

Timor-Leste: Stability at What Cost?

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Executive Summary

UN peacekeepers withdrew from Timor-Leste in December 2012, ending a thirteen-year presence after two successful elections underscored the country's continued stability. Pragmatic decisions by local leaders after the 2006 crisis to use swelling petroleum industry revenues to buy peace have paid dividends. But that strategy rests on three anchors: the authority of the current prime minister; the deferral of institutional reforms in the security sector; and the flow of oil and gas revenues from the Timor Sea. The dependence on the petroleum industry is unsustainable, and the need to develop alternative anchors may be more urgent than it appears.

Timor-Leste has recovered well from the 2006 crisis, when tensions spilled onto the streets as police, army and disaffected veterans fought one another, and over 100,000 Dili residents were displaced. Oil and gas revenues have helped provide the cure. The Petroleum Fund began to swell after production from the Timor Sea began in 2004 and now stands at \$11.7 billion. The money gave the Aliança da Maioria Parlamentar (AMP) government headed by Xanana Gusmão the confidence and the resources to spend its way out of conflict. It gave rewards to the surrendering "petitioners", whose desertions from the army had set the crisis in motion; offered cash grants to persuade the displaced to return; funded lavish pensions for disgruntled veterans; and put potential spoilers to work pursuant to lucrative construction contracts.

The 2012 elections bore testament to greater political stability but placed power in the hands of a few. Gusmão's party returned with a broader mandate and streamlined coalition; his former guerrilla army subordinate (and recent armed forces chief), Taur Matan Ruak, became president. Both mobilised the structures of the resistance to aid their elections, while business interests also played a large role in the parliamentary poll. Though he formed a 55-member cabinet, Gusmão has been reluctant to delegate political authority to potential successors, instead centralising power under himself and a few key ministers. All political parties face internal problems, and the question of who will succeed such a dominant figure remains. Ruak is one possibility – he has been a vocal government critic, providing some accountability not offered by a weak parliament. But there are few other obvious successors, and the transition could be messy.

Overly centralised political power sharpens risks from the dual lack of effective oversight and of adequate institutional arrangements in the security sector. Gusmão, who reappointed himself joint security and defence minister, has used his personal authority to tamp down tensions among and between the various security forces rather than make long-term policy. The police are without clear leadership and hobbled by inadequate investigative skills and discipline problems. Proposals to establish a separate criminal investigation service to address the poor track record of prosecutions may only weaken the force as a whole. The military has become more professional, but as it doubles in size and deploys across the country, the reluctance to outline a clear division of labour between the security forces poses greater risks. That task will not be made easier by the anomaly that though the country faces almost no external threats, the army's ambitions are expanding.

The government will also have to work harder to ensure improved and more equitable returns on its investments. The Petroleum Fund provides considerable inde-

pendence from donor-driven priorities and freedom to spend without going into debt. The government views spending as an economic stimulus measure and improvements to infrastructure as a prerequisite to sustainable growth, but returns have been woeful. In recent years, over half the state budget has been devoted to construction projects, but actual execution has sometimes seemed an afterthought. Limited investment in the weak education and health sectors is not doing enough to ensure the welfare of future generations.

The greatest challenge facing this government will be to make progress in providing economic opportunities without exhausting national wealth. It will have to prioritise the search for more sustainable employment for a rapidly growing workforce, driven by one of the world's highest birth rates. It will also need to find ways to tackle the perceived growth in social inequality, as elites largely centred in the capital benefit from access to increased spending. It must produce visible results against alleged corruption. And in designing major measures, such as land-titling legislation and decentralisation, it will need to work with parliament and civil society in order to produce legislation and policies that enjoy a greater degree of public legitimacy.

Timor-Leste deserves praise for the success with which it has implemented pragmatic policies designed to bring rapid stability following the 2006 crisis. Promoting confidence at home and abroad is important for transforming any post-conflict economy. But it likely has a very limited window of opportunity during which to make investments – both political and financial – that might mitigate the still real risks of an eventual return to conflict.

Recommendations

To the Government of Timor-Leste:

1. Develop a more prudent and sustainable approach to government spending, with an eye toward ensuring that investments pay real dividends for future generations, including by:
 - a) developing better quality controls for infrastructure projects;
 - b) including provisions in contracts concluded with foreign companies to train Timorese workers in new skills; and
 - c) capping benefits provided to resistance veterans so as to bring greater balance to social protection policies.
2. Appoint a dedicated defence and security minister with sufficient political authority to strengthen ministry functions and take the following steps:
 - a) lead development of a long-term vision for the police and military that includes consensus on how to strengthen criminal investigations and on the operational implications of the army's territorial deployment, ensuring primacy for the police in the maintenance of domestic law and order; and
 - b) prioritise improvements in addressing disciplinary infractions involving the police and the military.
3. Formulate a transparent, government-wide policy on process and compensation to be applied to those individuals and communities that will be relocated as the pace of government-driven development accelerates.
4. Expand efforts to engage both parliament and civil society in developing consensus on policy proposals grounded in local realities, with an eye toward generating better legislation that also enjoys popular legitimacy and reducing delays in the decision-making process.

