

Decentralisation and the Central State in Timor-Leste¹

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Introduction

Local government reform in Timor-Leste is critical for the building of an inclusive democratic consensus that will bring the state to the people and the people to the state. A program of reform is particularly urgent in Timor-Leste. Governance has been both highly centralised and handicapped by low capacity. For people in the districts, the central government in Dili is remote, public service delivery to the local community poor, and opportunities for popular participation very limited. Limited local participation is compounded by the electoral system by which voters choose a closed party list of candidates in a single national electorate. Members of parliament have no responsibility to single electorates: they represent, in effect, everyone and no-one. Local communities are divided over their perception of the legitimacy or the relevance of the current government.¹

The challenge of building an inclusive and democratic system of governance is particularly intense in Timor-Leste. About half of the East Timorese population lives below the upper poverty line and a third below the extreme poverty line. Poverty actually significantly increased between 2001 and 2007, reflecting the stagnation of the non-oil economy.² For the large majority of rural subsistence farming communities, civil society continues to assume local, East Timorese forms.³ The institutions and agencies of the new state represent modern systems of politics that are expected to eventually interact with traditional political systems more persuasively than the institutions of Portuguese or Indonesian colonial rule. Local communities in the *aldeias* (hamlets) that make up *sucos* (composite villages) operate according to traditional local belief systems (*lisan*). Almost all East Timorese, even those with a modern education, respect *lisan*.⁴

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The local government reforms signal an attempt to correct the preoccupation with the centre, and to recognise the critical need to include the ‘periphery’ in state-building.⁵ Ultimately, government in Dili lacks the capacity to simply enforce its authority over its people; it must rely on popular consent. What Joel S. Migdal has called ‘normative solidarity’—the identification of the people with a national community—has not developed in Timor-Leste.⁶ A successful decentralization program involving genuine local decision-making and the delivery of needed public services would significantly build ‘normative solidarity’; a failed program will further undermine it. It is in this context that an effective model of decentralisation is vital.

Does the progress of the reform program so far suggest there is the political will to carry through a real transfer of some powers that can correct the imbalance between centre and periphery? It will be argued here that there are emerging indications that the answer to that question is in the negative.

Contending models of local government reform

Decentralisation is mandated as one of the fundamental principles set out in the Constitution (Section 5:1, Section 5:2). The constitutional directive is broad and unspecific. It requires legislation to spell out the kind of devolved local government system to be established. To date, only one law has been promulgated, the Law on Administrative Division of the Territory (2009). Some four further laws required to establish a new system of local government are either before the parliament, being drafted, or not yet under consideration. The legislation originates as Decree Laws approved by the political executive, the Council of Ministers, and not the National Parliament which, nevertheless, must debate and pass them.

Both the former and the present governments placed decentralisation high on their agendas.⁷ The 1st Constitutional Government of Timor-Leste (the Fretilin Government) moved early on local government reform. In 2003 a report commissioned by an Inter-Ministerial Technical Working Group led by the Ministry of State Administration and Territorial Management (MSATM) came up with six options for decentralisation. The Council of Ministers at that time approved Option 4. This involved the creation of new provinces or regions responsible for new municipalities based on the sub-districts.⁸ This would have created a large number of small municipalities responsible to regional councils responsible, in turn, to the central state.

The Fretilin Government moved to implement devolution in 2006 but this was overtaken by the political crisis of that year and the subsequent election of the 4th Constitutional Government (the AMP Government) led by Prime Minister Xanana Gusmão in the following year. After reconsidering the six options, the AMP Government decided on Option 5b. There would be no regions or provinces. The thirteen districts would become thirteen municipalities with elected mayors and municipal assemblies. The sub-districts would disappear. In contrast to Option 4, Option 5b determined a single level of local government between the central state and the *sucos* and *aldeias*.

The Council of Ministers released in March 2008 the agreed model of local government developed with advice from the joint UNCDF-UNDP Local Governance Support Program (LGSP) supported by Irish Aid and the Government of Norway.⁹

The model set out in the March, 2008 document, identified the main objectives of the reform as to:

- Promote the institutions of a strong, legitimate and stable state across the territory of Timor-Leste;
- Promote opportunities for local democratic participation by all citizens;
- Promote more effective, efficient and equitable public service delivery for the social and economic development of the country.

