

**Priorities for peace**  
**Timor-Leste: Povunian Dalan no Lian ba Dame**  
**Timor-Leste: Voices and Paths to Peace**

A INTERESE INDIVIDUAL NO PARTIDARIU  
VS INTERESE NASIONAL

B LIDERANSA NO POLARIZASION POLITIKA

C SEPARASION BA PODER ENTRE ORGANISASION SEBERANAN

D JUSTICA FORMAL NO FUNCIONAMENTO JUDISIARIU  
NO ADMINISTRASION JUSTISA

E JUSTICA TRADISIONAL

F JUSTICA TRANSISIONAL

G KKN

H HISTORIA RESISTENCIA NO OKUPASION

I INVEIA SOCIAL

**"We are living quietly but not in peace"**

J ADMINISTRASION PUBLICA/SEKTOR PUBLICU

K SEKTOR PRIVADU NO LEI INVESTIMENTU NO  
LEI FINANSEIRA PRIORIZA INISIATIVA LOCAL

CEPAD



Husi Ita Ba Ita

Photo: CEPAD



Title: Timor-Leste: Voices and Paths to Peace

Authors: CEPAD (Centre of Studies for Peace and Development)

Date: September 2009

Published by: CEPAD / Interpeace

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Produced in Timor-Leste

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## About CEPAD

The Centre of Studies for Peace and Development (CEPAD) is a Timorese NGO that was founded in 2008. Its mission is to use collaborative research and dialogue to advance the understanding of conflict-related issues in Timor-Leste. Direction and guidance is provided by the CEPAD board that is made up of respected individuals from different sectors of society, as well as representatives from each of the four sovereign bodies that make up the state of Timor-Leste namely the Parliament, Government, Presidency and the Supreme Court. The core team is based in Dili. To ensure proximity, accessibility, participation and local knowledge, CEPAD has District Liaison Officers based in each of the 13 districts that make up the country.

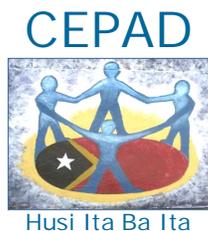
## About the programme

The Programme of Research and Dialogue for Peace (PRDP), is the name of the joint initiative between CEPAD and Interpeace. The aim of the initiative is to contribute to the creation of a climate in which Timorese are better able to identify the most pressing obstacles to lasting peace, understand the origins and the dynamics of conflict, and collectively address these in a non-violent and sustainable way. The initiative ensures that the findings, and particularly the root-causes of the problems, are acknowledged and acted upon.

From 2008-2009 PRDP conducted consultations throughout the 13 Districts of Timor-Leste aimed at identifying peace-related issues as analysed by Timorese society. District focus group discussions and regional conferences followed to set 33 priorities that provided the agenda for the National Forum and the content of this report.

## About Interpeace

Interpeace is an international peacebuilding organization, headquartered in Switzerland with offices and programmes in 16 countries. It was created by the United Nations in 1994 to work with societies divided by violent conflict to build sustainable peace. It became independent in 2000 and today has an innovative operational partnership with the UN called the Joint Programme Unit for United Nations / Interpeace Initiatives (JPU). Interpeace currently supports peacebuilding programmes in: Burundi, Cyprus, Guinea-Bissau, Israel, Liberia, Palestine, Rwanda, the Somali Region, Timor-Leste, Youth Gangs in Central America (Guatemala, Honduras and El Salvador), and has a thematic programme on post conflict constitution-building. [www.interpeace.org](http://www.interpeace.org)



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## ACKNOWLEDGEMENTS

The Programme of Research and Dialogue for Peace (PRDP), a joint peacebuilding initiative in Timor-Leste from the Centre of Studies for Peace and Development (CEPAD) and Interpeace have been working since 2006 to engage Timorese across the country and at all levels to define priorities for peace.

Special thanks goes to all the Timorese who made time to take part in the consultations across the country. Their energy, enthusiasm, stories, ideas and unique analysis of the current obstacles that stand in the way of peace provide the substance for this report *Timor-Leste: Povun nia Dalan no Lian ba Dame* ("Timor-Leste: Voices and Paths to Peace".)

The individuals from the CEPAD and team played a key role in making this initiative happen. Their hard work, reflections and tenacity have been key to the success of this programme and the analysis and production of this report.

Without the support and guidance from the CEPAD Board of Directors, Interpeace and the international donors, Norway, Ireland and Portugal, this important step in building lasting peace in Timor-Leste would not have been possible.



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“Timor-Leste: Voices and Paths to Peace”, synthesizes the key findings from a nationwide consultation process that identified the main obstacles that stand in the way of lasting peace.

It captures the energy, enthusiasm, stories, ideas and unique analysis of current challenges as seen by Timorese today.

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## GLOSSARY OF ABBREVIATIONS

<b>DA/AD</b>	Democratic Alliance
<b>ADITLA</b>	Associação Democrática Integração de Timor-Leste à Austrália
<b>AMP</b>	Parliamentary Majority Alliance
<b>APODETI</b>	Timorese Popular Democratic Association
<b>ASDT</b>	Timorese Social Democratic Association
<b>CAVR</b>	Commission for Reception, Truth and Reconciliation in Timor-Leste
<b>CEPAD</b>	Center of Studies for Peace and Development
<b>CEDAW</b>	Convention on the Elimination of all forms of Discrimination Against Women
<b>CNRT</b>	National Council of Timorese Resistance
<b>CPD-RDTL</b>	Popular Defense Committee - Democratic Republic of East Timor
<b>CPLP</b>	Community of Portuguese Language Countries
<b>CTF</b>	Commission of Truth and Friendship
<b>DFG/FGD</b>	Focus Group Discussion
<b>FALINTIL</b>	Armed Forces of National Liberation of East Timor
<b>F-FDTL</b>	Timor-Leste Defence Forces
<b>FRETILIN</b>	Revolutionary Front for an Independent East Timor
<b>GAM</b>	Martial arts group
<b>IDP</b>	Internally Displaced Person
<b>IOM</b>	International Organisation for Migration
<b>IFES</b>	International Foundation for Election Systems
<b>ISF</b>	International Stabilization Forces
<b>JSMP</b>	Judicial System Monitoring Programme
<b>KAK</b>	Anti-Corruption Commission
<b>KERASAKTI</b>	Martial arts group
<b>KKN</b>	Corruption, Collusion and Nepotism
<b>KOTA</b>	Klibur Otas Timor Asuwain (Political Party)
<b>KORK</b>	Martial arts group
<b>KPPHAM</b>	Indonesian Investigative Commission into Human Rights Violations in East Timor or Indonesia's Human Rights Commission
<b>KR</b>	Regional Conference
<b>KUNGFU MASTER</b>	Martial arts group
<b>UN/ONU</b>	United Nations
<b>NGO</b>	Non-governmental organization
<b>PAR</b>	Participatory Action Research
<b>PD</b>	Democratic Party
<b>PGR</b>	General Prosecutor
<b>PNTL</b>	National Police of Timor-Leste
<b>PRDP</b>	Programme of Research and Dialogue for Peace
<b>PPT</b>	People's Party of Timor
<b>PSD</b>	Social-Democrat Party
<b>PSHT</b>	Persaudaraan Setia Hati Terate (Martial arts group)
<b>RAJAWALI</b>	Martial arts group

<b>RDTL</b>	Democratic Republic of Timor-Leste
<b>SEPI</b>	Secretary of State for the Promotion of Equality
<b>SPSC</b>	Special Panels for Serious Crimes
<b>STP-CAVR</b>	Post-CAVR Technical Secretariat
<b>TAEKWOND</b>	Martial arts group
<b>THS-THM</b>	Martial arts group
<b>TVTL</b>	Timor-Leste Television
<b>UDT</b>	Timor Democratic Union
<b>UN</b>	United Nations
<b>UNDP</b>	United Nations Development Programme
<b>UNPOL</b>	United Nations Police
<b>UNMIT</b>	United Nations Mission in Timor-Leste (2006-present)
<b>UNTAET</b>	United Nations Transitional Administration in East Timor
<b>0-0</b>	Zero-Zero (Martial arts group)
<b>5-5</b>	Cinco-Cinco (Martial arts group)
<b>7-7</b>	Sete-Sete (Martial arts group)

# EXECUTIVE SUMMARY



Photo: Steve Tickner

### **The Programme of Research and Dialogue for Peace (PRDP)**

This initiative began in Timor-Leste in response to the violent crisis of 2006. This period of unrest revealed the fragility of the young nation and the challenges it is facing in healing the wounds of the past whilst struggling to adopt a new system of state structures.

The PRDP is a joint programme run by Interpeace, a Swiss based peacebuilding organization, and the Centre of Studies for Peace and Development (CEPAD), an independent national NGO constituted as an association under Timorese law. The CEPAD team is drawn from various sectors of society. Along with the core research team, CEPAD has District Liaison Officers in each of the 13 districts to ensure mobilization and participation throughout the districts.

The CEPAD board is composed of persons from each of the sovereignty bodies (Parliament, Government, Presidency and Supreme Court) and from different segments of Timorese society, such as representatives from the Liberation War Veteran's Movement, Police, Armed Forces and Civil Society. They are Ernesto Dudu, Veteran and Community Leader; Antonino Gonçalves, Judge at Dili's District Court - (President of the General Assembly); Francisco Branco, Member of the Parliament, FRETILIN party; Pedro da Costa, Member of the Parliament, CNRT party (governmental majority); Cristiano da Costa; Vice Minister for Development and Commerce (President of Board of Director); Maria Angelina Sarmento, National Electoral Commission and representative of civil society; Cornélio Ximenes "Maunana", Tenente Coronel, National Army; Afonso de Jesus, Deputy Chief of Police PNTL; Estanislau Salsinha Martins, Director, Peace and Democracy Foundation; José Luis Guterres, Vice-Prime Minister.

The PRDP programme seeks to contribute to the creation of a climate in which the people of Timor-Leste are better able to identify priority issues impeding the establishment of a lasting peace, understand the origins and the dynamics of conflict and address these together in a non-violent and durable manner.

### **Key Principles of PRDP process**

The programme's process is based on interactive dialogue and research and is:

- **Inclusive:** Everyone is involved. Widespread inclusion ensures that the solutions that are identified and implemented are representative and legitimate, which makes them less likely to be ignored or undermined.
- **Politically impartial:** By refraining from partisan politics the programme ensures that it plays an effective and impartial role in facilitating genuine dialogue with all stakeholders.
- **Participatory:** Participation is key in helping shape and transform relationships in a society where there is a need to overcome mistrust between groups. It also helps to promote understanding, renew relationships and define new partnerships.
- **Objective:** The work is supported by research findings and facts. The topics are decided upon collectively to ensure full ownership and responsibility for the process.
- **Locally owned:** Local people and groups themselves participate in defining the problem and finding solutions for a more peaceful future.
- **Long term:** There are no quick fixes or shortcuts. Overcoming mistrust and deep divisions requires time. A long-term commitment and investment in peacebuilding will ensure that peace is long-lasting.

### **Phase I: The Consultation Process**

The process consists of a series of consultations at district, regional and national levels engaging all stakeholders, in identifying and broadening the understanding the complex challenges to peace in Timor-Leste. This approach is deemed necessary as an opportunity for Timorese from all walks of life

to critically look at what is troubling their society and to collectively identify and propose common solutions, and ultimately be part of strengthening their country.

### **Methodology**

For the past year, the PRDP has carried out consultations in all of the 13 Districts of Timor-Leste aimed at identifying peace-related issues and concerns as seen by Timorese society. Representatives of all segments of society took part in the process, including government, army, police, academia, the church, youth, political parties, women, martial arts groups, Internally Displaced Persons and business leaders.

Each consultation meeting gathered between 30-60 participants with a total of over 900 people taking part in the community driven consultations. In each consultation, the team of researchers of the PRDP created a space where the key stakeholders identified what they believed to be obstacles to sustainable peace at either the local or national level.

Three regional conferences in the East, Middle and West of the country (covering all 13 districts) were also held to compare and reflect on local and regional priority issues identified in the districts and to validate the results of these district level discussions. These conferences also served as another opportunity for participants from the different districts to meet and to overcome their mistrust so they are able to work together to focus on the deeper sources of long-term instability in the country. Over 300 participants took part in these regional conferences.

Rooted in the consultations carried out in the Districts and Regional Conferences, a National Report presenting key issues of concern identified by Timorese citizens was elaborated in written and video formats.

This report identifies **33 issues** important for achieving lasting peace. The issues were divided into 4 thematic groups: Politics, Justice, Social and Economic issues. Some of the issues are cross-cutting and/or overlapping and are presented as identified by the consultations.

### Findings: Political, Justice, Social and Economic Priorities

Political Priorities	What participants said
1. Leadership and political polarization	Participants found it challenging to talk objectively about the political, social and economic situation at the present time since there is a tendency to associate all issues with 'politics' and the 'leaders' of each party. This is because many people perceive the current political dynamics to continue to reflect the polarization between political parties and leadership figures that appeared in 1975 and persisted through the period of resistance and occupation and into the independence period.
2. Different groups have expectations and needs concerning recognition and compensation for their role in independence	Groups who took part in the resistance movement have contributed in different ways and at different stages during the years of occupation. As such, the various groups have developed different needs and expectations concerning rightful recognition and compensation.
3. Shortening the "vertical space" between ordinary people and political leaders	The extent of the disconnect between citizens and the country's leaders is rapidly growing. Leaders often see a public that wants everything and is generally uninformed with little to contribute to policy-making and where the public sees decision-making processes completely taken over by special interests and partisan battling.
4. The promotion of individual and party interests over the national interest	<p>This is a complex and troubling phenomenon in a context where the institutions of the state are unable to withstand personal and party agendas. As such, the State is prevented from consolidating its influence and from projecting and protecting the interests of the Timorese as a whole.</p> <p>When participants spoke about the process of democratization in the country, they connected this issue with the question of the style and quality of the political leadership. This was seen as a critical factor in determining the survival of the democratic process itself, the future social and economic development of the country and the potential prospect of future conflict. Participants discussed the crises that have occurred during independence, especially the 2006 crisis and observed that they often occurred when sensitive political issues arose within society. In such delicate circumstances, with certain group interests at stake, lack of coordination, management and good communication between members of the political leadership and between the sovereign state organs on how to respond effectively to the situation, allowed these sensitive issues to become enflamed.</p>
5. Divisions based on "language" and access to political power	The process of resistance and occupation forced many Timorese to live overseas whilst the majority remained within Timor-Leste and Indonesia. Today, a division based on who speaks which languages determine a person or group's access to political power and the state resources. This in turn gives rise to discrimination with the potential to deepen divisiveness and polarization between groups and threatens the stability within society.

6. Building political “blocks”	Political polarization and miscomprehension between politicians at the political party level gives rise to the creation of political barriers with a potential to turn political opponents into political enemies. This creates a challenging situation as the country tries to consolidate its process of democratization.
7. Clear separation of powers between the organs of sovereignty	Respect and adherence to democratic processes and structures as set out in the national constitution are seen as highly important to Timorese. Weak adherence to the constitution and separation of powers between the four sovereign organs of governance has been seen to create confusion and antagonisms between political groups when decisions by the competent authorities are not upheld and individual political power is seen to take precedence over appropriate legal channels for responding to issues.
8. Politicization of social and regional identity	In the context of a poorly defined national identity Timorese today tend to associate and identify themselves and others with political influences or the part they played during the years of occupation (for example some are referred to as “Maputo” and “Lisbon” cliques, Australian groups, Indonesian groups, and so on). These identities have been subject to political manipulation and have now become a self-perpetuating feature of social relations which is likely to continue in the future.
9. Definition of “western” democracy and local understanding	The term “democracy” has been defined and used in different ways and often is misunderstood. Most people think of democracy only in terms of rights that it conveys, rather than institutional elements and duties and obligations of citizens. While participants recognise that democracy in Timor-Leste is still in a formative stage and that it needs time to develop, the lack of understanding of the term is putting the process of democratization of the country at risk. Some participants also stressed that traditional mechanisms, which have been used in Timor-Leste since ancestral times to identify solutions to problems, must find a place within the nation’s democratic system.
10. The authority of local structures	At the local level there are two systems of governance: a formal system of the suku (village) council and an informal system which supports traditional customs and law. Limited resources (facilities and financial) make the work of these two local governance systems very difficult and weaken the authority of the xefe sukus (village chiefs). Some participants also said that some xefe sukus are also seen to be following private or party-led interests rather than fulfilling their roles in the interest of the whole suku. Some xefe sukus who participated in the focus groups said that the lack of facilities and resources is particularly critical during times of crisis and conflict as their limited authority means that they have no means to buffer the power of party coordinators or martial arts group leaders in mobilising people to create confusion and violence in the community.
11. Politics and citizen apathy	Timorese feel they are insufficiently engaged in issues of great importance to them and that they lack mechanisms and channels for the expression of public opinion. This factor, combined with the lack of accountability in politics, lends to citizen apathy toward politics.

12. Communal violence	Communal violence and gang warfare, in particular between rival martial arts groups, have created a sense of insecurity in the country. High unemployment rates and a large population of disaffected youth make it easy to mobilize and use them as instruments of violence in times of crisis.
<b>Justice Priorities</b>	<b>What participants said</b>
13. The ineffective formal judicial system	Timorese do not fully understand the country's laws and formal judicial system. The laws and judicial process are in Portuguese, a language not spoken by the vast majority of the population. Furthermore, the system is severely understaffed (there are 13 judges in the country with a caseload backlog of 5000 cases). Such challenges have fuelled frustrations among Timorese and strengthened the culture of violence and mob justice.
14. Lack of trust in the legal system	Lack of justice affects the judiciary system and increases the amount of crimes and human rights violations as well as the number of criminals and victims. This gives rise to civil disobedience and disrespect for the institutions of law and order, and paves the way for criminals to repeat the same offences or for victims to become criminals as they take justice into their own hands. According to participants, the administration of justice also frequently suffers from a lack of transparency, impartiality and firmness from the implementers of justice to maintain their independence and integrity in the face of external pressure and political intervention. This has the potential to damage the future of state institutions as external intervention can weaken the power of judicial decisions (especially weakening and impeding decisions from the tribunal).
15. Traditional justice	Traditional justice mechanisms that have been in place for hundreds of years, yet are not formally recognized in the legal system, continue to operate to some extent alongside the formal legal system. While there are many benefits to using the traditional justice system (issues are resolved in a short time, inexpensive, etc.) many participants (notably women) felt that the system often does not uphold human rights and democratic values.
16. Transitional justice	Justice for crimes against humanity committed during the Indonesian occupation (1975-1999) is a sensitive and highly controversial issue that has been politicized. Despite national and internationally sponsored transitional justice initiatives, Timorese are becoming increasingly frustrated by the lack of "justice" and by the reluctance of the political elite to respond to their demands.
17. Land disputes	Increasing land disputes are proving to be a serious stumbling block to the country's development. Without clear ownership laws and with many records destroyed property and land disputes have become a major source of tension throughout the districts and communities. Border disputes between sub-districts, sucos and aldeias are also on the rise.
18. Cultural and commercial relationships between populations in the border zone between Indonesia	The demarcation of the border is important to facilitate cultural and commercial exchanges and relations between the two countries. However, drug and human trafficking for prostitution are on the rise in border areas and increasing tensions between the 2 nations.

and Timor-Leste	
19. Impunity	When participants spoke about justice, the word ‘impunity’ frequently arose. They used this word to refer to those cases in the tribunal where political influence has been seen to affect the judicial process. The perception that justice is being undermined by political influence contributes to social apathy and lack of respect for the rule of law. This further opens a path for criminals to continue to conduct criminal acts and for victims to take justice into their own hands.
<b>Social Priorities</b>	<b>What the participants said</b>
20. Conduct a thorough historical review of the resistance and the occupation	Many of the major divides today in Timor date back to the relationships, actions and roles of different individuals and groups during the struggle for independence from Portugal and the resistance to, or cooperation with, the Indonesian occupation. Following national independence, the country has sought, with very limited success, to recognize and compensate those involved in liberating the country from foreign control. Poverty and an exclusionary, patron-client system in Timor has fuelled resentment and a further sense of injustice towards those who founded the new nation. To this day, no Timorese has detailed the complex history of the resistance, the occupation and the struggle for nationhood.
21. Timorese values and morals	The long war and experiences during the occupation and resistance affected the values and morals of Timorese. Today, many are vulnerable to the morals and values from other countries. In some districts, participants said that the presence of foreigners contributed to the circulation and consumption of pornographic materials which decrease Timorese morals and values. Without proper management of these values, such contradictions can also open the path for conflict or violence within the family and communities.
22. Social class	Stratification of Timorese into different classes, based on financial aspects and “linguistic ties”, are creating new tensions and alliances as access to state resources and political power are limited to certain social groups.
23. Social groupings, unequal treatment and access	Discrimination combined with the practice of corruption, collusion and nepotism is limiting access state services and marginalizing certain social groups.
24. Corruption, Collusion and Nepotism (KKN) <sup>1</sup>	This issue pervades all aspects of Timorese life, from the presumed actions of the political elite to the smallest transactions in communities. The Timorese fingered this phenomenon as one of the chief factors of resentment, instability and perpetual crisis in Timor.
25. Social envy	Social envy has the potential to give rise to various conflicts based on social injustices.

<sup>1</sup> “KKN” is a locally used acronym for Corruption, Collusion and Nepotism

Economic Priorities	What the participants said
26. Public Administration/Public Sector	In building its public administration almost from the ground up, public institutions are facing a number of challenges. The effectiveness of the public administration is hindered by pervasive corruption and political appointments undermining administrative neutrality. As such, the public administration is not necessarily staffed by officials who have both the competence and the will to serve.
27. The private sector, investment laws and finance laws need to give priority to local initiatives	The complex investment and financing laws, long processing times for approvals, the unclear tax liability, the prohibitive cost of doing business, make it hard for Timorese to compete with foreigners in the small but growing private sector.
28. The tendering process for projects and overseas businesses affected by Corruption, Collusion and Nepotism	The tendering process for projects is not transparent and is subject to corruption, collusion and nepotism. Local businesses also frequently encounter difficulties in meeting the criteria and 'gratuities' associated with foreign business. Because of many conditions and complications, including financing, equipment and qualified personnel there are obligations for local people to enter into joint business ventures with foreigners. The dependency of Timorese on people from other countries is giving rise to an array of disadvantages for local people.
29. Dependency on the petroleum production funds	Being an oil-dependent nation increases the country's vulnerability to market fluctuations and could put at risk the future generations if the fund is not managed prudently in accordance with the principle of good governance.
30. Unequal rural development between districts	There is considerable variability between districts and within districts in the standard of public services and development opportunities. This unequal distribution is giving rise to tensions between districts. The result of the migration flow from rural to urban areas is also giving rise to social tensions in the capital city.
31. Food security (quality and quantity)	Food security is a serious problem throughout the country. Insufficient food production, low quality production and difficulty accessing local market have led to a dependency on imports. Transforming subsistence farming, which dominates the agriculture sector, into an export-oriented industry, is a challenge.
32. Local production (quantity and quality) and access to markets	Subsistence agriculture and the condition of local and national markets do not assist in increasing or maintaining the quantity or quality of food and hygiene. This means that goods cannot achieve a sale price because those with money are spending it in shops and Chinese supermarkets or those of other foreigners.
33. Unemployment	The country suffers from a significant unemployment problem which is an important factor contributing to political instability. Consequently, there is an increase in domestic violence, crime rates, drug use, alcohol consumption, pornography, etc.

## National Forum

The 33 priorities were presented at a two-day meeting, a National Forum in August 2009, which brought together some 200 representatives of all walks of Timorese society, including the leadership of the four sovereign organs of the state including:

- H.E. President **José Ramos-Horta**, recipient of the 1996 Nobel Peace Prize
- President of the National Parliament, the Right Honourable **Fernando Lasama de Araujo**
- Deputy Prime Minister **José Luís Guterres** (Member of the General Assembly of CEPAD)
- Chief Justice of the Supreme Court, the Right Honourable **Antonino Gonçalves** (also Chairman of the General Assembly of CEPAD)
- **Mr. Mari Alkatiri**, Secretary-General of FRETILIN and former Prime Minister 2002-2006

Representatives of academia, the church and other NGOs also participated in good numbers. Perhaps most impressively however, organized delegations from each of the 13 districts (10 participants per district and 15 from the capital Dili) also attended with enthusiasm and demonstrated commitment to ensuring the continued connection of this process to the population in their home districts. This was crucial in real and symbolic terms as the yawning gap between the population and the authorities in Dili is one of the greatest weaknesses facing the country.