To donors:

5. Maintain support for domestic civil society, while continuing to support priorities identified by the Timorese government, and help in particular efforts that work alongside the government to improve the quality of policy development and legislation.

Dili/Jakarta/Brussels, 8 May 2013

Timor-Leste: Stability at What Cost?

I. The AMP Style of Governance

Timor-Leste's peaceful 2012 polls saw the re-election of a coalition government headed by Prime Minister Xanana Gusmão and the subsequent withdrawal of the UN thirteen-year-old peacekeeping mission.¹ Successful elections were a pre-condition for the withdrawal, and many observers saw them as proof that the hard-won political stability after the 2006 crisis had been consolidated.² An atmosphere of cooperation between political parties has even strengthened in recent months, but the question remains how long it will last.

The new administration's authority is based on three factors: the popularity of Gusmão, the sharp increase in earnings from the petroleum sector and its willingness to spend them. A streamlined version of the coalition that held office from August 2007 until August 2012 – the Aliança da Maioria Parlamentar (Parliamentary Majority Alliance, AMP) – it has publicly committed to continuing the policies that have brought the country to where it is today. A look toward the immediate future must first examine the success and challenges of the past five years.

The AMP presided over a four-fold increase in revenue and a five-fold increase in the state budget.³ A surge in oil and gas money allowed it to pursue a strategy of buying peace, and budgeted expenditure ballooned from \$348 million to \$1.7 billion.⁴ In its boldest move, it used the money to return or resettle more than 30,000 of those displaced during the crisis. It bought off spoilers with government contracts, pumping money into the economy in the hope that it would drive future development.

Oil and gas revenues began to flow in 2004, after production started in the Bayu-Undan gas field, the first block of the Timor-Leste/Australia Joint Petroleum Development Area to be brought on line. The dramatic increase in revenues was one of the

¹ For previous Crisis Group reporting on Timor-Leste, including detailed description and analysis of the 2006 crisis, see Crisis Group Asia Reports N°120, *Resolving Timor-Leste's Crisis*, 10 October 2006; N°143, *Timor-Leste: Security Sector Reform*, 17 January 2008; N°148, *Timor-Leste's Displacement Crisis*, 31 March 2008; and N°180, *Handing Back Responsibility to Timor-Leste's Police*, 3 December 2009; also, Crisis Group Asia Briefings N°65, *Timor-Leste's Parliamentary Elections*, 12 June 2007; N°87, *No Time for Complacency*, 9 February 2009; N°104, *Timor-Leste: Oecusse and the Indonesian Border*, 20 May 2010; N°110, *Managing Land Conflict in Timor-Leste*, 9 September 2010; N°116, *Timor-Leste: Time for the UN to Step Back*, 15 December 2010; N°122, *Timor-Leste: Reconciliation and Return from Indonesia*, 18 April 2011; N°129, *Timor-Leste's Veterans: An Unfinished Struggle?*, 18 November 2011; and N°134, *Timor-Leste's Elections: Leaving Behind a Violent Past?*, 21 February 2012.

² Prior to the 2006 crisis, the number of peacekeepers had fallen to under 100 police advisers and civilian staff who comprised the UN Office in Timor-Leste (UNOTIL), mandated for one year from May 2005 and due to withdraw as violence erupted in Dili in April-May.

³ Figures from "Article IV Consultation Staff Report", International Monetary Fund (IMF), 13 January 2012. 2012 revenue figures are IMF projections.

⁴ Timor-Leste uses the U.S. dollar as its currency. As the NGO La'o Hamutuk pointed out, the budgetary expansion is second globally only to Zimbabwe, where it was chiefly a factor of inflation. See "Key issues in the 2012 State Budget", 7 October 2011, available at laohamutuk.blogspot.com/2011/10/key-issues-in-2012-state-budget.html.

many drivers of the tensions that marked the 2006 crisis, whose proximate trigger was a fractious and politicised security sector but whose roots were diverse. As a leader of the Fretilin party – which led government at the time – explained, the crisis “was also a crisis of ideas”.⁵ The Fretilin administration had seen itself as pursuing long-term, incremental change but then-President Gusmão was impatient for the new revenues to provide quicker results. He told an Australian magazine in 2005:

Right now, we can't even name our priorities – the donors do. If the donors say education is a priority, then we must follow. But ... the priority must be to give people an income, to reduce poverty. It's bullshit to say we should spend on education alone and become a knowledge country because that will automatically make us rich.⁶

This impatience was part of the impetus behind the campaign of the new party Gusmão created to contest the 2007 elections: the Congresso Nacional para a Reconstrução de Timor-Leste (National Congress for the Reconstruction of Timor-Leste, CNRT). It campaigned with posters showing luxury marinas, hotel developments and fighter jets, while promising to increase social spending. It won only eighteen of 55 seats, but after protracted negotiations was able to woo the Partido Democrático (Democratic Party, PD) away from a likely coalition with Fretilin. Then along with three smaller parties, CNRT and PD formed the AMP government on 8 August 2007.⁷

Its first priority was the return of those displaced following the 2006 crisis. Estimates of their total number exceed 100,000; some 30,000 took up residence in camps for internally displaced persons (IDPs) around Dili. For two years, one such camp was the first sight greeting visitors arriving at the airport; IDPs could also be seen sheltering outside the city's leading hotel.

