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Timor-Leste:
The Adventurous Tribulations of Local
Governance after Independence

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Abstract: Xanana Gusmão recently mentioned that a "Second Maubere Miracle" is underway, implying that a major political reform will soon shake the roots of Timor-Leste's public administration. Decentralization, defined in a very broad sense, has been a constitutional mandate since independence, but successive governments have failed to engage this reform despite paying lip service to its necessity. This essay reviews the options before the policy makers – both in theoretical terms (distinguishing between the various definitions of decentralization) and in the pragmatic forms that have been contemplated so far – and discusses their implications for the process of rooting a modern democracy in the country both at the intermediate, district level and at the grassroots, *suku* (village) level. For this purpose, the essay brings together the author's own field research and the rich literature that has emerged in the recent past, including contributions by Timorese colleagues.

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A "Second Maubere Miracle"?

Xanana Gusmão recently mentioned that a "Second Maubere Miracle" is underway, and that a major effort in the design of a new territorial administration is about to produce palpable results (Pereira 2014). All Timorese governments since independence was proclaimed have committed themselves to the decentralization reform, even if the political options regarding the best model have gone through an evolution (Shoesmith 2010b: 2). In fact, this reform was already contemplated in the National Development Plan adopted by the United Nations Transitional Administration in East Timor (UNTAET) and offered to the First Constitutional Government (Ximenes 2010: 9), as it was widely acknowledged that a contrast existed between the UNTAET legacy and the constitutional mandate for a comprehensive decentralization reform. This plan contemplated the study and subsequent introduction of "an optimal subnational configuration" and the delineation of the levels of the administrative hierarchy down to the community level that would "facilitate cost-effective and efficient service delivery and enhance community initiative and participation", as well as the "options for effective decentralization that clearly define the role of central, regional, local and community, and civil society organizations and entities" with a view to empowering communities and strengthening transparency and grassroots democracy (Project Document 2003: 2). However, in spite of early proclamations, the process of actually establishing subnational governance in Timor-Leste has dragged on since independence and remains an unfulfilled political ambition. This essay discusses the history of the political debate on decentralization in the last decade as a way to understand the challenges faced by Xanana Gusmão's Fifth Constitutional Government in the field of grassroots democracy.

The Main Options

When we read the word "decentralization", we must recall that this very broad term is used to designate a variety of solutions which have in common the awarding of increased weight to political and administrative units located away from central government and closer to the citizens, but which also differ significantly from one another. In general political terms, there are three main varieties of decentralization: deconcentration, delegation and devolution (Rondinelli 1986). For the sake of argument, I use the definitions provided by Litvak, Ahmad, and Bird (1998: 4–6). "Deconcentration" occurs when the central government disperses re-

sponsibilities for certain services to its regional branches in a way that does not involve any transfer of authority to those lower levels. "Delegation" refers to a situation in which the central authority transfers responsibilities for decision-making and administration of public functions to local governments or semi-autonomous organizations that are not wholly controlled by that instance, but remain ultimately accountable to it. Finally, "devolution" refers to a situation in which the central government transfers authority to lower-level units that normally dispose of clear geographical boundaries over which they exercise authority and within which they perform public functions, and whose members are accountable to its citizens. A continuum can be discerned running from a pole of low autonomy to one of high autonomy as one moves from "deconcentration" to "devolution".

The critical element is the conception of accountability – the "cornerstone of public governance and management" because it constitutes the principle whereby those who hold and exercise public authority are scrutinized and held responsible before their fellow citizens (Kingsbury 2010: 36). Both "deconcentration" and "delegation" operate under the assumption that the ultimate bond of accountability of those entrusted with the process of decision-making runs upward to the centre that has given away its own limited authority. "Devolution", on the other hand, is firmly bound to a downward form of accountability: The authority received from the centre will be primarily evaluated by the group of citizens that constitute the community entrusted with those powers.

In terms of the application of these principles to the Timorese reality, Mari Alkatiri's government initiated the reform process with the creation of an inter-ministerial technical working group in 2003 (Kuehn 2011: 1). This working group produced a report on the Local Governance Options Study (LGOS) in June 2003. The study analysed a number of possible solutions for the design of this reform from a technical standpoint, presenting for each of them the positive and negative aspects that could be anticipated. More than a decade after its publication, the LGOS remains the focal point of the debate on decentralization.

The first contribution of this document was the clear identification of the objectives of the reform. They were summarized in three major goals – namely, to promote 1) the institutions of a strong, legitimate and stable state across the territory; 2) opportunities for local democratic participation by citizens; and 3) more effective, efficient and equitable public service delivery for the social and economic development in the country (LGOS: 111–123; POG: 4). By appealing to a comprehensive effort to make democracy both more representative (through the en-

largement of the scope of institutions that are guided by democratic principles of popular accountability) and more participative (accruing the opportunities offered to citizens to engage actively in the issues of the *res publica*), the stated goals of this reform are clearly framed by a democratizing agenda.

This technical study also identified six possible models for the reform. The first one consisted in introducing no change and leaving the existing structure as it was. This option was clearly at odds with the constitutional mandate, but it could be chosen should the government believe the level of available resources to be too scarce to implement a veritable reform of the administration in the short term (LGOS: 86). The second option consisted of creating four or five "provinces", removing the existing 13 districts and turning the sub-districts into the main units under each province. *Sukus* would maintain their contacts with the sub-districts as the lowest level of state administration (LGOS: 86–88). The third one would imply removing the districts and turning the sub-districts into "municipalities", which could be categorized according to their differentiated capacities. The sub-district would therefore become the critical unit for the state administration and a devolved local government body, responsible for managing its own budget and staff and providing the basic services under its control. Option four combined the previous two, and would institute the sub-districts as municipalities, but under a superior tier of "provinces" or "regions", whose distinction bears on the existence (or lack thereof) of political functions at this level, which could be conceived merely as a technical deconcentrated unit of the central administration. The fifth model would promote the district as the main level of service delivery, maintaining the sub-districts under their jurisdiction. It was subdivided into two distinct options: one would enhance the existing structure, which would be complemented by a consultation mechanism (and therefore resemble a deconcentrated unit); the other would conceive of the district as a municipality – that is, a devolved local government. The sixth and final model contemplated would promote the *suku* to the main instance for the organization of basic service delivery, and would create a superior tier – whether a province, district or sub-district – to play a supportive role with special intervention authority in the management of financial funds. *Sukus* would be a local government body subject to regulation but not under hierarchical control, with policy-making powers and law-making powers in a defined sphere of community affairs and a series of mandated functions in service provision.