During the meeting participants reviewed and debated the findings and main conclusions of the report. An accompanying video was also shown of people throughout the country sharing their views on the core obstacles to peace in Timor-Leste. The video proved a powerful tool to bring home the messages and concerns of people.

## Setting Priorities

During the two day meeting, particular focus was given to the vetting of potential priorities for the next phase of the PRDP. Eight working groups organized under the 4 thematic areas of Politics, Justice, Social and Economic developments, were formed to assess and prioritize the 33 issues. The objective was to reach consensus on the 4 most important obstacles to peace in Timor-Leste.

These are:

1. **The promotion of individual and party interests over the national interest.** This is a complex and troubling phenomenon in a context where the institutions of the state are unable of withstanding personal and party agendas. As such, the State is prevented from consolidating its influence and from projecting and protecting the interests of the Timorese as a whole.
2. **The ineffective formal judicial system and the culture of impunity.** There are limits in the broad understanding of the country's laws and formal judicial system. The laws and judicial process take place in Portuguese, a language not spoken by the vast majority of the population. Furthermore, the system is severely understaffed (there are 13 judges in the country with a caseload backlog of 5000 cases). Such challenges have fuelled frustrations among Timorese and strengthened the culture of violence and mob justice.
3. **Conduct a thorough historical review of the resistance and the occupation.** Many of the major divides today in Timor date back to the relationships, actions and roles of different individuals and groups during the struggle for independence from Portugal and the resistance to, or cooperation with, the Indonesian occupation. Following national independence, the country has sought, with very limited success, to recognize and compensate those involved in liberating the country from foreign control. Poverty and an exclusionary, patron-client system in Timor has fuelled resentment and a further sense of injustice towards those who founded the new nation.

To this day, no Timorese has detailed the complex history of the resistance, the occupation and the struggle for nationhood. The Timorese chose this as one of their crucial objectives in order to reconcile with their past and with each other.

4. **Corruption, Collusion and Nepotism (KKN).** This issue pervades all aspects of Timorese life, from the presumed actions of the political elite to the smallest transactions in communities. The Timorese fingered this phenomenon as one of the chief factors of resentment, instability and perpetual crisis in Timor.

#### **Next steps**

The National Forum provided CEPAD with a mandate to continue its work and to concentrate on the four priority issues identified at the meeting. The objective will be to engage Timorese society on these priority issues with a view to formulating broad-based consensus solutions to the causes of the conflict and instability.

# INTRODUCTION



Photo: CEPAD

### **Today's Timor-Leste is intrinsically linked to the past**

History determines today's cultural and political context which has given rise to the challenges which Timorese face today. The violent past, foreign occupation, resistance and struggles for independence are likely to remain a strong influence on how people conduct their lives. To this day the thoughts and behaviour of Timorese are influenced by the rhetoric and attitudes from the time of the resistance movement and occupation, and by the necessity to gain recognition for contributions to the process of achieving independence.

### **Independence has brought new challenges to Timor**

Since 2002, the presence of UN organisations, international agencies and international military forces has changed the landscape, bringing with them concepts from outside the country. Thoughts, behaviours, culture, politics and language are all being influenced and the traditional ways the society has functioned in the past are being overlooked.

### **The crisis of 2006 clearly demonstrated that the divisions from the past have not been overcome**

The sudden flare up of violence in 2006 was a tragic "wake up call" for everyone. The wounds and divisions in society had not been addressed, given the time, or priority, needed to ensure that the nation was on a clear path towards lasting peace and a new identity.

### **Today Timorese live "not in peace"**

In some situations the crisis of 2006 has also opened old wounds and divisions between groups. This showed that political independence had not brought an end to conflict or reduced fear within communities. The national unity achieved from many years of struggle against the common enemy of the Indonesian military, had been destroyed because political rhetoric had reinforced other identities that then divided the people. This crisis has also given rise to a cycle of violence and conflict at the local level between communities, families, gangs and various political groups.

### **The Programme of Research and Dialogue for Peace**

In response to the 2006 crisis, CEPAD and Interpeace joined forces to support Timorese in constructing their own path for a peaceful future. The programme seeks to contribute to the creation of a climate in which Timorese are better able to identify priority issues for lasting peace, understand the origins and the dynamics of conflict and address these together in a non-violent and sustainable way.

### **Unique approach provides the foundation for the programme**

Distinct from other initiatives, the programme seeks to broaden and deepen the dialogue on the issues deemed most critical to durable peace by taking a unique approach which is as much about *what* is done as *how* it is done:

- ✓ **Inclusive.** Everyone is involved. Widespread inclusion ensures that the solutions that are identified and implemented are representative and legitimate, which makes them less likely to be ignored or undermined.
- ✓ **Politically impartial.** By refraining from partisan politics the programme ensures that it plays an effective and impartial role in facilitating genuine dialogue with all stakeholders.
- ✓ **Participatory.** Participation is key in shaping and transforming relationships in a society where there is a need to overcome mistrust between groups. It also helps to promote understanding, renew relationships and define new partnerships.

- ✓ **Objective.** The dialogues are supported by research findings and facts. The topics are decided upon collectively to ensure full ownership and responsibility for the process.
- ✓ **Locally owned.** Local people and groups themselves participate in defining the problem and finding solutions for a more peaceful future.
- ✓ **Long term.** There are no quick fixes or shortcuts. Overcoming mistrust and deep divisions requires time. Our long-term commitment and investment in peacebuilding will ensure that peace is long-lasting.

## **The process**

### **Consultations at the community, regional and national levels**

The process consisted of a series of consultations at community, regional and national levels. It engaged with key stakeholders to identify and broaden the understanding of the complex challenges to peace in Timor-Leste. This approach gave Timorese from all walks of life the opportunity to examine what is troubling their society from their perspective, to collectively identify problems, propose common solutions, and ultimately play a positive role in strengthening the nation.

Starting in late 2007 and continuing until early 2009, the programme carried out consultations, in the form of Focus Group Discussions in all of the 13 Districts of Timor-Leste.

Each group discussion gathered between 30-60 participants. These discussions were also supplemented with informal interviews and participant evaluations. A total of over 900 people took part. In each consultation, the researchers from the programme created a neutral and safe space where participants identified what they believed to be obstacles to sustainable peace. The results of the discussions from the district level were compiled in a report for each district.

A consultation was also held with student representatives and teachers from all of the universities in Timor-Leste as it was felt that their participation needed to be increased.

### **Facilitators working as catalysts**

During the meetings, the facilitators from the programme acted as a catalyst in helping participants to define and think differently about the divisions in the society at local, regional and national levels.

### **Open-ended questioning strategy**

All sessions initially started with the open-ended question "What do you consider to be the obstacles to peace and development in this District and/or in Timor-Leste?". This open-ended question provided the team with the flexibility to start discussions without constraining the group in one direction or another. The facilitators had the responsibility of raising questions, reformulating them and putting them back to the group to build consensus, or come up with different perspectives.

### **Priorities set even at the local level**

At the end of each meeting, a prioritization session was held where participants prioritized and discussed the issues that were deemed most critical to achieving lasting peace in Timor-Leste.

### **Regional conferences increase levels of trust**

Three regional conferences<sup>2</sup> in the East, Middle and West of the country (covering all 13 districts) were also held in 2008 to compare and reflect on local and regional priority issues identified in the districts and to validate the results of these district level discussions. These conferences also served as another opportunity for participants from the different districts to meet and to overcome their mistrust so they were able to work together to focus on the deeper sources of long-term instability in the country.

### **District Liaison Officers strengthen programme delivery**

The programme recruited trusted individuals from the districts to work as District Liaison Officers. Their function is to ensure proximity, accessibility, participation and local knowledge in each of the 13 districts.

### **National Forum set priorities**

The results of the consultation process, gathered in this document and in a video documentary, were presented at a National Forum in August 2009. This event brought together some 200 representatives from all sectors of Timorese society, including the leadership of the four sovereign bodies of the state (Parliament, Government, Presidency and the Supreme Court) and representatives from academia, the church, the International Community, NGOs and delegations from each of the 13 districts. During the 2 day meeting participants debated the findings and developed the main conclusions for this report. They also collectively agreed on the four obstacles to lasting peace.

## **The Methodology**

### **An inclusive and consensus orientated approach**

A Participatory Action Research (PAR) approach was used as the methodology because it provided the tried and tested framework for collective research. Using this approach, formerly conflicting parties and other social actors could actively take part in building consensual approaches to identify and address the social, economic and political issues necessary for sustainable peace in Timor-Leste.

### **An approach adaptable to the Timorese context**

It was felt that by using a PAR approach and adapting it to the Timorese context, it could also contribute to re-establishing broken relationships and building trust between communities which had completely broken down during the crisis. By engaging Timorese people themselves in the research, they could also design solutions and take part in their implementation. This is where the programme methodology goes beyond other dialogue efforts, as it puts the local people in the driver's seat so allowing them to dictate how their society reshapes itself and moves forward.

### **Complements *nahe bitu* and *sorumutu***

It was also felt that the use of PAR complemented the traditional process of *nahe bitu* and *sorumutu* (the laying down of the woven matt to meet together) with the strength to give rise to the means for sustainable solutions to conflicts through the process of mutual acceptance having participants themselves become agents of peacebuilding in their homes and communities.

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<sup>2</sup> In order to facilitate the process of implementation the programme divided Timor-Leste into three "artificial" regions: Region 1 integrated four districts from the East: Lautem, Viqueque, Baucau and Manatuto. Region 2 included four districts in the Central Zone: Aileu, Ainaro, Dili and Manufahi. Region 3 brought together the districts of Liquiça, Ermera, Bobonaro, Covalima and Oe-cusse.

### **Samples structured to be representative**

To ensure voices were heard from all levels, sectors and geographies of society, significant effort was put behind structuring the composition of the discussion and research groups.

People and organizations consulted include: ordinary people, district administrators, sub-district administrators, *xefe do suco* (village heads), traditional leaders, martial arts groups, youth groups, internally displaced persons, business leaders, disabled persons, women, veterans, members of the Church, members of the government and the opposition, members of the national parliament, university students, representatives of the army and police, political parties, members of the judiciary, school teachers and civil society groups.

### **Video key support**

Throughout the programme, video was used as a tool to support the process with a view to keeping the public, stakeholders and leaders informed and engaged in the dialogue, and documenting the process. The video documentaries outlining points of view gathered during dialogues and meetings were used to stimulate debates.

### **Analysis highlighted 33 issues**

A five month analysis period by the programme team highlighted the complexity and the number of issues that Timorese have to deal with at the various levels. Challenges relating to political leadership and democracy, the legal and judicial systems, social security and social dynamics, and the economy came through strongly in the research. The analysis of participants input has been structured around these four areas.



Throughout the programme, video was used as a tool to support the process. Photo: Steve Tickner

### **“Timor-Leste: Voices and Paths to Peace” report and video captures the challenges**

This report, originally in Tetum the national language of Timor-Leste, is a translation and synthesis of the thoughts, opinions and perspectives of the participants. The emotion and importance of the discussions at all levels are even more apparent in the accompanying video.

# CHAPTER 1: POLITICAL DYNAMICS AND DEMOCRACY



Photo: Steve Tickner

## Why and how Timorese political leadership has emerged – its characteristics, contradictions and the challenges the Timorese face as a result.

### **Political dynamics have become the principal obstacle to peace and stability and a major challenge to national unity**

The dominant issues raised were linked to the political context. During the consultations participants considered that most concerns, including those relating to economy, justice, social issues and security, have their roots in the political arena. This dynamic was seen as a major challenge to national unity.

### **The style of leadership and divisions among political groups have undermined the effective implementation of a democratic, rights-based State**

Whereas differences in ideologies, ideas and opinions of each person and group are recognised as a normal aspect of any democracy in many parts of the world, in Timor-Leste such differences have undermined the emergence of a stable political environment<sup>3</sup>. According to many participants this has caused Timorese society to fracture, so generating tensions and confrontation both among political leaders and between the groups identified with them.

## **1.1 The historical context**

### **Current political developments reflect the complex historical process in which Timorese political parties were established and developed**

In April 1974, the “Carnation Revolution” in Portugal opened the way for decolonisation in Timor-Leste and other Portuguese colonies, creating the necessary space for the establishment of political parties and the definition of ideas for post-colonial governance arrangements.

### **At the time, the Timorese population had only a limited knowledge and understanding of global political dynamics and their implications on local groups**

At the time the global political landscape was still dominated by the Cold War<sup>4</sup> and the mutual antagonisms of the Western and Eastern blocks. The Western block was committed to preventing the ideology of communism from spreading to countries outside the Eastern bloc while on the other hand the Eastern block was looking to promote communism.

### **The majority of the Timorese people, focusing primarily on the right to govern themselves, supported the demands for independence**

In September 1975 FRETILIN initially known as ASDT emerged as the only political party defending an immediate independence from the Portuguese colonial rule. The formation of political parties took place in a time when the Timorese were politically ill-prepared and they had little knowledge of the world’s political developments. They did not take into account the anti-communist stand of Western countries or the strength of opposition in Indonesia to Timorese independence.

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<sup>3</sup> Consultations in all of the 13 districts.

<sup>4</sup> Grimshaw (2009) Seminar: ‘Why talk about the occupation? Peace, justice and history in Timor-Leste’, 16<sup>th</sup> July 2009, UNTL, Dili, Timor-Leste

Other political groupings were also defined primarily by their approach to national governance which included Timor Democratic Union (UDT) calling for the continuation of links with Portugal, and other smaller political parties (KOTA and TRABALHISTA) campaigning for various transitional arrangements whilst others promoted the strengthening of links between Timor-Leste and Indonesia, reuniting East and West Timor (APODETI) or favoured ties between Timor-Leste and Australia (ADITLA<sup>5</sup>).

### **In December 1975, the political process in Timor-Leste was derailed by the invasion by Indonesia**

Contradictions arising from the sudden shift from colonial policies to party-based politics were exacerbated when Indonesia invaded. The occupation, lasting 24 years, resulted in polarization around two main groups – those resisting the Indonesian presence and integrationists. The anti-Indonesian group included the Armed Front, resisting occupation as a liberation movement in the mountains and forests of Timor-Leste, and the Diplomatic Front, struggling for independence through international diplomacy and negotiations. Both were supported by a third group, the Clandestine Front, working secretly within Timor-Leste.

### **Differences between and within the Fronts difficult to resolve**

However, differences within and between the Fronts plagued their relations with each other and the consequences have remained difficult to resolve. A local leader participating in the Baucau discussion raised the issue that the different groups fighting for independence failed to come together to resolve their differences and as a result the country has not been able to create the dream.

*“...where is the coming together .... something that was thought about by many members during the resistance period. Indonesian groups, clandestine groups and Falintil groups have destroyed our dream of coming together...”<sup>6</sup>*

#### **1.1.1 The Armed Front**

### **The diversity of personalities and objectives among today's political leadership reflects the historical developments and roles in the context of the armed resistance**

Established by Timorese who had served in the military during the Portuguese colonial period, the Armed Front emerged through the formation of FALINTIL in 1975, a liberation force committed to the defence of the population of Timor-Leste against Indonesian military occupation. The movement rapidly attracted younger volunteers. Those who survived the occupation are now referred to as the “veterans”. As they look back on their experience as freedom fighters, some now recognize that they were not only fighting against the Indonesians, but also the internal contradictions that led to conflict and killings within the Armed Front. During the period of occupation, some Armed Front leaders were killed, others handed over to the Indonesian military, whilst others emerged to continue the struggle for independence.

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<sup>5</sup> CAVR Report - Chega! (Conflict) – n.º 49.

<sup>6</sup> Baucau meeting April 11, 2008. Women participant and ex-resistance member.

### **Differences dating back to the Armed Front remain unresolved**

After independence, the Armed Front was transformed into the national defence forces (F-FDTL). However, the process of demobilisation at Aileu gave rise to new polemics and differences. According to veterans, contradictions that had given rise to conflict and murder resulted from the failure of leaders within the Armed Front to listen to each other and accept divergent opinion. As a former woman resistance fighter put it during the discussion in Lautem *"in the time of resistance, we in the Armed Front killed each other and discriminated against each other...; and today we have still not yet addressed the causes that made us kill each other"<sup>7</sup>*.

### **Veterans feel undervalued**

Ordinary people involved in the resistance feel that they have been subjected to discrimination and that their contribution to the struggle has been devalued. Reflecting views voiced by participants in another district consultation, a veteran cited that *"when we were fighting in the forests, we were told that we would rule the country when Timor gained independence... but today we are not governing; those who lost are ruling once again"<sup>8</sup>*.



Addressing issues related to veterans is perceived to be of national importance.

Photo: Steve Tickner

## **1.1.2 The Diplomatic Front**

### **Diaspora championed use of diplomatic channels**

Immediately following the Indonesian occupation, some of the Timorese living outside the country, protesting against the occupation, claimed Timor-Leste's right to independence. Basing themselves largely on information provided by the Clandestine Front, the group assumed responsibility for drawing international attention to the situation in Timor-Leste, characterised by the violation of

<sup>7</sup> Lautem meeting February 9, 2008

<sup>8</sup> Baucau meeting April 11, 2008.

human rights, torture, imprisonment, political persecution, massacres and other crimes perpetrated by the occupying forces from Indonesia.

### **Multiple groups formed competing for information**

Reflecting both a lack of adequate communication and coordination channels between leaders of the struggle within Timor-Leste and leaders outside the country and personality clashes, Timorese living outside the country also split into several political groupings – UDT, FRETILIN, the Lisbon Group, the Maputo Group, the Australian Group and others. These groups competed with each other for access to information from Timor-Leste that they could share with the media and with their public support base.

### **Austria-Dialogue followed reconciliation but lack of trust prevailed**

Following political reconciliation among the various groups struggling for independence within Timor-Leste under the Timor National Resistance Council (CNRT), external groups started working together. As changes occurred in political ideologies within Indonesia in the late 1980s/early 1990s, Timorese leaders from within the country and outside met at the Austria-Dialogue facilitated by the United Nations. However, continuity in the dialogue failed to materialise due to various pressures that led participants to distrust both the process and each other. Meanwhile pressures from the Indonesian military prevented Timorese leaders speaking about the country's future unless they agreed with integration.

## **1.1.3 The Clandestine Front**

### **Violence and conflict spread through the front**

The Clandestine front was formed by Timorese who supported independence but who lived and worked under the administration established under the Indonesian occupation. The front provided information to the Armed Front about movements of the Indonesian military as well as food and medical supplies for the armed resistance. Members of the Clandestine Front also served as a liaison between the Armed Front and the Diplomatic Front. However, in the absence of knowledge and contacts among the various groups comprising the Clandestine Front (mainly made up of young people and local organisations), violence and conflict spread among them and was reflected in criticism and betrayal by some who were captured by the Indonesian military.

The Clandestine Front was also operational outside Timor-Leste, especially among university students in Indonesia, where the Timorese community was also divided between those wanting independence and those supporting integration with Indonesia. These differences occasionally spilled over into violence.

### **Involved in the Clandestine Front , many young people lost their lives**

Participants in many of the discussions underlined that young people had indeed given their lives to the struggle, especially through the Clandestine Front. A former clandestine member participating in a Focus Group Discussion in Lautem said:

*“... During the resistance to occupation you [political leadership] pushed us to give our lives to the resistance. Now provide us with employment so that we can work and stop creating problems.”<sup>9</sup>*

#### **1.1.4 From resistance to independence**

##### **Political opinion divided**

In addition to these three fronts, that together formed the pillars of the resistance to military occupation by Indonesia from 1975 to 1999 and championed the cause of independence, political opinion in the country was divided between two other groups: one supporting special autonomy within Indonesia, the other, the Committee for the Popular Defence of the Republic of Democratic Timor-Leste (CPD-RDTL) suggesting that there was no need for a referendum as Timor-Leste had already proclaimed its independence in 1975.

##### **Timorese reconfirmed wish for independence in 1999 referendum**

When the Popular Consultation organised in 1999 under UN auspices provided an opportunity for the Timorese to choose between autonomy within Indonesia and independence, 78.5 % voted for independence and 21.5 % for integration with Indonesia.

##### **Integrationists destroyed the country following results of the referendum**

Those who opted for integration had received support in the form of weapons and funds from the Indonesian military to form militia groups. Upon the declaration of the outcome of the Popular Consultation, these groups embarked on the destruction of Timor-Leste, killing some 1,500 people, destroying almost 80% of infrastructure and forcing some 250,000 Timorese to flee to Indonesia and a further 300,000 to mountain and forest areas within the country<sup>10</sup>.

#### **1.2 Leadership and political polarisation**

##### **Role in independence key when Timorese select leaders**

When assessing the qualities of political leaders, people in Timor-Leste look first and foremost at the history of those leaders involved in the process of achieving independence. As a result, the style of leadership adopted by political leaders since independence has been shaped by patterns of behaviour and relationships forged through the period of resistance and achievement of independence.

*“The political leadership have been moving apart for a long time already; they haven't yet been able to resolve differences that go back to 1974 and developed during the period of resistance - these differences are at the root of the various conflicts and violent incidents we see today in our country.”<sup>11</sup>*

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<sup>9</sup> Lautem meeting February 9, 2008.

<sup>10</sup> IDMC (1999) Violence and displacement following the announcement of the results of the popular consultation.

<sup>11</sup> Regional Conference in Baucau May 16-17, 2008.

Throughout the consultations participants often made reference to the 2002 incident when the constituent assembly transformed itself into the National Parliament without holding legislative elections, giving rise to disagreement among politicians<sup>12</sup>. This led to ordinary people questioning the authority and representativeness of members of the legislature.

Another consequence of this development was the formation of blocs between political parties and the fracturing of established parties, with deep divisions that have lasted until the present day.

### **Politics today characterized by disagreements**

One of the Members of Parliament (MP) participating in the regional conference in Mailana in October 2008 underlined that *"In this time of independence, there is a lack of unity between political leaders because many of the resistance leaders who formerly cooperated with each other have now established their own parties; they no longer get along with each other on account of differences in their parties' visions and philosophies"*<sup>13</sup>.

Participants generally recognise that divisions among Timorese reflect issues of principle and ideals. Although they lack the support of the majority, political leaders continue to believe that their ideas are right. They find it difficult to accept the ideas of others and to work together, or even with governments formed by their own political party.

Competition among political leaders who emerged as national figures through the period of resistance to occupation is still largely based on recognition of their contribution to independence. Some political leaders are known as Founders of the Nation or Historical Leaders, others are recognised as Resistance Leaders or Veterans<sup>14</sup>, and others are referred to as Diplomatic Leaders<sup>15</sup>. As many participants pointed out, this has strengthened the potential for discrimination based on who struggled, where, how and for what period. Such factors deter the electorate from judging political leaders on the basis of their capacity and professionalism.

### **Some political leaders are also condemned by people for their role in the definition and implementation of State policies**

Participants said that some leaders often have a tendency to behave as though they are the sole owners of the political process, bearing a heavy load when taking decisions or formulating and adopting laws, and as such fail to respect the law when trying to address situations that require a solution. This has the potential for developing a style of governance that is based on a patron-client system rather than ideology and the rule of law. Some participants<sup>16</sup> referred to such attitudes and behaviour as anti-democratic and suggested that they reflect arrogance and political egotism<sup>17</sup>.

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<sup>12</sup> Manatuto meeting April 18, 2008.

<sup>13</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>14</sup> According to some participants, the use of the term in this context is causing confusion in the definition of the term "veteran".

<sup>15</sup> Leach (2006)

<sup>16</sup> Oecusse meeting April, 25 2008.

<sup>17</sup> McWilliam (2007)

## **President prepares path for next generation of leaders**

In the context of open-ended district-level dialogues undertaken in Oecusse, Lautem, Ainaro in 2008 and in other districts in 2009, even the President of the Republic personally admitted to some making mistakes<sup>18</sup>. However, in the dialogue session held in Dili in May 2009, the President sent a message of hope by suggesting that the time had come for young leaders to carry the nation forward and prepare accordingly to “receive the reins” during the next election, set for 2012.

