to militias for the purpose of eliminating government opponents (Jolliffe 2007; BBC 2007).¹⁴ Interestingly, however, what this development appears to demonstrate is that there remains a continuity linking recent events with earlier episodes of East Timorese political history, including the 1974/1975 period when Rogério's brother Nicolau is reported (as discussed in Chapter 3) to have exercised sole control over the FRETILIN army established at that time.

Weak State Indicators

On top of the long-standing political antipathies, bicentric presidential system and hazardous police and military dynamics, an almost full house of broader weak state indicators haunted the early years of independence, adding to the potential volatility. Economic and demographic trends and risk factors identified by observers and analysts, many of which have been referred to in earlier sections of this thesis, included a Dili-centred economy, urban migration (to Dili), high and increasing urban unemployment, low vocational skill levels, a poor business investment environment, challenging geographic and climatic conditions, poor soils, low per capita income, a high fertility rate and an emerging youth 'spike' in the national demographic profile.¹⁵ In combination, these various factors had the capacity to threaten food security and social stability.¹⁶ Social stability, moreover, already appeared threatened by martial arts and

¹⁴ It remains to be seen if Lobato will end up serving more than a few months of this sentence, as he successfully made arrangements to leave East Timor in August 2007, soon after it became known that FRETILIN had lost office following the outcome of the 2007 elections. Lobato's grounds for leaving the country were theoretically medically-related (Fitzpatrick 2007c).

¹⁵ See in particular Cutter et al (2004:15-16) for a discussion concerning the risks associated with East Timor's democratic profile.

¹⁶ The challenges associated with promoting post-subsistence agriculture in East Timor are explored by the writer elsewhere (Nixon 2007).

‘ninja’ gangs, groups of disgruntled ex-veterans and other (often related) shady organisations,¹⁷ the challenge of integrating returnees,¹⁸ poor border security and the threat of ongoing militia activities, and a plethora of unresolved conflicts and land disputes stemming from the Indonesian period and earlier (discussed in later in this chapter and in Chapter 7). Meanwhile, governance and public administration mechanisms, the main means by which this multitude of risk factors could be addressed, were considered to be compromised by such obstacles as weak capacity, an official administrative language (Portuguese) spoken only by a minority (even within the parliament),¹⁹ discipline problems within and between the security forces, the spectre of entrenched corruption and nepotism, the development of inconsistent legislation, unclear property rights and the absence of a functioning justice system, and members of parliament driven by personal ambition more than the desire to serve the national community.²⁰ Although the prospect of significant future gas revenues was on the

¹⁷ As discussed in Chapter 4, these various shady organisations or ‘disaffected groups’ (Brown et al 2004:8-9) included Sagrada Familia and Colimau 2000. Another prominent rogue group was the CPT-RDTL (*Concelho Popular pela Defesa da República Democrática de Timor-Leste* or Popular Council for the Defence of the Democratic Republic of East Timor). Referred to by Smith (2004:286) as an ‘essentially...anti-democratic’ organisation, the CPD-RDTL opposed the UN transitional administration, the elections and the new governance structure and maintained the legitimacy of the original 1975 FRETILIN constitution. The CPD-RDTL has been associated with intimidation and violence (Gunn and Huang 2006:127), but concern has also been expressed (Brown et al 2004:13) that despite its provocative agenda, ‘the government is calling the group illegal without a clear legal foundation for doing so.’ For profiles of the CPD-RDTL, see Smith (2004:286), Cutter et al (2004:23-24) and Gunn and Huang (2006:127-128). More generally, see Scambary (2006) for a profile of groups and gangs in East Timor. Note that Smith (2004:293) predicted that ‘the real emerging threat to stability increasingly appears to be from disaffected ex-Falintil members and gang elements who missed out on the rewards of government jobs.’

¹⁸ Whittlesey and Moore (2003:3) remark that ‘there is considerable tension between returnees [and others]... Those who never left may recognize the critical need for the skills and capital of those who have been living overseas, but there is resentment as well for not having stayed to fight the good fight.’ Working in the land and property sector, the writer found that considerable tensions often existed between returnee property owners, and their relatives who never left. In numerous cases, the properties of the former had been occupied during the Indonesian period by their relatives (with or without authorisation), who now refused to leave without considerable compensation.

¹⁹ See especially Whittlesey (2003:2) and Cutter et al (2004:19,21). Some of the writer’s personal observations on this area are presented later in this chapter.

²⁰ The information presented in this paragraph is a structured synthesis prepared by the writer based on the multiple factors appearing in the literature in the years following independence. For further details of identified risk factors, see Wainwright (2002:10-14), Whittlesey and Moore (2003:2-6), Shoesmith (2003:232-234), Smith (2004:283-288), Shoesmith (2005:165), Brown et al (2004:vii-9) and Cutter et al (2004:13-25). In retrospect, the writer considers no warning more prescient than that issued in Oecusse in September 2001 by a Queensland earthmoving contractor with extensive regional experience. Commenting on the large numbers of unemployed youths gravitating to town, the contractor said it reminded him of PNG at independence in 1975.

horizon, some (Whittlesey and Moore 2003:5; Cutter et al 2004:14) expressed concern about the potential for resource-related corruption and violence. This matter receives further attention later in this chapter.

The December 2002 Riots

The first half-decade of East Timor's journey along the road of national sovereignty has been marked by several jarring bumps. The first of these was the violence that broke out in late 2002 initially over the arrest of a student, and culminated on 4th December in serious riots in Dili that resulted in the shooting deaths of two people and the destruction and looting of specific properties. Among these was the iconic Hello Mister supermarket that had catered to an affluent foreign clientele, the nearby Hotel Resende and properties belonging to the family of the prime minister.²¹ As the weeks wore on, the government failed to release details of the cause of the riots, despite having promised to undertake inquiries. Suggestions emerged, meanwhile (Agência Lusa 2003) that 'prominent personalities' had been involved in directing the events. In news coverage, the senior UN police officer reported (in Jolliffe 2003) that an initial demonstration by students had been taken over by other parties who 'used special tactics, moving in small groups, hitting targets selectively.' Observers (Shoesmith 2003:250-251; Rees 2004:53-54) noted that the president, Xanana Gusmão, had called for the dismissal of the minister of internal administration, Rogério Lobato, only days before the December riots. In addition to the hijacking of the riots, the UN police chief (in Jolliffe 2003) identified the inadequate training of the PNTL as a factor contributing to the tragic outcome, which he referred to as a 'wake-up call.' Referring to the prevalence of the broader set of risk factors referred to above, Smith (2004:279) later remarked that '[w]hile it was popular to speak of agitators, the fact that a crowd was so easy to mobilize was worrying and indicative of underlying tensions towards the government, the police, and foreign business.'²²

²¹ For analysis of these events, see Shoesmith (2003:250-251) and Rees (2004:53-54).

²² For Shoesmith (2003:251), meanwhile, the rioting was 'the end of the brief period when the new state could draw on the euphoria of independence to sustain its legitimacy.' See also Shoesmith (2007a:232-333).

The Interior Ministry Takes Control of Domestic and Border Security

In the years following the December 2002 riots, reasons for ongoing concern about security matters in East Timor continued to arise, especially after the transfer of responsibility for East Timor's internal and external security from UNMISSET to the RDTL government on 20th May 2004. In the course of this transition, the RDTL Ministry of Interior assumed control of border policing, and an anonymous two-page leaflet circulated in Dili in late 2004 (in a range of official and working languages) that issued a warning about the rate at which the Interior Ministry had begun purchasing weapons. Titled 'The Guns of Timor: Why so many and what are they for?' (The Guns of Timor 2004)²³ the leaflet revealed that in the five months following the transfer of responsibility for internal security and border policing to the RDTL, the Interior Ministry had obtained 'at least' four hundred and fifty additional automatic and semi-automatic weapons.²⁴ Noting Rogério Lobato's publicly stated intention to expand the new border patrol unit to 'a full battalion in the future,' the leaflet questioned if the new Border Patrol Unit might also have 'an internal security/policing role with military weapons?' The leaflet expressed alarm at the minimal public debate and parliamentary scrutiny that had surrounded the purchase of such a large arsenal of military and paramilitary firearms.

Negotiating the Place of Religion in the Educational Curriculum

As noted by commentators (Gunn and Huang 2006:130-131; Shoesmith 2007a:232-233) and as discussed briefly in Chapter 4, the March 2005 Church demonstration along the Dili foreshore, which lasted for around three weeks, represented a further occasion during which the capacity of state actors to resolve differences of opinion peacefully was tested. Whereas the original Church demand was a reversal of the FRETILIN government's decision to remove compulsory religious education from the school

²³ This leaflet (The Guns of Timor 2004) is believed to have been prepared and distributed by concerned and well-informed security analysts.

²⁴ Specifically, these were said to include (The Guns of Timor 2004) seven F2000 machine guns 'for the close protection of the Minister [Lobato] and senior police officers,' sixty-six semi-automatic FNC military rifles to equip 'an urban riot control unit,' one hundred and eighty semi-automatic HK-33 military rifles and two hundred semi-automatic Steyr military rifles. These weapons were additional to other weapons already in the possession of the Interior Ministry, apparently including more than 2,700 Glock pistols for the regular police force and an unknown number of Heckler and Koch MP5-A3 submachine guns.

curriculum, the initial refusal of the Alkatiri Government to negotiate led to a broadened protestor agenda and demands to ‘[e]nd the dictatorship’ (Jolliffe 2005).²⁵ A tense period ensued during which police sealed off the area surrounding the *Palácio do Governo* while protestors concentrated on the foreshore area to the immediate east, surrounded by portable latrines and meal tents.²⁶ In presenting the Government’s position, a FRETILIN spokesperson is reported (Jolliffe 2005) to have referred to the need for a separation of church and state in a modern democracy. In reality, of course, it takes more than a ‘secular constitution’ (Gunn and Huang 2006:130) to produce a modern democracy, and there also remain strong indications that the Timorese continue to expect a consensual approach to decision-making to prevail.²⁷ This suggests that the transition to modernity in East Timor will have to be negotiated, not forced.

On the occasion of the Church-led protest, as Gunn and Huang note (2006:131), a solution was eventually negotiated with the assistance of President Gusmão, Foreign Minister Ramos-Horta and the UN. Shoemith points out that (2007a:233) as in December 2002, President Xanana Gusmão used his influence to try and resolve the situation rather than increase pressure upon the Government. This is an important observation in view of unproven allegations (discussed below) which later arose in connection with the political crisis that developed in mid-2006, suggesting that Gusmão was associated with an Australia-supported ‘coup’ aimed at overthrowing the FRETILIN Government.

²⁵ The radical Catholic priest Domingos Soares, who became prominent in calls for a change of government, was careful to keep his demands within the democratic framework. As reported by Jolliffe (2005), Soares expressed the demand of he and his supporters in the following terms: ‘We want the Alkatiri government to step down and for Fretilin to choose another.’

²⁶ The writer, in Dili at the time, noted a great deal of speculation concerning how the protest, which continued for almost three weeks, was funded. Dili is known for its rumours, and the most conspiratorial theory in circulation at this time suggested that the conservative US Ambassador, Joseph Grover Rees, was providing support to the protest.

²⁷ Concerning elements of FRETILIN’s parliamentary opposition during the early post-independence period, for example, Smith (2004:282) refers to the ‘disgust’ articulated by opposition parties upon discovering that FRETILIN intended to exercise its right to govern by majority rule! See also Hohe (2002:73,82-83) on the theme of consensus politics.

The 2006 Political Crisis: East Timor Becomes a ‘Temporarily Broken State’²⁸

The political crisis that unfolded in mid-2006 confirmed beyond all question the severity of known vulnerabilities and also demonstrated the dimensions of previously underestimated areas of weakness. The numerous dimensions of the crisis indicated an incomplete nation-building process, an incomplete process of national reconciliation, the continuing preparedness of elites and aspiring elites to wield martial force for the pursuit of political objectives, the continuing tendency of elements of the security forces to align themselves politically, the ongoing ease with which sectors of the population can be mobilised to violence, and the fragility of state authority. In terms of the case-study presented in Chapters 7 and 8 concerning the future utility of indigenous justice and conflict resolution approaches, the 2006 instability demonstrated the rapidity with which state authority can implode in a New Subsistence State context. This in turn highlights the advantages of bolstering state authority in such environments by encouraging the preservation of robust and self-sufficient justice and conflict resolution systems throughout the community.

The chronology of the 2006 crisis has been outlined in detail in reports released in October 2006 by the United Nations Independent Special Commission of Inquiry for Timor-Leste (UNISCITL) and the International Crisis Group (ICG).²⁹ The story begins with a claim, advanced by 591 member of the F-FDTL mainly from the ‘west’ of East Timor, of discrimination suffered in a military dominated by ex-veterans from the east of the country. Although there may be legitimacy to the claims of the ‘petitioners’ (as this group became known), they exercised poor judgement in submitting to the leadership of Lieutenant Gastão Salsinha, an F-FDTL officer who had been disciplined after being caught smuggling sandalwood in April 2005.³⁰ ICG (2006:6) consider that for this reason, Salsinha may have borne a personal grudge against Brigadier-General

²⁸ As noted later in the main text, this is the term used by UNOTIL head, Sukehiro Hasegawa, in reference to the 2006 political crisis.

²⁹ For a ‘chronology of significant events,’ see UNISCITL (2006:5-7). For more detailed descriptions of the events that unfolded in the period following the sacking of the petitioners, see UNISCITL (2006:22-42) and ICG (2006:7-17).

³⁰ Note that the harvesting and export of sandalwood is heavily regulated under UNTAET *Regulation No. 2000/17 on the Prohibition of Logging Operations and the Export of Wood from East Timor* (UNTAET 2000d). According to ICG (2006:6), Salsinha’s transgression resulted in both the cancellation of a planned promotion and the cancellation of a training visit to Portugal.

Taur Matan Ruak, and also refer to speculation that Salsinha's involvement in the illegal sandalwood trade suggests a close relationship with Police and Interior Minister Rogério Lobato, suspected illegal sandalwood trading Godfather and a known opponent of both the F-FDTL and the incumbent president, Xanana Gusmão.³¹ These details serve to indicate both the uncertain and complex nature of political alliances in East Timor and also shed insights into the nature of a political environment in which one so recently disciplined for smuggling a protected resource while in the employ of the state could be quickly re-born as a public figure seeking 'justice' for his followers. This particular perspective at least goes some way towards explaining Brigadier-General Taur Matan Ruak's dramatic decision to sack Salsinha and his followers, a development announced on 16th March 2006, around a month after the petitioners left their barracks on 17th February 2006.

If Ruak's move was a sensitive one, tensions increased further when President Gusmão, historically close to Ruak, publicly criticised Ruak's decision. In his 23rd March 2006 speech, Gusmão (2006a) asserted that 'the decision was incorrect since it tended to focus more on military discipline than...the background and the roots of the problem', and made specific reference to the need to address complaints from within the F-FDTL concerning the 'promotion and treatment by commanders towards the new soldiers' from the western areas of East Timor. A landmark deterioration in the situation occurred when a demonstration being held by petitioners outside the *Palácio do Governo* between 24th and 28th April 2006 degenerated into violent conflict. It appears to have been at this point that the 'east-west' tension, which had thus far been confined to the F-FDTL dispute, spilled over and exploded into a broader and more generalised regional and political hostility.

According to the research of Babo Soares (2003:270-272), who explores this matter in detail, the basis of the 'east-west,' or *Firaku-Kaladi* division can be traced back to around the 1940s when rivalries (and associated stereotypes) developed among traders who had migrated to Dili from different parts of the country to take advantage of the

³¹ See also Dodd (2006a) in relation to the suspected links between Lobato and Salsinha.

economic opportunities in the administrative centre.³² The *Firaku-Kaladi* dichotomy, therefore, appears to have been a product of the modest urbanisation process that advanced in Dili during the first half of the twentieth century and which brought individuals from the ‘east’ and the ‘west’ of the territory into contact with one another.³³ By the post-Indonesian period, the *Firaku-Kaladi* dichotomy had developed a more serious dynamic, and Babo Soares (2003:279-281) describes a series of fights and brawls (in which several people may have been killed) between groups of *Firaku* and *Kaladi* youths in the December 1999 – January 2000 period, which started over the contested matter of the role played by the *Kaladi* in the campaign of resistance against the Indonesian occupation.³⁴

The detailed accounts of the incident at the *Palácio do Governo* (UNISCITL 2006:23-29; ICG 2006:8-10) indicate that an increasing number of ‘sympathisers’ joined the demonstration in the days following its launch and that these individuals advocated an anti-government political agenda. ICG (2006:8) refer to the presence of ‘western stalwarts’ invested with a pro-Gusmão and anti-FRETILIN political perspective, and of ‘hundreds...of local youths...many of them known troublemakers and gang members.’ UNISCITL (2006:23), meanwhile, refer to speeches given by the Colimau 2000 spokesman Ozório Leki which were characterised by ‘inflammatory anti-eastern language’ and ‘anti-Government rhetoric.’ There are several indications that the organisers were not especially opposed to the presence of these various ‘third parties’ at the demonstration. These include the assertion (UNISCITL 2006:23) that the unpredictable Lieutenant Gastão Salsinha, spokesperson for the petitioners, specifically

³² Babo Soares (2003:268) observes that there is minimal reference to any kind of geographic division in East Timor in the early writings, and that (as reflected in the historical review included in Chapter 2 of this thesis) ‘[c]olonial historiography only referred to intra-kingdom wars as types of conflicts found commonly on the island.’ Note that as defined by Babo Soares (2003:272), the districts characterised as *Kaladi* comprise Aileu, Ainaro, Bobonaro, Dili, Ermera, Liquiça, Oecusse, Manufahi and Covalima. Those characterised as *Firaku*, meanwhile, comprise Baucau, Lautem, Manatuto and Viqueque.

³³ As discussed in earlier parts of this study (see Chapters 2 and 4), movement throughout the territory of East Timor was restricted during the Portuguese colonial period and much of the Indonesian period, thereby restricting voluntary migration and limiting the extent to which individuals of different ethnicity could mix.

³⁴ Note also that Babo Soares (2003:279) refers to occasional instances during the Indonesian period when ‘low-scale fighting between people on the basis of both stereotypes had occurred...but that the army curfew had successfully submerged disputes of this kind.’ See Babo Soares (2003:267-300) for a detailed exploration of the *Firaku-Kaladi* dichotomy.

permitted Ozório Leki to speak at the demonstration. Also, another lead petitioner, Lieutenant Florindo dos Reis, apparently facilitated the entry of one hundred additional individuals to the demonstration site at 10.00 am on the final morning, ‘just as threats of violence and sporadic incidents of fighting’ were beginning to occur (UNISCITL 2006:24).³⁵

As outlined in the UNISCITL and ICG reports, violence had occurred in several locations around Dili over the course of the protests, with a number of stalls belonging to easterners being burned at Taibessi market. Then, late in the morning of the final day of protest, tensions increased as the number of ‘third parties’ in attendance peaked and as rumours took hold that weapons were being distributed for the purpose of dispersing the protest.³⁶ The situation developed into a serious incident around mid-day after Salsinha lost control of the youths. In the ensuing melee that unfolded in the *Palácio do Governo* vicinity, the police cordon disintegrated as officers came under attack, several vehicles were destroyed and government offices were looted. Two civilians were killed in the clash and other civilians and police suffered injury (UNISCITL 2006:23-26; ICG:8-9).

In anticipation that a serious incident was developing, Prime Minister Alkatiri had made the controversial decision³⁷ to request assistance from the F-FDTL earlier on the morning of the 28th April 2006.³⁸ As Brigadier-General Taur Matan Ruak was overseas at the time, F-FDTL Chief of Staff Colonel Lere Annan Timor was in charge of F-FDTL

³⁵ The UNISCITL report does not specifically refer to Lieutenant Florindo dos Reis as a lead petitioner; however, his status as such is indicated elsewhere. According to Supriadi and Hananuntasuk (2007:10) the original soldiers’ petition was presented to Brigadier-General Taur Matan Ruak by two individuals, Gastão Salsinha and Florindo dos Reis.

³⁶ UNISCITL (2006:24) note that a further factor contributing to the tension was confusion about the time at which José Ramos-Horta, (at that time Minister for Foreign Affairs and Cooperation) would address the crowd. Whereas Ramos-Horta was preparing his address for 3.00 pm, the protestors had been expecting him at 9.00 am. According to UNISCITL, ‘[s]low-burning anger at his failure to appear reached boiling-point at about midday.’

³⁷ ICG (2006:9) assert that this decision was made ‘without consulting the president or declaring an emergency, so... was probably unconstitutional.’ Similarly, UNISCITL (2006:27,62) refer to the failure of constitutional procedures for the deployment of the F-FDTL to be appropriately observed. The specific shortcomings to which UNISCITL refer include an absence of written orders, no consultation with the president and no ‘formal declaration of the state of crisis.’

³⁸ According to UNISCITL (2006:25,28) six F-FDTL Military Police were had already been deployed to the Central Dili area by the time the demonstration turned violent around midday.

operations, an aspect which appears to have contributed to the severity of the subsequent developments. Specifically, ICG (2006:9) suggest that the F-FDTL deployment under Colonel Lere was a factor in the operation being interpreted as a reprisal against western dissenters and their supporters by an eastern-dominated F-FDTL, on the basis that Lere was himself ‘a target of the petitioner’s discrimination allegation.’³⁹

In summary, the events that followed the violence at the *Palácio do Governo* involved a series of further clashes that took place as the petitioners and ‘third parties’ dispersed and, in the case of the petitioners, made their way back through the western suburbs of Dili. In the course of further incidents throughout the afternoon and night involving military and police personnel, demonstrators, and other members of the civilian population, three further deaths occurred. Additionally, a number of other individuals were injured and more than one hundred houses, mostly belonging to easterners, were destroyed. Meanwhile, rumours circulated suggesting that the F-FDTL had perpetrated a massacre (presumably of westerners) and mysteriously disposed of the bodies (UNISCITL 2006:26-29; ICG 2006:9). It is clear that by now, a lethal ‘east-west’ antipathy had been generated that created an enabling environment for the subsequent descent into chaos, which would be characterised by confrontations between both regular and irregular ‘security’ units and a multitude of house burnings and incidents of ‘east-west’ gang warfare. The latter elements (house burning and gang warfare) would continue sporadically for months, even after an Australian-led stabilisation force arrived in late May 2006, in the wake of the complete disintegration of the PNTL following an incident in which unarmed PNTL officers under UN escort were fired upon by members of the military, with multiple casualties.⁴⁰ The instability and ongoing instances of house

³⁹ In consideration of this matter, Sahin (2007:252) comments that ‘[w]hether the response would have been different if the military had been under the command of General Taur Matan Ruak...is debatable.’

⁴⁰ This assault (on Thursday 25th May 2006) resulted in the deaths of twelve PNTL officers. A further tragedy occurred the following day when six people, including a woman and a number of small children, were killed when a mob set fire to a house occupied by relatives of Interior Minister Rogério Lobato (Forbes and Allard 2007). See also Dodd (2006c) for an overview of the disastrous events of the second half of May 2006, and for details of the negotiations which resulted in East Timorese leaders agreeing to an Australian-led stabilisation force on the evening of Thursday 25th May 2006. When the writer visited Dili in October 2006, it was clear that house burnings were continuing. One Sunday morning an attempt was made on the house of a friend of the writer, who although from the ‘east’ of the country has prominent status as a member of the national soccer team. To his alarm, this individual found that the group of youths (aged approximately sixteen to eighteen years) intent on destroying his house were almost

burning and rioting reportedly resulted in the dislocation of an estimated 150,000 people (Murdoch 2006c). The spectre of ongoing violence continued into 2007, and provided part of the background to the series of elections held during the first half of the year, in the course of which FRETILIN was removed from office.

In his profile of gangs in East Timor, Scambary (2006:2-7,17) suggests that although hostilities between ‘eastern’ and ‘western’ gangs in Dili provided one cause of the urban conflict, there were others. These include apparent links between existing and emerging strongmen and particular gangs,⁴¹ and indications that ‘western’ gangs were paid to undertake house burnings and acts of intimidation aimed at evicting ‘easterners’ who had occupied houses abandoned during the 1999 crisis.⁴² In relation to unresolved land and property issues, it is a matter of regret that the FRETILIN government lacked the foresight to support the resolution of land and property disputes in the years prior to the 2006 political crisis. The USAID Land Law Program (in collaboration with the Land and Property office and UNTL), with which the writer was associated between 2003 and 2005, produced clear recommendations on mechanisms for advancing the resolution of land and property disputes in urban areas of East Timor, yet the FRETILIN government failed to recognise the urgency of this area.⁴³ It is appropriate to emphasise that the one reason why the USAID-supported Land Law Program expired in late 2005 - early 2006 was because of the failure of the FRETILIN government to finalise legislation supporting the establishment of a land rights and title regime and conflict resolution system for disputed properties. Had the FRETILIN Government moved on this, a program supporting the resolution of land conflicts in Dili could potentially have been

all known to him. This was surprising because he had not previously considered that any members of this group, as individuals, were hostile towards him. On this occasion, fortunately, the house was saved at the last minute by the arrival of the police.

⁴¹ Accordingly to Scambary (2006:17), these figures included (at the time) the late rebel F-FDTL major, Alfredo Reinado, who receives attention later in the main text

⁴²According to Babo Soares (2003:283-284), abandoned properties in particular parts of Dili (Delta, Komoro Mota Ulun, Quintal Boot and Quintal Kiik) were occupied in the post-1999 period by ‘easterners.’ Other areas (Bairo Pite, Bebonuk, Manleuana and Manumeta), meanwhile, were occupied by ‘westerners.’ Other parts again (Babo Soares refers to Becora, Bebora, Caicoli, Comoro, Kuluhun and Vila Verde) were apparently occupied by both groups.

⁴³ See, for example, Urresta and Nixon (2004a) and Urresta and Nixon (2004b).

underway as early as the second half of 2004, possibly contributing to a reduction in the intensity of the violence and destruction unleashed in 2006.⁴⁴

Defence Minister Roque Rodrigues and Interior Minister Rogério Lobato became the first two political casualties of the crisis on 1st June 2006, about a week after President Gusmão demanded their resignations. Lobato, accused of using his shady connections to contribute to the chaos for personal political reasons, is reported to have rejected these claims and made emotional and vague reference to a coup attempt with which President Gusmão was apparently associated (Murdoch and Allard 2006).⁴⁵ More broadly, the 2006 crisis highlighted the uncertainty associated with East Timor's bicentric governance structure. This had been reflected in a news bulletin (Forbes and Allard 2006) dated 27th May 2006, reporting that '[i]t was unclear who was in control of the military last night, with the stand-off between President Gusmão and Prime Minister Alkatiri continuing. Mr Alkatiri has rejected the President's announcement that he was assuming "all control" of security forces, claiming the move was unconstitutional.' This stand-off was only resolved after President Gusmão threatened to resign unless Prime Minister Alkatiri stepped down himself. Gusmão's threat was made in a dramatic speech (Gusmão 2006b), titled 'President of Republic's Message to FRETILIN', broadcast on the evening of 22nd June 2006.

Gusmão's hard-hitting June speech was delivered on the same day that Rogério Lobato admitted in court to having established an irregular hit-squad, in collaboration with Prime Minister Alkatiri, 'to eliminate opponents of the government' (McDonald 2006). The investigation by UNISCITL (2006:38-40,51) later found that these 'opponents' of the government intended for elimination using illegally distributed PNTL weapons

⁴⁴ At the time of writing, USAID is in the process of renewing support for a land dispute and title restitution program in East Timor.

⁴⁵ According to Murdoch and Allard (2006), Lobato referred to a coup attempt which could easily be investigated by the journalists. When asked if President Gusmão had orchestrated a coup, Lobato is reported to have replied (in Murdoch and Allard 2006) 'Well, you are saying that... I don't want to make accusations.' Several days earlier, Prime Minister Alkatiri had also claimed (Dodd 2006b) that his government faced a coup attempt, and as reported by Dodd, 'had cautioned Mr Gusmão to respect the constitution.' Meanwhile, Murdoch and Allard (2006) reported that Lobato's resignation gave rise to fears of 'further escalation of violence if security forces loyal to Rogério Lobato...take revenge for his forced exit.'

included the petitioners.⁴⁶ Gusmão's speech (over twenty pages in printed form) removed any remaining doubt about the level of contempt in which Gusmão held the FRETILIN leadership, and included reference to a host of points of contention, some going back a quarter century. These points of criticism included the non-secret ballot method employed during the 17th – 19th May 2006 FRETILIN Congress (in the course of which Rogério Lobato was remarkably appointed vice-president of the party),⁴⁷ and accusations that voting patterns at the Congress were influenced by bribes distributed by senior FRETILIN officials.⁴⁸ Gusmão castigated FRETILIN leaders for their elitism, and implicitly for their condescension towards the Indonesian-educated '*supermi*'⁴⁹ generation. He issued a damning indictment of those FRETILIN leaders who had returned to East Timor with their 1970s Marxist-Leninist values intact, having spent the period of Indonesian occupation in exile where they had 'fought each other for the position of the President of Fretilin, and then tried to lead the war from overseas.' FRETILIN was reproached for failing to face up to the excesses of the early resistance period, including the purges carried out against those who 'simply did not accept the Marxist-Leninist ideology', and for the shameful treatment of the first, non-Marxist-Leninist FRETILIN president, Francisco Xavier do Amaral.

In his speech, Gusmão (2006b) directed his wrath at a number of specific individuals within FRETILIN. Rogério Lobato was taken to task for arming the irregular 'Rai Los group'⁵⁰ and pilloried for multiple past transgressions. Reference was made to Lobato's nefarious activities involving diamonds and sandalwood, and his conduct in Mozambique, where José Ramos-Horta was held prisoner and other East Timorese were

⁴⁶ Note that the investigation by UNISCITL (2006:38-40,51) found 'reasonable suspicion' that Prime Minister Marí Alkatiri 'at least had knowledge about the [weapons] distribution', and recommended that this matter be investigated further. In February 2007, however, in the lead-up to the 2007 elections, the investigation into Alkatiri was closed by East Timorese prosecutors (Barker 2007). Meanwhile, Lobato left East Timor in August 2007 in a private jet in controversial circumstances, ostensibly to seek medical attention in Malaysia (Fitzpatrick 2007c). At the time of writing he has yet to return.

⁴⁷ See also (ICG 2006:13) concerning the election of Rogério Lobato to the position of Vice-president of FRETILIN at the 2007 FRETILIN Congress at a time when he was suspected of arms offences.

⁴⁸ Gusmão (2006b) also made other references to corruption, including the need for business people to direct payments to FRETILIN officials to ensure approval of their investment plans.

⁴⁹ *Supermi* is a kind of Indonesian-made noodle which can be cooked instantly by adding boiling water.

⁵⁰ The 'Rai Los group' was an irregular armed band led by Vicente 'Rai Los' da Conceição. For further information, multiple references to the formation, arming and activities of this group appear in UNISCITL (2006).

made to ‘stab each other.’⁵¹ FRETILIN President Francisco ‘Lu Olo’ Guterres, meanwhile, was ridiculed for uttering ‘empty and stupid words’ asserting ‘that those who abandon FRETILIN are traitors, and they have no history.’ In a passage that indicated the extent to which he had become estranged from the FRETILIN worldview, Gusmão (2006b) set out to expose and demolish FRETILIN’s historic claim to be the only party in East Timor capable of maintaining order:

As we all say in August 1975, UDT launched a coup in order to chase away the communist followers from our country, and that sparked the civil war among the Timorese. In 2006, Fretilin wanted to launch a coup to kill democracy which they themselves placed in the Constitution. The distribution of weapons is not only carried out for this current situation we are going through, but it has been in their plans [all along]⁵² to do so in order to face the 2007 elections. *That is why we have always heard them say, that Fretilin is the only one that can create stability or instability.*⁵³

Alkatiri’s initial response was to reject Gusmão’s demand for his resignation (Fitzpatrick and Dodd 2006). In an unwitting endorsement of Gusmão’s accusation that FRETILIN has a history of employing intimidatory tactics, Alkatiri took the opportunity to threaten that FRETILIN ‘*was doing everything to control its militants.*’⁵⁴ Notwithstanding the disappointment of FRETILIN’s radicals, Alkatiri took the decision to stand down in the days following Gusmão’s speech, and delivered his resignation on 26th June 2006. José Ramos-Horta had suddenly resigned from his position as foreign minister the night before, reportedly unable ‘to work [any longer] in a government led by Mr Alkatiri’ (Murdoch 2006a; ABC 2006).

With the resignation of key individuals, the first FRETILIN government of the post-Indonesian period came to an end. The circumstances of its demise were ignominious, characterised by unresolved disputes within the security services, new splits in the incipient national community, tens of thousands of displaced persons, ongoing bouts of

⁵¹ See also Scott (2005:257-262) in relation to this incident.

⁵² Square brackets in original.

⁵³ Emphasis added by this writer. To be fair to FRETILIN, some of the intimidatory rhetoric of the 1974/1975 period can be traced to the young José Ramos-Horta, now no longer a FRETILIN member. In relation to Ramos-Horta’s speeches of that period, Nicol (1978:164) remarks that ‘Horta pumped out many speeches in which violence played some part. Fretilin as the giver of “justice” was a recurring theme. One said... “The people are for Fretilin, Fretilin is for justice.” Another... “Fretilin is the people. The people’s will is Fretilin’s will. The people are justice. Fretilin is justice. The people will have justice. Fretilin will make justice. Fretilin will give justice.”’

⁵⁴ Emphasis added by this writer.

house burnings and gang warfare, and a new international security presence. To make matters worse, the International Stability Force was led by Australia, claimed by senior FRETILIN figures to be implicated, apparently alongside President Xanana Gusmão and former Foreign Minister José Ramos-Horta, in the alleged ‘coup’ through which Alkatiri was forced to resign.⁵⁵ Whereas the various coup allegations remain unproven, it was eminently reasonable for both the East Timorese community and international observers to expect that Alkatiri would step down. Not only had the country descended into chaos due to unresolved conflict within the military, but a man who had served as interior minister under the FRETILIN government of Mari Alkatiri had been linked with the arming of militia forces, apparently for the purpose of conducting extra-judicial killings.

At the height of the political chaos in June 2006, the United Nations SRS in East Timor, Sukehiro Hasegawa (UNOTIL 2006), referred to East Timor as ‘a temporarily broken state, not a failed one.’ This was, of course, an optimistic appraisal offered at a time when the outbreak of ‘east-west’ violence was prompting a review of the extent to which East Timor could be conceived of as a single cohesive ‘state.’ From a more pragmatic perspective, Federal Australian Police Commissioner Mick Keelty (in Harvey 2006) came clean about some of his long-held reservations about the wisdom of providing so many weapons to the East Timor Police Service in the first place:

That’s where we went wrong in East Timor... Any new nation does need a certain amount of armoury, there’s no doubt about it, but does everybody need it when you’ve just started running the newest nation in the world?... We just automatically said we’re going to build a police force, and a police force needs arms... And it’s hard to go back. Once you put them there it’s so hard to get them out of there.

⁵⁵ For example, in an interview dated 25th June 2006 (*Expresso Online* 2006), around a month after the arrival of the Australia-led stability deployment to East Timor, FRETILIN minister Ana Pessoa observed that ‘the Australians disembarked with police officers, investigators, magistrates.’ She then asserted that ‘[t]hey will want to take control of the departments of Justice and after that the Public Administration. If this is to happen, it will be the end of the independence and the sovereignty of Timor. Don’t let yourself be deceived: there is a strategy behind all this. They have made exactly the same thing in Salomon [*sic*] Islands. With the excuse to fight against the groups, they have put the police against the military and managed to put in the power the government they wanted. The problem is the time, which is short, and there is less of one year until the elections.’ Again, see Dodd (2006b) for details of suggestions by Mari Alkatiri that President Xanana Gusmão may have plotted against his FRETILIN government. See UNMIT (2006) for details of accusations made by Mari Alkatiri in September 2006 that José Ramos-Horta (who succeeded Alkatiri as prime minister) had ‘staged a coup d’état against Fretilin.’

Beyond question, and as reflected in the mandate of the new UN Integrated Mission in Timor-Leste (UNMIT) established in response to the circumstances,⁵⁶ the 2006 political crisis highlighted the need for a review of security policy (UNSC 2006:3).⁵⁷ In the view of this writer, the crisis raises the question of whether *any* military force is desirable in East Timor, although it may already be too late for the policy position supporting a military to be reversed. Certainly, some of the developments of 2006 indicate the continued prevalence of the historic patterns identified in relation to earlier stages of East Timor's development (see Chapters, 2, 3, and 4), whereby martial force is closely linked to political power, or at least political aspirations. As we have seen in this chapter, Rogério Lobato, like his brother Nicolau in 1975, formed a martial group personally responsible to himself. In the case of Rogério Lobato, an uninhibited strongman approach helped to bring down the Alkatiri government. Whereas the prosecution of Lobato was a positive step in terms of warning others from pursuing similar tactics, there remain signs that the strongman approach has yet to be completely purged from East Timorese political culture.

The former F-FDTL Military Police Commander, Major Alfredo Reinado, who came to prominence after leaving base with a group of twenty-four armed followers, is another who conformed to the profile of an aspiring political player whose command of martial groups appears to have been loosely connected to political aspirations.⁵⁸ Known to be sympathetic to the leaders of the petitioners and their complaints concerning F-FDTL leaders from the east of the country, Reinado and his followers left their base at Metinaro on 4th May 2006 and became involved in a series of dramatic events. For Reinado, these would continue until 11th February 2008, when he was killed in an

⁵⁶ UNMIT was established on 25th August 2006 under UNSC *Resolution 1704* (UNSC 2006). Included in UNMIT's mandated responsibilities is the requirement (UNSC 2006:3) '[t]o support the Government and relevant institutions, with a view to consolidating stability, enhancing a culture of democratic governance, and facilitating political dialogue among Timorese stakeholders, in their efforts to bring about a process of national reconciliation and to foster social cohesion.' The UNMIT mission represented a major upgrade of the UN presence in East Timor, in response to the 2006 political crisis. The earlier UNMISSET mission had been downgraded to the UN Office in Timor-Leste (UNOTIL) in 2005 under UNSC *Resolution 1599* of 28th April 2005 (UNSC 2005). The main role of UNOTIL had been to support the strengthening of RDTL state institutions and agencies.

⁵⁷ Under Section 4(e), UNSC *Resolution 1704* (UNSC 2006) called for 'a comprehensive review of the future role and needs of the security sector.'

⁵⁸ For a concise biographical overview of Alfredo Reinado, see Dodd (2006a).

engagement with the security contingent of the new head of state, President José Ramos-Horta, in what was initially perceived (possibly inaccurately) as a ‘botched coup attempt.’⁵⁹ On 23rd May 2006, Reinado and his band became involved in a fire-fight with serving members of the F-FDTL which resulted in several deaths. Although arrested on 25th July 2006 and charged with attempted murder and firearms offences, Reinado and about fifteen of his followers (and around forty others) escaped custody on 30th August 2006, by walking out of jail while the guards were preoccupied with a disturbance. At large again, Reinado continued to play his assumed role as East Timor’s new hero in the mountains, and made unspecific calls for political change (UNISCITL 2006:29-30; ICG 2006:9-10; Dodd 2006a; Fitzpatrick 2006; Age 2006; Nicholson 2006).

Evocative of past freedom fighters, Reinado developed popularity among those from the west of East Timor (*Economist* 2007), and in keeping with the generalised FRETILIN ‘east’ versus non-FRETILIN ‘west’ division suggested by the events of 2006, he is reported to have enjoyed the support of anti-FRETILIN gangs in Dili throughout the 2007 election period (Amaral 2007). In February 2007, Reinado reconfirmed his status as a threat to stability when he and nine accomplices visited border posts and, alarmingly, gained not only twenty or more high-powered firearms and substantial ammunition, but also a number of new recruits.⁶⁰ In response, President Xanana Gusmão authorised Australia-led security forces to raid Reinado’s base in Same. Tragically, this raid resulted in five deaths without capturing Reinado (Murdoch 2007a; Callinan 2007a)

Reinado appears to have remained popular among sections of the population until his death, and there are several observations that can be made about his role in recent

⁵⁹ Reinado’s death occurred on the morning of 11th February 2008 during an engagement with the security contingent of President José Ramos-Horta, who personally suffered serious but non-fatal injuries. An unsuccessful attack on Prime Minister Xanana Gusmão was made soon after, leading to speculation (ABC 2008) about a coup attempt. Note that another early news report (Murdoch 2008) referred to evidence indicating that the ‘gangs of armed men led by Alfredo Reinado intended to kidnap, not assassinate, East Timor’s top two political leaders in Monday’s attacks in Dili.’ At the time of writing, the details of what transpired remain uncertain.

⁶⁰ Reportedly (Murdoch 2007a), Reinado’s version of events was that ‘I asked them and they gave (the weapons) to me.’ Noting reports that a number of police joined Reinado’s band, Kingsbury (2007) remarks that Reinado’s assertion that the police voluntarily handed weapons to him is credible. See also Callinan (2007a) who refers to Reinado’s popularity among his followers.

cultural and political developments.⁶¹ First, his profile and popularity raises the question of the extent to which East Timor remains characterised by a mixture of pre-modern and resistance-oriented leadership *expectations*, in the sense that there continues to be a niche for an armed hero in the mountains who periodically threatens to bring down the government in Dili.⁶² In this sense, his activities and prominence appear to have reflected the limited extent to which the national community has become accustomed to the role of parliament as a mechanism for negotiating their political aspirations and administering the rule of law.

Meanwhile, as foreshadowed by earlier discussion, Reinado repeated earlier patterns of East Timorese political behaviour by using his influence over martial groups (including his immediate band of followers and also gangs in Dili)⁶³ for the apparent pursuit of political objectives and personal power. Although Reinado remained coy about any political ambitions, there are indications (including the apparent coup attempt of 11th February 2008 in which he was killed) that these existed. In his early months in the bush, Reinado is reported (Nicholson 2006) to have stated ‘that he did not want to become a politician’, but at later times he appeared more flexible about the idea. According to an Adnkronos International (AKI) report (AKI 2007b), Reinado stated in September 2007 that ‘I am a soldier and I want to serve the population, but if the people think that I can become a politician, I will take under consideration this possibility.’ On this theme, it might be observed that East Timorese political conventions are uniquely suited to actors who wish to intimidate their way into political office, as Rogério Lobato

⁶¹ To be sure, Reinado appears to have suffered some loss of support by the time he attacked President Ramos-Horta. Specifically, Dodd (2008) suggests that Reinado became increasingly desperate after negotiations resulted in around one hundred of his supporters leaving his band, and that this desperation influenced his ‘last stand’ against the president in February 2008. Notwithstanding this development, the support Reinado received from sections of the population in the eighteen months following the 2006 crisis still invites inquiry into his significance in the context of East Timorese political culture.

⁶² See for example Fitzpatrick (2006), in which Reinado is reported, in September 2006, to have ‘promised revolution or a fight to the death unless the interim Government of Jose Ramos-Horta is sacked and the executive handed to President Xanana Gusmão.’ Note that Ramos-Horta had lost favour with Reinado some months earlier for ordering his arrest in July 2006 on attempted murder and firearms offences in relation to the events of May 2006.

⁶³ Scambary (2006:17) reports that links have been suggested between Alfredo Reinado and the Sintu Kulao gang which ‘is widely believed to have been responsible for the bulk of the violence in the Becora, Bidau and Taibesse area’ during the 2006 instability. According to Amaral (2007), gangs claiming to be associated with Reinado were responsible for violence during the government-formation period following the Parliamentary election on 30th June 2007, and these gangs had a clear anti-FRETILIN agenda.

did in 2002. Specifically, there is no requirement for someone to be an elected member of parliament in order for them to be appointed to the position of a minister.⁶⁴

As a final comment on the posturing of Alfredo Reinado during the period in which he was active on the national stage, it is discernible in Reinado's behaviour that, like the *liurais* of the pre-pacification period, he perceived, at least initially, that his control of armed force was a commodity that could potentially be traded for other benefits. This is most starkly apparent in the conditions demanded by Reinado in March 2007 in exchange for which he would come in from the cold and 'submit to justice.' According to Dodd (2007):

The Australian⁶⁵ understands Reinado's demands included provision of a house in the exclusive diplomatic suburb of Farol, round-the-clock security to be provided by New Zealand soldiers, military decorations commensurate with the rank of major and the dropping of an unspecified number of charges.

