

A NEW ERA?

TIMOR-LESTE AFTER THE UN

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Edited by Sue Ingram, Lia Kent and Andrew McWilliam



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P R E S S



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CHAPTER 5

Challenges to the Consolidation of Democracy

Rui Graça Feijó

Introduction

On 1 January 2013, Timor-Leste initiated a march on its own feet. The United Nations Integrated Mission in Timor-Leste (UNMIT)—the last of the special missions that started back in 1999—as well as the International Stabilisation Force convened in the wake of the 2006 crisis, departed then, heralding a new phase in this new nation's political life. So far, the country has responded positively to this change and maintains a stable political situation. The fact that in 2012 Timor-Leste organised presidential and legislative elections considered free and fair complying with international standards, reinforced the country's legitimacy to fully dispose of political autonomy, which it is now enjoying.

Both the majority of authors writing on Timor-Leste (for example, Kingsbury 2009; Molnar 2011; Leach and Kingsbury 2012) and international organisations who elaborate indices of democratic performance (for example, Freedom House, Polity IV, The Economist Intelligence Unit) agree that Timor-Leste has achieved the status of a democratic polity. Freedom House has long considered Timor-Leste an 'electoral democracy' and a 'partly free' country, rating it 3.5 points on a scale in which those who have less than 3 points are free and those scoring above 5 are not free. The overall figure combines a score of 3 for political rights and 4 for civil liberties. Among the factors that prevent a more positive evaluation, this organisation ranks problems with freedom of the press, which is deemed to exercise self-censorship in the context of the existing defamation laws; limits to the freedom of association; weak rule of law and a culture of

impunity associated with episodes of violence perpetrated by the police forces; the status of refugees; and gender discrimination sustained by customary law.¹ Polity IV uses a classification ranging from -10 to +10, in which countries scored 6 to 9 are considered as democracies (and those scoring 10 are full democracies). Timor-Leste has been consistently classified in recent years with 7 points, that is, as a clearly democratic country. All three sub-criteria receive the same classification.² Finally, The Economist Intelligence Unit's Democracy Index ranks Timor-Leste as the 43rd country in the world in terms of its democratic performance. The country is regarded as a 'flawed democracy' (a category that comprises countries with marks between 6 and 7.99, and encompasses most of the European Union members) and is rated at 7.16. This overall figure is the result of five independent indices, and there Timor-Leste receives high marks for its political process and pluralism (8.67, in line with a 'full democracy') and civil liberties (7.94), and lower for political participation (only 5.56). Both the functioning of government (6.79) and political culture (6.88) are in line with the overall classification.³

These three examples reveal that a consensus exists as to the classification of Timor-Leste as a functioning and apparently stable democracy. As Damien Kingsbury has noted, meaningful elections capable of producing alterations in the orientation of the country (peaceful replacement of two presidents, change of parliamentary majority, and substantial alteration in the composition of the government basis of support) seem to have been incorporated in the popular culture and became equated with *lulik* (sacred) rituals (Kingsbury 2014). A clear symbol of this evolution can be grasped in the vivid images of citizens emerging from the polling booths and proudly exhibiting their ink-marked fingers as proof of their participation in the electoral process, discharging a community service. However, the apparent stability of the country in the recent past cannot be equated with the consolidation of democracy or the absence of serious challenges to the way the political regime responds to popular demands and delivers tangible outcomes. As Robert Elgie and Sophia Moestrup put it, Timor-Leste enjoys a stable but not yet consolidated democratic regime (Elgie and Moestrup 2011).

In this brief essay, I will consider, among the myriad pertinent challenges to democratic consolidation and the improvement of its performance, three aspects that I regard as critical: the generational turnover, the relationship between prosperity and democracy, and the mandatory constitutional reform supposed to produce a decentralised state administration.

1 See www.freedomhouse.org/report/freedom-world/2013/east-timor-0#.U5x9DCj4UU.

2 See www.systemicpeace.org/polity/polity4.htm.

3 See portoncv.gov.cv/dhub/porton.por_global.open_file?p_doc_id=1034.

Generational turnover

The presidential elections in 2012 offered a glimpse into the ongoing generational turnover. The incumbent president, a leading member of the '75 Generation, was eliminated in the first round, leaving the second round to be contested by two candidates who were in their teens or just beyond in 1975. This highlights the onset of a process of generational turnover, as the most relevant political positions have consistently remained in the hands of the elder generation. The recent decision of Gusmão to step down from his prime ministership and pave the way for a new incumbent from the *Gerasaun Foun* (New Generation) further stresses the importance of this process.

Timor-Leste is a complex and paradoxical case. The typical case of generational turnover associated with transitions from authoritarianism considers that when the generation who negotiated the political change gives way to a new one, the latter emerges fully socialised in democratic politics and formatted to operate within the system—not to challenge or discuss its merits once again. This generally means that democracy has been consolidated and in most cases has become 'the only game in town'. In Timor-Leste, a country in which different notions of political legitimacy (in the classical sense of Max Weber's 1947 work) concur to create a complex landscape, a critical element in the rooting of democracy, was the espousal of democratic principles by a strong charismatic leader. Charismatic and legal-rational legitimacy merged to produce a democratic polity. Now that the charismatic leader has stepped aside, what will become of his legacy? The question is further amplified by the fact that the members of the generation of which Gusmão is a leading and persuasive member, and which broadly accommodated his vision, are rapidly coming to the end of their politically active lives: Ramos-Horta has been performing international duties for the UN; Mário Carrascalão no longer leads his PSD (*Partido Social Democrata*; Social Democratic Party); and the replacement of Alkatiri as leader of FRETILIN (*Frente Revolucionária de Timor-Leste Independente*; Revolutionary Front for an Independent East Timor) is expected to take place in the next congress before the general elections.