### **1.2.1 Private interests and the interests of the nation**

#### **Politicians’ personal interests or party interests supersede national interests**

Many participants stressed that politicians place personal or party interests above the interest of the nation, resulting in sharp differences between them<sup>19</sup>. In the discussion with universities, participants called on those in government to focus on national interests and set aside the private interests that led some to lose their sense of moderation and to demonstrate political egotism and arrogance<sup>20</sup>.

An academic from UNPAZ (University of Peace) underlined that it was important to focus on the interests of the nation as the promotion of the interests of one large group had been at the origin of recent conflicts. Participants from the district of Dili went even further in affirming that political arrogance, egotism and ambition of political leaders were often used as tactics to incite people and create a sense of group identity and grievance.

**The 2006 crisis<sup>21</sup> was often used as a reference to illustrate this phenomenon when, in their view, political leaders used individuals, groups and party interests to mislead ordinary people, setting them against each other<sup>22</sup>.**

### **1.2.2 The politics of “creating blocs”**

#### **Dynamics on a political level caused blocs to emerge**

With the formation of the AMP (with the participation of CNRT, PD, FRETILIN-Mudamsa, ASDT and PDS) in 2007, this new coalition group was invited by the President of the Republic to form a government. FRETILIN refused to accept this decision and declared the AMP government to be unconstitutional. Two parliamentary blocs emerged – the ruling AMP coalition and the opposition coalition formed from FRETILIN and the Democratic Alliance-AD (itself formed from two parties – KOTA and PPT).

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<sup>18</sup> Presidential Dialogue “Dili, city of Peace” May 29, 2009

<sup>19</sup> McWilliam (2007)

<sup>20</sup> Dili meeting February 07, 2009.

<sup>21</sup> In mid-2006, a multifaceted and violent conflict exploded when some 600 discharged army soldiers known as “petitioners” demonstrated their discontentment with the inaction and failure of the leadership to deal with their claims of discriminatory practices within the F-FDTL.

<sup>22</sup> Regional Conference in Maubisse November 5-6, 2008.

### **New coalition attempted to bring down the government**

The FRETILIN-led coalition immediately endeavoured to topple the government and bring about early elections through a peaceful march protesting against political decisions taken by the President. According to FRETILIN, even though the party had lost its absolute majority, the AMP had no right to take the initiative to form a Government.

### **These political dynamics also led to the internal fracturing of some of the governing parties**

For example, when the top leadership of the Timorese Social Democratic Association (ASDT) agreed in 2008 to form an alliance with FRETILIN, the party split into two and the General Secretary was required to resign. Most other political parties are characterised by similar internal contradictions and divisions with the result that many members leave their parties to form new parties or to join other parties.

### **Polarisation deepened**

Political developments such as this deepen polarisation and have the potential to foster instability within the country.

*“... Since the emergence of many parties, it is certain that ... in the district of Ermera people are not listening to each other. Some say that as FRETILIN caused the crisis to occur, we should go and kill the FRETILIN people... so democracy proceeds; people don't understand yet that democracy means that you cannot violate other people's human rights”.<sup>23</sup>*

### **1.2.3 Divisions based on language and culture**

#### **In exile, Timorese experienced diverse cultures influences and educational systems.**

Developments in the local situation and divisive principles, ideologies and objectives, forced many Timorese to flee the country during the period of occupation. Many Timorese received training in Portuguese or English and were influenced by the cultures of their host countries. However, the majority of the Timorese who remained within the country received an education based on the Indonesian system and speak Bahasa Indonesian. Only a few of them learned English.

#### **Political divisions resulted from different social realities**

These experiences have contributed to political divisions based on the different social realities based on language and culture. Timorese society has split into two broad groups: those who remained in the country (and within Indonesia) during the period of occupation and who speak only Tetum and Bahasa Indonesia; and diaspora groups who live in Portugal, Australia or other countries who speak Portuguese and English.

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<sup>23</sup> Ermera meeting January 26, 2008.

### **Consensus reached on national languages**

In the period 1999-2002 there was intense debate between these groups over the definition of the “official language”<sup>24</sup>. The consensus finally agreed upon is reflected in the relevant articles of the Constitution. Portuguese and Tetum are recognised as official languages, whilst Malayu and English can be used as working languages.

### **Differences of language and culture give rise to discrimination and envy that challenge the political stability**

It is difficult to take decisions concerning language in a complex environment. However, in reality, the majority of Timorese know and use mostly Tetum and Bahasa Indonesia. The current language policy results in Timorese being separated on the basis of the languages they use. Differences in the ability to speak one language or another means that political groupings have unequal access to power, to recruitment in the public service, to the education and justice systems, and to other benefits. In this way differences of language and culture give rise to social discrimination and social envy that challenge the political stability of the young nation.

### **1.3 The concept of democracy**

#### **With independence in 2002 came the challenge of implementing democracy**

Throughout the 24 years of resistance, the people of Timor-Leste dreamed of the day when they would achieve independence. On 20 May 2002 that dream became a reality. The new sovereign nation faced the challenge of deciding how its democratic structures should develop, how to protect the rights and freedoms of individuals and how the Timorese as one people should choose a government within a constitutional state. These central concerns rapidly became major challenges for political leadership. Timor-Leste and its population had only recently emerged from a lengthy conflict. Its capacity and experience had been shaped by the requirements of resistance to Indonesian military occupation. There was a lack of experience in assuming responsibility for government within a democratic political system. Divergent expectations and demands complicated the work of the political leaders. Following the lengthy period of conflict, there was also a need to restore the values and morals of individuals and groups as a basis for embarking on a new phase, as well as a need to define new goals as the nation set out on the path towards democracy through a political party system<sup>25</sup>.

**In the words of participants, democracy represents a group of principles and practices that provide protection for the freedoms, rights and obligations of every citizen to contribute to the development of society, through participation in the formulation and implementation of national development policies<sup>26</sup>.**

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<sup>24</sup> Article 13 in the RDTL Constitution.

<sup>25</sup> Kingsbury (2008); Seymour (2000)

<sup>26</sup> Viqueque meeting April 4, 2008.

### **Democracy still in an early stage of development and needs time**

Participants recognise that democracy in Timor-Leste is still in a formative stage and that it needs time to develop. During the discussions in many districts, participants thought that when the principles of democracy are not fully understood or are interpreted in an arbitrary manner, opportunities for citizens to contribute to national development are lost. In some districts, in the absence of a full understating of democracy some participants even suggested that limitations should be placed on its implementation. Others stressed the need for civic education to inform people of the principles of democracy and the value of listening to each other, recognising that different ideas expressed through political parties contribute to the richness of the system.

### **There remains a need to understand democracy and the concept of citizenship that accompanies it**

According to some participants, many people speak about their rights but forget that they also have an obligation to contribute to the good of the nation. In the words of a Xefe do Suco (village chief) at the regional conference in Maliana in October 2008:

*“...at this time we see everyone is speaking about democracy and rights, not of duties; our leaders must make these things a combination of rights, duties and democracy. When [a citizen] is going to do something, he must also feel like he has a duty to be able to live in a democracy.”<sup>27</sup>*

### **A call for political leaders to be responsible and accountable**

Some participants, particularly representatives from youth and women’s groups, said that elections should not serve solely as a means of selecting politicians who, once in power, direct their attention towards personal or private interests. According to them, such behaviour contributes to instability. Many participants also suggested that there is no good mechanism to oblige political leadership to account for their actions to the people whom they represent. Some leaders consider themselves to be above the law and seek to resolve problems on the basis of their own historical roles and personalities, without consideration for the laws set out in the Constitution. They added that all people have the right to speak, think and believe freely but that they also have an obligation to respect each other and avoid the use of violence, or the excuse of historical precedents and personality to impose their ideas and wishes<sup>28</sup>.

## **1.4 Traditional values**

### **Traditional system of decision making collective**

Some traditional leaders and Xefes do Suco said that traditional structures must find a place within the democratic system. Local leaders recalled that although universally accepted forms of democracy have not yet been firmly established in Timorese society, some elements of democracy were already operating in Timor-Leste at the time of our ancestors. The objectives were similar, even if the means were different. As an example they referred to the “nahe biti” system in which a community gathered together to decide on difficult issues between members of the community,

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<sup>27</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>28</sup> Kingsbury (2008)

families, groups, aldeias (villages) and sucos (villages). In the words of a writer at the Baucau meeting in April 2008:

*"... Timor today inclines towards following western democracy, but Timor itself has a very beautiful democracy called nahe biti. For old men like me, from the 1940s, 50s and 60s, there was never just one person making decisions on issues but rather many were involved in taking decisions to resolve problems. I think this is perhaps is the democracy for Timor. However, our country has decided to close its eyes to our traditional values and follow democracy models from other countries."*<sup>29</sup>

#### **Traditional values combined with modern democracy suggested**

Many participants suggested that there is a need to link elements of western democracy and traditional values so that the two could be complementary in the process of democratisation and contribute to the emergence of mutual tolerance and respect.

### **1.5 The State Institutions**

#### **Two major challenges faced when setting up the state**

While implementing a democratic, rights-based state in Timor-Leste, two major challenges have been encountered:

1. Respecting the separation of powers between the four principal instruments of sovereignty; and
2. Interpreting the provisions of the Constitution with regard to the competency and responsibilities of these authorities.

#### **Authorities do not respect each other's remit**

In practice political leaders often do not respect the distinct roles and the separation of powers of the competent sovereign state organs and there is interference by one sovereign body in the areas of competence of others. Participants in the regional conference held in Mailliana in October 2008 said that there was political interference in the implementation of the role of each sovereign state organ, giving rise to confusion and the formation of various groups within the bodies of sovereignty, including the work of the courts and the public ministry.

#### **Disagreements between political parties led to confusion by the population**

Participants at the Baucau discussion in April 2008 referred to disagreements over the decision of the President of the Republic to invite the Parliamentary Majority Alliance (AMP) to form a government following the 2007 elections when, according to the official results of the election, FRETILIN had won more votes than other parties, although it had lost its absolute majority. This decision immediately gave rise to disagreements between political parties and great confusion among the people.

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<sup>29</sup> Baucau meeting April 11, 2008.

### **Legislative elections seen as critical in the transition to democratic politics by some**

The 2007 legislative elections were the first to be organised under the Timorese Constitution. According to some participants it marked a critical stage in the transition from the tradition of political resistance to a culture of conventional democratic politics. However, it would have been better if leaders had avoided creating contentious debates on this occasion because of their potential to provoke confusion among the people.

### **At the time many were still not clear on the workings of democracy so violence and confusion followed**

According to some participants, the best approach would have been to seek a broad political consensus based primarily on Article 85 of the Constitution of the RDTL regarding the competency of the President of the Republic to choose the Prime Minister and article 106 concerning the formation of a government. In the absence of such an agreement, it was difficult for many people to understand why FRETILIN, that had won most votes, did not form the government, whilst smaller parties who had lost the election were able to establish the AMP-led coalition and form a government. Even though this was acceptable in terms of the Constitution and the Electoral Law, the immediate consequence was violence and the burning and destruction of property, particularly in Baucau and Viqueque.

FRETILIN militants and sympathisers have still not accepted the current political reality. They continue to declare that the AMP government is unconstitutional.

### **Timorese experience of transitioning to democracy not unique**

Such developments are similar to transitional processes in other countries that have recently emerged from years of conflict and embarked on the path to democracy. When the political transition accelerates, the primary focus is on elections. The need to establish firm foundations for a rights-based state reflecting the law is forgotten. There is a risk of renewed conflicts and violence as it is easier for leaders to govern on the basis of their historical roles than to be accountable to the people. According to the experience of other countries, like some in Africa, that have undertaken similar transitions, the absence of strong, democratic institutions often gives rise to 'neo-patrimonial' regimes in which 'patron-client' interests and relationships dominate the politics of the nation.

## **1.6 Consequences**

### **1.6.1 Military-Political Crisis of 2006**

#### **The 2006 crisis indicated the need for the type of leadership suited to a democracy**

Observers of the Timorese situation, both from within and outside the country, refer especially to the crisis of 2006. This was duly reflected in the discussions. As one of the civil society participants at the regional conference of Maliana put it:

*“There was very little co-ordination within the leadership during the 2006 crisis. Our leaders delivered different messages when seeking solutions to some of the problems that we faced. Leaders created confusion during that crisis and today they still continue using the same pattern and therefore make existing problems worst and bigger and more difficult to resolve...”*<sup>30</sup>

Many participants underlined the need for political leaders to adopt behaviour and attitudes that correspond to their role as servants of the people. They should not behave provocatively, bringing violence and conflict to the country<sup>31</sup>. When political leaders fail to agree on sensitive issues, there is a risk of violence and conflict. Some participants therefore called for improved coordination and communication among political leaders, particularly when problems directly affecting the national interests require solution, as was the case of the issues raised by the “petitioners”. Unnecessary divisions among political leaders, poor communication and lack of sound management of sensitive developments results in a loss of credibility and trust.

#### **The “east and west” problem was seen to be allowed to become a dominant factor in the context of political polarisation**

The 2006 crisis was referred to by a wide range of participants. Many suggested that the crisis had its root causes in the long-standing problem of the “petitioners”, whose concerns had not been properly addressed when they first arose within the F-FDTL, with allegations of discrimination between the “Lorosa’e” (easterners) and the “Loromono” (westerners). When almost 600 soldiers presented their petition in 2006 and abandoned their quarters, this resulted in their dismissal from military service. Thus a small problem initially based on a single allegation became a huge problem for the nation, due to lack of communication and coordination among the leaders. According to many participants, the “east and west” problem could have been averted<sup>32</sup>. However, it was allowed to become a dominant factor in the context of political polarisation.

#### **Feeling that warning signals were ignored**

Some veterans and youth representatives recalled that before the crisis there had been several warning signals. These included incidents arising from the transformation of FALINTIL into F-FDTL in following cantonment of the armed resistance forces in Alieu; the incident in Losparos and that of December 2002 involving former members of FALINTIL, as well as disagreements between members of the armed forces and the police. Unfortunately, the country’s leadership did not attach enough importance to finding a sound and sustainable solution at the time. This created a bad precedent and encouraged further problems.

#### **Lack of consensus at the leadership level had serious consequences**

According to one leader from Region 3, petitioners were unhappy that the leadership was unable to agree on a solution to their problems<sup>33</sup>. They therefore undertook a five-day demonstration

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<sup>30</sup> Regional Conference in Baucau May 16-17, 2008.

<sup>31</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>32</sup> Dili meeting February 07, 2008.

<sup>33</sup> Regional Conference in Maliana October 24-25, 2008.

culminating in an attack on the Government Palace and exchanges of fire take took place at Taci Tolu. This had serious consequences for the entire nation and especially affected households and many families who lost their possessions and were obliged to become Internally Displaced Persons (IDPs).

#### **Divisions within the security sector had further serious consequences**

The crisis also resulted in the emergence of distrust and dislike between the institutions responsible for internal security and defence, and in weapons ending up in the hands of civilian groups which intimidated people throughout Timor-Leste. As the situation spun out of control, people lost their homes and possessions, stole and snatched each others' valuables, and fell into disputes with one another; former neighbours attacked each other; easterners and westerners turned on each other and martial arts groups sought fights with each other. The outcome was the abandonment of the city of Dili by many people who sought safety in their home villages and regions, with westerners returning to their original homes and easterners doing likewise.

#### **Credibility of the political leaders and the security sector was seen to be lost**

Political leaders and the institutions of security and defence lost their credibility and the trust of ordinary people. The security forces were worst hit with divisions within the police force leading to the scattering of officers and the abandonment of normal law and order as the central command was destroyed. Some ministers resigned, followed by the Prime Minister himself.

#### **The Crisis of 2006 seen to be a clear demonstration of the dangers to society**

The consensus among participants was that 2006 deserved to serve as a reference point for all Timorese as it highlighted important challenges for all, especially the political leadership of the country. The crisis underlined the dangers for society when top leaders do not communicate and coordinate effectively with each other, distance themselves from each other and fail to listen to each other, when they present themselves to the public solely as historic figures but are unable to perform their functions and assume their responsibilities as leaders. They fail to respect the state institutions and defend democratic rights by refusing to allow the competent authorities to resolve problems according to the agreed legal framework<sup>34</sup>.

### **1.6.2 Politicisation of social and regional identity**

#### **Politics is a strong influence on the formation of multiple groups with which Timorese society identify**

When referring to any group or even to a family, there is a tendency to associate its members with political opinions and historical events. The number of defining groups has significantly increased since independence. Today individuals represent multiple identities: family identities, youth groups, district and regional (east-west) identities, veterans, combatants, martial arts groups, founders (the historical owners of the independence process), mestizo groups, the Maputo, Lisbon, Australian and Indonesian groups etc. Divisions based on ideologies and politics may exist within one family.

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<sup>34</sup> UN Commission of Enquiry (2006)

**Many participants in the discussions agreed that the 2006 crisis played a key role in polarising attitudes within society, giving rise to groups representing different interests. Within a short time, in the absence of reliable information, the entire community fractured.**

**Regional identities have historical origins and are now politicised**

Some youth representatives and local leaders pointed out that the regional identity issues of “lorosa’e-loromono” had its origins in the past when the words *firaku* (easterner/lorosa’e) and *kaladi* (westerner/loromono) were used to identify people from different regions and districts within Portuguese Timor. At the time these distinctions did not result in conflict, as policies and politics were in the hands of the Portuguese colonial administration<sup>35</sup>. Following independence, social and regional identities have become an easy target for political manipulation. As has been demonstrated in repeated crises, the resulting politicisation of social and regional identity has the potential to create conflict and to destroy the unity of the nation.

**In the absence of appropriate solutions to emerging problems, there is a danger that current social and regional divisions will become even more serious and constitute major obstacles to peace<sup>36</sup>.**

There was a general consensus among participants that the main lesson to be learned from the violence and conflict of 2006/7 was the need to avoid political manipulation of regional and social identities.

**1.6.3 Communal tension and violence**

**Violence at communal level creating serious instability**

Many participants referred to violence that occurred and created instability in their communities. One participant from the former “clandestine network” said that under occupation the Indonesian military intelligence often used communal violence as a political trick. The resultant destruction was used to divert attention from important events and provided justification for them to intervene in a community by force as part of the attempt to control clandestine activities. The participant further added that young people were often used both as objects and as instruments of such violence, through their participation in groups and organizations that were susceptible to mobilisation. Youth groups became a special the target for recruitment and mobilisation with offers of money and jobs. Martial arts groups were especially vulnerable to efforts that pitted them against each other.

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<sup>35</sup> Harrington (2007)

<sup>36</sup> USAID (2006)



Since independence, communal violence has become a regular feature of Timorese society. Photo: Steve Tickner

The outbreaks of violence in Ainaro in 2005, Ermera in 2006 and in the capital, Dili, in 2006-7 all had political connotations. In Viqueque, communal violence and intimidation based on ethnic differences between the *nauwiti* and the *makasae* occur every year<sup>37</sup>. They then spread to other groups, creating instability throughout the district.

### **Communal violence is having a negative impact on democratisation**

According to some Xefes do Suco, communal violence also delays the process of democratisation. The International Foundation for Electoral Systems (IFES) has reported that violence and intimidation during election campaigns have influenced both the manner in which citizens contribute to and participate in electoral campaigns and the way they vote<sup>38</sup>. In the run-up to presidential and legislative elections, acts of violence and intimidation have been perpetrated by the supporters of the various party candidates. This was particularly the case of the Popular Consultation of 1999 and the parliamentary elections of 2007<sup>39</sup>. Although there were also some incidents and intimidation in the Constituent Assembly elections of 2001, the Presidential election of 2002, the Suco elections of 2004/5 and the Presidential election of 2007, it was not widespread.

### **Consequences of communal violence have far reaching effects**

Communal violence delays the process of development at local, regional and national levels, through its impact on the security of the community. As fear spreads, people distance themselves from development programmes.

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<sup>37</sup> Viqueque meeting April 4, 2008.

<sup>38</sup> IFES (2007)

<sup>39</sup> Timor-Leste Armed Violence Assessment ( 2009)

#### 1.6.4 Political Leadership and development

##### **Capacity for political leadership is impacting all levels and in all sectors**

According to some participants, the capacity for political leadership is a factor that influences development at all levels and in all sectors. The parties in power in all districts have failed to promote social and economic development, largely on account of politicisation. Instead of responding effectively to the needs of the people, in practice development reflects the interests of the political parties. When development is dominated by political influence, groups that are not part of the ruling party, or are distant from the political elite, do not benefit from opportunities to participate in the process of development. According to a participant from an opposition party:

*“... development in Timor proceeds along party lines ... if my party is not in government then maybe I won't be able to benefit from it. But development [needs] to start in rural areas so that [people] can live in calm in the mountains and all of us benefit from development...”<sup>40</sup>*

A female community leader added:

*“... in relation to development ... as we see it, there are thousands and thousands of dollars in the budget but the people never have access or benefit from development. Why is that? At the grassroots level we see people still drawing water from waterholes or from the river...but all the development money goes to Internally Displaced People and the petitioners so that politicians can buy off people and their problems ...”<sup>41</sup>*

##### **A call for politics and development to be separated**

Some participants suggested that there is a need to separate politics from development. Rather than focussing on party interests, the government, all parties and the entire population should be encouraged to contribute their ideas on how to develop the nation in the interests of all. This will require that the government and opposition parties reach agreement on development planning, ensuring that they do not mix party politics with national development policies. If all, including government, pursue narrow party interests, this will increase the potential for conflict, giving rise to political instability and discouraging overseas investors from making the kind of investments and commitments that would meet the development needs of the nation.

##### **Lack of focus on the rural communities and the migration to the cities is seen to have created further tensions**

Participants pointed out that investors, who are concerned about the lack of political stability of the country, only make small investments, the only beneficiaries of which are the political elite and their

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<sup>40</sup> Regional Conference: Baucau May 16-17, 2008.

<sup>41</sup> Regional Conference in Maliana October 24-25, 2008.

clients. Despite significant assistance from foreign governments, and sizeable budgetary resources allocated from the State of Timor itself, there has, in reality, been little development in the rural areas. Rural populations have therefore moved to Dili, where, in the absence of work or other occupations, some have participated in disturbances and turned to acts of violence.

### **1.6.5 Local authorities**

#### **Establishment of local authorities detailed in the Constitution**

Article 72 of the Constitution of the RDTL refers to local authorities in the following terms: "... Shall establish local authorities with people from the collectives of the countryside in representative structures, with the role of organising the participation of each citizen regarding their own solutions to problems facing their communities and to promote local development, without affecting the participation of the State". Other articles state that "the organization, functioning and composition of local authority structures shall be defined according to the law".

#### **Community leaders with their dual role of state and community responsibilities has given rise to important questions**

The State has announced several laws relating to the election of community leaders and empowering them to assume their role. Community leaders are part of the community structures that form the basis of society. Together with traditional structures and 'consensual figures' in the community, these leaders represent the politics of the State within the community. Not being civil servants of the State, they serve both the State and the people. This raises the issue of the role and authority of community leaders when the state itself encounters a crisis.

During the meeting in Ainaro, a community leader said:

*"... the Ministry of Justice ... and particularly the parliament must first take a look at the Constitution ...it clearly says that each department has its laws... but why is it that after 7 years of independence that these laws are not yet ready or implemented. If these laws are implemented, then our country could function and local authorities and communities might be able to function properly..."<sup>42</sup>*

#### **With their considerable influence and power, martial arts groups step in**

In Ermera district a parliamentarian said that in times of crisis or conflict, party coordinators and the organisers of martial arts groups have more power than the administrators and Xefes do Suco. When the formal authorities lose power and respect from their communities, parties and martial arts groups can control the situation through a combination of power and influence.