There is little doubt that further fruitful analysis, which space does not permit, could be undertaken into the behaviour of a number of other actors who achieved prominence in the events of 2006, including the sandalwood smuggler and petitioner's spokesperson Gastão Salsinha. Already from the case-studies examined it is clear that in recent years the connections between criminality and politics in East Timor have been very close. In the lead-up to the release of the UNISCITL report in October 2006, a telling indication of the extent of this association was the frankness and candour with which Finn Nielsen, Deputy SRSG of the new UNMIT mission, is reported (Amaral 2006) to have requested 'that all party leaders control their militia so that they do not commit violence after the UN investigation is announced.'

* * *

⁶⁴ Rogério Lobato was appointed to the position of Interior Minister in the FRETILIN Government, yet his name does not appear on the final list of candidates for the 2001 election for a Constituent Assembly (Asia Foundation 2001b:20-24,28) nor the list of members of the Constituent Assembly (RDTL 2002:67-72). Others who became ministers without being voted into the Assembly included Roque Rodrigues (FRETILIN Minister of Defence), and Domingos Sarmiento (FRETILIN Minister of Justice).

⁶⁵ No italics in original.

Even if the details of all stages of the crisis that unfolded in 2006 onwards are ever accurately known, they still may never be fully understood. What does appear clear, however, is that the series of events was influenced by multiple factors including tensions between the PNTL and F-FDTL units, regional animosities, personal ambitions and rivalries, rumours, confusion, uncertain alliances and unpredictable tip-off patterns.⁶⁶ In some ways therefore, the instability bore similarities to the complex conflicts of the nineteenth century that involved Timorese warriors bargaining with, and sometimes fighting simultaneously with and against the Portuguese administration as the latter sought to consolidate its authority (as discussed in Chapter 2). Meanwhile, the specific circumstances under which the ‘east-west’ conflict developed suggest that, although a risk factor, the outbreak of regional violence was not inevitable. Indeed, it is possible to imagine that the ‘east-west’ antipathy may never have manifested such lethal proportions in the absence of the conflict within the military. As discussed below, however, it is clear that there was always a strong possibility that the new post-conflict state of East Timor would experience *some* form of political stability, particularly after the withdrawal of international peacekeepers.

In the wake of the 2006 crisis, Shoemith (2007b:23-25) draws on political risk theory in combination with more qualitative approaches, to demonstrate why the odds were always against East Timor realising stability within the first half-decade of independence, notwithstanding earlier UN claims that ‘the UNTAET mission in East Timor had been a success.’ Specifically, Shoemith refers to the groundbreaking study completed by Collier, Hoeffler and Söderbom (2006:7) which found that from a sample of sixty-eight ‘post-conflict episodes’, war recurred in thirty-one cases resulting in a forty-six per cent risk of new conflicts.⁶⁷ As Shoemith notes, the Collier, Hoeffler and Söderbom study also refers (2006:5) to the factor of *feasibility* as a prime cause of revolts and outbreaks of violence in post-conflict societies, a conclusion supported by

⁶⁶ These are referred to in the UNISCITL report in connection with discussion concerning rumours circulating on 24th May 2006 that F-FDTL was planning an attack on PNTL headquarters. According to the report (UNISCITL 2006:33), ‘[t]ip-offs about the impending attack were made by three different people within F-FDTL to three different people within PNTL, apparently as a result of friendships that were stronger than allegiances to F-FDTL.’

⁶⁷ The risk of new outbreaks of war within the first decade was slightly less, at forty per cent (Collier, Hoeffler and Söderbom 2006:7).

the related finding (Collier, Hoeffler and Söderbom 2006:15) that ‘peace appears to depend upon an external military presence sustaining a gradual economic recovery, with political design playing a somewhat subsidiary role.’⁶⁸

The 2007 Elections and a Change of Leadership

The 2007 elections ended up consisting of a two-round presidential election process followed by a parliamentary election held several months later. The first round of the presidential election, held on 9th April 2007, was contested by a field of eight candidates; including FRETILIN President Francisco ‘Lu Olo’ Guterres, experienced political figure and independent candidate José Ramos-Horta, rising ex-clandestine PD President Fernando ‘Lasama’ de Araujo, veteran ASDT President Francisco Xavier do Amaral and the influential female PSD political actor Lucia Lobato.⁶⁹ As reported by the RDTL *Comissão Nacional de Eleições* (National Electoral Commission or CNE), the three candidates to whom the greatest number of votes were returned were respectively Francisco ‘Lu Olo’ Guterres with 112,666 votes (twenty-eight per cent of the total), José Ramos-Horta with 80,102 votes (twenty-two per cent of the total) and Fernando

⁶⁸ If the risk of reversion to violence is high for any post-conflict society, Shoesmith (2007b:23) asserts that East Timor ‘almost certainly had a much higher level of political risk’ than average, with a contributing factor (2007b:25) being the burgeoning cohort of marginalised youth who have failed to realise the expected benefits of independent statehood. As individuals, Shoesmith (2007b:29) remarks, members of this cohort perceive their lack of personal progress as ‘a form of social injustice.’ Merely the most recent of a multitude of socially destabilising factors that includes traditions of violence and regional antipathy dating back to the Indonesian period and before (some of which are profiled in Chapters 2, 3 and 4 of this thesis), this resentment born of economic exclusion has contributed to the conditions for both ‘opportunistic’ gang-related violence as well as more targeted and politically orchestrated violence. Shoesmith (2007b:30) observes that ‘[t]eenage gangs can merge into...more purposeful gangs with patrons and political connections.’ Accordingly (2007b:30), [l]arger, more organised gangs may fight for control of the markets in Comoro and Becora, or receive cash payments to evict mainly eastern families that have often illegally occupied dwellings.’ At the broad level, this evaluation is supported by Collier, Hoeffler and Söderbom study (2006:5), in which it is explained in relation to economically static post-conflict states, that ‘[b]oth low income and slow growth can be interpreted as lowering the recruitment cost of rebel troops.’

⁶⁹ Note that a 2003 survey undertaken by the International Republican Institute (IRI) found (IRI 2003:34) Lucia Lobato to be considered the second-most influential woman in East Timor, immediately behind Ana Pessoa. According to the IRI, twenty-four per cent of the sample ‘named Ana Pessoa as the most influential woman in Timor,’ while Lucia Lobato was named by twenty-three per cent. Whereas Ana Pessoa had profile at this time as a FRETILIN Minister, Lucia Lobato was an opposition member of parliament. Note that Lucia Lobato has been appointed to the position of minister of justice following the 30th June 2007 parliamentary elections. More generally, see Ryan (2007) for an up-to-date guide to political parties in East Timor.

‘Lasama’ de Araujo with 77,459 votes (nineteen per cent of the total).⁷⁰ Since no candidate returned more than half the votes, it was necessary under Section 76 of the Constitution (RDTL 2002:33) for a run-off election to be held between the two top candidates, thirty days after the original poll.

The results of the run-off election held between José Ramos-Horta and Francisco ‘Lu Olo’ Guterres on 9th May 2007 provided an early indication of the swing that would see FRETILIN removed from government at the 30th June 2007 poll. In the second round of the presidential elections after the removal of the bottom six contenders, FRETILIN candidate Guterres managed to increase his proportion of the vote only from around twenty-eight per cent of the total to around thirty-one per cent of the total (127,342 votes). Independent candidate Ramos-Horta, meanwhile, increased his proportion of the total vote massively from almost twenty-two per cent of the vote to just over sixty-nine per cent of the vote (285,835 votes).⁷¹ The results suggest that whereas a few of those who had voted for other candidates in the first round directed their votes to the FRETILIN candidate Guterres in the second round, the majority directed their second-round vote to Ramos-Horta rather than vote for the FRETILIN candidate. Some idea of the extent to which the generalised FRETILIN ‘east’ versus non-FRETILIN ‘west’ political division was reflected in voting patterns can be gained by ranking the districts according to the percentage of the total vote in each district returned to Ramos-Horta. This is indicated in the following table (Table 6) based on the official electoral data (CNE 2007b):

⁷⁰ Francisco Xavier do Amaral came in fourth with 58,125 votes (almost fourteen and a half per cent of the total) and Lucia Lobato came fifth with 35,789 votes (just under nine per cent). For full details of the vote, see CNE (2007a).

⁷¹ For full details for the second round of the presidential election, see CNE (2007b).

Table 6: Districts in order of pro-Ramos-Horta vote in the 2007 presidential election⁷²

District	Total Valid Votes in District	Total Pro-Ramos-Horta Votes	Percentage of Total Votes in District Returned to Ramos-Horta	'East'/'West' ⁷³
Aileu	17,666	16,591	93.9%	West
Liquiça	23,586	20,705	87.8%	West
Bobonaro	35,855	30,351	84.6%	West
Ermera	41,121	33,923	82.5%	West
Manatuto	16,811	13,571	80.7%	East (?)
Dili	78,797	63,010	80.0%	West
Covalima	22,589	17,246	76.3%	West
Ainaro	21,516	16,395	76.1%	West
Manufahi	19,219	14,362	74.7%	West
Oecusse	26,211	19,332	73.7%	West
Lautem	26,466	12,919	48.8%	East
Baucau	50,732	16,987	33.5%	East
Viqueque	32,608	10,443	32.0%	East
Total	413,177	285,835	69.2%	

The data outlined in Table 6 (above) demonstrates that Ramos-Horta received very strong support (close to three quarters of the electorate or more) in *all* districts considered to conform to the 'western' or *Kaladi* typology as suggested by Babo Soares (2003:272), as well as more than eighty per cent of the vote in the district of Manatuto which Babo Soares has characterised as 'eastern.' To the extent that the FRETILIN 'east'-non-FRETILIN 'west' divide is real in East Timor, the proportion of the vote returned in favour of Ramos-Horta in Manatuto could indicate that this district is in fact more part of the 'west' than it is part of the 'east.'⁷⁴ Strikingly, in all remaining 'eastern' districts (Lautem, Baucau and Viqueque), Ramos-Horta received under fifty per cent of the vote, substantially less than the three-quarters (or more) of the vote received in the 'western' districts. Overall, with almost seventy per cent of the overall vote, Ramos-Horta scored a resounding victory over the FRETILIN candidate. His election statements had highlighted exactly how fragile and vulnerable the RDTL state remained five years into statehood, and how much remained to be achieved before the country could truly claim to be 'independent' in a real sense. As the first poll approached, Ramos-Horta had announced (in *Australian* 2007a) that '[i]f I'm the President of this

⁷² This table has been prepared by the writer based on voting date presented in CNE (2007b).

⁷³ This labelling is based upon the typologies outlined by Babo Soares (2003:272) and discussed earlier in this chapter.

⁷⁴ Additionally, Ramos-Horta refers (1987:6) to spending part of his youth in Manatuto district (including in Laklubar) and this may also be a factor in the support he received in Manatuto district. However, as discussed in earlier chapters, Ramos-Horta's father was Portuguese and Ramos-Horta himself presents more as a refined metropolitan figure than a rustic with strong local links.

country I will ask the UN, Australia, New Zealand to stay on here for as many years as possible.’ Not long before, Ramos-Horta had explained (in ABC 2007b) his political priorities and pragmatic position. This explanation simultaneously exploited FRETILIN’s failure to prevent the 2006 crisis and rejected the uncompromising approach which had become characteristic of FRETILIN under the Alkatiri Government:

[M]ost important for me – more important than so-called issues of sovereignty and nationalism for me is that the common people are able to sleep at peace at night.

Some years before, in a speech given on New Years Eve 2000 in which parliamentary democracy featured as a prominent theme, CNRT President Xanana Gusmão (2000b) remarked that ‘[w]e all know that if, one day, the CNRT were to turn into a political party, there would be no party capable of competing with CNRT. The CNRT is quite certain of this although it will not do it.’ Although his position in 2000 was that CNRT would not ‘exploit the current emotional condition of our people’, Gusmão decided in advance of the 2007 election to draw on the key CNRT card, with the acronym now standing for a new political organisation called the *Congresso Nacional de Reconstrução de Timor* (or National Congress for Timorese Reconstruction).⁷⁵ Again exploiting perceptions that the FRETILIN government under Alkatiri had been out of touch and uncompromising, the new CNRT pledges on its website (CNRT 2007a) to deliver a transition ‘[f]rom a culture of arrogance to a culture of tolerance.’⁷⁶ The use of the CNRT acronym by Gusmão and his followers was a political masterstroke in a country where symbolism is so important. As suggested by Agence France-Presse (AFP), this appears to have been recognised by FRETILIN’s Mari Alkatiri, who reportedly (AFP 2007a) ‘alleged the CNRT party was deliberately given a misleading name to confuse and deceive voters.’

⁷⁵ See CNRT (2007a) for an overview of the party’s political platform. See also Ryan (2007) for an overview of all the main parties that contested the 2007 parliamentary election.

⁷⁶ The complete pledge (with minor punctuation changes) on the party website reads (CNRT 2007a) as follows: ‘It is Time for Change! It is time to save the people of East Timor from political, social and economic atrophy. We need a radical transformation in Government: From a culture of nepotism to a culture of justice. From a culture of servility to a culture of transparency. From a culture of self-service to a culture of social solidarity. From a culture of power to a culture of serving. From a culture of arrogance to a culture of tolerance. From a culture of corruption to a culture of responsibility.’

A closely related feature of the run-up to the 30th June 2007 election was the increasing profile of the FRETILIN *Mudança* (or Change) faction which was led by senior FRETILIN member and RDTL ambassador to the US and UN José Louis Guterres, who had tried to take control of the FRETILIN party at the May 2006 FRETILIN Congress. On that occasion, Guterres' challenge had been foiled when the FRETILIN leadership decided that the vote would be determined by a show of hands.⁷⁷ As the election drew near in 2007, however, the *Mudança* faction demonstrated their own understanding of ruthless and cunning politics by simultaneously encouraging the electorate to vote for CNRT while refusing to leave the FRETILIN party (Fitzpatrick 2007b). Incensed, 'unchanged' FRETILIN elements cried foul and accused (FRETILIN 2007a) *Mudança* of violating electoral regulations and of 'a gross attack on the principles of democracy.'⁷⁸ Much of the FRETILIN venom was directed at the CNRT party, which responded with a statement which capitalised on the heritage of inclusivity associated with the original CNRT. Noting (CNRT 2007b) that even FRETILIN's 'own members are crossing to the CNRT, in hope for a modern and progressive approach to politics,' CNRT announced that it was 'proud to embrace all individuals from all political parties.'

The results of the election confirmed that FRETILIN had lost substantial support, capturing little more than twenty-nine per cent of the vote, only just over half of the fifty-seven per cent of the vote they managed in 2001 (CNE 2007c). However, FRETILIN still managed to gain the largest share of the vote of any single party, while CNRT returned the second highest vote, with just over twenty-four per cent. As

⁷⁷Guterres (in Barker 2006a) claimed this decision was unfair on the basis that many of the FRETILIN delegates 'are on the payroll of the Government...and [t]his might influence the decision that they will take during their voting.' In his speech delivered on 22nd June 2006, President Gusmão (2006b) was also highly critical of the decision of the FRETILIN leadership to implement a show of hands instead of a secret ballot, asserting that this decision was illegal. As discussed earlier in the main text, Gusmão (2006b) also accused the FRETILIN leadership of distributing up to US\$100,000 for the purpose of influencing votes at the May 2006 FRETILIN Congress. Note that Guterres replaced José Ramos-Horta as RDTL Foreign Minister after Ramos-Horta was appointed prime minister in July 2006 following the resignation of Mari Alkatiri on 26th June 2006 (Fitzpatrick 2007b).

⁷⁸ FRETILIN (2007a) complained that '[s]ome *Mudança* individuals are candidates on the CNRT list, but continue to identify publicly as members of FRETILIN, in a blatant attempt to manipulate or confuse the electorate.'

indicated in official electoral documentation (CNE 2007c), the final allocation of the sixty-five seats⁷⁹ in the national parliament was as follows:

Table 7: 2007 parliamentary election results: distribution of seats⁸⁰

Party	Seats
FRETILIN (<i>Frente Revolucionária de Timor-Leste Independente</i>)	21
CNRT (<i>Congresso Nacional de Reconstrução de Timor</i>)	18
ASDT (<i>Associação Social Democrata Timorenses</i>) – PSD (<i>Partido Social Democrata</i>)	11
PD (<i>Partido Democrático</i>)	8
PUN (<i>Partido Unidade Nacional</i>)	3
Democratic Alliance of KOTA (<i>Klibur Oan Timor Asuwain</i>) – PPT (<i>Partido do Povo de Timor</i>)	2
UNDERTIM (<i>Partido Unidade Nacional Democrática da Resistência Timorenses</i>)	2
Total Seats	65

Several violent incidents had taken place in the lead-up to the 30th June 2007 poll, most notably the fatal shooting of several CNRT supporters on the day of a CNRT rally held on Sunday 3rd June in the strongly FRETILIN district (see Table 7 above) of Viqueque.⁸¹ At the same time as the provisional results were announced on 9th July 2007,⁸² the CNE (2007c:11-12) reported that eighty-three complaints had been received, of which twenty-nine would be referred to the Office of the Public Prosecutor. According to CNE (2007c:11), '[t]he majority of complaints were submitted by political parties against other parties in relation to acts of provocation and intimidation.' As discussed below, further incidents of violence and bad faith would arise in connection with the subsequent government formation process.

Whereas Section 106 of the Constitution (RDTL 2002:46-47) determines that '[t]he Prime Minister shall be designated by the political party or alliance of political parties with parliamentary majority, and shall be appointed by the President...after consultation

⁷⁹ Note that under Section 93 of the RDTL Constitution (RDTL 2002:4), the National Parliament cannot normally exceed sixty-five members. Although the first Constitutional Government comprised eighty-eight members (including a member for every district), Section 167 of the Constitution (RDTL 2002:65-66) outlined that this was on an 'exceptional basis' only. Significantly, the new parliament includes no district members.

⁸⁰ Based on official data tabulated in similar form in CNE (2007c:6). For an overview of all parties referred to in this tables, see Ryan (2007).

⁸¹ See Fitzpatrick (2007a) for an account of this incident, in which an off-duty PNTL officer was reportedly involved.

⁸² See CNE (2007c) for a description of the process used to determine the allocation of seats.

with the political parties sitting in the National Parliament',⁸³ the Constitution has evidently provided too little guidance on what to do when no one party or *pre-organised* alliance of parties returns an outright majority. As the party with the largest number of seats of any single party or pre-existing alliance, FRETILIN's interpretation, as outlined by Marí Alkatiri in a media release dated 20th July 2007 (FRETILIN 2007b), was that 'FRETILIN has the constitutional right to appoint the Prime Minister and the party will appoint the Prime Minister from its Central Committee.' This interpretation, however, clearly ignores the realities of attempting to form government without a parliamentary majority, and FRETILIN was said (Goulart 2007a) to be 'isolated in parliament.'

Publicly at least, President José Ramos-Horta was reported (AFP 2007b) to have been 'pushing for a unity government.' However, by the third week of July 2007, an alliance between CNRT, ASDT-PSD and PD appeared to have taken shape (AKI 2007a; Reuters 2007). Ramos-Horta reportedly (AFP 2007b) indicated on Friday 20th July 2007 that, although he feared the alliance formed around CNRT would lack stability, FRETILIN did not have the ability to form government.⁸⁴ This statement is likely to have provoked the outbreak of violence that occurred in Dili on Sunday 22nd July, characterised by house burnings and gangs of youths setting fire to tyres in the streets (Goulart 2007b).

Finally, it became clear that the future government would be formed around Xanana Gusmão's CNRT party when it was announced on the evening of 6th August 2007 that President José Ramos-Horta had chosen Gusmão as prime minister, and that Gusmão would be sworn in on 8th August 2007 (Murdoch 2007b). Violence was reported to have broken out 'within minutes' of the announcement (Murdoch 2007b), and the Customs House in Dili was later set alight, along with a number of privately-owned buildings in Baucau and Viqueque (Callinan 2007b). Rioting youths attacked Australian and UN security personnel the following day (7th August), and members of an Australian army patrol had their vehicle pounded by rocks at the airport to Dili's west (Murdoch 2007c).

⁸³ Following the appointment of the prime minister by the president, Section 106 of the Constitution (RDTL 2002:46) determines that '[t]he remaining members of the Government shall be appointed by the President of the Republic following proposal by the Prime Minister.'

⁸⁴ Specifically, AFP (2007b) reported that Ramos-Horta 'said Fretilin cannot form government as it won insufficient votes.'

As well as being sworn in himself on 8th August 2007, Gusmão also swore in the cabinet of the new *Aliança para Maioria Parlamentar* (Alliance of the Parliamentary Majority, or AMP) government. Although José Louis Guterres (leader of the breakaway FRETILIN *Mudança* faction) was made deputy prime minister, the cabinet was characterised (Fitzpatrick 2007b) as ‘containing no significant Fretilin influence.’

Perhaps predictably by this stage, the violence and destruction that greeted the announcement of the formation of the AMP government was dramatic. Over one hundred houses were reported to have been burned in the districts of Baucau and Viqueque in the days following the announcement and a UN convoy came under fire while travelling between the two districts, remarkably with no casualties (*Australian* 2007b; *Age* 2007)⁸⁵ FRETILIN had threatened a boycott of parliament if denied the opportunity to form government (Murdoch 2007b; *Age* 2007), and was reported (*Age* 2007) to have begun ‘mobilising supporters’ in the eastern districts. Rising FRETILIN hardliner Arsenio Bano responded to queries concerning FRETILIN’s possible involvement in the violence by denying that FRETILIN was responsible (Fitzpatrick 2007b), at the same time as issuing ominous warnings (Callinan 2007b) that the party could no longer control its supporters. Mischievously equating FRETILIN’s attainment of the largest number of seats of any one political party with an electoral victory, Bano reportedly (in Callinan 2007b) remarked:

We have been telling the supporters to avoid violence, but I think in that situation they will not trust us any longer, because some of them are saying that we vote for you and we win the election, and you don’t take up the position.

In the early years of independence, Shoemith (2003:235) cast doubt upon the possibility that ‘the Fretilin leadership could ever accept as legitimate a government formed by their political opponents on the right.’ Despite Alkatiri’s formal acceptance of multiparty

⁸⁵ This incident apparently (*Australian* 2007b) took place after the convoy had passed through ‘a hostile demonstration of around 600 Fretilin supporters.’ According to reports (*Australian* 2007b; *Age* 2007), attackers opened fire with automatic weapons on UN and PNTL vehicles after the convoy was forced to stop so that a log could be removed from the road. The UN/PNTL party then returned fire. The UN and PNTL vehicles reportedly had their tyres shot out in the attack and at least one vehicle was subsequently destroyed by fire. Reading the reports, one gets the impression that if the attackers had intended to kill or injure members of the UN/PNTL party, they could have done so.

democracy, remarks Shoesmith, FRETILIN since its formation had seen itself as the 'true representative of the Timorese people and their quest for justice,' and the FRETILIN concept of parliamentary democracy 'fits within a dominant party system where opposition parties compete for power...but a single major party retains government.' Considered in these terms, it is possible to comprehend that the FRETILIN leadership may have experienced considerable shock at the party's loss in the 2007 elections,⁸⁶ and also to understand the concerns of some that parties sympathetic to FRETILIN 'may take to the mountains' to oppose the new government.⁸⁷ Indeed, the validity of these concerns is highlighted by the burnings that occurred in the Baucau and Viqueque districts and the ambush carried out against the UN patrol. The reaction against the FRETILIN loss must certainly have been much more severe had an international security force not been present.

Albeit under the watchful eye of the new international stabilisation force and the new UNMIT presence, there have been some positive signs that FRETILIN are getting used to the idea of being in opposition. On a visit to Dili around the time the October 2007 transitional budget was finalised, the writer heard accounts from observers and participants concerning the extent to which the debate (which was televised) had been a participatory and engaged process, concluded only at 3.20 am on the morning of Tuesday 10th October. Although FRETILIN parliamentarians had insisted on addressing AMP ministers as 'de facto Ministers', and Mari Alkatiri had provocatively requested that provision be included in the budget for a new election in early 2008, no boycott had been exercised on this occasion and FRETILIN members of parliament were reported to have engaged in constructive debate.⁸⁸ Whereas inclusive debate within the national parliament is a positive development, there are many challenges that remain in order for East Timor to secure its future as an independent state. In order to summarise some of

⁸⁶ Presumably, the fact that the parliamentary election was preceded by a two-round presidential vote enabled FRETILIN leaders to absorb the message of the electorate progressively.

⁸⁷ According to an *Age* (2007) report, '[t]he spectre of armed revolt...[had]...focussed previously on anti-Fretilin westerners led by Major Alfredo Reinado; it is now feared others may take to the mountains to destabilise the fledgling democracy further.'

⁸⁸ The writer received reports of this debate from Marcia Monge from the UNDP Parliament Project (Dili, 9th October 2007), and during a meeting with AMP parliamentarians in Dili on 10th October 2007. According to the latter, FRETILIN actually voted in favour of some budget items, including items related to veterans issues and internally displaced persons.

the main challenges faced by the RDTL state in its sixth year of independence, and thereby evaluate the possible benefits of incorporating *suco* justice and conflict resolution mechanisms into a state framework (as discussed in Chapters 7 and 8), the final section of this chapter presents a profile of contemporary East Timor in relation to some key indicators of state strength and weakness.

Profiling the New Subsistence State of East Timor

Several theoretical contributions of recent years have noted that no consensus has yet developed on how to measure the strength or weakness of state capacity.⁸⁹ Notwithstanding the absence of a consensus, a number of key themes do emerge from specialist literature focussing on the evaluation of the capacity and vulnerability of states. As grouped and ordered by this writer, these highly inter-related areas can be presented as follows:⁹⁰

- Economic and demographic factors (including educational levels)
- Security, stability and order (control of territory and borders; public order; social cohesiveness)
- Democracy and governance (leadership; legitimacy; responsiveness of executive; role of parliament; space for civil society)

⁸⁹ Court et al (2002:2) muse that the ‘broad and complicated concept’ of governance has acted to frustrate the development of a ‘regular, systematic and cohesive data collection’ approach through which ‘governance’ can be measured. They also remark that measures of governance effectiveness are often of a subjective nature, and that while this may often be appropriate (as in the case of assessing such aspects as ‘efficiency’ and ‘legitimacy’), it frustrates attempts at comparative appraisal. In an examination of the literature on weak states and state strength assessment, Durdević-Lukić (2006) identifies a range of different theoretical approaches to the assessment of state strength. These include (1) a ‘traditional international relations approach’ with its state ‘power and strength’ emphasis; (2) an approach informed by Migdal (as discussed in Chapter 2) and others focussing on the interaction between state and society; and (3) an approach emphasising ‘good governance’ and ‘administrational efficiency.’ Durdević-Lukić asserts that even within the latter ‘good governance’ and ‘administrational efficiency’ approach there is no accord on ‘which data are relevant for assessing institutional capabilities and how to construct a small number of comprehensive indicators.’ This is a significant shortcoming, argues Durdević-Lukić, because it creates the possibility of unsystematic evaluation of state capacity, potentially leading to inappropriate ‘intrusiveness’ into the affairs of states by ‘external actors.’

⁹⁰ This list of key themes is based on factors commonly referred to in a range of writings considering the determinants of state capacity in weak and vulnerable (including post-conflict) states. These include Migdal (1988), Rotberg (2002a; 2002b; 2003), Collier et al (2003), Collier et al (2006), Court et al (2002) and Kohl et al (2006).

- Availability and prudent use of state resources (revenue sources, including taxation; corruption)
- Public administration (human capacity and bureaucratic tradition; administrative efficiency and reach; provision of infrastructure and services)
- The state justice sector

These key themes are used as the basis of the following profile of the RDTL state, illustrated with a number of examples drawn from the writer's research, and experience working in support of RDTL Ministry of Justice programs between 2003 and 2005, as well as with reference to other information and commentary. Many of these aspects have already been covered in this and earlier chapters, and are therefore simply recapped in the course of the following 'snapshot.'

Economic and Demographic Factors

As discussed in detail in Chapters 2, 4 and 5, East Timor is a country that has experienced minimal modernisation throughout its history. For a range of reasons (see Chapters 2 and 4) the territory attracted little foreign investment throughout both the Portuguese and Indonesian periods, and as discussed in Chapter 4, East Timor exited Indonesian hegemony with the lowest rate of urbanisation in the Indonesian archipelago. Overall, the fact that only three per cent of agricultural land has been alienated from customary tenure (equivalent to a number of New Subsistence States in the Pacific) is probably the most notable descriptor of the extent to which the country remains characterised both economically and socio-politically by subsistence economic and social relations. Furthermore (as discussed in Chapter 5), the country separated from Indonesia burdened with low levels of education and human capacity, and this legacy will take many years to overcome. Meanwhile (as discussed in Chapter 2), East Timor is experiencing record high levels of fertility, with a population growth rate which may see a doubling of the 2004 population of 924,642 by 2020, placing finite limits on the ability of subsistence agriculture to sustain the population, and placing great pressure on the state to deliver benefits to a youthful population with post-subsistence material expectations.

Those familiar with East Timor in the post-Indonesian period recognise that most of the post-subsistence economic activity of East Timor's 'state-building' period has been concentrated in Dili and several of the district centres. One empirical indicator of this is East Timor's first business register, which indicates that in 2003, 5179 of the 6677 registered business in the country were registered in Dili.⁹¹ Gunn and Huang (2006:90-91) observe that throughout the heavy international presence, Dili became 'a magnet for job-seekers arriving from the countryside', yet '[t]oo little skill transfer took place' and 'there was too little tangible evidence of employment-generating development.' If, as discussed earlier, national levels of unemployment have sometimes been exaggerated based on the number of unemployed and underemployed individuals in Dili, there is little doubt that national unemployment will skyrocket in the future as subsistence agriculture becomes increasingly incapable of absorbing a growing populace. It is not difficult to foresee that this situation could exacerbate existing regional tensions (including as manifested in Dili in the form of gang violence) if no employment-generating strategies are successfully implemented throughout the country. The flow of gas wealth to East Timor has now commenced, and the state will theoretically be in a position to increase expenditure in the districts. Already under the FRETILIN government, future budgets were scheduled to exceed \$US250 million, and the AMP government may decide to increase these substantially.⁹² However budget execution rates have proved especially challenging in relation to development projects in rural areas,⁹³ and in any case it is uncertain if development spending alone will prove a

⁹¹ See RDTL (2003b). The stratification by location was arranged by the writer in 2003 for business sampling purposes.

⁹² According to Ministry of Planning and Finance (MPF) data (MPF 2006:5, Table 1.2) the predicted Combined Sources Budget for the years 2006-2010 (in US millions) is as follows: 2006-2007:\$452; 2007-2008:\$319; 2008-2009:\$288; 2009-2010:\$270.

⁹³ See, for example, the recent International Monetary Fund (2005:18) report which found that due to a range of institutional and capacity factors, 'a high percentage of budgeted resources remain unspent – particularly for capital projects and spending for rural areas.' More generally, see the recent World Bank/ADB *Economic and Social Development Brief* (World Bank/ADB 2007:2), which found that '[a]t present, the Government is unable to spend the resources at its disposal, due to weak capacity and cumbersome, over-centralised systems.' According to this report, '[b]y the end of the third quarter of fiscal year 2006-7, only US\$81 million had been spent from a Central Government Budget of US\$320 million.'

realistic means of reshaping the rural economy and eliminating the possibility of future instability fuelled by large numbers of unemployed and disenfranchised youths.

Given that East Timor is facing the prospect of severe population pressure, the development of a post-subsistence economy remains a pressing priority. The writer has discussed elsewhere (Nixon 2005; Nixon 2007) possible strategies for advancing post-subsistence primary industry, with particular focus on the possibility of revitalising the forestry sector and promoting an associated manufacturing industry, probably centred in Covalima. As discussed in Chapter 4, there are around 14,000 hectares of timber in East Timor (concentrated in the south-west corner) which could provide the basis of a commercial industry. However, sovereign risk remains a challenge to attracting investment capital, and the 2006 crisis is known to have successfully deterred one international company from advancing a feasibility assessment to inform a decision on a possible US\$30 million investment in the plantation forestry sector in rural East Timor.⁹⁴ Whereas the 2006 crisis is now over and an international stabilisation force is in place, the country has had its 'post-conflict' status refreshed in the consciousness of investors and it may be some time before they regain sufficient confidence to consider investing in East Timor once more. FRETILIN's apparent reluctance to accept the established norms of parliamentary democracy and statements by FRETILIN officials implying they can 'no longer control their supporters' (as discussed in previous pages) will act as a definite disincentive to possible investors, therefore acting as a barrier to the development of a post-subsistence primary industry sector.⁹⁵

⁹⁴ The writer was coordinating this assessment for New Forests Pty Ltd, which operates elsewhere in accordance with Forest Stewardship Council guidelines. The evaluation had been scheduled to commence on 1st June 2006. Had this project gone ahead, existing state plantation land would have been leased from the state, and the timber purchased at an independently determined rate. The viability of establishing new plantations in partnership with the state and communities would also have been evaluated. See Nixon (2007) for a detailed proposal concerning the promotion of the post-subsistence primary industry sector in East Timor.

⁹⁵ The possibility of future instability (highlighted by the February 2008 shooting of President José Ramos-Horta) comes on top of a range of other factors, with a recent World Bank/ADB report (2007:4) asserting that '[m]any administrative procedures are burdensome and expensive; the courts are overloaded and ineffective...resolving contract and labour disputes is nearly impossible; infrastructure is poor and business input costs very high...business support services such as accounting, auditing and private legal practices are almost non-existent.' According to this report (World Bank 2007:4), East Timor has been identified as 'the second-worst country in the world for ease of doing business', in a World Bank/International Finance Corporation survey that included one hundred and seventy-five countries.

Security, Stability and Order

The conclusion arrived at by Smith (2004:293) in the first years of independence that *internal* factors would present the real threat to security, stability and order within the RDTL state, has of course proved correct. Like other New Subsistence States in the region such as PNG and Solomon Islands, East Timor has demonstrated that it, too, is vulnerable to rifts with the capacity to threaten the cohesiveness of the incipient state. Unlike PNG and Solomon Islands, of course, the East Timorese fought for independence against a foreign invader. This process contributed to the generation of a national consciousness that included the populations of hundreds of different *sucos*.⁹⁶ As discussed in earlier chapters, these *sucos* had previously had limited interaction with one another due to a history of tensions between indigenous micro-kingdoms followed by a colonial administration which regulated movement between administrative *postos*. Yet as commentators (Sahin 2007:253; Shoesmith 2007b:27) suggest, it now appears that the national consciousness development experience of the resistance period was not sufficiently comprehensive or inclusive to sustain national unity in the absence of the Indonesian aggressor, particularly for as long as severe economic conditions prevail which leave large sections of society marginalised from any material dividend arising from national independence.

As discussed in earlier sections of this chapter, a large part of the solution to East Timor's internally-generated instability is therefore likely to revolve around the promotion, throughout the country, of sufficient economic activity to absorb the rapidly expanding population. The evidence presented by Collier, Hoeffler and Söderbom (2006:5) suggests that the present term of government is an exceptionally important time for the future of East Timor. In the terms of these authors, the international community has undertaken to provide the 'external military presence' necessary to support a 'gradual economic recovery.' Ideally, economic development will occur, accompanied by what Shoesmith (2007b:27) refers to as 'the acceptance of an inclusive national

⁹⁶ See Anderson (1993) for consideration of the generation of 'imagined community' in relation to the East Timor case-study.

identity bringing together urban dwellers and subsistence farmers, “easterners” and “westerners”, yet the task is likely to be challenging. As a New Subsistence State, ‘economic recovery’ in the face of dramatic population growth will require extensive economic transformation including the rapid development of the post-subsistence sector. Again, to the extent that foreign investment is part of the formula for economic modernisation, both the government and opposition parties have a role to play in promoting East Timor internationally as a stable and democratic state.

From the information examined in this chapter, it appears that unresolved land and property conflicts in Dili contributed to the intensity of the ‘east-west’ violence of 2006. It is to be hoped that the new AMP government recognises the importance of addressing this area and passes legislation necessary to enable land disputes to be resolved conclusively.⁹⁷ In the case of some parliamentarians, this may mean having to subordinate personal interests to the interests of the national community.⁹⁸ As the source of the ‘spark’ of the recent ‘east-west’ conflict, the present and future role of the F-FDTL has come under the spotlight. So far, in terms of contributing to security, stability and order, the F-FDTL, which Hicks (2007:13) refers to as ‘a miniscule army which serves no purpose’, has proved more of a liability than an asset. Simply through existing, the military has established a flow of benefits (authority, status, regular income) to

⁹⁷ See Urresta and Nixon (2004b) for an overview of recommendations relating to this area. The main steps might be expected to include: (1) the mapping of individual parcels of land (cadastral mapping), with urban areas a priority; (2) the registration of claims for specific parcels; (3) The resolution of competing claims, initially through mediation, but if necessary by means of a hearing before a National Land Commission (not yet inaugurated), and as a last resort, by means of a hearing before a court. It is expected by the writer that the conflict resolution process will involve the provision of alternative housing and/or other compensation (not including direct financial compensation) to deserving parties. Note that in 2004, the writer coordinated an analysis of the first 4,269 land claims to be entered into the RDTL Directorate of Land and Property land claim database. This analysis (see Nixon, in Urresta and Nixon 2004b:40-46) indicated that land claims around the country tended to be concentrated in particular parts of the country, with over sixty per cent of all registered claims in Dili district. The analysis was undertaken on the basis of claims per 1,000 people by *suco*, and the highest concentrations of claims per 1,000 people per *suco* were found to be in parts of Dili and Covalima districts. In the *sucos* with the highest concentrations of registered land claims, the data suggested that one in every second property was under claim, although another interpretation would be that fewer properties were subject to multiple claims.

⁹⁸ Experienced and long-serving (anonymous) administrative officials interviewed by the writer in relation to the 2005 *Non-customary Primary Industry Land Survey* (Nixon 2005) indicated that questions remain concerning the landholdings of several prominent families. Specifically, it is unclear how areas of state agricultural concession land in Dili that were originally leased by the Carrascalão and Alkatiri families in Portuguese times, have apparently been transferred to freehold tenure.

which individuals have staked competing claims. The case of Alfredo Reinado demonstrates that the military differs from most other state benefit streams in that those within the force have access to arms which can potentially be used for the pursuit of personal political agendas.

As discussed in this chapter, elements of the PNTL (including its Border Patrol Unit) have also contributed to security concerns in recent times, with the defection of members of a PNTL Border Patrol Unit to Reinado's gang providing a further example of behaviour less characteristic of a modern security force intent on maintaining the integrity of state borders, than of the pre-pacification period of shifting alliances. The UNMIT mandate highlights that much work needs to be done to ensure that the future contributions to security, stability and order of the F-FDTL and the PNTL are wholly positive. The challenge of developing the RDTL security forces to a professional standard is beyond the scope of this thesis, but it is appropriate to note that ongoing weakness within state agencies supporting the justice sector (specifically the PNTL) adds to the argument in favour of utilising *suco* conflict resolution and justice mechanisms where appropriate. This area is explored in greater detail in the final chapters.

Democracy and Governance

Commentators (Shoesmith 2003:236; Rees 2004:10) have drawn attention to the considerable number of political actors from the 1974-1975 period who returned to public office following the Indonesian withdrawal and the differences that remained between them. As discussed in this chapter, these tensions contributed to the severity of the crisis in 2006. A core of East Timor's veteran political figures remain in the national parliament following the 30th June 2007 election, as does a degree of antipathy involving these, and other, political actors.⁹⁹ Although the participation that has recently occurred

⁹⁹ Prominent actors from the 1974-1975 in political office today (following the 30th June 2007 election) include President José Ramos-Horta, Prime Minister Xanana Gusmão, Marí Alkatiri, Mario Carrascalão and Francisco Xavier do Amaral (see CNE 2007c). As discussed in Chapters 3 and 4, Carrascalão was prominent within UDT at the time it fought a civil war against FRETILIN, before going on to become Governor of Timor Timur under Indonesian rule. Ramos-Horta, Gusmão and do Amaral were all part of FRETILIN at the time it fought a civil war with UDT, but have since left. As discussed in Chapter 4, do

in parliament surrounding the October 2007 budget provides cause for optimism, and although Xanana Gusmão is undoubtedly one of the most popular possible national leaders, the AMP government does face the threat of a possible sustained rejection of its legitimacy by FRETILIN on the tenuous basis that FRETILIN holds the largest number of seats of any one single party and should therefore be entitled to form a government. If FRETILIN decides to pursue this strategy, it may succeed in hampering the resolution of 'east-west' tensions, given the extent to which these tensions are bound up with party-political considerations, and reducing the effectiveness and reach of the national government. In time, the FRETILIN *Mudança* faction may be able to influence a modernisation of the party's outlook, leading to more tolerant interaction with other parties. However, a certain renewal of the 'unreformed' FRETILIN position also appears to be occurring, as indicated by the statements of new generation FRETILIN hardliner Arsenio Bano. Overall, the continuing antagonism within parliament highlights the need for attention to strategies for achieving genuine reconciliation between national leaders, and a greater acceptance of democratic processes.

One outcome of the 2006 crisis and the development of the 'east-west' division is the difficulty faced by parliamentarians in visiting their constituents, raising the question of how parliament can be responsive to community demands. With district representatives no longer in existence and most parliamentarians residing in Dili, which parliamentarians are supposed to represent which individuals, communities and groups and how are meaningful linkages between Government and the broader national community to be established and maintained? In fact, the extent to which

Amaral incurred the wrath of the FRETILIN party and was severely mistreated for not subscribing to Marxist-Leninism. As discussed in this chapter and in Chapter 4, Gusmão has been particularly critical of the failure of the FRETILIN leadership to reflect on the party's actions during the second half of the 1970s and to apologise to the victims of the FRETILIN purges. Alkatiri, meanwhile, appears to continue to believe in FRETILIN's claim (in Nicol 1978:79) to be 'the only legitimate representative of the people of East Timor.' He has behaved mercurially towards do Amaral, accepting the support of ASDT in order to pass the constitution in March 2002, and then refusing to support do Amaral's candidacy for the presidency only weeks later. Recently, as reviewed earlier, Alkatiri's colleague, senior FRETILIN cadre Francisco 'Lu Olo' Guterres (also a member of parliament) was criticised by Gusmão for his alleged position 'that those who abandon FRETILIN are traitors, and they have no history.' The ill-will between these various veteran East Timorese leaders is by now written in bold in the public record. Doubtless, of course, there are similar and related tensions between more junior leaders less comprehensively documented. For further reading on elites and democratisation in East Timor, see Guterres (2006).

parliamentarians have visited their constituents since independence has reportedly been highly variable, with a parliamentary outreach program that began in 2002 running out of momentum as parliamentarians became preoccupied with politics and lost the enthusiasm to make district visits.¹⁰⁰ In a recent paper, Hicks (2007:13) refers to this general problem as ‘the dysfunctional relationship between the capital, Dili, and the rest of the country, its hinterland.’ Addressing this disjunction remains a challenge despite the passing of laws legitimising the election of *suco* councils.¹⁰¹ Note that one particular dimension of this challenge of linking the national government to regional communities, concerns strategies for incorporating *suco* mechanisms of conflict resolution into a state framework, and this matter is discussed in detail in the final chapters.

Reasonable latitude has existed for civil society in the post-Indonesian period in East Timor, although there were clear indications during the FRETILIN period that this latitude would extend only so far. A notable development was the deportation in June 2004 of the Australian freelance journalist and cameraman Julian King, reportedly on the orders of senior government officials. Specific aspects of concern in relation to King’s case included his claim that PNTL officers ‘planted munitions in his bedroom’, and the assertion of his lawyer that King was deported by the government despite winning his case in court (Asia Media 2004). Again, in 2006, the Alkatiri government came under criticism for its plans to introduce a Penal Code containing draconian anti-defamation provisions. President Xanana Gusmão refused to promulgate this legislation

¹⁰⁰ Marcia Monge, UNDP Parliament Project. Interviewed in Dili, 9th October 2007.

¹⁰¹ In 2004, the RDTL government passed legislation *Law No. 2/2004* (RDTL 2004) prescribing procedures for the conduct of ballots for the ‘secret, free, equal and direct’ election of *suco* chiefs and councils (the latter to consist of the *suco* chief, the chief of every *aldeia* in the *suco*, two women, a ‘young person’ of each gender and a further *suco* elder). The composition of the *suco* councils is based on progressive principles, and as suggested by Grenfell (2006:331), probably influenced by the CEP experience of the UNTAET period. Although elections were held for the *suco* chiefs and councils in 2005, it remains to be seen if the legal requirement for the representation of young people and women on the councils results in significant changes to *actual* authority relations within the *sucos*. The legislation appears focussed on extending state ‘legitimation’ to a level of social organisation which already has popular (and *adat*) legitimacy, as well as facilitating the operation of party-politics at *suco*-level. However, as noted by electoral observers (Caputo and Jungwirth 2005:1) East Timor’s formal governance structure extends down only to sub-district level, so, although *suco* councils will be able to make recommendations, they will have ‘no powers or resources.’