In parallel with those who espouse the current democratic system, worrying signs are discernible in Dili. First, several 'siren songs' can be heard—some along the path of 'Asian values'; others putting specific emphasis on 'Timorese values'—that are supposed to diverge from the standard democratic ethos. The defeat of Ramos-Horta in the first round of the 2012 presidential election has been read as a signal of the Timorese fatigue with an internationally driven agenda, and the two candidates that made it to the final round converged in praising the Timorese own values and the need to bring them to a more prominent place in the political arena. The fact that both of them had long experience in the

home fronts of the Resistance suggests that this factor remains a major element in the recruitment of new political leaders—some of which are already in very high positions, epitomised by Fernando Lasama de Araújo, another offspring of the *Gerasaun Foun* that emerged during the Resistance period—and offers a basis for some form of continuity. But the emphasis on genuine national values can be read to imply a critique of the ‘imported’ institutions associated with international co-operation. The odds are that democratic institutions prove to be sufficiently plastic to accommodate emerging trends, although they may need to be reconfigured. In this light, the possibility of revising the constitution—a possibility contemplated in its provisions—may be contemplated, if not during the current legislature, most likely after the next round of elections, in which competing actors may formally present some ideas that have been floating around for some time.

Second, the role of the military in political life is open to question. It should be recalled here that the military claims a strong line of continuity from the clandestine guerrilla struggle—which was critical in keeping the flame of the Resistance alive and creating the conditions that eventually led to the proclamation of independence—to the military (and political) foundations of the new nation. In a sense, the military is vested with ‘revolutionary legitimacy’ derived from its important role in the liberation struggle, in which it kept a united front that combined with the emergence of different (and rival) political forces. The overwhelming value of national unity, which the military claim to interpret better than anyone else, is a critical element in this scenario. For this reason, the discourse of national unity that often goes hand in hand with the recrimination of politicians for artificially dividing the people and pursuing particular interests can easily be amplified when a towering figure the size of Gusmão steps aside.

So far, the will of the military to intervene in the political arena has been confined within the limits of the constitutional order, as the 2012 election of Brigadier General Taur Matan Ruak as president shows. But some signs suggest that among the military there are aspirations to a more prominent role. On the one hand, with the rise in prosperity derived from the exploration of natural resources, the military has been eager to claim a larger share of the budget, including a substantial increase that would result from the introduction of general military conscription for all youth, as advocated by President Taur Matan Ruak. On the other hand, it has been rapid to respond to what is perceived as a lack of capacity of the civilian authorities to deal with security issues. For instance, in the wake of street disturbances that marked the aftermath of the legislative elections in 2012, the military commander did not hesitate to appear on national television

and set the terms for the restoration of peace—threatening the intervention of the armed forces. This move was widely regarded as a high-profile intervention on the brink of conflict with the government.

Will the military's appetite for an increased role in the political arena be circumscribed by the constitutional provisions? Or will it lay claim to a new role that has marred some other developing countries, as we have witnessed in Africa or in Latin America in the 1970s and 1980s?

Prosperity and democracy

Timor-Leste, while remaining the poorest country in Southeast Asia (according to the World Bank), is endowed with natural resources that have been translated in the very rapid growth of its Petroleum Fund. However, the rise of nominal gross domestic product (GDP) per capita is not a panacea, and the relationships between prosperity and democracy are far from universally positive. Literature on economic development is rich on the issue of what has been labelled the 'resources curse', which is an expression of the paradox of plenty—countries and regions with an abundance of natural resources, especially non-renewables, tend to have worse development outcomes than countries with more balanced resource structures.⁴ It is often the case that an internal conflict grows, in which different groups compete for their share of revenues, increasing social pressure on governments to function effectively, as well as generating new opportunities for the level of corruption to grow and a tendency for a capture of the state administration by private interests to surface. The relationship of this problem to the adoption of a democratic regime is evident from available indices. If some assumptions of the modernisation theory imply that an increase in the level of economic development generally translates to the establishment of democratic polities, examples abound of less positive paths. In their listings of the wealthiest countries of the world measured by their GDP per capita (in purchasing power parities), both the World Bank and the International Monetary Fund have in the top places countries that are long-established democracies (Luxemburg, Norway, USA), alongside countries that derive a great deal of their wealth from non-renewable natural resources and have authoritarian regimes, such as Qatar or Brunei. A glimpse at the political regimes of the OPEC (Organization of the Petroleum Exporting Countries) countries also reveals that oil-producing nations tend to have worse ratings in the Freedom House index than Timor-Leste.

4 See Scheiner in this collection.

A major challenge for the new nation is thus to manage its wealth in line with democratic precepts. Two key aspects of this endeavour are the fight against poverty with the construction of a welfare state—which has been pursued by the generous funding of the ministries of education and health, as well as by the creation of the ministry for solidarity and the expansion of pension schemes—and the development of an ‘economic civil society’. Both processes will impact the regime’s capacity to strengthen its own basis and solidify democracy.

In order to implement this program, two polar conceptions may be adopted. Timor-Leste may choose clearly defined procedures, institutionally framed, and validated through the rule of law. This would promote equity and equal opportunities, and the state would be regarded as a moral figure. An opposite choice could be made to rely on ad hoc policies, and individual negotiation between the state and private agents, privileging personal ties over institutional norms. Such an approach would create confusion as to the role of the state, generate dependency on social and economic actors *vis à vis* those in power, and foster clientele more than satisfy social needs. Neopatrimonialism and corruption would be the inevitable conclusion of this path.