#### **The system of elected community leaders questioned**

Some participants, particularly young people and members of civil society, questioned the system of elected community leaders. Xefes do Suco elected with the support of political parties tend to implement policies that are in their party's interest. This weakens the authority of community

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<sup>42</sup>Ainaro meeting September 12, 2008.

leaders within the community. Some participants who appeared inadequately informed suggested that the State is again inciting communities at the base of society<sup>43</sup>. Others said that the election of Xefe do Suco's from political parties makes it difficult to find community leaders who can serve as consensual figures. In a young democracy, participants felt that there was a need for improved socialisation of the electoral system to ensure that problems arising at national levels do not spill over and create similar problems at the base.

### **Role of community leaders could help restore confidence in the state**

A community member from Region 1 said that vesting all the necessary powers in community leaders would contribute to the implementation of the decentralisation policy of government and reduce the impact of centralised politics. This would contribute to the restoration of trust in national leaders.



Photo: Steve Tickner

*"... power centralised at the national level dirties the national leadership, and this has made many people lose respect for their leaders." <sup>44</sup>*

It is understood by the CEPAD team that legislation is now being prepared regarding the structure of local authorities<sup>45</sup>. According to some observers, what is needed is a system that integrates traditional structures into the formal local government system. Two proposals have emerged concerning the local power structure, one proposing a new structure for Suco Councils, the second for Municipal Assemblies. The proposed legislation for the Municipal Assemblies refers to, among others, the territorial division which gives the local authority the power to organize election for Municipal Assembly.

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<sup>43</sup> Viqueque meeting April 4, 2008.

<sup>44</sup> Regional Conference in Baucau May 16-17, 2008.

<sup>45</sup> Rae (2008)

### 1.6.6 Party politics and social apathy

#### **Social apathy is being driven by the belief that politicians are not following through on electoral promises**

As in other countries, politicians in Timor-Leste when entering an election campaign make promises to the people and the electorate concerning various areas or sectors. However, participants note that once candidates and parties achieve political power, leaders forget their electoral promises. In some of the discussions at the district and regional levels, participants expressed their disappointment with the situation of many programmes in the social, economic and justice sectors<sup>46</sup>. However, they prefer to remain silent as the ideas and proposals they have already expressed have not been given any attention by top leaders. According to participants, voicing concerns and expressing ideas change nothing.

#### **Social apathy affecting the democratic transition**

When the discontent of the people turns into social apathy, reflecting a loss of confidence in political leaders and the system of governance, this can also affect the process of democratisation. In the absence of mechanisms that oblige leaders to be accountable to the people, those in power have complete freedom to do whatever they wish. This is compounded by high levels of poverty and unemployment that make it impossible for ordinary people to participate in political activities once elections are over.

## 1.7 Conclusion

#### **Timor-Leste is a young nation in a state of democratic transition**

In the face of strong politicization of society and political polarisation, ordinary people are tired of complaining against the social injustice that has already started to flourish. They clamour for the social and economic benefits of which they dreamed during the time of resistance. Meeting the aspirations of the people requires that political leaders put national interests at the centre of their agenda.

#### **Meeting the aspirations of the people requires that political leaders put national interests at the centre of their agenda**

When political leaders continue to be reluctant to listen to and address the wishes of ordinary people, the process of political transition and the development of democratic institutions will continue to be impaired and political instability will continue. Until priorities and policies change, social and economic development will falter, and the benefits of independence will continue to accrue only to a small group of leaders and the political elite.

#### **The policy challenge facing Timor-Leste today is to build and consolidate firm foundations for the institutions of law and order within a rights-based state, in which all people, including the political elite submit to the laws of the nation.**

Without strong institutions for law and order, those in power will continue to govern not according to the law but rather according to their own personalities and history. This will continue to give rise

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<sup>46</sup> Regional Conference in Baucau May 16-17, 2008.

to a 'neo-patrimonial' regime in which a small group receives the benefits of independence through 'patron-client' relationships that allow them to buy favours from each other, consolidate their power and ensure their party's place in ensuing elections. In these circumstances, it is difficult for the Timorese people to realise their dream of a society in which all living within the nation have the same access to resources allowing all to benefit equally from fruits of political independence.

### **Open Questions**

- How can leaders turn their differences into strengths that enrich the process of democratisation?
- How can the existing political system and traditional values complement each other?
- How can the Timorese people remember their history according to facts and avoid the formation of group identities and discrimination that are based on historical roles and claims?
- How can civil society contribute to the establishment of a system of law within overall governance structures that will allow each sovereign organ to undertake its work in an independent manner and under its own authority?
- How can the political participation of ordinary people be extended beyond the period of elections?
- How can civil society contribute to the development of effective mechanisms through which the political elite becomes accountable to the people?
- How can Timorese people, working together, prevent the formation of a 'neo-patrimonial' regime?

# CHAPTER 2: CHALLENGES TO THE LAW AND THE JUDICIAL SYSTEM



Photo: Steve Tickner

The functioning of the judicial system, the implementation of law and order, relationships between traditional and modern law, transitional justice, land disputes and some of the issues relating to national borders, how they impact each other and what does it mean to Timorese in their access to justice.

**Realising the dream of peace and development that is shared by all Timorese requires that special attention be paid to the judiciary.**

The consensus among participants is that the nation lives in tranquillity and prosperity when all citizens have the guarantee that they will benefit from justice and be able to live their lives according to the rights, freedoms and duties enshrined in the Constitution. These guarantees cannot be provided by any individual, group, political party or even by those in power. They can only come from the equitable administration of justice to all of the people.

**Equal access to justice included in the Constitution**

Article 16 'Universality and Equality before the Law', and Article 26 'Access to Justice' of the Constitution of Timor-Leste provide the necessary conditions for all citizens to benefit from equal access to justice. The Constitution defines the functions and competences of the institutions that are responsible for ensuring the administration of justice, including the Courts, the Public Ministry, Legal Advocates and the National Police Force of Timor-Leste. Article 160 of the Constitution stipulates that cases involving crimes against humanity, genocide or war crimes shall be referred to national or international courts<sup>47</sup>.

**Many raised concerns about aspects of justice and the administration of justice**

Comparing these constitutional provisions with their own experience in a rights-based State, many participants in the district-level meetings, including members of parliament, representatives of traditional structures, youth and civil society, voiced concern over many aspects of justice and the administration of justice.

## **2.1 The formal justice system**

As the national authorities in Timor-Leste were establishing, from scratch, its institutions of governance including its judicial system, they took into account the need to learn from, build on and adapt various legal systems. Because of historical associations under colonisation and occupation, the legal systems of Indonesia and Portugal served as particularly important reference points. However, people consider that these systems require improvement to ensure equal treatment and transparent justice for all Timorese citizens.

**Today's judicial system is still not clearly understood by Timorese**

According to a consensus among participants, many Timorese are still unaware of the characteristics of the existing judicial system. There is a need for a programme of socialisation around current legislation and judicial procedures. Participants pointed out that people do not know that they can

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<sup>47</sup> RDTL Constitution.

have access to the justice system whenever they need to. They are unaware of their rights and the means of seeking justice as they have limited knowledge of the laws in force in the country and of the functioning of the judicial system. This results in those with money avoiding the consequences of justice whilst those without money become the victims of justice. Indeed, many participants thought that the negative aspects of justice only apply to ordinary people who lack adequate financial resources.

A female Member of Parliament suggested that civic education is important for all Timorese, starting with political leaders, so that the society understands how the judicial system functions and how the administration works<sup>48</sup>.

### 2.1.1 The Judicial System and Juridical process

#### **Many obstacles stand in the way of a clear understanding of the judicial system**

Participants agreed that it is difficult for ordinary people to understand the procedures of the formal justice system. According to some, even those working in the justice sector have difficulty in understanding some aspects of judicial procedure due to obstacles such as language, judicial technicalities and human resources constraints<sup>49</sup>.

The judicial system plays a key role in safeguarding the rights-based State, democratic values and the fundamental rights enshrined in the Constitution. In juridical terms, the laws applicable in Timor-Leste flow from a combination of its own legislation and subsidiary laws from Indonesia. From October 1999, the United Nations Transitional Administration in East Timor (UNTAET) Regulation No.1/99, based on the UN General Assembly Resolution 1272, adopted Indonesian law as the subsidiary law for the administration of justice in Timor-Leste until such time as the sovereign state of Timor-Leste has the institutional capacity to build and establish its own legislative framework.

According to Article 3 (1) of the regulation “..... laws which applied in Timor-Leste prior to 25 October 1999 shall continue to apply unless they are contrary to the international standards of human rights or the mandate which has been given to UNTAET”<sup>50</sup>. This policy was adopted to avoid a legal “vacuum” in the rights-based state that might result in disorder and conflict within communities. The adoption of a body of laws in this manner is a common occurrence in states in transition

According to participants with legal experience, the laws applying in Timor-Leste are Indonesian Laws, not laws from Portugal or from Community of Portuguese Language Countries (CPLP).<sup>51</sup> However, in practice there has been confusion, as members of the judiciary have come from CPLP member nations. Following disagreements in 2005 over the laws applying in Timor-Leste, the

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<sup>48</sup> Dili meeting February 07, 2008.

<sup>49</sup> Regional Conferences: Maliana October 24-25, 2008; Baucau May 16-17, 2008; Maubisse November 5-6, 2008.

<sup>50</sup> UNTAET Regulation 1999/1 of 27 November 1999.

<sup>51</sup> JSMP (2009)

National Parliament clarified matters by adopting a resolution calling for consistency from the courts in the application of Indonesian law as stipulated in the UNTAET resolution.

### **The substance, structure and culture of the law analysed by participants**

Specific laws reflect the system in which they are formulated and applied. Participants in discussions focussed on three key aspects of the functioning of the judicial system: the substance of the law, its structure and culture.

#### ***a) The substance of the law***

### **Participants questioned if laws sufficient to respond to the realities of justice and give adequate basis for the realisation of justice**

Legal substance refers to how laws are applied to any given question. At present these areas include: the Constitution; regulations (material and procedural laws introduced by parliament or government); ratified conventions; decisions of relevant institutions; and legislative policies regarding the functioning of the judiciary system itself. Also applicable are the penal code; the civil code; a code for court proceedings held in the Portuguese language; a witness protection law; an anti-corruption law and a domestic violence law.

These laws constitute the legal framework of Timor-Leste. Participants in the consultations enquired whether they were sufficient to respond to the realities of justice and provide an adequate basis for the realisation of justice<sup>52</sup>.

#### ***b) Structure of the Law***

### **The structure of the law a key challenge for the justice system**

According to participants with legal training and experience, the structure of the law refers to the human resources and infrastructure (courts, transport, and relevant equipment) at the disposal of the justice system<sup>53</sup>. The quantity, quality, remuneration and security of human resources have become key factors and significant challenges for the justice system.

### **Human resources attributed to the judicial system considered inadequate**

According to qualified participants, Timor-Leste has only 13 judges, 13 prosecutors and 11 public defenders to cover all court jurisdictions across the country's 13 districts<sup>54</sup>. This is inadequate to meet the needs of the system.

### **Court structure also seen as inadequate**

In terms of judicial hierarchy, the 13 district courts should be complemented by a court of appeals and a supreme court of justice. However, currently only four district courts have been established. Although a court of appeals has been established in Dili, there is no supreme court to act as the

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<sup>52</sup> Regional Conference in Maubise November 5-6, 2008.

<sup>53</sup> JSMP, 2009

<sup>54</sup> JSMP, 2009

ultimate body to validate and, if necessary, correct the decisions of subsidiary courts. Human resources constraints have also led to the non-implementation of the provisions of Article 123 of the Constitution for a Higher Administrative, Fiscal and Accounts Court and a Military Court.

**c) *The culture of law***

**Not only poor laws or mal-functioning institutions undermine the legal system but also the attitudes of people**

The legal culture means the perceptions of society regarding the justice system – the level of public awareness about applicable laws and the consistency of society in using the law to resolve problems. When the law is not respected, this can undermine the whole legal system. According to a participant with legal training, the functioning of the legal system is not the sole responsibility of the judicial authorities but should reflect the collective contributions and commitment of society as whole and of all institutions of the State<sup>55</sup>. In many cases, it is not poor laws or mal-functioning institutions that undermine the legal system but rather the attitudes of people that are reflected in the laws and in the legal system.

A community policeman participating in a Focus Group Discussion said:

*“When people bring us complaints, we take them to the court. But the suspect can come and kill those who made the complaint. Our nation will not find peace when human rights are not respected.”<sup>56</sup>*

**2.1.2 Human Resources**

The effectiveness of the justice system depends on material, financial and human resources. Participants stressed above all the need for people with the capacities and competence needed to manage the judiciary system. Many of the Timorese who serve as judges, prosecutors, defenders and lawyers, police inspectors and judicial and prison officers, lack the necessary experience. No Timorese meet the minimum requirements of 15 years professional experience for appointment as judges<sup>57</sup>. Substantial additional training is needed to undertake such roles with professionalism.

**2.1.3 Language**

**Language barrier makes it more difficult to access justice**

In many of the discussions, participants pointed out that Portuguese, a language that few speak or understand, has become an obstacle to justice, making it difficult for victims to access the courts and receive justice. The issuing of court documents in Portuguese makes the task of Timorese lawyers

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<sup>55</sup> JSMP Director, May 2009

<sup>56</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>57</sup> Court Judge, 2009

difficult and complicates the work of the police in arresting suspects<sup>58</sup>. It also affects the recruitment of new civil servants in the justice sector and promotions within the police force.

A member of the National Police participating in the Regional Conference in Maliana said:

*"I believe there is a major problem. Our Constitution acknowledges two official languages: Portuguese and Tetum. But now in the recruitment we must be able to write and speak Portuguese when we never learned Portuguese in the first place. Now we also need to learn it if we want to be promoted."*<sup>59</sup>

Although there was general consensus on this issue, opinions on institutional administrative practices varied. One participant asserted that there is political discrimination and pressure from above to give more attention to the Portuguese language, discouraging the use of Tetum, despite its being recognised as an official language under the Constitution<sup>60</sup>. A representative of the main opposition party affirmed that international judges in the courts only use Portuguese<sup>61</sup>. Timorese interpreters make mistakes. When sentences are pronounced the accused must abide by the sentence even if they have spoken the truth. The barrier constituted by the Portuguese language was also a concern to young people and members of the police force participating in the consultations.

#### **Without an adequate grasp of Portuguese it is not possible to access the judicial system**

According to participants, language is a means of communication that reflects the identity, cultural and historical traditions of a people and facilitates social integration within and between groups. The use of Portuguese is not only a concern to the Timorese community as a whole. It is also a concern for those who are involved in the judicial process – police and lawyers as well as directly interested parties, including victims, suspects and witnesses. Without knowledge of Portuguese, none of these can access the basic documentation relating to their legal proceedings.

#### **Victims and accused find it difficult to understand the legal system**

Participants said that both victims, who hope that those who have violated their rights will receive appropriate punishment, and the accused, who hope that the process will be quick, fair, credible and accessible, find it difficult to understand the legal process. The judiciary controls their destiny and shapes their lives, in many cases only because they do not understand the language of legal proceedings.

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<sup>58</sup> Regional Conferences: Baucau May 16-17, 2008; Maubisse November 5-6, 2008; Maliana October 24-25, 2008; and Ermera meeting January 26, 2008.

<sup>59</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>60</sup> Meetings in: Baucau April 11, 2008; Liquiça January 12, 2008 and Ermera January 26, 2008

<sup>61</sup> Regional Conference in Baucau May 16-17, 2008

An Opposition member participating in the Regional Conference in Baucau said:

*“In the courts we have international judges who only speak Portuguese. But often the accused only speaks local dialects like Makassae or Waimua. The court’s translators only speak Portuguese and Tetum. This is a big problem.”<sup>62</sup>*



During trials the accused often do not speak or understand Portuguese and have to use interpreters to understand the proceedings. Photo: Steve Tickner

#### **Use of Portuguese believed to be undermining the workings of the judicial system**

According to some participants with legal qualifications, the continued use of Portuguese in the administration of justice has already affected people’s fundamental right to justice, undermined the credibility of the justice system and impeded access to justice<sup>63</sup>. Even though the State provides interpreters, in reality these are unable to convey all the information to the different parties. The use of technical terms that interpreters do not understand affects the outcomes of legal hearings. The issuing of notices in Portuguese renders them difficult to access by those concerned and contributes to the large number of cases that are pending in the courts.

#### **The Judicial Systems Monitoring Programme also considers use of Portuguese presents problems for the justice system**

The Judicial Systems Monitoring Programme (JSMP) also considers that the administrative procedures of the judiciary and practice of passing judgements in Portuguese continue to favour those who speak Portuguese and thus present problems for the justice system. In 2004 the JSMP challenged the continued use of Portuguese in the courts in a report that also criticised the issuing by the government of Timor-Leste of legislation in a language that the majority of the population does not understand. However, the findings and recommendations of the report were not given adequate consideration by the competent organs of the State.

#### **Believed that documents are now being developed in Tetum**

Informal contacts with officials from the Ministry of Justice suggest that consideration is currently being given to producing all documents in the Tetum language to facilitate public understanding, response and access to justice.

<sup>62</sup> Regional Conference in Baucau 16-17 May 08

<sup>63</sup> JSMP 2009

## 2.2 Functions of the Public Ministry and of the Courts

### Confusion between the Public Ministry and the courts

Participants in the consultations expressed confusion over the functions of and relationships between the Public Ministry and the courts. Article 132 of Title V, Chapter II of the Constitution concerning the Role and Statutes of the Public Ministry states that “the Public Ministry represents the State in undertaking penal action, securing the defence of children, people without defence, and those who are incapacitated, to defend the democratic legality and to promote the model of law”. It also states that “the Public Ministry is the magistracy which will be established at such times as required under the Prosecutor General of the Republic”. Article 133 states that “the Office of the Prosecutor-General of the Republic is the highest organ in the Public Ministry and the law defines its composition and competencies”. According to point 5 of Article 133 the Prosecutor-General has the obligation to ask the Supreme Court (or in its absence, the Appeals Court) to declare the unconstitutionality of any rules that are considered to contradict the provisions of the Constitution<sup>64</sup>.

### Many participants in the consultations unable to differentiate between the Courts, the Public Ministry and Ministry of Justice

According to many Xefes do Suco, people in their communities neither understand nor have access to correct information concerning the judiciary, the administration of justice and the work of the Public Ministry, the Courts and the Ministry of Justice<sup>65</sup>. They do not know how and where to go when they need justice. Many participants in the consultations were unable to differentiate between the Courts, the Public Ministry and Ministry of Justice<sup>66</sup>. A Parish Priest participating in a meeting said:

*“We need legal experts who can interpret the language in which the law is written. This is not a job for the National Parliament. We need legal experts who can help establish a general interpretation of the law for the nation. That way we can move forward correctly.”<sup>67</sup>*

### Confusion around detention procedure

Analysis of regional trends confirms that participants are surprised and afraid when the police detain suspects for 3 days, then release them back into the community without a judgement from the courts. The large number of cases pending with the Public Ministry results in a loss of confidence on the part of victims in the authorities who are responsible for law and order, particularly the police service.

### The number of unheard cases is leading to people thinking justice is not ensured

Information provided at the meeting in Baucau in April 2008 revealed that almost 4,000 cases were pending with the Prosecutor-General at the Public Ministry<sup>68</sup>. The majority of participants consider

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<sup>64</sup> RDTL Constitution

<sup>65</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>66</sup> Regional Conferences: Maliana October 24-25, 2008; Baucau May 16-17, 2008; Maubisse November 5-6, 2008.

<sup>67</sup> Meeting in Viqueque April 4, 2008.

<sup>68</sup> US State Department, Timor-Leste Bureau of Democracy, Human Rights, and Labor March 11, 2008

that justice is not ensured when the courts fail to perform efficiently with the result that many cases are still unheard. What they generally did not know was that many of the cases were in fact pending with the Public Ministry or the Prosecutor-General. Clarification was provided at the meetings in all three regions. According to legal procedures, once a case has entered the court system, the Court is obliged to proceed to a judgement. However, the law bans the Court from requesting the Prosecutor General to speed up the referral of cases to the courts<sup>69</sup>.

## **2.3 The Administration of Justice**

### **Confusion around the responsibilities of the Public Ministry, the courts and the Ministry of Justice**

Participants also expressed confusion over the respective responsibilities of the Public Ministry, the courts and the Ministry of Justice in ensuring justice. Article 118 (1) of the Constitution states that the Court is the sovereign organ for the implementation of justice in the name of the people. Article 118 (2) states that when undertaking this role, the courts have the right to work together with other authorities and Article 118 (3) states that decisions of the courts are binding as their determinations overrule any positions adopted by other authorities. Article 119 states that the courts are independent and operate only in accordance with the Constitution and laws introduced in application of the Constitution. Article 120 bans the courts from making any decision or rulings that go against the letter and spirit of the Constitution<sup>70</sup>.

### **Role of the courts and responsibilities of judges defined in the Constitution**

Article 121 sets out the role of the courts and defines the responsibilities of judges. It states that the jurisdictional function is assumed by judges solely in accordance with the law, that judges must be independent and act only in accordance with the Constitution, with laws adopted there-under and with their own conscience. Judges cannot be removed, prevented from carrying out their function, changed, sent into retirement or dismissed unless the law provides for this. In order to guarantee their independence, judges cannot be held personally responsible for their rulings, except in cases defined by the law. The Article also states that the Law shall regulate the judiciary and the status of the judicial magistracy.

## **2.4 Challenges for the Judicial System**

Many participants pointed out that the inefficient functioning of the judiciary, lack of transparency and independence weaken justice itself and expose the system to external influences, particularly political interference in the decisions of the Prosecutor-General and the courts<sup>71</sup>. It also makes the system vulnerable to impunity (a form of discrimination) based on wealth, power and immunities.

### **Polarisation and political interference are challenging the system**

A community leader participating in an open debate said that the judiciary system was sound but that its implementation had been undermined by polarisation and political interference<sup>72</sup>. A key point raised in discussions at the Regional Conferences was the politicisation of the system.

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<sup>69</sup> Court Judge, 2008

<sup>70</sup> RDTL Constitution.

<sup>71</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>72</sup> Regional Conference in Maliana October 24-25, 2008.

Intervention by one sovereign organ in the affairs of others interferes with the process of justice and weakens the law.

### **Belief that laws only applied to those without money**

The polarisation and political interference in the judiciary system has resulted in the absence of justice as the laws are only applied to people without money who are obliged to serve the interests of political leaders, accepting their status as victims. One Xefe do Suco affirmed that instead of problems being resolved with justice and in accordance with the laws, all know that they are only resolved with money<sup>73</sup>.

### **Resolving problems with money is considered unsustainable**

The debate focussed on reports in the media that in the case of the “petitioners” and Internally Displaced Persons (IDPs) some leaders had decided that peace could be purchased. The opposition affirms that resolving problems with money is unsustainable. If there has been no justice, the problems will recur once the funds run out. A local official in Bobonaro also affirmed that those in power were solving problems with money rather than with justice<sup>74</sup>. Most participants concluded that although financial compensation can be applied in some situations, this should not be an obstacle to justice and truth. A school teacher during a meeting in Ermera said:

*“We have a Constitution but powerful individuals interpret the law so as to suit them. Thus our leaders make political decisions without any mutual agreement.”<sup>75</sup>*

A youth participant added:

*“We all need to respect the law. But in Timor leaders make decisions that interfere with the law. But if ordinary people steal eggs for example, we get punished and go to prison.”<sup>76</sup>*

### **Agreement that purchasing peace sets a bad precedent**

The general consensus was that the purchasing of peace sets a bad precedent. The adoption of bad practices today may prove to be a short-term benefit for groups of people within the system. However, those in power should also consider the interests of future generations whose opportunities will be destroyed.

## **2.5 Traditional Justice**

### **Relationship between traditional justice and the formal justice system causing concern**

Some Xefes do Suco and political party officials raised questions concerning the relationship between traditional justice and the formal justice system. Contributions from participants clarified that in practice traditional justice is used in two ways.

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<sup>73</sup> Bobonaro meeting August 27, 2008 (43:45)

<sup>74</sup> Regional Conference in Maliana October 24-25, 2008

<sup>75</sup> Meeting in Ermera January 26, 2008.

<sup>76</sup> Regional Conference in Maliana October 24-25, 2008.