The only administrative unit common to all six models is the *suku*. In options two to five, the *suku* is maintained as a primary territorial unit. However, in these cases, "it is itself not a part of the state or a unit of subnational government", but merely "the main interface or link between citizens and government at sub-district or higher levels" (LGOS: 103). Only option 6 would recognize the *suku* as an integral part of the state administration. This distinction is critical and produces significant consequences, as no other option considers the *sukus* in this way.

There is an implicit contrast between the "perennial *suku*" – regarded as "the only institution that has remained more or less intact during the history of the territory", whose persistence is established far beyond the reach of the new legislator, who is invited to find a suitable position in the political system for this customary body that evidences respect for its outstanding status – and all the other units of public administration, which are deemed to be so historically thin and devoid of strong articulation with the popular forms of legitimacy as to be expendable. This is the reason that the study considers it possible – and not too difficult – to abolish, amalgamate, replace or create administrative units between the central government and village-level authorities. In none of the options put forward by the study group is mention made of the embeddedness of these administrative units in the popular culture of Timor-Leste or of their effective historical significance. I argue that this constitutes a flawed approach to the problem of political organization in this country.

Since 2003, "decentralization" has been mostly equated with the creation of the middle level of governance, assuming that *suku*-level authority would remain outside the formal state machinery. In the following sections, I consider in turn the efforts to set up "municipal" authorities, followed by a more detailed analysis of the political process surrounding the persistence of *sukus* in the political landscape.

Municipalities in Neverland

The First Constitutional Government (2002–2006) has set the process in motion, as stated above. Valentim Ximenes (2010) provided a detailed description of the way the process unfolded, which constitutes the basis for the present paragraphs.

In 2006, the Council of Ministers decided to select the option that combined the transformation of sub-districts (which were to be aggregated and reduced from 65 to between 30 and 35) into municipalities under newly created administrative regions (whose number was not fixed). This system combines the recognition of a special status of sub-

districts as territorial units possessing entanglements with grassroots forms of political legitimacy with the will to redraw the map according to rational-bureaucratic set of criteria. In fact, the choice of this model would entail a substantial reorganization of the territorial division, with significant implications for the chances of success of this social-engineering exercise. Above the new municipalities would be the regions, these not being decentralized local government units but rather "a mechanism that coordinates municipalities to perform their functions and responsibilities in accordance with national policy guidelines". This solution was deemed to "allow for better public service delivery, enhance opportunities for the government to get closer to the people, and enhance the people's participation in the local-development process (Ximenes 2010: 11).

With the severe crisis of 2006, which led to the resignation of Prime Minister Mari Alkatiri and the constitution of a new government, the reform was put on hold both by the Second (Ramos-Horta) and Third (Estanislau Aleixo da Silva) Governments. The Fourth Constitutional Government presided over by Xanana Gusmão (2007–2012) and based on a new coalition reversed the option adopted by Alkatiri. Without changing any substantial objective as summarized in the LGOS, the new Decentralization Strategic Framework (DSF) and above all the Policy Orientation Guidelines for Decentralization and Local Government in Timor-Leste (POG), both of March 2008, maintain that "given the present situation of low level of human resources and experience at the local level, the District option is preferred for the short and medium term" (POG: 2). This is an option for a "single tier of municipal government", and the intention was to offer conditions for the municipalities to operate "in accordance with robust downward, horizontal and upward accountability" (POG: 1 and 3). The issue of human and financial resources and the need to design a model that could prove its viability in difficult circumstances was also contemplated (DSF: 3).

This proposal assumed that the current boundaries of the districts were to be kept as a point of departure for the new administrative units. However, limited changes could occur in order to ensure "ethnolinguistic homogeneity and local cultural identity", a balance between development potential and resources, the existence of a sizeable administrative centre with reasonable access from all points of the area, and a minimum level of population (POG: 3).

Each new municipality would be composed of two branches: a representative municipal assembly and an executive branch. The assembly consists of directly and indirectly elected deputies. In the case of the

indirectly chosen deputies, a rather ambiguous formula was adopted: "representation from the Suco Councils shall be taken in consideration" (POG: 3). These assemblies are conceived of as the legislative organ of the new territorial organ of power, and they are supposed to elect a mayor, who need not be municipal deputy, as well as their own speaker among its members. The executive branch is composed of the municipal administration, headed by a civil servant accountable to the mayor, comprising a staff responsible for the management of essential and basic municipal functions, and the "sector departments" originating in the present-day peripheral administration (POG: 3–5).

These documents conveyed an ambiguous position on the implementation of the novel policy. The Policy Orientation Guidelines reads:

> It is intended that the Administrative and Territorial reform will be introduced in all Districts at once, while the Local Government reform process (functions and financing) will be introduced on a phased implementation schedule (POG: 2).

The door was left open for future developments regarding the creation of "pilot experiments".

In March 2009 the Council of Ministers approved four draft laws on decentralization along the newly defined options. In the view of local observers,

> the draft laws called for a strong central government with nominal powers for the local government and gave the central government control over everything the local government does, including the legislative assembly. And the central government proposes to retain the power to review all the legislative assembly's decisions. Perhaps worse, the draft laws have no provision for Suco representation in the local government (Ragragio and Everett 2009).