One example that comes to mind is that of the veterans and the generous pension scheme that the government has implemented. In the state budget for 2013, no less than US\$96 million was allocated to this purpose, the fastest growing item in public spending, outperforming both health and education—two areas in which the country needs to make serious investments if it is to overcome the dire needs revealed by the United Nations Development Programme (UNDP) Human Development Index—and, therefore, having a major impact on the relationship between the state and its citizens, since it touches tens of thousands of families (*La’o Hamutuk* 2013). A few problems are raised by this scheme, one of which is the transparency in the determination of those entitled to benefit from its provisions. The actual process of ascertaining those who participated in the 25-year struggle, and acknowledging the degree of their involvement—which is the basis for their entitlement—is rumoured to be prone to abuses and manipulations. This is easy to understand when political rivalries are vividly present and pertain to the very history of the Resistance movement, lacking the existence of a clearly defined set of upheld legal procedures.

Another example of generous use of financial resources is the ambitious program of decentralised investments, which has been implemented in recent years. One of those schemes was the 2009 *Pakote Referendum* (Referendum Package), which absorbed US\$70 million destined to provide investment in infrastructures mostly in the country’s rural districts; it has been replicated in subsequent years in much the same vein. Instead of basing contracts on a widely publicised public tender scheme, the government opted for an ad hoc management of those contracts, arguing with the need to address the needs of national companies that might

face difficulties in an open competition, with the result considered ‘a glaring example of wasteful, uncontrolled, impetus spending’ (*La’o Hamutuk* 2009). Political patronage seems to have been the main force behind the distribution of contracts. Similar schemes are said to have been in operation in the case of the construction of the Garden of Heroes in Metinaro, and in the district-based smaller-scale replicas of this national cemetery destined to honour those who fell for their country.

At present, Timor-Leste seems to be at the crossroads. In a greatly unfavourable regional and historical context, the perception of corruption is not improving. The Transparency International Corruption Perceptions Index for 2014 rates Timor-Leste at 28 points (in this index, 0 represents the most corrupt, 100 the least so)—down from 33 in 2012 and 30 in 2013; in line with Indonesia, rated at 32 points.⁵ If it is undeniable that the Anti-Corruption Commission is operating and the judicial system passes condemnations, the frequency of cases brought by the public suggests an unacceptably high level of endemic corruption. The casuistic dependency of society in relation to those who happen to be in power, rather than the deployment of sound rules, is venom for a healthy civil society that democracy requires to thrive. The recent upgrade of the Court of Auditors, with the ensuing increased capacity to uphold clearly defined and institutionalised procedures, is a step in the right direction. However, it still must compete with a political culture that is permeable to ways of performing public duties that conflict with the rule of law. It is not uncommon to hear voices saying ‘We have won the elections and this is the time for us to do things our way, and to pay our supporters. When others win the general elections, it will be their time.’⁶ Comments such as these suggest a candid justification of patronage as the basic language in the relations between government and civil society.

Grassroots democracy: building a decentralised state

The third challenge to the consolidation of democracy in Timor-Leste is the process of building a decentralised state. The relevance of this endeavour has recently been recognised by Xanana Gusmão, who spoke of it as ‘the second Maubere miracle’—one that will be spread over a long period of time and may go beyond one generation (Pereira 2014).

⁵ See www.transparency.org/research/cpi/overview.

⁶ Interview with a businessman supporter of the current majority, May 2013.

Two independent reasons concur to render the decentralisation reform critical to the fate of Timorese democracy. On the one hand, there is a clear constitutional mandate to build a decentralised administration including institutions of local power. These state organs that need to be established all over the territory are bound by a constitutional provision stipulating that state organs ‘in their reciprocal relationships and exercise of their functions shall observe the principle of separation and interdependence of powers’.⁷ As such, the constitutional architecture is conceived as being formed by several pillars entertaining ‘interdependent’ relations in such a way that the overall stability of the institutions rests upon the converging contribution of each one of them—including the organs of local power. In other words, the full scope of horizontal accountability will only be completed when the organs of local power are fully established and operational.

The constitutional mandate, embodied in a number of its sections (directly in sections 5, 63, 71, 72; indirectly in sections 2, 69 and 137, see Amaral 2013) entails a vision that goes beyond a mere administrative construction, and conveys the need to establish and develop a social contract between society at large and the institutions of governance. Without this, one might end up building a hollow or phantom state whose governing institutions might be endowed with material resources but lack the necessary social legitimation (Lemay-Hebert 2012).

On the other hand, ever since the First Constitutional Government of Mari Alkatiri produced the first official documents stating the goals of this reform, three goals have emerged in prominent position: to promote the institutions of a strong, legitimate and stable state across the territory; to promote opportunities for local democratic participation by citizens; and to promote more effective, efficient and equitable public service delivery (RDTL 2002). This makes it clear that a close relationship exists between the proposed administrative reform and the consolidation of democracy, both by enlarging the scope of political institutions that are governed by democratic principles and by offering increased opportunities for citizens to participate in the decision-making process, namely in matters pertaining to their local communities. In brief, this reform is supposed to contribute to make democracy both more representative and more participatory.

Decentralisation reform has been on the Timorese political agenda since independence, but so far only the most timid of steps have been taken. Back in 2003, a major study was presented, entitled the *Local Government Options Study* (RDTL 2003), by a team under the auspices of the Ministry for State Administration and Territorial Management. It contains a thorough analysis of

7 Constitution of the Democratic Republic of Timor-Leste, section 69.

six alternative paths, which remain to this day the fundamental options on the table for the 'optimal sub-national configuration'. They include the delineation of the levels of the administrative hierarchy from central government down to the community level that will 'facilitate cost effective and efficient service delivery and enhance community initiative and participation' (RDTL 2003).