### **Traditional justice system used for intra and inter family disputes**

The first is the resolution of problems within or between families in accordance with the *uma-lulik* (sacred house) of each family. Cultural leaders, custodians of tradition or consensual cultural figures listen to the parties involved, weigh the issues, make a determination and decide on appropriate sanctions involving fines to be paid in accordance with traditional scales.

### **Traditional justice system also used to resolve local level disputes**

The other use of traditional justice is mediation through which local authorities (Xefes do Suco, Suco Councils, Xefes de aldeia, *adat* leaders (or consensual figures) facilitate relations between the parties involved in a local case or conflict. The custodians of tradition (*lian-na'in*) first hear the parties separately. Then, provided the parties are willing to meet, they are brought together to discuss and resolve the problem. Outcomes achieved in this manner are legalised through a system of fines. If no solution is agreed, the case is referred to the formal justice system.

### **Opportunity to improve the capacity and training of traditional authorities**

Some participants considered that the capacity of traditional authorities needs to be strengthened and their knowledge of the formal justice system improved to ensure that the two systems complement each other. Many participants, including some *Lian-na'in*, considered that the formal and traditional justice systems complement each other well. For example, crimes of murder and crimes of a political nature are referred to formal justice; civil cases and lesser crimes are dealt with *adat* in accordance with traditional justice at the suco, aldeia, community or household level, reducing the pressures on the formal system. Crimes considered suitable for traditional justice included domestic violence, sexual violation and disputes over possessions within the community. When solutions cannot be found at the family level, the victim can take the case to the village authorities<sup>77</sup>.

### **Shortfalls of the traditional justice system highlighted by women in particular**

Some participants, particularly women, pointed out that although traditional justice is good, many of its aspects do not fully reflect the values of human rights, democracy and freedom of expression. In practice, freedoms are restricted and discrimination shown towards women, especially with respect to the *barlake* or "dowry" involving fines that exceed their capacity to pay.

### **Justice sought from different systems depending on the seriousness of crime**

A survey undertaken by the Asia Foundation confirms that for civil disputes and minor crimes people seek justice from the traditional *adat* system (customary system)<sup>78</sup>. However, for serious crimes and offences cases are referred to the formal justice system. *Adat* is often used in disputes within families (particularly for cases of theft and divorce), in a suco or between sucos. The formal justice system is used to resolve disputes involving foreigners, business and government and to judge violent crimes.

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<sup>77</sup> Regional Conferences: Baucau May 16-17, 2008 and Maliana October 24-25, 2008.

<sup>78</sup> Asia Foundation (2004)

**Many participants stressed the value of the partnership between local and traditional authorities involved in the traditional justice system. This differs from the formal justice system where the police and the other parties concerned are distant from each other.**

**At the district level the population is not familiar with the process used by the local courts**

The population in the districts is not familiar with the formal process adopted by the local courts. People in rural areas do not have access to the formal justice system. The two systems need to cooperate and adapt to local realities in accordance with Article 2 (4) of the Constitution that allows for the promotion of traditional beliefs and cultural practices that complement the Constitution and other legislation relating to the protection of human rights.

The CEPAD team was informed in March/April 2009 that a technical team from the Ministry of Justice, with UNDP, has launched a study on the possibility of integrating the traditional and formal justice systems as an alternative mechanism for resolving disputes within communities.

## **2.6 Transitional Justice**

**Transitional justice is a controversial issue**

Participants in the consultations frequently referred to war crimes and crimes against humanity committed during the Indonesian occupation and the need to ensure justice for victims. They recognised that transitional justice is an extremely controversial political issue, bringing with it many challenges and requiring substantial resources.

According to the Commission for Reception, Truth and Reconciliation (CAVR) and legally trained participants<sup>79</sup>, there have been five separate initiatives designed to compile information and address crimes that occurred under Indonesian military occupation. However, no appropriate way has been found to advance the cause of transitional justice. These initiatives are:

1. **Formal justice through juridical proceedings in the Timor-Leste, Indonesian or international courts.** Such proceedings depend on the political will of the Timorese government and are likely to affect relations with Indonesia. Referral to international courts also depends on the political will of the international community and its agreement to provide the significant resources that would be required.
2. **The CAVR.** The Commission was mandated to investigate violation of human rights in the period of occupation (1974-1999) through traditional mechanisms for reconciliation. It completed its work with the publication of a report entitled "Chega!" (Enough already!).
3. **The Truth and Friendship Commission (CTF)** was established as a joint initiative of the governments of Timor-Leste and Indonesia in 2005 to investigate the violence of 1999.

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<sup>79</sup> Regional Conferences: Maubisse November 5-6, 2008, Maliana October 24-25, 2008 and Baucau May 16-17, 2008.

4. **An ad hoc Human Rights Tribunal** was established in Indonesia and passed judgement on 18 Indonesian military personnel and Timorese militia leaders who were involved in the violence of 1999.
5. **An investigative study of violence involved in the crisis** of 2006 has identified some cases that need to be taken to the tribunal.

Studies by the JSMP regarding several of these processes suggest that, although the issues raised have received some attention in the past, they have all been temporary mechanisms that should not affect the need for more formal judicial procedures in the future<sup>80</sup>.

### **Frustrations around transitional justice could generate violence**

According to participants from families of victims, people are frustrated and angry that there has been no continuity in these processes. Others suggested that past efforts towards reconciliation are unsustainable as they did not result in justice for victims.



**Without a sense of justice, conflict may recur as people are prepared to seek justice themselves if the formal system proves ineffective.** Photo: Steve Tickner

<sup>80</sup> JSMP (2007a, 2007b, 2007c)

### **Recommendation that the State establish an institution to provide continuity and follow-up to the transitional justice proposals**

The dialogue initiated in June 2009 by the Norwegian Ambassador to Timor-Leste, Bishop Stalsett Gunnar, called “Dialogue of National Consensus for Truth, Justice and Reconciliation”, resulted in discussions between members of government and parliamentarians. Themes discussed included the reparations, compensation and commemoration proposals made by the CAVR and CTF. It was recommended that the State establish an institution to provide continuity and follow-up to the proposals under each of these themes.

### **Follow-up to the CAVR (crimes of 1974-1999)**

The report of the Commission was referred by the President of the Republic to the National Parliament in November 2005. Some of the recommendations of the Commission have been addressed through government programmes. However, most of the important recommendations have not yet received an official response.

Commenting on frequent references to the CAVR by participants in the consultations, participants from the legal profession clarified that a Post-CAVR Technical Secretariat (CAVR-STP) had been established to inform the public on the process and the findings and recommendations of the Commission. However, the Secretariat does not have the mandate to take action on recommendations regarding reparations, compensation, commemoration and education.

A Xefe de Suco participating in a meeting said:

*“We community leaders see reconciliation as politics. If there is a local problem, this is politically addressed in Dili. We also see Reconciliation as the CAVR’s project. I believe that if a problem occurs in one place, it should be resolved there. For example, problems in Lautem are to be resolved in Lautem to ensure problem ownership.”<sup>81</sup>*

In June 2008, the Parliamentary Committee on Constitutional Issues, Justice, Public Administration, Local and Government Authorities tabled a resolution in support of the implementation of the recommendations of the CAVR, particularly in the areas of reparations, education and justice. At the time of writing this report, the resolution had not yet been debated in a plenary session of parliament.

The CAVR recommended that “crimes against humanity should be dealt with according to the juridical process of the national courts system or in an international tribunal”. However the recommendation has run into political obstacles, bringing forward the nature of the relationship with the government of Indonesia.

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<sup>81</sup> Meeting in Lautem February 9, 2008.

### **Follow-up to the CTF**

The CTF represented a political decision by the governments of Timor-Leste and Indonesia adopted as an alternative to demands by the Timorese people and the United Nations to establish an international tribunal to investigate crimes committed in 1999. The Commission was mandated to establish institutional responsibility for human rights violations but not to recommend the judgement of specific crimes. Its final report was presented to the Presidents of Indonesia and Timor-Leste in July 2008. The CTF found that the Indonesian military and members of the Indonesian government bore responsibility for the violence of 1999. It did not recommend amnesty for those involved. Implementation of the Commission's recommendations is pending with the Ministries of Foreign Affairs of the two countries.

### **The Special Panel for Serious Crimes committed in 1999 (SPSC)**

The SPSC was established as an initiative of UNTAET in 2000 in accordance with Timorese judicial process. Functioning within the Dili District Court and the Court of Appeals, the Panel has "generated several criminal law systems and institutional structures to bring to justice those responsible for serious crimes committed in Timor-Leste" (JSMP, 2007b). It is mandated to pass judgement on crimes including genocide, war crimes, and crimes against humanity without regard for the time of the offence, as well as murder, sexual offences and torture in the period 1 July to 25 October 1999. Although the Panel examined several cases, it operated under a number of constraints:

1. the entire focus was on serious crimes committed in 1999 rather than on the many crimes perpetrated during the period of Indonesian occupation;
2. the Panel did not have the power to lodge formal accusations or try cases;
3. the authors of many crimes could not be subjected to judgement as they live in Indonesia;
4. the Panel lacked adequate human resources.

The Panel functioned very slowly. People became frustrated with its inability to bring to justice those who were primarily responsible for violence, such as the Indonesian military leaders.

The size of the SPSC was reduced in 2003, its investigations were halted in 2004 and its operations ceased entirely in May 2005 following a UN Security Council Resolution. Outcomes of the investigations by the Panel were forwarded to the Prosecutor-General with an indication of whether a judicial process and judgement were required. However, action has not yet been taken regarding the recommendations of the Panel.

### **The ad hoc Human Rights Tribunal in Jakarta**

Just after 1999, responding to international pressure, Indonesia eventually set up an ad-hoc human rights tribunal for Timor-Leste to try those responsible for the violence. While the tribunal was intended to provide independence and legitimacy, only 18 people received accusations and all were freed either in the first instance or following appeal. Human rights advocates dismissed the court as a facade designed to ease international pressure for a UN-sponsored tribunal.

### **The Investigation Commission on the crisis of 2006**

In response to a request from the then minister for Foreign Affairs, H.E. Dr. José Ramos Horta, the United Nations organised an Investigation Commission to establish the causes and identify responsibility for the most serious crimes committed during the crisis of 2006. The Commission

recommended that some crimes be taken to the tribunal and that others be the subject of further investigation. However, the tribunal has so far only examined a few cases.

## **2.7 Impunity**

From the above summary it is evident that victims of serious crimes in the period 1979/1999, and in the crises of 1999, 2002 and 2006/7 are still awaiting justice. A governing party leader from Lautem, with strong support from several Xefes do Suco, said that there should be no impunity. "*The laws should be strong*", by this I mean that the judiciary authority must implement the law firmly and that all people must submit to the law"<sup>82</sup>. However, as a Xefe do Suco from Baucau pointed out "*the leaders of the ruling party have immunity from justice*"<sup>83</sup>. This constitutes discrimination before the law and has the potential to result in impunity. It places the blame on the poor and powerless, whilst pardoning political leaders because they have immunity (*kekebalan hukum*).

For participants, the large number of crimes that remain pending with the prosecutor-general and the courts and the time taken for a crime to proceed to judgement also generate impunity. There was widespread support for the view expressed by the ruling party coordinator in Oecusse that there is no justice for victims as many have waited too long.

### **Consensus around many of the judicial principles**

Most participants agreed that the law must be strong; that everyone must be treated equally under the law; and that the administrative management and functioning of the judiciary must be more effective. They agreed that justice must be transparent, independent, fair and free from political intervention and from the practices of Corruption, Collusion and Nepotism (also known as KKN), in order to minimise the risk of impunity through the politicisation of the judiciary system.

### **Impunity at all levels came up in the consultations**

The issue of impunity in the justice sector arose constantly in community consultations. Participants used the term when referring to common or conventional crimes. It was also linked with more serious crimes such as human rights violations, war crimes, crimes against humanity and genocide for which it has historically proven difficult to achieve justice.

For ordinary people the main concern is to receive justice from a system that is not functioning because of political influence and pressures from powerful political leaders. The practice of immunity affects the whole judiciary and governance systems of a rights-based state. It is likely to result in an increase in crimes and human rights violations. Immunity has already led to civil disobedience and disrespect for law and justice on the part of the citizenry. The way has been opened for criminals to commit further crimes and for victims to seek justice on their own.

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<sup>82</sup> Meeting in Lautem February 9, 2008

<sup>83</sup> Meeting in Baucau April 11, 2008

## **2.8 Justice since Independence**

### **Crimes from the period 2002/2004 were subject to joint investigation creating confusion**

Crimes that occurred in the period 2002/4 also present a challenge for the judiciary system of Timor-Leste<sup>84</sup>. Although full sovereignty over the country was restored to the Timorese people on 20 May 2002, judicial and police powers were not fully transferred as the UN still controlled the policy and operations of police institutions. All crimes committed in this period were subject to joint investigation by the UN and Timorese police forces, under the leadership of the UN. Participants indicated that they did not know the outcome of investigations into crimes committed at the end of 2002. According to participating legal professionals, such investigations appear to have been lost in the system<sup>85</sup>.

### **Lack of clarity remains around the crimes from the period 2006/2008**

Investigations into crimes committed in the period 2006/2008 are also a source of concern to the public. Expectations that justice will now be provided are offset by fears that there will be no justice. Participants indicated that the general public, and particularly victims, are still waiting for justice and that decisions by the courts have created doubts in the minds of many participants. According to participating legal professionals these doubts reflected the problems relating to several cases: that of Sr. Rogerio T. Lobato who was sentenced to 7 ½ year imprisonment but then received a presidential pardon in May 2008; the case of the attack on the residence of General Taur Matan Ruak for which the legal judgement was challenged on procedural grounds; and the case of Rai-Los that is still in the process of cross-checking testimonies and judgement with no conclusion to this case in site.

### **Crimes of 11 February 2008 could have one of two outcomes: political or judicial**

Investigation into the “attempted assassination of the President and Prime Minister of 11 February” commenced immediately. However, according to participants the process has two possible outcomes – political and judicial. A political approach would give financial compensation to the petitioners involved; a judicial approach would seek justice for those involved in the attempt. Participants insisted on the need to pay attention to the root causes of the behaviour of the petitioners without creating a precedent for future problems of a similar nature. Some of the principal suspects or proven authors of the attempt have received preventive custodial sentences either in prison or in their homes. Although the formal process and judgement that are still underway in the Dili District Court it faces various limitations and challenges, there are great expectations on the part of the public in terms of the transparency and impartiality of the process.

### **Politicisation of the Judiciary makes independence and integrity more challenging**

According to many participants, the administration of justice often lacks transparency, impartiality and due process as the agents and implementers of justice are unable to maintain their independence and integrity in the face of pressure and intervention from politicians. By weakening

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<sup>84</sup> <http://easttimorlegal.blogspot.com/2008/12/unmiset-report-on-4-december-2002-civil.html>,  
<http://www.etan.org/et2003/february/01-08/32riot.htm>

<sup>85</sup> JSMP, 2008

the authority of the courts, such intervention has the potential to destroy justice within the country and destroy the credibility of key institutions of the rights-based State<sup>86</sup>.

The general consensus among participants was that, in the interest of stability and the nation, leaders should have the courage to allow the Tribunal to assume its role as a sovereign and independent body, seeking justice on the basis of truth in all cases. Some members of parliament, Xefes do Suco and local leaders called on those in power to govern in accordance with the existing laws rather than on the basis of their historical roles.

**They pointed out that political interventions allow the authors of major crimes to escape justice, creating dangerous precedents for future governments.**

## **2.9 Land disputes**

### **The changing ownership of land has resulted in conflicting claims and violence with no legal framework to resolve the issues**

An important issue raised in consultations concerned the title to land and property. A great deal of land and property changed hands in the transition from Portuguese colonial rule, through the Indonesian occupation, to independence. Land has also been allocated according to tradition. This has resulted in conflicting claims and violence and there is yet no legal framework to regulate and resolve land disputes.

### **Historical origins to many land disputes**

Disagreements over land issues between individuals and groups started long ago. Many of the problems that arose in the colonial and occupation periods have become even more complicated under independence. There is yet no legal framework to regulate and resolve land disputes. The violence which erupted in the sub-district of Uatulari (Viqueque district) in 2001, 2005, 2006 and 2007, between the Makasa'e and Naweti ethnic groups clearly indicate the long-standing land disputes. Similarly the land issue was a factor in the conflict between ethnic groups in Lospalos. According to former members of the resistance, Makasa'e speakers came down from Matebian when their base was destroyed by the Indonesian military. Today the original Fatakulu groups of the area have asked the Makasa'e to leave. Land and property disputes also led to the burning of many homes during the 2006/7 crisis<sup>87</sup>.

### **Other land disputes between communities concern properties abandoned by the Indonesian government and integrationist groups when they returned to Indonesia**

Some participants also indicated that land disputes also occur in boundary areas between sub-districts, sucos and aldeias, particularly in the districts of Aileu and Ainaro<sup>88</sup>. Conflicts also occur because many people who sold land to the Indonesian state during the occupation are now reclaiming their former property. As a member of the police force from Ainaro said "*in the*

<sup>86</sup> Regional Conferences: Maubisse November 5-6, 2008, Maliana October 24-25, 2008 and Baucau May 16-17, 2008.

<sup>87</sup> Countrywide Focus Group Discussions

<sup>88</sup> Regional Conference: Maubisse November 5-6, 2008

Indonesian period much land was sold to the Indonesian State, but now, following independence, the owners have returned and are claiming their land”<sup>89</sup>. The Administrator of Ainaro also pointed out that land problems impede development of many locations. A woman in a meeting said:

*“During the occupation the land was sold to the Indonesians. Today there are no certificates to show who is the owner of the land. Sometimes there are 3 or 4 people who bought the same land and this creates conflict and violence. Because of land issues violence will continue.”<sup>90</sup>*



Photo: CEPAD

Another participant added:

*“In Ainaro there are unresolved cases of land and property disputes dating back to the Indonesian occupation when many of the current disputed land was sold but is now reclaimed by both former and current owners.”<sup>91</sup>*

## 2.10 Border areas

### **Competing political and economic interest between sovereign states have a special impact on populations living on border areas**

Participants in Regional Conference 3 and in the meetings in the border districts of Oecusse, Covalima and Bobonaro underlined the need for good relations with neighbouring communities in Indonesia in order to allow for commercial, cultural and security cooperation. However, they also indicated that problems involving drug-trafficking, prostitution and pornography are having a negative impact on the border areas.

A former member of parliament from Oecusse indicated that most problems concerning border issues between Timor-Leste and Indonesia have been resolved on the basis of a 19<sup>th</sup> century agreement between the Dutch and Portuguese that allowed communities living in the border area to

<sup>89</sup> Ainaro meeting September 12, 2008.

<sup>90</sup> IDEM

<sup>91</sup> IDEM

maintain cultural links and join together to resolve differences between families, except for a piece of land named Bijaele Sunan, close to the Pasabe border post which remains disputed<sup>92</sup>.

### **Today diplomatic negotiations renewed with Indonesia on border areas**

In 2005 the governments of Timor-Leste and Indonesia reached a provisional agreement regarding the alignment of their common border to facilitate good relations and cross-border activities. In 2008/9 the government of Timor-Leste renewed diplomatic negotiations with the Government of Indonesia to facilitate contacts between communities in the border areas without losing control over such activities.

## **2.11 Challenges to the work of the police force**

### **Loss of public trust in the work and capacity of the police force**

Participants in the consultations referred to the loss of public trust in the work and capacity of the police force. According to Article 147 (Police and Security) of the Timor-Leste Constitution:

- the police shall defend democratic legality and guarantee the internal security of citizens, but cannot participate in political parties;
- prevention of crime must be undertaken with respect for human rights; and
- the law shall establish regimes for the police and security forces.

### **Many aspects of the policing require improvement**

However, in practice, according to some participants, many aspects of the police force require improvement to allow the police service to perform in a professional manner and gain trust, respect, and support from the general public in the provision of security for the nation. Representatives of local authorities and Xefes do Suco in Bonbaro and Same called on the police and armed forces to undertake their roles in accordance with the spirit of nationalism, avoiding organising themselves into different identity groups or based on the various martial groups which were formed during the resistance period<sup>93</sup>. This would discourage the emergence of different groups and divisions of the kind that challenged the unity of the police force and the interests of the community as was in the crisis of 2006.

### **Police force sometimes afraid to implement the law**

Members of the police force who participated in the consultations stated that they were sometime afraid to enforce law and order because of differing interpretations of the law, which have resulted in their becoming victims of accusations by the Human Rights Commission<sup>94</sup>. Some police participants also said that they are criticised by the Human Rights Commission for the use of force against perpetrators.

### **Detention procedure seen to create issues**

Several police participants referred to the need for arrest warrants to apprehend suspects or criminals and the requirements that they be charged or released within 72 hours. Beyond this period, suspects must be allowed to return to their homes, even if the legal process against them is

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<sup>92</sup> Oecusse meeting April 08, 2008.

<sup>93</sup> Regional Conference in Maubisse November 25-6, 2008.

<sup>94</sup> IDEM

maintained. The result is that victims continue to suffer from fear of revenge on the part of the perpetrators of crimes.

### **Abuse of power by police authorities highlighted as an issue**

In regions 1 and 3 participants, including an opposition party coordinator, raised the issue of “abuse of power” by police authorities when the police lose their neutrality and use intimidation techniques to put pressure on suspects to provide information. This generates jealousy and violence within the community as justice is not allowed to proceed to its conclusion. One local leader indicated that many cases remained unsolved by the police or had not been referred to the courts as the perpetrators are friends of the police or belong to the same group<sup>95</sup>.

There was a general consensus among participants that the police force does not operate in a professional manner, intimidating suspects and introducing discrimination if the people involved are members of their family or friends, if they belong to political parties or martial arts groups. In such cases they are afraid to apply the law<sup>96</sup>.

In the words of a policeman:

*“...because the testimony wasn’t clear the law did not regard it as evidence. The Police were not able to do anything. The law and order need to be strengthened so that Police can use it to do their work properly.”<sup>97</sup>*

A Xefe de Suco added:

*“We village heads present many complaints to the police, but they do nothing. If we get angry it is just the same, there is no way for us to resolve anything. If I get involved and take the case forward then I will become victim because my house will be stoned.”<sup>98</sup>*

## **2.12 Conclusion**

The many weaknesses in the system reflect administrative complexities and lack of coordination. When the judiciary system is ineffective, this has a negative impact on the political, social and economic life of all Timorese citizens.

### **A focus on human resources needed**

There is a need for attention to the quality and quantity of human resources, especially of judges and prosecutors.

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<sup>95</sup> Liquiça meeting June 12, 2008.

<sup>96</sup> Regional Conference in Baucau May 16-17, 2008.

<sup>97</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>98</sup> IDEM

**Need for access to justice**

Although both Portuguese and Tetum are official languages, participants called for priority to be given to the language that would facilitate the access to justice of ordinary people.

**Impunity or absence of justice have far reaching consequences**

Impunity or absence of justice as a consequence of the politicisation of issues and political interference by those in power in the work and areas of competence of the courts present a major threat to the ability of the rights-based State to ensure that the interests of all Timorese are served with justice and in accordance with the law. Impunity for serious crimes not only results in injustice for the whole population, but also limits the capacity of the judiciary system to operate with the independence, transparency and neutrality required to ensure that the sovereignty of the State is based on the rule of law.

**Influence of the political elite in the judicial system needs to be considered**

According to a consensus among participants, intervention by the political elite in the decisions of the courts leads to a style of governance that is based primarily on historical roles, and allows leaders to forget that, as ordinary citizens, they must submit to the laws that they have themselves created.

**Open question**

Impunity or the absence of justice resulting from political intervention in the work of the courts by those in positions of power presents a major threat to justice in Timor-Leste. It accustoms the political elite to a style of governance that is based on historical personalities and can give rise to a 'neo-patrimonial' regime in which political power has more value than existing laws, allowing small groups to operate through patron-client relationships. What can civil society do to improve this situation?

## CHAPTER 3: SOCIAL CHALLENGES



Photo: CEPAD

The multiple social grouping that make up Timorese society, what has influenced them in the past, what is impacting them today, which groups need what type of attention and the potential drivers of deeper divisions in Timorese society.