This model adopted among its guiding principles ‘democratic representation and close links between the elected bodies at the Suco level and the municipal assemblies with local interests represented at the municipal level’. To strengthen this, municipal assemblies would consist of directly and indirectly elected representatives. The proposal was that indirectly elected representatives could be representatives from the *sucos* councils who, as members of the municipal assemblies, would ensure the interests of the *sucos* were advanced.¹⁰ This proposal for *suco* representation in the municipal assemblies was dropped in the draft law released by the Council of Ministers in August 2008 by which all assembly members would be elected by ‘universal, free, direct, secret, personal and periodic ballot’.¹¹

The 2009 Draft Law on Municipal Elections

The Law on Municipal Elections approved by the Council of Ministers in February 2009 clarified the advisory (rather than an institutionalised) relationship between municipal assemblies and the *sucos*. The draft law merely requires that municipal assemblies will hold ‘regular’ consultations with *suco* councils and inform them in advance of any assembly meetings. *Sucos* are to be consulted on proposed local policies that directly affect them. There has since been further consideration by the Ministry of State Administration and Territorial Management of spelling out the relationship between *suco* councils and the municipal assemblies. This could be set out in supplementary administrative legislation, although preferably it should appear in its own decree law approved by the National Parliament. As part of this consideration of further elaborating the proposed interaction between municipalities and *sucos*, a consultant’s report commissioned by the MSATM proposed the creation of a Department for relations between Municipalities and Sucos in a Directorate for Local Governance in the MSATM.¹² It should be noted that this approach focuses on the supervisory role of the Ministry rather than on the democratic interaction of popularly elected municipal assemblies and popularly elected *suco* councils.

Political risks and opportunities

Successful local government reform would provide for the first time in Timor-Leste opportunities for local democratic engagement in governance and empower local communities. It would bring government closer to the people and provide local communities with a voice. It would improve the delivery of real public services meeting real local needs. It would involve a redefinition of the interaction between local communities, municipal elected representatives and central government underpinning the legitimacy of the state and encouraging the emergence of a civil society supported by and identified with the state and its government.

A badly designed and managed program of local government reform will perpetuate a centralised, top-down system of governance that will remain unresponsive to the local community. The gap will remain, despite elected municipal assemblies and mayors, between the state administration and the people in the *sucos* and *aldeias* .

There are already major political issues associated with the current legislative model. The 2009 draft law would install a proportional voting system for the municipal assemblies, requiring that candidates for elections must appear on political party lists.¹³ The decision was that party lists would be closed, denying voters the right to elect preferred individual candidates. Closed party lists will entangle municipal assemblies in national party politics and introduce national political rivalries into municipal politics. The decision to require closed party lists for municipal elections sits oddly with the law that bans party affiliations for candidates in *suco* elections.

Closed party lists for assembly members could encourage a new layer of unresponsive political elites and new forms of patronage and family politics. Inclusion on the list and ranking on the list are themselves forms of political patronage. At the same time, the paradox could be that the threat of ‘money politics’ would increase in so far as municipal politicians had the discretion to manage and disburse municipal funds.

The political range of the new mayors will grow in practice, particularly in the biggest municipalities such as Dili and Baucau. The mayor of Dili could emerge as a major political figure in national as well as municipal politics. The worst case scenario would be the development of Philippine-style local political dynasties, what has been described as ‘an anarchy of families’.¹⁴ The Indonesian experience of decentralisation from 2001 was that there were cases where local elites jockeyed for office in order to use local resources for their own enrichment and to expand their powers of political patronage.¹⁵

In Timor-Leste, there will be controls in place for central government to monitor and prevent this. The question is, will these controls work? New local patronage networks would probably extend upwards to national patrons in Dili. The requirement for assembly members to belong to national political parties would seem to encourage this. As the Indonesian experience demonstrated after 2001, decentralisation can include the decentralisation of *KKN* (*Korupsi, Kolusi dan Nepotisme*, Corruption, Collusion and Nepotism).¹⁶

Effective decentralisation will require a change in the prevalent political culture. Devolution of decision-making (rather than simple delegation of service delivery) is probably out of line with what is instinctively a centralist political culture among political leaders in Dili. The

reform model as it developed between March 2008 and February 2009 has become more centralist.