(Cheema et al 2006:49; International Press Institute 2006).¹⁰² Although Gusmão's earlier position suggests that his new AMP government will take a liberal position in relation to public debate and media regulation, the development of an effective media and civil society sector still remains a challenge. The report on *Strengthening Accountability and Transparency in Timor-Leste* (Cheema et al 2006:49) notes that the media 'has limited reach and capacity' and that 'press reporting is variable but of generally low quality, reflecting a lack of capacity and experience among journalists.' Cheema et al (2006:48) also note the limited number of civil society organisations with the capacity to contribute meaningfully to the policy development process.¹⁰³

Availability and Prudent Use of State Resources

Unlike the early states discussed in Chapter 1, the RDTL entered statehood funded not by self-generated surpluses but by donor funds drawn through the CFET account. As indicated in Table 8 below, based on Ministry of Planning and Finance (MPF) data, RDTL budget planning predictions indicate that in coming years donor funding will represent a decreasing proportion of the predicted overall state budget, as donor support is replaced with income from the East Timor Petroleum Fund (discussed below). Domestic revenues drawn from different kinds of taxes and fees for state services,

¹⁰² Note that the report on *Strengthening Accountability and Transparency in Timor-Leste* by Cheema et al (2006) was completed before it became clear that President Gusmão would exercise his constitutional right to veto this legislation in the first instance. Writing in early 2006, Cheema et al (2006) remarked that '[t]he imminent criminalization of defamation is the cause of considerable concern in journalistic circles and is likely to suppress critical comment in the media.' Encouragingly, a recent US State Department (USSD) report for 2007 (USSD 2008) suggests an improvement in press freedom and freedom of speech compared with previous years.

¹⁰³ See the World Bank (2006a:24-27) report on *Strengthening the Institutions of Governance in Timor-Leste* for a more detailed discussion on challenges facing the media and the broader civil society sector. This document reports that despite the operation of a range of daily and weekly newspapers, an independent television service and community radio stations in many districts, 'the quality of reporting is weak and serious investigative journalism does not yet exist.' In terms of the broader civil society sector, the report notes that only a handful of civil society organisations are capable of assuming 'a strong watchdog role', and suggests that '[t]he role of civil society in improving governance in Timor-Leste could be strengthened further through closer links between non-government organizations and the media.' Further discussion of this area is beyond the scope of this thesis, however, the writer is aware that several of the more capable civil society organisations in East Timor face constant challenges having their donor funding renewed, with one contributing factor being the pressure on donors to support activities in such places as Afghanistan and Iraq. On this basis it appears likely that civil society organisations in East Timor will come under increasing pressure to find local sources of funding (potentially including government grants).

meanwhile, are predicted to continue to contribute less than one quarter of total state expenditure.

Table 8: Basis of Combined Sources Budget 2006-2007 to 2009-2010 (USD)¹⁰⁴

Source	2006-2007		2007-2008		2008-2009		2009-2010	
	USD	%	USD	%	USD	%	USD	%
Petroleum Fund	259.7	57.4	203.8	63.8	208.6	72.4	201.0	74.5
Confirmed Donor Funding	136.4	30.2	54.3	17.0	24.5	8.5	10.3	3.8
Domestic Revenue (including Autonomous Agency Revenue)	45.6	10.1	51.2	16.0	54.9	19.1	58.5	21.7
Other ('Direct Budget Support') ¹⁰⁵	10.3	2.3	10.0	3.1	-	-	-	-
Total	452.0	100	319.3	100	288.0	100	269.8	100

Recently, President José Ramos-Horta has advocated (in Thompson 2007) the position that East Timor becomes (or remains) a low-tax jurisdiction both to make 'it easier for investors but also for [the relatively few] salary earners in this country.' If this approach becomes official policy, the proportion of non-petroleum revenues sourced domestically could be expected to remain at low levels. Whereas a low-taxation approach may improve the attractiveness of East Timor to investors, delaying the expansion of domestic revenue-raising mechanisms will not help prepare the country for any eventuality (several receive reference in the following paragraphs) in which it no longer accrues expected sustainable returns from the Petroleum Fund.¹⁰⁶

Presently, based on treaty arrangements negotiated with Australia,¹⁰⁷ East Timor's Petroleum Fund (discussed below) accrues payments from one main production field, Bayu Undan, located within the Joint Petroleum Development Area located in the Timor Sea to the south-east of East Timor.¹⁰⁸ Although not fool-proof, the Petroleum Fund is

¹⁰⁴ Based on official budget figures presented in MPF (2006:5, Tables 1.1, 1.2).

¹⁰⁵ This component is not clearly explained in the literature (MPF 2006).

¹⁰⁶ Even without a deliberate low-tax approach, Federer (2005:114) has referred to the poor 'fundamental revenue capacity of the state.' According to Federer, '[t]he collection of taxes is proving problematic. Taxation of the mostly low-income population is limited. To simplify their own work, the tax authorities often tend to press the few bona fide foreign corporations operating in Timor Leste with unrealistically high demands.'

¹⁰⁷ See Le Lievre (2007:87-90) for an overview of the history of the negotiation process concerning Timor Sea hydrocarbon reserves.

¹⁰⁸ Production from another, smaller field (Elang-Kakatua) was suspended in May 2007 (Le Lievre 2007:89). Le Lievre explains that production at Elang-Kakatua may resume at some point subject to a

an impressive initiative, and recent budget documentation (MPF 2006:8,18) indicates that the annual ‘level of sustainable income’ from the fund has already reached US\$260 million.¹⁰⁹ However, as Le Lievre (2007:89) notes, East Timor’s dependence on only one field ‘poses serious risk in the event of disrupted production.’¹¹⁰ Although reserves from a further large field, Greater Sunrise, are ultimately likely to provide substantial additional revenues to East Timor, it is uncertain when this field will be developed (Le Lievre 2007:89).

Commentary on East Timor refers not only to the difficulty of ‘finding the balance between the need for immediate funds to build the country, and the need to provide...for future generations’ (Whittlesey and Moore 2003:5), but also to the challenge of avoiding the corruption and violent conflict sometimes experienced by countries with rich natural resource sectors but few other areas of post-subsistence economic endeavour (Whittlesey and Moore 2003:5; Cutter et al 2004:14; World Bank 2006:5). As a New Subsistence State with a bountiful petroleum sector, East Timor is clearly subject to such risks. Historically, the fact that all major East Timorese political parties to emerge following the MFA revolt of 25th April 1974 included anti-corruption clauses in their political programs (Nicol 1978:56,70,78), indicates that corruption was not unknown in East Timor, even prior to the Indonesian invasion.

As the mechanism for managing East Timor’s petroleum reserves, the RDTL *Petroleum Fund Law* (RDTL 2005b:1) was established to ‘contribute to a wise management of petroleum resources for the benefit of both current and future generations.’ As implied in Table 8 above, the ‘Petroleum Fund is to be coherently integrated into the state budget’ and sustainability measures included in the *Law* (RDTL 2005b:5) require that ‘[t]he total amount transferred from the Petroleum Fund for a Fiscal Year shall not exceed the appropriation amount approved by Parliament for the Fiscal Year’, and that

successful proposal for ‘enhanced recovery’, but that ninety-six per cent of the estimated original reserves of this field are believed to have already been extracted.

¹⁰⁹ By June 2006, East Timor’s petroleum wealth was already estimated (MPF 2006:8) to be US\$9.4 billion.

¹¹⁰ See also the official budget documentation (MPF:19), which recognises ‘a risk, however small, of a major disruption in the production, and hence TL reserves.’

when transfers in excess of the ‘Estimated Sustainable Income’ of the Petroleum Fund are proposed, government must first provide parliament with ‘a detailed explanation of why it is in the long-term interests of Timor-Leste’ to draw beyond the estimated sustainable capacity of the fund. The RDTL government (during the FRETILIN period) was lauded (World Bank 2006:4) for adopting ‘a strong regulatory framework to ensure the transparent and sustainable use of petroleum revenues through the national budget approved by Parliament,’ however vulnerabilities have also been identified.¹¹¹ In particular, Le Lievre (2007:95-96) notes that despite the legislation requiring the government to explain appropriations to parliament, ‘there is no actual floor establishing an amount below which the fund cannot fall.’ Accordingly, as with the broader area of ‘democracy and governance’ discussed earlier, prudent use of the fund is likely to depend on the judgement exercised by parliamentarians and the extent to which this is scrutinised by the Petroleum Fund Consultative Council,¹¹² the media and the civil society sector more generally.¹¹³

Clearly, the Petroleum Fund is only one (albeit major) area subject to the risk of mismanagement and corruption, since even resources legitimately and transparently withdrawn from the Fund will be managed by a range of other public administration mechanisms. An anti-corruption consultant posted with the Office of the Inspector-General in 2005 reported (Cave 2005:5) ‘considerable anecdotal evidence of corruption and use of power for personal gain’, although this assessment was qualified with the statement that ‘[m]any of these claims are difficult to substantiate, and are often untrue

¹¹¹ According to the World Bank (2006:4), ‘weaknesses in national capacity make the system vulnerable in the face of the departures of international advisors.’ The Bank refers to a new ‘planning and financial management capacity building program’ to address capacity shortcomings.

¹¹² The Petroleum Fund Consultative Council (PFCC) was established under Chapter 5 of the *Petroleum Fund Law* (RDTL 2005b:12-15) as a measure designed to ensure that ‘appropriations of the petroleum Fund are being used effectively to the benefit of current and future generations.’ Comprised of national citizens including former presidents, prime ministers, ministers of finance, central bank heads, business, religious and civil society representatives and others, the PFCC is required (RDTL 2005b:14) to ‘consult widely in the community...and...hold an annual forum on issues relating to the Petroleum Fund.’ Notably, however, the PFCC is an advisory body only.

¹¹³ Presumably, one means of improving the security of the fund could be to introduce constitutional provisions or similar requiring that appropriations beyond sustainable levels must be approved by a parliamentary supermajority.

and arise from a lack of information.’¹¹⁴ Despite the vagaries, ‘three broad areas of apparent corruption’ were identified (Cave 2005:5-6), specifically customs and border control,¹¹⁵ procurement,¹¹⁶ and the ‘[u]se of government resources for private benefit,’ including the sale of ‘valuable government owned timber...by unknown persons.’

A survey of rental properties in Dili that was jointly coordinated by this writer in March 2005 indicated abundant scope for corruption in this sector.¹¹⁷ Of the three hundred and sixty-three properties included in the survey, almost one quarter were found to be state properties, for which the tenants paid rent not to the state, but to illegal landlords. In a public report presented (in Portuguese) to the Minister of Justice which urged the Ministry to allocate greater resources to the regularisation of the state properties in Dili, the writers (Leigh and Nixon 2005:10) commented as follows:

[T]he fact that close to a quarter of respondents indicated *that they know they are renting a government property* from an irregular ‘landlord’ suggests that the practise...is relatively widespread. Of further concern in this regard is information from the field suggesting that among those receiving informal rental payments from occupants of government properties, are civil servants working for various government departments [including the PNTL].

Additionally, there are reports that at least during the first years of independence, a substantial amount of revenue actually collected by state agencies in the districts never made it into the state coffers. One expatriate finance officer who supported the development of financial management institutions in East Timor between 2000 and 2005 and who undertook audits in the districts, has estimated that up to thirty per cent of all fees collected in relation to government services at district level (including rent for state

¹¹⁴ See also the World Bank (2006:28), which has referred to ‘much anecdotal but no systematic evidence as yet on the scope and incidence of corruption in Timor-Leste.’

¹¹⁵ According to Cave (2005:5), ‘[m]any business people claim that delays in clearing imported goods from the wharf are intended to encourage importers to pay bribes.’

¹¹⁶ Concerning this area, Cave (2005:5) refers to claims that businesses ‘have been asked for bribes by public officials in return for ensuring that bids for government contracts succeed.’ He also notes ‘considerable suspicion’ that some bids succeed on the basis of family connections to senior officials and ministers, although in other cases family members of ministers have been excluded from the bidding process.

¹¹⁷ The objective of this survey was to obtain information about average rent payments in a range of different parts of Dili, so that this information could be taken into account in the course of setting rents for state properties. Note that the survey was not a randomised survey, since we had no way of knowing in advance which properties were rented and which were not. Accordingly, survey teams were instructed to (a) establish which properties were inhabited by households who paid rent to others, and (b) target these properties for data collection. For further details, see Leigh and Nixon (2005).

properties, water and sanitation, civil registration, visas and other customs and border related payments) were never accounted for.¹¹⁸

Towards the end of the FRETILIN period, the government suffered an obvious blow to its broader transparency with the conviction of former Interior Minister Rogério Lobato for arming civilian militias and the airing of claims concerning his involvement in sandalwood smuggling and other activities. This came on top of an earlier scandal in which the FRETILIN government was accused (Dodd 2005) of awarding contracts for arms purchases to Bader Bin Hamut Alkatiri, brother of Prime Minister Marí Alkatiri.¹¹⁹ Although the data collection process to date has been unsystematic, the RDTL is *not* perceived as a highly or even moderately transparent country, and in their 2007 Corruption Perceptions Index, Transparency International (TI 2007:6) ranked East Timor one hundred and thirty (between Niger and Nepal) out of the one hundred and eighty countries surveyed.¹²⁰ Encouragingly, President José Ramos-Horta placed anti-corruption on the political agenda in 2007 when he requested a corruption audit of the former FRETILIN government (UNMIT 2007). However, bringing corruption and the ‘use of government resources for private benefit’ under control will require a major commitment.

Public Administration

Much has already been written in this thesis concerning the undeveloped economy, infrastructure and technical and administrative skill-base inherited by the RDTL at independence. While there is little to be gained by further discussion of the origins of

¹¹⁸ Expatriate Finance Officer 1 (interviewed online, 10th March 2005). This specialist worked with financial institutions in East Timor between 2000 and 2005.

¹¹⁹ This scandal concerned the purchase of 257,000 rounds of ammunition for PNTL assault rifles (reason in itself for alarm), procured through Bader Bin Hamut Alkatiri’s Cavalo Bravo firm, at a cost of US\$108,000. Dodd’s report (2005:1) included comments by PD’s Fernando ‘Lasama’ de Araujo, who was critical that the procurement was a closed process and reportedly remarked that ‘[w]e should be able to debate this in parliament but when the opposition raises questions about this we’re told it’s an internal security matter. I think that is ridiculous.’ In an official FRETILIN statement (RDTL 2005a), Prime Minister Marí Alkatiri rejected all allegations of corruption, asserting that Cavalo Bravo had won a competitive tendering process and referring to Rogério Lobato’s assurances that the ammunition was essential for PNTL training purposes.

¹²⁰ TI (2007:4) explain that countries are ranked on a 0-10 continuum in which zero indicates ‘highly corrupt’ and ten indicates ‘highly clean.’ On this scale, the RDTL received a score of 2.6 for 2007 (TI 2007:6).

this deficit, an examination of specific examples of public administration provides insight into the future governance challenges facing the government of the RDTL, particularly in rural areas. The examples included in the following paragraph are based upon field-work coordinated by the writer for the purpose of profiling state primary industry assets and other ‘non-customary’ land holdings in East Timor, and indicate the limited extent to which the state had been capable (by 2005) of identifying and imposing a management regime over its terrestrial primary industry assets since independence.¹²¹

As discussed earlier in this study, only about 47,534 hectares of agricultural land in East Timor (about three per cent of the country) have been alienated from customary tenure, with particular concentrations located in the districts of Ermera (coffee plantations), Covalima (timber plantations) and Manufahi (transmigration and translocation areas). Of this land, the majority (see Table 9 below) is state land, divided into one hundred and fifty-five main sites (not including transmigration, translocation and rural housing areas, or parts thereof).¹²² These parcels are of significant economic value, and include production and demonstration sites spread throughout a range of geographical environments.

¹²¹ From the theoretical perspective articulated in Chapter 1, this situation is of interest, since the ability to manage agricultural surpluses has traditionally been a fundamental step in the path to state development. Both in terms of the actual exercise of managing surplus-producing activities, therefore, as well as for the purpose of advancing post-subsistence economic development in the districts, the advancement of the state-owned primary industry sector is an important priority, even for an incipient petro-state. For full details of this survey and of the methodology used, see Nixon (2005) and Nixon (2007).

¹²² Note that *within* Transmigration, Translocation and Rural Housing Areas, a range of different forms of land tenure can prevail. Some original settlers from the Indonesian period who continue to reside in these resettlement areas may possess Indonesian era land titles, or hold other rights. Some areas might technically be considered state property on the basis that (a) the land was originally acquired by the (Indonesian) state in good faith for allocation to settlers, and (b) the land was subsequently abandoned (for example, in 1999) by those settlers to whom it was allocated. In this respect, note that according to RDTL law (RDTL 2003a), abandoned property reverts to the state.

Table 9: Profile of non-customary primary industry parcels in East Timor¹²³

Main Tenure Status	No. Parcels	Total Ha.
State Aquaculture Sites (mostly from the Indonesian period) ¹²⁴	15	24
State Agricultural Concessions (leased at some point to individuals or firms, mostly during the Portuguese period)	40	12,712
State Agricultural Land (including productions sites, seedling sites, Indonesian period model farms and agricultural secondary schools)	51	1,420
State Forestry Sites	49	14,213
Transmigration, Translocation and Rural Housing Areas	44	15,198
Private (Individual) Parcels	60	2,156
Private (Church) Parcels	57	1,411
Private (Community) Parcels ¹²⁵	8	143
Other State Parcels (including industrial zones potentially of use for primary industry purposes) ¹²⁶	7	257
Total	331	47,534

Using a generous definition of ‘management’,¹²⁷ ninety-five per cent of private parcels and eighty-six per cent of private Church parcels were found to be managed. However (again excluding transmigration, translocation and rural housing areas), only around thirty-four per cent of state primary industry assets were found to be managed, and this proportion drops to thirty per cent if agricultural concessions are excluded from the calculation.¹²⁸ The low rate of ‘management’ of state primary industry assets is such that

¹²³ Note that some parcels are under claim from members of local communities and other claimants. For an overview of parcels under claim, see Nixon (2007:104-107). See the full report (Nixon 2005) for more detailed information.

¹²⁴ At the time the survey work was being undertaken in the first half of 2005, negotiations were also commencing in relation to a new salt-water aquaculture development in Oecusse. Note that due to a database error, only fourteen state aquaculture developments were reported in the original non-customary primary industry report (Nixon 2005:33-34).

¹²⁵ This category refers to land that local informants assert is privately owned by a community (as distinct from customary land). The existence of this category of land was not foreseen at the outset of the research.

¹²⁶ An additional seven sites (including three ‘protected area’ sites totalling 5,313 hectares) were documented in the course of the survey, but were not included in the figures since these sites are of peripheral relevance to primary industry production. It is of note, however, that the field teams reported past instances of illegal logging and other illegal land use practices in relation to these sites.

¹²⁷ A primary industry asset was considered ‘managed’ if the official manager (for example, the state, the Church, a private individual with a lease over state land) knew of the existence of the site, made occasional site visits and had plans concerning the future use of the site.

¹²⁸ Although forty-five per cent of state agricultural leases were found to be managed (as outlined below), these were generally managed by the families of the original lessees with *no* state oversight. Excluding transmigration, translocation and rural housing areas (which are subject to a range of tenure arrangements as discussed in earlier notes), the management status of the core state primary industry assets was found to be as follows:

- Forty-five per cent (eighteen of forty) agricultural concessions were found to be managed.
- Forty per cent (six of the fifteen) state aquaculture facilities were managed.
- Thirty-three per cent (sixteen of the forty-nine) state forests were managed.
- Twenty-five per cent (thirteen of the fifty-one) state agricultural parcels were managed.

over time, the state risks losing control over many of its primary industry assets. High value assets such as sandalwood (see below) have clearly been at particular risk.¹²⁹



Figure 3: The last days of a state-owned sandalwood tree.

Pictured is the freshly-cut (and regularly-cut) trunk of one of the few remaining sandalwood trees on a remote state plantation near Maubara. According to locals, thieves armed with *Pana Ambon* (steel darts) come in the night to test if the tree is sufficiently mature for harvest. According to local informants, similar trees have been sold to unlawful sandalwood traders for as little as US\$150, far below market value for this precious plant. East Timor requires a robust management regime enabling the local and national community to benefit from the cultivation, harvest and processing of such trees.



Figure 4: Oecusse ‘state forest.’

This 60-hectare ‘state forest’ has been burnt annually for at least ten years to promote grazing. Although the land is recognised as state property, it was a local *chefe* who authorised the use of the land for grazing (in Indonesian times). This site provides an example of the probable fate of state primary industry assets which are not subjected to robust monitoring and management regimes.

¹²⁹ Legally (see UNTAET 2000d), logging is subject to heavy regulation.



Figure 5: Abandoned fish and prawn farm, Liquiça. During the Indonesian period, aquaculture developments were often joint initiatives between state and community. *Suco* leaders say this site remains community land, but they are open to the possibility of resuming production. However, there would first have to be an *adat* ceremony and the state would have to contribute a pig and a goat.



Figure 6: Dili stormwater drain. The state has also been challenged to exert its authority in Dili, as indicated by these vegetables growing in a Bairo Pite stormwater drain during a March 2005 Dengue Fever scare. Dili's reputation for 'pestilence' appeared safe as houses stood in stagnant water, and untapped pipes flowed freely in residential areas and at the school. This photograph is one of a number taken by the writer and sent in a document to the Health Department.

As might be expected given East Timor's history, factors directly contributing to the low rate of management of the state primary industry sector include deficiencies in the areas of technical and administrative capacity (including record keeping),¹³⁰ authority structures, efficiency, resources and transparency. Whereas technical and administrative capacity must be developed before state assets can be managed effectively, resource and transparency factors have severely compromised the ability of state officials (from the Directorate of Land and Property and the Ministry of Agriculture, Forestry and Fisheries) to undertake the most basic monitoring of many state assets. For example, in

¹³⁰ In addition to present archival capacity deficiencies, East Timor has an unfortunate historical record in this area. Berlie (2000:138) notes that public records were destroyed in East Timor in 1779, 1890, 1975 and 1999. To this can now be added May 2006, at which time the national Land and Property office in Dili was looted and computers were stolen. Fortunately, a back-up hard drive was hidden from looters by quick thinking staff before the attack (telephone conversation with Land and Property staff, 1st June 2006).

April 2006 there were twenty-six forest guards in East Timor, however, few had access to transport.¹³¹ New motorcycles were on order, but instead of being used for field activities (related to the management of state primary industry assets), vehicles sometimes ‘trickle up’ to more senior administrative officials. Furthermore, in the course of the 2005 survey, it was discovered that due to fuel scams that occurred in 2004, fuel allowances for state vehicles had been limited to forty litres per month for cars and fifteen litres per month for motorcycles.¹³² Such restrictions imposed further limitations on the ability of district officials to conduct field-work. Additionally, a similar scam relating to spare parts for official vehicles had resulted in the imposition of a multi-phase corruption-proof vehicle repair protocol. In accordance with this protocol it can take up to three months for a damaged government vehicle to be repaired, further discouraging the use of official vehicles in difficult-to-access areas (where state primary industry assets are often located) because of the risk of vehicle damage.¹³³

More broadly, much remains to be done before bureaucratic authority structures begin to resemble the Weberian ideal discussed in Chapter 1. An assessment of future administrative challenges within the RDTL Directorate of Land and Property undertaken by the writer in 2004 (Land Law Program 2004:12) identified the ad hoc and unsystematic nature in which duties were allocated to staff as a major obstacle to be overcome to enable the Directorate to meet its mandated obligations. In particular, ministers were reported to directly request individual staff members to undertake particular tasks without channelling their requests through the Director of Land and Property (or sometimes even the appropriate minister). Unshielded from a host of ad hoc requests, there was little chance of staff systematically pursuing official activities. A particularly interesting example of the lack of conformity to bureaucratic power structures was a section head who was also the leader of a national martial arts gang. This individual was considered beyond the reach of the formal authority structures

¹³¹ Based on discussions with senior forestry officials, Dili, 1st April 2006.

¹³² Accordingly, in the course of almost all field activities undertaken jointly between the writer’s teams and RDTL officials, it was necessary for a budget to be arranged to cover the use of state vehicles. This general issue was discussed in the writer’s original report (Nixon 2005:18).

¹³³ In the view of the writer there would be a strong argument for using Timor ponies for official primary industry monitoring work, on the grounds of sustainability, were the RDTL not on the path to becoming a petro-state.

prevailing within the Directorate and some of his activities were believed to be inconsistent with organisational objectives. Following the violence of 2006, this individual would feature in an international press report (Kingston 2007) which begins as follows:

I was surprised when Jaime Xavier Lopez, the head of the Sacred Heart, a notorious ‘martial-arts’ group, told me to meet him at the government’s Office of Cadastral Surveys and Property [under the Ministry of Justice], where he has a day job. Or that’s where he *did* work, since he is now imprisoned.¹³⁴

Considering East Timor’s history, many of the public administration challenges which it faced at independence were inevitable. However, the decision of the nation’s elite to introduce Portuguese as East Timor’s official language added an unnecessary additional burden to the struggling new public administration.¹³⁵ Because East Timor’s first generation of political elite are the product of an *assimilado* conditioning process (see Chapter 2) which associated the Portuguese language with ‘civilisation’ and by extension with state-building, it is understandable that the Portuguese language might be recognised in such artefacts of statehood as the constitution. Yet given the indications that only a minority of the population had competence in Portuguese,¹³⁶ it is unclear why a government would (as did the FRETILIN government) insist on the use of the Portuguese language in certain public administration contexts where more flexibility

¹³⁴ According to Kingston (2007), Lopez (imprisoned in relation to gang violence activities) claimed that the Sacred Heart gang has 6,000 members and 10,000 student members. One can only imagine the possible benefits stemming from influence over such a group, in terms of accessing employment within the public administration and retaining the ability to operate unencumbered by official organisational objectives.

¹³⁵ At its August 2000 Congress, the CNRT (2000:17) determined that Portuguese would ‘be adopted as the official language and Tetum as the national language and, to be developed within a 5-10 year period as a second option as an official language.’ Meanwhile, English and Indonesian languages were given the status of ‘working languages.’ This general policy was reflected in Sections 13 and 159 of the Constitution (RDTL 2002:16,64), although in the case of the Constitution, Tetum and Portuguese were referred to equally as ‘official languages.’

¹³⁶ According to the UN (2000b:100), survey data collected in 2000 found that only eleven per cent of East Timorese were ‘reasonably proficient’ in Portuguese, compared with eighty-nine per cent in Tetum and sixty-seven per cent in Indonesian. A later survey (Asia Foundation 2001a:70) indicated that seventeen per cent of East Timorese could speak Portuguese compared with ninety-one per cent Tetum and sixty-three per cent Indonesian. Notably, and possibly reflecting access to education during the colonial period, the Asia Foundation (2001a:70) survey identified a ‘strong gender bias’ in relation to Portuguese abilities, with around twice as many men as women having competencies in this language. The Asia Foundation (2001a:6) survey also found age to be ‘a significant determinant of language ability, with younger East Timorese relatively more proficient in Tetum, Indonesian and English and older East Timorese more proficient in Portuguese.’

(incorporating use of other recognised languages) would improve communication outcomes. During the FRETILIN period, the emphasis on Portuguese could at times be farcical and alienating, and PD President Fernando ‘Lasama’ de Araujo¹³⁷ referred to the concerns of the Indonesian-educated generation that ‘a report in Indonesian was not considered of the same value as a report in Portuguese.’ Interestingly, the RDTL parliament operated in Portuguese during the FRETILIN period, notwithstanding the fact that many parliamentarians lacked advanced abilities in this language.¹³⁸ However, consistent with reports (discussed earlier in this chapter) that parliamentary debate has flourished under the new AMP government, recent information indicates that Tetum (supplemented even with some Indonesian) has now replaced Portuguese as the language of parliament. This possibly indicates that the country is heading towards a more pragmatic approach to language policy.

The State Justice Sector

Despite being the earliest state agency to be ‘Timorised’, the RDTL justice system has been recognised (World Bank 2006:19) as ‘the weakest branch of Timor-Leste’s governance architecture.’ Beauvais (2001:1155-1156) noted during the UNTAET period that already ‘[b]y early 2001, the backlog of unprocessed cases had grown to over seven or eight hundred in the category of serious crimes alone, and detention facilities were filled to capacity.’ Although Beauvais identified the lack of resources available to the justice sector as the ‘central problem’, it is clear that the capacity of the new judiciary has proved a further, and ongoing, ‘central problem.’ The members of East Timor’s new judiciary, who were recruited by means of an aerial leaflet drop in the early days of UNTAET (Strohmeier 2001a:54),¹³⁹ lacked the collective experience to provide the

¹³⁷ Interviewed in Dili, 13th September 2003.

¹³⁸ This became clear to the writer during a visit to the RDTL parliament on 1st April 2003, when scores of parliamentarians made an early exit from an afternoon parliamentary session. According to KOTA representative Clementino dos Reis Amaral, who the writer was interviewing at the time, the exiting parliamentarians had to leave in order to attend their Portuguese lessons. The writer understands from former colleagues that draft bills prepared by the Land Law Program for the consideration of the FRETILIN government now must be translated into Indonesian or Tetum in order to be considered by the new AMP government.

¹³⁹ Strohmeier (2001a:54) was working as a senior UNTAET legal advisor at this time. He explains that ‘[i]n absence of a functioning broadcasting network, INTERFET volunteered to drop leaflets from airplanes throughout the territory, calling for legally qualified East Timorese to contact any UNTAET or INTERFET office or outpost.’

basis of a national courts system. In his evaluation of the East Timorese justice system, Australian Federal Court Judge Justice Shane Marshall observes (2005:8) that the ‘first eight judges and two prosecutors...sworn in on 7th January 2000...had little or no practical experience and certainly none had served as a judge or prosecutor.’¹⁴⁰ Although the entire new judiciary were to receive ongoing legal training as they worked (see below), their task of learning the law and administering justice in an under-resourced environment has been made even more difficult by the Portuguese language emphasis of the FRETILIN government. As the World Bank (2006:19) observed, ‘[t]he effectiveness of the justice system is further hampered [on top of other factors] by the fact that laws and proceedings are not translated into languages understood by all court actors, including Timorese legal professionals, the majority of whom were trained in Indonesia.’

If resource shortages, capacity deficiencies and an inundation of cases were not enough to compromise the standard of the justice outcomes being delivered, there was also the question of the commitment of some members of the judiciary to their work. Referring to the East Timor justice system in the early years of independence, an expatriate private lawyer¹⁴¹ with five years of experience in the RDTL court system asserted to the writer that ‘[t]he trouble with the legal system was absolute unutterable laziness. I’ve never seen anything like it. It was absolutely appalling. Judges not turning up to the case, on holiday in Bali or you just didn’t know.’¹⁴² Civil cases have been identified (World Bank 2006:19) as a particularly challenging area for the East Timorese courts which ‘affects

¹⁴⁰ Given the capacity problems, not everyone was pleased with UNTAET’s decision to create an entirely East Timorese staffed judiciary early in the transitional period. As explained by an expatriate lawyer with experience in the East Timor justice system (Expatriate Private Lawyer 1, interviewed in Dili, 21st February 2005), ‘[t]he UN Justice Department decided...they didn’t want a colonial-style judicial system. Thousands...of expat police but you couldn’t have one fucking expat judge.’

¹⁴¹ Expatriate Private Lawyer 1, interviewed in Dili, 21st February 2005.

¹⁴² Suggesting that transparency in the courts was also an issue, this lawyer (interview details above) posed the question ‘How do East Timorese judges on [US]\$325 per month drive nice cars and have the latest mobile phones?’ Note that the World Bank (2006:19) has also referred to ‘professional infractions ranging from inconsistent attendance to allegations of corruptions’ in the courts. The World Bank also remarks, however, that many members of the judiciary ‘carried out their duties with dedication.’

the confidence of both the community and the private sector in the justice system.’¹⁴³

This weakness is also clear in the account of the expatriate private lawyer:

In the East Timor District Court when you are preparing civil cases, you would normally file a writ which is sent to the Chief Justice [President of the Court] and he would normally allocate the case to a judge and set a date for a preliminary hearing. For a civil case of less than US\$10,000 in value, or more if both parties agree, a single judge can hear the case. If the case is for more than US\$10,000 and at least one party wants it, then a panel of three judges will hear the case. I have only ever seen one case of three judges finalising a case. That’s how bad it was, until it got worse [with the sacking of the judiciary, discussed below].

The difficulties facing the state justice sector were highlighted emphatically when it was announced in January 2005 that all twenty-two East Timorese judges had failed their evaluations at the conclusion of a training and probationary practise period of around five years. Following the announcement, all the probationary judges were barred from continued work in the district courts, reducing the number of qualified judges to four internationals and raising questions about the legality of the cases that had already been processed (JSMP 2005a; Clausen 2005).¹⁴⁴ According to the World Bank (2006:19), the backlog of cases before the justice system had reached ‘formidable’ proportions by late 2005, with close to 3,000 cases awaiting the attention of prosecutors and 475 cases awaiting the attention of the district courts. However, following the dismissal of the East Timorese judiciary, around twenty internationally-funded officials had been recruited from throughout the Lusophone world to provide the backbone of the country’s courts, and by early 2006, the internationally-supported judiciary had begun to reduce this backlog of cases. Several other major initiatives aimed at improving the capacity of the justice sector have also been under way in recent years. Most notably, these include a new training course delivered through the internationally-supported Legal Training Centre (LTC)¹⁴⁵ which opened in mid-2004, and a law course delivered through the National University (UNTL) by a consortium of Portuguese universities.¹⁴⁶

¹⁴³ According to the World Bank (2006:19), only seventeen civil cases were heard in all district courts between January and October 2005, whereas the criminal cases heard during this time numbered three hundred and thirty-seven. Meanwhile, although the backlog of criminal cases was actually reduced during this time, the backlog of civil cases increased.

¹⁴⁴ Note, however, that four members of the East Timorese judiciary were given special permission to continue working on Serious Crimes panels until the conclusion of the UNMISSET mandate (on 20th May 2005). JSMP (2005a) expressed ‘doubts as to the legal basis and procedural regularity of this decision.’

¹⁴⁵ Note that the Legal Training Centre was formerly known as the Judicial Training Centre (JTC).

¹⁴⁶ The World Bank (2006:20) provides a general overview of these initiatives.

The LTC places particular emphasis on training new members of the judiciary in the specific legal regime being introduced in East Timor, although it should be noted that this legal regime is not yet complete.¹⁴⁷ According to UNDP,¹⁴⁸ the first LTC graduates were admitted to the justice system in mid-2007 and no official data is available to date concerning their performance. The LTC training comprises eighteen months study (conducted in Portuguese) and twelve months probationary practise. The graduates comprised eleven judges, nine prosecutors and seven public defenders, all former members of the original transitional judiciary. These officials were reported to have been given a fifty per cent pay cut and enrolled in the course in early 2005, following the announcement they had failed their exams (Clausen 2005). The law course delivered by the consortium of Portuguese universities at UNTL, meanwhile, commenced in 2006. The course consists of a ‘zero year’ in which the students learn the Portuguese language, followed by a four-year academic program in which they study in Portuguese (unlike other courses at UNTL which are taught in Indonesian and Tetum). At present, there are about thirty students in the ‘zero year’ and about thirty students (reportedly including UNTL Rector, Dr Benjamin Corte-Real) in the first year.¹⁴⁹ It appears likely that upon completion of their university studies, UNTL graduates will also be required to undergo professional training and accreditation at the LTC before being permitted to practise. Similar training may also be required for existing lawyers before they are able to

¹⁴⁷ Apart from the land laws, which may be passed in 2008, a range of other laws are still awaiting finalisation. Among these (World Bank 2006:21) are the RDTL Penal Code and a law governing the activities of private lawyers. Note that some of the new laws may also prove unworkable. According to Public Defender Pedro Andrade (email correspondence received 22nd November 2007), ‘East Timor has drafted a new Code of Civil Procedure which is very complicated [*sic*] to follow and to apply if you don’t have special skills not available now.’

¹⁴⁸ Based on (1) an interview with Noura Hamladji, UNDP Head of Governance Unit (Dili, 4th July 2007), (2) email correspondence received from Noura Hamladji dated 16th November 2007, and (3) email correspondence received from Eun-Chim (Jennifer) Choi, UNDP Democratic Governance and Capacity Development Unit Program Officer and Human Rights Focal Point, dated 16th November 2007. Note that a further twelve candidates (of an original fifteen) were undergoing training with the LTC program at the time this information was received.

¹⁴⁹ Information on the UNTL law course being delivered by the consortium of Portuguese universities was provided by Vitor Ambrosio, Coordinator of the Portuguese consortium-supported UNTL Informatics Department (interviewed in Dili, 3rd July 2007). Note that according to Ambrosio, consideration was being given to including a ‘technical English’ component in the course.

practise in accordance with pending legislation governing the activities of private lawyers.¹⁵⁰

According to the World Bank (2006:19), the state justice system ‘is likely to remain dependent on international court actors until at least 2010, if not beyond.’ Even this, however, may be an optimistic assessment of how soon a functional and locally-staffed state justice system may be fully operational. As already indicated, there remain concerns about the emphasis that has been placed on the Portuguese language in the justice system and this extends to the use of Portuguese for training purposes. The risk of wasting resources on training in an inappropriate language had already come to light in early 2005, when one of the Probationary East Timorese judges, Carmelita Moniz, reportedly (Clausen 2005) remarked in relation to the new training program, that Portuguese was hardly understood by herself and the majority of her colleagues. This assessment is supported by former Cape Verdian Judge and UNDP-supported public defender Pedro Andrade,¹⁵¹ who has worked in East Timor since the UNTAET period and who speaks Tetum. Andrade has taught at the LTC, and claims that it was necessary for him to use Tetum in the course of the teaching program in order to be understood, raising the question of the extent to which the mostly Portuguese-only speaking academic staff have been able to communicate meaningfully with their students. A further issue related to the language question concerns the capacity of interpreters working in the justice system for the purpose of interpreting information from and to Portuguese. From personal experience with a project employing numerous local translators, the writer has serious doubts about the quality of interpretation services

¹⁵⁰ This, at least, was the view of FRETILIN Minister of Justice Domingos Sarmiento, when interviewed by the writer in Dili on 5th July 2007. The nature of the professional training and accreditation process will ultimately depend on the provisions of a future law governing the activities of private lawyers. Although two bills have been proposed on this area (one by the FRETILIN government and one by Advocates Sans Frontiers), none has yet been passed.

¹⁵¹ Pedro Andrade was interviewed in Dili on 4th July 2007, and also forwarded email correspondence dated 22nd November 2007. Andrade believes that Tetum should be used more in the LTC training program, that the training program should be longer, that the period of supervised practise should be two years, and that more international trainers should be recruited.

currently available locally in East Timor at public service wages.¹⁵² Even without the use of the Portuguese language this would amount to a serious problem.

More generally, other challenges referred to by the World Bank (2006:20-21) in relation to the state justice sector include completing elements of the legal framework, addressing issues relating to illegal detention and improving justice outcomes for women. Of particular interest in respect to overall justice outcomes, the World Bank (2006:23) recommends that ‘given the pressure on the court system, the MoJ [Ministry of Justice] may wish to develop a definition of jurisdiction with respect to customary and/or civil arbitration mechanisms’ in relation to the question of ‘linking customary practise to the formal justice system.’ The Bank suggests in this respect that ‘the Land Law Program under the MoJ may provide some useful models for approaching these policy questions.’ This area represents the focus of the following chapters, which include consideration of options for integrating customary dispute resolution systems in East Timor into a state framework, based on a review of historical information, quantitative research coordinated by the writer to inform the development of the Land Law Program policy recommendations, and other qualitative research undertaken by the writer.

* * *

The profile presented in the foregoing pages clearly indicates that despite some resounding strengths (notably the gas wealth), the RDTL state suffers major weaknesses in all key areas examined. For the most part, subsistence economic and social relations remain predominant throughout the country, and yet demographic trends are such that the country faces the need to undergo substantial economic and social modernisation. There has been little historical preparation for this transformation in terms of education and skill development, and it remains unclear whether the country will be able to attract

¹⁵² The Land Law Program employed around five to six local interpreters. Considerable energy was put into recruiting the best possible staff, and the project paid about twice the civil service wage. For any work where high quality outcomes were required, however, international interpreters had to be employed.

foreign investment to support the necessary economic development process. Although there are positive indications that the parliament is beginning to function as an inclusive forum, significant political fractures continue to divide the political elite and forms of political behaviour incompatible with the functioning of a democratic society continue to prevail. There also remain major questions concerning how the parliament as a whole can begin to relate meaningfully with the districts, in which the majority of citizens live. This challenge is not helped by the regional fracture generated in the course of the 2006 crisis, and this fracture, like the crisis within the security forces which caused it, remains to be addressed. Although the country is likely to accrue substantial royalties from hydrocarbon reserves and although the Petroleum Fund may provide a means of receiving income from this indefinitely, there is a real risk of corruption and mismanagement of funds at multiple levels. Meanwhile, the absence of public administration skills and experience is likely to frustrate state programs aimed at promoting development in rural areas, especially over the next ten to fifteen year period during which population growth will begin to place major pressures on the physical environment, reduce the viability of subsistence agriculture, and conceivably increase the possibility of social conflict. The various administrative and capacity limitations of the public administration have been particularly visible in the courts, and there is reason for concern about the capacity of the state justice system to meet future challenges.

Conclusion

Given the base-line social and economic conditions, operating in accordance with the modern state model would have proved challenging even without the range of post-conflict factors which added to the risk of instability in the RDTL, especially following the retirement of the initial international security presence. On top of the underlying social and economic conditions and generic post-conflict aspects, factors unique to East Timor and its history, power patterns, elites and resistance struggle, have contributed to the string of developments which has unfolded since independence. The realisation of FRETILIN's historic vision to govern East Timor, the bicentric nature of the constitution, the individuals who gained political positions and the dynamics between them, the composition of the security forces and the 'east-west' schism that flared in the

context of a security sector dispute, the ability of an armed fugitive in the mountains to gain the status of a hero, the hostility borne by the FRETILIN leadership against the AMP government which replaced it one year after the 2006 instability: these are some of the developments which define and characterise East Timor's particular experience of independence as a post-conflict New Subsistence State. These distinctive developments present ongoing challenges that must be addressed if future instability is to be averted.

At present, as indicated by the governance profile included in this chapter, the RDTL faces major challenges in all main categories of public administration, as well as the possibility of continuing instability. The justice sector has been identified as one of the weakest areas of governance, and this is a matter of serious concern given that a weak justice sector may leave multiple critical cases unresolved in a country already threatened by the possibility of future instability. Whereas state institutions generally remain weak, however, the country has the capacity to draw on customary institutions to support some areas of governance, not least in relation to the important area of justice and conflict resolution. Accordingly, the final chapters of this study present a case-study examining the nature of indigenous justice and conflict resolution systems that prevail throughout the *sucos* of East Timor, and the potential for these to make an ongoing contribution to order.

Chapter 7

Timorese Systems of Justice and Conflict Resolution¹

Introduction

The objective of this chapter is to profile both historic and contemporary systems of customary (or *suco*) justice and conflict resolution systems in East Timor, to inform consideration (see Chapter 8) of how these can contribute to the promotion of order in this New Subsistence State. The chapter commences with descriptions of indigenous justice principles and systems from the colonial period, followed by a brief review of justice developments during the Indonesian occupation. A further section describes the contemporary nature of indigenous justice systems in East Timor and the role they have played in the post-Indonesian period, based on work by other researchers and research undertaken by the writer between 2002 and 2004 (as discussed in the Introduction). Although it is emphasised elsewhere (Mearns 2002:30-31), that the ‘there is **not one**² tradition of dispute resolution in East Timor’ so much as ‘as many “traditions” as there are local cultural and social groups that seek to solve the disputes confronting them in their everyday lives’,³ the emphasis of the present work is not on anthropological diversity but on the identification of general themes that can be used for broad public policy development purposes.