**Many people feel they deserve a better life after years of suffering and resistance to occupation**

As a new nation that only recently emerged from decades of conflict, Timor-Leste has faced many social challenges in responding to the expectations and demands of people who feel that they deserve a better life after years of suffering and resistance to occupation. Many Timorese complain about social injustice, social and ethnic discrimination, Corruption, Collusion and Nepotism (KKN<sup>99</sup>) and unequal access to social benefits that have arisen during the time of independence.

**People need to work together in confronting the many social challenges to guaranteeing better daily lives for future generations.**

According to participants, achieving social justice requires that people remember their history and manage their individual perceptions better. There is a need for inclusive and fair social programmes that will improve conditions for all.

Social dynamics in Timor-Leste are complicated by the exercise of political power and the politics of money. In this context, the existence of various groups with distinct identities contributes to a potential for violence, as was witnessed during the crisis of 2006/7 when youth and martial arts groups were used to advance politicians' own political interests.

**Much violence and conflict originates from political influence and manipulation**

Violence and conflict between social groups, reflecting identities based on participation in the resistance to occupation, often have their origins in political influence and manipulation. This has been the case for martial arts groups, veterans, clandestine groups, political associations and regional groupings.

**3.1 Social context**

**3.1.1 The dynamics of history**

**Many of the conflicts that occur today have their roots in contradictions that arose during the time of occupation-resistance**

Participants who fled to the mountains and forests recognise the identity dilemma faced by those who lived under the Indonesian military administration. Due to the conflict many Timorese felt obliged to defend the position of Indonesia in order to survive. Some of the more courageous found ways of working both with the Indonesian administration as civil servants and with the resistance, as

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<sup>99</sup> KKN is a locally used acronym for Corruption, Collusion and Nepotism

providers of information, food and medical supplies. In Viqueque participants confirmed the findings of a recent study that suggested that divisions between communities and violence in the district went back to conflict, partly driven from outside the country, as long ago as 1959<sup>100</sup>.

### **Many tragic events took place during the occupation period**

The occupation period was characterised by many tragic events such as the massacres at Santa Cruz, Kraras, the Port of Dili, Aileu, Liquica and Covalima. In addition huge numbers of people died as a result of starvation, torture, illness, imprisonment or rape. It is estimated that some 250,000 people lost their lives for the nation. Those who suffered feel that they need to “to remind leaders that they also paid for Independence with their blood”<sup>101</sup>.

### **History of Timor-Leste a primary reference for Timorese**

Timor-Leste’s history of occupation and resistance will continue to serve as a primary reference for all Timorese for many more years. Social development will depend on the manner in which people remember the history of a lengthy process full of violence, not just between the Timorese and the Indonesian military but also between Timorese and Timorese both within the country and in Indonesia. In the words of a university student participating in a discussion in Dili: “In the period of 1999-2000 Timor-Leste experienced plenty of violence to secure independence for the country. Now that the country has become an independent nation why should we continue to resort to violence? This is affecting the communities and in my view the wave of violence will never end and we need to go back to the history of the country for references.”<sup>102</sup>

### **Wish to contribute to the recording of history by participants**

Participants expressed interest in contributing to the process of recording the history of the conflict as a ‘timeline’ or cycle of violence and a means of understanding the causes and consequences of conflict and violence that are still occurring in Timorese society. In Bobonaro a veteran requested that the history of the occupation be corrected to include the experience of the people living directly on the border with Indonesia in the first district invaded by Indonesia<sup>103</sup>.

### **Lack of social or economic benefits not understood by many**

Many Timorese have received no social or economic benefits since independence. Participants wondered how this happened in a small country like Timor-Leste with a limited population, a huge budget and substantial assistance from other countries.

### **Lack of or access to infrastructure and services in many areas – KKN linked to the issue**

People in many districts still lack access to clean water, good education, medical services, pensions, retirement funds and other social benefits. Many participants debated the issue of KKN, which not only pervades the political arena but also the social sector. Many underlined that officials who are responsible for the distribution of scholarships for school attendance primarily look after their friends. KKN behaviour has flourished in public administration, with people giving work to unqualified friends. Resources are distributed unequally, reflecting huge disparities between rural

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<sup>100</sup> Gunter (2007)

<sup>101</sup> Traube (2007)

<sup>102</sup> Meeting in Dili February 17, 2009.

<sup>103</sup> Meeting in Bobonaro August 27, 2008.

areas and the city, and as such has become one of the chief factors of resentment, instability and perpetual crisis in Timor<sup>104</sup>.

### **3.1.2 Access to medical care**

#### **Confusion around free medical care**

According to the Constitution, Timorese people have the right to free medical care. However, many living in the rural areas have little information on the functioning of the national health system. Additionally, because many in rural areas live on less than \$ 0.50 a day, they often rely on the use of traditional medicine rather than seek the medical treatment they need as they fear it will be too expensive.

#### **Transport related issues hindering access to medical care**

People living in rural areas also face transportation problems. In many districts there is only one ambulance to serve patients from several villages who are suffering from serious illness. The most serious cases are referred to the central hospital in Dili. However, in the absence of transportation, many die in the district hospitals or even on the way to the hospital. Even returning bodies to their homes is proving difficult because of the transportation challenges. A school teacher said in a meeting:

*“A person’s health is important. It is often difficult for us who live in villages to access treatment because we are far from health centres. Sometimes a person may die on the way to the hospital as it is too far to get there in time. In Viqueque there is a hospital but it is difficult to access during the rainy season. Sometimes we have to walk 5 or 6 kilometers to get there.”<sup>105</sup>*

When this problem was raised in one of the districts of region 2, a member of parliament pointed out that there was a need for improved coordination between the District Administrator and district health officers<sup>106</sup>.

### **3.1.3 Challenges in the education sector**

#### **Education a right to all citizens**

Parents heavily debated the current challenges in the education sector. Article 59 of the Constitution states that “the State recognises the rights of all citizens to education and culture, and shall therefore establish compulsory, basic, universal and, when possible, free schooling, according to the law<sup>107</sup>”.

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<sup>104</sup> Countrywide Focus Group Discussions, 2008

<sup>105</sup> Viqueque meeting April 4, 2008

<sup>106</sup> Meeting in Viqueque, April 4, 2008 and Regional Conference in Maubisse November 5-6, 2008..

<sup>107</sup> RDTL Constitution.

### **Free education offered by the government**

The government has already organised education facilities from basic schooling to university and has introduced special programmes to facilitate access by poor people, through free education.

### **Unequal opportunities as people access education**

However, according to participants, opportunities are unequal in the education system as a result of KKN and discrimination in the recruitment of teachers, the selection of students entering the public universities and the assignment of public scholarships. Some participants suggested that scholarships for primary and secondary school be abandoned as the government already provides free education.

### **Centralisation of education in Dili is creating issues**

The centralisation of educational facilities in Dili forces students in the other districts to leave home. The concentration of large numbers of young people in one place increases their vulnerability to the risks of drugs and alcohol and the likelihood of violence. Some participants considered, however, that the opening of universities in other locations (for example in Aileu and Baucau) would not necessarily resolve problems of access, discrimination and violence as it would be more difficult to maintain the numbers and quality of teachers in the districts. Although the existence of private educational facilities can be of value to students, in the absence of a sound administrative system, it can also give rise to social class distinctions and discrimination between rich and poor. Informal courses in languages, Information Technology and other subjects are also centralised in Dili.

### **Influence is used to access education and recruitment of teachers**

According to a female participant in Aileu, under the family and suco systems, the families of people with public appointments use their power to benefit from opportunities for education even if their records of attendance and performance at school are poor. According to one school-teacher, decentralisation of the educational system to local authorities is needed to control the practices of KKN and avoid dependence on Dili for the recruitment of teachers and the allocation of scholarships<sup>108</sup>. In his own words:

*“In Aileu there is no transparency concerning student scholarship and the recruitment of public servants. For example, information is not posted on notice boards. But then we find out that people have already been selected and have signed contracts or have started work.”<sup>109</sup>*

### **Quality of education a major concern**

Participating parents also identified the quality of education as a major concern. Free education affects and determines the quality of teachers, physical infrastructure, logistics and the curriculum.

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<sup>108</sup> Aileu meeting June 27, 2008.

<sup>109</sup> IDEM

### **Use of Portuguese in schools but teachers lack expertise in the language**

The continued use of Portuguese is also a problem. Students and teachers are unable to communicate with each other as none has the necessary fluency in the language. Few teachers know Portuguese well enough to be able to teach in that language. Indeed, one participating teacher expressed his surprise that he was able to work again as a teacher when he did not speak the Portuguese language.<sup>110</sup> As another school teacher put it "... I attended only one day of junior high school and now I have a permanent job as a teacher. How can this be? Many people know this about me..."<sup>111</sup> Although Portuguese has been introduced in the primary schools, there are few teachers or lecturers with the required fluency to use it as a teaching language in secondary schools and universities.

### **Teachers now being trained in Portuguese but call for other skills to be included**

However, training of teachers in the Portuguese language has been introduced. Participants suggested that such training be focussed on younger teachers who would continue to teach for many years, rather than older teachers who were close to retirement. Other participants pointed out that, in addition to Portuguese, there was a need for regular and continuous teacher training in pedagogical skills and other subjects. Some participants suggested that there is a need to revise the curriculum, to include more materials relating to Timor-Leste as well as information on Indonesia, Australia, other neighbouring countries and South East Asia as a whole<sup>112</sup>.

Another issue raised by participants was the recruitment by some Education Departments of some of the best teachers into their administration. Not only is this an ineffective means of addressing administrative requirements, it also increases problems in the schools. Better coordination between the government and NGOs is required to improve the quality of literacy and vocational training programmes.

### **The fact that some teachers see the role simply as a job is causing concern**

One participating school-teacher suggested that the poor quality of teaching reflects the lack of training and pedagogical skills. Many teachers see their profession solely as a form of employment. Responding to this, a female member of parliament underlined the huge responsibility of teachers for the quality of the next generation of young people; the quality of schools is determined by the quality of their teachers, who need to have sound knowledge to be able to train students<sup>113</sup>.

## **3.1.4 Values and morals**

### **The lengthy conflict in the time of occupation and resistance affected the moral values of Timorese society**

Since independence people have remained vulnerable to external influences, including new values accepted from television and films. People are no longer sure which values to choose – traditional or modern. According to participants, this is giving rise to tension within households. In Dili, many people are influenced by family members returning from overseas and from international personnel

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<sup>110</sup> Dili meeting February 07, 2008 and Oecusse April 25, 2008.

<sup>111</sup> Regional Conference in Maubisse November 5-6, 2008.

<sup>112</sup> Meetings in Aileu June 27, 2008, Manufahi September 27, 2008 and Oecusse April 25, 2008.

<sup>113</sup> Viqueque meeting February 4, 2008.

working in Timor-Leste who are more inclined to modern or western values. An older participant in the district of Oecusse said that the presence of foreigners had led to the circulation of pornographic material on a scale that had started to sap the morals of the community. Other participants expressed concern over sending their children to school in Dili as they had heard that prostitution, pornography and related diseases are widespread in the capital.

### **Tension between traditional and modern values**

Tension between traditional and modern values can generate violence in the home and the community as there is a lack of information and community training in how to deal with new realities<sup>114</sup>. In the words of a community leader participant:

The general consensus among participants was that although Timorese culture will survive external influences, there is a need for organised efforts to secure traditional values through education in the home, especially through parents. The senior *Lian-na'in* from Oecusse said that resisting bad influences requires greater respect for the traditional values of *uma-lulik*, solid family relationships and tradition.

*“There is a clash of cultural values as many individual and groups from different countries come to our country with their different cultural values. Without properly understanding the functioning of local values, incoming foreign values are set to impact negatively on local practices.”<sup>115</sup>*

## **3.2 Social Groups**

### **History a key influence in dynamics of social groupings**

The dynamics of various social groups – youth, martial arts groups, religious groups, veterans, widows and orphans, the elderly and others reflect the history of their involvement in the process of resistance and occupation.

#### **3.2.1 Youth**

##### **Role of youth important part of the discussion**

When participants spoke of ‘youth’ in Timor-Leste they were not only referring to people between the ages of 15 and 30, but rather to the historic role played by youth in the resistance and occupation. At the time, many young people joined organizations, especially those of the Clandestine Front, as a means of supporting the resistance against the Indonesian military occupation. Many died, others disappeared, yet others were imprisoned or suffered in various ways. The involvement of young people in the resistance was highlighted in several major events, the most notable of which was the march to the cemetery that ended in the Santa Cruz Massacre of 12 November 1991.

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<sup>114</sup> Oecusse meeting April 25, 2008.

<sup>115</sup> IDEM

### **Call for focus on issues relating to youth**

Many participants raised the question of youth as an issue that needs to be given attention and called for the recognition of the contribution which young people made during the resistance and occupation period. Many young participants said that their generation had been victims twice already – once during the Indonesian military occupation period and again during independence<sup>116</sup>. Participants also said that they continue to be victims because the government has not yet addressed their situation: many young people are not able to finish school, many also have no work, others have the intellectual capacity to be able to get work but because they do not speak Portuguese and English it is difficult for them to find an occupation. Because of all of these things they feel marginalised from the development process, and when they look back on their clandestine activities, which contributed to independence, they feel worried because they are unable to contribute positively to the future development of their nation.

### **Unemployed youth join martial arts groups and are vulnerable to manipulation**

Today, many young people face unemployment and have affiliated themselves with various martial arts groups as a way to occupy their time. Some have succumbed to gambling, consuming drugs and alcohol, and others are joining street gangs because they have nothing else to do. These factors make youth vulnerable to political manipulation. Participants said that that when conflict or violence arises as a result of political rivalry and polarisation at leadership level, they are always accused of being the authors of the violence. The reality is that youth can be mobilized as little as 1US\$ because they can't afford to buy a pack of cigarettes. During a meeting in Dili, a member of a local youth group said:

*“... We can talk to each other but if those in power continue to manipulate us, then how can we be at peace? The problem is that we don't have capacity. So when leaders give us money we continue to only serve their interests. This is the reality, no one can deny it. Martial arts groups undermine their neutrality by joining a given political party...”<sup>117</sup>*

### **Opportunity for youth to make a positive contribution**

One participating community leader said that both youth and veterans are in a similar situation because many have not yet been properly recognised, either materially or symbolically, for their contribution to independence<sup>118</sup>.

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<sup>116</sup>Viqueque meeting 4 April, 2008.

<sup>117</sup> Dili meeting February 07, 2008.

<sup>118</sup>Aileu 27 June 2008, Baucau 11 April 2008, Dili 7 February 2008, Ermera 26 January 2008, Liquiça 12 June 2008, Manufahi 27 September 2008, Viqueque 4 April 2008, Regional Conference I in Baucau 16-17 May 2008 and Regional Conference III in Maliana 24-25 October 2008.

## **During the consultations, many young people said that they also want to make a positive contribution and become part of the national development process.**

They called for the government to create conditions under which the potential of the young people of the country could be put to good use.<sup>119</sup>

One District Administrator said that in order for progress and development to occur, young people must not be turned away, but must be given trust and responsibility. This point coincides with an opinion put forward by a female member of parliament who said that the government and competent authorities need to look at the long-term future of the country by creating conditions under which young people, can be distanced from violence and improve their prospects.

### **3.2.2 Martial Arts**

#### **Martial arts groups part of tradition but they are also associated with violence**

The development of ritual martial arts in Timor-Leste today does not depart from existing traditional concepts. At the same time, it cannot be separated from current developments in the country and the present situation in which violence and conflict can occur at any time.

#### **Since the colonial times, martial arts have been used to meet different objectives**

During the Portuguese colonial period, Chinese and Portuguese people in Timor-Leste introduced martial arts training in self-defence, such as *kung fu* and *judo*. During the Indonesian period the concept of self-defence became a system of defence for personal security to be used in the struggle against the occupation. During this period, the Indonesian military gave training to various martial arts groups such as Persaudaraan Setia Hati Terate (PSHT), 0-0, 5-5, 7-7, Kmanek Oan Rai Klaran (KORK), Colimau-2000, KERASAKTI, TAEWKONDO, KUNGFU MASTER, RAJAWALI, THS-THM, and others.

#### **While martial arts groups have regulations there is strong and sometimes violent rivalry**

Some participants from martial arts groups explained that each martial arts organization or group has their own doctrine and regulations. But, as with other organizations, some of their elements or members may violate these regulations from time to time. Thus, in Timor-Leste today, there are many incidents in which rival martial arts groups attack each other, or do not get on well. In the words of a member of a local martial arts group:

*“Those in power secretly give money away to gang members and martial arts groups and use them to incite violence and carry out attack. In our martial arts group we don’t teach each other to kill and we don’t teach people whether they should be easterners or westerners. We swear by God.”<sup>120</sup>*

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<sup>119</sup>Richard Curtain with Brent Taylor, Viewing Young people as Assets in the Development Process: key findings of a national survey in Timor -Leste, 17 March 2005

<sup>120</sup> Meeting in Dili February 07, 2008

### **Insecurity and political manipulation has resulted in violence originating from martial arts groups**

The recent cycles of violence of 2006-2007, clearly showed that when law and order cease to function, individuals take law and order into their own hands to guarantee their own safety. This, according to some participants, paved the way for conflicts in which many members of martial arts groups became the principal authors of violent incidents. Political manipulation also contributed to the incrimination of some martial arts group members in the 2006-2007 crisis, making some groups shift their alliances, objectives and strategies. Furthermore, there were some incidents of gratuitous violence in which members of martial arts groups certainly fought each other without any political or regional reasons<sup>121</sup>. The majority of martial arts members are young. Unlike the time of occupation, today, young people take part in martial arts activities for various reasons like security, sport and self-defence, as well as using them as a way of passing the time. To them, martial arts groups provide them with a social network, sports and entertainment in their communities<sup>122</sup>.

### **According to statistics, almost 70% of young men take part in martial arts activities and “gangs”.**

### **Drivers of violence by martial arts groups originate from external influences, from within and between groups**

Experience has taught us that there is no doubt that such activities are a potent force in the lives and careers of young people, carrying with them the potential for good or bad, depending on the particular social situation or context and on past and present influences.<sup>123</sup>

Participants stated that violence associated with martial arts groups arose for various reasons:

- Antagonism between two groups because of some incident that had occurred in the distant past<sup>124</sup>
- Members of martial arts groups mobilizing their members to profit from violence occurring in a conflict or crisis in order to “repay debts”<sup>125</sup> or take vengeance.
- Political manipulation using bribes to destabilise a situation.
- In some crises in the past, some martial arts groups sought to control the market places<sup>126</sup> by intimidating the population.

### **Violent activities impact the community as a whole**

In the opinion of the District Administrator of Baucau, when martial arts groups fight each other, it is not only them who suffer. The ill effects spread to the community as a whole. Often houses are

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<sup>121</sup> Scambray (2009) 'Anatomy of a conflict: the 2006-2007 communal violence in East Timor', Conflict, Security & Development, Volume 9, Issue 2 June 2009, pages 265 - 288

<sup>122</sup> TLAVA (2009)

<sup>123</sup> Ostergaard, Lene, 2005. Timor-Leste Youth Social Analysis Mapping and Youth Institutional Assessment. World Bank, Dili.

<sup>124</sup> Molnar, Andrea, 2004. 'An Anthropological Study of Atsabe Perceptions of Colimau 2000'. *Anthropos* 99(2), 365-380

<sup>125</sup> Plan (2007)

<sup>126</sup> Scambray (2007)

burned to the ground and community members are forced to abandon their homes and relocate to new areas.

#### **Presence of weapons used in martial arts also wrapped in tradition**

However, it is important to note that in accordance with traditional customs, Timorese people also consider certain martial arts instruments, such as swords, knives, spears, bows and arrows and machetes as weapons of self-defence. In many areas of Timor-Leste these weapons are also traditionally regarded as sacred and are part of traditional ceremonial rituals linked with self-defence but also against harm caused by “nature and disease”.

#### **Many initiatives already in place to reduce violence associated with martial arts groups but they face specific challenges**

There are several NGO and government initiatives already in place aimed at reducing violence associated with martial arts groups and gangs. They take contrasting approaches. The government approach is to respond to violence with force through the use of the security services of the PNTL, UNPOL and the International Security Forces. Other approaches used are modern and traditional mediation, dialogue and training in peacebuilding initiatives. According to participants some of these methods can be effective. However, initiatives often fail because they depend on the cooperation of martial arts leaders who are not always able to “control” the action of their members.

#### **Martial arts groups seen to be weakening the role of the authorities**

Other participants, such as members of parliament and district administrators, said that the presence of martial arts groups sometimes weakened the rule of the local authorities. They highlighted the need for the government to create laws to regulate the practice of the martial arts and encourage their transformation into organised sports. Some school teachers pointed out that often martial arts groups carry the burden of blame for violence, but their frustrations with the lack of employment has received no attention from the government. A participating member at a Regional Conference said by asking the following question:

*“...Why are young people involved in conflict? Because during the resistance to occupation they stopped their education to go fight. But after independence these people are marginalized because they lack education”.*<sup>127</sup>

### **3.2.3 Religious Groups**

#### **Lack of communications between groups and assistance from religious groups is seen to be making people open to manipulation and a driver of violence**

In the districts of Aileu and Oecusse participants raised the idea that at present there is conflict of interest between religious groups, particularly between Catholics and Protestants<sup>128</sup>. In Manufahi, some participants drew attention to the possibility that conflict based upon religion has the potential to ignite violence in the future<sup>129</sup>. Since independence many Protestant groups have entered Timor-Leste to undertake evangelical activities. In some communities they provided

<sup>127</sup> Regional Conference in Baucau May 16-17, 2008.

<sup>128</sup> Aileu meeting 27 June, 2008 and Oecusse meeting 25 April, 2008.

<sup>129</sup> Manufahi meeting 27 September, 2008.

assistance to people by affiliating with them with goods and money, and encouraging some baptised Christians to join Protestant groups. The lack of information and communication between the leaders of religious groups has led to the spread of rumours, which have often ignited tensions and lead to violence. Many participants felt that while the Constitution says that all people are free to practice their religion<sup>130</sup>, using hand outs of goods and money to attract and convert people, who are often poor or unemployed, opens the way for manipulation and potential for igniting confrontations at the community level<sup>131</sup>.

### **Evidence of past violence and early warnings of tension and antagonism between religious groups that could lead to violence highlighted**

According to Belun's "Early Attention and Response Programme", has found that many trends that could give rise to tension and antagonism between religious groups are being seen in Aileu, Ainaro and Liquiça. Their research reveals that there have been 3 incidents of violence in Ainaro that were aimed at the Protestant Church between February and May 2009<sup>132</sup>. Other reports indicate that in Baucau, conflict with its basis in religion occurred in 2002, as it also did in Manatuto in 2005.

Participants also indicated that particular incidents of violence aimed at the Protestant Church relate back to the role the Catholic Church played during the period of resistance to occupation. It was felt that the Catholic Church and the wider Timorese society were united because they shared the common goal of achieving independence.

### **3.2.4 Veterans Groups**

#### **Clear definition of veterans in the Constitution**

According to the understanding of participants in the consultations, the term "veteran" means a person or citizen who made an active contribution during the war waged for independence against the Indonesian occupying force.

According to the Constitution:

*"The State of Timor-Leste, assembled in the constitution, according to the wishes of the people, accepts as its responsibility to recognise and valorise the contribution of those people who struggled for national independence, therefore it is also the State's obligation to provide social protection to those people who participated in that struggle and particularly to those who were incapacitated because of this struggle, and also to those widowed by those who gave their lives to liberate the country. This law creates a legal framework necessary to be able to advance such actions and policies as the sovereign organs shall develop in this way representing an important step to give dynamism to these activities in order to achieve the objectives set out in writing in Article 11 of the Constitution of the Republic that, the Democratic Republic of Timor-Leste recognise and value the Maubere people's*

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<sup>130</sup> Article 12 (The State and religions), "1. The State recognises and respects all faiths, that conform to the Constitution and the Laws. 2. The State will work together with all institutions of religious belief, that wish to serve the people Timor-Leste's interests" Constitution of the República Demokratika Timor-Leste

<sup>131</sup> Aileu meeting 27 June, 2008 and Oecusse Meeting 25 April, 2008.