However, the bills approved by the government needed parliamentary confirmation. In the assembly, these proposals generated a heated debate, and consensus could not be reached. In the words of Fernanda Borges, chairperson of Parliamentary Committee A,

> the process has stalled as Parliament tries to grapple with the very difficult questions relating to the old institutionalism established over the last ten years and with the new institutions and rules we are required to establish for local governance to be successful (Borges 2010: vi).

Eventually, some bills were passed in the National Parliament, but then the President of the Republic used his veto powers and sent them back to the legislature (Amaral 2013).

The main tenets of the Fourth Constitutional Government's approach to decentralization reform have been critically reviewed, and this option is considered to present significant challenges to bureaucratic effectiveness as well as engagement of authorities and residents due to the distances between places of residence of the majority and the seat of the new units. Further criticism relates to the underlying notion of "big government" and an ambiguous structure in terms of democratic accountability (Ximenes 2010: 16–18).

The model adopted by the Fourth Government seems to have chosen the territorial unit that is least sedimented in the history and culture of the Timorese people, to have designed the broad outline of its powers and functions in a conservative way that limits the autonomy of the newer organs, and to have established the faintest of links between them and the most persistent levels of autochthonous political organization. As Pamela Dale and David Butterworth have noted, "if the municipal assemblies and local-level development planners are not anchored by strong downward accountability requirements, it is possible for community voices to go unheard" (2010: 16). The reform proposed by the Fourth Constitutional Government was subsequently reaffirmed by the Fifth (whose mandate runs until 2017), and it conforms to the "reinvention" of institutions in the categorization proposed by Chopra and Hohe (2004: 19–23) for the articulation of "modern" and "traditional" power structures. Of all categorizations, this one calls for the most blatant divorce between the results of a social-engineering process and the socially dominant models of political legitimacy deemed incompatible with the new state functions.

In early 2014 the Fifth Government adopted Decree Law 4/2014 on the institutionalization of decentralized organs of local administration. In parallel to the new bodies to be created in the future, it placed a significant emphasis on the "valorization of the role of the peripheral services of the State" – that is, on a model termed "pre-deconcentration", perhaps as a way to signify the limited scope of the transfers of power attached to this vision. In this light, the official proposal reveals profound similarities with the model adopted by UNTAET before independence, placing a great emphasis on the selection of intellectually capable people that often lack legitimacy in the eyes of their countrymen, as "the 'modern' concept of a purely technical appointment in the administration is new to people" (Hohe 2004b: 314). Grafting elections to

choose the leaders of a heavily techno-bureaucratic apparatus at the district level without considering the need for them to possess strong articulations with lower-level forms of authority presents obvious risks for the construction of solid institutions. As Anne Brown has noted, "election is not in itself a pathway to authority […] and being elected into office does not in itself always ensure authority" (2013: 28). Authority must be sought in more complex ways of rendering different conceptions of legitimacy compatible with one another.

At first, elections for the new municipal organs were anticipated to take place in 2009. The schedule pointed to the ballots taking place in mid- then late 2009, subsequently moved to early 2010, and finally to mid-2010. In April 2010 a bold decision was taken: to postpone the whole process to 2013 or 2014, after the legislative elections of 2012 (Kuehn 2011: 3). We now know that the first municipal elections on an anticipated pilot project scheme involving only a few political units are scheduled to take place at some point before the next general elections in 2017, but full implementation of the reform will certainly take more time – and maybe include some new twists.

Politics in the Village

When Mari Alkatiri became prime minister, the situation in Timor-Leste's most enduring and resilient territorial unit, the *sukus* (of which there are more than 400 countrywide, their average sizes ranging between 2,000 to 3,000 inhabitants) (Maia et al. 2012: 9), was extremely confusing. There were some local leaders claiming legitimacy to hold their position given that they had been selected with the participation of their countrymen during Indonesian occupation. UNTAET had agreed to the "democratic" selection of local councils to help with the implementation of a major investment plan under the coordination of the World Bank, the "Community Empowerment and Local Governance Project" (CEP), hoping that those new units would represent embryo starting point for future developments. Before that and immediately after the proclamation of the results of the Popular Consultation in September 1999, the National Council of the Timorese Resistance (Conselho Nacional da Resistencia Timorense, CNRT) had established a countrywide network of local representatives who were selected according to a number of criteria that included their participation in the Resistance and, critically, the endorsement of their communities. In the early stages of the transitional period, an internal agreement within the CNRT established that the parties that composed this umbrella organization would

abstain from exerting direct influence and develop organizational plat-
forms below the district level. However, as of October 2000, FRETILIN
started local-level elections for party representatives from the village up
to the national level, creating a structure that paralleled the one the
CNRT had just established, and competing with it (Hohe 2004b: 307–
308). When the CNRT convened the Second Congress in June 2001 and
Xanana announced the organization would be disbanded to allow politi-
cal parties to compete in the upcoming Constituent Assembly elections,
many of those who represented the CNRT at the grassroots level and
had the confidence of their communities, were left confused as to their
role.

It comes as no surprise that FRETILIN's government would try to
capitalize on its organizational superiority in order to tighten its own grip
on power. The clear majority that this party enjoyed in the National
Parliament was complemented by a new round of elections that
"[brought] the party apparatus to the village level" (Engel 2007: 9). In
February 2004, the government approved Law 2/2004 on the election of
xefe suku (community leader) and *konsellu suku* (community council),
assuming that

> the purpose of local structures is to organize the citizen's demo-
> cratic participation in solving specific problems of his or her
> community, thereby contributing in a decisive manner to the sus-
> tainable and smooth development of the country.

Two important principles sustain this law. First: Local elections held by
secret, free, equal and direct ballot of community members will ensure
that community leaders are granted the required legitimacy in accordance
with the provisions of the Constitution.

Second: Taking into consideration the importance of participation
by women, young people and senior citizens in a society that should be
fully participatory, this law establishes *suco* councils that will have seats
not only for *suco* chiefs and village chiefs, but also for personalities from
specific groups in representation of *sucos* as a whole (Preamble).