Early Observations

The accounts of observers and officials from colonial times provide a sketch of Timorese justice and conflict resolution practices in the period prior to colonial consolidation. These accounts demonstrate not only the severity of the justice regimes that prevailed prior to the disempowerment of the *liurais*, but also that in terms of key *principles* of Timorese justice, there are significant similarities between the pre-pacification period and the present day. A historical overview outlining the consistency

¹ The substantive content of this chapter has been published (also including historical information drawn from Chapters 2 and 4) in a book chapter titled ‘Non-State Actors as Agents of Order: *Suco* Justice and Dispute Resolution Systems in East Timor.’ See Nixon (2008).

² Emphasis in original.

³ Strohmeyer (2001b:179) also emphasises the diversity of customary justice in East Timor.

of some of these principles contributes balance to the legitimate emphasis placed (Mearns 2002:26,30-32) on ‘so-called “traditional”’ justice as comprising a diversity of systems each experiencing a constant process of change.

By the time Scottish naturalist Henry Forbes travelled through the interior of Timor in the early 1880s, European law had already begun to encroach, even though full colonial consolidation (as profiled in Chapter 2) still remained several decades away. In his travels through Timor, Forbes (1989 [1885]:431,472,477) noted the presence of *keros*; structures on which the imitation or real bodies or severed heads of thieves were impaled, sometimes in the company of the severed heads of livestock they had stolen.⁴ Forbes (1989 [1885]:432) remarked that it was clear he was ‘travelling in a lawless land’, as ‘it was the most inaccessible peaks and isolated crags that were crowned by dwellings.’⁵ Of interest in relation to the rapidity with which conflicts can develop under certain circumstances, Forbes reports (1989 [1885]:462-464) that at least in parts of Timor, the locals were predisposed towards explosive behaviour. When visiting a weekly market in Bibičuçu, which he understood was dispersed at least once every month by drunken brawling, he noted that all men went about armed, and that ‘[m]any of them carried besides a buffalo-hide shield to ward off the stones which, suddenly enraged, they are in the habit of discharging...at each other.’ Indeed, this perceived feature of the Timorese character had received attention in the past, with Wallace (1962 [1869]:451) commenting on the ‘excitable disposition, loud voices, and fearless demeanour’ of the Timorese, whom he thought to ‘closely resemble the people of New Guinea.’

From early accounts, it is clear that prior to pacification, *liurais* and other *reino* officials held great power within their kingdoms. As lords of the land, *liurais* had ultimate

⁴ Forbes (1989 [1885]:477) observed the impaled skull of a horse thief, attached by the horse’s halter to the impaled (and ‘grinning’) skull of a horse, and noted that ‘[a] horse once stolen is gone for good, it would seem.’ The rationale of killing the stolen (and recovered) horse is not fully explained, but it may have been perceived as a means of balancing the death of the thief. In the present day (as outlined later in this chapter), the family of a livestock thief would be expected to return stolen stock, and also provide a further animal to be consumed at a reconciliation ceremony.

⁵ As noted by Metzner (1977:16-17) pacification in the early twentieth century precipitated new settlement patterns and associated demographic changes, as the population was able to settle more fertile areas once freed from the risk of attack by head-hunters from rival groups.

authority on justice matters, and the repertoire of measures available to them was by no means confined to routines for the negotiation of compensation and the promotion of reconciliation between affected parties.⁶ Forbes' detailed commentary (1989 [1885]:473) highlights the power of the *liurai* at this time when the *sucos* of Timor remained integrated into the networks of kingdoms. It is also apparent in his account that beneath the ultimate authority of the *liurai*, many justice matters were resolved, one way or another, between the families of the individuals involved, and that retribution in some form was a key principle:

The *Leorei* [*sic*] is judge as well as king, but acts only, however, on the rare occasions when a case is brought before him on complaint, his judgement being for the litigants always a costly boon. Every man or his family exacts justice by his own individual arm on the person or his family by whom he has been wronged. If the wrong-doer has goods or chattels on which a fine may be levied, the wronged as a rule exacts a fine in expiation. Homicide is revenged by death, but this penalty can be averted by the payment of the equivalent in money or goods demanded by the relatives, and the substitution of some one of the offender's family to take the place of the slain. A robber taken in the act used to be executed on the spot – and is even now when the avenger is likely to escape punishment by the European authorities, who have rightly interfered with the old savage administration of justice in the *raja*ships – and if the theft consisted of a living animal the head of the animal was struck off and affixed near that of the robber on a stake.

Forbes goes on to explain that potentially all crimes 'could be avenged by death', but that payment of an appropriate penalty could avert the need for this outcome *except* in cases of adultery with a member of the *liurais'* family, and in cases involving witchcraft. For both of these offences, writes Forbes, the offender would be punished with 'impalement with all his family, and confiscation of their goods for the benefit of the accuser and of the lord of the soil.' Indeed, there are indications that such dire punishments may have been widespread throughout the kingdoms of Timor. Farram (2004:90-91) refers to *Raja* or *Kaizer* Bil Nope of Amanuban in West Timor, who ruled until 1910 and was recognised by Dutch authorities as a *raja* 'of the old stamp.' A main factor contributing to *Kaizer* Bil's reputation was his use of severe and pitiless punishments, which included turning offenders into 'human *sates*' then hanging them in trees as a deterrent to other potential miscreants. Whereas the power to impose such punishments was taken from the *liurais* after pacification (see Chapter 2), it is reported

⁶ As discussed later in this chapter, compensation and reconciliation procedures are fundamental elements of contemporary conflict resolution approaches throughout East Timor.

(Landman and Plant 1948 Part 1:229) that *liurais* retained the power to ‘have their subjects beaten’ until the Second World War.

As well as highlighting the potential severity of justice measures under *liurai* authority, the passage by Forbes cited above includes reference to a range of features which continues to have bearing on East Timorese justice and conflict resolution practise in the present day. Notable aspects include the importance of compensation in settling disputes (including disputes related to cases of homicide) and the role of the family in seeking justice on behalf of members. Forbes also noted the emphasis in Timorese society on the importance and effectiveness of reconciliation between conflicting groups, a matter discussed below under a separate sub-heading. By the late colonial era most of the excessive and inhumane pre-pacification dispute resolution and ‘justice’ practices had been eliminated following the disempowerment of the *liurais*. Some practices, however, have yet to be successfully controlled, including the problem of retributive killings in response to perceived acts of sorcery (see below). For greater clarity, various aspects related to Timorese conceptions of justice which received commentary during the colonial period, are outlined thematically as follows:

Barlaque

As discussed in Chapter 2, Timor has been a popular destination for those wishing to study cross-cousin marriage patterns involving complex systems of obligations between wife-givers and wife-takers. Like other observers, Forbes (1989 [1885]:457-459) recorded details concerning marriage exchange, *barlaque* (bride-wealth) payments, residence protocols and rights concerning offspring and property.⁷ His account (with special emphasis on elite unions) provides particular details of practices in the south-central region of Portuguese Timor, indicating a diversity of marriage practices within this region with respect to protocols requiring (or not requiring) the payment of bride-price and the apparent existence of both patrilineal and matrilineal systems. Notwithstanding the diversity of marriage practices in eastern Timor, bride-wealth

⁷ Moura (1937:479,487) and Gonçalves (1937:451-454) also give attention to these areas, including divorce arrangements. See also Berlie (2000:142).

payments remain commonplace. Although the practise might be seen from an anthropological perspective as an *exchange* process, *barlaque* can also be conceptualised as a form of compensation.⁸ In accordance with *suco* principles of justice, for example, payments to compensate for some sexual crimes approximate the level of the bride-price. The economic principle also becomes clear in the event a couple marry, but the family of the husband is unable to pay the bride-wealth. In this instance, notes Moura (1937:479), the husband must go to serve the family of the bride.

Justice and Conflict Resolution in a Cultural Context

There are indications that during the late nineteenth century and the first decades of the twentieth century attempts were initiated to systematically document the *usos e costumes* (practices and customs) of the various parts of Portuguese Timor.⁹ Although the end result of these particular initiatives is unclear, the customs and social systems of East Timor (including justice aspects) appear to have been given increased attention from the 1930s onwards, at least in a general sense. As well as contributing information on Timorese approaches to justice and conflict resolution matters, these profiles highlight the extent to which concepts of justice are grounded in the societies of which they are a part. In their studies of *adat*¹⁰ rights and common law among the indigenes of Portuguese Timor, Gonçalves (1937) and Moura (1937) emphasise the role of ancestors and *lulik* (sacred) objects, rituals and values in Timorese social organisation.¹¹ Broadly, this is illustrated in reference to such diverse aspects as the historical role of oracles for determining, by such means as the augur of a decapitated dog's kidneys, the wisdom of waging war against another kingdom (Moura 1937:485); shamanic 'healing' conducted by *matadocs* (Moura 1937:477-478);¹² and an existential realm featuring a range of mystical objects and spirit-creatures, including some (such as the *buan*) of malevolent

⁸ Although practices will vary, Capell (1944:201) draws on Martinho to outline a scenario whereby '[t]he girl's parents receive buffaloes, horses, jewels and money and give back clothing and pigs to the value of a third of what was received by them. The difference represents the actual value of the bride.' As described, such a routine provides for both ritual exchange and economic compensation.

⁹ For further details, see the *Boletim Oficial do Governo de Timor* (1932:1-4) and Corrêa (1934/35:351).

¹⁰ Malay/Indonesian term used in reference to customary laws, values and rituals. *Lisan* is a corresponding term used widely throughout Timor.

¹¹ See also Berlie (2000) for commentary on these papers.

¹² Note that Capell (1944:205-206) uses the term *matan do:k*; Hicks (1976:112) the term *matan do'ok*.

nature (Gonçalves 1937:448-449).¹³ These references indicate the extent to which the spirit world was (as it largely remains in East Timor)¹⁴ a constant presence in everyday life. As described by Capell (1944:208), the reality of the spirit world is such that denied suitable honours at burial, one's own ancestors might turn evil out of spite, and seek 'opportunities to wreak vengeance in sickness or other punishments.' In this regard, the Timorese *uma lulik* (sacred house) serves as a physical site dedicated to the honouring of ancestors and the storage of objects that belonged to them, alongside other objects of historical significance.

Role of Ancestors in Justice

As discussed later in this chapter, the desire to avoid dishonouring one's ancestors remains strong in Timor to the present day, since giving one's family a bad name could invoke the wrath of the ancestors, potentially leading to sickness or death. In this motivation can be seen the link between existential beliefs and the promotion of order and culturally specific concepts of justice; since blemishing the family name through committing social transgressions, or failing to atone for such actions, is a sure means of offending the ancestors. In the accounts of Moura and Gonçalves, this link is illustrated in relation to the formalisation of contracts, as well as in relation to the determination of a suspect's guilt and other aspects of criminal law. In relation to the former, both Gonçalves (1937:456) and Moura (1937:482) note the importance of oaths in the pre-literate culture of Timor, including the practise of swearing oaths with the hand on a *lulik* object (which Gonçalves speculates is derived from Christian practise). *Lulik* phenomena used and referred to in oaths would include God (or *Maromak*), the (Portuguese) flag and the sacred crocodile.¹⁵

¹³ For detailed descriptions of the nature of the witch-like *buan* in Tetum society, and the shamanic practices used to counter its 'influence,' see Hicks (1976:110-113). See also Capell (1944:205-207).

¹⁴ This assertion is substantiated with examples and other evidence in later sections of this chapter.

¹⁵ Origin myths in Timor commonly involve crocodiles, and there are still said to be people who can communicate with crocodiles using a special (sung) language. Historical writings (Capell 1944:211-212; Schulte Nordholt 1971:322-323) indicate that in Kupang in West Timor in earlier times, young girls would be periodically 'married' (sacrificed) to crocodiles as part of succession celebrations. As Forbes (1989 [1885]:405) illustrates in reference to his visit to the island of Buru in the Moluccas, the crocodile is also considered sacred in other parts of the region. See Forbes (1989 [1885]:442-446) for a broader description of *lulik* objects and practices in Timor in the late 19th century.

Meanwhile, *adat* practices employed in the determination of guilt and innocence would include shamanic rituals through which the identity of perpetrators would be determined through communion with the spirit world (Moura 1937:483; Capell 1944:205-206). Clearly lacking robustness by modern justice standards, such practices (conducted by a *matadoc*) may serve as a general deterrent against criminal activity. Potentially, the possibility of shamanic ‘investigations’ may also influence offenders to own up to their misdeeds in the physical world in preference to having matters addressed by the enraged spirits of ancestors with their fearsome powers, thereby accelerating processes of reparation and reconciliation within the community.¹⁶ In an equatorial region such as Timor with a subsistence economy and an abundance of tropical diseases, there is every chance that one who has incurred the wrath of the ancestors will experience ill-fortune sooner or later. The existence of the ancestors and the powers they hold exerts a powerful influence over social conduct, and if the Timorese remain unusually eager to admit to crimes, then the vigilance of the ancestors may be a reason why.¹⁷

The Compensation Principle

The Portuguese, remarks Forbes (1989 [1885]:474), were strongly opposed to the ‘taking of life’, and the [gradual] expansion of their authority was influencing an effect whereby ‘causes before the Rajah are becoming more frequent in order to obtain the

¹⁶ Of interest in relation to this theme is a description by Hicks (1976:67-69) of a punishment meted out to a fourteen year old boy who had misbehaved, by the boy’s father. After spending money intended for a wedding gift on a cockfight and then insulting his father in company, the boy was forced to spend the night outdoors. There, in the jungle, writes Hicks, ‘[t]he boy endured that night in terror of a ghostly visitation.’

¹⁷ This tendency was indicated to the writer by CivPol officers who worked in the districts during the UNTAET period (UN CivPol District Commander 1, interviewed in Dili, 5th November 2002; UN CivPol Officer 1, questionnaire dated 3rd November 2002). The tendency was such that on some occasions numerous individuals would confess to having committed the same crime, sometimes to protect senior individuals. Note that *lulik* rituals continue to be practised in various forms. In late 2002, a sum of money was stolen from *malai* (expatriate) friends of the writer outside a government office in Dili. After conventional attempts to recover the money failed, a *lulik* ritual (with a number of components) intended to curse the perpetrator was prescribed by concerned locals. A central element of the procedure required a return to the scene of the crime every day for a week, at the time of day the crime occurred. A ring of white candles had then to be placed around the site of the theft with a red candle (the last to be lit) in the centre. In this case the money was never returned and the fate of the perpetrator remains unknown. However, the very public and prolonged nature of the ritual would have ensured that its conduct was widely communicated by word of mouth. The perpetrator, had his belief in *adat* not been compromised by ‘rationalisation’ and ‘disenchantment’ (Weber 1976b [1919]:155), clearly major threats to the viability of *sucu* justice, may well have had cause for alarm.

finer which the wronged claims from the wrong-doer for his offence, which in former times, if not paid, would have been atoned for by his head.' In reference to the question of the extent to which traditional justice is in fact traditional, Forbes' account provides an example of how traditions can change while remaining based on similar principles or values. Throughout the region, procedures already prevailed for determining the reparation payable to compensate for a death, in the event the death is not revenged with a payback killing. Based on his research, Forbes (1989 [1885]:404,450) outlines protocols from Timor and Buru in the Moluccas, each based on the particular value of each part of a person's body. An example of a similar payment protocol recently documented in East Timor by the writer is provided later in this chapter, indicating that the validity of this compensation principle has not yet been extinguished.

Based on a case-study of Liquiça to the west of Dili, Moura (1937:483) presents an outline of *direito penal* (criminal law) which indicates how broadly the compensation principle characterised approaches to justice and conflict resolution in that region in the early 1930s. The resolution of such diverse crimes as murder, sexual crimes, theft, defamation and corporal crimes would require payments to the victim. In the case of crimes such as murder and theft, compensation was an alternative to the penalty of death which, especially in earlier times, might have been imposed on the perpetrator as a vendetta.¹⁸ In the case of murder, Moura indicates that in Liquiça the family of a murdered individual would be due a gong, a traditional necklace, ten *liras*, one hundred *florins* and a buffalo. Non-payment of the required amount would place the perpetrator at risk of being killed by a member of the victim's family.¹⁹ For the Liquiça region, Moura reports that adultery could be compensated with the payment of twenty florins to enable the husband of the woman to 'wash the face', although were the woman the wife of a senior traditional leader, both she and her collaborator would risk death.²⁰

¹⁸ Without knowing for sure, Forbes (1989 [1885]:464) was 'strongly of impression...that the *vendetta* exists among' the Timorese. See also Berlie (2000:143).

¹⁹ In a variation of this protocol, Forbes (1989 [1885]:473) reports that in Bibiçuçu, the payment of compensation to atone for murder would include the requirement that 'some one of the offender's family...[would]...take the place of the slain.'

²⁰ See also Moura (1937:480), Capell (1944:205) and Berlie (2000:142) for further commentary on this matter. Note that in the event a husband is not satisfied with compensation to 'wash the face' and divorce results, the return of the bride-price would be expected.

Meanwhile, the resolution of cases of rape and defloration would also require payments. Capell (1944:205) remarks that generally, payment to compensate for defloration would ‘correspond to that of the marriage price,’ which would vary between regions. As discussed in the later sections, there are broad similarities between the protocols documented in the first half of the twentieth century and those which prevail in the present day.

Collective Responsibility

The extent to which crimes manifest themselves as disputes between all members of families or other groups is emphasised by both Forbes (1989 [1885]:473) and Moura (1937:483), with the result that all members of the family or clan of a perpetrator become responsible for contributing to the compensation due to the family of the victim. As discussed later in this chapter, this practise of collective responsibility continues. Alongside the vigilance of the ancestors and their capacity to implement punishments, it acts as a further disincentive against committing crimes and repeat offences; the latter especially likely to test the goodwill and patience of a community through the ongoing compensation obligations imposed.

Reconciliation

The importance of reconciliation ceremonies between conflicting groups was noted by colonial observers, including at the level of kingdoms. Forbes (1989 [1885]:449-451) refers to a chance meeting between his Timorese servant, and a warrior who had beheaded the servant’s father during an earlier war between *reinos*. Inquiring if his servant held any bitterness towards the warrior, the servant replied that he did not, as the kingdoms now had peaceful relations between them and all heads had now been returned. For as the taking of heads was a great part of warfare between kingdoms in Timor (as discussed in Chapter 2), so the return of the carefully preserved heads to the families of the victims was integral to the procedure for restoring peaceful relations between the warring kingdoms.²¹ Forbes (1989 [1885]:451-452) was advised that this

²¹ Forbes (1989 [1885]:451-452) refers to large assemblies attended by member of both kingdoms, where heads would be returned by each side accompanied by small gifts to signify friendship. The restoration of good relations would be sealed by ‘a boisterous feast, concluded by heavy drinking, and...wild dancing,’

ritual of conciliation was ‘almost never...violated at least between individuals.’²² Head-hunting is now only a part of Timor’s past history. However, reconciliation ceremonies remain an important component of justice and dispute resolution processes to the present day.

Sorcery

The Timorese, wrote Forbes (1989 [1885]:438) could not understand ‘why any one should ever die unless he be killed’, and were inclined to attribute deaths to sorcery. Until (and unless) the practise was prohibited by colonial authorities, therefore, the sorcerer believed responsible for a death was liable to be executed. Although it is difficult to identify any mitigating aspects stemming from the persecution of alleged sorcerers, it is likely that in the conservative social context of subsistence societies, fear of being identified as a sorcerer encourages a certain community mindedness whereby individuals become highly motivated to fit in with the group.²³ From Capell’s description (1944:206) of the shamanic process for determining the identity of the sorcerer, it would appear likely that any errant individual would live in fear of the *matadoc*, lest the *matadoc* use the occasion of a shamanic investigation into a death to ‘take vengeance without fear of retribution’ on any member of the group with a history of showing disrespect towards the conventions and leaders of the *suco*.

and by ritual affirmations of blood-brotherhood. The latter ritual, observed Forbes, ‘is the same in substance whether between two individuals or large companies.’ This ritual involved the swearing of an oath of friendship, accompanied by the consumption of local liquor mixed with the blood of the respective parties and the planting of a tree as witness to the bond.

²² As discussed in Chapter 3 in reference to the analysis of Hicks (1983:22), however, the emergence of new periods of conflict or instability have the capacity to threaten the permanence of acts of reconciliation, and create the space for acts of revenge.

²³ To give an example from elsewhere in the region, Knauff (1987:464-465) found in his study of sorcery-related homicide among the Gebusi of the New Guinea lowlands that the determination of the identity of a sorcerer might be based simply on an individual’s reputation as ‘a bad person’ or other intangible reasons. As in Timor, however, the formal process for determining the identity of the sorcerer would be a highly ceremonial ‘spiritual inquest’ involving a night-time séance through to daylight. It would appear clear that in a subsistence social context, the danger of being identified as a sorcerer would encourage conformist behaviour. As Knauff (1987:466) remarks in relation to the Gebusi, ‘[m]en and women who are by temperament more aggressive, outspoken, or assertive appear from my observations to be more much more likely targets for sorcery accusations, particularly as they get older. Conversely, persons who are good-humoured and accommodating tend to be immune to such accusations.’

Of course, subsistence societies are notoriously predisposed towards superstitious beliefs and the persecution of alleged sorcerers, a reality highlighted by the Knauft (1987) study of ‘violence in simple human societies.’ In his detailed study of homicide rates among the Gebusi of lowland New Guinea, Knauft reports (1987:459) that although relatively ‘non-competitive and politically decentralised’ and normally exhibiting ‘self-effacing, nonhierarchical [*sic*], and mutually deferential’ conduct towards one another, Gebusi society is characterised by a very high rate of homicide. Based on a genealogical survey of a band of Gebusi covering the period 1940–1982, and subsequent investigation concerning the cause of each of the three hundred and ninety-four deaths that occurred during this time, Knauft (1987:462-466) found that almost one *third* of deaths among the Gebusi were due to homicide.²⁴ Furthermore, and of particular interest in relation to the present theme, Knauft (1987:460-464) found that the main reason for this high frequency of homicide among an otherwise peaceful society was retaliation for acts of ‘sorcery.’²⁵ Overall, and reflecting the kinds of conclusions arrived at by Forbes in Timor, Knauft (1987:466) found that among the Gebusi, over one quarter of all deaths from sickness ‘precipitated the murder of another person for allegedly practising sorcery.’

From the information available, it is difficult to estimate the frequency of retributive killings for perceived acts of sorcery during colonial and pre-colonial times in East Timor. It is clear that the Portuguese regarded the practise of killing alleged sorcerers as a matter of the utmost seriousness, although it is likely that many ‘sorcerers’ were killed without the knowledge of the administration. An early instance of the Portuguese administration intervening to prevent a series of planned sorcerer executions is described in a document written by the Portuguese official José de Mello Gouveia, Minister and Secretary of State for Marine and Overseas Affairs, dated 31st August 1871 (in Sherlock

²⁴ Correlated to this dire statistic, Knauft (1987:466) calculates that by middle-age, approximately sixty-five per cent of Gebusi men have committed homicide.

²⁵ Note that Knauft (1987:462-463) found homicide rates to have fallen in the latter period covered by the study, leading to the conclusion that homicide rates were higher prior to the advance of Western administration from colonial engagement onwards. Note also that Knauft (1987:462-465) remarks that retaliation for sorcery-related killings among the Gebusi is uncommon, and that there is more commonly ‘a general feeling in the community that a lethal sickness sender in the group has been expunged.’

1986b:49). Gouveia's account suggests that although the matter was regarded as of great importance, actual interventions were probably not routine events:

Having been presented to His Majesty the King the official letter of 21st of June last, no.142, in which the Governor of the Province of Macau and Timor communicates that the *regulo* of Vemasse, in Timor, having ordered to be put to death, on the pretext of the crime of witchcraft, two families of his territory, and the commander of that *concelho*, Lieutenant José dos Santos Vaquinhas, learning of this order, succeeded in preventing the execution, and placed under arrest the officers to whom the *regulo* had entrusted it, who were going to be detained in the capital for some time; and that the Governor of the District had placed a fine on the same *regulo* of four hundred rupias and 50 men for public works during the summer; the families happily saved from death being kept safe in the capital as residents: the same August Lord orders, through the State Secretariat for Marine and Overseas Affairs, to be communicated to the aforesaid Governor of Macau and Timor that the news was very pleasing to him of the act performed by the said Lieutenant which is very worthy of praise, as well as the mentioned measures meriting his royal approval; and, in the same way, are worthy of praise the efforts employed by the Governor of the District to put an end beneficially to the questions between the *regulos*, using in this commission several officers, and among them the Lieutenant-at-orders João Alves da Costa, whose good service is taken into just consideration.

Despite such a celebrated victory, continued references to sorcery retribution in Timor in the twentieth and twenty-first centuries indicate that the Portuguese administration was unable to eliminate the practise. Writing in the early 1940s, Capell (1944:210) refers to folklore tales from central Timor concerning *suanjis*,²⁶ a term used in the eastern archipelago in reference to individuals with the ability to transform themselves into animals. Capell describes how the 'soul-stuff' of a malignant *suanji* may exit its own body for the purpose of undertaking werewolf-like activities aimed at 'seizing the soul-substance of sleepers', potentially leading to sickness and death. This malignant 'soul-stuff' might be fleetingly seen in the form of a rodent, as it returns via the anus to the body of its temporarily vacated (hence sleeping) owner.²⁷ Of a number of cases brought to the attention of UN civilian police (CivPol) during the period of UN transitional administration that followed the Indonesian withdrawal in late 1999, one involved the burning of four houses belonging to the same family in the enclave district of Oecusse. Upon investigation it was discovered that the houses had been destroyed by a group of youths on the instructions of the *chefe de suco*, in retaliation for the alleged practise of

²⁶ Spelt more correctly as *suanji*. The Tetum term is 'buan' (Hicks 1976:110; Hull 2000:65).

²⁷ According to the information provided by Capell (1944:210) the chances of seeing the 'soul-stuff' as it returns to the sleeping body of its owner, may be improved by turning the body of the suspected *suanji* around; confusing and hence delaying the returning fiend. See also Hicks (1976:110-111) for a description of beliefs relating to the possession of individuals by malignant spirits, based upon field-work undertaken among the Tetum in the 1960s.

sorcery. Whatever the real reason for this act of retribution, the burnings were said to have been ordered after ‘witnesses’ claimed to have observed rats exiting the anuses of women living in the houses, a sure sign of sorcery (as discussed above).²⁸ As with other *suco* justice and conflict resolution principles, the consistency of key aspects associated with sorcery retribution between colonial times and the present, highlights the extent to which subsistence belief patterns were preserved in East Timor throughout the various historical periods; each of which failed (as examined in earlier chapters) to generate meaningful social and economic modernisation.

The Indonesian Period

As discussed in Chapter 4, new justice experiences that unfolded in East Timor during the Indonesian period included exposure to the Indonesian justice system, and the systems of revolutionary justice practised in the FRETILIN-held *zonas libertadas* during the second half of the 1970s. Political objectives influenced the implementation of both these systems, and it is clear that neither served to promote the cause of post-subsistence forms of justice and conflict resolution among the East Timorese.²⁹ Even in the enclave district of Oecusse, which shares strong cultural links with Indonesian West Timor and was spared (at least until the Indonesian withdrawal of 1999) much of the instability suffered by other parts of the territory, the Indonesian justice system did little to win the confidence of the population. A UN judicial officer, who spent two years in the Oecusse district court during the UNTAET period and had the opportunity to evaluate local attitudes towards the ‘alien’ formal justice system that prevailed during Indonesian times, provides the following account:³⁰

²⁸ Based on interview with the former Commander and Deputy Commander of Oecusse CivPol during 2000 and 2001 (UN CivPol District Commander 1, interviewed in Dili, 5th November 2002).

²⁹ Although not technically a development of the ‘Indonesian period,’ the civil war period of August 1975 (examined in Chapter 3), during which both UDT and FRETILIN were responsible for acts of torture and execution (or ‘unlawful killing’), is also likely to have contributed to popular scepticism concerning post-subsistence conflict resolution approaches.

³⁰ Written (email) correspondence received from international judge (UN Judge 1) dated 21st November 2002. Note that according to this source, there was no law court in the district of Oecusse during Portuguese times. During Indonesian times, a roving judge would come periodically from Maliana district. Arriving in Oecusse soon after the withdrawal of Indonesia, this judge (UN Judge 1) found that ‘[t]he Timorese in general and Oecusse people in particular were scared of police... They had no confidence in judges also. Indonesian judges were alleged [*sic*] fond of money.’ Consequently, ‘people used to go to the

There was no lawyer in the district. There were no Timorese judges or public prosecutors in the Oecusse district court or public prosecutor's office from among the local population. The judge and public prosecutors were all Indonesian citizens, generally corrupt and alien to the local people. Therefore, the judiciary as an institution could not earn the confidence or respect of the people.

As discussed in more detail later in Chapter 8, UN justice officials working in Oecusse following the Indonesian withdrawal were granted permission to implement an experimental diversionary justice system utilising elements of *suco* justice, partly on the basis of 'the absence of a legal culture' among the local population. In reality, the nature of the Indonesian occupation and the lack of social and economic modernisation meant that formal justice attained little legitimacy anywhere in East Timor during the Indonesian period. A result of this, as discussed in Chapter 4 in relation to the work of Babo Soares (2001:40-41) was that *suco* justice principles remained strong, with the capacity to emerge following the Indonesian withdrawal as the basis of popular dispute resolution processes throughout the territory.

***Suco* Justice and Dispute Resolution in the Twenty-First Century**

As discussed in Chapter 5, ritual criteria and inherited authority continued to influence the appointment of *suco*, *aldeia* and resistance network leaders in the aftermath of the Indonesian withdrawal.³¹ Similarly, just as *adat* influenced leadership appointments in

traditional leaders of the community for justice in almost all cases that escaped the sight of the Indonesian police.⁷

³¹ An account of *adat* practise in the *suco* of Bobocasse in Oecusse (Ritual Leader 1, interviewed in Oecusse 12th and 13th November 2002) illustrates how survival in rural East Timor continued to depend, during the militia violence of 1999, on excellent relations with the ancestors and leaders who could communicate with them. In Oecusse, it is the *naizuf mnasi* (senior ritual leader of the *suco* and ideally *chefe de suco* as well) who possesses the ability to communicate with *Maromak* and with people's ancestors, in order to work magic that can make people invisible to their enemies. Although this magic dates back to the days of the head-hunting micro-kingdoms, when it would be used by each warring side to ensure the victory of its *meos* (warriors), it was also used in 1999, when villages fled to the hills to hide from rampaging militia members. Although there is speculation (Thompson 2008) that the influence of the ancestors may recede, the perceived ability to communicate with *Maromak* and the ancestors is likely to influence of *chefes de suco* and *chefes de aldeia* for some time regardless of the nature of the technical selection process (for example, *suco* elections).

The dangers of disregarding ancestral will are highlighted in an account provided to the writer in Oecusse (Youth Leader 1, interviewed in Oecusse, 12th November 2002). During 1998, a man without the correct lineage was appointed *chefe* of Bobometo *suco*. In the position for only one year, he was murdered by militia during the violence of 1999. The following year he was replaced by another incumbent, also lacking the correct lineage, who died unexpectedly in November 2002. The people of the *suco* then went to the family of the man they knew should be *chefe*. They said there was no one else in the *suco* willing to

the *sucos* and *aldeias* at this time, so it influenced local approaches to conflict resolution and justice in the wake of the Indonesian departure. A priest with four decades of experience in East Timor observed with respect to this period that:³²

In the villages after September 1999, it was customary law that asserted itself quickly. This was natural and not surprising because – though everything had been destroyed – through tradition and culture the local law lived on in strength inside people’s heads.

As the role being played by *suco* justice and dispute resolution mechanisms became increasingly recognised in the transitional and early independence periods, a series of initiatives was undertaken aimed at learning more about them. The following profile illustrates approaches to a range of justice and conflict resolution aspects, and indicates that many of the underlying principles of *suco* justice and conflict resolution documented by colonial-era visitors to East Timor appear to have retained their currency to the present day. The initial profile is informed by previous studies as well as research undertaken by the writer in association with the 2002 USIP study of the interface between traditional justice institutions and the formal justice system under UNTAET.³³ The latter section on land dispute resolution is also informed by earlier research, yet draws mainly on several national surveys prepared and coordinated by the writer in 2003 and 2004 for the purpose of informing the development of the RDTL land law regime.³⁴

accept responsibility for the position of *chefe*, and pressured the appropriate individual to accept his inherited obligations.

³² Priest 1, interviewed in Oecusse, 11th and 14th November 2002.

³³ This research was supported by the United States Institute of Peace (USIP) project on peacekeeping and the administration of justice. For the full report, see Hohe and Nixon (2003). The profile in the main text is based mainly on field-work undertaken by the writer in the districts of Oecusse and Aileu in 2002, and also on interviews with elders from elsewhere and with individuals who worked in the areas of justice, policing and peacekeeping during the UNTAET period. The general questionnaire prepared by the writer in relation to this research is attached as Appendix A.

³⁴ The East Timor Land Law Program was supported by USAID and administered by ARD, Inc. The surveys referred to in this chapter concern land dispute mediation (Urresta and Nixon 2004a) and land rights systems (Urresta and Nixon 2004b). Each of the reports contains distinct research and policy consideration sections prepared by this writer, parts of which are drawn on in this chapter. For the questionnaires prepared by the writer in relation to the land dispute mediation research, refer Appendices B and C. See Appendix D for a truncated version of the questionnaire prepared by the writer in relation to the land rights study.

The Importance of Quick Justice

Of particular note in relation to the examples of *suco* justice profiled by CivPol Districts Commander Adrian Norwell (2001), is that assault is a feature of many of the cases, often as a secondary element.³⁵ Apart from providing an insight into a range of disputes occurring in rural East Timor, the district CivPol reports and the case outlines illustrate the importance, in the subsistence, community-oriented context of East Timor, of the swift resolution of conflicts before tensions spiral to unmanageable proportions. In this respect, one CivPol submission referred to the ‘enormous’ problems associated with ‘getting persons to and from Court in a timely fashion.’ The importance of speedy justice is illustrated clearly in one of the case studies profiled by Norwell (2001), which refers to an instance where a *chefe de suco* was physically beaten by *suco* residents for failing to resolve a dispute within a reasonable time-frame. In another case, it appears that CivPol only become involved at all due to the temporary absence of a *suco* official, who had absented himself to Dili to care for his sick wife.

The frequent references to the ‘volatility of the population and their propensity for violent responses,’ has also been noted by Mearns (2002:39), who refers to the associated necessity of a speedy conflict resolution approach capable of avoiding ‘escalation of a dispute into a serious violent confrontation.’ Consistent with the reports of Norwell and Mearns and reminiscent of the commentary by Wallace and Forbes concerning the capacity of the Timorese for spontaneous violent behaviour, the writer was also advised by a senior UN CivPol officer (formerly a district commander) in November 2002 that ‘the Timorese can transform from the most humble people to barbarians, and (after committing violent acts) back to the most humble people again.’ The officer referred to this behavioural characteristic as similar to, or the same as, the

³⁵ Generally, the cases accumulated by Norwell confirmed the extent to which *suco* justice across the territory remained based on the principles of compensation and reconciliation (discussed further in this section). The nature of the cases are also of interest, and among the twenty-two examples compiled by Norwell (many of which were characterised by multiple elements), three included dimensions related to land, two included dimensions related to sorcery, and others related to fraud of different kinds (including gaining benefit from impersonating Jesus). Yet another related to the community reintegration of a former militia member, who was required to perform a day of community work per week for a set period.

‘Latin Dog Effect’,³⁶ and his general assessment is supported by the view of the prominent East Timorese citizen Manuel Carrascalão³⁷

More broadly, however, the anthropological literature suggests that in comparable socio-political situations elsewhere, the quick resolution of disputes is similarly desirable if the expansion of a dispute is to be avoided. In relation to the Nuer of East Africa, for example, Evans-Pritchard (1978 [1940]:292) explains that ‘when a homicide occurs within a village general opinion demands an early settlement [by way of compensation payment], since it is obvious to every one that were vengeance allowed corporate life would be impossible.’

Justice and Conflict Resolution

Consistent with the observations of colonial observers referred to earlier, the close social environment which is a corollary of East Timor’s subsistence rural economy continues to mean that committing a social transgression is perceived by others less as the crime of an individual than as a community problem affecting many. A crime or dispute is therefore likely to attract the interests of a large number of people anxious to establish what has gone wrong and how to arrive at a resolution. In this context, legal distinctions such as the difference between civil and criminal cases can be of no significance while the need to harmonise social relationships is highly significant.³⁸ In the *suco* environment, where people live in close proximity to one another and to each other’s relatives for their entire lives, the promotion of peaceful relations between individuals and families is of utmost importance. Sometimes such an outcome might not be produced by the courts, since sending an offender to jail could potentially remove a productive worker from a family and possibly also deny the family of a victim from receiving compensation. Some may fail to understand why an offender is sent to jail to

³⁶ UN CivPol District Commander 1, interviewed in Dili, 5th November 2002. Note that the writer has been unable to find any English references to the ‘Latin Dog Effect.’

³⁷ According to Carrascalão (in NDI 2002:30), ‘[We] East Timorese have own style. We are not the same as the people of Java, if you step on one of them he will apologise. It is different with us. If you step on one of us, you will be punched. Many times we have to be careful. This is my opinion.’

³⁸ Western law (Garner et al 1999:1497) defines criminal behaviour as ‘inherently reprehensible conduct.’ Meanwhile, a civil offence is ‘merely a prohibited act.’ Such distinctions are of little importance in the *suco*, where what matters is whether there is or is not an offended or aggrieved party.

be fed and clothed and taught Portuguese or English (thereby having their employment prospects improved), while victims are forced to continue eking out a living on the land. As articulated by a community leader in Oecusse,³⁹ ‘People in the *suco* live and drink together, and if someone goes to jail, then even after being there for twenty years, the bad feeling will remain... If people can sit together, however, then the problem may be resolved.’ In the context of the village, therefore, admittance of guilt or error, followed by *compensation* and *reconciliation*, remain fundamental to notions of justice and conflict resolution:

With stealing or killing, we must first negotiate and pay compensation. And then drink *tuasabu* [distilled palm wine] to conclude the reconciliation. If the problem happens again, the community will inform the police and the courts. But it is very important to first make a decision in the community.⁴⁰

As discussed earlier, the desire to prevent one’s family from acquiring a bad name provides strong motivation to resolve a dispute, especially since, from the Timorese perspective, permitting one’s family name to be tarnished could attract the wrath of the ancestors. From a practical perspective, it is commonly *suco* elders, with their superior ritual power and ability to communicate with and appease the spirit world, who are chosen to preside over the dispute resolution process. It also appears clear from the land dispute mediation data, that the use of witnesses is common practise in local justice and dispute resolution proceedings and that the accounts of witnesses are treated with respect.⁴¹ As has been documented elsewhere (Ospina and Hohe 2001:114-120; Mearns 2002:38-39) the East Timorese process of conflict resolution commonly involves a degree of ‘forum-shopping’, with difficult-to-resolve disputes often progressing through an ascending order of forums until such time as they can be resolved. Notably, as highlighted in the section of this chapter on land dispute mediation, the challenge of finding an appropriate forum appears to revolve around finding a mediator who is agreed to be fair by all involved. Diagram 2 below indicates the path to resolution which a

³⁹ Ritual Leader 4 (*meo/suco* security officer), interviewed in Oecusse, 11th November 2002.

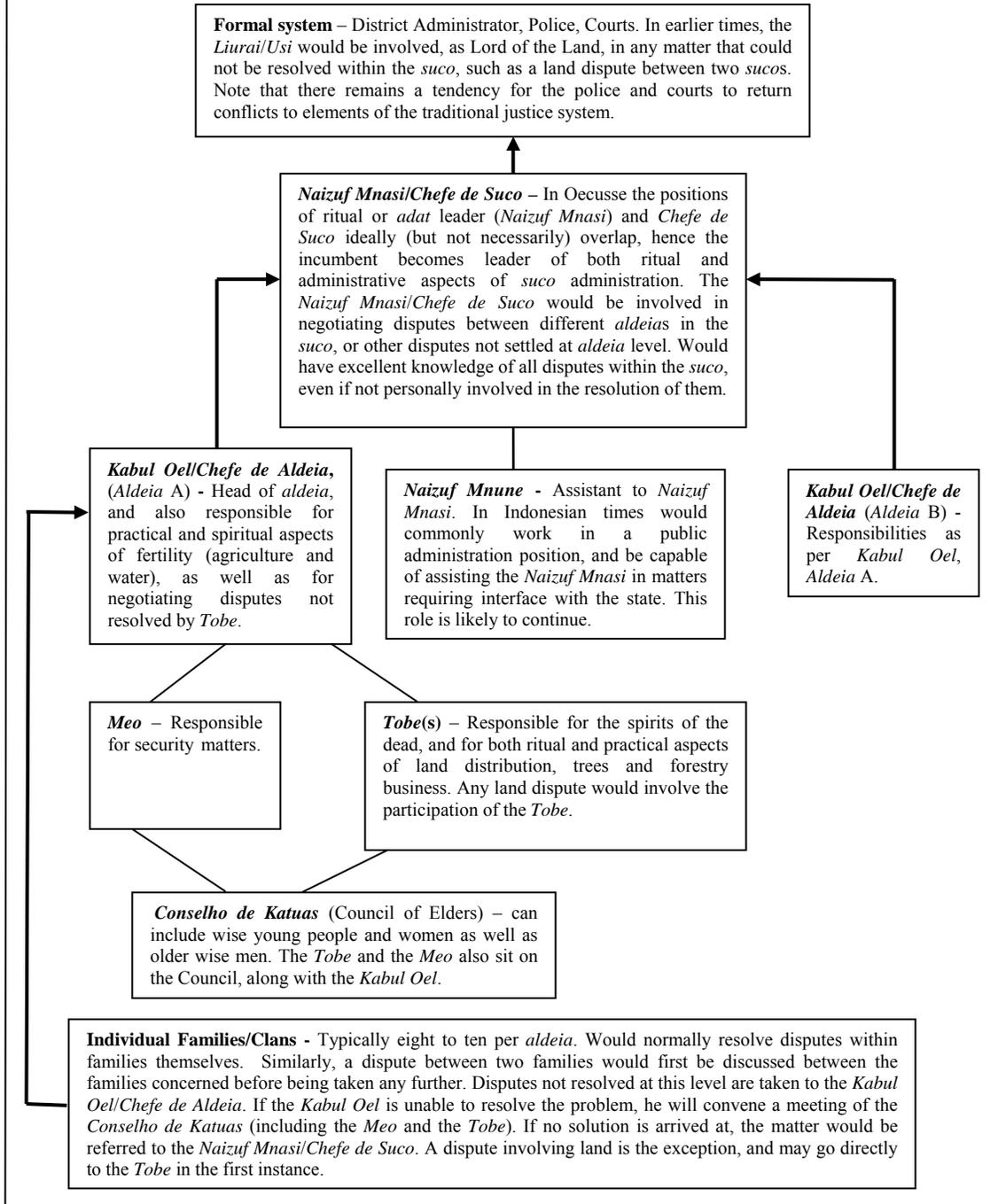
⁴⁰ Ritual Leader 1. Interviewed in Bobocasse, Oecusse, 12th and 13th November 2002.

⁴¹ For further details, see Urresta and Nixon (2004a:46, Figures 27 and 28).

dispute may follow among the Atoni of Oecusse district, where there is an overlap between ritual and administrative authority in the *suco*.⁴²

⁴² Diagram 2 is based on a discussion held with a meeting of *naizufs* in Oecusse, November 2002. Note that elsewhere (including among the Mambai), *suco* leaders refer to distinctions which exist between the ritual and administrative systems of the *suco*.

Diagram 2: Possible course of justice/dispute resolution proceedings in Oecusse, where ritual and administrative authority commonly overlap (start at bottom).



The conflict resolution process requires that the entire history of the conflict be told, as many conflicts go back years or even generations. After compensation has been negotiated, the way is clear for the parties to reconcile. Although both parties would normally contribute to a conflict resolution process, the party responsible for causing the problem – if this has been determined – would be expected to provide the major share of the provisions for the reconciliation feast (in addition to any compensation payable for the actual offence, as discussed below) such as a head of cattle or a goat. The other party would contribute such items as containers of distilled palm wine (*tuasabu*) and rice. Senior members of the community, having presided over conflict negotiation proceedings and reconciliation negotiations, may expect modest compensation for their time.