Two points of clarification should be inserted at this stage. First, decentralisation reforms have been defended on different grounds, namely on the basis of an alleged greater effectiveness of public administration, and on account of the increased political legitimacy that it is supposed to generate. In this brief essay, only the latter sort of reasons will be considered. Second, the concept of decentralisation covers a vast array of practical situations that can be summarised in the following three models:

- Deconcentration—occurring when the central government disperses responsibilities for certain services to its regional branches without involving any transfer of authority to the lower levels.
- Delegation—taking place when the central authority transfers responsibilities for decision-making and the administration of public functions to local governments or semi-autonomous organisations that are not wholly controlled by the transferring authority, but which remain ultimately accountable to it.
- Devolution—referring to those situations in which the central authorities transfer 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 their citizens. Devolution is theoretically justified by the principle of 'subsidiarity' developed by the Catholic theologian Oswald van Nell-Breuning and embodied in the papal encyclical *Quadragesimo Anno* (1931), which posits that matters of societal organisation and administration be conceived in a bottom-up manner, and ought to be handled at the lowest possible level of authority that is capable of solving the problem in an efficient manner. In terms of the impact of a decentralisation process upon democratic performance, devolution is by far the most heavily charged of all those variants, thus it is the one we might expect to see emerging in Timor-Leste.

The seminal *Local Government Options Study* presented six fundamental options. Looking at the current situation in the country, inherited directly from the UN administration but with deeper historical thickness dating back to earlier periods, it considered three main layers of governance: districts, subdistricts, and *sukus* (villages). In all six options, the 'perennial *sukus*'—the only institution that has remained more or less intact during the history of the territory' (RDTL 2003: 76)—were contemplated as an unavoidable territorial

unit with profound resonance in the Timorese populations. Only the sixth option, however, would treat the *sukus* as a formal state organ; all others acknowledging their role as forms of local self-organisation that would not bind the state. As for districts and subdistricts, several hypotheses were discussed, with all of them implying that it would be relatively easy to redefine their status and their boundaries. In fact, no substantial anchorage of these units in the autochthonous system of political legitimacy or self-organisation was observed, thus facilitating the rational bureaucratic manipulation required to install a novel administration.

In the course of the years since independence, different solutions have been adopted regarding *sukus* and the other sub-national units. From 2004, elections have been staged for what has been labelled *lideranças comunitárias* (community leadership) (2004–05, 2009). Rules have been designed and revised to frame the electoral process, and a substantial step in the direction of allocating village chiefs and *konsellus suku* [community council] has been taken by the 2009 Bill. However, the most salient feature of village politics is that these institutions remain outside the reach of the state, being merely recognised as organs of self-rule destined to accomplish customary functions. In this light, it is not surprising that no allocation of state funds has been made on a regular basis, only grants decided at higher levels being at the disposal of local leaders for small investments.

As for the mid-level institutions, from 2003 Alkatiri's government opted for a model that would transform subdistricts into the main units, under the aegis of a few 'provinces'. The number of municipalities would be reduced from the current 65 subdistricts to between 30 and 35—implying a substantial alteration of the composition of the new units. The Fourth Constitutional Government of Xanana Gusmão revised this option and became inclined to transform the existing 13 districts into the novel municipalities, eliminating the subdistrict level. Curiously, the district level is the one that fewer Timorese regard as a significant unit of identification, and has little more than administrative significance devoid of any articulation with autochthonous systems of legitimacy (that to a certain extent are still visible in the subdistricts, which are the heirs of historical *reinos* (kingdoms) (Leach et al. 2013)). This option was coupled with the idea of holding elections in 2009, later moved to 2010, before being postponed for sometime after the legislative polls of 2012. The program of the Fifth Constitutional Government promised that a pilot experience be developed in three to five municipalities before the end of the legislature in 2017.

Of more importance seems to be the intention to proceed with what has been called the 'pre-deconcentration' program. The formulation of this program is recent, and was thoroughly exposed by Gusmão early in 2014. The main suggestion arising out of this new approach is that the decentralisation reform that has been

in the making for so long will be conceived in conservative terms emphasising deconcentration over any other meaning—namely devolution—and that the time frame for its deployment has increased ‘up to one hundred years’ (Pereira 2014). A critical new figure is the ‘district manager’, who represents central government at district level, is empowered with substantial competences, is recruited as a public servant in view of his CV, and forfeits any relation to locally held notions of political legitimacy. If this vision becomes the blueprint for the reform, a very modest process of decentralisation will surface. Little or no devolution will be implied in the process, and its impact on democratic performance cannot be expected to be high. In the meantime, as a district administrator put it in an interview with Tanja Hohe (2004), ‘the national government has a roof, but no roots’. The next few chapters in the politics of Timor-Leste will revolve around these issues.

Conclusion

Challenges to democratic consolidation and the improvement of its performance in Timor-Leste come from many different sources, including the ongoing process of state-building (decentralisation), which requires commitment of the ruling elite to a major reform, and the need to adopt an adequate choice of policies in a context where democratic norms suffer the competition of alternative narratives that may subvert the main tenets of the constitutional ethos. Stability, which has marked Timor-Leste’s development in recent years, cannot, therefore, be totally equated with the consolidation of democracy. The performance of the regime also needs to improve in order to secure a firm rooting of democratic governance in the political landscape at all levels. Particular attention should be devoted to the plasticity of democratic institutions, and their capacity to adapt to the emerging social forces in the country. If democracy is equated with empowering citizens to take the fundamental decisions regarding the development of their communities and to possess the ultimate control over those who momentarily hold power, it must combine in balanced proportions to the adherence to international standards and recognised procedures with greater responsiveness to local values and forms of political legitimation.