In view of the second principle, the council was composed of the
xefe suku, all of the *xefes aldeia* (village chiefs), two women representing
their gender, two youths (one male, one female), and a local elder from
the village *lia nains* (literally, "lords of the word") (Section 3.1). Separate
elections were to be carried out for each function (Section 19).

The most curious feature of this law is that it defines who the *xefe
suku* is and who sits on his (or her) council, all elected by the widest
franchise – but it contains no specifics as to the attributes and functions
of these elected officials. Only the preamble seems to offer a clue, as it

states that "the election of *suco* chiefs and *suco* councils is of paramount importance to legitimize community authority and develop the basic structures of such authority". The conclusion must be drawn that *suku* leaders received no mandate to perform tasks outside their customary duties, nor did they receive any transfer of resources or authority to collect tributes. In other words: *Suku* authorities were chosen through a new mechanism imposed by the government, but no state function was allocated these authorities.

An overall view on the effects of this piece of legislation might consider that the law

> gave minimal guidance on the conduct of *suku* activities following election. As a result, *konsellu suku* members have largely been left to govern according to their own views of rights, obligations, law and order, which in turn raised issues of political consent and the maintenance of legitimacy in the community (Magno and Coa 2012: 172; italics as in original).

Deborah Cummins summarized this process in the following words:

> The *konsellu suku* was created through these laws to recognize the important authority structures that already existed within local communities; as such, the intention in creating *konsellu suku* was not to establish a new layer of governance but rather to legitimize and to some extent to co-opt existing local authority structures (Cummins 2010: 902; italics as in original).

Viewed in another dimension, the first legislation of *suku* authorities allowed for the important transformation of the nature of the relation between leaders and their constituencies from a model of authority *over* the community to a representative role *on behalf of* their fellow citizens (Pereira and Koten 2012: 223). However, no revolution ensued, as the opportunity was taken up by villagers to re-establish customary governance practices that had been prohibited during the occupation times, and in this sense "both electoral choice and the resurgence of custom [were] enabled" simultaneously (Brown 2012a: 63).

The Fourth Constitutional Government revised this legislation and introduced significant changes through Law 3/2009 in time for the next round of elections for six-year terms, which were held on 9 October 2009 (Section 9.1). Some key features of the previous legislation were maintained, such as the composition of the *konsellu suku*. However, the method of election was altered. First, political parties were prevented from presenting candidates (Section 21.3.) – even if their members are free to stand on their own merits. Second, a new *pakote* (package) system

was introduced, whereby candidates for office are not elected directly or individually, but are supposed to integrate an electoral ticket with candidates for all the available posts grouped together. For some observers, this new method had important consequences. For one, it reduced the array of choices for the electors, who are compelled to choose a solid bloc; it may have also diminished the level of individual accountability of the *xefe suku* since that was dissolved in the responsibility of the *konsellu*. In addition, instances of nepotism in the constitution of the tickets are said to have surfaced – a phenomenon that may also be regarded as the curtain behind which political parties sought to circumvent the prohibition to present formal candidatures. But this system also aims to avoid problems of non-cooperation and internal dissention that marred the performance of previous *konsellu suku* to a certain extent (Brown 2013: 31–32).

The main thrust of this law consists of a precision of the terms under which the "community leaders" exert their mandate. Section 10 defines the broad areas in which the *xefe suku* and the council are supposed to operate, and which mostly pertain to the realm of customary governance. The *xefe suku* has special responsibilities (Section 11) to guarantee the peaceful development of his or her constituency, and to play a role in the articulation of the *suku* with higher levels of the administration. For instance, he is mandated to "cooperate with the Municipal Administration and the Government representatives on the procedures to be adopted in carrying out the Suco's activities" (11.2.b.) and to "request the intervention of the security forces in the event of disputes which cannot be settled at local level, and whenever crimes are committed or disturbances occur" (9.2.f.).

Another area in which significant alterations were introduced refers to the resources made available to the *sukus*, a point that was altogether missing in earlier legislation. As of now,

> the Government or the Municipality shall provide the *Sucos* with material and financial resources with a view to ensuring their proper functioning and development. The amount granted to the *Sucos* shall be proposed by the Ministry of State Administration and Territorial Planning or the Municipal Assembly, taking into consideration the proposal submitted by the *Suco* Council (Sections 16.1. and 2.).

Still a long way from granting the *sukus* capacity to raise their own revenues or from establishing clear and transparent rules for the transfers of resources mentioned in the law, this section indicates willingness to ac-

commodate the view that these units ought to have the capacity to manage some modest funds.

If the areas of intervention and the functions of the office holders are spelled out in this new piece of legislation, a critical element of the previous law remains in force: "The community leaders are not included in the Public Administration and their decisions are not binding upon the State" (Section 2.3.).

The Constitutional Court was called by President Ramos-Horta to analyse the proposed bill before he agreed to sign it. The members of the court were divided on whether the bill actually complied with the fundamental law or was in breach of some of its provisions – and the majority considered it to be compatible with the Constitution of the Democratic Republic of Timor-Leste (CRDTL). The main argument advanced by the court judges considers that *sukus* are "traditional organizational structures, which the ordinary law decided to recognize and integrate in its ordinance, but which cannot be understood as organs of local power" in the sense prescribed by the CRDTL (Relatório 2/Const/2009/TR: 9).

This interpretation implies that the recognition of the political structures at the *suku* level does not constitute an act of devolution but, at best, a form of delegation: the community leadership may discharge some functions and use some resources that are closely monitored and controlled by higher levels of the public administration. Apart from that, two other avenues are open to the *xefe suku*: first, to lobby authorities in the sub-district, the district or even the national capital in order to secure responses to the needs of his or her constituents (that will be eventually delivered without granting him or her autonomy for decision-making) and, second, to discharge functions that are important to the community but do not pertain to the realm of state functions. In this sense, the process of incorporating the community leadership into the legal ordinance should not be equated with state-building: *suku* bodies remain institutions of the civil society.