Compensation⁴³

Although there is variation, the payment of compensation is generally likely to conform to the ‘value’ of the crime committed, as outlined in the relation to the following range of offences:

Theft of an Animal

Compensation for the theft of a goat would normally require the return of the goat (or its replacement with another). Depending on circumstances and region, further compensation may also be required.

*Compensation for a Killing in Oecusse (the eight steps)*⁴⁴

Reminiscent of the accounts collected by Forbes in Timor and the island of Buru in the Moluccas, protocols for compensating for a death based on the value of the various parts of the body persist. The writer was given the following account by a *katuas* in Oecusse:

⁴³ Unless otherwise indicated, the profile presented in this section is based on a range of discussions with *suco* leaders, sub-district and district-level administrators and (customary) justice officials.

⁴⁴ As related by a *meo* and former CNRT official (Ritual Leader 4). Note that several authoritative sources (including a senior East Timorese administrator and a UN judge who served in that district during 2000 and 2001) have suggested that in remote parts of this district (Oecusse), murders continued to be addressed using *suco* justice.

- (i). First you must pay for the head, as a symbol of the whole human being, whose life you took. Cost: approximately US\$100
- (ii). For the social function of the person, you must pay a *poe aluk* (small bag from which food is given out to others), or maybe US\$25
- (iii). For the sadness you produced, for destroying peace and love, you must pay nine traditional ('Hollander') coins or about US\$45 (depending on personal circumstances, as with all categories).
- (iv). For the genitals, about US\$50
- (v). For the two eyes and the mouth (depending on family name), you must pay \$US50, or maybe more.
- (vi). For the brain, the thoughts and the rationality, about US\$300 (the price for a specific kind of traditional necklace).
- (vii). For the teeth and for the tongue, because the dead cannot speak again, you must pay one head-dress worth about US\$100.
- (viii). For the left body and the right body, sixteen traditional coins are payable for each side (about US\$80 each).

Sexual Crimes

As in the colonial period, compensation is payable for sexual transgressions. In the case of rape, or if a man makes a woman pregnant but will not marry her (either because he is already married or for other reasons), the compensation is likely to be similar to the *barlaque* (or bride price), which itself differs from region to region. In fact, with rape, the preferred option is for the parties to marry, and for the union to be legitimised with the exchange of cattle, pigs, *tais* (woven cloth) and other items in accordance with the formal marriage protocol. However, if the parties are unwilling to formalise the union, then the family of the rapist must still pay compensation (thereby also compensating the woman's family for the cost of raising any child conceived). Again, compensation is also payable in relation to adultery, as in earlier times, and also in cases of domestic violence. Under the powerful beam of the human rights spotlight, of course, the compensation negotiations associated with the resolution of rape and adultery cases make the crime itself appear like a property offence. It is, however, reported that many 'rapes' initially occur as consensual acts, agreed to on the basis that marriage will follow. The claim that an act of rape took place is said to often result in cases where the man subsequently reneges on the promise to marry. In the context of *suco* life, compensation can be seen as a means of discouraging rape and other transgressions as well as a means of recovering pride and compensating families for the cost of raising children conceived out of wedlock.

Barlaque in the 21st Century

As with other compensation practices (and as reflected in the compensation arrangements for sexual transgressions discussed above), the payment of bride-wealth, remains common throughout East Timor, and although the amount varies by region, payments can exceed seventy head of cattle (often paid over a period of time) in some parts of the country. Although *barlaque* protocols may serve a role promoting protein production and distribution in a protein-poor environment, there is concern about the social impacts of the practise, including a tendency on occasion for daughters to be treated as ‘business.’ The *Centro Feto* women’s organisation in Oecusse has expressed concern that excessive bride-wealth payments may be a factor in violence against women and elements of the bride-wealth system have the capacity to negatively impact upon children. This is demonstrated by an incident in Oecusse in which a girl was adopted by members of her extended family, with whom she lived until marrying and having children herself. In 1999, before her husband completed the necessary bridewealth payments, he was killed by militia. The adoptive parents of the woman responded by seizing her children. In this case *Centro Feto* mediated a solution to the matter of the outstanding bride-price, however, the example serves to illustrate how the bridewealth system can conflict with human rights considerations.⁴⁵

* * *

On the topic of compensation generally, the practise is clearly so well established that it is difficult to conceive of East Timorese justice being dispensed without it. As Mearns (2002:55) recommends, the state justice system in East Timor ‘should embrace...victim compensation’, along with a range of other established justice principles.

The Continuing Problem of Sorcery

East Timorese approaches to justice and conflict resolution include many positive aspects, but addressing the matter of sorcery remains a challenge. As recent media

⁴⁵ Based on a meeting and interviews with *Centro Feto* staff in Oecusse, 14th November 2002.

reports indicate,⁴⁶ retributive killings in response to alleged acts of sorcery continue, and this area is likely to be particularly difficult to address in the context of a subsistence society that has not undergone, in the terms articulated by (Weber 1976b [1919]:155), a process of ‘rationalisation’ and ‘disenchantment.’ It is also clear that in East Timor, people *do* actively practise what they believe to be sorcery, and that incidents related to witchcraft are not simply limited to the persecution of those wrongfully alleged to have practised it. This is indicated in the following summary of a report prepared by CivPol Officer Andrew Chamberlain based on a case he addressed in the Baucau sub-district of Vemasse during the UNTAET period. The account also serves to demonstrate how a neutral outsider can play a role diffusing tensions (in this case sorcery-related) before they escalate and cause serious violence.⁴⁷

In this case, the CivPol officer was approached by man **A**, who claimed he was in danger of being murdered by man **B**. The background to the incident turned out to be that **A**’s child had died one month previously. Believing that **B** had practised sorcery against the child, **A** had accused **B** of having ‘sucked the [child’s] soul.’ **A** was now concerned that **B** was trying to kill him (**A**) using sorcery, in response to **A**’s sorcery allegation against **B**. **A** also believed that **B** had used sorcery against **A**’s brother, who was suffering ill health.

Upon investigation, **B** turned out to be a well known magician and the owner of special magic tree roots that were believed to make his magic stronger. The tree roots were said to be centuries old and passed down to **B** by his ancestors. **B** rejected the allegation that he had cast a spell on the child, but admitted that he *was* sharpening his machete in preparation for killing **A** in response to **A**’s accusation that he (**B**) had practised sorcery against the child. **B** also admitted to having practised sorcery against **A**’s brother (for an unknown reason), a routine that had involved clubbing a dog to death and burning its

⁴⁶ The burning of three ‘witches’ in Liquiça was reported by the Australian Broadcasting Corporation (ABC) in January 2007 (ABC 2007a). See also Mearns (2002:45-46).

⁴⁷ The events described here occurred in February 2001. The case-study was originally submitted to Adrian Norwell in response to his request for information on traditional justice. The full outline is included as an appendix in the Norwell (2001) report.

corpse to enhance his magic, and then sending another dog to bite **A**'s brother, who was subsequently ill as a consequence.

In this instance, the CivPol officer was invited by *suco* leaders (who valued his neutrality as an outsider) to mediate a resolution to the crisis. In the course of the mediation process villagers expressed a preference for the magic tree roots (considered a cause of the problems) to be burnt. After some consideration, **B** conceded to this request, and the magic tree roots (which closely resembled wine corks) were destroyed by the CivPol officer. This was followed by a reconciliation of all parties to the dispute, after which the matter was considered settled.

Many of the factors which make sorcery such a problem in East Timor, are of course the same *adat* factors which provide *suco* leaders with the supernatural mandate they use to maintain order and dispense justice within the *suco*. Meanwhile, the natural enemies of superstition and traditional thought; education, primary healthcare, economic development, a strong state justice and administration system and the Church, will probably take many years to make an impact in East Timor. For now, as the above case-study indicates, access to outside mediation support in relation to difficult-to-resolve cases can result in reconciliation where instead there may have been one or more killings. The example demonstrates the value of state supported mediation mechanisms for disputes unable to be resolved in the *suco*, so that these conflicts can be resolved quickly before they lead to a serious crime. Such mechanisms receive particular attention in the final chapter of this study.

***Suco* Authorities and Land Dispute Resolution**

Two studies undertaken as part of the East Timor Land Law Program (LLP) during 2003 and 2004 provide insight into the prominent role of non-state actors in land administration and the resolution of land disputes throughout East Timor. The first of these studies, of which the key findings are presented in the following pages, concerns

land dispute mediation systems.⁴⁸ The land dispute mediation study was based on interviews with one hundred and forty-two key persons throughout the country, each of whom was qualified to provide information about land dispute resolution practices in their geographic regions.⁴⁹ In order to establish the extent to which the views and perceptions of the ‘common citizen’ conformed to the views and perceptions of those included in the sample of *suco*, state and NGO officials, interviews were also conducted with members of two samples of randomly selected household heads (totalling sixty-one respondents). The two sub-districts of Ermera *kota* and Manatuto *kota* were chosen for this activity.⁵⁰ Parts of a separate 2004 land rights survey based on interviews with seven hundred and seventeen randomly selected respondents from across eleven sub-districts in East Timor, are also drawn on in this section.⁵¹

The Importance of Land Dispute Resolution Capacity

In a subsistence economy such as that of East Timor, where the great majority of the population rely on access to land for their livelihood, it might be expected that land conflicts are a main cause of disputes between individuals and communities. In the case of East Timor, the country is also burdened with multiple land disputes stemming from

⁴⁸ For the complete *Report on Research Findings and Policy Recommendations for a Legal Framework for Land Dispute Mediation*, see Urresta and Nixon (2004a).

⁴⁹ Informants included *chefes de suco*, district administrators, sub-district administrators (many of whom also commonly held positions within the customary/ritual administration), land and property officers, court officials, NGO representatives and priests. At district level, informants (including district administrators, land and property officers, priests and NGO representatives) were interviewed in all thirteen districts. Also, in each district, two sub-districts were randomly selected, and the sub-district administrators interviewed. In each of the selected sub-districts, two *sucos* were randomly selected, and the *chefes de suco* interviewed. This process was used to introduce an element of randomness to the selection of key informants at sub-district and *suco* level.

⁵⁰ Ermera *kota* is a densely populated sub-district in a rich coffee growing area. It is known to land and property officials as a high-conflict sub-district. By comparison, Manatuto *kota* is a low-density sub-district known to have fewer land disputes. Note that both sub-districts are district-centre sub-districts, and that it is likely that the inhabitants of the more remote sub-districts in each of the respective regions would have had *even greater* respect for traditional social institutions than those surveyed. Note that respondents were chosen on the basis of being the heads of households in closest proximity to sets of navigational coordinates chosen randomly using a Geographic Information System (GIS) program. The coordinate sets were located by field teams using hand-held Global Positioning System (GPS) equipment.

⁵¹ Again, as in relation to the land dispute mediation study, the household random selection component used a GIS approach, with coordinates located using hand-held GPS units. The eleven sub-districts in which field-work was undertaken were selected so as to include both rural and urban areas. They were located in the following districts: Bobonaro (Balibo and Maliana), Covalima (Suai Kota and Tilomar), Dili (Dom Aleixo, Metinaro and Nain Feto), Lautem (Lautem and Lospalos) and Oecusse (Oesilo and Pante Macassar). For the complete report, see Urresta and Nixon (2004b).

past instability, as discussed in Chapter 6. Overall, the land dispute mediation survey data indicates that land disputes already represent almost *half* of all disputes which authorities (*suco* or state) are called upon to resolve.⁵² Furthermore, as discussed in Chapters 2 and 6 of this study, East Timor is experiencing dramatic population growth, and it is realistic to expect that in the future, land disputes may become even more frequent.

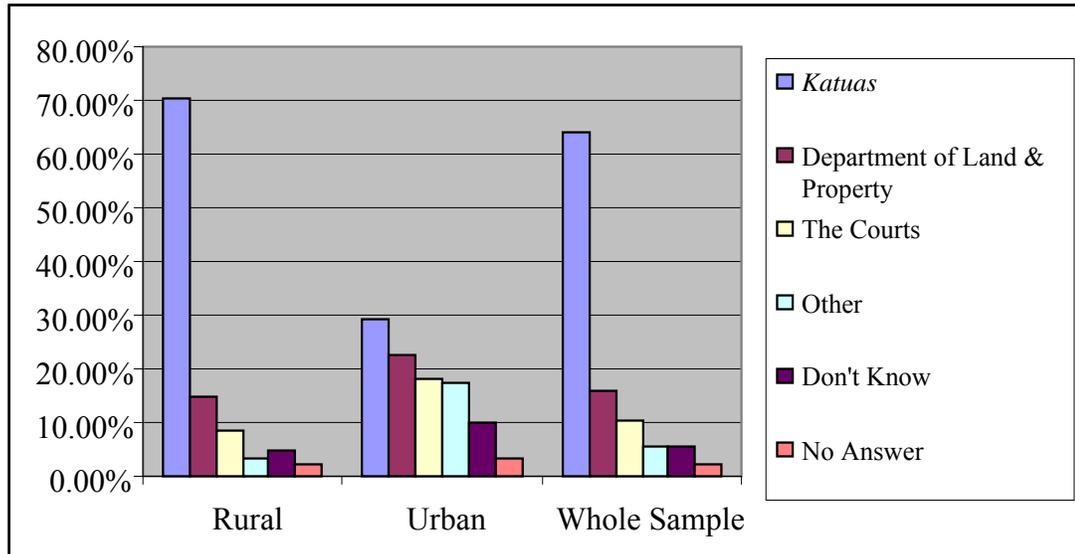
Suco Authorities and Land

Data from both the land rights study and the land dispute mediation study indicates that *suco* authorities retain strong legitimacy in relation to important decisions concerning land.⁵³ For example, when asked ‘who should make a compulsory decision (arbitrate) concerning a land dispute or claim, in the event that such a decision must be made’, a substantial majority of the seven hundred and seventeen randomly selected respondents interviewed for the land rights study chose *katuas* (elders) in preference to any other authority (see Table 10 below).

⁵² As part of the survey, eighty-nine district, sub-district and *suco* administrative officials (excluding land and property officers, who would have biased the data) were asked (a) how many disputes had come to their attention over the past year and (b) how many of these concerned land. Collectively, the officials were able to recall a total of one hundred and eighty-nine disputes, of which eighty-seven (forty-six per cent) concerned land. This data indicates the importance of mechanisms supporting the swift resolution of land disputes, in order that losses to economic productivity caused by drawn-out land conflicts are minimised.

⁵³ See also Meitzner Yoder (2003:5-6) for a summary of qualitative research in this area from around the same period.

Table 10: Who should make a compulsory decision concerning the resolution of a land dispute or claim in the event a compulsory decision must be made?⁵⁴



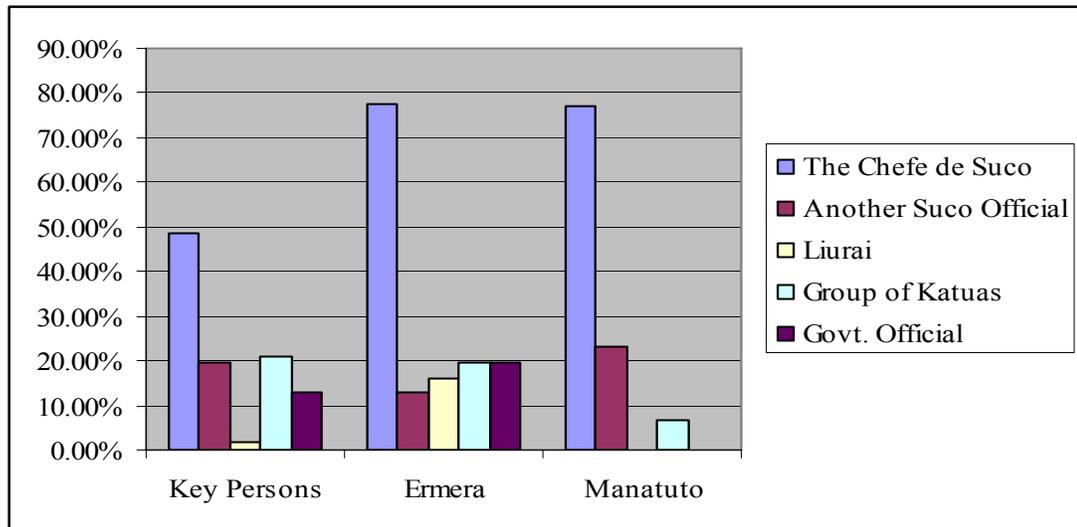
As indicated in Table 10 above, the proportion of rural respondents who indicated a preference for *katuas* to arbitrate land disputes where necessary was over seventy per cent, yet even in urban areas, almost thirty per cent of respondents indicated that they would prefer *katuas* to make such a compulsory decision. Significantly, even in the case of the urban sample the category of *katuas* was the largest single category, ahead of both the Department of Land and Property and the courts. The popular legitimacy attributed to these non-state actors is a measure of their ability to contribute to social order and clearly warns against dismissing them as feudal artefacts or impostors intruding on the state mandate (particularly given such limited state service delivery capacity as prevails at present). As outlined in Table 11 below, earlier findings from the 2003 land dispute mediation study (both key persons and random selection components) also support the conclusion that members of the *suco* administration (the *chefe de suco*⁵⁵ perhaps in combination with other *katuas* or traditional leaders) are perceived as the most

⁵⁴ Based on interviews with seven hundred and seventeen respondents; six hundred and one from rural sub-districts (including district-centre sub-districts) and one hundred and sixteen from sub-districts in urban Dili. See Appendix D for a truncated version of the questionnaire for the study in which this question was included. For a discussion of the broader research findings, see Nixon (in Urresta and Nixon 2004b).

⁵⁵ As discussed earlier in this chapter, although the *chefe de suco* post is an administrative position, it is common for the post to be occupied by a senior ritual leader believed to be descendent of the original settlers of the area.

legitimate authorities in relation to decisions concerning land. The data from the randomly selected samples of farmers from Ermera and Manatuto indicates how important the role of the *chefe de suco* remains in relation to land-related matters in rural communities:

Table 11: Who has major responsibility for decisions about land in the *suco*?⁵⁶

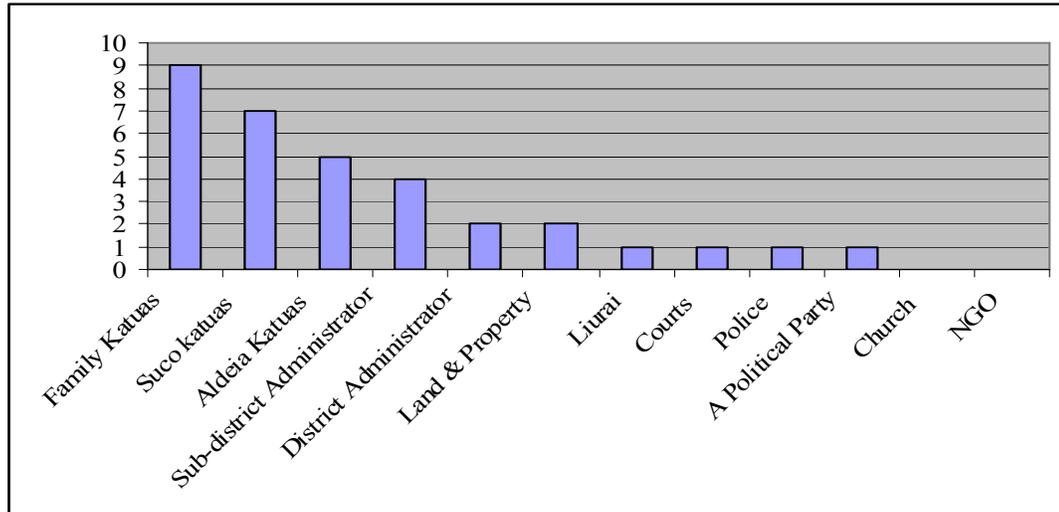


Land Dispute Mediation Forums

Of the sixty-one randomly selected East Timorese citizens interviewed in Ermera and Manatuto in relation to the land dispute mediation study, at least eighteen (around a third) had been involved in one or more land disputes in the past. Collectively, in order to resolve their land disputes, these eighteen parties had participated in a total of thirty-three land dispute resolution forums, at various levels. As indicated in Table 12 (below), the great majority of these forums (totalling twenty-five) were at the level of the family, *aldeia*, *suco* or sub-district (where officials are commonly also members of the traditional authority system):

⁵⁶ Note that multiple responses were provided by informants. The key person sample included one hundred and one respondents. The Ermera and Manatuto samples included thirty-one and thirty respondents respectively.

Table 12: Total land dispute mediation forums used by (eighteen) randomly selected respondents with past involvement in land disputes.



The general indication is that individuals prefer to resolve disputes at as local a level as possible (and preferably within or close to the *suco*). As discussed earlier, however (see Table 12 above), it also appears clear that access to multiple forums is required to enable disputes to proceed from the *aldeia* or *suco* level to the sub-district level or beyond, until such a point where disputants enter a forum in which resolution is able to be facilitated. The need for multiple forums may arise because of the need to find an individual with the necessary personal background to preside over a particular case, or because the dispute is of a nature requiring a higher level authority than that available in the *aldeia* or *suco* (such as a land or boundary dispute between two *sucos*, for example). Informants indicate that the three most important qualities required in a mediator are neutrality, honesty, and good background knowledge of the problem and the community involved.⁵⁷ However, in communities with deep and complex alliance networks, the task of finding a mediator whose qualities are respected by all conflicting parties is not always easy, and access to a range of forums is important. With respect to disputes between *sucos*, it is likely that in the past, these would often have been resolved by *liurais* or other members of the *reino* administration. As a result of the colonial history of East Timor however, and as indicated in the data (see Tables 11 and 12 above), *liurais* have a reduced role in the present day, and the task of resolving conflicts between

⁵⁷ For further details, see Urresta and Nixon (2004a:45, Figure 26).

sucos can fall to any of a number of authorities (traditional *or* state). More broadly, an outline of a range of land dispute types (intra-*suco* and inter-*suco*) and indications of their relative commonality and ease of resolution is presented in Table 13 below:

Table 13: Which kinds of land disputes are most/least common, and which kinds are easy/difficult to resolve? (from key persons sample with 101 respondents)

Land Dispute Type	Common	Not Common	No Answer	Easy to Resolve	Difficult to Resolve	No Answer
Ownership Dispute	79.2%	18.8%	2.0%	63%	34%	3%
Parcel Boundary Dispute	74.3%	22.8%	3.0%	58%	38%	4%
Inheritance Dispute	73.3%	24.8%	2.0%	67%	29%	4%
<i>Suco</i> Boundary Dispute	53.5%	1.0%	45.5%	29%	66%	5%
Harvest Rights Dispute	34.7%	1.0%	64.4%	67%	29%	4%

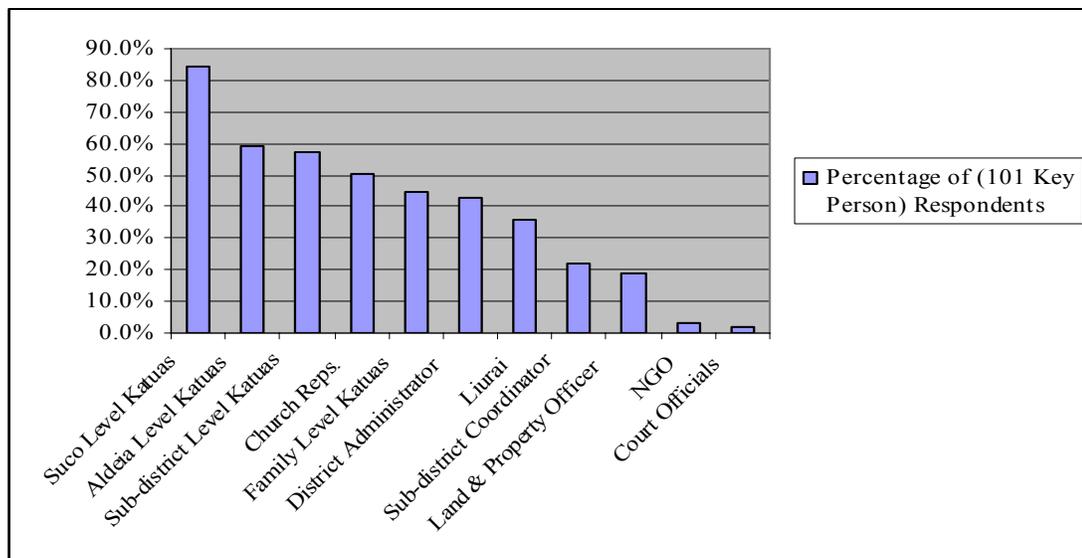
As indicated in Table 13 (above), most respondents consider ownership disputes, parcel boundary disputes, and inheritance disputes to be relatively common. However, the majority of respondents also consider these three kinds of intra-*suco* land disputes to be easy to resolve. Although considered less common, harvest rights disputes are also in the ‘easy to resolve’ category. Most difficult to resolve of all, are boundary disputes *between sucos*. Although considered less common than other land disputes, sixty-six per cent of respondents consider these disputes to be in the ‘difficult to resolve’ category.

Overall, the information reinforces the conclusion that there is a high level of capacity *within* the *suco* regarding the resolution of intra-*suco* land disputes, and suggests that (a) *suco* authorities should be encouraged to maintain their dispute resolution activities and that (b) these activities should be legitimised in some way by the state. Meanwhile, the data also identifies disputes between *sucos* as a further category of dispute that could particularly benefit from state intervention. In this respect, it is of note that even though inter-*suco* boundary disputes are *less* common than other kinds of land disputes in the

suco, this does not mean that they are rare. In fact, sixty-five per cent of the key persons sample indicated they knew of one or more cases of boundary disputes between *sucos*.⁵⁸

As outlined in Table 14 (below), respondents from the key person sample indicated numerous authorities who they considered should be involved in the mediation of border disputes between *sucos*, with many indicating the appropriateness of authorities from *above* or *beyond* the *suco* level:

Table 14: Most appropriate authorities for managing the resolution of inter-*suco* boundary disputes (note that respondents were able to list multiple authorities)



The resolution of inter-*suco* disputes may never have been easy, but whereas in former times, the *liurai* (as lord of the land) or other members of the *reino* administration may have had the capacity to force a resolution to a boundary dispute between *sucos* by threatening to either seize the land or simply ban the use of it to any party,⁵⁹ it appears that in the present day, the role of resolving disputes between *sucos* is ascribed to no single authority. In fact this would be difficult in such a social context as that in East Timor, where even district administrators or land and property officers could have

⁵⁸ The total sample included one hundred and one persons (consisting of *chefes de suco*, sub-district administrators, district administrators and land and property officers). See also Meitzner Yoder (2003:11), who reports based on her research that ‘at least ten of the twelve districts had at least one current *suco* border dispute considered serious by disputants,’ for commentary on this matter.

⁵⁹ For this insight, the writer is indebted to Father Richard Daschbach of Kutete, Oecusse (personal communication, 11th November 2002).

family links which could affect their neutrality in relation to particular cases. As seen in Table 14, therefore, the potential involvement of a range of non-state and/or state actors, possibly in combination, is considered appropriate for the management of inter-*suco* land conflicts, highlighting again the necessity of access to a range of mediation forums for the resolution of disputes, and the importance of state support for the resolution of particular kinds of disputes.⁶⁰

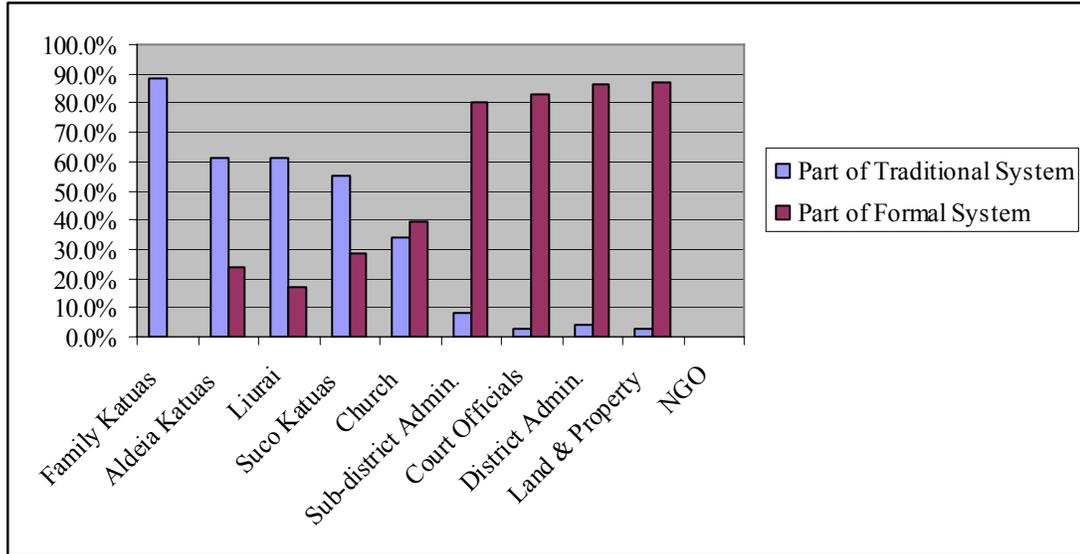
On the general theme of conflicts between large social groups, information on comparable situations elsewhere can throw light on conflict patterns in subsistence societies and the ease or difficulty of resolution of particular kinds of disputes. In his study of the Nuer, for example, Evans-Pritchard (1978[1940]) emphasises that the smaller the group, the more easily resolved the conflict. Whereas disputes within the village can be resolved quickly, the chances of a quick resolution for disputes between sub-sections of the tribe are diminished and ‘unsettled feuds accumulate.’ The least resolvable disputes are those between different tribes (1978 [1940]:278), for whereas within each tribe ‘there is machinery for settling disputes and a moral obligation to conclude them sooner or later’, a homicide involving two tribes is likely to result in warfare. The absence in subsistence social contexts of ‘machinery’ for resolving disputes at the macro level highlights an area where state support can play an important role in reducing the possibility of conflict in New Subsistence States.

Traditional and State Institutions

As depicted in Table 15 below, it appears that a distinction between ‘traditional’ institutions (the *aldeia*, the *liurai*) and ‘formal’ institutions (district administration and courts) is fairly clearly perceived, at least by the respondents included in the sample of district and sub-district administrators, *chefes de suco* and land and property officers included in the key persons sample:

⁶⁰ See also Meitzner Yoder (2003:12), whose findings suggest the need for a combination of *suco* and state authorities in connection with the resolution of inter-*suco* land disputes. This consideration would be accommodated by the land dispute mediation model discussed in the next chapter.

Table 15: Perceptions of (101) key persons concerning which forums are part of which system (traditional or formal)⁶¹



Interestingly, however, there are indications that in the area of *process*, ‘formal’ procedures often yield to popular expectations based upon *suco* justice practise. Not only did two court officers consulted in relation to the land dispute mediation study indicate that it is ‘very important’ for *katuas* to attend court proceedings relating to land disputes, but in earlier research, district and sub-district administration officials consulted in relation to broader justice and conflict resolution practices indicated that conflict resolution processes employed in district and sub-district administration offices were often identical to the processes employed in traditional forums; being based around the negotiation of compensation, followed by reconciliation.⁶² There have even been reports of public prosecutors employing this same approach.⁶³ In one instance, an accomplished mediator interviewed by the writer was both a sub-district administration official *and* a *lia nain* (with some years of tertiary education).⁶⁴ If people approached him about a dispute requiring resolution, they could choose to proceed either using the ‘formal’

⁶¹ Responses indicating ‘both systems’ were not numerous and are not included. ‘No answer’ responses not included.

⁶² Based on interviews with two sub-district administration officials in Aileu (Ritual Leader 5 and Ritual Leader 6) and a senior East Timorese district administration official in Oecusse (Senior East Timorese Administrator 1). All interviews took place during November 2002 (details outlined under ‘Informants’).

⁶³ See Hohe and Nixon (2003:58).

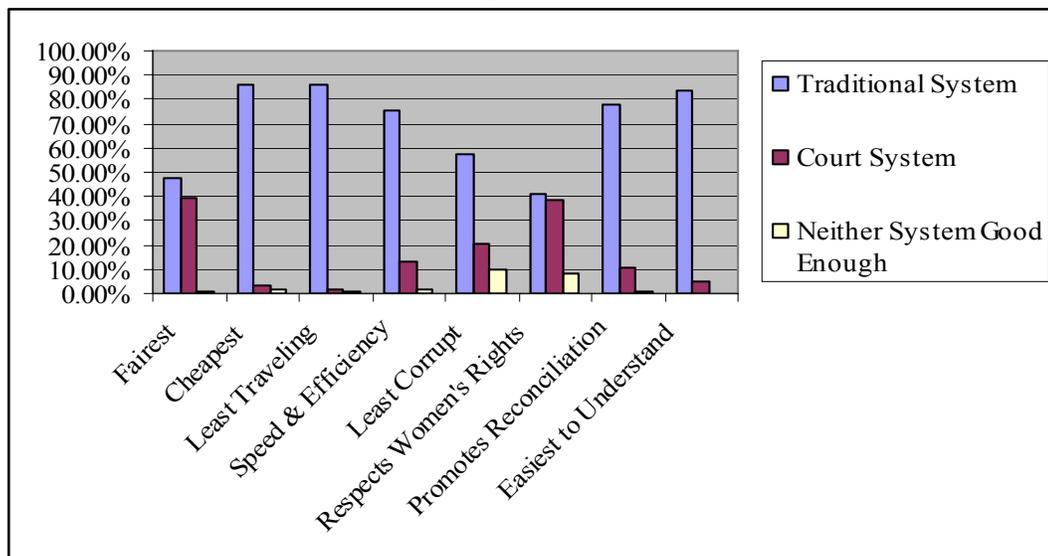
⁶⁴ Ritual Leader 5, interviewed in Aileu, 8th and 19th November 2002. Note that the overlap of responsibilities is not unusual in the East Timorese context. The individual in question was also a former CNRT official.

system (effected in the sub-district administration compound) or the ‘traditional’ system (effected in the *suco*). The resolution and negotiation component would be the same in either case, and followed either way by a reconciliation feast!

Relative Effectiveness of Non-State and State Land Dispute Mediation Mechanisms

From the historical and recent overviews of East Timor *suco* justice already presented, it is clear that these systems have shortcomings, particularly in such areas as women’s rights. Yet in a post-conflict society such as that of East Timor, or in any New Subsistence State endeavouring to conform to the administrative standards of post-industrial societies, the institutions of the state may also face formidable challenges. In order to understand the perceptions of public administration officials concerning the relative strengths (respectively) of traditional justice mechanisms and courts, members of the key person sample were asked to comment on a number of factors, as outlined in Table 16 below:

Table 16: Perceptions of members of key persons sample concerning which system (traditional or courts) is best (total sample 101).

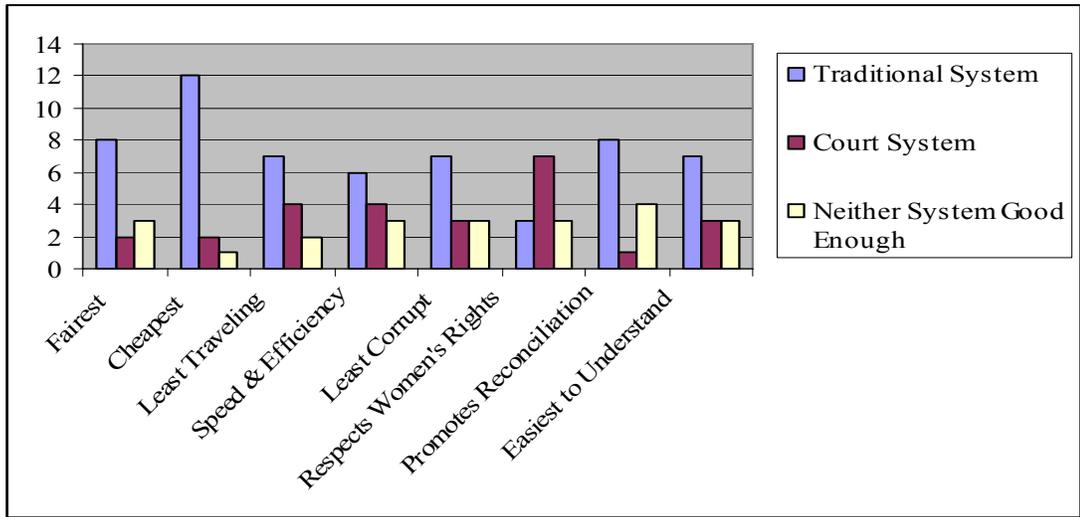


The data outlined in Table 16 above indicates that members of the key person sample (composed of district administrators, sub-district administrators, *chefes de suco* and land

and property officials)⁶⁵ consider traditional dispute resolution forums superior to the courts over a broad range of areas. In fact, considering that many of those included in the sample were East Timorese public servants, the data indicates an extraordinarily strong level of confidence by ‘state actors’ in the conflict resolution approaches of East Timorese ‘non-state’ institutions. It is such features of New Subsistence States, which would complicate black and white distinctions between the (legitimate) state on the one hand, and (insidious) non-state institutions on the other. As indicated in the data (Table 16 above), the great majority of the sample of administrators perceive that traditional justice forums are cheaper, more accessible, faster, less corrupt, more supportive of reconciliation between parties and easier to understand than the courts. The fact that no such response was indicated in relation to the ‘fairness’ and ‘women’s rights’ categories might at least indicate a consciousness concerning the need for improvement in these areas.

The views of representatives of women’s organisations in East Timor are also insightful in relation to the relative strengths of the two systems (see Table 17 below):

Table 17: Perceptions of representatives of women’s organisations concerning which system (traditional or courts) is best (total sample thirteen).



⁶⁵ The key persons (administrative) sample was overwhelmingly male.

Although the sample is only small (thirteen) due to the number of women's organisations operating throughout the districts, the data outlined in Table 17 (above) suggests that representatives of women's organisations may have similar perceptions to administrators (as presented in Table 16) across a number of key variables. The most notable exception is in relation to the category of women's rights, where most women's representatives perceive court justice to be superior. However, whether this is an informed perception, or based on an idealised understanding of what *should* happen in a court, is difficult to know, given the possibility (as suggested by the data) that for many women, accessing the courts in relation to a dispute could be too expensive and time consuming an option. Furthermore, the contrast between the perception that traditional justice is 'fairer' and the perception that court justice is more 'respectful of women's rights', is an intriguing matter worthy of further investigation.

The awareness among administrators and women's representatives that traditional dispute resolution forums may be deficient in relation to women's rights, is supplemented by other data indicating that at the very grassroots level, women are beginning to demand more rights to land in their communities, especially in areas with patrilineal land tenure systems.⁶⁶ These trends are of interest and suggest that indigenous land tenure and conflict resolution systems are under pressure to advance in a number of areas. Whereas the information in this chapter indicates that evolution is possible, the area of land rights for women is clearly a further area in which customary dispute resolution processes would benefit from outside support.

Conclusion

The information presented in this chapter indicates that a continuum can be traced between the East Timorese justice approaches of the pre-pacification and colonial periods and those of the present day, and that *suco* justice and conflict resolution

⁶⁶ Responses from the household-heads randomly sampled in Ermera and Manatuto district-centre sub-districts suggest that 'women are demanding more rights to land in their communities.' In Ermera, the proportion of the sample (of thirty-one respondents) supporting this statement was around sixty per cent, although in Manatuto (of thirty respondents) it was just under fifty per cent. This is likely to be because the land tenure system in the area of Manatuto included in the survey was found to be matrilineal, and already provided women greater rights to land than the land tenure system in the area of Ermera included in the sample, which was patrilineal. For further details, see Nixon (in Urresta and Nixon 2004a:34-37).

mechanisms continue to be highly regarded throughout the country for reasons that include affordability, convenience, and speedy outcomes. Consistent themes which continue to characterise these approaches include the compensation principle, the importance of reconciliation, the need for access to a range of forums, the preference for resolving conflicts as locally as possible and perhaps most importantly, the need for access to quick justice in order to prevent problems from escalating. In relation to this last factor, in particular, it becomes clear that the promotion of order and stability in a rural community can usefully be interpreted as meaning far more than merely responding to destructive events in a state court *after* the events occur. Promoting order can also mean actively identifying conflicts and potential conflicts *before* they lead to violence or further violence, and mediating solutions which ideally eliminate the destructive potential of these conflicts. As seen in this chapter, conflicts which are either difficult to resolve or particularly suited to some form of state support or intervention, include conflicts between *sucos*, sorcery cases, and cases relating to land and other rights for women. The final chapter of this study considers a number of initiatives which have been proposed and/or implemented in the post-Indonesian period aimed at integrating *suco*-based justice and conflict resolution approaches into a state framework, and also examines theoretical and practical considerations related to this area.

Chapter 8

The Role of *Suco* Justice Principles in an Emerging New Subsistence State

Introduction

As the data outlined in Chapter 7 indicates, *suco* justice and conflict resolution mechanisms remain popular and functional throughout East Timor, and have in all probability played the dominant role in the resolution of disputes throughout East Timor's history. Notwithstanding this reality, little has been done in the way of formally integrating *suco* approaches into a state framework, although a number of initiatives have been proposed or implemented on a temporary basis in the post-Indonesian period. In this chapter, selected proposals and initiatives for integrating customary law into a state framework in East Timor are examined. These date from both the transitional and the RDTL periods. Perspectives on the utilisation of customary law, ranging from the critical to the sympathetic, are also considered. The final section includes a discussion of the present situation in East Timor vis-à-vis *suco* justice and conflict resolution and some consideration of possible policy options for the future.

***Suco* Justice and the International Intervention**

As foreshadowed by the discussion in Chapters 5 and 6, the difficulties of establishing a public administration system in the post-Indonesian period were such that in the majority of cases, there was no formal justice system capable of providing an alternative to *suco* justice and dispute resolution systems. To the extent that a formal justice system did exist, the 'entry point' to it was the UN Civilian Police (CivPol) contingent, yet CivPol also struggled to create a presence. In Oecusse, for example, the CivPol deployment commenced in November 1999, with two officers but no vehicles, and only by April 2000 did CivPol have sufficient vehicles (three) to sustain two simultaneous

patrols on a routine basis.¹ Whereas in Oecusse, the CivPol force increased to seventy-four officers later in 2000, supported by more vehicles, local information suggests that the mission remained challenged to provide a presence in rural areas away from the main roads well beyond the establishment phase.² On top of the limited visibility of CivPol, a further factor concerns the extent to which the East Timorese were prepared to report cases to CivPol as a result of their previous experience with security forces during the Indonesian period.³ Accordingly, even after the CivPol presence increased later in 2000, crimes and disputes were still often passed by *suco* authorities to the CNRT rather than CivPol, on those occasions when it was not possible for them to be resolved within the *suco*.⁴

Despite the mixture of Indonesian and UN regulations technically in force, therefore, it is likely that for multiple reasons, only a minority of criminal or civil cases ever came to the attention of UN CivPol during the transitional period. Yet even when this occurred, the limitations prevailing in relation to staff and other resources and the absence of a functional court system (see Chapter 6) meant that these cases were often diverted back to *suco* justice and conflict resolution processes. As articulated by a CivPol officer with experience in Oecusse and Baucau districts:⁵

¹ Based on an interview with UN CivPol District Commander 1 (Dili, 5th November 2002), who clarified that one of the three vehicles remained at CivPol headquarters for the use of the commanding officer. Meanwhile, accounts from UN personnel who were stationed in Aileu at the time (UN District Administrator 1 and UN Legal Affairs Officer 1, interviewed in Dili, 9th November 2002), indicate that it was six months after the UN presence was established before CivPol began patrolling the Aileu sub-districts. Note that the available information suggests that resource limitations were only one of the factors preventing CivPol from providing an effective presence. Other factors included capacity limitations within CivPol, which comprised members from a range of countries characterised by a variable range of training regimes.

² According to a Priest (Priest 1, interviewed on 11th and 14th November 2002) based in Kutete in Oecusse (accessible only by foot during the UNTAET period), the impact of CivPol was minimal in out-of-the way places.

³ An indication of the fear of formal authorities held by the East Timorese is illustrated in a story about the arrest of a suspected militia member in Oecusse in late 1999. According to an East Timorese who witnessed the event (Youth Leader 1, interviewed in Oecusse, 12th November 2002) the suspect simply waded into a nearby river and waited to be shot (which he was *not*) after being confronted by the PKF.

⁴ Based on accounts from Oecusse, including those from an East Timorese youth leader (Youth Leader 1, details as above), and two traditional leaders (Ritual Leader 1, interviewed on 12th and 13th November 2002, and Ritual Leader 4, interviewed on 11th November 2002). Note that Ritual Leader 4 was also a senior CNRT member.