A minimum level of stability was a prerequisite for facilitating the return of the displaced, and that meant ending the threat posed by Alfredo Reinado and hundreds of disgruntled former soldiers. Reinado was a former military police officer who had deserted at the height of the crisis and joined with the “petitioners” who had deserted the army in February over poor conditions.⁸ He roamed the mountains for nearly two years, evading arrest and challenging the government's credibility. On 11 February 2008, he came to President Ramos-Horta's residence with a group of some twenty under disputed circumstances, allegedly with the intention of killing the president. In the shoot-out that followed, the president was wounded and Reinado killed.

The shooting of the president and a near-simultaneous foiled attack on the prime minister presented the gravest threat to national security since the crisis. The response by UN police (then responsible for security was seen as clumsy; it took them an hour and a half to arrive at the scene of the shooting. The government responded in the following days by rapidly mobilising a joint army-police command. While it blurred the lines of responsibility for internal security, the new command also sent a

⁵ Crisis Group interview, Arsenio Bano, Fretilin vice president, Dili, 5 September 2012.

⁶ Tony Clifton, “Fields of Dreams”, *The Monthly*, July 2005.

⁷ The AMP government consisted of CNRT (eighteen seats), the Social-Democrat Party (PSD) and the Social-Democrat Association of Timor party (ASDT) (who together formed an eleven-seat bloc), PD (eight seats) and the National Democratic Union of the Timorese Resistance (UNDERTIM, two seats).

⁸ For more on the petitioners, see Crisis Group Report, *Resolving Timor-Leste's Crisis*, op. cit.

reassuring message of national unity and is credited with contributing to an esprit de corps among the security forces that helped paper over earlier tensions.

Reinado's death eliminated the immediate security threat, but resolving broader threats to stability required a different approach. The AMP government embarked on a strategy of buying the peace through three principal avenues: i) a retirement payout for the petitioners, along with two headline benefit programs for helping the displaced in Dili and recognising veterans of the independence struggle; ii) introducing social-protection schemes and expanding civil service; and iii) concluding major infrastructure contracts with potential spoilers. All these measures have dramatically increased the outflow of government money, including beyond the capital; each entails its own political and economic risks for the future.

The first goal was to restore a sense of normalcy by dealing with the remaining petitioners and returning the displaced. Coercive pressure was applied to Reinado's followers through the joint army-police command at the same time that cash rewards were offered for their surrender.⁹ These payments were the first example of the AMP buying peace: each petitioner was eligible to receive \$8,000 – 70 times the monthly minimum civil service wage.¹⁰ The recovery strategy for the displaced received new impetus once the petitioners had surrendered, and people felt safer to return home. Between 2008 and the end of 2010, the government closed all the IDP camps and spent \$56.8 million in recovery grants. Most of this was in the form of family grants of \$4,500 for those who could produce evidence of their home's destruction.¹¹

These two one-time cash-grant programs increased the pressure building on the government to implement a much broader benefits program: pensions for the combatentes de libertação nacional, the veterans of the 24-year resistance struggle. The veterans wanted their own piece of the rapidly expanding pie, and pressure to reward them was also fuelled by inclusion in the AMP government of several leading figures who had supported integration with Indonesia before the 1999 referendum. Payments began in April 2008 to a small number and expanded to over \$100 million in the 2012 budget; some 76,000 have received payments to date.¹² The program came under significant political pressure from veterans to be expanded further; changes in 2009 expanded the number eligible and opened a new period during which a further 125,000 registered.¹³

⁹ The joint command operation was criticised by some, including the UN mission, as overly aggressive. An observer wrote of allegations "includ[ing] ill-treatment of civilians, pointing of weapons and death threats, in addition to failure to comply with legal procedures when carrying out arrests and home searches". Bu V.E. Wilson, "The exception becomes the norm in Timor-Leste: the draft national security laws and the continuing role of the Joint Command", Center for International Governance and Justice Issues Paper no. 11, September 2009.

¹⁰ See "Integração dos ex-militares na vida civil" ["Integration of ex-soldiers into civilian life"], Decree 12/2008, 11 June 2008. The benefit was equal to three years of back pay plus \$1,500. Those who had deserted prior to February 2006 were granted slightly less. Some of the former petitioners maintain that they never received this money. Crisis Group interview, Gastão Salsinha, Gleno, 6 September 2011.