The alterations in the legal framework did not produce dramatic changes in the 2009 elections nor during the subsequent term in office of the elected *suku* authorities. In the Lautém District, where I conducted specific research, most of the *xefes suku* were re-elected in 2009 even though they had to present themselves without party support. Only a few incumbents lost their bid for a new term. In some cases, candidates were competing for posts whose previous office-holder had relinquished.

The body of academic research on the relationship between the modern process of selection of community leaders and the customary forms of legitimate power is considerable, and it includes relevant partic-

ipation of Timorese colleagues. Most of this research covers the period of the first term (May 2004 to 2009), but those findings seem to hold in the cases where observations could be made in the period between the 2009 elections and the end of 2013.

Deborah Cummins and Michael Leach have suggested that three main courses of action could have been taken in Timorese *sukus* after the introduction of formal elections in 2004/2005, labelling two of them as forms of "co-incumbency" and the third one a model of "authorization". The first one is a strict co-inheritance model in which the traditional *liurai* (literally, the lord of the land) – that is, the holder of customary legitimacy to exert power – is required by his community to stand for election and succeed in this venture. This quite rare model represents the confirmation by "democratic" means of the arrangements in force in the village prior to the start of the process. The second one is designated by the expression "traditional house candidate". In this case, which is rather frequent, the *liurai*'s house (or extended family) provides one of its members to contest the election for *xefe suku*, keeping the position in the "right" hands. Opportunities are created for a wider choice, eventually having more than one member of the house in competition, as the legal rules allow for other candidates to come forth This model is open to incorporating an element of meritocracy and to balancing traditional requirements with those of a more complex situation in which the community has to deal with external forces. The third one has been called "authorization" and occurs when an individual who does not possess traditional authority or belong to the "right" family tree manages to win the election and secure symbolic support from the old *liurai* and other prominent members of the community. This may happen either before the election or soon after it in special ceremonies performed according to ancient rituals that serve to reinforce the ritual superiority of traditional leaders over those who happen to be vested with political and administrative tasks. In these cases, it is possible that the elected *xefe suku* will not be able to perform the whole range of duties pertaining to the realm of the *lisan* (customary code) that others with different backgrounds would easily discharge (Cummins and Leach 2012).

Of course, there are cases that fall outside of this framework, and where individuals manage to secure the majority of the votes of their fellow countrymen without visible links to the customary authorities. These cases are often associated with extreme difficulties felt by *xefes suku* to carry out their work as community leaders, and episodes of conflict over recognition of authority are known to occur (Cummins 2012: 113; Pereira and Koten 2012: 226).

In brief, the rich array of possibilities enumerated above signify that "people are negotiating the two systems in ways intended to confer legitimacy through both worldviews" (Cummins and Leach 2012). The result of the negotiation depends on agency and the interplay of several variables.

On the one hand, *sukus* reveal a degree of variation ("open" vs. "closed", urban vs. rural, etc.) and the strength of the combining elements may fluctuate. For this reason, Mateus Tilman suggested that the position of the *liurai* in different *sukus* could be summarized in four categories: First, the *liurai* and his *uma lisan* (traditional origin house) remain strong. Second, the *liurai* no longer has any real personal power, but his *uma lisan* continues to command respect. Third, in new *sukus* formed in the last quarter century, mostly under Indonesian determination, no *liurai* or ruling house is present. Fourth, for a variety of reasons, including processes of urbanization or the behaviour of the *liurai* in relation to the Indonesian occupiers, the influence of the traditional leader and his *uma lisan* has died out (Tilman 2012: 199–204). For this Timorese observer,

> the varying results across different *suku* clearly demonstrate the diversity of approaches that communities are taking in negotiating the continuing importance of *lisan*, *uma lisan* and the *liurai*, while also adapting to the requirements of liberal democracy (Tilman 2012: 204; italics as in original).

On the other hand, elections offer important opportunities to reshape community leadership and to incorporate differentiated incentives and motivations, creating a political culture responsive to the dynamics of historical developments (Brown 2012b: 62). In this light, it is important to scrutinize what scholars have defined as factors intervening in the choice of *xefe suku* apart from the articulation of candidates with customary authorities. First and foremost, a criterion for choice seems to have been the fact that the person in question had a position of leadership before the election. In fact, a significant number of those who were elected *xefe suku* in 2004 and 2005 had already held similar position prior to the polls, some of them having been appointed to the job under Indonesian administration. In addition, Timorese seem to pay tribute to those who held positions of responsibility in the resistance struggle.

> Not only have such people demonstrated leadership skills under very testing conditions and thus were seen as being committed to the community, but they also related symbolically to people's suffering throughout the period of occupation (Gusmão 2012: 184).

Similarly, a close association with a resistance party, and in particular with FRETILIN – mainly where there was no open party competition – could be a positive factor operating in the village arena (Brown 2013: 31). This factor should be taken with a grain of salt, as

> customary leaders who stood for election in 2005 and associated with a particular party in communities with a range of different party loyalties were sometimes discredited through association with the interests of one section of the community rather than with the village as a whole (Brown 2013: 31; Gusmão 2012: 183).

The above evinces a sentiment that is coherent with the paradoxical espousal of democratic principles and deep-seated distrust for party competition. However, this form of behaviour might be interpreted as a way of increasing the chances of obtaining resources that were under the control of external powers, to which the party might constitute an important key (Cummins and Leach 2012).

This combination of different attributes is testimony to the complex nature of community life that cannot be reduced to an oversimplified vision of endogenous tradition versus exogenous modernity. As José da Costa Magno and António Coa have argued,

> the respect shown to the *uma lisan* of the *liurai*, together with the clear statement that the monarchical power of the *liurai* must end, demonstrates the complexity of people's connections to their culture and their past (Magno and Coa 2012: 168; italics as in original).