This raises larger questions concerning the extent of devolution intended in the reform program. It is not clear what arrangements will be set in place to determine which level of government will have responsibilities for which tasks. There are issues of 'functional assignment', how central line ministries, particularly the Ministry of State Administration and Regional Management and the Ministry of Finance will transfer line ministry functions to the assemblies and mayors. Individual ministries in Dili may be reluctant to surrender to municipal assemblies merely service delivery, let alone policy decision-making. Coordination between line ministries on the model of decentralisation will present more difficulties, although MSATM has the capacity to lead on this. In the Indonesian experience, a rivalry developed between the Ministry of the Interior and the Ministry of Finance over the degree of devolution of power (the Ministry of the Interior won this contest). Ministerial rivalries could also emerge in Timor-Leste as the municipalities are established. Critics of the proposed model of decentralisation, including some prominent members of parties in the AMP coalition government, question the commitment of the leadership to genuine decentralisation.¹⁷

An uncertain future for reform

The legislation on municipalities remains before Committee A of the National Parliament. Fernanda Borges MP, Chair of Committee A, has warned that the National Parliament will take its time to consider 'difficult questions' concerning the proposed legislation. The model determined by 'an elite in the Council of Ministers', she has said, requires much more analysis of alternative models of reform as well as extensive public consultation. Committee A advised the parliament of its serious concerns about setting up thirteen municipal assemblies and failed to see how this would benefit the people.¹⁸

To go ahead, the local government reform program requires the law on Municipal Elections to be approved by parliament as well as other legislation on the functions and competencies of local authorities, local financial regulations, and a law on candidacy for assembly members and mayors. Some of this legislation is in draft form, some has not yet been drafted.¹⁹ This is one of the reasons why the first four planned municipal elections for 2009, postponed for

2010, did not go ahead. Another is the view that the human and physical resources for operating municipalities are not ready (although this is disputed). President Ramos-Horta recommended in April 2010 that municipal elections should be postponed until 2013. Prime Minister Gusmão supported a postponement – to 2014. This will be well after the planned 2012 general election and will be the responsibility of the new government that is formed after that election. Given the concerns of parliament and uncertainty regarding the political will of a future government to follow through with real, democratic local government reform, the opportunity to redesign the relationship between the state and its people may be lost.

Conclusion

The local government reform program provides a critical opportunity to engage the people of Timor-Leste in democratic governance in a way that has been denied them in a centralised and fragile state system. To a significant degree, the great majority of citizens do not inhabit the political domain of the nation-state. The evidence is that many are alienated from the state, question its legitimacy, and seek identity in local domains.

The local government reform program provides a critical opportunity to correct this. The changes to the proposed legislative model of reform between March 2008 and February 2009 suggest that the model of decentralisation is less than democratic and involves the entanglement of municipal politics in national party politics. There are doubts concerning the commitment of the current leadership to any real devolution of powers to the proposed municipal assemblies.

The new system is one that will be phased in through a process of ‘customized decentralization’ and it is not yet clear what the final model will be. But the weakening of the proposed 2008 model in the introduced legislation, and the injection of national party politics into the municipal election process, is discouraging. Centrist tendencies remain strong in the government and the ministries. Mismanaged, the new municipalities pose the risk of imposing simply another layer of potentially inert bureaucracy and patronage politics on local communities, creating new, regional elites of potentially corrupt municipal politicians.

¹ A recent study by Higashi confirms that there is no democratic consensus yet established in Timor-Leste. The study found a partisan divide with regard to the legitimacy of the current AMP government. Large majorities in western districts where the AMP's supporters are concentrated accept the government as legitimate; while large majorities in eastern districts, where Fretilin is supported, deny the legitimacy of the government. Daisaku Higashi, *The Challenge of Constructing Legitimacy in Peacebuilding: Case of Timor-Leste*, Centre of International Relations Working Paper no.48, March 2009.

² World Bank and Directorate of National Statistics, *Timor-Leste: Poverty in a Young Nation*, Dili, November, 2008, p.3. That most East Timorese have experienced declining living standards since independence makes the spreading issue of corruption a source of serious public disaffection.

³ Customary law and local adjudication of disputes continue to operate and while this provides a social support, the localization of identity has its costs. The communal violence of 2006-2007 revealed that social identity is still determined less by membership of the national community than by older, local loyalties.