¹¹ Originally it was envisioned that those unable to return to their original homes would be given a choice between cash grants and alternative housing. Faced with the difficulty of finding unoccupied land in Dili, this was soon abandoned in favour of cash grants for everyone.

¹² "Lista veteranu falsu sei kansela hotu" ["Register of false veterans will be cancelled"], *Jornal Bisnis Timor*, 25 February 2013.

¹³ Crisis Group interview, former Social Solidarity Minister Maria Domingas Alves, Dili, 18 February 2012. Payments range from a one-time grant of \$1,380 to a life-time monthly payment of \$750

Both programs faced serious challenges from fraud, and while steps were taken in both cases to reduce the number of improper claims, this remained a serious issue.¹⁴ Sufficient controls to reduce the incidence of fraud were not introduced from the outset, and as rumours spread of false claimants' success, the flow became harder to stem. The size of the programs has led to demands from communities for costly compensation in other cases – particularly involving land –that the government is not always willing (and may soon be unable) to meet.¹⁵ The precedent set by insufficient fraud control may continue to plague the government as it encounters demands for further expansion of state largesse.

The government also introduced more conventional cash transfers and other poverty reduction schemes. These are tiny in comparison to the amounts paid to some of the veterans, but their reach is broad; in particular, the cash grant for the elderly has involved monthly payments of \$20 to all over 60.¹⁶ Established in May 2008, this *pensaun idozus* (pension for the elderly) has proven enormously popular. Other, more targeted cash transfers, such as the *bolsa da mãe*, a single-parent's grant modelled on a successful Brazilian program, have also been introduced.¹⁷ The dramatic expansion of the civil service and its accompanying wage bill, which swelled from \$37.4 million to \$140 million during the government's tenure, likewise helped drive the increase in domestic spending.¹⁸

These programs can be expected to help reduce poverty, protect the vulnerable and improve relations between citizens and the young state. They help give a large part of the population a vested stake in preserving stability. The primary risk is that, particularly when coupled with the expense of the veterans' scheme, the state could become unable to afford the recurrent expenditures in the not so distant future but will find it difficult to roll them back.

A further AMP priority was development of a local private sector with real skills. It set up procurement schemes to stimulate entrepreneurship, to encourage growth beyond the capital and generate a visible peace dividend. Those aims may, however, be at odds with another goal of the spending: to make payments to special interest groups, such as veterans of the resistance, few of whom have the requisite skills for construction or project management. While yoking together these two sets of goals is

for a small number of leading figures. For more on the veterans' benefit scheme, see Crisis Group Briefing, *Timor-Leste's Veterans: An Unfinished Struggle?*, op. cit

¹⁴ The government commissioned and published a review of the IDP returns program in 2012. "The National Recovery Strategy: A review of the process, results and lessons learned", February 2012.

¹⁵ This difficulty is already being seen in efforts by the government to free up land in Dili and the planned Tasi Mane (south coast) development area. See Section IV.C below.

¹⁶ This has since increased to \$30 a month, paid quarterly, and there is talk of increasing it to \$50. As with other transfer payment programs, the government has faced significant complaints regarding who should be paid. See "Politika aumenta osan idozus la realiza" ["Policy to increase old-age payments not implemented"], *Independente*, 16 January 2013. The importance of the cash payments is underscored by the population bulge among those aged 60-64 revealed by the 2010 census: there were 67 per cent more people in this age range (37,333) than between 55 and 59 (22,346). "Population and Housing Census of Timor-Leste, 2010", finance ministry directorate of national statistics, vol. 2, pp. 53-54.

¹⁷ Ultimately the program is intended to be a conditional transfer, granted in exchange for primary school enrolments and inoculations for young children, but monitoring of these conditions is not yet fully in place.

¹⁸ Comparing figures from the 2006-2007 and the 2012 state budgets. Until 2007, the fiscal year ran from 1 July. Since 2008, the calendar and fiscal years have been identical. Budget documents back to 2005 are available on the finance ministry's website, www.mof.gov.tl.

a familiar strategy in post-conflict development environments, the latter weakens the former.

The practice of linking government spending with generation of a peace dividend emerged in 2009, with introduction of the Referendum Package (Pakote Referendum), named for the ten-year anniversary of the 1999 vote for independence. The government had struggled to spend money in the 2009 budget set aside for infrastructure (it had been dubbed the Year of Infrastructure), and in August it reallocated \$75 million in unspent funds to Timorese contracting firms for small public works projects. This money was distributed through a private body, the Association of Civil Construction and Public Works Entrepreneurs (AECCOP).¹⁹ Many questions were raised but left unanswered about the quality of execution of these projects; the real goal, though, appears to have been to get money flowing.²⁰

Expanded versions of the scheme, which became known as the Decentralised Development Program (Programa de Desenvolvimento Descentralizado, PDD), were rolled out in subsequent years. To be eligible for the contracts, companies had to be legally based in the districts, which led to a flurry of newly registered businesses. Infrastructure projects of up to \$500,000 were distributed through district-level award committees, comprised of local officials.²¹

The publicly-expressed goals were to stimulate development of a local private sector with construction experience and to “fast track rural development”.²² The schemes also helped respond to some of the pressures for more spending in rural areas that had built up after planned decentralisation of power to district-level governments was deferred in 2010 until 2014 or later.