<sup>132</sup> Belun (2009)

*hundreds of years of resistance against domination from outside the country and also for those who contributed to the struggle for national independence.”*

### **Issues related to veterans came up in all of the consultations throughout all of Timor-Leste**

It is an important issue to participants because of the contribution veterans made to in achieving independence for Timor-Leste and its people<sup>133</sup>. Many participants also said that the question of veterans is of national importance and that if it does not receive sufficient recognition from the government and Timorese people, the nation's dignity and sense of pride will be affected.<sup>134</sup> The veterans themselves have formed various associations in order to see that their interests are addressed and looked after.

### **National Parliament debating issues while also several legislations in place**

Whilst this report was being written, news came that the subject was being debated in the National Parliament with a view to creating measures to address the situation of veterans.

The importance of veterans' issues was first raised in 2002, and there are now several national initiatives and legislation in place to respond to them. To help veterans reintegrate into civilian life, the government is taking social and economic measures in an effort to ensure they receive the recognition they all deserve, both in symbolic and material sense. According to statistics published in September 2008, the government registered a total of 75,143 veterans and gave recognition to 13,988. A total of 12,538 people have started to receive veterans' pensions under the veterans' law<sup>135</sup>.

### **World Bank has identified several challenges relating to addressing the veteran issue**

The World Bank has identified several challenges that need to be addressed if assistance to the veterans is to be sustained. These include the need to:

- strengthen or institutionalise the government agency with responsibility for the administration of veterans' pensions and benefits;
- establish a mechanism to monitor the system to guarantee that veterans are really receiving the assistance to which they are entitled;
- revise the several irregularities in the veterans' law;
- monitor the sustainability of the pension system;
- give an immediate response to the problems of veterans and clandestine operations that occur; and
- give attention and immediate response to the risks of corruption and politicisation of the process of registration.

There was consensus from participants that veterans' issues are of national importance and that if they were not addressed it would negatively affect the nation's dignity and sense of pride. Timorese would forget the value of the sacrifices that many made in the fight for independence.

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<sup>133</sup> Regional Conference in Baucau 16-17 May 2008, Maubisse 5-6 November 2008, Meeting Oecusse 25 April 2008.

<sup>134</sup> Focus Group Discussion in Aileu 27 June 2008, Lauten 9 February 2008, Manatuto 18 April 2008, Manufahi 27 September 2008, Viqueque 4 April 2008, Regional Conference I in Baucau 16-17 May 2008 no relatório husi DLO.

<sup>135</sup> World Bank (2008) 'Defining Heroes: Key Lessons from the Creation of Veterans Policy in Timor-Leste' p.38

In Manatuto, representatives of the veterans and some community leaders said that when discussing veterans' issues it was important not to forget to commemorate the souls of those who gave their lives in the struggle for independence. Some of them said that at the Memorial Centre for the Brave at Metinaro, the souls of the dead deserved a guard and 24-hour vigilance as symbolic recognition of the contribution they made to the country of Timor-Leste<sup>136</sup>.

### 3.2.5 Groups of Widows and Orphans

#### **Widows and orphans seen to deserve recognition**

Participants, who took part in the discussions, said that widows and orphans who lost family members during the period of resistance and occupation also deserved recognition for contributions their families made in the fight for independence<sup>137</sup>. While the veterans' law does recognize them as "combatants and martyrs for the national liberation", participants felt that some widows who did not struggle for independence have also received the same recognition, when many of those who actually contributed to the country's independence have not been formally recognized.

#### **Widows and orphans are a vulnerable group with specific needs**

It was felt that widows and orphans are the most passive and silent in their plight and are very vulnerable because they are in desperate need of government help. Many widows and orphans are poor, unemployed and cannot satisfy their basic needs or access basic facilities such as education and health care. There are very little programmes or initiatives that cater for their specific needs. Widows and orphans who took part in the discussions felt that they are marginalised because they lack skills or education to access jobs and that had indeed been abandoned by the nation<sup>138</sup>. A widow from the resistance said that she does not agree with the policy of paying 'the petitioners' because, as a victim and a widow, she herself had seen many orphans and widows who lost their fathers or spouses during the resistance, who today live in conditions far worse than most people who had not suffered such hardships<sup>139</sup>.

*"... Some widows of war have received US\$9,600. As a widow of war I know this. But many other widows never got anything. Their loved ones also died and they now have nothing."<sup>140</sup>*

#### **Women may need to turn to women's groups to access support**

The Constitution says that all Timorese have the right to social assistance. However, social assistance programmes are plagued by practices of corruption and discrimination and because of this widows,

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<sup>136</sup> Meeting in Manatuto April 18, 2008.

<sup>137</sup> Baucau meeting April 11, 2008; Covalima meeting 14 August, 2008 and Viqueque meeting 4 April, 2008.

<sup>138</sup> Lautem meeting 9 February, 2008.

<sup>139</sup> Lautem meeting February 9, 2008.

<sup>140</sup> IDEM

especially those with children, often have to seek women's organizations to get the help they would normally get from government services<sup>141</sup>.

### **3.2.6 Women**

#### **Women represent a marginalised group**

In communities, men and women are engaged in different activities and have different levels of access and control of available resources, including participation in decision-making processes in the community. While women are an integral part of the community, they generally have limited access to and control of community resources and are not directly involved in decision making processes<sup>142</sup>.

#### **Analysis of the vulnerability and suffering of women has drawn attention to the issue**

The Hearing for Women in Conflict that the CAVR undertook in April 2003 was an important step as it drew attention to the suffering women experienced during the years of occupation. The findings revealed that during the conflict, women had to take on multiple tasks (as homemakers and/or heads of household as well as playing key roles in clandestine operations while others joined men at the frontline of the armed resistance). Women were also vulnerable as targets of abuse or interrogation when the men in their families were involved in conflict-related activities or went into hiding for protection<sup>143</sup>.

#### **More appreciation needed for the role of women during the conflict**

It was also common knowledge that during the conflict women's roles in the public arena expanded through their involvement in organizing community activities. This role however was largely informal and while key individual contributions have been recognized, this contribution has not been given the appreciation it deserves<sup>144</sup>.

#### **Social exclusion for those that suffered sexual violence**

Participants, who generally used the word "woman" and "gender" as synonyms when speaking about the situation of women in relation to that of men, indicated that women who suffered from sexual violation at the hands of the Indonesian military now suffer from social exclusion within their own communities<sup>145</sup>.

#### **Wish for domestic violence to be prioritised**

Participants also raised the issue of domestic violence as a priority, especially at the community and regional levels. The reality is that men and women do not have equal rights and obligations and this gives rise to problems in families and the wider community. Traditional values in Timor-Leste mean that women are expected to submit to and depend upon men, because men are regarded as 'the

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<sup>141</sup>G Wandita, K Campbell-Nelson, ML Pereira (2006) 'Learning to Engender Reparations in Timor-Leste: Reaching Out to Female Victims' in *What Happened to the Women?: Gender and ...*, Ruth Rubio-Marin, Colleen Duggan 2006, p.297

<sup>142</sup> Baucau meeting 11 April, 2008; Manatuto meeting 18 April, 2008; Covalima meeting 14 August, 2008; Lautem meeting 09 February, 2008.

<sup>143</sup>CAVR, 'Chega!'

<sup>144</sup>Baucau Meeting 11 April, 2008; Manatuto Meeting 18 April, 2008; Covalima Meeting 14 August, 2008; Lautem Meeting 9 February, 2008.

<sup>145</sup> Wandita, K Campbell-Nelson, ML Pereira (2006) 'Learning to Engender Reparations in Timor-Leste: Reaching Out to Female Victims' in *What Happened to the Women?: Gender and ...*, Ruth Rubio-Marin, Colleen Duggan 2006

boss' and control the household because they provide the food and clothing for the family. However, other participants felt that this is changing and women now also provide food for the home in special circumstances.

However, it appears that domestic violence is on the rise since independence<sup>146,147,148</sup>. Many women participants and other sources of information show that domestic violence is often encountered together with sexual abuse<sup>149</sup>. A woman participant in a meeting in Same said:

*“... because of the culture, Democracy in Timor is just for men. That is discrimination for women”.*<sup>150</sup>



**Women have limited access to and control of community resources and are not directly involved in decision making processes.** Photo: CEPAD

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<sup>146</sup>Suara “Pengemas” GKP. Kekerasan Terhadap Perempuan.

<sup>147</sup>Regional Conference I on 16-17 May 2008, Focus Group Discussion in Manufahi 27 September 2008, Baucau 11 April 2008 and Aileu 27 June 2008.

<sup>148</sup>Peirera, M. L., (2001) ‘Domestic violence: a part of women’s daily lives in East Timor’, The La’o Hamutuk Bulletin 2:5 August 2001

<sup>149</sup>Timor-Leste System of Early Warning and Response: *Timestral Report*, February-May 2009

<sup>150</sup> Manufahi meeting 27 September, 2008.

### **Since independence Timor-Leste has seen the creation of a number of women's activist groups**

Women's groups have received support from national and international organizations, which is seen as positive sign for the "women's movement" in Timor-Leste. The types of programmes that have been supported and implemented generally focus on the protection and support for victims of domestic violence and awareness campaigns aimed at improving people's knowledge concerning the issue.

### **Awareness training needed and a call to change the attitudes and behaviour of men**

However, participants felt that not sufficient attention has been given towards changing the way men think and behave, which is fundamental if there is to be a real impact and reduction in the incidence of domestic violence<sup>151</sup>. Men, for the most part, are not included or do not want to take part in programmes aimed at addressing the issue of domestic violence<sup>152</sup>.

A woman, member of parliament, said that in order to reduce domestic violence and to change behaviours in Timorese, the nation would need to implement countrywide workshops and training for both men and women on the issue.

### **Women hold positions within the State but issues must still be given attention**

At the level of the State, women are well represented in government positions and several laws have been passed to guarantee their rights<sup>153</sup>. The country has its Secretary of State for the Promotion of Equality (SEPI), and various national organizations have been created. However, according to participants, women's issues will continue to present a challenge to the development of the nation if their participation in the national development process is not given proper importance<sup>154</sup>.

## **3.2.7 The Elders**

### **The older generation are a vulnerable group**

Participants also asked that older people should not be forgotten because they, too, have suffered greatly during the struggle for independence. This group is very vulnerable, because they do not have any further opportunity to improve their lives. At the time of the invasion, many old men and women fled to the forests and many died there from hunger and disease. During the period of the occupation, elderly men and women had no work, and were thus unable to take care of themselves. Many lived alone because their children had left to earn their livings in the cities. Others were able to find work in the fields or rice-paddies and feed themselves. However, today elderly men and women, especially those living in rural areas, continue to have limited access to social services. According to participants, the pension given to elderly men and women is not enough to cover their monthly expenditures.

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<sup>151</sup>Bye, Hanne Hovde (2005) 'The fight against domestic violence in East Timor. Forgetting the perpetrators', Dec 2005, Master's theses in peace and conflict transformation, Universitetet i Tromsø

<sup>152</sup>Manufahi Meeting 27 September, 2008.

<sup>153</sup>As Articles 17 and 50 and also The State signed the convention on the rights of women: CEDAW (Convention on the Elimination of all forms of Discrimination Against Women)

<sup>154</sup>Baucau 11 Meeting April, 2008, Covalima Meeting August 2008, Lautem Meeting 9 February, 2008 and Manatuto Meeting April 2008.

### 3.2.8 Social Class

#### **Today Timorese society divided into two classes**

The concept of social class in Timor-Leste differs from that in other countries. In ancestral time, Timorese society was divided into the classes of *liurai*, *dato* and *povu*, a division based on the individual's traditionally and socially inherited status. However, today social class is determined by who does or does not have access to the resources of the State, who has or does not have links to those in power and who can or cannot speak Portuguese, Indonesian or English. It was felt that Timorese society today is divided into these two classes:

1. the high social class, embracing all those who hold high offices within the State, as well as the friends of these people, who are given access to the facilities of the State.
2. the lower social class, which consists of ordinary people, the unemployed and those who live in rural areas and survive on what nature provides.

#### **Civil servants fall into both classes according to their access to power and the State**

According to participants, civil servants living on just the monthly salary are part of the lower class because this is often insufficient to purchase food, let alone other household necessities. However, other participants pointed out that a distinction needs to be made between those civil servants who have power, and so have access to the facilities of the State, and those who do not. The former are able to live above their means while the latter, like most of the population, are in the lower class whose fortunes depend on the year's rainfall and the success of annual harvests.

#### **Middle class yet to exist in Timor-Leste**

A middle class was not mentioned by participants. Usually a middle class is seen as the balancing force between the two sides of a set of scales, but in Timor-Leste this class does not yet exist. People who are needy continue to live in poverty, while those who have gained access to the facilities of the State continue to live well and get richer. Some participants complained that it is not right for some people to become rich at the expense of the State because the resources of the State belong to society as a whole<sup>155</sup>.

#### **Standard of living varies widely**

There are wide differences in living standards in Timorese society. Participants felt that those who can get access to public or government help are either members of the government, or those who have close links to members of government. These people enjoy access to work, education, health and other state benefits. Their special privileges automatically single them out as a social group and as such have caused social envy throughout the nation. A member of a local NGO participant said:

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<sup>155</sup> Countrywide Focus Group Discussions, 2008.

*“There is a social problem. The lack of social justice is due to the formation of different social divisions. People who took part in the struggle for independence now feel that they don’t have the same opportunities like those who didn’t fight for independence.”<sup>156</sup>*

### **3.3 Consequences**

#### **Social inequalities can lead to violence**

When discussing social configuration and the formation of various groups within a society, a situation where there is unequal access to the facilities and resources of the State can give rise to social tensions which lead to conflict and violence. It is also difficult to achieve equality within a society like that of Timor-Leste, where the history of the resistance and occupation has a strong influence on attitudes and behaviour. According to many participants, the issues outlined above have given rise to social envy and corruption, collusion and nepotism.

#### **Violence resulting from rampant and endemic discrimination**

There is much debate within Timorese society regarding the practices of discrimination, KKN, social injustice and unequal access to the facilities of the State. According to participants, the practices of discrimination and KKN are rampant and endemic and are the root cause of widespread social envy and discontent.

#### **Social envy a driver of violence**

Some participants added that in the 2006 crisis, social envy was the catalyst for violence<sup>157</sup>.

There was agreement among participants that social envy has increased since independence and highlighted divisions within society, resulting in frustration, anger and jealousy with the potential to erupt in future conflict.

#### **KKN is one of the most widely debated issues in Timor-Leste today**

KKN was raised as a priority by all participants in the consultations throughout the country. It is generally seen to arise through alliances and friendships between members of a particular political, regional or family group or through the buying of favours in patron-client relationships<sup>158,159</sup>. Members of the government themselves admit that KKN has flourished in the public administration and that some people in power try to make themselves rich at the expense of the population.

#### **Concern that today’s widespread KKN will slow down national development**

According to many participants, it is difficult for civil servants on small salaries to buy cars, land and property or to be able to send their children to school overseas. Consequently, there are widespread opportunities for collusion and nepotism in public affairs, particularly in public tendering and the process of recruitment of civil servants. Collusion and nepotism automatically open the way for

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<sup>156</sup> Meeting in Lautem February 9, 2008.

<sup>157</sup> Meeting in Lautem February 9, 2008.

<sup>158</sup> IDEM

<sup>159</sup> Scambry (2009)

corruption because legal and democratic institutions of state are weak. In this sense, Timor-Leste's situation is similar to that of some other nations undergoing a transition to democracy after emerging from recent conflict. This was a matter of concern for participants because they felt that such practice will slow down national development.



**Social dynamics are complicated by the exercise of political power and the politics of money.**

Photo: Steve Tickner

### **Independent commission now looking at the problem**

The government has directed the Vice-Prime Minister to deal with the issue of KKN and has established an independent commission to look into the question, but so far there very little results to be seen.

### **3.4 Conclusion**

#### **Fundamental social practices need to be addressed to avoid further divisions in the society**

Discrimination, social injustice and KKN are fundamental issues that need to be addressed because of their potential to create deeper divisions in Timorese society.

#### **Class divisions and social envy may generate future violence**

Unequal access to State facilities is giving rise to class divisions and fostering a degree of social envy that may generate violence and conflict in the future.

#### **Open Question**

Timorese society is divided by history, political associations, economic power, regional identity (easterners-westerners), participation in the resistance (who struggled and who did not struggle or who fled overseas and who remained in the country), the language that is spoken (Portuguese,

Indonesian and Tetum) and other factors. With such deep and complex social divisions, the practices of KKN, discrimination and social injustice that have flourished in the country, have produced a society that is very vulnerable to conflict and violence. Starting from the history of the resistance and occupation, what can civil society do to help improve the situation in order to harmonise and reconcile the differences that exist and create a sustainable peace?

## CHAPTER 4: ECONOMIC CHALLENGES



Photo: Steve Tickner

The economic context and the role of the State and the private sector, the conditions impeding economic progress including KKN and inequalities, and the treat to sustainable peace.

**From the beginning of Portuguese rule to the present, Timor-Leste's economy has been under the total control of the Central Government and the State Budget is the only source of funding for all economic activities.**

This puts huge constraints on growth and has led to a sharp rise in the number of civil servants appointed by successive administrations under self- rule (2002-2009).

**Public sector and state the primary employer**

At present most employment in Timor-Leste comes from the public sector or institutions of State. Managing the expectations and demands of individuals, groups and the nation as a whole presents huge challenges.

**Traditional subsistence agriculture is a primary livelihood**

Research and discussions with participants at community level reveals that most of the population lives by subsistence agriculture, following traditional methods. Harvests are often insufficient to provide a year's food for a family. Levels of production are unreliable as they are dependent on the rainfall and other unpredictable weather patterns.

**Development is seen to have been slow**

When looking at the larger picture, it was said that development has been slow. Timor-Leste is rich in natural resources, but most of the population remains poor. Participants felt the Government needs to draw up good and effective economic and fiscal policies in order to develop these resources to raise the standard of living of the whole population.

**Solving economic challenges is seen to be key to achieving sustainable peace**

It emerged from nationwide discussions that the following challenges need to be faced if sustainable peace is to be achieved:

- The eradication of envy and socio-economic injustice;
- Reduction in unemployment;
- The promotion of equal rural development in all districts;
- The provision of equal access to existing resources for the whole population.;
- The establishment of a dynamic and creative private sector to take the burden off the public sector; and
- The development of a programme aimed at avoiding increased dependency on petroleum products.

## 4.1 Economic Context

### **Quality and training of human resources cited as fundamental challenge that could easily be addressed**

The State of Timor-Leste has considerable problems when it comes to human resources. The efficiency and professionalism of employees in both the public and private sectors is poor. Corruption, Collusion and Nepotism (KKN), inherited from the period of Indonesian rule, are still endemic and widespread. Delegates at Regional Conferences 1, 2 and 3, among them members of parliament, police, teachers and ordinary people, as well as participants at community discussion groups, expressed that services and information received from government departments are inadequate. They pointed out that, since the government is the principal employer, the present shortcomings are slowing the development of the whole nation.

It was felt that many of the problems could easily be remedied and that there is a need for government-sponsored training for all civil servants.

### **The Public Sector**

#### **Public sector has clear responsibilities that are incorporated in the Constitution**

Article 137 no 1 of the Constitution makes it clear that the Civil Service and Public Institutions are required to respond to the needs of the public in the areas of security, culture, the economy and social welfare<sup>160</sup>. They are responsible for carrying out the duties of the State as well as administering local authorities at district, sub-district, suco and aldeia levels. Their other responsibilities include the autonomous regions, public universities, public institutions, public enterprises and public associations.

#### **Quality of service also included in the Constitution**

Under Article 137 (3) of the Constitution, civil servants and the Public Institutions have a duty to provide all citizens, including foreigners, with a professional and satisfactory level of service. They are forbidden to place obstructions in the way of those seeking information and access to services<sup>161</sup>.

#### **Emphasis that state belongs to all**

Participants in the consultations emphasised that the State belongs to all citizens, not just to one family, or one small group or one party who have amassed wealth in the past. The older generation are anxious for their children to be employed in the public sector, where their livelihoods will be guaranteed by the State.

#### **The last three governments of Timor-Leste have made public administration a priority**

Since independence, there has been a vast increase in the number of civil servants in permanent employment. Under the transitional administration of UNTAET, civil servants were recruited from those who had gained experience under Portuguese and Indonesian rule. When the Timorese

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<sup>160</sup> RDTL Constitution.

<sup>161</sup> IDEM

accepted power from the Transitional Administration of UNTAET in 2002, the total number of civil servants, including those recruited to work in the F-FDTL and the police, was 12,201<sup>162</sup>. During their five years in power, the FRETILIN government increased this number to 17,300<sup>163</sup>. The AMP government has more than doubled this number. The total of civil servants now stands at 36,000 and the public sector is a major driver of the economy<sup>164</sup>.

### **Concerns regarding the process of getting employment**

There was consensus that the process of recruitment and selection of civil servants is neither open nor transparent; also that the widespread practice of KKN denies equal access to employment and side-steps the vital requirements of quality, ability and professionalism in the recruitment of candidates.

#### **a) KKN**

### **KKN impeding national growth**

The damaging social effect of the practice of KKN in public administration has already been highlighted in the previous chapter. Nationwide consensus confirms that its effect on the economy is so serious that it is impeding national growth. Its practice gives rise to injustices which can lead to acts of violence.

### **KKN clearly defined by participants**

Participants defined KKN<sup>165</sup> as follows:

- Corruption is the misuse of power and State resources for private or group interests by civil servants and heads of public services.
- Collusion occurs when gifts of money or goods are accepted from businesses or individuals in return for favouritism in recruitment or the tendering for public project.
- Nepotism occurs when officials award State resources or projects only to their colleagues, friends or relatives.

### **Examples of KKN cited in the discussions**

During the consultations examples of KKN were cited: attempts to bribe members of the public with offers of land, cars or money; demands for money from the public in return for services; the stifling of competition for work or public projects and any other practice that can prejudice the role or resources of the State. KKN is particularly prevalent in the recruitment of civil servants where complex bureaucracy allows it to flourish. It was widely reported that the process of tendering and competition for State projects is not transparent and that officials often withhold information or may only tell their friends, or alert them in advance to put them at an advantage.

### **Sense of Statehood needed**

Timor-Leste is a new nation emerging from a long war and has high levels of poverty. This means that the country's civil service and bureaucracy are in danger of being open to political manipulation.

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<sup>162</sup> OTL: "Emprego e desemprego": <http://members.pcug.org.au/~wildwood/novemploy.htm> (asesu 28/07/09).

<sup>163</sup> International Relations and Security Network (2008)

<sup>164</sup> Ministry of Finance (2008): "Orçamento Geral do Estado de 2009." P. 510 – 513, Dili, 2008.

<sup>165</sup> Regional Conferences: Maliana October 24-25, 2008; Baucau May 16-17, 2008; Maubisse November 5-6, 2008.

Participants felt that politicians need a sense of Statehood and should pursue the common good. They stressed that those in power should not make policies to take 'political revenge' on their opponents or build their own business empires<sup>166</sup>.

### **The National parliament has already approved a law to establish an Anti-Corruption Commission**

It was agreed that the majority of the people of Timor-Leste suffered during the war, though not everyone participated to the same degree. However, this was not seen as sufficient reason to appropriate the State budget or the State's resources for personal gain. There was widespread agreement that the State belongs to all citizens of Timor-Leste and there is an urgent need to reduce or eradicate the practice of KKN in public administration in order to ensure equal rights for all. Maladministration of State resources was seen as slowing down national development to the detriment of all. The National parliament has already approved a law to establish an Anti-Corruption Commission to address the practice of KKN within State organisations.

### ***b) The Private Sector***

#### **Problems in the private sector also inhibiting growth**

The private sector, which includes those trying to earn a living through investments or their own initiative, also has problems that stifle growth. Research revealed that members of the public wishing to register companies find the process excessively bureaucratic, over-regulated and often corrupt. They also said that the investment laws are so complex and difficult to understand that they need to be revised.