⁵ Written correspondence received (3rd November 2002) from UN CivPol Officer 1. This officer served in Oecusse from November 1999 to February 2000, and in Baucau from November 2000 to May 2001. This

Resources were always extremely limited, the main factor was personnel. And there are only 24hrs in a day. Realistically, we had to ‘offload’ the majority of matters to a traditional resolution because we did not have time or manpower to deal with all offences in the formal way.

Although *suco* approaches to justice and dispute resolution remained prevalent, UN officials received minimal policy guidance concerning how to engage with these processes.⁶ UNTAET was generally weak in the area of policy guidance (see Chapter 5), but it can be speculated that UNTAET faced particular difficulties in relation to the justice portfolio. On the one hand, UNTAET was required to astutely observe human rights aspects, yet on the other hand it would have had little incentive to forbid practices that in fact contributed to the maintenance of order under the UN mandate (and hence the success of the mission).⁷ With only several inspired exceptions, referred to later in this chapter, it is clear that little systematic policy guidance was provided to field staff concerning how to negotiate the interface between *suco* justice and formal law:

1. From an Australian police point of view, it’s no secret that UNTAET was (is?)⁸ completely disorganised, even more so in the early days. I never saw any official guidelines for dealing with anything at all. Most of the operating procedures were ad hoc and fully dependant on the discretion of the CivPol dealing with matters as they arose. Over time, procedures were developed and best practise was established from experience. My experience was the UN as an organization had nothing to do with the development of the procedure. It came about from the individual CivPols using common sense and was largely based on the practicalities of the environment.⁹

2. We were permitted to do anything. But expected to do anything in particular? Cannot answer that question because everything was so ad hoc. No job descriptions were provided. One dealt with situations as they came up. One used judgment and hoped for the sake of the Timorese that the judgment was sound.¹⁰

officer remarks that ‘[i]n an ideal world, Timor would have a proper police force and system of justice. It doesn’t. So this was the best we could do in the circumstances we found ourselves in.’

⁶ According to a UN judge (written correspondence received from UN Judge 1, 29th October 2002), the UN ‘department of justice did not recognise and accept any “beyond court” settlement of a criminal offence’ after the establishment of the UN court system in mid-2000. On-ground realities, however, required the continued utilisation of these ‘beyond court’ forums throughout the territory.

⁷ Note that Article 15 of *Resolution 1272* (1999) on UNTAET places specific emphasis on aspects relating to ‘international humanitarian, human rights and refugee law, including child and gender related provisions.’ See also Kondo (2001:258), who refers to an early UNTAET requirement that ‘everybody undertaking public duties or holding public office in East Timor shall recognize international human rights standards.’

⁸ Since this statement was received after the conclusion of the UNTAET mandate, the reference to the continuing disorganisation of the UN in East Timor is taken to refer to the UNMISSET mission.

⁹ Written correspondence received from UN CivPol Officer 1, 3rd November 2002.

¹⁰ Telephone interview with UN Field Officer (UN Field Officer 1, interviewed 16th October 2002) who served in Oecusse between late 2000 and mid-2001.

A result of the lack of policy guidance was that the interface between formal and customary justice systems became characterised by ad hoc and unsystematic approaches, typically influenced by the cultural background, policing experience and motivation of individual officers.¹¹ According to a senior East Timorese district administration official, Asian UN officers were generally more ‘accommodating of customary law than the New Zealand and Australian police officers’,¹² and commonly, as indicated above, individual CivPol officers used their subjective judgement to divert what they perceived as ‘minor’ crimes (often including theft, assault, land disputes and domestic violence) to the *suco* system, and more ‘serious’ crimes (generally rape and murder) to the courts. In making decisions, CivPol officers were influenced by the views of victims and other community members, and by the realities of life in the *suco*.¹³

Restorative and Diversionary (and Other) Justice Approaches during the UN Period

Notwithstanding the general policy vacuum that characterised the interface between the state and customary justice sectors during the transitional period, the important role played by *suco* justice was understood by a number of officials. The recognition of *suco* justice and conflict resolution mechanisms in some quarters, led to a range of initiatives for engagement systems being proposed, and some of these were implemented. These various initiatives share in common the limitation of their scope to ‘less serious’ crimes such as land disputes, minor assaults, and theft. The details of a number of programs incorporating restorative principles which were implemented or proposed are outlined below. They include an approach implemented by a CivPol officer in the sub-district of Vemasse with the support of the Baucau district public prosecutor, a restorative justice model prepared by a district CivPol commander for Covalima, and a ‘diversionary

¹¹ Researching this matter in October and November 2002 in East Timor, the writer was told of instances where CivPol from various countries would vigorously debate which approach to take with a case, based on the practise in their respective home countries.

¹² Senior East Timorese Administrator 1, interviewed in Oecusse 13th November 2002.

¹³ As reported by one CivPol Officer (written correspondence from UN CivPol Officer 1, received 3rd November 2002), ‘several times wives reported domestic abuse but then agreed to traditional resolution with the village chief, representatives of both the husband’s and wife’s family, and CivPol present at a formal meeting. Obviously community pressure was placed on the wife to agree to this method of resolution. Also, as a practical measure, the wife often could not afford to have her husband locked up because she needed a means to support herself and her children. Whilst not satisfactory, this was the only way to deal with this in the circumstances.’

justice' program implemented in the district of Oecusse. A draft regulation on 'Traditional Justice' proposed (but never implemented) by a New Zealand Army lawyer is also profiled, followed by commentary on the high-profile Community Reconciliation Process mandated under the Commission for Reception, Truth and Reconciliation (CAVR) for the resolution of minor crimes committed up until 1999.

The Approach of a CivPol Officer in Vemasse

In association with the *chefes* in the Vemasse sub-district of Baucau in which he was stationed, and with the approval of the district public prosecutor, CivPol officer Andrew Chamberlain applied the following model:¹⁴

In the Vemasse area the term 'traditional justice', is also referred to as, 'adat', 'village law', 'the traditional way' and 'family law'. For Vemasse police to suggest or allow traditional justice as an outcome for certain offences, an informal policy or criteria must be considered.

These 'criteria' are guidelines only, in making that decision, with flexibility determined by the characteristics of each relevant offence.

The informal criteria is;

- The offence is of a minor nature, such as a simple assault with no permanent injuries to the victim(s) or a 'minor' theft without violence, and;
- The victim(s) requests traditional justice as a method of resolving the incident; and;
- No coercion, threat or violence is used by any person to encourage the victim(s) to suggest or accept traditional justice, and;
- The suspect(s) admit committing the offence, and;
- The suspect(s) have little or no previous criminal history for the same or similar offence, and;
- The victim(s) and suspect(s) consent to making a written agreement providing details of the resolution to the incident, and;
- Police believe that traditional justice is the appropriate resolution for this incident.

Police also ensure the involvement of an independent third person, such as a non-related village chief, in the traditional justice decision, to witness and mediate the proceedings.

Other criteria would be considered if relevant.

In the case the Vemasse model outlined above, the East Timorese public prosecutor for Baucau required that all instances of the application of traditional justice were documented and filed in order to prevent criminal investigations from occurring into matters that had already been settled locally, thereby preventing the possibility that

¹⁴ This account was included in the documents forwarded to CivPol Districts Commander Adrian Norwell in response to the latter's call for case studies concerning traditional justice. It is included in the accounts appended to Norwell's report (Norwell 2001).

individuals might be penalised by the formal system when they had already paid compensation for their actions and reconciled with other parties involved. Of further note, and consistent with other models outlined in the following pages, individuals would become ineligible for ‘traditional justice’ where it was known that this approach had failed to reform their behaviour in the past.

The Proposed Community Restorative Justice Plan for Covalima

The district CivPol commander for Covalima, Paula Stevens, proposed a similar model, referred to as the Community Restorative Justice (CRJ) plan, for implementation in response to Norwell’s request for information.¹⁵ Unlike the Chamberlain approach, however, it is not known whether the implementation of the CRJ ever received formal approval at any level. Referring to the national justice system as being in a state ‘such that it is extremely difficult to get persons before the courts and to have them dealt with expeditiously for minor offences’, Stevens proposed a system which would enable ‘low level criminal offences and nuisance offences to be dealt with swiftly and at a local level.’ Key aspects of the CRJ conforming to Chamberlain’s approach include the requirement that participation in the CRJ (for both victim and offender) be voluntary, and that the offender accepted his/her guilt. Also, the determination of an appropriate penalty (which could include work for the community or the victim) would be a process to be negotiated and agreed upon by both parties. As with Chamberlain’s approach, police would have responsibility for deciding which cases were appropriate for resolution through the CRJ. The CRJ would also prescribe police quite defined responsibilities in relation to convening panels, monitoring and supporting proceedings, and recording outcomes. Unlike Chamberlain’s approach, the CRJ plan (consistent with the concept of a standardised approach) proposed the establishment of a CRJ team, some of whom would be trained in ‘the principles of restorative justice.’ The CRJ team would have a chair and a deputy chair, one of whom would preside over each (three-person) mediation panel. The CRJ plan proposed the logical proviso whereby an unsuccessful CRJ process or an unfulfilled penalty would result in the case going to court.

¹⁵ Stevens’ proposal (succinct, at little over two pages) is appended to the report of Norwell (2001).

The Oecusse Diversionary Justice Program

With the exception of the Community Reconciliation Process profiled later in this chapter, the only restorative justice model known to have received formal approval at senior UNTAET level (as opposed to receiving approval from a district public prosecutor, as in the case of the Vemasse example) was the Oecusse Diversionary Justice Program (ODJP), which was given ‘conditional and partial’ approval for implementation for a limited period.¹⁶ The specific reasons *why* the ODJP was authorised for implementation in Oecusse were because of (1) the ‘physical isolation of the enclave’, (2) the ‘non-existence of judicial infrastructure and human resources’, (3) ‘ambiguity as to the applicable law’, and (4) the ‘absence of legal culture.’

The ODJP was partly based on a New Zealand ‘diversionary justice’ model designed to divert proceedings and punishments for minor crimes away from the mainstream criminal justice system. As applied in Oecusse, it incorporated elements of *sucos* justice, but modified where ‘inconsistent with human rights norms [especially in relation to women and minority groups], or unreasonable [or] disproportionate in the facts and circumstances of a given case.’ The ODJP was approved in Oecusse in relation to theft, minor assaults and attempted assaults, land disputes and ‘certain offences committed during the pre and post consultation time...[not including]...murder, rape or serious bodily injury.’ Although maintaining elements of *sucos* justice practise, the program favoured restorative labour related to the original crime over compensation. Accordingly, a person guilty of burning a house would be required to assist in rebuilding a house, and a person guilty of slaughtering animals would be required to assist in raising animals. The ODJP also endeavoured (no doubt ambitiously) to discourage the consumption of distilled palm wine at reconciliation ceremonies:

In [the] customary system apart from compensating the victim [the] accused had to arrange a feast, and share...[*tuasabu*]...with the victim and all persons participating in the process. We considered the...[*tuasabu*]...unhygienic and such approval would encourage alcoholism in the rural areas. We

¹⁶ Information on the ODJP is based on an extensive written account of the program (received 21st November 2002) provided by a UN judicial officer (UN Judge 1) who worked in Oecusse during 2000 and 2001, and on information received from the UN CivPol officer in charge of operations in Oecusse at the time the ODJP was implemented (UN CivPol District Commander 1, interviewed in Dili, 5th November 2002).

wanted to stop this practise and ultimately succeeded in abolishing [it]. This element of the process was abolished with the active cooperation of the community leaders.

In common with key aspects of Examples 1 and 2 profiled above, both the victim and the offender would have to give their consent to resolving the case within the ODJP restorative framework. Similarly, ‘the suspect had to confess his guilt and express sincere remorse for his action[s].’ As in the case of the CRJ proposal outlined by Stevens, the offender would have to agree to the compensatory or restorative provisions arrived at in the course of the diversionary justice process, and if these provisions were not complied with the matter would divert to the court system. After receiving approval for implementation in Oecusse district, the ODJP was subsequently used to resolve twenty-three land disputes and three criminal cases.

Draft Regulation on ‘Traditional Justice’

On the brink of independence in April 2002, a further proposal was sent to the East Timor Justice Department by New Zealand Army legal officer Captain D.D. Cowdell (2002).¹⁷ Given the poor state of the formal justice system, Cowdell referred to the advantages of the new state utilising traditional justice mechanisms, and proposed a draft regulation on ‘traditional justice’ aimed at providing ‘a cost effective way of resolving minor disputes, petty crime, and...community-based civil disputes.’ Of some complexity, Cowdell’s draft regulation consists of nine parts, thirty-seven sections and more than one hundred and five sub-sections (many cross-referenced), and its implementation would have required a relatively high level of training and state support to function effectively in the East Timor environment. Instead of requiring that an offender admits guilt before participating in the justice process, as required by other restorative models, Cowdell’s model (Section 13) provides for the presentation of a defence case. Although the parties may each use a spokesperson, they may not use a lawyer. Guilt or innocence, meanwhile, would be determined by a simple majority of a proposed three-person ‘Community [justice] Panel’ (Section 14) presiding over the

¹⁷ Cowdell’s proposal is dated 22nd April 2002.

case.¹⁸ This panel is also responsible (Section 16) for imposing a ‘suitable punishment’ on the accused, albeit after hearing submissions from any party (including the accused) on this matter. Notwithstanding the requirement (Section 11.1) that the place chosen (by the police) for each ‘Traditional Justice Process’ should ‘be in the community, and is not to be a *Police Station* or *Courthouse* except in exceptional circumstances’, Cowdell’s model resembles a lower-level court in some ways, and comparison would be possible with the PNG village court system discussed later in this chapter. In fact, there are features of Cowdell’s model (including the mobile, ad hoc approach) that could potentially be adopted to make the *formal* court system more accessible for rural East Timorese whose needs cannot be accommodated by other, non-court justice and conflict resolution forums.¹⁹

*The Community Reconciliation Process for Crimes Committed Up Until 1999*²⁰

The most notable example of where UNTAET authorised the utilisation of customary reconciliation justice and conflict resolution approaches was in relation to the formal reconciliation process initiated in accordance with the Commission for Reception, Truth and Reconciliation (CAVR) provisions. As suggested by Lundry (2002:2,9-10), the large number of former militia and the limited capacity of UNTAET to process them, is likely to have been a factor in the decision to authorise a restorative approach in this instance.

¹⁸ According to Section 9 of Cowdell’s proposed ‘Traditional Justice’ regulation, the ‘Community Panel’ should consist of one police officer and two ‘local leaders or elders.’ At least one of the leaders should be of such seniority that ‘both *parties* [to the case] come within his or her area.’ Reflecting the need for a degree of ‘forum shopping’ in the East Timorese context, a further section (Section 10) provides for either party to object to a particular individual being a panel member.

¹⁹ It is clear that the present court system (with facilities located in Dili, Baucau, Suai and Oecusse) does not provide adequate access to justice and conflict resolution services for those either unwilling to utilise *suco* justice mechanisms or required by law to utilise the formal justice system. Given adequate support (including capacity building, transport, fuel), the model proposed by Cowdell could be a means of making state justice accessible to rural people requiring it. Note that in this respect, Mearns (2002:55) specifically refers to the need in East Timor for a ‘circuit court’, remarking that the ‘development of a fair and equitable justice system for all citizens...will require a flexible and mobile response which sees the courts go to the people rather than expects the people always to travel to a central point.’ For the present, however, the difficulties in keeping the existing four courts operational (as discussed in Chapter 6) are such that it is difficult to forecast when a circuit court that regularly visits sub-districts would actually be viable.

²⁰ Even though the first community reconciliation hearing did not occur until *after* East Timor became independent on 20th May 2002, the community reconciliation program is discussed in this section because it was established under an UNTAET regulation during the UNTAET period of administration (see UNTAET 2001c).

UNTAET *Regulation 2001/10* through which the CAVR was established (UNTAET 2001c) was passed on 13 July 2001.²¹ for the purpose of promoting ‘national reconciliation and healing following the years of political conflict in East Timor and, in particular following the atrocities committed in 1999.’

Regulation 2001/10 determined (under Section 4.3) that the CAVR be composed of between five and seven national commissioners, to be appointed by a panel chaired by the SRSG (or his representative), and include members appointed by a wide range of political parties and civil society organisations. In turn, these national commissioners would advise the SRSG on the appointment of a further twenty-five to thirty regional commissioners, whose duties would include facilitating Community Reconciliation Agreements in the districts. Among other ‘objectives and functions’, the CAVR (UNTAET 2001c Section 3.1) was mandated to ‘establish the truth regarding past human rights violations’, ‘promote reconciliation’, ‘support the reception and reintegration of individuals’ back into their communities, promote human rights and refer ‘human rights violations to the Office of the General Prosecutor with recommendations for the prosecution of offences where appropriate.’²²

Under the CAVR regulations²³ perpetrators of non-serious crimes could apply to participate in community reconciliation processes by submitting a written statement including ‘an admission of responsibility’ for crimes, a voluntary request to participate in a community reconciliation process, and ‘a renunciation of the use of violence to achieve political ends.’ Specifically, Schedule 1 of *Regulation 2001/10* (UNTAET 2001c) limited community reconciliation to offences ‘such as theft, minor assault, arson (other than that resulting in death or injury), the killing of livestock or destruction of crops’, and stated that under ‘no circumstances, shall a *serious criminal offence*²⁴ be

²¹ *Regulation 2001/10* (UNTAET 2001c) mandated the CAVR for an initial period of two years with the possibility of a six month extension.

²² The development of the CAVR is outlined in Part 1 of the CAVR Final Report (CAVR 2005 Part 1).

²³ Outlined in Sections 22-32 of UNTAET *Regulation 2001/10* (UNTAET 2001c).

²⁴ Italics in original.

dealt with in a Community Reconciliation Process.²⁵ Where accepted for community reconciliation, the offender would be brought before a community reconciliation hearing. The panel presiding over this hearing would be chaired by a regional commissioner and also include between two and four community representatives.²⁶ At this hearing, statements would be invited from the offender, victims of the offender, and other community members with further information. The panel, under Section 27.7 would determine an appropriate ‘act of reconciliation’, which could involve ‘(a) community service; (b) reparation; (c) public apology; and/or other act of contrition.’ Non-compliance with this ‘act of reconciliation’ would make the offender liable to a fine of up to US\$3,000, imprisonment for up to a year, or both. CAVR (2005 Part 1:23) documentation indicates that the first community reconciliation hearing was heard on 23rd August 2002 (after independence) in the district of Liquiça.²⁷ By the completion of the CAVR mandate, more than 1,541 ‘community reconciliation statements’ had been facilitated (CAVR 2005 Part1:36), an accomplishment of no small measure and a demonstration of the potential effectiveness of integrated approaches to justice and conflict resolution in subsistence social environments where indigenous capacity remains robust.

In common with some of the other models considered in this section, the community reconciliation process implemented by the CAVR effectively sought to assimilate indigenous practices relating to reparation and reconciliation into a legal, restorative-based framework. The process differed to *suco* approaches in the restriction on the

²⁵ As outlined under UNTAET Regulation No.2000/11 on the Organization of Courts in East Timor (UNTAET 2000a), and UNTAET Regulation No.2000/15 on the Establishment of Panels with Exclusive Jurisdiction over Serious Criminal Offences (UNTAET 2000e) the term ‘serious criminal offence’ refers to acts of genocide, war crimes, crimes against humanity [including extermination, enslavement, enforced disappearance], murder, sexual offences and torture.

²⁶ These panels were required to reflect ‘[a]ppropriate gender representations.’ Similarly, the regulations required that a minimum of thirty per cent of the national and regional commissioners should be women.

²⁷ The CAVR (2005 Part 1:23) literature indicates that this was a high-profile event, attended by one hundred and fifty members of the community, senior UNMISSET officials and the UN High Commissioner for Human Rights, Mary Robinson. At this event, three offenders admitted their culpability and ‘pledged never again to use violence for political ends.’ Other parties then spoke, and *adat* ritual and reconciliation processes were facilitated by elders. In this case no penalties were imposed on the offenders, whose apologies were accepted. The CAVR reports that ‘the hearing demonstrates the value of bringing together elements of formal legal process with traditional customary law’, although it also notes the ‘high level of organisational and logistical support’ associated with an event attended by so many people.

ability of community reconciliation panels to hear serious crimes as well as the requirement that women have a prominent presence on the panels. Notwithstanding the successes of the community reconciliation process, however, the broader process of reconciliation may have progressed more quickly had greater flexibility been allowed community leaders in determining which cases were suitable for reconciliation at community level and which should be referred to the courts. Information profiled in earlier chapters, including the reference to the CNRT re-integration process undertaken in Aileu in late 1999 and early 2000 (see Chapter 5), suggests that local actors would normally have been capable of hearing a broader range of cases than permitted under the CAVR guidelines. Permitting this would have facilitated the important ‘quick justice’ factor and would be likely to have accelerated the process of reconciliation throughout the extended East Timorese community.

Although not directly related to the CAVR community reconciliation process, an example from 2001 provided by a senior RDTL district administration official is of some interest. The key elements of this example comprised (a) a community prepared to proceed with the reintegration, in accordance with *suco* justice principles, of a militia leader who at the time was living in exile just over the border in West Timor, (b) the UN, who refused to permit the *adat* reconciliation process to proceed and insisted that if the militia leader returned he would be arrested by the Serious Crimes Unit, and (c) the militia leader, who was prepared to face the community process, but not the serious crimes process. Clearly a public policy dilemma was posed in this situation concerning whether to promote the return and reintegration of militia members under circumstances not conforming to formal law, or to encourage these individuals to remain in border regions, possibly embittered and in the company of other former militia members. In this case, the East Timorese official interviewed by the writer opposed the UN’s stance, which he claimed slowed down the process of refugee returns from West Timor. More broadly, he referred to other factors of significance in a New Subsistence State context, remarking that the UN ‘wants major criminals to go to jail, but who should feed them.

Only major crimes – mass murder – should go to the courts. Compensation is very heavy for killing someone.²⁸

* * *

The examples profiled above demonstrate that there was an appreciation among a range of international officials of the important role being played by *suco* justice and conflict resolution systems in East Timor in the post-conflict period, including at senior level. Furthermore, it was clear to a number of individuals that the relevance of customary approaches was not limited just to the post-conflict period and the resolution of ‘non-serious’ pre-1999 crimes, as in the respective cases of the ODJP and the CAVR community reconciliation program. As evident from Cowdell’s draft regulation on ‘traditional justice,’ some believed that debate on the future role of customary mechanisms should have been advanced during the transitional period, although in Cowdell’s case, his proposed regulation was prepared rather late in the day. In is of note that Hansjoerg Strohmeier (2001b:179), who served as Acting Principal Legal Advisor to UNTAET between October 1999 and February 2000, and as Deputy Principal Legal Advisor between February and June 2000, had made the following policy development recommendation at an earlier point:

[I]t is indispensable for UNTAET to ensure that the new legal and judicial system of East Timor takes into account the important discussions within the East Timorese community regarding the role of the notoriously variable and complex, but frequently significant, traditional or customary law, including traditional dispute resolution mechanisms and ‘native title.’²⁹

Despite the integration of some aspects of *suco* justice conflict resolution approaches into transitional justice and reconciliation mechanisms, a firm shift *against* customary

²⁸ Senior East Timorese Administrator 1, interviewed in Oecusse, 13th November 2002. The events in question occurred in April 2001.

²⁹ Other UNTAET documentation demonstrating an appreciation of the importance of customary law in East Timor includes a ‘Traditional Justice Concept Paper’ appended to a 19th September 2001 letter from UNTAET National Security Advisor (NSA) Nicola Dahrendorf (2001) addressed to the CivPol Strategic Planning Unit. In this document, concern is expressed at the lack of an ‘adequate mechanism... able to harmonise traditional and modern East Timorese structures and values’, and the associated ‘potential that this [deficiency] could undermine either traditional or government authority.’ As a related observation, the paper notes that ‘the lack of a properly functioning judiciary has often caused police services to rely on mediation and traditional justice.’

practices appears to have taken place in the late UNTAET period, and a directive circulated in April 2002 is said to have required that once crimes and disputes enter the formal justice system, they should remain there.³⁰ As discussed below, this development appears to have been a product of the pro-courts emphasis of members of the FRETILIN-dominated Constituent Assembly which was preparing to take office as the first Constitutional Government on 20th May 2002.

What Role for Restorative Approaches in the New Subsistence State of East Timor?

Some East Timorese Perspectives and Strategies

After assuming office at independence on 20th May 2002, the first (FRETILIN) government of East Timor maintained a pro-courts position on the matter of justice, despite the weakness of the formal justice system and the public administration in general. Although this position began to change towards the end of the FRETILIN term (as discussed later in this chapter), no laws were passed during the FRETILIN term providing legal recognition of *suco* justice forums or support for other non-court justice mechanisms. It is likely that the pro-courts perspective of FRETILIN can be traced to the *assimilado* acculturation process which influenced the development of many members of the new FRETILIN parliament. As discussed in Chapter 2, *assimilado acculturation* associated the attainment of civilisation not just with proficiency in the Portuguese language, but also with the complete abandonment of the ‘intimate customs of the socially aggregated natives.’ Appearing to endorse this conclusion, the first RDTL Minister of Justice, Ana Pessoa, is reported to have strongly favoured the policy position that ‘we’re not savages and we won’t use customary law.’³¹ Meanwhile, the first RDTL Vice-Minister of Justice, Manuel Abrantes, made the following statement to the writer less than six months after the country had celebrated independence:³²

³⁰ This development was reported by the serving CivPol District Commander for Oecusse in November 2002 (UN CivPol District Commander 2, interviewed in Oecusse, 14th November 2002), but the writer has not personally sighted the document.

³¹ Interview with former UN staffer (UN Legal Affairs Officer 2), Dili, 24th June 2004.

³² Vice-Minister of Justice Manuel Abrantes, interviewed in Dili, 7th November 2002.

There are traditional customs, not traditional laws... Maybe in ten-twenty years we have a knowledge of customary law, but not now. The first step is to assert government ownership and control over state land. The state has to have the right to exist.

Reflecting the field findings reviewed in this chapter and also the limited currency of the *assimilado* perspective in the broader community, however, many other East Timorese adhere to a concept of an East Timorese state which incorporates *East Timorese* values. A *chefe de suco* and *naizuf mnasi* (senior ritual leader) from rural Oecusse offered a perspective that differed markedly from that of the justice ministers of the new RDTL government.³³

If the government does not observe the customs, the government will not go well... If we forget the customs and the traditional law, then we will not respect each other.

Moreover, this perspective is not limited to octogenarian shaman and other members of the rural population subject to their influence. An East Timorese district administrator asserts that ‘if you commit the wrong action you risk being punished by the ancestors. Even if there are going to be court proceedings because someone has been killed, compensation arrangements should be concluded before the matter goes to court.’³⁴ Meanwhile, an Indonesian-trained East Timorese lawyer working with the NGO *Yayasan Hak* (Rights Organisation) in Dili commented that ‘[i]f people are to own the law, even in a transitional context, then they must feel that it recognises their own customs. It makes sense to put customary law together with the state.’³⁵

Even among women’s organisations, there is no consensus that the only way for crimes against women to be addressed is through the courts. One woman’s advocate³⁶ considered that for domestic violence offences, a term of imprisonment in *addition* to the payment of compensation to the family could potentially increase the disincentive against re-offending, however, she was also of the view that ‘in the courts, a suspect can be a winner and the victim a loser’, and that it is ‘wrong to think that a court solution

³³ Ritual Leader 1, interviewed in Bobocasse, Oecusse, 12th and 13th November 2002.

³⁴ Senior East Timorese Administrator 1. Interviewed in Oecusse, 13th November 2002.

³⁵ NGO Lawyer 1. Interviewed in Dili on 5th and 6th November 2002.

³⁶ Women’s advocate from the *Centro Feto* (Women’s Centre) NGO in Oecusse (Women’s Advocate 1). Interviewed in Oecusse, 14th November 2002.

will mean there will not remain a problem in the community.³⁷ Another East Timorese women's advocate (who had spent time in Australia and who personally favoured court resolutions for most crimes), asserted that many East Timorese women were reluctant to report their husbands to the formal justice system for domestic violence offences, for fear of the implications:³⁸

Currently, when women go to the police about domestic violence, the police try and catch the man and then put him in jail for seventy-two hours. But when he gets home he feels shamed, so that he may beat his wife again, forgetting that his wife has suffered as well. He might also decide to divorce his wife because of this shame.³⁹

In Oecusse, the local women's organisation, *Centro Feto*, has endeavoured to advance its objective of producing 'good solutions for women' using a range of approaches suited to the social and state-capacity realities of the enclave.⁴⁰ The group, which established the first women's safe house in the district in early 2002,⁴¹ places a high priority on educational activities in the community aimed at preventing all forms of violence against women. These activities include courses for people planning on marrying. The group also provides assistance to victims of sexual and domestic violence, and will help a victim to take her case either to the courts *or* traditional authorities.⁴² *Centro Feto's* pragmatic approach to finding solutions is exemplified in its drive to have compensation paid directly to victims, rather than to victim's families.⁴³

³⁷ This statement was made in the context of individuals who think that under the 'rule of law,' they can serve a term in prison and then return to their communities without paying victim compensation. A prominent case in Oecusse at the time concerned a man who had made a woman pregnant, and then stated that he would prefer to go to jail rather than pay compensation to provide for the welfare of the child.

³⁸ Based on an interview with the Women's Advisory Officer of the Catholic Diocese in Dili (Women's Advocate 2). Interviewed in Dili, 6th November 2002.

³⁹ The economic implications of divorce for the woman may mean she is forced to return to live with her parental family.

⁴⁰ Based on a meeting with members of the *Centro Feto* women's organisation, Oecusse, 14th November 2002.

⁴¹ This safe house was attached to the police station and was opened in February 2002. According to *Centro Feto* staff, between February 2002 and November 2002 it had been used by four women for about two days each.

⁴² *Centro Feto* staff pointed out to the writer that the court was not presently functioning (in November 2002) because court officials were away training.

⁴³ As Mearns (2002:40) points out, this is an area where local justice practices are considered to be clearly unjust. The extent to which compensation payments can be directed to victims in relation to future cases will be a useful indication of the extent to which *sucos* justice can be modified to be more consistent with human rights concerns.

Looking back at the development of the court system in East Timor since independence, the advantages of *Centro Feto's* flexibility and preparedness to work with indigenous institutions appear clear, since the East Timorese court system has not only been difficult to access and slow, but it has also produced poor outcomes in relation to cases of violence against women. In a document produced in February 2005, the Judicial System Monitoring Programme (JSMP) reported (JSMP 2005b:8) that of over fifty cases of violence against women followed by the JSMP Women's Justice Unit in the courts of Baucau, Dilli, and Suai since April 2004, 'a final decision has been reached in approximately 8 cases, including domestic violence and sexual assault cases.' Although it is understood that improved justice outcomes were realised in the courts in 2007 due to the presence of an international judicial contingent and an improved training regime, the range of factors examined in Chapter 6 provides grounds for questioning the extent to which these improvements will prove sufficient and sustainable in the face of population growth and the limited term of the international commitment.

Universal Justice and Local Realities

Quite legitimately, even those supportive of elements of customary justice and conflict resolution mechanisms have expressed concern about the potential for customary law to conflict with the broader obligations of the RDTL state. Cowdell (2002:2-4), for example, warns of the danger of some traditional justice penalties 'being repugnant to international human rights standards.' As already discussed, the risk of this is clear in relation to cases involving sorcery. Cowdell also refers to the possibility that traditional justice forums may conflict with the constitution. Referring (2002:2) to Section 31(1) of the RDTL constitution⁴⁴ which specifies (RDTL 2002:21) that '[n]o one shall be subjected to trial, except in accordance with the law', Cowdell asserts that '[t]he problem is that the "trials" held under the traditional system will not only be unlawful [and hence constitute new crimes], they will be unconstitutional as well.' Grenfell (2006:323-324) goes further to point out that not only does the RDTL constitution include reference to norms relating to human rights and legal principles, but that since

⁴⁴ Cowdell was in fact referring to the draft RDTL Constitution in his report, however, Section 31(1) remains unchanged in the final version (see RDTL 2002:21).

independence the RDTL has also become a signatory to the majority of UN conventions on aspects relating to human rights, meaning that traditional justice mechanisms could also potentially breach the countries' international obligations.

In fact, some of these issues raise questions about the extent to which community expectations and conceptions of justice were meaningfully reflected in the development of the RDTL constitution. The subscription of the RDTL state to international legal norms and treaties at the same time as it remains dependent on *suco* justice and conflict resolution mechanisms also highlights the gulf between the level of state capacity and influence that was expected, almost magically, to accompany statehood, and the level of state capacity that is realistically achievable in the foreseeable future (as discussed in Chapter 6), even *with* substantial international support. Indeed, highlighting Grenfell's point, a table prepared by the NZLC (New Zealand Law Commission) profiling ratification of human rights treaties in twenty selected countries in the Southeast Asia – Pacific region, indicates (NZLC 2006:272) that East Timor is the only country other than Indonesia to have ratified *all* human rights treaties.⁴⁵ This situation serves to illustrate the ease with which the government of a New Subsistence State may approve a principle or prepare a document or sign a convention, even as formidable challenges prevail in relation to the mechanics of introducing a modern, unfamiliar and resource intensive justice system and conditioning a rural subsistence population to understand and prefer this system of justice. Importantly, however, being a party to a declaration or treaty or enshrining certain values in a constitution can also, in the words of Kenneth Brown (2005:221), be 'a profitable starting point from which to advocate the demolition of discriminatory practices', although there still remains the question of how to advance this endeavour.

⁴⁵ Specifically, East Timor has signed the International Covenant on Economic, Social and Cultural Rights (ICESCR), the International Covenant on Civil and Political Rights (ICCPR), the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Rights of the Child (CRC) and the Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (CMW). The countries profiled in the table include the US and France (both with territories in the region) as well as Australia and New Zealand. The table indicates that these four countries are signatories to all treaties listed above with the exception of the CMW.

Samuel Huntington's assertion (2003 [1993]:420) that '[t]he very notion that there could be a "universal civilization" is a Western idea', is of interest when considering the possible universality of human rights. As products of the same historical processes that gave birth to the modern state, 'universal' or 'international' notions of justice and democratic rights arose as part of a coherent package of values. As discussed in Chapter 1 in reference to the work of Hayes (1928) and Kuhn (1959), these values evolved from an autochthonous challenge to feudal authority structures and belief systems in the context of broader transformative developments including advances in scientific thought, technological capacity, public administration and commerce. Yet while notions of rights that arose out of the Enlightenment and the advent of the modern state have come to be considered 'universal', along with the model of the modern state itself, the particular transformative processes through which these principles came into existence and were provided with socio-political habitat, has not been a universal process. Meanwhile, from a practical perspective, the delivery of 'universal' or 'international' standards of justice - *state* laws conforming to *state* constitutions and *international* agreements with other *states* - has depended on the agency of the state, which theoretically makes and enforces appropriate laws with its access to economic resources, technical and administrative capacity.

As discussed in Chapter 1 in reference to weak state theory and sociological commentary, achieving a sustainable public administration in accordance with the modern state model, can be notoriously difficult in states characterised by subsistence social structures. It is for this reason that commentators such as Dinnen (2003), in reference to law and order in the Pacific, urge the need to take informal structures into account in relation to strategies for advancing law and order objectives. The logistical and government capacity limitations likely to prevail in East Timor for the foreseeable future have also led to realistic strategies being proposed by a number of commentators. As discussed earlier, the preliminary assessments of Norwell (2001) and Fitzpatrick (2001), the latter with specific reference to land-dispute resolution mechanisms, stressed the need for the promotion of simple, fast, low-cost and effective justice and conflict resolution mechanisms unburdened by unnecessary legal complexities. Again, as

Fitzpatrick (2001:16-17) points out using the example of PNG, no amount of written laws will produce results in the absence of ‘capacity, funding and political support’, so if conflict resolution structures are to be as self-sufficient as possible then it is logical they should incorporate existing (or customary) capacities, with links for state support and intervention where necessary (and available). This is an approach endorsed by Mearns (2002), who observed during the UNTAET period that ‘without the ongoing presence of UN helicopters, there will be some basic impediments to the centralisation and coordination of the [state] justice system.’ Pragmatically, he concludes (2002:55) that even vulnerable groups would be best served by the retention and improvement of local justice systems:

[T]he formal justice system is probably incapable in its present form of making a significant impact upon the issue of violence against women. There has to be a more direct way of making an impact upon local practices. The only way this seems likely to occur is to build upon the vibrant and generally respected local systems of dispute resolution rather than seeking to eliminate them in the name of progress.

Once again, the increased attention being given to non-state justice systems in the Pacific is insightful in relation to possible strategies for East Timor. In its detailed and widely informed report on *Custom and Human Rights in the Pacific*, the NZLC (2006:240-245) make a number of recommendations for improving ‘the operational alignment between custom and human rights in the legal systems of the Pacific region.’⁴⁶ NZLC recommendations of particular interest in relation to the concerns of this study include (NZLC 2006:242) the recognition of non-state justice forums and their links to the state justice system, and the ‘contextual’ interpretation of human rights. In relation to the former theme, the NZLC encourages the legal recognition of ‘[n]on-state community justice bodies’ and the ‘building of relations with community justice

⁴⁶ The NZLC (2006:30) report primarily focuses on the island states of the Pacific. However, the report also gives consideration to East Timor because it faces similar challenges pertaining to ‘the interface between custom and human rights.’ The three ‘broad propositions’ of the NZLC (2006:240) recommend (i) seeking ‘ways to harmonise custom and human rights in order to promote the equitable development of custom and the appreciation of human rights in culturally relevant terms’, (ii) ‘that courts and legislators develop a more coherent legal system by recognising and respecting the contributions of community justice bodies to dispute resolution, while also promoting human rights norms’, and (iii) ‘that the courts develop an indigenous jurisprudence that draws upon both custom and human rights.’ Specific NZLC recommendations of general relevance in relation to the East Timor case study include (NZLC 2006:242-243) the suggested development of ‘indigenous common law’ based on ‘customary values’ and the promotion of rights for women and the increased ‘participation of women in community justice decision-making.’

bodies...by recognising their importance and referring matters to them.’ The report notes that ‘[s]pecial care is needed in referring criminal cases, to protect the interests of victims and offenders.’

Notably, however, and in contrast to the integrated justice models authorised by the UN in East Timor during the transitional period, the NZLC is *not* ultimately prescriptive concerning which crimes should and should not be addressed in community justice forums. In relation to the key area of violence against women, for example, the NZLC (2006:240) emphasise the principle that ‘[w]omen should have a genuine choice as to whether crimes of violence against them are dealt with through custom, through the court system, or through both.’ In the view of this writer, the approach adopted by the NZLC (2006:163) is balanced and realistic and reflects some of the key factors and policy quandaries prevailing in East Timor and referred to in this study. Simultaneously acknowledging the capacity of community justice forums to address serious crimes *and* emphasising the importance of victim empowerment, the NZLC arrive at the following conclusion in relation to the important area of justice in cases of sexual violence against women:

Whether a custom is good or bad may depend on the particular case. For example, a woman may feel degraded by the reconciliation process, especially if the effect of the crime on her is made secondary to the task of maintaining good relations between families. Another woman may take strength from the fact that forgiveness is sought by the whole of the offender’s family or from the fact that she has the whole of her family about her. The ultimate question may be whether the process is in fact effective in curbing rape and relieving those who have directly suffered from it. It is important that any customary reconciliation process should not be carried out in such a way as to cover up the offence or to leave women or children exposed to the risk of further violence from the offender.⁴⁷

Concerning the complex matter of the interface between human rights values and customary law, and perhaps indicating the difficulty of ‘universal’ human rights being interpreted uniformly across different cultural contexts, the NZLC (2006:242) advise that ‘[h]uman rights can be applied contextually to give better recognition to custom law and human rights, respecting both the value underlying the right and the value underlying the custom.’

⁴⁷ See all Grenfell (2006:334-335) for a discussion on the vital matter of choice.

The growing appreciation that customary or non-state justice systems have much to offer for the future is also an endorsement of the arguments of those who assert (as discussed in Chapter 1) that restorative and negotiation-based justice systems provide inspiration for how to improve justice outcomes in the developed world, in addition to their utility within subsistence social contexts. In relation to the East Timor case-study, UN Districts CivPol Commander Adrian Norwell (2001:2-3) issued his own early warning against eradicating systems of justice and conflict resolution that may have similarities with state-of-the-art models elsewhere:

The current criminal justice system in East Timor is overloaded and confused; part of the philosophy of traditional justice is based on community healing in that the community decide what is best for itself in terms of resolving some of their criminal matters. While the criminal justice system is adversarial and punishment based, the focus of traditional justice is on offender accountability, problem solving and creating an equal voice for offenders and victims. Whilst the system is an old one, the western world is only now introducing extraordinarily similar concepts to deal with their failing judicial systems. The west has found that their systems are criticised for being too costly and time consuming, all too often offenders were leaving the courts only to offend again.

Future Directions

In the years following independence, several organisations presented dispute resolution models for the consideration of the RDTL government, which incorporated principles derived from *suco* justice practise. The Land Law Program model proposed a legal framework whereby the state (via the Directorate of Land and Property and its trained mediators) would support the mediation of land disputes in accordance with commonly understood principles.⁴⁸ The model can be seen as a mechanism which would legitimise, strengthen and accelerate conflict resolution approaches that are already well understood in the community. Importantly, the model was *not* intended as a compulsory process for all land disputes,⁴⁹ but was proposed in connection with the resolution of the large number of outstanding land and property disputes resulting from past instability (as discussed in Chapter 6) and also for other intractable present and future land disputes unable to be resolved within communities. Significant elements of the model included

⁴⁸ See Urresta and Nixon (2004a).

⁴⁹ Resource limitations would make state involvement in the resolution of every land dispute in the country impossible in any case.

active assistance in the identification of suitable mediators by RDTL Land and Property officials, the buttressing of mediation panels with trained mediators who would also promote improved human rights outcomes, and the registration of agreements. At the time this model was prepared, the Directorate of Land and Property had offices in each of East Timor's thirteen districts. However, it is unclear if all offices will be retained in the future. In the view of the writer (for reasons discussed in Chapter 6), the contraction of the Department of Land and Property to five regional offices would severely restrict its reach and ability to contribute to the resolution of land disputes in most rural areas.⁵⁰

A mediation model broader in scope but with less state support was proposed in 2004 by the Peace and Democracy Foundation (PDF) for civil cases and (eventually) some criminal matters, the latter subject to determinations by police or public prosecutors that these are 'lesser crime cases.'⁵¹ The model proposed by PDF (2004:7,11-16) is based around the concept of village (meaning *aldeia* in this context) mediation teams, each led by a customary elder and also comprising a women's representative, a youth representative, a religious representative, the *chefe de aldeia* and the *chefe de suco*.⁵² These teams are responsible for arranging suitable mediators, arranging mediation sessions and for reporting tasks. In particular (PDF 2004:12-13), the *chefe de suco* is required to report the number of cases processed every month to the courts. Where mediation proceedings are successfully concluded, the teams are also required to arrange for mediation agreements to be signed and for copies of these to be 'held by the parties, the mediation team, the Chefe de Suco and the Sub District Administrator.' For conflicts

⁵⁰ Note that it is anticipated that in coming years, a new regional system of administration (with centres in Dili, Baucau, Maliana, Maubisse and Oecusse) will be introduced in East Timor. Although the thirteen districts will remain part of the new administrative structure, it is unknown if Land and Property will retain offices in all of them.

⁵¹ In the text of their document, PDF (2004:11) indicate that conflicting parties can initiate mediation proceedings for civil cases either by directly contacting their local mediation team or contacting other administrative officials at *aldeia*, *suco* or sub-district level. Concerning 'crimes', PDF (2004:14) indicate that these should initially be referred to the police or the public prosecutor, after which 'lesser crimes' can be directed to mediation while 'serious crimes' should be directed to the courts. In the view of the writer, the distinction between civil and criminal cases is likely to remain unclear in rural East Timor for some time.