Another goal was likely patronage, in part for rewarding party loyalty, but also for paying off spoilers. CNRT has strong links with business – underscored in a brief campaign-financing scandal in May/June 2012, when a number of leading businesses emerged as major supporters.²³ But access to contracts is by no means exclusive: even businesses closely aligned with the Fretilin opposition have continued to benefit from them. A senior minister who has served since 2007 explained that among AMP’s primary challenges on taking office was to introduce greater “flexibility” into

¹⁹ The acronym comes from the Portuguese name: Associação Empresarios Construção Civil e Obras Públicas.

²⁰ Much of this criticism came from the opposition. See, for example, Aniceto Guterres, “Intervensaun husi Bancada Fretilin molok votasaun iha voto iha generalidade iha debate orsamentu rectificativu 2010 nian” [“Intervention by the Fretilin bench before voting on the 2010 rectifying budget”], speech delivered on 24 June 2010 and available at fretilinmedia.blogspot.com/2010/06/bancada-fretilin-nia-intervensaun-iha.html.

²¹ The PDD projects are broken into two different levels: PDD I, for contracts up to \$150,000, and PDD II, for those up to \$500,000. Some details of the PDD project are in “Programa de Desenvolvimento Descentralizado I e II” [“Decentralised Development Program I and II”], Decree 18/2011, 5 May 2011.

²² “Referendum package to rebuild Timor’s rural areas”, government press release, 28 October 2009.

²³ As part of a one-night total of at least \$2.35 million publicly pledged, commitments of \$50,000 to \$250,000 were made at a CNRT fundraiser in May 2012 by a number of businesses, including, reportedly, Indonesian and Chinese firms. These appeared to violate campaign-finance provisions barring contributions by companies of any kind or foreign individuals. “Final Report, Parliamentary Election 2012”, EU Election Observation Mission, October 2012, pp. 16-17. CNRT denied receiving any illegal contributions. “Timor PM’s party denies receiving illegal political donations”, ABC Radio Australia, 22 May 2012.

a transparent government tender system.²⁴ Quality of execution remained a concern but never appeared to be the main goal.²⁵

The beneficiaries are thus a mix of an emerging business class with good family and political connections and those with proven potential to use violence against the state. One who has benefited is Lito Rambo, a former associate of the pro-independence guerrillas. A recent newspaper profile described the listlessness he experienced after independence, when he became an influential gang leader in the Dili suburb of Becora, an area where violence between easterners and westerners flared during the 2006 crisis.²⁶ Following introduction of the Referendum Package, he became a contractor, beginning by building retaining walls and doing road drainage projects. Others include Rai Los, convicted in 2009 for leading a hit squad during the 2006 crisis but released from prison following the commutation of his sentence and now chairman of the Liquiça chamber of commerce. Susar, a petitioner convicted (but quickly pardoned) for his role in leading the group implicated in the 2008 attack on the president and acquitted of involvement in the 23 May 2006 police-army shoot-out in Fatu Ahi, is another contractor.²⁷

The contracts were also instrumental in providing a counterpoint to another potentially destabilising political development: the rise of a class of former supporters of integration with Indonesia to cabinet posts and government contracts. Gusmão had always been a staunch supporter of reconciliation, and his August 2007 cabinet included a number of those known as “pro-autonomists”. Anger at the wealth and status being acquired by these supposed former enemies of independence was a major factor driving expansion of veterans’ benefits and, later, special access to contracts for veterans.²⁸

Taken together, the AMP government’s aggressive expansion of spending, in particular through compensation payments, cash transfers and local-level contracting, constitute an expensive and risky strategy for shoring up stability that yielded some notable success. The most immediate risk is economic: the speed of fiscal expansion has pushed annual inflation to around 11 per cent since 2011, making this country with a very small population of skilled workers expensive for both investors and its own residents. It has created a dependent population with high expectations of government handouts and of easy contracts to build second-rate infrastructure. And while the rise of a middle class centred in Dili is notable, the rural population remains among Asia’s poorest.²⁹ All this makes Timor-Leste vulnerable to economic shocks, particularly when oil and gas revenues begin to drop.

²⁴ Crisis Group interview, senior minister, Dili, 19 November 2012.