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CHAPTER 5

Challenges to the Consolidation of Democracy

Rui Graça Feijó

Introduction

On 1 January 2013, Timor-Leste initiated a march on its own feet. The United Nations Integrated Mission in Timor-Leste (UNMIT)—the last of the special missions that started back in 1999—as well as the International Stabilisation Force convened in the wake of the 2006 crisis, departed then, heralding a new phase in this new nation's political life. So far, the country has responded positively to this change and maintains a stable political situation. The fact that in 2012 Timor-Leste organised presidential and legislative elections considered free and fair complying with international standards, reinforced the country's legitimacy to fully dispose of political autonomy, which it is now enjoying.

Both the majority of authors writing on Timor-Leste (for example, Kingsbury 2009; Molnar 2011; Leach and Kingsbury 2012) and international organisations who elaborate indices of democratic performance (for example, Freedom House, Polity IV, The Economist Intelligence Unit) agree that Timor-Leste has achieved the status of a democratic polity. Freedom House has long considered Timor-Leste an 'electoral democracy' and a 'partly free' country, rating it 3.5 points on a scale in which those who have less than 3 points are free and those scoring above 5 are not free. The overall figure combines a score of 3 for political rights and 4 for civil liberties. Among the factors that prevent a more positive evaluation, this organisation ranks problems with freedom of the press, which is deemed to exercise self-censorship in the context of the existing defamation laws; limits to the freedom of association; weak rule of law and a culture of

impunity associated with episodes of violence perpetrated by the police forces; the status of refugees; and gender discrimination sustained by customary law.¹ Polity IV uses a classification ranging from -10 to +10, in which countries scored 6 to 9 are considered as democracies (and those scoring 10 are full democracies). Timor-Leste has been consistently classified in recent years with 7 points, that is, as a clearly democratic country. All three sub-criteria receive the same classification.² Finally, The Economist Intelligence Unit's Democracy Index ranks Timor-Leste as the 43rd country in the world in terms of its democratic performance. The country is regarded as a 'flawed democracy' (a category that comprises countries with marks between 6 and 7.99, and encompasses most of the European Union members) and is rated at 7.16. This overall figure is the result of five independent indices, and there Timor-Leste receives high marks for its political process and pluralism (8.67, in line with a 'full democracy') and civil liberties (7.94), and lower for political participation (only 5.56). Both the functioning of government (6.79) and political culture (6.88) are in line with the overall classification.³

These three examples reveal that a consensus exists as to the classification of Timor-Leste as a functioning and apparently stable democracy. As Damien Kingsbury has noted, meaningful elections capable of producing alterations in the orientation of the country (peaceful replacement of two presidents, change of parliamentary majority, and substantial alteration in the composition of the government basis of support) seem to have been incorporated in the popular culture and became equated with *lulik* (sacred) rituals (Kingsbury 2014). A clear symbol of this evolution can be grasped in the vivid images of citizens emerging from the polling booths and proudly exhibiting their ink-marked fingers as proof of their participation in the electoral process, discharging a community service. However, the apparent stability of the country in the recent past cannot be equated with the consolidation of democracy or the absence of serious challenges to the way the political regime responds to popular demands and delivers tangible outcomes. As Robert Elgie and Sophia Moestrup put it, Timor-Leste enjoys a stable but not yet consolidated democratic regime (Elgie and Moestrup 2011).

In this brief essay, I will consider, among the myriad pertinent challenges to democratic consolidation and the improvement of its performance, three aspects that I regard as critical: the generational turnover, the relationship between prosperity and democracy, and the mandatory constitutional reform supposed to produce a decentralised state administration.

1 See www.freedomhouse.org/report/freedom-world/2013/east-timor-0#.U5x9DCjJ4UU.

2 See www.systemicpeace.org/polity/polity4.htm.

3 See portoncv.gov.cv/dhub/porton.por_global.open_file?p_doc_id=1034.

Generational turnover

The presidential elections in 2012 offered a glimpse into the ongoing generational turnover. The incumbent president, a leading member of the '75 Generation, was eliminated in the first round, leaving the second round to be contested by two candidates who were in their teens or just beyond in 1975. This highlights the onset of a process of generational turnover, as the most relevant political positions have consistently remained in the hands of the elder generation. The recent decision of Gusmão to step down from his prime ministership and pave the way for a new incumbent from the *Gerasaun Foun* (New Generation) further stresses the importance of this process.

Timor-Leste is a complex and paradoxical case. The typical case of generational turnover associated with transitions from authoritarianism considers that when the generation who negotiated the political change gives way to a new one, the latter emerges fully socialised in democratic politics and formatted to operate within the system—not to challenge or discuss its merits once again. This generally means that democracy has been consolidated and in most cases has become 'the only game in town'. In Timor-Leste, a country in which different notions of political legitimacy (in the classical sense of Max Weber's 1947 work) concur to create a complex landscape, a critical element in the rooting of democracy, was the espousal of democratic principles by a strong charismatic leader. Charismatic and legal-rational legitimacy merged to produce a democratic polity. Now that the charismatic leader has stepped aside, what will become of his legacy? The question is further amplified by the fact that the members of the generation of which Gusmão is a leading and persuasive member, and which broadly accommodated his vision, are rapidly coming to the end of their politically active lives: Ramos-Horta has been performing international duties for the UN; Mário Carrascalão no longer leads his PSD (*Partido Social Democrata*; Social Democratic Party); and the replacement of Alkatiri as leader of FRETILIN (*Frente Revolucionária de Timor-Leste Independente*; Revolutionary Front for an Independent East Timor) is expected to take place in the next congress before the general elections.