⁵² In order to reduce the male dominance of dispute resolution processes and perhaps secularise them (in terms of reducing deference to *adat* criteria), PDF (2004:11-12) specify that the role of the women's representative should be to 'take notes during the mediation process and...learn the process so that they can eventually lead the process.' PDF (2004:14) also propose that female mediators lead mediation proceedings in relation to sensitive issues involving women.

beyond the sub-district level, PDF (2004:13) propose district-level mediation teams which work along similar lines and which involve the district administrator and relevant sub-district administrators, *chefes de suco* and others.⁵³

Again, PDF's proposed model supports central elements of indigenous conflict resolution practise (including the legitimate role of a 'fine' or compensation payment in neutralising hostilities), while reinforcing progressive aspects. Characteristic of these are the emphasis (2004:12-13) on voluntary participation, including the requirement that any 'fine' (compensation payment) be voluntarily agreed upon between the parties,⁵⁴ and the emphasis on the role of women in the mediation process. The proposal also imposes a number of obligations on members of mediation teams, including copying documents, letter-writing, recruiting mediators from other sub-districts when necessary, and monthly reporting tasks to the national courts. In this respect, it is notable that mediation team members are expected (PDF 2004:14-15) to work as volunteers, and this may limit the capacity of the model to improve the quality and speed of mediation outcomes relative to the present situation and to complete administrative and reporting tasks.⁵⁵ As discussed below, however, there is still good reason for the state to legitimise mediation processes at *suco*-level. There may also be benefits in establishing and resourcing a support mechanism for *suco*-level justice forums.

During its term of office, the FRETILIN government supported *no* specific initiatives aimed at improving the quality and speed of customary justice outcomes in East Timor, despite the various proposals that were advanced. However, in an interview with the FRETILIN Minister of Justice Domingos Sarmiento on 5th July 2007, the Minister

⁵³ Similarly, PDF (2004:13) recommend the establishment of national mediation panels on an ad hoc basis for the resolution of conflicts of an especially complicated or serious nature or which involve parties from a number of districts.

⁵⁴ Indeed, the high incidence of 'forum-shopping' (see Chapter 7) which occurs in East Timor may well be a result of conflicting parties being pressured to accept terms of 'reconciliation' which on later reflection they do not accept. It is for this reason that the emphasis on voluntary agreements to terms and conditions is an important means of improving outcomes.

⁵⁵ PDF (2004:14) propose that at the commencement of the mediation process, the conflicting parties 'must contributed [*sic*] some amount of money according to their ability to pay' to be used 'to cover the costs of administering the process.' As discussed in Chapter 7, such payments are already a common part of *suco* justice and conflict resolution processes, but may not be sufficient to support the increased administrative requirements of this model.

indicated that the severe challenges faced by the courts in addressing civil cases (as discussed in Chapter 6) had forced the government to reconsider the structure of the state justice sector. The Minister indicated that the government now favoured mediation as the primary level of conflict resolution for all civil cases, and supported the development of a general law on dispute mediation. Sarmento, of course, was in his final days as Justice Minister at the time, and no such law was developed during the FRETILIN term. It is unclear at the time of writing which position the new *Aliança para Maioria Parlamentar* (AMP) government will take in relation to the development of the justice sector, although the writer understands the new Justice Minister to be supportive, in principle, of mediation.

If the AMP government or a future RDTL government moves to formally support a mediation-based dimension of the justice sector in order to take weight off the court system, there are a number of factors which will have to be carefully and realistically considered. These include the opportunities and limitations presented by existing justice and dispute resolution approaches in terms of their ability to contribute to improved justice outcomes, the capacity of the state to support a mediation or restorative-based non-court justice initiative, the actual structure of the model which should be implemented and the scope that should be permitted restorative forums in terms of which cases they should and should not address.

The fact that nearly one third of the sixty-one farmers randomly selected for interview in Manatuto and Ermera (see Chapter 7) indicated they had been involved in one or more land conflict in the past, with only a minority of disputes addressed by court actors, demonstrates the effectiveness and utility of customary approaches. The overall contribution of these processes to the maintenance of order in the community becomes clear when one considers that land conflicts, as also discussed in Chapter 7, appear to account for only around half of all cases. As also discussed in Chapter 7, *suco* approaches also contribute to order and conflict resolution in ways which are particularly suited to village and community life. By being relatively accessible and efficient, and often based on restorative principles, customary forums can neutralise

tensions with the capacity to lead to violence were these left to brew for months while waiting to be heard in court. On the other hand, customary systems can require a multitude of forums in some instances, and can be challenged to resolve particular kinds of disputes, including those beyond the *suco* level. It is also questionable if existing *suco* actors will have the capacity to respond independently to increasing pressure, both from within and outside of East Timorese society, to promote human rights values. This is likely to be a factor in relation to particular categories of cases, including disputes concerning the rights of women and children in connection with such aspects as customary bride-wealth protocols and land access and inheritance difficulties stemming from patrilineal land tenure systems.

In terms of the capacity of the state to contribute to improved outcomes in existing dispute resolution forums, it is apparent that at the most basic level, the state has the ability to use its moral authority to endorse restorative justice and conflict resolution approaches and hence bolster the legitimacy of these processes. Although it is clear that justice and conflict resolution capacity continues to exist in the *sucos*, there are also indications that the ‘rule of law’ emphasis which has characterised governance support initiatives in the post-Indonesian period has caused some *suco* leaders to doubt the breadth of their own authority. As early as November 2002, in the course of an interview with a district CivPol commander, for example, the writer was informed that *suco* leaders had approached that officer on exactly this issue. Specifically, they had begun to have doubts about the breadth of their authority after receiving visits from human rights officials who were promoting use of the formal system in ‘legalistic’ language and discouraging use of the customary system.⁵⁶

As discussed in Chapter 5 in reference to the recognition of the state of East Timorese customs, the Constitution (RDTL 2002:12) makes specific mention of the possible future institutionalisation of ‘means and ways for the non-jurisdictional resolution of

⁵⁶ UN CivPol Districts Commander 2, interviewed in Oecusse, 14th November 2002. See also Mearns (2002:38) and Meitzner Yoder (2003:17), who reports in relation to the resolution of land disputes that ‘many traditional leaders described uncertainty about [the prospect of] future laws as paralyzing their function in settling land disputes.’

disputes.’ So far, however, no meaningful action has been taken in this area. Although (as also discussed briefly in Chapter 5), *Law No. 2/2004 on the Election of Suco Chiefs and Suco Councils* (RDTL 2004) extends a degree of state legitimacy to *suco*-level processes, neither this law nor any other specifically refers to the role of *suco* authorities in dispensing justice or resolving disputes. As Grenfell (2006:331) notes, the law goes only as far as referring (RDTL 2004) to the role of ‘local structures...[in organising]...the citizen’s democratic participation in solving specific problems of his or her community, thereby contributing...to the...development of the country.’ Given the role being played by *suco*-level mechanisms, there is strong cause to provide these mechanisms with official recognition in order to prevent further erosion of their legitimacy, especially while there is little possibility that their function can be replaced by the court system. At a minimum, recognition could take the form of a law authorising *suco* councils to initiate mediation teams on a permanent basis or as required, much as envisaged in the PDF model profiled earlier. The law could stipulate that mediation proceedings at *suco*-level should be based on voluntary principles and that individuals have the right to go to alternative forums. As a consciousness-raising initiative to improve the quality of mediation outcomes in the *sucos*, the law or any accompanying implementation guidelines could also refer to principles which should guide mediation forums in order to avoid poor outcomes for women and children stemming, for example, from bridewealth payment or land tenure and inheritance related aspects.

A further step could be to initiate an evolving state-supported community justice and mediation program that centres on the training, resourcing and deployment of community justice and mediation officers in each of East Timor’s thirteen districts. The roles of these officials would be fourfold. First, community justice and mediation officers would regularly visit each sub-district for the purpose of delivering human rights and mediation training. This could both increase the effectiveness of *suco*-level mediation forums and improve their ability to deliver outcomes reflecting human rights values. Second, community justice and mediation officers could assist with the identification of suitable mediators for complex cases unable to be resolved in official *suco* forums. The sorcery-related example cited earlier demonstrated how a potentially

serious case that was unable to be resolved locally, could be resolved with outside assistance *before* it resulted in a killing (and potentially a new court case!). This example illustrates the possible utility of a state supported mediation program. Third, the community justice and mediation officer could work closely with the courts and the PNTL in connection with particular categories of cases (notably serious crimes and commercial cases) suited to being admitted to the courts. Ideally the overall load of cases going to court will be reduced, allowing courts to operate more efficiently. Finally, community justice and mediation officers could keep records to assist future policy development activities.⁵⁷

The PNG village court system provides an example of what can be achieved in a New Subsistence State by sanctioning and providing modest state support to justice institutions operating at village-level (although in this case the powers of the village-level forums go beyond facilitating mediation). In 2004, according to NZLC (2006:150), the village court system was associated with the processing of over 600,000 cases in more than 1,200 village courts across the country. As stated by the Independent State of Papua New Guinea (ISPNG) in the *Village Courts Act 1989* (ISPNG 1989), village courts comprise at least three village magistrates appointed by the provincial government and supervised at the provincial government level by a provincial supervising magistrate. The *Act* specifies under Section 52 that the ‘primary function of a village court is to ensure peace and harmony in the area for which it is established by mediating’, and allows for mediation forums to be facilitated by ‘a single Village Magistrate.’ The *Act* also provides for odd-numbered panels of at least three village magistrates to hear and issue majority determinations on a range of civil and criminal matters, in respect of which (under Divisions 3 and 4) they may issue fines of up to 200 *Kina*, order compensation payments of up to 1000 *Kina*, or require work to be conducted by an individual for up to six months in criminal cases and up to three months in civil

⁵⁷ Mearns (2002:55) has suggested that courts should also move towards meeting community expectations in such areas as incorporating victim compensation aspects in their determinations. In fact, this appears to be already happening to some extent, according to a recent JSMP press release referring to a court case pertaining to a murder conviction. In sentencing the offender to a five year gaol term, according to JSMP (2007), the court took into account ‘the agreement made between the victim’s family and the defendant’s family for the defendant to pay compensation in line with customary law.’

cases. Subject to approval by a full magistrate (see Section 68), village courts may also recommend sentences of imprisonment of up to six months.

Importantly in terms of possible models for East Timor, it is of note that under Section 3 of the *Act* (ISPNG 1989), village courts are supported by a Village Court Secretariat positioned in the Department of Justice. Theoretically, at least, PNG village courts are also eligible under Section 14 of the *Act* for a minimum level of funding (the same as or greater than the amount which the courts raise in charges and fees) from provincial governments. They are also linked into the broader justice framework through the supervising magistrate and terms specifically addressing (Part VI) the ‘relationship between village courts and other courts.’ These include provisions for cases being heard before village courts to be referred to higher courts, as well as provisions for cases being heard before other courts to be referred to village courts. The PNG *Village Courts Act 1989* (ISPNG 1989) is of interest in relation to the East Timor situation because it represents a clear attempt to reconcile the capacities and values of a subsistence society with the aspirations, values and limited resources and capacities of an incipient state. This endeavour is clearly reflected in the wholly pragmatic provisions pertaining (Division 8) to the ‘Law to be applied.’ Whereas ‘in all matters before it a Village Court shall apply any relevant custom’, and although ‘Custom shall be applied...whether or not it is inconsistent with any Act’, village courts are also obliged to exercise their authority ‘in accordance with the principles of natural justice.’⁵⁸

Although it may go beyond what is envisaged for East Timor, the PNG village court system demonstrates how the state can strive to improve overall justice outcomes by engaging with customary processes. By bestowing legitimacy on particular village-level forums and assimilating these forums into the state system, the state can provide the foundations for human rights advances as ‘the principles of natural justice’ become more widely understood. Importantly, in the case of PNG, the NZLC (2006:150-152) refer to

⁵⁸ Note that in relation to technical process, Section 59 of the *Act* (ISPNG 1989) states that ‘technical rules of evidence’ do not apply, but that ‘such information as is available’ can be admitted and considered. In respect to the flexibility of the village courts, the NZLC (2006:150) remark that ‘[i]t is one of the strengths of the village courts that they are not bound by rigid rules and are able to adapt to the local context.’ A possible downside, meanwhile, relates to ‘inconsistency, raising questions of equitable access to justice.’

indications that ‘village court officials see themselves as part of the state legal system rather than as a customary institution and that they tend to hear cases in which customary processes have failed or are inappropriate.’ Whereas the NZLC (2006:150-151) refer to PNG village courts as being positioned ‘in between customary processes and the higher courts’, the connection which village courts have with the state is considered to hold potential for real improvements as ‘[i]ncreasingly, village court officers are being trained in mediation and human rights.’

Local courts also exist in other Pacific jurisdictions, and in his consideration of how to promote twenty-first century human rights values in the Solomon Islands and Vanuatu, Brown identifies the need for education of local court members as one of three key areas.⁵⁹ In relation to this area, Brown (2005:221) remarks:

The chief task of senior officers lies in the training of the members of local courts, so that all justices are aware that modern rights standards go beyond decision-making on the intricate minutiae of constitutional interpretation and extend into the ordinary cases that fall for determinations on an everyday basis. On human rights issues the courts in both jurisdictions have generally taken a robust stance in support of modern charters.

For reasons discussed in Chapter 1, there is much that is comparable between the Pacific case-studies and East Timor. Notably, however, East Timor to date has no formal conflict resolution framework (whether courts or mediation forums) which can be used for the systematic introduction and reinforcement of human rights values at *suco*-level, and for improving the efficiency of outcomes.

As the discussion in this chapter indicates, there are a range of models that could inform the development of such a village mediation or court system, and some experimentation may be necessary in order to produce results that are sustainable and effective in view of state capacity factors considered in Chapter 6. For example, the community justice and mediation model proposed earlier in this section would ideally be located within the

⁵⁹ The other two areas (Brown 2005:220-221) comprise constitutional and political considerations. Whereas the former (addressed earlier in this chapter) involves formally proclaiming the goal of equality in the state constitution, the latter involves practical steps aimed at promoting equality across a range of sectors, including the education system, the public service and the media. Note that Kenneth Brown held several judicial posts in the Solomon Islands in the 1980s.

RDTL Ministry of Justice, yet there are questions concerning the extent to which the Justice Ministry would be capable of implementing and administering such a program at present. On this basis, it may be appropriate for the state to consider tendering out such a program to one or more outside agencies on a fixed-term renewable basis. In fact, a number of NGOs (including Asia Foundation and Advocates Sans Frontiers) already operate community justice programs in rural East Timor aimed at improving mediation capacity and delivering legal education and assistance. Whereas these programs are confined to particular areas, are dependent on fickle donor funding and are not supported by law, contracting such NGOs to implement a nationwide community justice and mediation initiative would be a means of ensuring more sustainable and uniform outcomes in accordance with state law.⁶⁰

Conclusion

Throughout the transitional and independence period, the lack of formal justice capacity has meant that *suco*-level justice and conflict resolution forums have continued to play a major role throughout East Timor. The advantages of *suco* justice forums in comparison to the courts have included their accessibility, ability to deliver timely outcomes and ability to restore good relations in the community. Although the *suco* justice sphere has shortcomings in areas relating to human rights values and the resolution of conflicts beyond the level of the *suco*, the capacity of the state and the nature of East Timorese society mean that *suco*-level forums will remain in use for the foreseeable future. In some instances, however, the ‘rule of law’ emphasis of recent years has caused community leaders to doubt their authority to convene *suco* forums, indicating the importance of the state providing clarification concerning the legitimacy of customary systems of justice and conflict resolution. Endorsing, with some qualifications, the legitimacy role of *suco* justice and conflict resolution forums can be seen as an

⁶⁰ The brief outline on community justice programs operating in East Timor is based on an interview with Kim Hunter from the Asia Foundation (interviewed in Dili, 2nd July 2007) and an interview with Melanie Reimer from Advocates Sans Frontiers (interviewed in Dili, 5th July 2007). As indicated by the earlier discussion concerning the work of *Centro Feto*, community justice activities have also been initiated by East Timorese NGOs. Of course, East Timorese NGOs face similar funding challenges to international NGOs.

economical means of supporting order in the community in a New Subsistence State context in which the delivery of actual services remains a major challenge.

In recognition of the importance of customary justice and conflict resolution approaches to the maintenance of order within a post-conflict weak state context, a number of initiatives aimed at engaging with these processes and linking them with the formal justice sector were implemented, trialled or proposed in the transitional period. In most cases these initiatives were informed by restorative justice principles and stressed such aspects as voluntary participation. Typically, the principle of compensation was also incorporated, in some cases in the form of restorative labour. Generally, these various initiatives were limited to civil matters and 'less serious' crimes. The most notable program was the community reconciliation process implemented under the auspices of the Commission for Reception, Truth and Reconciliation. In its mandate, however, the community reconciliation process was restricted to addressing crimes committed up until 1999, as well as limited to addressing 'less serious' crimes only.

In the period following independence, further initiatives were proposed aimed at legitimising the role of *suco* forums and, in the case of the Land Law Program model, buttressing *suco* processes with state resources and trained mediators. However, while there is appreciation in both the broader community and the civil society sector (including women's organisations) concerning the importance of *suco* forums, this appreciation has not always been shared at elite level, possibly because of the legacy of the *assimilado* conditioning process. In the early years of independence, the FRETILIN government appeared to be focussed on the development of modern state institutions and was opposed to reliance on customary mechanisms. Although the weakness of the justice sector was influencing a review of this approach by mid-2007, FRETILIN was removed from office before the introduction of a general law on mediation had become a serious priority. It is not yet clear how the situation will develop with the new government, although it is understood that the new justice minister is supportive, in principle, of mediation-based approaches.

In a number of comparable New Subsistence State jurisdictions elsewhere, strategies have been implemented to connect village justice forums with the state sector. This approach can both promote order through providing existing community forums with additional legitimacy and modest resources, and also provide a means for influencing the gradual improvement of village justice outcomes with respect to human rights values. To date, no such initiative has been implemented in East Timor, however, a community justice and mediation program could be a relatively low-cost means of improving the efficiency of *suco*-justice forums, promoting human rights values in rural areas and reducing the burden on the national court system. Except where offenders are an ongoing threat to other members of the community, or in other special cases, there is likely to be merit in permitting reasonable flexibility concerning the kinds of matters permitted to be addressed in *suco* forums. The important consideration here, as emphasised by NZLC (2002:163) is the matter of victim empowerment and the need for participants, especially victims, to engage with community justice process on a fully voluntary basis. Finally, because of the weakness of state institutions, there could be merit in contracting any community justice and mediation program to NGOs with specialist expertise in this area, at least in the short-to-medium term.

Conclusion

This thesis has aimed initially to develop a conceptual and explanatory framework for more systematic understanding of public administration challenges in New Subsistence States, or states in which non-state social organisation is a prominent feature. The thesis then examines the ways in which the case-study of East Timor conforms to the typology of the New Subsistence State, through a progressive analysis of the various chapters in the country's history. Finally, the thesis explores the potential for East Timorese non-state justice and conflict resolution capacities to be integrated into the framework of the state, as a means of bolstering the state's weak capacity.

As discussed in Chapter 1, the defining features of the New Subsistence State include (1) an overwhelmingly subsistence economy, corresponding to little or no historical experience of the generation and administration of large surpluses, controlled in a centralised manner, (2) minimal workforce stratification and labour specialisation, (3) an authority structure, especially in regional areas, that in the terms articulated by Weber (1978:227) conforms to the 'traditional authority' model, rather than the 'legal' or 'bureaucratic' model, and (4) the realisation of statehood as a result of either the adoption or bestowal of the state *model*, rather than the autochthonous development of the state *form*.

Notwithstanding the differences between New Subsistence States and other kinds of states, international state-building endeavours have traditionally taken the modern state structure for granted as an appropriate social and political model for stateless societies. However, the socio-political features of stateless societies have commonly frustrated the introduction of the modern state model. As discussed in Chapter 1, public administration in accordance with the state formula has presented constant challenges for societies with minimal experience of systematically generating and administering large surpluses, and in many cases the delivery of state services has proved unsustainable. Meanwhile, the 'legal authority' ethic has had difficulty establishing itself in a social and economic context in which the rationale for continued adherence to 'traditional authority' is constantly reinforced. For these

reasons, there are strong grounds for promoting state-building approaches which seek, where possible, to integrate indigenous capacities into the institutional structure of New Subsistence States, at the very least as a transitional measure.

The geographic, historical and socio-political characteristics of East Timor profiled in Chapter 2 demonstrate the extent to which this case-study conforms to the typology of the New Subsistence State. The geographic and hydrological features of East Timor never offered the kinds of possibilities that led to the development of large-scale irrigated agriculture elsewhere, and this is reflected in the pre-literate culture and absence of bureaucratic traditions which prevailed at the time of colonial settlement. Furthermore, very little change occurred throughout the colonial era in terms of social and economic modernisation, and at the conclusion of the Portuguese period the territory continued to present (as it largely still does) the profile of an overwhelmingly subsistence society. Indicators of the lack of development included the small commercial primary industry sector, the low level of urbanisation and the low levels of literacy. In sociological terms, these factors signified the absence of a highly stratified workforce and the persistence of traditional authority relations. These various features were reflected in the attractiveness of Portuguese Timor as a destination for social anthropologists at the conclusion of the Portuguese colonial period.

In state-building terms, the legacy of East Timorese socio-political institutions in the form in which they emerged at the end of the Portuguese period is likely to be mixed. The fact that traditional authority relations were preserved within the *postos* as a result of the practice of indirect rule means, as discussed in this study, that customary mechanisms can continue to contribute to the promotion of order in the present day. On the other hand, the practise of confining most of the population (except for the minority assimilated into 'European civilisation') to their *postos* is unlikely to have assisted the development of a national unity. Similarly, East Timorese socio-political institutions are considered highly structured in comparison with those in Melanesia and therefore possibly more conducive to stability at some level. However, the use of martial force to achieve political and economic advantage has also featured prominently in East Timorese history. These traditions were actively preserved

during the colonial period and remain a factor contributing to instability in the RDTL today.

On top of the various legacies of the pre-pacification and colonial periods, the circumstances under which East Timor's first generation of political elites took to the stage following the *Movimento das Forças Armadas* revolt of April 1974 were far from optimal. As the analysis presented in Chapter 3 indicates, East Timor's first generation of political leaders was youthful and inexperienced, and subject at times to poor judgement and impetuous behaviour. Ultimately, key members of East Timor's political elite were unable to resist the manipulative and divisive tactics of the Indonesian military. Abandoned by influential near neighbours and powerful members of the international community, and with the new yet weak Portuguese administration lacking the capacity and resolve to undertake peaceful decolonisation, the territory fell victim to Indonesian plotting and internal rivalries and weaknesses. Exaggerated political and ideological posturing, bickering over trivial political differences and simplistic means of expanding support bases all played a role in increasing hostilities between the FRETILIN and UDT political organisations. These features combined to ill effect with the willingness of the various parties to use martial means to realise political objectives, and the tendency among members of the security forces to align themselves with the parties. In the chaos that ultimately resulted from the abrupt collapse of Portuguese authority, recent political alliances and doctrines sometimes blurred, as ancient rivalries emerged and opportunities for retributive killings were created. Although these developments indicated that party alliances represented merely one of multiple influences in the subsistence social context of East Timor at this time, the political divisions that emerged in the 1974-1975 period have also had enduring and serious consequences which continue to threaten the stability of the RDTL state in the present.

As examined in Chapter 4, the turmoil of 1975 ended tragically with invasion by Indonesia, and also led to a further period in which little social or economic modernisation occurred. The Commission for Reception, Truth and Reconciliation reports that the devastating implications of the invasion included widespread human rights abuses and the deaths 'from hunger and illness of between 100,000 and 180,000 East Timorese civilians who died as a direct result of the Indonesian military

invasion and occupation' (CAVR 2005 Part 8:6-7). As characterised by Beazley (1999:12-13), Indonesia's strategy for the integration of East Timor was 'based on a combination of tight internal security and efforts to promote economic and social development.' In fact, the security emphasis deterred private investment, led to low levels of public confidence in Indonesian institutions, including the courts, and eliminated the possibility of extensive local participation in public administration. More broadly, despite substantial capital flow and investment in infrastructure (including the construction and staffing of schools and hospitals), and notwithstanding the modest expansion of the primary industry sector, the Indonesian period of administration facilitated minimal movement towards the overall social and economic modernisation of East Timor. At the conclusion of the Indonesian occupation, the economy remained overwhelmingly subsistence, with little evidence of modernised cultivation practices and no more than three per cent of the land mass alienated from customary tenure for commercial primary industry activities. Significantly, the territory held the status of the least urbanised region in the archipelago, and this standing was accompanied by a range of other dire development indicators, including record low levels of infant mortality, life expectancy and educational achievement.

Socially, during the Indonesian period, East Timor experienced multiple destructive developments that compounded the damage wreaked upon the incipient national community by the events of 1975. The purges of the FRETILIN Marxist period, the Indonesian-backed militias and 'ninja' gangs, the reinforcement of martial traditions, the clandestine culture which created suspicion and eroded trust even among independence activists, all presented obstacles to social capital accrual and presented additional challenges for future state-building. Meanwhile, at the same time as the nature of the Indonesian administration promoted distrust in state mechanisms of public administration, it also encouraged reliance on *suco* administration systems, which became linked into a national resistance network and shadow administration. These indigenous administration and conflict resolution capacities would play a prominent role in the ad hoc emergency administration and militia reintegration systems that emerged in East Timor following the Indonesian exodus of 1999.

Despite the success of the initial peace-keeping and humanitarian activities which followed the Indonesian exodus, there has been much criticism about the deficiencies of the subsequent state-building activities undertaken by the international community. As discussed in Chapter 5, numerous shortcomings were identified including planning deficiencies, the brevity of the period of transitional administration and the fact that it comprised multiple short-term mandates, the inadequate capacity of international staff, the minimal presence of the transitional administration outside of Dili, poor communication with regional offices, an ad hoc approach to policy development and implementation, an absence of meaningful capacity-building activities at multiple levels (from public administration to civic education) and a failure to involve an appropriate range of East Timorese actors in an appropriate range of sufficiently resourced transitional administration activities and transitional governance forums. And yet, beyond the shortcomings of the international state-building effort, there were formidable barriers to the adoption of the modern state model presented by East Timor's history. Not only had East Timor experienced little economic and social modernisation, but there was no real history of socially legitimate centralised administration. This factor did not deter the international community from quickly installing the standard institutions of the modern state (including the security agencies). Neither did it prevent FRETILIN, the party which came to power at the 2001 election for a Constituent Assembly, from trying to implement a strong leadership approach to governance.

In the post-Independence period, multiple vulnerabilities have emerged which validate concerns about both the prospects for long-term stability and the ability of RDTL state agencies to deliver services in accordance with the modern state model. This is despite, and perhaps even partly because of, the considerable hydrocarbon wealth likely to accrue from off-shore oil and gas reserves. As discussed in Chapter 6, the underlying social, economic and demographic conditions, post-conflict risk factors and absence of state administration experience have been compounded by a range of features and developments linked to East Timor's particular history, power patterns, elites and resistance struggle. The realisation of FRETILIN's historic vision to govern East Timor, the bicentric nature of the semi-presidential constitution, the individuals who gained political positions and the dynamics between them, the composition of the security forces and the 'east-west' schism that flared in the

context of a security sector dispute, the ability of an armed fugitive in the mountains to gain the status of a hero, the hostility borne by FRETILIN hardliners against the *Aliança para Maioria Parlamentar* (AMP) Government which replaced it one year after the 2006 instability: all of these developments contribute to the particular fragility being experienced by East Timor as a post-conflict New Subsistence State.

The political tensions and various other factors at play in East Timor and the related, periodic, outbreaks of organised violence in an otherwise relatively quiet half-island, produce an environment of rumours and uncertainty. As discussed in Chapter 6, East Timor's 'political risk' reputation has already served to discourage much needed on-shore investment. No doubt the rumours, uncertainty and intrigue also serve to drain considerable energy from the advancement of development objectives. The 'east-west' tensions which broke out in 2006 also had the effect of restricting movement throughout the country, imposing an additional limiting factor on the already minimal interaction, at that time, between government and the rural populace. None of these developments bode well given, as discussed in Chapter 6, that the RDTL faces major challenges in all main categories of public administration even when not experiencing a governance or security crisis. The justice sector has been identified as one of the weakest areas of governance, and this is a matter of serious concern given that a weak justice sector may leave multiple critical cases unresolved in a country already threatened by instability.

Whereas state institutions remain weak, the country has the option to draw on *suco* institutions to support some areas of governance, including justice and conflict resolution. As demonstrated in Chapter 7, it is possible to trace a continuum between the East Timorese justice approaches of the pre-pacification and colonial periods and those of the present day. These well-understood *suco* justice and conflict resolution mechanisms continue to be highly regarded throughout the country for reasons that include affordability, convenience, and speedy outcomes. Consistent themes which continue to characterise these approaches include the compensation principle, the importance of reconciliation, the need for access to a range of forums, the preference for resolving conflicts as locally as possible and, perhaps most importantly, the need for access to quick justice in order to prevent problems from escalating. In relation to this last factor, in particular, it becomes clear that the promotion of order and

stability in a rural community can usefully be interpreted as meaning far more than merely responding to destructive events in a state court *after* the events occur. Promoting order also means actively identifying conflicts and potential conflicts *before* they lead to violence or further violence, and mediating solutions which ideally eliminate the destructive potential of these conflicts. As discussed in Chapter 7, conflicts which are either difficult to resolve or particularly suited to some form of state support or intervention, include conflicts between *sucos*, sorcery cases, and cases relating to land and other rights for women.

Despite a degree of ambiguity at the policy level, the lack of formal justice capacity has meant, as discussed in Chapters 7 and 8, that *suco*-level justice and conflict resolution forums have continued to play a major role throughout East Timor during the transitional and post-independence periods. Although *suco* approaches have shortcomings in areas relating to human rights values and the resolution of conflicts beyond the level of the *suco*, the capacity of the state and the nature of East Timorese society mean that *suco*-level forums will remain in use for the foreseeable future. In some instances, however, the ‘rule of law’ emphasis of recent years has caused community leaders to doubt their authority to convene *suco* forums, indicating the importance of the state providing clarification concerning the legitimacy of customary systems of justice and conflict resolution. Endorsing, with some qualifications, the legitimate role of *suco* justice and conflict resolution forums can be seen as an economical means of supporting order in the community in a New Subsistence State context in which the delivery of actual services remains a major challenge.

In recognition of the importance of customary justice and conflict resolution approaches to the maintenance of order within a post-conflict weak state context, a number of initiatives aimed at engaging with these processes and linking them with the formal justice sector were implemented, trialled or proposed in the transitional period. In most cases, as demonstrated in Chapter 8, these initiatives were informed by restorative justice principles and stressed such aspects as voluntary participation. Typically, the principle of compensation was also incorporated, in some cases in the form of restorative labour. Generally, these various initiatives were limited to civil matters and ‘less serious’ crimes. The most notable program was the community

reconciliation process implemented under the auspices of the Commission for Reception, Truth and Reconciliation. In its mandate, however, the community reconciliation process was restricted to addressing crimes committed up until 1999, as well as limited to addressing ‘less serious’ crimes only.

In the period following independence, further initiatives were proposed aimed at legitimising the role of *suco* forums and, in the case of the Land Law Program model, buttressing *suco* processes with state resources and trained mediators. However, while there is appreciation in both the broader community and the civil society sector (including women’s organisations) concerning the importance of *suco* forums, this appreciation has not always been shared at the elite level, possibly because of the legacy of the *assimilado* conditioning process. In the early years of Independence, the FRETILIN government appeared to be focussed on the development of modern state institutions and was opposed to reliance on customary mechanisms. Although the weakness of the justice sector was influencing a review of this approach by mid-2007, FRETILIN was removed from office before the introduction of a general law on mediation had become a serious priority. It is not yet clear how the situation will develop with the new government, although it is understood that the new justice minister is supportive, in principle, of mediation-based approaches.

In a number of comparable New Subsistence State jurisdictions elsewhere, strategies have been implemented to connect village justice forums with the state sector. As argued in Chapter 8, this approach can both promote order through providing existing community forums with additional legitimacy and modest resources, and also provide a means for influencing the gradual improvement of village justice outcomes with respect to human rights values. To date, no such initiative has been implemented in East Timor. However, a community justice and mediation program could be a relatively low-cost means of simultaneously improving the efficiency of *suco*-justice forums, promoting human rights values in rural areas and reducing the burden on the national court system. Except when offenders are an ongoing threat to other members of the community, or in other special cases, there is likely to be merit in permitting reasonable flexibility concerning the kinds of matters permitted to be addressed in *suco* forums. The important consideration here, as emphasised by

NZLC (2002:163) is the matter of victim empowerment and the need for participants, especially victims, to engage with community justice processes on a fully voluntary basis. Finally, because of the weakness of state institutions, there could be merit in contracting any state-initiated community justice and mediation program to NGOs with specialist expertise in this area, at least in the short-to-medium term.

* * *

With varying levels of success, numerous actors operating above the level of the *suco* have endeavoured to influence developments in East Timor over the last five centuries. They include the *liurais*, the Dutch, the Portuguese, the Catholic Church, the *Topasses*, the Japanese, the ad hoc FRETILIN government of 1975, the Indonesians, the UN and the new RDTL state (with its international support base). Many of these actors have been transient, and no broad and substantial modernisation of society and economy has been produced by any of them, which provides some explanation as to why traditional authority structures have retained legitimacy to the present day. While there were already reports in 2002 that some community leaders were becoming unsure of the breadth of their authority amid the new emphasis on ‘the rule of law’, and while this reinforces the rationale for extending qualified state support for *suco* justice processes, it is likely, especially in rural areas, that customary approaches to justice and dispute resolution will retain their legitimacy at least into the medium-term future.

The disintegration of state authority and administration capacity that unfolded in mid-2006 highlights the advantages of a conservative position concerning the jettisoning of established systems of dispute resolution, even though these systems might be imperfect. Certainly, *suco* authorities can be deficient when it comes to resolving cases of violence against women, and the continuing reports of revenge attacks on alleged ‘sorcerers’ emphasise the need for strategies to address this particular aspect of the *adat* justice sphere. However, the many shortcomings of the justice systems of the *sucos* must be balanced against the weak points of the courts *and* the capacity for these existing and functioning *suco* forums of dispute resolution to be improved and supported over time to accommodate human rights concerns. As in other New Subsistence States in the Pacific and elsewhere, the case supporting

community justice and conflict resolution systems in East Timor is that they remain accessible even after state agencies, for any number of reasons (that might include governance emergency, security crisis, logistical difficulties of one sort or another or fiscal failure) have ground to a halt.

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Informants

Note: (1) Respondents from quantitative surveying activities are not listed, and (2) Respondents who requested or who were promised anonymity in accordance with ethics protocol are listed in functional capacity (for example, Ritual Leader 1).

East Timorese

Abrantes, Manuel. FRETILIN Vice-Minister of Justice. Interviewed in Dili, 7th November 2002.

Amaral, Clementino dos Reis. KOTA Member of Parliament 2002-2007. Interviewed in Dili 1st April 2003.

Araujo, Fernando 'Lasama' de. President of PD, and President of Parliament of the AMP Government (2007-). Interviewed in Dili, 13th September 2003.

Lay, Maria Fernanda. Former Director of Timor Telekom (during Indonesian period) and Member of Parliament with the CNRT party (2007-). Email correspondence dated 1st August 2006, and 11th September 2006.

NGO Lawyer 1. *Yayasan Hak* (Rights Organisation) lawyer and former CivPol Interpreter. Interviewed in Dili, 5th and 6th November 2002.

Retired Forester 1 (with experience from both Portuguese and Indonesian periods). Interviewed in Liquiça, 26th May 2005.

Ritual Leader 1. *Chefe de Suco* and *Naizuf Mnasi* (ritual leader), Oecusse. Interviewed in Bobocasse, Oecusse, 12th and 13th November 2002.

Ritual Leader 2. *Naizuf Mnasi*, Oecusse. Interviewed in Nuno Heno, Oecusse, 22nd March 2003.

Ritual Leader 3. *Naizuf Mnasi*, *Chefe de Suco* and former CNRT official, Oecusse. Interviewed in Naimeco, Oecusse, 14th November 2002.

Ritual Leader 4. *Meo* and former Oecusse CNRT Spokesperson. Interviewed in Oecusse, 11th November 2002 and 24th March 2003.

Ritual Leader 5. *Lia Nain*, Sub-District Administration Official and ex-CNRT official. Interviewed in Aileu Kota, Aileu, 8th and 19th November 2002, and 15th March 2003.

Ritual Leader 6. *Lia Nain*, District Land and Property Officer and ex-CNRT official. Interviewed in Aileu Kota, Aileu, 19th November 2002.

Sarmiento, Domingos. FRETILIN Minister of Justice 2003-2007. Interviewed in Dili, 5th July 2007.

Senior East Timorese Administrator 1. Interviewed in Oecusse, 13th November 2002.

Senior East Timorese Woman 1. Elder from Suai now living in Australia. Interviewed in Darwin 15th September 2002 and 22nd June 2003..

Soares, Aderito de Jesus. Sa'he Institute for Liberation. Interviewed in Dili, 18th May 2001.

Vasconcelos, (Reverend) Francisco, Moderator, Protestant Church in East Timor. Interviewed in Dili, 17th May, 2001.

Women's Advocate 1. *Centro Feto* (Women's Centre), Oecusse. Interviewed in Oecusse, 14th November 2002.

Women's Advocate 2. Catholic Diocese, Dili. Interviewed in Dili, 6th November 2002.

Youth Leader 1. Youth leader and former UN translator (1999-2002). Interviewed in Oecusse, 12th November 2002.

Internationals

Ambrosio, Vitor. Coordinator of the UNTL Informatics Department. Interviewed in Dili, 3rd July 2007.

Andrade, Pedro. Public Defender. Interviewed in Dili, 4th July 2007. Written correspondence received 22nd November 2007.

Boyce, David. Coffee specialist who worked with the National Cooperative Business Association (NCBA) between 1993 and 2006. Email correspondence received 10th August 2006.

Choi, Eun-Chim (Jennifer). UNDP Democratic Governance and Capacity Development Unit. Email correspondence received 16th November 2007.

Etches, Geoff. East-West Centre Scholarships Officer between 2001 and 2005. Interviewed by telephone, 2nd November 2006.

Expatriate Finance Officer 1. Expatriate finance officer who worked with financial agencies (including the Ministry of Planning and Finance) in East Timor between 2000 and 2005. Interviewed online, 10th March 2005.

Expatriate Private Lawyer 1. Expatriate lawyer who has been working in the East Timorese court system since 2000. Interviewed in Dili, 21st February 2005.

Hamladji, Noura. Former Head of UNDP Governance Unit. Interviewed in Dili, 4th July 2007.

Hearn, Roger (Dr.). Former Director (during 2001) of the UNTAET Administration for Local Government and Development (ALGD), also known as the Office of District Administration (ODA). Interviewed in Dili, 16th October 2001.

Hunter, Kim. Asia Foundation East Timor. Interviewed in Dili, 2nd July 2007.

Monge, Marcia. UNDP Parliament Project. Interviewed in Dili, 9th October 2007.

Priest 1. Expatriate Priest with around four decades of experience in Timor. Interviewed in Oecusse, 11th and 14th November 2002.

Reimer, Melanie. Advocates Sans Frontiers East Timor. Interviewed in Dili, 5th July 2007.

Rudduck, Roger. Pilot formerly with *Transportes Aéreos de Timor* (TAT). Interviewed by telephone, 9th February 2006.

UN Civic Education Coordinator 1. Interviewed in Dili, 15th May 2001.

UN CivPol District Commander 1. Former Commander and Deputy Commander of Oecusse CivPol during 2000 and 2001. Interviewed in Dili, 5th November 2002.

UN CivPol District Commander 2. UN District CivPol Commander who served in Baucau district in 2000 and Oecusse district in 2002. Interviewed in Oecusse, 14th November 2002.

UN CivPol Officer 1. UN CivPol Officer who served in Oecusse district from November 1999 to February 2000, and in Baucau district from November 2000 to May 2001. Questionnaire returned 3rd November 2002.

UN CivPol Officer 2. CivPol officer who served in Baucau district in 2000. Written accounts received 2nd December 2002 and 5th June 2003.

UN District Administrator 1. UNTAET District Administrator based in Aileu district between late 1999 and mid-2000. Interviewed in Dili, 9th November 2002.

UN Field Officer 1. UN Field Officer and Gender Focal Point who served in Oecusse between late 2000 and mid-2001. Interviewed by telephone, 16th October 2002.

UN Judge 1. UN Judge who worked in Oecusse between 2000 and 2001. Correspondence received 29th October 2002 and 21st November 2002.

UN Legal Affairs Officer 1. UN Legal Officer who served in East Timor between late 1999 and 2003 (stationed in Aileu between late 1999 and mid-2000). Interviewed in Dili, 9th November 2002.

UN Legal Affairs Officer 2. Legal Consultant and former UN Legal Officer. Interviewed in Dili, 24th June 2004.

UN Military Observer 1. UN Military Observer who served in Dili, Oecusse and Suai for a twelve month period commencing January 2000. Questionnaire returned 2nd December 2002.

UN Political Affairs Officer 1. UN Political Affairs Officer who served in Oecusse during 2000 and 2001. Interviewed in Dili, 6th November 2002. Questionnaire returned 21st November 2002.

Appendix A

Semi-Structured Interview Guidelines for Customary Justice Study

United States Institute of Peace
Project on Peacekeeping and the Administration of Justice
Customary Law Component – East Timor

Semi – Structured Interview Guidelines

Background and Notes:

- The study will focus ‘on the period of the United Nations administration to determine which problems – in relation to customary law – were faced when attempting to establish a new formal, and ideally sustainable, judiciary for self governance. It will investigate the substantive content of customary law and identify the main paradigmatic conflicts that arise during the establishment of a formal judicial system. The study will make recommendations for reconciling these conflicts and develop proposals on how a future judiciary in East Timor could integrate local methods of conflict resolution and yet still be in accordance with international standards of human rights’.
- People interviewed will remain anonymous. Their identity will only be known to the research team.
- For the purposes of this study, the term *customary* refers to practices or processes accepted as legitimate by a significant proportion of community members. The term *formal* refers to the state processes including the courts, CivPol, and other national institutions. The term *vulnerable groups* refers to women, children, the aged, the infirm, the disabled, and other minorities.
- For all respondents, details of position(s), location(s), period(s) of deployment in each post, and descriptions of duties is important.

A. International/national level questions for those who worked in positions of policy formulation and management in relation to the justice sector (very general):

1. To what extent did UNTAET/your institution take into account the existence of customary justice and dispute resolution procedures, and attempt to integrate this into the transitional administration process (including in relation to criminal acts, conflict resolution, land and property disputes, reintegration of returnees, the Truth and Reconciliation Commission and other areas)?
2. What, if any, guidelines were developed for use in the field with respect to the role of customary legal/conflict resolution procedures under the UNTAET administration?
3. What, if any, political agendas prevailed in respect to the question of integrating customary justice and dispute resolution procedures under the UNTAET administration?
4. What concerns were held by UNTAET policy makers and managers with respect to the human rights implications of the utilisation of customary justice practices in East Timor?
5. What was your knowledge/your institutions knowledge about customary practices?

B. International/national level questions for national and internationals who worked in the field for the transitional administration as Judicial Officers, Human Rights Officers, CivPol Officers, Field Officers or in other areas related to justice and conflict resolution:

UNTAET guidelines/expectations:

1. What, if any, official guidelines did you receive relating to the status and legitimacy of customary legal/conflict resolution procedures under the UNTAET administration?
2. How did you perceive UNTAET's expectation of the role that customary law/conflict resolution procedures would play throughout the peacekeeping operation in East Timor?
3. In your experience, was this expectation appropriate?
4. What initiative were you personally permitted and/or expected to take with respect to incorporating customary law/conflict resolution procedures into public administration?
5. What, if any, guidelines did you receive relating to the treatment of vulnerable groups in relation to customary law/conflict resolution procedures?

The response of field staff to the situation

6. What policies and strategies did you develop (individually or together with colleagues) in response to the existence of both customary and formal systems of justice?
7. What policies and strategies did you develop (individually or together with colleagues) to ensure the protection of the rights of members of vulnerable groups in relation to customary law/conflict resolution procedures?

Timorese expectations with respect to legal and conflict resolution institutions:

8. What, in general, do you believe were the expectations of the Timorese regarding the extent to which customary law/conflict resolution procedures should be incorporated into the peacekeeping operation/UNTAET administration?
9. Did different groups of Timorese in the area in which you were working (different genders, age brackets, minority groups) have different expectations regarding the extent to which customary law/conflict resolution procedures should be incorporated in the peacekeeping operations? If so, how did these expectations differ and what were the consequences of this difference of expectation?