²⁵ See for example, “PDD-PDL Balun Kualidade Laek” [“Some PDD-PDL projects without quality”], *Jornal Bisnis Timor*, 20 February 2012; “Projeito Pakote Referendum Laiha Kualidade” [“Referendum Package Projects are without quality”], *Timor Today*, 2 May 2010.

²⁶ “Brutalismo TNI *di mata* Lito Rambo” [“The brutality of the TNI in the eyes of Lito Rambo”], *Suara Timor Lorosae*, 8 February 2013.

²⁷ See Mark Harris, “Security Sector Reform (SSR) Monitor: Timor-Leste”, Center for International Governance Innovation, no. 4, January 2011.

²⁸ Crisis Group interview, former Social Solidarity Minister Maria Domingas Alves, Dili, 18 February 2012.

²⁹ The rural-urban wealth divide is particularly pronounced in Timor-Leste, where 71 per cent of Dili residents are in the highest wealth quintile, while 72 per cent of rural residents are in the three lowest wealth quintiles. “Timor-Leste Health and Demographic Survey 2009-2010”, finance ministry national statistics directorate, December 2010, Table 2.11.

The emerging political economy is also at risk of future deadly conflict. The patronage system of rewarding violent spoilers with contracts, coupled with the near impunity for the 1999 and 2006-2008 political violence, threatens to promote a dangerous dynamic seen in other fragile post-conflict situations, in which violence is perceived to offer rewards – or at least to be without downside – raising further prospects for recurrence.

II. Political Stability

Following the 2012 elections, Timorese politics are stable, but not necessarily healthy. The concentration of electoral support behind just four parties allowed for the quick formation of a less volatile coalition. The process was tense, but unlike in 2007, it was not violent. The electoral season was also testament to the increased political clout of the veterans and how time served in the resistance remains the primary source of political legitimacy. Voters elected former commanders of the guerrilla army as heads of state and government. But with a president who is the former subordinate of the prime minister, political power is worryingly concentrated around one man: Xanana Gusmão.

A. Presidential Elections

Two rounds of presidential voting in March and April 2012 set the tone for the July parliamentary polls. Presidential candidates compete without official party identification, but party support undoubtedly influences the campaigns. It also means that the presidential poll becomes a proxy contest for the subsequent parliamentary race; parties vie for a show of strength that will bolster their fortunes as they head into the next election, and there has been a loose correlation between the fortunes of a presidential candidate and the parties who offer their support.

There were early questions over which candidate Fretilin would endorse. Some, particularly those with strong connections to the armed resistance, thought it would be wise to support Ruak, whose potential candidacy quickly generated buzz following his retirement from the armed forces in October 2011. However, he was unwilling to campaign under the Fretilin flag, which meant the party would have lost valuable exposure in the run-up to the parliamentary poll. Some members would have been happy to pay that price, but party statutes require it to support its own president, so in the end, it stuck with Francisco “Lu Olo” Guterres, its longstanding party head.

The key remaining strategic question was whom Xanana Gusmão would support. Elected president in 2002 with 83 per cent of the vote, he is seen by many as the kingmaker in Timorese politics. His support was also a key factor in José Ramos-Horta’s 2007 victory. Long before the election, Gusmão had taken to jokingly conferring his support on different candidates, interrupting a meeting to suggest former Justice Minister Lúcia Lobato stand for president and placing his red Falintil beret on the head of the then president of parliament, Fernando “Lasama” de Araújo, following the 2011 demobilisation of 236 leading veterans.

Gusmão and CNRT deferred a decision on an official endorsement until late in the campaign, leaving open where their support lay. Following its national conference on 7-8 January, the party announced that it had not endorsed a candidate, agreeing instead upon a set of values that any president should have.³⁰ But days before the first round, Gusmão appeared on the campaign trail with his former comrade, in a move that undoubtedly strengthened Ruak. Concerns about Ruak’s role in the 2006 crisis – an investigation into his alleged involvement in distribution of weapons to former veterans was set aside in 2010 after the prosecutor-general deemed it “too political” – might otherwise have weighed more heavily.³¹

³⁰ “Kandidatu PR CNRT iha kritéria propriu” [“CNRT has its own criteria for presidential candidates”], *Suara Timor Lorosae*, 19 January 2012.

³¹ See Crisis Group Briefing, *Timor-Leste: Time for the UN to Step Back*, op. cit.

Despite Gusmão's late support, Ruak finished second in the first round, trailing Lu Olo 28 to 25 per cent. The bulk of the remaining votes went to Lasama and Ramos-Horta, each about 18 per cent, leaving open whom they would support in the second round. Ramos-Horta, who has no party of his own, tried to organise an alliance with Lasama and PD to support Lu Olo and against Ruak (and by extension, Gusmão). This failed in part because of a split within PD; Lasama originally hinted at support of Lu Olo, Vice President Lurdes Bessa campaigned for Lu Olo, and Secretary-General Mariano Sabino backed Ruak. It is also unlikely that PD's base would ever have accepted supporting Fretilin.