In spite of the resilience of customary forms of political legitimacy, the introduction of an electoral system for the popular choice of *xefe suku* and other local civilian authorities has touched upon previously established forms of equilibrium, and in particular on the role of *liurais*, formerly considered sacred and unchangeable.

> Concurrent with limiting the authority of the *liurai*, the new system has opened up positions of local authority to sectors of the community who were previously unable to take the post. While we are just beginning to see the results of the change of system, it has given birth to the formation of new local elite groups that now include educated people, rather than preserving local leadership only for *liurai* landlords and the wealthy (Santos and Silva 2012: 209; italics as in original).

All is not positive, however, as the same authors recognize that

> while it is commonly presumed that the introduction of liberal
> democratic institutions […] would work against the power of the
> *liurai* and promote equality of citizenship, the power that is posed
> by access to wealth can create new forms of patronage and de-
> pendency and serve to promote new elites under new guises (San-
> tos and Silva 2012: 212; italics as in original).

Throughout 2014, a major revision of the legislation pertaining to the
organization of the *sukus*, the election of their leaders, the competences
entrusted to them, and the resources to be made available was initiated.
It is supposed that this new legislation will be published in time for the
scheduled elections (late 2015) to be contested under its aegis. However,
as of the time of writing, this legislation has not yet been promulgated.
The only palpable change has been the promise to allocate a significant
amount of financial resources to the *suku* leadership in order to carry out
much-needed public works in their villages.

Assessing Reform Failure

Despite the fact that it possesses a strong and comfortable constitutional
mandate to sustain its inception and development, the process of decen-
tralization and creation of a democratic multi-layered state in Timor-
Leste has progressed little in the twelve years since independence. One
might point to the words of former MP Fernanda Borges on the process
of decentralization, according to whom "a lot has been achieved in
reaching a consensus that we need time to understand th[is] issue better"
while asserting the continuation in the house of "political goodwill to
decentralize and establish local government" (2010: vi-vii). Presenting
the programme of the Fifth Constitutional Government before the Na-
tional Parliament in 2012, Xanana Gusmão reiterated his intention to
pursue this reform. Only this time, perhaps reflecting a more realistic
approach that draws lessons from previous optimistic views, he could
not promise more than this:

> My government will introduce a new level of municipal govern-
> ment, with the objective of establishing between three and five
> municipalities before the end of the current legislature (Programa
> do 5° Governo Constitucional: 14; see also point 4.4.9 of the same
> document).

In fact, after a decade of discussions, no positive step has been made in
the process of actually establishing new state units to perform mid-level
functions between the central state and the local communities, or to

integrate into the state administration the governance units operating at village level, even though the government has continued to produce a vast array of draft bills and other projects (Amaral 2013). As Vicente Maia and his colleagues have argued, in Timor-Leste one can observe the persistence of "a multi-tier hierarchy with large accountability gaps between community and state authorities" (Maia et al. 2012: 10), as the fundamental building blocks of the administration are directly inherited from previous historical experiences – all characterized by centralist principles. In brief, neither the reform of the public administration according to decentralizing principles mandated by the Constitution nor the process of democratic state-building at the sub-national level has got off the ground.

No comprehensive attempt has been made to reflect on the underlying causes of the aborted launch of the decentralization reform. Even if one agrees with White and Smoke that "decentralization is a process, not an event" (2005: 4) that can take several forms, ranging from a "big bang" operation to gradual or incremental forms (Bardhan and Mookherjee 2006: 32; White and Smoke 2005: 6), the contrast between the constitutional mandate and the absence of palpable results a decade after independence (Wallis 2013: 433) calls for an explanation. In fact, "local government reform has been considered by the government, development partners and the public as one of the most radical reforms of the public administration" ever seen in Timor-Leste (Ximenes 2010: 9), and the meagre results are a significant disappointment for promoters of democratic policies. Several hypotheses have been suggested that deserve a critical appraisal.

First and foremost, there is the question of the capacity to develop a new form of state (Amaral 2013), in which the articulations between the state apparatus and the citizens (along with the territorial units they use in their daily lives to establish meaningful interactions and social networks) are cast in a new light. The argument stressing the issue of existing capacity is articulated with the perceived lack of resources, financial and human. Shoesmith acknowledged that the postponement of the process decided in 2010 was due to the fact that "the government […] came to the view that human and physical resources for operating municipalities were not ready" (Shoesmith 2010a: 24). The underlying assumption of this thesis is that a centralized state is less expensive to run than a decentralized one, both in terms of human capacity and financial resources. This is an unproved assertion. Decentralization does not necessarily imply the establishment of newly added governance units, which might be a real burden, but rather that the inter-governmental system

functioning with the existing units reverses the arrow of accountability from the established upward model prevailing under centralist principles to a downward format compatible with the deeper involvement of citizens in the decision-making process. A decentralized state can be built upon pre-existing governance units (Wallis 2013: 425) and be neutral in terms of personnel costs and financial means available to discharge its functions.

It is also true that as far as financial resources are concerned, the country witnessed a very favourable evolution in the first decade after independence that undermines the alleged original rationale for centralization – that is, the presumptive greater efficiency of central planning in a scenario of severe shortages. In recent years, the state budget has grown quite substantially, but at the end of the day the very centralized administration has not been able to spend all the resources it has at its disposal. The Timorese government has acknowledged the new reality and promoted three large programmes of economic decentralization – the Pakote Referendum (2009), the Pakote Dezenvolvimentu Dezentralizasaun (2010) and the Programa Dezenvlvimentu Dezentralizadu (2011) – signalling the importance of public investment being spread throughout the entire country (Wallis 2013: 434). However, direct management of these programmes was firmly kept in the hands of the deconcentrated units of what remained a centralized administration, allowing only for consultative roles for the local governance bodies (Akmeemana 2013). In this sense, the Timorese practice seems to contradict an established assumption according to which "the decision to pursue decentralization is largely political, with the underlying economic rationale secondary, if not marginal" (Campos and Hellman 2005: 237).