In parallel with those who espouse the current democratic system, worrying signs are discernible in Dili. First, several 'siren songs' can be heard—some along the path of 'Asian values'; others putting specific emphasis on 'Timorese values'—that are supposed to diverge from the standard democratic ethos. The defeat of Ramos-Horta in the first round of the 2012 presidential election has been read as a signal of the Timorese fatigue with an internationally driven agenda, and the two candidates that made it to the final round converged in praising the Timorese own values and the need to bring them to a more prominent place in the political arena. The fact that both of them had long experience in the

home fronts of the Resistance suggests that this factor remains a major element in the recruitment of new political leaders—some of which are already in very high positions, epitomised by Fernando Lasama de Araújo, another offspring of the *Gerasaun Foun* that emerged during the Resistance period—and offers a basis for some form of continuity. But the emphasis on genuine national values can be read to imply a critique of the ‘imported’ institutions associated with international co-operation. The odds are that democratic institutions prove to be sufficiently plastic to accommodate emerging trends, although they may need to be reconfigured. In this light, the possibility of revising the constitution—a possibility contemplated in its provisions—may be contemplated, if not during the current legislature, most likely after the next round of elections, in which competing actors may formally present some ideas that have been floating around for some time.

Second, the role of the military in political life is open to question. It should be recalled here that the military claims a strong line of continuity from the clandestine guerrilla struggle—which was critical in keeping the flame of the Resistance alive and creating the conditions that eventually led to the proclamation of independence—to the military (and political) foundations of the new nation. In a sense, the military is vested with ‘revolutionary legitimacy’ derived from its important role in the liberation struggle, in which it kept a united front that combined with the emergence of different (and rival) political forces. The overwhelming value of national unity, which the military claim to interpret better than anyone else, is a critical element in this scenario. For this reason, the discourse of national unity that often goes hand in hand with the recrimination of politicians for artificially dividing the people and pursuing particular interests can easily be amplified when a towering figure the size of Gusmão steps aside.

So far, the will of the military to intervene in the political arena has been confined within the limits of the constitutional order, as the 2012 election of Brigadier General Taur Matan Ruak as president shows. But some signs suggest that among the military there are aspirations to a more prominent role. On the one hand, with the rise in prosperity derived from the exploration of natural resources, the military has been eager to claim a larger share of the budget, including a substantial increase that would result from the introduction of general military conscription for all youth, as advocated by President Taur Matan Ruak. On the other hand, it has been rapid to respond to what is perceived as a lack of capacity of the civilian authorities to deal with security issues. For instance, in the wake of street disturbances that marked the aftermath of the legislative elections in 2012, the military commander did not hesitate to appear on national television

and set the terms for the restoration of peace—threatening the intervention of the armed forces. This move was widely regarded as a high-profile intervention on the brink of conflict with the government.

Will the military's appetite for an increased role in the political arena be circumscribed by the constitutional provisions? Or will it lay claim to a new role that has marred some other developing countries, as we have witnessed in Africa or in Latin America in the 1970s and 1980s?

Prosperity and democracy

Timor-Leste, while remaining the poorest country in Southeast Asia (according to the World Bank), is endowed with natural resources that have been translated in the very rapid growth of its Petroleum Fund. However, the rise of nominal gross domestic product (GDP) per capita is not a panacea, and the relationships between prosperity and democracy are far from universally positive. Literature on economic development is rich on the issue of what has been labelled the 'resources curse', which is an expression of the paradox of plenty—countries and regions with an abundance of natural resources, especially non-renewables, tend to have worse development outcomes than countries with more balanced resource structures.⁴ It is often the case that an internal conflict grows, in which different groups compete for their share of revenues, increasing social pressure on governments to function effectively, as well as generating new opportunities for the level of corruption to grow and a tendency for a capture of the state administration by private interests to surface. The relationship of this problem to the adoption of a democratic regime is evident from available indices. If some assumptions of the modernisation theory imply that an increase in the level of economic development generally translates to the establishment of democratic polities, examples abound of less positive paths. In their listings of the wealthiest countries of the world measured by their GDP per capita (in purchasing power parities), both the World Bank and the International Monetary Fund have in the top places countries that are long-established democracies (Luxemburg, Norway, USA), alongside countries that derive a great deal of their wealth from non-renewable natural resources and have authoritarian regimes, such as Qatar or Brunei. A glimpse at the political regimes of the OPEC (Organization of the Petroleum Exporting Countries) countries also reveals that oil-producing nations tend to have worse ratings in the Freedom House index than Timor-Leste.

4 See Scheiner in this collection.

A major challenge for the new nation is thus to manage its wealth in line with democratic precepts. Two key aspects of this endeavour are the fight against poverty with the construction of a welfare state—which has been pursued by the generous funding of the ministries of education and health, as well as by the creation of the ministry for solidarity and the expansion of pension schemes—and the development of an ‘economic civil society’. Both processes will impact the regime’s capacity to strengthen its own basis and solidify democracy.

In order to implement this program, two polar conceptions may be adopted. Timor-Leste may choose clearly defined procedures, institutionally framed, and validated through the rule of law. This would promote equity and equal opportunities, and the state would be regarded as a moral figure. An opposite choice could be made to rely on ad hoc policies, and individual negotiation between the state and private agents, privileging personal ties over institutional norms. Such an approach would create confusion as to the role of the state, generate dependency on social and economic actors *vis à vis* those in power, and foster clientele more than satisfy social needs. Neopatrimonialism and corruption would be the inevitable conclusion of this path.