In second-round voting on 16 April, Ruak won 61 per cent of the vote, carrying all districts except the Fretilin strongholds of Baucau and Viqueque.³² With a turnout rate of 73 per cent (down from 78 per cent in the first round), this meant Ruak still failed to attract more than half the registered voters.

Given their prominence in helping mobilise support, particularly for Ruak but also for Lu Olo, the influence of veterans' groups may be lasting. This is important because a defining feature of politics before Ruak's retirement had been the diversity of political affiliations among the leading veterans of the armed resistance. This *apartidarismo* (non-partisanship) was a feature of the Timorese resistance that many veterans themselves acknowledged to be an important contribution to blocking exclusive veterans' influence over the state. By appealing first and foremost to his resistance-era legacy rather than party affiliation, leading a number of people to cross party lines to support their former commander, Ruak may have changed political dynamics in a way that could have important repercussions if he ever enters party politics.

B. *Parliamentary Elections*

The parliament elected on 6 July 2012 was a streamlined version of its predecessor: a CNRT-led coalition with two partners instead of four and only Fretilin in opposition. CNRT and Fretilin each increased their representation, winning 30 and 25 seats respectively (from eighteen and 21). PD held steady with eight seats, while the newly registered party, Frenti-Mudansa, won two.³³ A raft of smaller parties attracted some 20 per cent of the vote but won no seats, as they failed to cross the 3 per cent threshold.

CNRT's extra seats came at the expense of old coalition partners: the Social-Democrat Party (PSD) and the ASDT. PSD's fortunes had been falling since its expulsion from the coalition. That began with the resignation of party founder Mário Carrascalão as vice prime minister in March 2010 and was followed by the very public embarrassment of Foreign Minister (and party president) Zacarias da Costa in a specially broadcast meeting of the Council of Ministers.³⁴ The May 2012 suspension of Justice Minister Lobato (a party vice president) and her sentencing the next month (subsequently appealed) in connection with a procurement scandal also hurt

³² In Lautém, traditionally a base of Fretilin support, there was nearly a dead heat, as Ruak won by 13,555 votes to 13,340. In the district's parliamentary contests, Fretilin received 44 per cent, followed by PD (21 per cent) and CNRT (20 per cent). District-level results available at www.stae.tl/elections/2012/rezultado/parlamentar/.

³³ Frenti-Mudança, headed by current Foreign Minister José Luis Guterres, originally emerged as a splinter from Fretilin following the 2006 party congress but was first formally registered in July 2011.

³⁴ In April 2010, after da Costa appeared to contradict the prime minister over whether all ambassadors should fly home for a Development Partners' Meeting, he was given a dressing down by Gusmão on television and subsequently maintained a less active profile.

the party. ASDT was badly weakened by the March 2012 death of its leader, “Avo Xavier” (Francisco Xavier do Amaral), who led the declaration of independence in November 1975. A messy, still unresolved leadership battle followed, pitting the AMP tourism and commerce minister, Gil Alves, against his predecessor as party secretary general, João Correia.

CNRT from the outset tried to create an impression that its success was inevitable. A year before the election, it announced the ambitious goal of 45 seats, over two thirds of the total.³⁵ It may have gained some momentum from the presidential campaign, in part due to its association with Ruak and his success (the elections commission reprimanded the party for displaying his photograph on its materials).

CNRT was also the best-funded party and used its advantage to organise a far greater number of rallies and large campaign events. Others focused more on efforts to get out the vote through door-to-door campaigning in areas of strong support.³⁶ The larger number of rallies made it easier for CNRT to dominate local media coverage.³⁷

More than anything, the party seemed to build a sense of inevitability through government spending. This was achieved in part through programs with which it was strongly aligned. The most important was the largest-ever disbursement of payments to veterans. \$46 million was disbursed to them in June 2012 alone, as the campaign kicked off. At the same time, Secretary of State for Vocational Training and Employment Opportunities (and senior CNRT figure) Bendito Freitas announced a major expansion of the \$3-a-day work program, which distributed \$20 million that same month.³⁸

CNRT also benefited from the emergence of splinter groups designed to support Gusmão himself and not the party. These included the “Independent Commission to support the Maximal Leader Xanana Gusmão” and a smaller group that called itself Fretilin Resistencia (Fretilin Resistance). Typical statements included this from António Cardoso, a disaffected former Fretilin parliamentarian: “We recognise only the maximal leader Xanana as the one who knows best the history of Fretilin; not a Fretilin that was built after independence by those who had just arrived from abroad”.³⁹ Gusmão the brand remained far stronger than CNRT the party, which modified its official ballot symbol to include his face superimposed on the CNRT flag.