Finally, a cost–benefit analysis which would help determine whether the reform could produce efficient results would always have to take into account the intangible benefits that may be offered by decentralization, including enhanced democratization and political participation, as well as the growing ownership of the development process by the population at large (Wallis 2013: 439). The crude arguments presented so far indicate that this has not been the case.

A second argument contending to explain the failure of the decentralization reform pertains to the political will of the elite that is deemed necessary for the success of this venture. Dennis Shoesmith has voiced this hypothesis and concluded that "the political will to implement a successful democratic programme of reform involving a real transfer of powers" is just not there (Shoesmith 2010a: 20). In these circumstances, failure should be expected from "attempts to correct the preoccupation

with the centre and to recognize the critical need to include the 'periph-
ery' in state-building" (Shoesmith 2010b: 2). The central issue of political
will is also underlined by Saturnino Amaral (2013), a Timorese who has
had responsibilities in the process of decentralization reforms.

This line of argument evokes a paradox, from the decision to in-
clude decentralization as a constitutional precept in the first place to the
idea of placing the burden for carrying out these reforms in every single
government programme on the shoulders of the very same political elite
that is now deemed to lack the will to honour its own creation. No ex-
ternal pressure was exerted on the constitutional process, and a fair de-
gree of discretion was available to the Timorese politicians. It is hard to
argue that there has been any significant form of discontinuity over time,
even though it is conceivable that not a great deal of attention was dedi-
cated to this issue in the context of a vast debate on the main structures
of the country that were decided upon in view of a very extended dead-
line for their implementation. In fact, "the articles in the draft constitu-
tion that referred to decentralization and local government do not appear
to have drawn any objections" (Farram 2010: 4) – and they have contin-
ued to avoid being openly challenged. The idea that for a decentraliza-
tion reform to succeed a clear coalition of will is necessary in order to
conceive it and to guide its implementation (Bünte 2011: 146) stresses
the importance of continuity, which does not seem to default in Timor-
Leste. In this sense, this argument fails to do complete justice to the
nature of the problem.

My own suggestion is centred on the role of the bureaucratic class
that forms the backbone of the public administration. In the wake of the
independence referendum in 1999, the public administration set in place
by the Indonesians suffered a severe shock when more than 7,000 civil
servants left the country. About one-fourth of all civil servants were of
Indonesian origin, but they represented almost 60 per cent of the top
levels of the administration. For instance, only 2 out of 13 *bupatis* (district
leaders) were Timorese, and 58 per cent of "grade 4" officials came from
across the border (UN 2000: 93). The decapitation of this apparatus was
followed by UNTAET intervention that streamlined services, before
these services were allowed to grow again after independence. However,
two factors are to be considered: First, the departure of a large contin-
gent of public servants opened up opportunities for the Timorese to find
employment, as new jobs became available mainly for those who had
risen in the educational ladder, and promotions could be offered to those
who had practical experience in a country so poor in human resources;
second, the culture of centralist administration did not depart with those

who abandoned their posts. Rather, the main aspects of a rigidly hierar-chical and in some respects authoritarian culture, bred in Indonesian times over layers of colonial rule not far from espousing similar princi-ples, remained the dominant model. The UNTAET administration could not find a magical solution to escape this legacy. All those who found ways to secure a job or to improve their labour conditions in the public administration both under UNTAET and later in the initial years after independence were committed to a set of values and prejudices that contribute to a deep-seated conception of the correct and legitimate behaviour – even if in some cases what is perceived to be righteous falls within internationally accepted definitions of corruption, a relevant fea-ture of the Indonesian system. In this sense, it can be argued that in the wake of a political earthquake that shook the foundation of the adminis-trative building, this was rebuilt according to the very same structural plan. The new holders of positions in the public sector had little or no incentive to embark on a reform that ultimately could threaten the roots of their acquired power. New literate and urbanized groups that in gen-eral have risen above the social situation of their parents are not the likely to support a reform that devolves power away from their equals to the hands of citizens as a whole, which they tend to regard as less com-petent to have a say on public matters. As Marco Bünte has remarked, successful decentralization reforms actively involve a country's bureau-cratic institutions, and only when these lean in favour of the reforms can a given country's chances of success be positive (Bünte 2011: 131–132).

In this light, we can return to Dennis Shoesmith and concur that "effective decentralization will require a change in the prevalent political culture" (2010b: 5) not only among the ruling elite but more broadly in significant sectors of the public administration. The next section discuss-es some of the fundamental choices that are now before the Timorese reformers.

A Paradox of Democratic Development

No doubt exists that Timor-Leste is undergoing a period of intense and rapid transition in which different paradigms of governance, authority and legitimacy are in play (Brown 2013: 6; Trindade 2008: 165). Among the ideas that are striving to find accommodation in the multi-layered political system of the new nation – namely, in the process of creating decentralized state institutions – is the concept of democracy. More than a procedural definition of this concept, our goal is to grasp the meaning of democracy as a mechanism or system that empowers citizens and

communities and renders power-holders accountable and ultimately responsible before constituencies composed of wide popular franchise. This entails that two distinct considerations be taken into account: For one, democratic mechanisms must comply with definitional principles that institute the concept; in addition, they must be understood and articulated with local concepts of legitimacy without which popular participation lacks its fundamental meaning. This is a problem without a simple solution.

The original paradox of grassroots democracy is that there seems to be a conflict between socio-political legitimacy in terms of the established patterns of authority and democratic legitimacy in a substantive sense. As Joanne Wallis has noticed, "while they are not necessarily democratic, local institutions can be highly legitimate" (2013: 425). For this reason, there can be a "significant disjunction between the model and conceptual framework of national government and the values and systems of governance and authority that are socially widespread" (Brown 2013: 25). These, in turn, entertain a curious relationship with some key elements of modernity, as expressed by an educated businessman from the city of Same, in southern Timor-Leste:

> We need to maintain traditional practices – indeed, we have to maintain them. Otherwise, what is independence? What were we defending, and what now are we standing on? In our struggle, we defended our land, our culture, our forests; if we don't now defend our culture, our independence has no roots, no foundations (quoted in Brown and Gusmão 2009: 63).