#### **Need to monitor the process of company registrations and to research their economic, material and social resources**

Representatives from the private sector in Regions 2 and 3 felt that the Government should give the Timorese people more backing and incentives and should exclude foreigners from competing with the Timorese in small business initiatives<sup>167</sup>. A participant at the Regional Conference in Maubisse said:

*"Our economic policies give more advantage to foreigners than Timorese. All the big business are controlled or owned by foreigners. We are afraid that we will become like Indonesia or Columbia. When a problem occurs, we go into a crisis and they all flee the country with hard cash... Foreigners will dominate our economy in the short and long term. We are afraid that we will not be able to control our own economy."*<sup>168</sup>

Participants acknowledged the need for rules to prevent the proliferation of 'ghost' companies, which tend to be owned by one group or individual. There is therefore a need to monitor the

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<sup>166</sup> Meetings in: Baucau April 11, 2008, Aileu June 27, 2008, Bobonaro August 27, 2008, Oecusse April 25, 2008 and Regional Conference in Maubisse November 5-6, 2008.

<sup>167</sup> Meetings in Bobonaro August 27 2008 and Dili February 2, 2008.

<sup>168</sup> Regional Conference in Maubisse November 5-6, 2008.

process of company registrations and to research the economic, material and social resources of such companies.

**Private sector has an important role to play but there are improvements needed**

Local business people feel that the private sector has an important role to play in the development of any country. Therefore the government needs to create opportunities for this sector to establish itself as a dynamic, creative and productive force in the economy. The public and private sectors need to work together as partners in Timor-Leste's development. The relationships between the two sectors need to be improved through concessions and contracts for services that exist and through better investment and financing laws. This would enable all businesses to gain equal access to concessions and contracts for public sector services.

**Foreign competition is an issue of serious concern to those working in the private sector**

Participants raised concerns over the question of overseas competition in the tendering for public contracts. This is of particular importance because the State Budget is the sole source of finance, employment and projects. The present tendering system has lost its credibility and is riddled with favouritism and political bias. There is an urgent need to make the process transparent.

**Local businesses losing out due to complexity of company registration and tendering process**

The complexity of company registration and tendering is so onerous that local businesses are unable to qualify. Regulations regarding finance, equipment and qualified personnel force them into partnership with foreign companies in deals that put them at a business disadvantage. Large State projects have been won by Timorese business people, but end up not being undertaken by them because they do not have the knowledge to successfully negotiate these types of contract. Though they win contracts, they are forced to hand over to foreign companies. The fact that local companies gain no experience or work as a result, and have to be content with a small commission or income from the project, is an indication that there is something seriously wrong with the rules and processes of public tendering<sup>169</sup>.

**Foreign companies avoiding regulations and profiteering**

It was also pointed out that foreign companies can avoid the regulations because they understand how to turn the weaknesses of the bureaucratic system to their advantage. There was a general feeling that the main aim of foreign businesses is to make large profits to take back to their own countries, investing as little money as possible in Timor-Leste itself.

**Need to encourage investors highlighted while developing a fair system**

A further point highlighted by participants was the need to avoid putting potential investors off. They suggested the creation of an attractive economic policy backed by political stability and an impartial and professional legal system. Laws being drawn up now need to guarantee rights for foreign businessmen in order to give them the confidence to invest in Timor-Leste. A fiscal system fair to all people needs to be set up. This does not mean the creation of a protectionist policy for local businesses, but, rather, a need for a system that ensures that foreign companies submit to existing laws and contribute to the economy of Timor-Leste.

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<sup>169</sup> Meeting in Dili February 7, 2008.

### **Transparency key for tendering and bidding procedures**

Participants generally agreed that transparency must be a key factor in drawing up new laws relating to tendering and public competition. There will have to be means to ensure the abolition of lengthy bureaucracy and the eradication of political influence and KKN in the tendering process.

## **4.2 Characteristics of Economic Challenges**

### **4.2.1 Access to Resources and Dependency on Petroleum Products**

#### **Oil, natural gas, marble and magnesium important resources**

The State budget of Timor-Leste depends mainly on natural resources, among them oil, natural gas, marble and magnesium. It is widely believed that oil and natural gas, both under the ground and in the sea, for example, the Timor Sea, are the richest and most abundant. Many participants expressed the importance of ensuring that a sustainable system is put in place to share the benefits of these resources across all regions in order to undertake the development of the nation as a whole and avoid leaving a huge debt to future generations. If they are not well managed there is a danger that they will give rise to discontent and conflict in the future.

#### **According to the Constitution, the General State Budget is the most important law in the country**

It states in writing the money and resources that the State shall use to undertake programmes of national development. A large number of people's employment depends on government programmes and it is essential that they are well managed within the State Budget. The General State Budget from the years 2002 until 2009 was as follows:

<b>Fiscal Year</b>	<b>Budget Value (Millions)</b>
2002-2003	US\$70
2003-2004	US\$79
2004-2005	US\$109
2005-2006	US\$142.3
2006-2007	US\$315.9
2007 Transition	US\$116.503
2008	US\$788.3
2009	US\$680.873

Source: Jornal da República: 2009.

#### **Increase in budget is not reflected on the ground**

Official figures show that the General State Budget has increased annually and that in the five years between 2003-2008 it increased nearly ten-fold. However, some participants pointed out that this is not reflected in a corresponding increase in living standards. Many districts continue to be poor and very few people can say they are living in luxury. Discussion Groups throughout the country commented that this is nothing new: many Timorese do not receive proper or equal social assistance; many do not receive pensions adequate for their needs; many live in housing that does not meet even minimum standards – a fact that affects their health; many do not yet have access to

electricity or clean water; they do not have access to adequate and equal medical care and many do not receive schooling of even a minimum standard. Many communities are not served by good roads or public transport to give them access to markets, nor can they purchase quality goods for consumption. All of these factors were raised in the consultations as proof that development has not yet progressed in Timor-Leste, particularly in the rural areas. A Xefe de Suco at a Regional Conference said:

*“... The Government approves a budget which we all know is very high. But with all that money we never receive any money at the grassroots. We always make proposals to ministries but we never see any results.”<sup>170</sup>*

#### **4.2.2 Unequal Rural Development**

##### **Poverty reduction and provision of sufficient income for the people of Timor-Leste are declared objectives**

The government's National Development Plan covers the years up to 2020. Its declared objective is to reduce poverty and provide sufficient income for the people of Timor-Leste. Through the State Budget they are funding initiatives in infrastructure, education, health, agriculture and fisheries, public administration, defence and security, and the consolidation of democracy. These measures are a positive response of a kind that should be guaranteed in a democratic and rights-based State. Through programmes like these, the present and previous governments have sought to bring about rural development, but according to participants in the discussions, there has been no real sign of such progress to date<sup>171</sup>.

##### **Unequal distribution of development between Dili and the districts causing discontentment**

There was widespread discontent among people in rural areas on the subject of the unequal distribution of development between Dili and the districts. They asked why the State Budget has been spent only in Dili and they called for the decentralisation power, so that financial and administrative decisions can be made at local level. This would allow them to fulfil their role effectively and develop their aldeias, sucos and districts<sup>172</sup>.

##### **Widespread fears that development opportunities for rural areas have already been lost**

There was consensus that the General State Budget, as the sole source of employment, finance and projects, has not yet benefited Timor-Leste and its people. With the budget growing every year, there were serious doubts as to how those in power are spending the large sums of money available. This, together with the concerns about the endemic practices of KKN, outlined above, has led to widespread fears that development opportunities for rural areas have already been lost.

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<sup>170</sup> Regional Conference in Maliana October 24-25, 2008.

<sup>171</sup> Meetings in Viqueque April 4, 2008; Ainaro September 12, 2008; Covalima August date? 2008; Aileu June 27, 2008; Ermera January 26, 2008; Regional Conference in Maubisse November 5-6, 2008.

<sup>172</sup> Belun (2009)

### 4.2.3 Security of Food Supplies

The security of the country's food supplies has become a major issue of concern. There are reports that drought, hurricanes and other natural disasters in many areas mean that people are not able to get enough nourishing food. As a result, their health is at risk and their lives are shortened. They are unable to work harder to improve their standard of living or participate in the social, economic and political development of Timor-Leste.



The security of the country's food supplies has become a major issue of concern.  
Photo: CEPAD

#### **Need for a Food Security in the National Development Plan**

There were calls by some District Administrators and local leaders for the creation of a sustainable policy relating to Food Security in the National Development Plan to address this situation<sup>173</sup>. They stressed the need to take into account local traditions and practices as well as local conditions, before making any decisions or undertaking any programmes at national level, particularly in the area of agriculture.

#### **Government measures, supported by an education programme could help guarantee the national food supply**

The government already has a programme to distribute tractors and equipment to improve agriculture. However in some places tractors are unsuitable because of the terrain. In other places, including the District of Lautem, some participants, including farmers, said that though tractors could be used to till the land, drought sometimes prevented them from planting crops. They called for the government to prepare a strong and co-ordinated plan for agriculture, because the majority of Timorese depend on agriculture for their livelihoods. In their opinion, the best plan would require the combination of traditional and modern technologies backed by the establishment of a good physical infrastructure. They pointed out the need for the provision of drivers, fuel, oil and finances

<sup>173</sup> Meeting in Oecusse 25 April 2008.

to enable field-croppers and rice-farmers to maintain the machines they receive from the State. It was felt that these measures, supported by an education programme designed to spread knowledge about nutrition, could help guarantee the national food supply<sup>174</sup>.

#### **4.2.4 Conditions to Improve Product Quality**

##### **Need to import rice to supplement basic food supplies**

The basic diet of the Timorese people consists of sweet potato, cassava, taro, corn, rice and leafy greens, with the occasional meal of meat and fish. They grow the above crops to eat, but there is a shortfall in the amount of rice they can produce. According to the Ministry of Agriculture, Timor-Leste needs a total of 90,000 tonnes of rice each year but produces only 40,000 tonnes per annum<sup>175</sup>. Because of this, the government has to import rice.

##### **Subsistence farming dependent on environmental factors while techniques being used are having a negative impact**

The production of these foods by subsistence methods means that its success is dependent on rainfall and other environmental factors. However, the environment itself needs urgent protection from people themselves. A major task lies ahead for the State and society as a whole to raise the awareness of the public, particularly those living in rural areas, of the link between the use of slash-and-burn techniques and subsequent land-slides and drought. It was suggested that all Timorese have a right to a clean and beautiful natural environment and that everyone should be encouraged to respect nature, both on land and in the sea<sup>176</sup>.

##### **Certain fishing techniques under question**

The Timorese who live in the coastal areas live from the products of the sea. Many fishermen still use traditional small boats and hand nets, but others use explosives or mines - activities that destroy the marine flora. Some participants pointed out that the sea is not only a place to be exploited for its fish supply, but also a place where people go for relaxation and enjoyment. It is a place with huge potential for tourism, both from home and abroad<sup>177</sup>.

##### **Regulations required for the marine sector**

According to research published by the Ministry for Agriculture and Fisheries, Timor-Leste loses almost \$40 million per year from the fisheries sector<sup>178</sup>. Participants in discussions said that fishermen cannot earn a living wage from their activities. They called for the setting up of an authority to draw up regulations, backed by law, to protect marine resources and control activities associated with the sea. They added that this body should not only ban over-fishing, but also improve the quality and hygiene of marine products prior to their being sold to the public<sup>179</sup>. This should be done through both regulation and the establishment of separate places where commercial operators could sell fish guaranteed to be in good condition.

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<sup>174</sup> Regional Conference in Baucau May 16-17, 2008.

<sup>175</sup> Direction of National Statistics (2008)

<sup>176</sup> Meeting in Aileu June 27, 2008.

<sup>177</sup> Meeting in Oecusse April 25, 2008 and Liquiça June 12, 2008.

<sup>178</sup> Direction of National Statistics (2008)

<sup>179</sup> Meeting in Covalima August 14, 2008.

### **Regulations called for in the meat sector**

There were also calls for regulations to be brought in regarding quality and hygiene of meat sold to the public. Participants put forward the following recommendations:

*“the creation of an authority to monitor animals being sold in markets; the establishment a network of adequately equipped district and national slaughterhouses; the construction of separate purpose-built buildings where meat can be sold under suitable conditions, rather than from roadside vendors, which is the common practice at present.”<sup>180</sup>*

### **Quality improvement initiatives need to be holistic**

There was consensus that though diverse, the quality of local food products is very poor and there is a real need for an agricultural programme aimed at increasing production and improving quality. The strategy needs to include Land Planning, Technical Capacity-Building, Large-scale Production and the Establishment of Networks, Area and Agrarian Extension Zones.

#### **4.2.5 Roads, Communication and Access to Markets**

##### **Transport infrastructure an major obstacle**

Participating farmers often complained about the poor condition of roads and bridges as major obstacles to taking products between rural areas and the markets and cities. They said that in spite of the fact that successive governments designated large sums of money in the annual General State Budget for repairs to roads and bridges, they remain in poor condition, especially in rural areas. A representative from the Church said the bad roads make it too difficult and expensive for ordinary people to take their products to market and it is impossible for them to make any profit. This gives field croppers and rice farmers no incentive to increase the quality and quantity of production and productivity<sup>181</sup>.

#### **4.2.6 The conditions of markets are very poor**

##### **Farmers have no incentive to improve the quality of their products**

The poor conditions in local and national markets do not facilitate the presentation of clean, high quality food. Participating business people said that goods of varying quality are all sold mixed up together; customers are unable to select what they buy and traders ask whatever prices they want. According to participants, all these factors make goods and local products impossible to sell, and give farmers no incentive to improve the quality of their products.

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<sup>180</sup> Regional Conferences: Regional Conferences: Maliana October 24-25, 2008; Baucau May 16-17, 2008; Maubisse November 5-6, 2008.

<sup>181</sup> Meetings in Ainaro September 12, 2008; Dili February 7, 2008; Aileu Jun 27, 2008; Bobonaro August 27, 2008; Oe-Cusse April 25, 2008 and Covalima August 14, 2008.



Participants said that the biggest problem is the difficulty of keeping meat, fish and vegetables clean and fresh. Despite this, many Timorese continue to do business selling goods from the roadside stalls, markets, barrows and kiosks. Photo: CEPAD

### **Chinese shops have higher standards**

There was consensus that because of the poor conditions of markets, consumers who can afford to do so go to the Chinese shops where conditions are of a higher standard and more hygienic, even though local products may be good. This discourages field-croppers and farmers from making the effort to raise their standards<sup>182</sup>.

### **4.2.7 Purchasing Power**

#### **Use of American dollar masks the realities on the ground**

Purchasing power is an economic indicator that can be used to measure and compare the standard of living in various countries. It is not possible to do this in Timor-Leste because it does not have its own currency, but uses the American dollar, one of the strongest currencies in the world. Some participants said that this sometimes leads foreigners to assume that the standard of living is very high when, in fact, people are living below the poverty line. Purchasing power depends on income, and what a dollar will buy varies from country to country. The dollar's value also fluctuates with time.

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<sup>182</sup> Meetings in Viqueque April 4, 2008; Dili February 7, 2008; Liquiça June 12, 2008; Covalima August 14, 2008; Bobonaro August 27, 2008.

### **Many Timorese earn less than a dollar a day**

The UNTAET administration began publishing a table of salaries which showed that, at that time, a civil servant at the lowest level received US\$77 per month, while those on the highest level were paid US\$318 per month. Today, the government has raised salary levels to US\$115 per month for the lowest grade civil servants, rising to US\$765 per month for the top grades<sup>183</sup>. However, at the present time, the majority of people who do not work in the Public Administration but depend on their fields and paddies, on the sea and on animal husbandry, have no monthly income. Many Timorese struggle to make a living and earn less than a dollar a day.

### **Timorese can only afford locally produced food and cannot afford other goods or products from overseas**

There are large price differences between food sold in the ordinary markets and in supermarkets such as "Lita Store". Most of the people who buy goods in supermarkets are foreigners, while Timorese use the local markets. In local markets the price of a bundle of leafy greens varies from US\$0.50 to US\$1.00; a kilo of meat costs between US\$3 and US\$5; a kilo of rice from US\$0.50 to US\$0.80. The same goods in supermarkets are at least two or three times more expensive. Participants point out that this means that the purchasing power of the majority of people on low incomes or out of work is very limited. They can only buy locally produced food and cannot afford other goods or products from overseas. A participant in the meeting in Ainaro said:

*"... The price of fuel and rice has become very expensive. People in my village have started to burn candlenut again because they cannot afford to buy fuel."<sup>184</sup>*

## **4.3 Consequences**

### **High level of unemployment a major concern**

The issues highlighted above underlie Timor-Leste's very high level of unemployment, which, in turn, can be used as an economic indicator. All participants saw this as a major concern, with serious implications for social and political stability and national development.

### **Much violence linked to unemployment**

Many people from the consultations said that much of the violence that occurs in Timor-Leste at present is related to unemployment because it gives rise to social injustice, jealousy and social envy, theft and alcohol and drug problems and imbalances between one district and another. Many people do not have enough money to support their families. These problems can be traced back to factors such as lorosa'e-loromono, martial arts, hate and vengeance, such as were encountered in the 2006 crisis.

### **Young people the most affected by unemployment**

The participants said that the problem of unemployment is more serious for young people because they are the sector of the population most affected. Participants from rural areas said young people

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<sup>183</sup> OTL: "Emprego e desemprego" (2009)

<sup>184</sup> Meeting in Ainaro September 12, 2008

without work are easily manipulated by different interest groups. This leads them to become involved in violence between villages, or between martial arts groups and gangs.

#### **4.4 Conclusion**

##### **Danger that political leaders will compete for control of the State Budget throughout their time in office**

In a transitional society, such as Timor-Leste, with high levels of poverty and unemployment, where KKN is endemic and economic, cultural and social development are completely dependent on the State and the State Budget, there is a danger that political leaders will compete for control of the State Budget throughout their period of office.

##### **Today's challenges are resulting in many vulnerable groups within society with huge potential to give rise to violence**

The combination of poverty, unemployment and KKN have the potential to provoke violence and conflict at local, regional and national level, with serious economic, social and political consequences. They are already giving rise to social envy and injustice and are creating many vulnerable groups within society with huge potential to give rise to conflict and violence.

This situation presents a serious risk to the future development of the nation  
and a huge threat to sustainable peace within the country. A way must be  
found for civil society to contribute to the democratisation of the State, so that  
the Timorese can prevent this risk increasing in the future.

#### **Open Question**

What can civil society do to help address the widespread poverty and create conditions for a sustainable broad-based economic growth?

## CHAPTER 5: OUTCOMES OF THE NATIONAL FORUM



Photo: Steve Tickner

After having conducted the countrywide consultations, PRDP presented the findings and analysis at a National Forum meeting on August 13-14, 2009.

The meeting brought together some 200 representatives of all walks of Timorese society, including the leadership of the four sovereign organs of the state including:

- H.E. President José Ramos-Horta, recipient of the 1996 Nobel Peace Prize
- President of the National Parliament, the Right Honourable Fernando Lasama de Araujo
- Deputy Prime Minister José Luís Guterres (Member of the General Assembly of CEPAD)
- Chief Justice of the Supreme Court, the Right Honourable Antonino Gonçalves (also Chairman of the General Assembly of CEPAD)
- Mr. Mari Alkatiri, Secretary-General of Fretilin and former Prime Minister 2002-2006



President Ramos-Horta highlighted the “diseases” affecting Timor-Leste and the need to stem the spreading of destructive rumours



Political rivals Alkatiri (l) and Lasama share a podium, express statements of peace and explain their perspectives on past crises



Vice-Prime Minister Guterres pledged the Government’s full support for the programme.  
All Photos: Steve Tickner

Representatives of academia, the church and other NGOs also participated in good numbers. Perhaps most impressively however, organized delegations from each of the 13 districts (10 participants per district and 15 from the capital Dili) also attended with enthusiasm and demonstrated commitment to ensuring the continued connection of this process to the population in their home districts. This was crucial in real and symbolic terms as the yawning gap between the population and the authorities in Dili is one of the greatest weaknesses facing the country.

During the meeting participants reviewed and debated the findings and main conclusions of the report. An accompanying video was also shown of people throughout the country sharing their views on the core obstacles to peace in Timor-Leste. The video proved a powerful tool to bring home the messages and concerns of people.

### Setting Priorities

During the two day meeting, particular focus was given to the vetting of potential priorities for the next phase of the PRDP. Eight working groups organized under the 4 thematic areas of Politics, Justice, Social issues and Economic development, were formed to assess and prioritize the all of the priority issues identified during the consultation process. The objective was to reach consensus on the 4 most important obstacles to peace in Timor-Leste.

These are:

- **The promotion of individual and party interests over the national interest.** This is a complex and troubling phenomenon in a context where the institutions of the state are unable of withstanding personal and party agendas. As such, the State is prevented from consolidating its influence and from projecting and protecting the interests of the Timorese as a whole.
- **The ineffective formal judicial system and the culture of impunity.** There are limits in the broad understanding of the country's laws and formal judicial system. The laws and judicial process take place in Portuguese, a language not spoken by the vast majority of the population. Furthermore, the system is severely understaffed (there are 13 judges in the country with a caseload backlog of 5000 cases). Such challenges have fuelled frustrations among Timorese and strengthened the culture of violence and mob justice.
- **Conduct a thorough historical review of the resistance and the occupation.** Many of the major divides today in Timor date back to the relationships, actions and roles of different individuals and groups during the struggle for independence from Portugal and the resistance to, or cooperation with, the Indonesian occupation. Following national independence, the country has sought, with very limited success, to recognize and compensate those involved in liberating the country from foreign control. Poverty and an exclusionary, patron-client system in Timor has fuelled resentment and a further sense of injustice towards those who founded the new nation. To this day, no Timorese has detailed the complex history of the resistance, the occupation and the struggle for nationhood. The Timorese chose this as one of their crucial objectives in order to reconcile with their past and with each other.
- **Corruption, Collusion and Nepotism (KKN).** This issue pervades all aspects of Timorese life, from the presumed actions of the political elite to the smallest transactions in communities. The Timorese fingered this phenomenon as one of the chief factors of resentment, instability and perpetual crisis in Timor.

#### **Next steps for the PRDP**

The National Forum provided CEPAD with a mandate to continue its work and to concentrate on the four priority issues identified at the meeting. The objective will be to engage Timorese society on these priority issues with a view to formulating broad-based consensus solutions to the causes of the conflict and instability.

This phase will last two years, during which PRDP will establish Working Groups, for each of the 4 priority issues, which will be charged with the identification and articulation of solutions contributing to the consolidation of peace. Working Groups will formulate recommendations, solutions and approaches which may be addressed to specific audiences (government, civil society, international community, etc.). They will be formulated and presented in a manner that is appropriate to the theme in question, and Working Groups will also take account of aspects such a feasibility, likelihood or urgency of implementation in arriving at their proposed solutions. A second National Forum will be held in 2011 where Working Groups will present the results of their research for validation.

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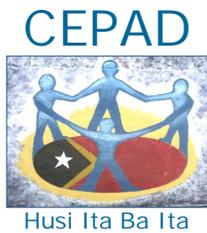
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## ANNEX I – LIST OF PARTICIPANTS IN THE CONSULTATIONS

Group/Place	Date	Undertaken by	No. Male Participants	No. Female Participants	Total
Viqueque	04 April 2008	PRDP Team	29	4	33
Lautem	09 February 2008	PRDP Team	37	5	42
Baucau	11 April 2008	PRDP Team	48	12	60
Manatuto	18 April 08	PRDP Team	45	19	64
Regional Conference Reg.1	Baucau 16-17 May 08	PRDP Team	97	30	127
Dili	07 February 2008	PRDP Team	27	8	35
Ainaro	12 September 2008	PRDP Team	20	2	22
Aileu	27 June 08	PRDP Team	20	11	31
Manufahi	27 September 08	PRDP Team	19	9	28
Regional Conference Reg.2	Maubisse 5-6 November 08	PRDP Team	60	14	74
Oecusse	25 April 08	PRDP Team	29	3	32
Liquiça	12 June 2008	PRDP Team	33	6	39
Ermera	26 January 08	PRDP Team	55	7	62
Covalima	14 August08	PRDP Team	29	9	38
Bobonaro	27 August 08	PRDP Team	40	5	45
Regional Conference Reg.3	Maliana 24-25 October 08	PRDP Team	65	16	81
University and Institute	17 February 2009	PRDP Team	31	18	49
			684	178	862



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