One example that comes to mind is that of the veterans and the generous pension scheme that the government has implemented. In the state budget for 2013, no less than US\$96 million was allocated to this purpose, the fastest growing item in public spending, outperforming both health and education—two areas in which the country needs to make serious investments if it is to overcome the dire needs revealed by the United Nations Development Programme (UNDP) Human Development Index—and, therefore, having a major impact on the relationship between the state and its citizens, since it touches tens of thousands of families (*La’o Hamutuk* 2013). A few problems are raised by this scheme, one of which is the transparency in the determination of those entitled to benefit from its provisions. The actual process of ascertaining those who participated in the 25-year struggle, and acknowledging the degree of their involvement—which is the basis for their entitlement—is rumoured to be prone to abuses and manipulations. This is easy to understand when political rivalries are vividly present and pertain to the very history of the Resistance movement, lacking the existence of a clearly defined set of upheld legal procedures.

Another example of generous use of financial resources is the ambitious program of decentralised investments, which has been implemented in recent years. One of those schemes was the 2009 *Pakote Referendum* (Referendum Package), which absorbed US\$70 million destined to provide investment in infrastructures mostly in the country’s rural districts; it has been replicated in subsequent years in much the same vein. Instead of basing contracts on a widely publicised public tender scheme, the government opted for an ad hoc management of those contracts, arguing with the need to address the needs of national companies that might

face difficulties in an open competition, with the result considered ‘a glaring example of wasteful, uncontrolled, impetus spending’ (*La’o Hamutuk* 2009). Political patronage seems to have been the main force behind the distribution of contracts. Similar schemes are said to have been in operation in the case of the construction of the Garden of Heroes in Metinaro, and in the district-based smaller-scale replicas of this national cemetery destined to honour those who fell for their country.

At present, Timor-Leste seems to be at the crossroads. In a greatly unfavourable regional and historical context, the perception of corruption is not improving. The Transparency International Corruption Perceptions Index for 2014 rates Timor-Leste at 28 points (in this index, 0 represents the most corrupt, 100 the least so)—down from 33 in 2012 and 30 in 2013; in line with Indonesia, rated at 32 points.⁵ If it is undeniable that the Anti-Corruption Commission is operating and the judicial system passes condemnations, the frequency of cases brought by the public suggests an unacceptably high level of endemic corruption. The casuistic dependency of society in relation to those who happen to be in power, rather than the deployment of sound rules, is venom for a healthy civil society that democracy requires to thrive. The recent upgrade of the Court of Auditors, with the ensuing increased capacity to uphold clearly defined and institutionalised procedures, is a step in the right direction. However, it still must compete with a political culture that is permeable to ways of performing public duties that conflict with the rule of law. It is not uncommon to hear voices saying ‘We have won the elections and this is the time for us to do things our way, and to pay our supporters. When others win the general elections, it will be their time.’⁶ Comments such as these suggest a candid justification of patronage as the basic language in the relations between government and civil society.

Grassroots democracy: building a decentralised state

The third challenge to the consolidation of democracy in Timor-Leste is the process of building a decentralised state. The relevance of this endeavour has recently been recognised by Xanana Gusmão, who spoke of it as ‘the second Maubere miracle’—one that will be spread over a long period of time and may go beyond one generation (Pereira 2014).

⁵ See www.transparency.org/research/cpi/overview.

⁶ Interview with a businessman supporter of the current majority, May 2013.

Two independent reasons concur to render the decentralisation reform critical to the fate of Timorese democracy. On the one hand, there is a clear constitutional mandate to build a decentralised administration including institutions of local power. These state organs that need to be established all over the territory are bound by a constitutional provision stipulating that state organs ‘in their reciprocal relationships and exercise of their functions shall observe the principle of separation and interdependence of powers’.⁷ As such, the constitutional architecture is conceived as being formed by several pillars entertaining ‘interdependent’ relations in such a way that the overall stability of the institutions rests upon the converging contribution of each one of them—including the organs of local power. In other words, the full scope of horizontal accountability will only be completed when the organs of local power are fully established and operational.

The constitutional mandate, embodied in a number of its sections (directly in sections 5, 63, 71, 72; indirectly in sections 2, 69 and 137, see Amaral 2013) entails a vision that goes beyond a mere administrative construction, and conveys the need to establish and develop a social contract between society at large and the institutions of governance. Without this, one might end up building a hollow or phantom state whose governing institutions might be endowed with material resources but lack the necessary social legitimation (Lemay-Hebert 2012).

On the other hand, ever since the First Constitutional Government of Mari Alkatiri produced the first official documents stating the goals of this reform, three goals have emerged in prominent position: to promote the institutions of a strong, legitimate and stable state across the territory; to promote opportunities for local democratic participation by citizens; and to promote more effective, efficient and equitable public service delivery (RDTL 2002). This makes it clear that a close relationship exists between the proposed administrative reform and the consolidation of democracy, both by enlarging the scope of political institutions that are governed by democratic principles and by offering increased opportunities for citizens to participate in the decision-making process, namely in matters pertaining to their local communities. In brief, this reform is supposed to contribute to make democracy both more representative and more participatory.

Decentralisation reform has been on the Timorese political agenda since independence, but so far only the most timid of steps have been taken. Back in 2003, a major study was presented, entitled the *Local Government Options Study* (RDTL 2003), by a team under the auspices of the Ministry for State Administration and Territorial Management. It contains a thorough analysis of

7 Constitution of the Democratic Republic of Timor-Leste, section 69.

six alternative paths, which remain to this day the fundamental options on the table for the 'optimal sub-national configuration'. They include the delineation of the levels of the administrative hierarchy from central government down to the community level that will 'facilitate cost effective and efficient service delivery and enhance community initiative and participation' (RDTL 2003).