On the other hand, the idea of elections as a tool for choosing leaders seems to be well established as a "strongly held symbol of rejection of the oppression of the Indonesian era and an assertion of independence and hope", and as a "flagbearer of democracy, irrespective of how democracy should be understood". The introduction of elections in local political life offers important opportunities to reshape leadership and create a new political culture responsive to the expressed wishes of community members (Brown 2013: 22; 2012b: 157, 162).

It is therefore not a question of contrasting endogenous factors with exogenous ones, as both embryonic notions of democracy and deep-rooted concepts of legitimacy are present within Timorese society. However, the existence of a gulf between structural tenets of Timorese traditional societies and the requirements of modern democratic principles based on the claims of citizens to a status of equality is widely acknowledged. The idea of traditional society needs to be de-romanticized – the past should not be viewed as having existed in a pristine world

whose resurrection could fill all the needs of a modern democratic polity. Empowering local communities cannot be equated with simply accepting customary practices, as this would entail "feudal" democracy at best (Hohe 2004). As Bünte has argued, devolving powers to communities

> does not automatically serve as a tool to deepen democracy at the subnational level, and needs to be embedded in institutions that provide working checks and balances against local government misuse of discretionary authority (Bünte 2011: 147).

A closer look at the articulations between the formal power of the state and the persistence of custom is thus required.

Any approach that would result in the restoration of traditional authority without any constraints would likely lead to the reshuffling of an old deck of cards without promoting any substantial alteration of the discriminatory assumptions on which it is based. At best, it would constitute a form of wrapping up the old in new clothes. However, the fact that the most widespread idiom of political legitimacy is tributary to ancient forms of expression cannot be overlooked, and dispensing with it might account to disenfranchisement on a large scale (Brown and Gusmão 2009: 68). As Andrew McWilliam judiciously remarked,

> it may be one thing to reject or deny a formal role for "traditional leaders" in local systems of governance, a view that probably has significant support in the new political climate of independence and reform, particularly in modernist urban contexts. It is quite another to dismiss the customary relationships and beliefs that have underpinned this system and reproduce it in many rural contexts (McWilliam 2008: 40).

This approach signifies that there is no necessary inconsistency or contradiction in the act of bestowing an enlarged franchise with the power to use discretion in electoral competition and permit the ascent to power of individuals who may simultaneously hold traditionally inherited rights of leadership, either in a direct way or through community-based negotiations. What really matters in this critical process is that the institutional provisions put in place adequately respond to the dilemma: either to reinforce the status quo and build upon it so that those who are already strong are further empowered, or to challenge altogether the existing unequal social structures with a new administrative order, as if to bulldoze culturally rich environments. Eventually, there can be a middle road in order to enfranchise the vast majority of the population and provide space for their voice to be heard in the institutions (Chopra and Hohe 2004: 1–2). This means upholding one of the options suggested by Alex

Gusmão, which advocates the necessity to "hold elections but integrate elements of customary legitimacy more openly in the process" (2012: 189) – that is, to give time for an indigenous paradigm to subsist and gradually evolve in articulation with the establishment of modern institutions. Local features should be taken at their own value rather than as a subsidiary to the Western civil society imaginary (Richmond 2011: 117).

As Michael Leach and his colleagues have argued in the case of the construction of national identity, the emerging solution that overcomes the visible distinctions prevailing in Timorese society does not necessarily need to foster homogeneity, but must produce "a sustained consensus on shared civil goals and tolerance of heterogeneity" (Leach et al. 2013: 3). The principle of pluralism rather than homogeneity is central to the idea of democratic decentralization (Kingsbury 2010: 39). Reverting to Max Weber's famous classification of legitimacy, a modern democratic polity in Timor-Leste, although it postulates the primacy of legal-rational mechanisms, cannot avoid forms of legitimacy based on the community's cultural life nor personal legitimacy derived from the individuals' own capacities, reputations and lives (Pereira and Koten 2012: 225).

To an extent, historical forms of legitimacy have been pursued in Timor-Leste in the process of establishing village leadership. At this level, what remains to be done is the transformation of community institutions into local branches of the state administration, provided with clear mandates on well-defined areas of intervention, and with adequate and transparent resourcing of those competences. So far, *xefes suku* "find themselves organizing road maintenance, planning for water and irrigation, enforcing local rules on use of common land, including forests, and settling local disputes that depend on their good will", and yet their activities "are not planned [or] resourced through the state budget", and their capacity to take decisive action in matters that pertain to the state administration is nil. Only available to them is the capacity to "appeal to ministry officials in the country's capital for their *suco's* resources" (Ragragio and Everett 2009: 1; italics as in original). The poor definition of the competences of the *konsellu suku* has undermined the quality of local decision-making and impaired the development at village level (Wallis 2013: 434). This leaves ample room for improvement and reform that could enhance the ownership of the political process in the hands of local citizens.

The process of creation of intermediate, regional-level institutions is running behind schedule, and it will have to either confront, although in a different manner, the dilemma of satisfying installed elites and apply nationally adopted criteria that disregard traditional authority, or face the

need to promote an articulation between modern forms of the state and customary ideas of political legitimacy. The choice may be hidden in technical jargon surrounding decentralization, but the issue far surpasses the mere administrative sphere and invades the core of the process of democratic consolidation in Timor-Leste (Shoesmith 2010a: 21). As noticed by Anne Brown,

> recognizing the operation of local customary governance process-es and value[s] […] and building avenues for constructive interac-tion between them and state structures is part of seeing local soci-eties and people as not merely recipients of a state-building project, but as central to [the] political community and co-enactors of the state (Brown 2010: 44).

This is the challenge that lies ahead.

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