Use and integration of customary legal/conflict resolution procedures

10. To what extent were customary law/conflict resolution procedures utilised during your deployment in East Timor, and to what extent was the formal system utilised? (Is it possible to estimate proportions?)
11. What factors determined which system would deal with crimes and disputes?
12. In your experience, was there an accepted demarcation (not necessarily an official demarcation) in your organisation between 'serious' crimes and disputes (to be dealt with by the formal justice system) and 'minor' crimes and disputes (to be dealt with through customary processes)? If so, which kinds of crimes and disputes were dealt with by which systems?

13. Where there was a demarcation between crimes/conflicts that would be addressed using the customary system, and crimes/conflicts that would be addressed using the formal system, to what extent was the use of the customary system determined by resource limitations (personnel, vehicles, translators)? Other factors?
14. What research was undertaken to determine the nature of customary justice and dispute resolution procedures in the area(s) in which you worked? How was this coordinated?
15. To what extent were policies formulated at local level to determine how customary procedures should be integrated into the broader justice and conflict resolution system?
16. In your experience, were those alleged of committing crimes able to influence the decision about which system (customary or formal) would deal with the matter?
17. Where crimes and conflicts were deferred to customary processes, did this occur with the consent of the victim? Was this consent in writing?
18. What problems, if any, did you personally encounter attempting to have crimes and/or conflicts dealt with by the formal system?
19. Were you aware of any disputes between different local leaders concerning the role and status of customary law/dispute resolution procedures? Examples/details?

Nature of customary legal/conflict resolution procedures

20. What examples and descriptions of the exercise of customary law and conflict resolution procedures are you able to provide?
21. With respect to the occasions you are aware of where customary law/conflict resolution procedures were utilised, to what extent did they operate in accordance with (a) state law (ie; Indonesian law as modified by UNTAET), (b) the obligations of UNTAET in accordance with United Nations human rights law?

General

22. From your experience, what do you believe were the benefits of incorporating customary law/conflict resolution procedures into the peacekeeping operation?
23. Do you have any suggestions concerning how customary procedures could be incorporated into the formal system in such a way that human rights issues could be better respected? If so, How?

C. Additional questions specifically for CivPol officers:

1. What did your work as a CivPol officer mainly involve (tasks in order of time spent doing them)?
2. What proportion of crimes and disputes do you believe you were aware of? What proportion of those crimes you were aware of were addressed by CivPol and the courts?
3. In your experience, how did CivPol determine which crimes and disputes should be deferred to customary law, and which should be deferred to the courts? (ie; was there a minor crime/major crime distinction?)

4. What difficulties did you encounter in attempting to apply the formal justice system?
5. What problems have been encountered by the Timorese police in relation to customary law versus official law?

D. Questions for sub-district chiefs, village chiefs and traditional elders:

The nature of customary justice and dispute resolution procedures

1. Can you explain the principles of customary justice and conflict resolution that are understood in your community?
2. How are these different from the principles of the formal justice?
3. Is there a power division between legislature, executive and judiciary?
4. How are customary justice and conflict resolution procedures practised in your community? (Might it be possible to witness customary justice and/or dispute resolution procedures at work?)
5. What are the main crimes in your community?
6. With customary law, what process and outcome would be usual in the case of a crime of murder?
7. ...rape?
8. ...theft of a cow?
9. ...adultery?
10. With customary dispute resolution procedures, how would a dispute over the right to farm, or build on a piece of land be resolved?
11. Where do people seek help first?
12. When do you seek help from the official system?
13. Who do you approach, how does it work?
14. Who is responsible for conflict resolution in your community?
15. Have you had any recent cases?, examples?
16. Is the customary law practised in your' community similar to the customary law practised elsewhere in East Timor?
17. If someone from another part of Timor is involved in a crime or an incident requiring conflict resolution, does the origin of that person influence the customary justice/conflict resolution process? If so, how? Examples?
18. If a group of people from elsewhere in Timor moved into your sub-district/village, what might be the impact on the system of customary law and dispute resolution? Has every stranger always accepted your system?
19. Would a foreigner be expected to accept your system?

The customary/formal interface

20. What kinds of crimes/disputes (if any) should be addressed using customary procedures? Why? Examples?
21. What sort of crimes should be addressed (if any) using the formal justice system? Why? Examples?
22. Who should decide whether a crime/dispute goes to the police and the courts, or is resolved using customary procedures? What factors should this decision be based upon?
23. Should a crime victim have the right to decide whether a crime should be addressed by customary or formal procedures? Should an alleged crime perpetrator have the right to be involved in this decision?

24. Have there been examples of crimes against women, young people or others, where the victims have been dissatisfied with the way they have been treated using customary law? Examples?
25. Have there been cases where victims were not satisfied with the solution through the official court?
26. How much involvement did CivPol, the courts and other UN organisations (human rights) have in justice and dispute resolution during the time of the UNTAET administration? What proportion of crimes were handled by CivPol and the courts, and what proportion by customary justice?
27. Did CivPol and the courts, and other transitional administration organisations (for example Human Rights Officers and Field Officers) influence any changes to the customary justice and dispute resolution system?
28. What role has customary conflict resolution procedures played in your village/sub-district in relation to the post-1999 reconciliation process?
29. What role did UNTAET have in these conflict resolution procedures?

The importance of customary procedures and the question of formal integration

30. How important is the continuation of customary justice and dispute resolution procedures to your community?
31. Should customary law be changed so that women and children will be treated with the same rights as they have under state law?
32. Should customary law/customary conflict resolution procedures be integrated into the formal system? Do you have any suggestions about how this could be done?

E. Women's and Youth Organisations:

The role of customary justice

1. Do you think there is a role for customary law/conflict resolution procedures in addressing crimes and disputes? Why/why not?
2. If so, what do you believe is the appropriate role of customary law/conflict resolution processes? Can you give examples of crimes and disputes that should be addressed using customary procedures?
3. What sort of crimes should be addressed (if any) using the formal justice system? Why? Examples?
4. What role have customary conflict resolution procedures played in the post-1999 reconciliation process? How effective has this been from your perspective?

Fairness and choice

5. Do you believe that everyone is treated equally with respect to customary processes?
6. How should the decision be made about whether a crime or conflict should be addressed using customary procedures, or the formal system?
7. Should the alleged perpetrator of a crime have a say in this decision? Should a victim of crime have a say in this decision?
8. Can you provide examples of crimes and conflicts that have been addressed using customary procedures, but where the victims have felt that no justice has been delivered? Examples?

9. When a woman/young person from another part of Timor is involved in a crime or incident requiring conflict resolution, are they treated the same as a local person, or differently? Examples?
10. What problems have women/young people had, if they have wished for a crime or dispute to be addressed by the police and the courts instead of by customary procedures? Examples?
11. In cases where crimes and disputes involving young people/women were addressed using customary procedures against the wishes of the woman/young person concerned, how were these decisions made? Examples?

The formal justice system

12. Has the formal justice system always been available when it has been needed?
13. Have women/young people experienced other problems with the formal justice system, (eg; resources, transport problems, fair treatment)?
14. For women/young people who wanted (during the UNTAET time) crimes and/or disputes addressed by CivPol and the courts instead of by customary procedures, how helpful did they find CivPol in assisting them to achieve their objective?
15. Do you have any suggestions about how CivPol's performance could have been improved?

The future of customary law

16. Is it possible for customary justice to be improved and retained, and in a way that the human rights of women/children/minority groups would be better respected? If so, how (for example; how could customary law integrated into the formal system)? If not, what should be the future of customary justice and customary dispute resolution procedures?

F. Questions for members of the clergy at both metropolitan and district level:

The role of customary justice, and the question of when it may be appropriate

1. Do you think there is a role for customary law/conflict resolution procedures in addressing crimes and disputes? Why/why not?
2. If so, what do you believe is the appropriate role of customary law/conflict resolution processes? Can you give examples of crimes and disputes that should be addressed using customary procedures?
3. What sort of crimes should be addressed (if any) using the formal justice system? Why? Examples?
4. How should the decision be made about whether a crime or conflict should be addressed using customary procedures, or the formal system?
5. As a member of the clergy, do you have a role in customary law/conflict resolution procedures? If so, what degree of involvement do you have, and of what nature?
6. What role have customary conflict resolution procedures played in the post-1999 reconciliation process? How effective has this been from your perspective?
7. What role, if any, did the church have in these conflict resolution procedures?

Fairness and vulnerable groups

8. Do you believe that everyone is treated equally with respect to customary processes?
9. Do you know any examples of crimes and conflicts that have been addressed using customary procedures, but where the victims have felt that no justice has been delivered? Examples?
10. Do you know of cases where victims have not been satisfied with the solution arrived at through the official court?
11. What concerns do you hold for members of vulnerable groups in relation to customary law/conflict resolution procedures?
12. What policies and strategies have you developed and applied (individually or together with colleagues) to ensure that the rights of members of vulnerable groups are upheld?
13. Is it possible for customary justice to be improved and retained, and in a way that the human rights of vulnerable groups would be better respected? If so, how? If not, what should be the future of customary justice and customary dispute resolution procedures?

Thankyou for your assistance with this study

Appendix B

Mediation Master Questionnaire for Key-Persons from all Thirteen Districts



CENTRO NACIONAL DE INVESTIGAÇÃO CIENTÍFICA NATIONAL RESEARCH CENTRE UNIVERSIDADE NACIONAL TIMOR LOROSA'E

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DOSEN INSTRUCTIONS – LAND INFORMATION & MEDIATION SURVEY

Questionnaires should be directed at respondents according to the specific position in the community of each respondent (or each group of respondents in the case of focus-group interviews). Although many of the questions are the same throughout the different questionnaires (forms), some questions are different. It is important to use the correct form for each new respondent (or group of respondents in the case of focus-group interviews)

Only one form should be used for each respondent

For Land and Property Officers	Use Form A
For District Administrators	Use Form B
For Court Officials	Use Form C
For Priests	Use Form D
For NGOs (except for Women's NGO)	Use Form E
For Women's Organization Focus-Groups	Use Form F
For Sub-district Coordinators	Use Form G
For <i>Chefe de Sucos</i>	Use Form H

- **Please make sure that the name, position, organization and geographic location of each informant are clearly marked on the appropriate survey form.**
- **Please attempt to ensure that all questions are answered. If respondents do not answer questions, please mark this on the questionnaire.**



CENTRO NACIONAL DE INVESTIGAÇÃO CIENTÍFICA NATIONAL RESEARCH CENTRE UNIVERSIDADE NACIONAL TIMOR LOROSA'E

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Land Information and Mediation Survey (MASTER QUESTIONNAIRE)

Introductory Information:

This survey is being undertaken by the Centro Nacional de Investigação Científica (CNIC), Universidade Nacional Timor Lorosa'e (UNTL), together with the American firm Associates in Rural Development (ARD). The purpose of the survey is to collect information on land and property matters in Timor-Leste. You have been identified as a source of relevant information, and your cooperation would be appreciated.

Thank you.

<p>Interviewer Details:</p> <p>Name of Dosen/Interviewer:.....</p> <p>Date of Interview:.....</p>
--

<p>Respondent Details:</p> <p>Name of Land & Property Officer:.....</p> <p>District:.....</p> <p>Originally from this District: (Yes/No).....</p> <p>Position in local <i>adat</i>/administrative system (Lia Nain, Uma Lulik, Naizuf, etc), if applicable:.....</p> <p>Date of Appointment to Position:.....</p>
--

Note to Researchers: Remember to copy *Records of Registered Disputes* when you visit District Land & Property offices. LPU has been informed that this is part of our research agenda. The records will be used for our analysis and for LPU policy development purposes. Keep receipts for any photocopying expenses and you will be reimbursed for this amount

Part I – Land Use Rights & Evidence, Boundaries, Valuation

A. Land Use Rights, Authority, Evidence of Entitlement

Responsibility for Decisions about land

1. Thinking about who is responsible for decisions about land in the sucos in your district, who has major responsibility for decisions about land:

- The *Chefe Suco*
- The *Liurai*
- Another local system Elder (please state who):.....
- A group of *Katuas*
- Government official (please state which):.....
- Don't know
- No answer

Land Use-Rights, Ownership, Evidence

2. Thinking about who owns the land in the sucos in your district, which of the following statements is correct (indicate more than one option if appropriate):

- The *land is owned by the Liurai*. He is Lord of the Land and has ultimate authority over it. The *Chefes* just manage the land for him. Farmers may use the land but they can never own it.
- Most farmers *own the land they farm and live on*. It is their land and they can do what they want with it. They can sell it, lease it or farm it as they wish.
- Some land is controlled by *Chefe Sucos* and/or senior *Katuas* with special responsibility for land.
- Some of the land belongs to the government, and anyone in the suco can use it for farming or other purposes.
- Some of the land belongs to the Church and this land is used for Church purposes.

3. Thinking about how people demonstrate their right to use land in your district, please indicate the importance of each of the following forms of evidence in demonstrating the right of people to use community/suco land, and/or as evidence in relation to the resolution of land disputes.

Form of Evidence	Importance	Form of Evidence	Importance
1. Trees planted on the land	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	11. Oral accounts of other witnesses	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
2. Terraces	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	12. Inheritance claims	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
3. Irrigation systems	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	13. Past allocation by senior traditional leaders	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
4. Houses and buildings	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	14. A formal certificate issued by a government department	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
5. Accounts of clearing the land from forest	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	15. Long term use of previously uncultivated land, but without any traditional/inheritance claim or approval by Suco/Aldeia elders	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
6. Fences	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	16. Medium/short/term occupation without title or authorization	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
7. Rock markers	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	17. An agricultural lease issued by a government department	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
8. Paths	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	18. Letter of recommendation for land ownership by Kepala Desa during Indonesian occupation.	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
9. Divisions around rice fields	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	19. Receipt of tax payment	<i>Very Important</i> <i>Important</i> <i>Not Important</i>
10. Oral accounts of <i>Katuas</i> , supporting traditional claims	<i>Very Important</i> <i>Important</i> <i>Not Important</i>	20. Other:	<i>Very Important</i> <i>Important</i> <i>Not Important</i>

Separable Rights

4. Still thinking about the kinds of rights that people have to land in this district, please indicate how common it is for one individual or party (Party A) to own land, and for another party (Party B) to also have rights associated with that land. If one party owns the land, how common would it be for other parties to have rights to the following list of associated features connected to that land:

Features Sometimes Associated with Land	How common it is for other parties to have rights to these features			
	Very Common	Common	Uncommon	Very Uncommon
Water bodies (lakes, dams, rivers, streams)				
Trees				
Crops				
Buildings (huts, houses, <i>warungs</i> , etc.)				
Mineral rights				
The right to build				
Other:				
Other:				

Expropriation

5. Thinking about circumstances under which land can be reclaimed by the suco administration, does suco land used by an individual or a family ever get reclaimed/taken back by the suco administration, and re-allocated to other parties:

- Yes
 Don't know
 No
 No answer

6. If, in your district, suco land used by an individual or a family *can* be reclaimed/taken back by the suco administration and re-allocated to other parties, under what circumstances might this happen (indicate more than one option if appropriate):

- An individual or family moves to town for work, and their land is re-allocated to other villagers by the suco administration.
 An individual or family is involved in a dispute with the *Chefe suco* and/or senior suco elders, and/or other community elders, and the land used by the individual or family is taken back by the suco administration and re-allocated to someone else.
 An individual or family refuses to undertake community work (*gotong royong*) or contribute towards suco administration costs, so the individual/family is forced to leave the land.
 Other (please describe).....

This question is not relevant, because suco land is not reclaimed by suco administrations in this district.

- Don't know
 No answer

7. If land is reclaimed by a community, would the individual whose land it was be provided with compensation:

- Yes No Don't know No answer

If 'Yes', what kind of compensation would they receive:

- Monetary compensation
 Replacement land

B. Boundaries

Boundaries *within* rural suco lands

8. Thinking about boundaries within *rural* sucos, do clear boundaries exist marking the borders between the allotments of individual farmers:

- Yes Don't know
 No No answer
 Sometimes

9. How are these boundaries defined (indicate more than one option if appropriate):

- | | |
|--|---|
| <input type="checkbox"/> Leaves | <input type="checkbox"/> Survey markers |
| <input type="checkbox"/> Stones | <input type="checkbox"/> Rice field divisions & corners |
| <input type="checkbox"/> Trees | <input type="checkbox"/> Other (please state)..... |
| <input type="checkbox"/> Rivers and creeks | <input type="checkbox"/> No clear boundaries exist, so this question does not apply |
| <input type="checkbox"/> Roads and tracks | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Fences | <input type="checkbox"/> No answer |

10. Are boundary markers periodically re-established and/or boundaries periodically re-defined:

- Yes No
 No clear boundaries exist, so this question does not apply
 Don't know No answer

If 'Yes', please state

why:.....
.....

Boundaries *between* rural sucos

11. Are there any sucos in your district that are not recognized as legitimate by everyone in the district:

- Yes Don't know
 No No answer

If 'Yes', how many are

there:.....

12. Still thinking about boundaries between rural sucos, do clear boundaries exist marking the borders between rural sucos:

- | | |
|------------------------------------|-------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <input type="checkbox"/> Sometimes | |

13. How are these boundaries between sucos defined (indicate more than one option if appropriate):

- | | |
|--|---|
| <input type="checkbox"/> Leaves | <input type="checkbox"/> Survey markers |
| <input type="checkbox"/> Stones | <input type="checkbox"/> Rice field divisions & corners |
| <input type="checkbox"/> Trees | <input type="checkbox"/> Other (please state)..... |
| <input type="checkbox"/> Rivers and creeks | <input type="checkbox"/> No clear boundaries exist, so this question does not apply |
| <input type="checkbox"/> Roads and tracks | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Fences | <input type="checkbox"/> No answer |

14. Still thinking about boundary markers between rural sucos, are these boundaries periodically re-established and/or re-defined:

- | | |
|---|------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| <input type="checkbox"/> No clear boundaries exist, so this question does not apply | |
| <input type="checkbox"/> Don't know | <input type="checkbox"/> No answer |

If 'Yes', please state

why:.....

Boundaries on urban land in district and sub-district centers

15. Thinking about boundaries on *urban* land, are the boundaries between urban allotments in the district/sub-district centers of your district clearly defined:

- | | |
|------------------------------------|-------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> No | <input type="checkbox"/> No answer |
| <input type="checkbox"/> Sometimes | |

16. If/Where such boundaries between urban allotments exist, how are they defined (indicate more than one option if appropriate):

- | | |
|--|---|
| <input type="checkbox"/> Leaves | <input type="checkbox"/> Rice field divisions & corners |
| <input type="checkbox"/> Stones | <input type="checkbox"/> Other (please state)..... |
| <input type="checkbox"/> Trees | <input type="checkbox"/> No clear boundaries exist, so this question does not apply |
| <input type="checkbox"/> Rivers and creeks | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> Roads and tracks | <input type="checkbox"/> No answer |
| <input type="checkbox"/> Fences | |
| <input type="checkbox"/> Survey markers | |

17. Still thinking about urban boundaries, are boundary markers between urban allotments periodically re-established and/or re-defined:

- Yes
- No
- No clear boundaries exist, so this question does not apply
- Don't know
- No answer

If 'Yes', please state why:.....

.....

C. Women and Land

18. Thinking about the relationship between marriage systems and land use-rights, what normally happens in your district when a woman marries (indicate more than one option if appropriate):

- The woman moves to the land of her husband's family (Patrilineal system)
- The husband comes to live on the land of his wife's family (Matrilineal system)
- Other.....
- Don't know
- No answer

19. Thinking about the ability of women to inherit *rural* suco land in your district, if a woman has never married, and still lives on her parent's land, what happens when her parents die (one answer only):

- She will inherit some of the land, alongside her brothers
- She will not inherit land, and must live on land owned by her brothers
- She will inherit some land, but the land will pass to her brothers if she marries
- She has no right to inherit land, but the family may decide to give her some
- Other.....
- Don't know
- No answer

20. Thinking about women and other kinds of land transactions, which of the following land transactions may a woman execute in her own right (*sendiri*), independent of her husband (if she is married). Indicate as many options as appropriate:

- Buy urban land
- Lease or rent suco land
- Sell urban land
- Women *may not* be involved in any land transactions
- Buy suco land
- Don't know
- Sell suco land
- No answer
- Lease or rent urban land

21. Thinking generally about women and land, are women beginning to demand more rights to land than they have enjoyed in the past:

- Yes
- Don't know
- No
- No answer

Part II – Past Developments Relating to Land

A. Land Acquired for Government Projects During Indonesian Times

22. Did the government acquire land in your district during Indonesian times:

- | | |
|------------------------------|-------------------------------------|
| <input type="checkbox"/> Yes | <input type="checkbox"/> Don't know |
| <input type="checkbox"/> No | <input type="checkbox"/> No answer |

If 'Yes', what was it used for (indicate as many options as appropriate):

- | | |
|--|---|
| <input type="checkbox"/> Irrigation projects | <input type="checkbox"/> Government services (houses, schools, hospitals, etc.) |
| <input type="checkbox"/> Agricultural research areas | |
| <input type="checkbox"/> Transmigration areas | |
| <input type="checkbox"/> Houses for government employees | |
| <input type="checkbox"/> Other..... | |

23. If land acquisition occurred in your district during Indonesian times, how often was it fair?

- Never
 Rarely
 Sometimes
 Usually
 Always

Dislocation & Resettlement during Indonesian Times (Not including 1999)

24. Thinking about dislocation and resettlement during Indonesian times, what happened to the people of this district, were they dislocated:

- | | |
|---|--|
| <input type="checkbox"/> The whole population moved elsewhere | <input type="checkbox"/> Few of the families moved elsewhere |
| <input type="checkbox"/> The majority of the population moved elsewhere | <input type="checkbox"/> Nobody moved elsewhere |
| <input type="checkbox"/> About half of the families moved elsewhere | <input type="checkbox"/> Don't know |
| | <input type="checkbox"/> No answer |

25. If people *did* move elsewhere during Indonesian times (not including 1999), where are they now that Timor-Leste is independent:

- Most of those who left have come back to live on their traditional lands
 Some of those who left have come back to live on their traditional lands
 Few of those who left have come back to live on their traditional lands
 None of those who left have come back to live on their traditional lands
 People did not move elsewhere, so this question is not applicable
 Don't know No answer

26. Still thinking about dislocation during Indonesian times (not including 1999), did dislocated people from other parts of East Timor come to this district during the Indonesian period:

B. Dislocation at Independence

Dispersion, Return & Property Occupation

Note: The following questions relate to the months following the September 1999 violence

30. Thinking about the dislocation that occurred following the 1999 referendum, what happened to the people of this district:

- | | |
|---|--|
| <input type="checkbox"/> The whole population moved elsewhere | <input type="checkbox"/> Few of the families moved elsewhere |
| <input type="checkbox"/> The majority of the population moved elsewhere | <input type="checkbox"/> Nobody moved elsewhere |
| <input type="checkbox"/> About half of the families moved elsewhere | <input type="checkbox"/> Don't know |
| | <input type="checkbox"/> No answer |

31. Of those who left during the violence, how many were able to return to their pre-referendum houses and land:

- | | |
|--|------------------------------------|
| <input type="checkbox"/> Everyone was able to return to their pre-independence houses and land | |
| <input type="checkbox"/> The majority of the population was able to return to their pre-independence houses and land | |
| <input type="checkbox"/> About half the population was able to return to their pre-independence houses and land | |
| <input type="checkbox"/> Few people were able to return to their pre-independence houses and land | |
| <input type="checkbox"/> Nobody was able to return to their pre-independence houses and land | |
| <input type="checkbox"/> Don't know | <input type="checkbox"/> No answer |

32. Which sub-districts (if any) were most affected by the problem of people returning to find that other people were occupying their pre-referendum houses/land:

.....
.....

- | | |
|--|------------------------------------|
| <input type="checkbox"/> Everyone was able to return to their pre-referendum houses/land, so this question is not applicable | |
| <input type="checkbox"/> Don't know | <input type="checkbox"/> No answer |

Part III – Land Dispute Mediation

A. Incidence and Nature of Land Disputes

33. Thinking about the total number of disputes of all kinds (land, domestic, political, etc.), what is the total number of all kinds of disputes (not just land) that have come to your attention over the last year:

Please state the total number of disputes of all kinds:.....

- | | |
|-------------------------------------|------------------------------------|
| <input type="checkbox"/> Don't know | <input type="checkbox"/> No answer |
|-------------------------------------|------------------------------------|

34. How many of these disputes concerned land:

Please state the total number land disputes:.....

- | | |
|-------------------------------------|------------------------------------|
| <input type="checkbox"/> Don't know | <input type="checkbox"/> No answer |
|-------------------------------------|------------------------------------|

35(a). What is the typical order of the forums to which land disputes are taken in your district

Forum	Order
Family	
Aldeia	
Suco	
Sub-district	
Liura	
Church	
District Administration	
Land & Property	
Court system	
NGO	
<i>Other (please identify):</i>	
<i>Other (please identify):</i>	

35(b). How often are conflicts resolved successfully in each forum?

Forum	Never	Seldom	Sometimes	Usually	Always
Family					
Aldeia					
Suco					
Sub-district					
Liurai					
Church					
District Administration					
Land & Property					
Court system					
NGO					
<i>Other (please identify):</i>					
<i>Other (please identify):</i>					

36. Thinking about whether there are more or less disputes now than before the referendum, has the number of land disputes in your district changed:

- There are *many more land disputes now*, than before the referendum
 There are *a few more land disputes now*, than before the referendum
 There are *the same number of land disputes now*, as before the referendum
 There are *a few less land disputes now*, than before the referendum
 There are *far less land disputes now*, than before the referendum
 Don't know No answer

37(a). Please indicate which of the following land disputes are common or uncommon:

Land Dispute Type	Common	Not Common
Ownership Dispute		
Parcel Boundary Dispute		
Inheritance Dispute		
Suco Boundary Dispute		
Harvest Rights Dispute		
Church Land Dispute (please state):		
Other Dispute (please state):		

37(b). Please indicate which of the following land disputes are easy to resolve or difficult to resolve:

Land Dispute Type	Easy to Resolve	Difficult to Resolve
Ownership Dispute		
Parcel Boundary Dispute		
Inheritance Dispute		
Suco Boundary Dispute		
Harvest Rights Dispute		
Church Land Dispute (please state):		
Other Dispute (please state):		

Boundary disputes

38. Thinking about boundary disputes, how many sucos would you estimate have disputes with neighboring sucos concerning suco boundaries (please state how many):

.....

Don't know

No answer

39. Still thinking about boundary disputes between sucos, state the most appropriate authorities for managing the resolution of inter-suco boundary disputes (ie; boundary dispute between sucos). Indicate more than one options if appropriate:

Family level
Katuas

Sub-district
Coordinator

Court Officials

Aldeia level
Katuas

Liurai

NGO

Other.....

Suco level *Katuas*

Church representatives

Don't know

Sub-district level
Katuas

District Administrator

No answer

Land & Property
Officer

B. Resolution of Conflicts

Process

40. Who do people first go to when they become involved in a land dispute:

Family *Katuas*

District Administrator/District Administration

Aldeia *Katuas*

Land & Property Officer

Suco *Katuas*

Court Officials

Sub-district Coordinator

NGO

Liurai

Police

Church/Priest

Other.....

41. List the three most important qualities a mediator should have:

- (1).....
.....
- (2).....
.....
- (3).....
.....

42 (a). Within the suco, is the Chefe Suco the conflict mediator, or does he refer the conflict to someone else:

- Yes, the Chefe Suco is normally the mediator
- No, the Chefe Suco normally refers the conflict to someone else
- Don't know No answer

42 (b). If the Chefe Suco normally refers the conflict to someone else, to whom does he refer the conflict (indicate more than one option if appropriate):

- An NGO Other Elders/*Katuas*
- Land & Property A Priest
- Other.....

43 (a). Thinking about the role of witnesses, are witnesses called to provide information at conflict mediation proceedings relating to land disputes:

- Yes No Don't know No answer

43 (b). If 'Yes', how much attention is given to witnesses accounts:

- Much attention is given to witnesses accounts
- Some attention is given to witnesses accounts
- Little attention is given to witnesses accounts

Access of Relocated People to Traditional Land Conflict Resolution Forums

44. Do relocated people have the same access to traditional conflict resolution systems as the traditional owners of an area:

- Yes No Don't know No answer

Interface between Traditional and Formal Systems

45. Please indicate the *process* that traditional leaders would normally use to resolve a conflict:

- Arbitration: The traditional leaders listen to both sides of the story, as told by the disputants and by witnesses. The traditional leader then passes down a decision, which the conflicting parties must respect.
- Mediation: The traditional leaders listen to each side of the story, as told by the disputants and by witnesses. The traditional leader encourages the parties to arrive at a solution which each of the parties finds reasonable. Only if the solution is obvious, or if the parties are failing to cooperate, will the traditional leader(s) pass down a judgment.
- Other
- Don't know No answer

46. Which of the following forums/individuals are part of the Traditional system, Formal system, or both:

Forum/Individual	Part of Traditional System	Part of Formal System
Family <i>Katuas</i>		
Aldeia <i>Katuas</i>		
Suco <i>Katuas</i>		
Sub-district Coordinator		
<i>Liurai</i>		
Church/Priest		
District Administrator/District Administration		
Land & Property Officer		
Court Officials		
NGO		

47. Please outline the main features of a traditional agreement (ie; final resolution) to a land conflict:

- 1.....
-
- 2.....
-
- 3.....
-

48. Do people take land disputes to the formal system (District Administration/Land and Property Officers/Court System) *without* first attempting to address the matter at local level:

- Yes Sometimes No answer
- No Don't know

49. Are there penalties imposed by the community against individuals who go direct to the formal system without first attempting to resolve the dispute through the local system:

- Yes Sometimes No answer
- No Don't know

50. If/when disputes are taken direct to the state system (District Administration/Land and Property Officers/Court System, for example) *without* first being taken to local aldeia/suco authorities (ie; Chefes Aldeia, Suco, and Katuas), does the state system usually attempt to resolve the dispute, or refer it back to local authorities:

- The state system *mostly* directs the disputants to take the matter back to the aldeia/suco/sub-district level
- The state system *sometimes* directs the disputants to take the matter back to the aldeia/suco/sub-district level
- The state system *rarely* directs the disputants to take the matter back to the aldeia/suco/sub-district level
- Don't know No answer

Costs and Efficiency of Traditional and Formal Systems

51. Thinking about the relative advantages of traditional land conflict resolution systems compared to (*specifically*) the court system, please fill in the following table indicating which of the forums (traditional systems, or the courts) usually delivers the highest quality of service in the range of areas mentioned (Remember to tick only one of the boxes for each area of service listed; *Traditional System, Court System, or Neither System is Good Enough*):

Area of Service Delivery	Which System is Best		
	Traditional System	Court System	Neither System is Good Enough
Fairest System			
Cheapest System			
Least Amount of Traveling			
Fast & Efficient Outcome			
Least Corrupt System			
The Most respect for the Rights of Women			
Promotes Reconciliation between conflicting parties			
Easiest System to Understand			

52. Once a voluntary agreement is achieved in the *traditional* system, how likely is it that the problem will recur:

- Very likely Unlikely Don't know
- Likely Very Unlikely No answer

Thank you for your help with this study

Appendix C

Mediation Questionnaire for Randomly Selected Individuals from Manatuto and Ermera Sub-districts



CENTRO NACIONAL DE INVESTIGAÇÃO CIENTÍFICA NATIONAL RESEARCH CENTRE UNIVERSIDADE NACIONAL TIMOR LOROSA'E

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Introductory Information:

This survey is being undertaken by the Centro Nacional de Investigação Científica (CNIC), Universidade Nacional Timor Lorosa'e (UNTL), together with the American firm Associates in Rural Development (ARD). The purpose of the survey is to collect information on land and property matters in Timor-Leste. We wish to interview you because you are the **Head of your Household**, and your cooperation would be appreciated.

Thank you.

<p>Interviewer Details:</p> <p>(i) Name of dosen/interviewer:.....</p> <p>(ii) Date of interview.....</p>
<p>Respondent Details:</p> <p>(i) Name of respondent:.....</p> <p>(ii) Sex of respondent (please circle): Male Female</p> <p>(iii) District in which respondent lives:.....</p> <p>(iv) Sub-district in which respondent lives:.....</p> <p>(v) Originally from this District (Please Circle): Yes No</p> <p>(vi) Position in local <i>adat</i>/administrative system (<i>Chefe Suco, Chefe Aldeia, Lia Nain, Uma Lulik, Naizuf</i>, etc), if applicable:</p> <p>(vii) GPS Coordinates of Dwelling.....</p>

Part I – Land Use Rights & Evidence, Boundaries, Valuation

A. Land Use Rights, Authority, Evidence of Entitlement

Responsibility for Decisions about land

F1 (1.) Thinking about who is responsible for decisions about land in your suco, who has major responsibility for decisions about land:

- The Chefe Suco
- The *Liurai*
- Another local system Elder (please state who):.....
- A group of *Katuas*
- Government official (please state which):.....
- Don't know
- No answer

Land Use-Rights, Ownership, Evidence

F2 (2.) Thinking about who owns the land in your suco, which of the following statements is correct (indicate more than one option if appropriate):

- The *land is owned by the Liurai*. He is Lord of the Land and has ultimate authority over it. The Chefes just manage the land for him. Farmers may use the land but they can never own it.
- Most farmers *own the land they farm and live on*. It is their land and they can do what they want with it. They can sell it, lease it or farm it as they wish.
- Some land is controlled by Chefe Sucos and/or senior *Katuas* with special responsibility for land.
- Some of the land belongs to the government, and anyone in the suco can use it for farming or other purposes.
- Some of the land belongs to the Church and this land is used for Church purposes.

F3 (3.) Thinking about how people demonstrate their right to use land in your suco, please indicate the importance of each of the following forms of evidence in demonstrating the right of people to use community/suco land, and/or as evidence in relation to the resolution of land disputes.

Form of Evidence	Importance	Form of Evidence	Importance
1. Trees planted on the land	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	11. Oral accounts of other witnesses	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
2. Terraces	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	12. Inheritance claims	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
3. Irrigation systems	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	13. Past allocation by senior traditional leaders	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>

4. Houses and buildings	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	14. A formal certificate issued by a government department	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
5. Accounts of clearing the land from forest	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	15. Long term use of previously uncultivated land, but without any traditional/inheritance claim or approval by Suco/Aldeia elders	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
6. Fences	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	16. Medium/short/term occupation without title or authorization	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
7. Rock markers	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	17. An agricultural lease issued by a government department	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
8. Paths	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	18. Letter of recommendation for land ownership by Kepala Desa during Indonesian occupation.	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
9. Divisions around rice fields	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	19. Receipt of tax payment	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>
10. Oral accounts of <i>Katuas</i> , supporting traditional claims	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>	20. Other:	<i>Very Important</i> <i>Important</i> <i>Unimportant</i> <i>Very unimportant</i>

Separable Rights

F4 (4.) Still thinking about the kinds of rights that people have to land in this suco, please indicate how common it is for one individual or party (Party A) to own land, and for another party (Party B) to also have rights associated with that land. If one party owns the land, how common would it be for other parties to have rights to the following list of associated features connected to that land:

Features Sometimes Associated with Land	How common it is for other parties to have rights to these features			
	Very Common	Common	Uncommon	Very Uncommon
Water bodies (lakes, dams, rivers, streams)				
Trees				
Crops				

Buildings (huts, houses, <i>warungs</i> , etc.)				
Mineral rights				
The right to build				
Other:				
Other:				

Expropriation

F5 (5.) Do you know anyone whose land has been reclaimed by the suco administration (of this suco), and re-allocated to someone else?

- Yes
 Don't know
 No
 No answer

If 'Yes', what was the reason for this:.....

.....

.....

.....

B. Boundaries

Boundaries *within* rural suco lands

F6 (8.) Does your land have clearly defined boundaries?

- Yes
 Don't know
 No
 No answer

F7 (9.) How are these boundaries defined (indicate more than one option if appropriate):

- Leaves
 Rice field divisions & corners
 Stones
 Other (please state).....
 Trees
 No clear boundaries exist, so this question does not apply
 Rivers and creeks
 Don't know
 Roads and tracks
 No answer
 Fences
 Survey markers

F8 (10.) Do you periodically re-establish your boundary markers and/or re-define your boundaries?

- Yes
 No
 No clear boundaries exist, so this question does not apply
 Don't know
 No answer

If 'Yes', please state why:.....

.....

C. Women and Land

F9 (18.) Thinking about the relationship between marriage systems and land use-rights, what happened after you married:

- You are a man, and your wife moved to the land of your family
- You are a man, and you moved to the land of your wife's family
- You are a woman, and your husband moved to the land of your family
- You are a woman, and you moved to the land of your husband's family
- Other.....
- Don't know No answer

F10 (19.) Thinking about the ability of women to inherit land in this suco, if a woman has never married, and still lives on her parent's land, what happens when her parents die (one answer only):

- She will inherit some of the land, alongside her brothers She will not inherit land, and must live on land owned by her brothers
- She will inherit some land, but the land will pass to her brothers if she marries She has no right to inherit land, but the family may decide to give her some
- Other.....
- Don't know No answer

F11 (20.) Thinking about women and other kinds of land transactions, which of the following land transactions may a woman execute in her own right (*sendiri*), independent of her husband (if she is married). Indicate as many options as appropriate:

- Buy urban land Lease or rent suco land
- Sell urban land Women *may not* be involved in any land transactions
- Buy suco land Don't know
- Sell suco land No answer
- Lease or rent urban land

F12 (21.) Are the women in your suco beginning to demand more rights to land than they have enjoyed in the past:

- Yes Don't know
- No No answer

Part III – Land Dispute Mediation

A. Incidence and Nature of Land Disputes

F13. Have any land disputes occurred within your suco in the past year?

- Yes No Don't know No answer

If 'Yes', state how many separate disputes:.....

B. Resolution of Conflicts

F14 (35a). What is the typical order of the forums to which land disputes are taken by the people of your suco?

Forum	Order
Family <i>katuas</i>	
Aldeia <i>katuas</i> /Chefe Aldeia	
Suco <i>katuas</i> /Chefe Suco	
Sub-district administration	
Liurai	
Church	
District Administration	
Land & Property	
Court system	
NGO	
<i>Other (please identify):</i>	
<i>Other (please identify):</i>	

F15 (41). List the three most important qualities a conflict-mediator should have:

- (1).....

 (2).....

 (3).....

F16 (42a&b). Within the suco, is the Chefe Suco the conflict mediator, or does he refer the conflict to someone else:

- Yes, the Chefe Suco is normally the mediator
 No, the Chefe Suco normally refers the conflict to someone else
 Don't know No answer

If the Chefe Suco normally refers the conflict to someone else, to whom does he refer the conflict (indicate more than one option if appropriate):

- An NGO *District Administration*
 Land & Property *Police*
 Other Elders/*Katuas* A Priest
 Sub-District Administration
 Other.....

F17 (43a&b). Thinking about the role of witnesses, are witnesses called to provide information at conflict mediation proceedings relating to land disputes:

- Yes No Don't know No answer

If 'Yes', how much attention is given to witnesses accounts:

- Much attention is given to witnesses accounts
 Some attention is given to witnesses accounts
 Little attention is given to witnesses accounts

F18 (45). Please indicate the *process* that traditional leaders would normally use to resolve a conflict:

- Arbitration: The traditional leaders listen to both sides of the story, as told by the disputants and by witnesses. The traditional leader then passes down a decision, which the conflicting parties must respect.
 Mediation: The traditional leaders listen to each side of the story, as told by the disputants and by witnesses. The traditional leader encourages the parties to arrive at a solution which each of the parties finds reasonable. Only if the solution is obvious, or if the parties are failing to cooperate, will the traditional leader(s) pass down a judgment.
 Other.....
 Don't know No answer

F19 (47). Please outline the main features of a traditional agreement (ie; final resolution) to a land conflict:

- 1.....
.....
2.....
.....
3.....
.....

Past Experience

F20. Have you been involved in any land disputes in the past?

- Yes
 No
 No answer

If 'Yes', which forums did you used to resolve the dispute(s):

- Family *katuas*
- Aldeia *katuas*
- Suco *katuas*
- Sub-district Administration
- Liurai
- Church
- District Administration
- Land & Property
- Court System
- NGO
- Other (please specify).....

Thank you for your help with this study

Appendix D

Land Rights and Title Restitution (Abridged) Questionnaire for Randomly Selected Individuals from Eleven Sub- districts Throughout East Timor



CENTRO NACIONAL DE INVESTIGAÇÃO CIENTÍFICA NATIONAL RESEARCH CENTRE UNIVERSIDADE NACIONAL TIMOR LOROSA'E

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LAND RIGHTS & TITLE RESTITUION QUESTIONNAIRE FOR RANDOMLY SELECTED RESPONDENTS

Introductory Information:

This survey is being undertaken by the Centro Nacional de Investigação Científica (CNIC), Universidade Nacional Timor Lorosa'e (UNTL), together with the American firm Associates in Rural Development (ARD). The purpose of the survey is to collect information on land and property matters in Timor-Leste. We wish to interview you because you are the **Head of your Household**, and your cooperation would be appreciated.

Thank you.

Interviewer Details:

1. Name of dosen/interviewer:.....
2. Date of interview.....

Respondent Details:

3. Sex of respondent (please circle): **Male** **Female**
4. Age of respondent.....
5. District in which respondent lives:.....
6. Sub-district in which respondent lives:.....
7. Suco in which respondent lives:.....
8. Aldeia in which respondent lives:.....
9. Waypoint Number (for this particular suco):.....
10. Does the respondent live in: **An Urban Area** **A Rural Area**
11. Originally from this District (Please Circle): **Yes** **No**

Part B – Land Claim Issues

Land Claim Process

7. To your knowledge, is there a formal government process for claiming land?

- Yes
- No
- Do not know
- No answer

10. If a compulsory decision must be made to resolve a land dispute or claim, who do you think should make this decision?

- The Department of Land and Property
- The Courts
- Senior *Katuas*
- Other (please state).....
- Don't know
- No answer

Thank you for your help with this study

Appendix E

Post-War *Census and Collection of Native Head-Tax* Regulation

REGULATION OF CENSUS AND COLLECTION OF NATIVE HEAD - TAX¹

GENERAL DISPOSITION:

Art.1- The native-tax is considered as collected from all persons individually except the exemptions given in the following article and applies to all the natives of male sex, majors from 16 years of age of the colony of Timor.

Para.1 – For legal effects they are considered natives those born in Timor and of other colonies of the Portuguese Colonial Empire also those born in foreign colonies that live according to the uses and intimate customs of socially aggregated natives.

Para.2 – They will be considered similar to Europeans those individuals that have cumulatively the following conditions:

- i. - Having abandoned entirely the uses of intimate customs of the socially aggregated natives;
- ii. - Speak, read and write fluently the Portuguese language;
- iii. - Adopt monogamy; and
- iv.- Exercise a professional art or office compatible with the European civilisation or having obtained licit means of income that are sufficient for their upkeep such as sustenance, living quarters and clothes for them and their family;

Para.3 - The quality of those similar to Europeans is to be proved by identity cards passed by the Municipal or Circumscription Administrator where the party interested has resided for more than 6 months...

Art.2 – They are exempted from the obligation of payment of native tax:

- i. - Those that prove at the occasion of censorship the existence of 5 children (his own) minors of under 16 years and of the same mother;
- ii. - Those rendered incapable of work by chronic illness, physical deformity or over age;
- iii.- The sepoy and native authorities of the categories of Rajas, Chiefs of districts and Chiefs of villages who have a minimum of 50 natives who pay their taxes;
- iv.- The native-soldiers during their service period on permanent staff of the active troops and up to the year following their release when they make their representations according to regulations at their respective administrative posts;
- v. - Natives employed by the government or administrative bodies who receive fixed pay through their respective budgets or exercise offices which do not have the character of artifices, rural workers or domestic servants;
- vi. - Teachers of Catholic Mission schools;
- vii.- Those who at the occasion of censorship show they are subject to payment of other contributions or direct government taxes which sum is equal to, or exceeds that of the native tax;
- viii.-Those born or not in the colony who fix residence with a permanent character by moving into any other locality of the territory...
- ix. - Those who have retired from services or are on pension;
- x. - Those that exercise the profession of agriculturalist or rural proprietors and prove they have regular exploitation of an area not inferior to 5 hectares where they employ agricultural implements of animal or mechanical traction or have 3,000 coffee trees or 1,000 rubber trees all in production...

¹ Abridged version based on full English version appended to an Australian consular despatch (Eaton 1947 Despatch No.2:7-9) to the Australian Department of External Affairs dated 26th February 1947.