⁴ Leach, Michael. 2009. 'Surveying East Timorese Tertiary Students' Attitudes to National Identity: 2002-2010'. Paper presented at Oceanic Conference on International Studies. University of Auckland. 30 June.

⁵ This notion of a centre and periphery within the East Timorese state is employed by David Hicks, who describes the 'hegemonic nature' of the central state, detached from the great majority of East Timorese located in the 'periphery'. David Hicks, 'Centre and Periphery in Contemporary Timor-Leste', paper delivered at the Nation-Building across Urban and Rural Timor-Leste, Gender, Peace, Security, Development and Governance, Dili, 8-10 July, 2009.

⁶ Joel S. Migdal, *State in Society: Studying How States and Societies Transform and Constitute One Another*, Cambridge, Cambridge University Press, 2001, p. 5.

⁷ In the 1990s, decentralisation was promoted by major international development agencies such as the World Bank and became a major global trend. Mark Turner and Owen Podger, eds. 2003. *Decentralisation in Indonesia, redesigning the state*. Canberra: Asia Pacific Press at the Australian National University, pp.2-3.

⁸ Ministry of State Administration, RDTL. 2003. *Local Government Options Study, Final Report*. Dili: June, pp. xxii, xxiii. The report was prepared for an Inter-Ministerial Technical Working Group with advice from Irish Aid and UNDP.

⁹ Ministry of State Administration and Territorial Management, RDTL. 2008. *Decentralisation and Local Government in Timor-Leste, Policy Orientation Guidelines for Decentralisation and Local Government in Timor-Leste*. Dili, March.

¹⁰ Ministry of State Administration and Regional Management. RDTL. 2008. *Decentralisation and Local Government in Timor-Leste, 2*.

¹¹ RDTL. 2008. *Law Proposal no. /08, Law on Local Government*. Dili. August. Article 6.

¹² Ministry of State Administration and Regional Management, RDTL. 2009. *Support to Institutional Assessment and Functional Review of MSATM*. Draft Consultant's Report. Dili, April-May.

¹³ Council of Ministers. 2009. Lei Eleitoral Municipal (Municipal Election Law). Draft. 18 February. Articles 11, 12, 13. Part lists must include one woman for each set of three candidates.

¹⁴ See Robert Fox quoted in Al McCoy, ed. 1994. *An Anarchy of Families, State and Family in the Philippines*. Quezon City: Ateneo de Manila Press, 8. See also Jose F Lacaba, ed. 1995. *Boss, 5 Case Studies of Local Politics in the Philippines*. Manila: Philippines Center for Investigative Journalism, Institute of Popular Democracy.

¹⁵ Bambang Brodjonegoro. 2004. 'Three years of fiscal decentralization in Indonesia: its impact on regional economic development and fiscal sustainability'. Jakarta. Department of Economics, University of Indonesia. [http://www.econ.hit-u.ac.jp/~kokyo/APPPsympo04/Indonesia\(Bambang\).pdf](http://www.econ.hit-u.ac.jp/~kokyo/APPPsympo04/Indonesia(Bambang).pdf)

¹⁶ Bert Hofman, Kai Kaiser and Günter G Schulze. 2009. 'Corruption and Decentralization', in J Coen, G Holtzappel and Martin Ramstedt, ed. *Decentralization and Regional Autonomy, Implementation and Challenges*. Singapore: Institute of Southeast Asian Studies and International Institute for Asian Studies, The Netherlands, 104.

¹⁷ Interview with Constantino dotal Ramos, Secretary-General of the Partido Social Democrata (PSD), 25 August 2010. Ramos believed that if the decentralisation program had been introduced before the 2012 elections it would have cost the coalition success.

¹⁸ Fernanda Borges. 2010. 'Parliamentary Oversight of Local Government Reform in Timor-Leste'. *Locating Democracy: Representation, Elections and Governance*. Symposium, Charles Darwin University and The National University of Timor-Leste. Dili, 26-27 August.

¹⁹ Valentim Ximenes. 2010. 'Policy formulation on local government reform in Timor-Leste'. *Locating Democracy: Representation, Elections and Governance*. Symposium, Charles Darwin University and The National University of Timor-Leste. Dili, 26-27 August.