Two points of clarification should be inserted at this stage. First, decentralisation reforms have been defended on different grounds, namely on the basis of an alleged greater effectiveness of public administration, and on account of the increased political legitimacy that it is supposed to generate. In this brief essay, only the latter sort of reasons will be considered. Second, the concept of decentralisation covers a vast array of practical situations that can be summarised in the following three models:

- Deconcentration—occurring when the central government disperses responsibilities for certain services to its regional branches without involving any transfer of authority to the lower levels.
- Delegation—taking place when the central authority transfers responsibilities for decision-making and the administration of public functions to local governments or semi-autonomous organisations that are not wholly controlled by the transferring authority, but which remain ultimately accountable to it.
- Devolution—referring to those situations in which the central authorities transfer 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 their citizens. Devolution is theoretically justified by the principle of 'subsidiarity' developed by the Catholic theologian Oswald van Nell-Breuning and embodied in the papal encyclical *Quadragesimo Anno* (1931), which posits that matters of societal organisation and administration be conceived in a bottom-up manner, and ought to be handled at the lowest possible level of authority that is capable of solving the problem in an efficient manner. In terms of the impact of a decentralisation process upon democratic performance, devolution is by far the most heavily charged of all those variants, thus it is the one we might expect to see emerging in Timor-Leste.

The seminal *Local Government Options Study* presented six fundamental options. Looking at the current situation in the country, inherited directly from the UN administration but with deeper historical thickness dating back to earlier periods, it considered three main layers of governance: districts, subdistricts, and *sukus* (villages). In all six options, the 'perennial *sukus*'—the only institution that has remained more or less intact during the history of the territory' (RDTL 2003: 76)—were contemplated as an unavoidable territorial

unit with profound resonance in the Timorese populations. Only the sixth option, however, would treat the *sukus* as a formal state organ; all others acknowledging their role as forms of local self-organisation that would not bind the state. As for districts and subdistricts, several hypotheses were discussed, with all of them implying that it would be relatively easy to redefine their status and their boundaries. In fact, no substantial anchorage of these units in the autochthonous system of political legitimacy or self-organisation was observed, thus facilitating the rational bureaucratic manipulation required to install a novel administration.

In the course of the years since independence, different solutions have been adopted regarding *sukus* and the other sub-national units. From 2004, elections have been staged for what has been labelled *lideranças comunitárias* (community leadership) (2004–05, 2009). Rules have been designed and revised to frame the electoral process, and a substantial step in the direction of allocating village chiefs and *konsellus suku* [community council] has been taken by the 2009 Bill. However, the most salient feature of village politics is that these institutions remain outside the reach of the state, being merely recognised as organs of self-rule destined to accomplish customary functions. In this light, it is not surprising that no allocation of state funds has been made on a regular basis, only grants decided at higher levels being at the disposal of local leaders for small investments.

As for the mid-level institutions, from 2003 Alkatiri's government opted for a model that would transform subdistricts into the main units, under the aegis of a few 'provinces'. The number of municipalities would be reduced from the current 65 subdistricts to between 30 and 35—implying a substantial alteration of the composition of the new units. The Fourth Constitutional Government of Xanana Gusmão revised this option and became inclined to transform the existing 13 districts into the novel municipalities, eliminating the subdistrict level. Curiously, the district level is the one that fewer Timorese regard as a significant unit of identification, and has little more than administrative significance devoid of any articulation with autochthonous systems of legitimacy (that to a certain extent are still visible in the subdistricts, which are the heirs of historical *reinos* (kingdoms) (Leach et al. 2013)). This option was coupled with the idea of holding elections in 2009, later moved to 2010, before being postponed for sometime after the legislative polls of 2012. The program of the Fifth Constitutional Government promised that a pilot experience be developed in three to five municipalities before the end of the legislature in 2017.

Of more importance seems to be the intention to proceed with what has been called the 'pre-deconcentration' program. The formulation of this program is recent, and was thoroughly exposed by Gusmão early in 2014. The main suggestion arising out of this new approach is that the decentralisation reform that has been

in the making for so long will be conceived in conservative terms emphasising deconcentration over any other meaning—namely devolution—and that the time frame for its deployment has increased ‘up to one hundred years’ (Pereira 2014). A critical new figure is the ‘district manager’, who represents central government at district level, is empowered with substantial competences, is recruited as a public servant in view of his CV, and forfeits any relation to locally held notions of political legitimacy. If this vision becomes the blueprint for the reform, a very modest process of decentralisation will surface. Little or no devolution will be implied in the process, and its impact on democratic performance cannot be expected to be high. In the meantime, as a district administrator put it in an interview with Tanja Hohe (2004), ‘the national government has a roof, but no roots’. The next few chapters in the politics of Timor-Leste will revolve around these issues.

Conclusion

Challenges to democratic consolidation and the improvement of its performance in Timor-Leste come from many different sources, including the ongoing process of state-building (decentralisation), which requires commitment of the ruling elite to a major reform, and the need to adopt an adequate choice of policies in a context where democratic norms suffer the competition of alternative narratives that may subvert the main tenets of the constitutional ethos. Stability, which has marked Timor-Leste’s development in recent years, cannot, therefore, be totally equated with the consolidation of democracy. The performance of the regime also needs to improve in order to secure a firm rooting of democratic governance in the political landscape at all levels. Particular attention should be devoted to the plasticity of democratic institutions, and their capacity to adapt to the emerging social forces in the country. If democracy is equated with empowering citizens to take the fundamental decisions regarding the development of their communities and to possess the ultimate control over those who momentarily hold power, it must combine in balanced proportions to the adherence to international standards and recognised procedures with greater responsiveness to local values and forms of political legitimation.

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