Other parties struggled to match the strong momentum of the CNRT campaign. Fretilin tried to attract new voters by focusing on alleged corruption in the AMP government and frustration over social justice, weak courts and impunity. While that message appeared to resonate with the party’s base, it won over few new voters: the

³⁵ See, for example, “Xanana: CNRT tenki hetan kadeira 45” [“Xanana: CNRT must get 45 seats”], *Centru Jornalista Investigativu Timor Leste (CJITL) Online*, 18 April 2011.

³⁶ A newspaper reported allegations of illegal campaign contributions in mid-June, claiming CNRT had raised \$2.35 million in one night, much of it from Timorese and foreign businesses, an apparent violation of campaign financing laws. Opposition groups seized on this, but CNRT denied receiving any illegal contributions, the scandal seemed to die down as the campaign began, and no results of any investigation have appeared.

³⁷ All newspapers devoted considerably more attention to CNRT. See “Final Report, Parliamentary Election 2012”, *op. cit.*, pp. 19-21.

³⁸ Freitas is now the education minister. The EU Election Observation Mission noted that the program had been run in earlier years on a far smaller scale (\$895,000 in 2010), *ibid.*, p. 17.

³⁹ Comments by António Cardoso at a CNRT rally in Zumalai, as cited in “Ami hatene Fretilin mak Xanana” [“We know that Fretilin is Xanana”], *Timor Post*, 29 June 2012.

party's share of the vote increased less than one percentage point between 2007 and 2012.⁴⁰

PD had sought to broaden its base by alliance with José Ramos-Horta, but it gained little from this, as its share of the vote fell slightly to just over 10 per cent. One reason is that the alliance was never a unanimous party decision: while party banners quickly carried pictures of Ramos-Horta smiling between Mariano Sabino and Lasama, the former was never heard to support the alliance. The imagery suggested an alliance between what are often referred to as the “older generation” of 1975 political leaders and the “younger generation” that PD was largely founded to support. This was a message Ramos-Horta frequently drew upon during the campaign, speaking of the need to transfer political power to younger figures, while retaining the supervision of the elders.

A senior PD personality explained that the party had clearly made two key mistakes. Throughout the campaign, it sent inconsistent messages about coalition prospects, but it was widely believed PD would ultimately join a CNRT-led government. Potential PD voters, preferring to back a winner and seeing little differentiation between the two, simply voted for CNRT. At the same time, in aligning itself with Ramos-Horta, who became an increasingly outspoken critic of Gusmão during the campaign, it scared off many voters fearful of backing any challenge to the latter.⁴¹

Several Fretilin members took away from the election the lesson that in the current political dynamic, no one other than the party president, Mari Alkatiri, can publicly challenge Gusmão without looking weaker.⁴² They suggested Alkatiri is an exception for two reasons: he is identified as being from the same generation of leaders; and the antagonism between Gusmão and him has long been familiar to voters.⁴³

The key issue for the major parties, particularly as the campaign wore on, was their relationship with Gusmão. Lasama told voters that if PD won, it would adopt a model that Timorese papers rendered as *liukanliu*, referring to Lee Kwan Yew, the Singapore “father of the state” who, following 31 years as prime minister, remained in cabinet as a senior adviser.⁴⁴ Alkatiri and other senior Fretilin figures tried to keep the idea of a coalition government open until the end. Gusmão himself never rejected that possibility, and by leaving it at least theoretically open as long as possible, may have further strengthened the sense of his own primacy.

In the absence of polling data or qualitative research on how voters made choices, it is difficult to draw firm conclusions about the results. But it remains an open question whether support for CNRT was largely a matter of support for the record of the AMP government, support for Gusmão, or fear and uncertainty about what politics might be like were he voted out of office.

⁴⁰ In 2007, Fretilin received 120,592 votes (29.02 per cent); in 2012, it received 140,786 votes (29.87 per cent). It gained four seats at the expense of parties that did not make the threshold.

⁴¹ Crisis Group interview, senior PD figure, Dili, 13 September 2012.

⁴² Crisis Group interviews, CCF members, Dili, 7 and 13 November 2012.

⁴³ Alkatiri was among the 1974 founders of the Associação Social Democrata Timorense (ASDT), renamed Fretilin in the same year, and served as the economic and political affairs minister in the cabinet appointed following its 28 November 1975 unilateral declaration of independence.

⁴⁴ The spelling in the newspapers suggests some local journalists did not know who Lee Kwan Yew was. “Mai Ita Hamutuk!, Xanana PM Senior” [“Let’s come together!’, Xanana as senior PM”], *Timor Post*, 25 June 2013. Lee, often referred to as the city-state’s “founding father”, was its prime minister from 1959 to 1990, overseeing its transition to full independence in 1965 and leading the People’s Action Party to eight successive victories. He remained in cabinet in an advisory role, first as senior minister (1990-2004), then minister mentor (2004-2011).

C. *Forming a Government*

One of the primary fears of many observers regarding the 2012 elections was that the parties would refuse to accept either the results or the government that was ultimately formed, as had happened in August 2007, when CNRT formed a ruling coalition despite having won fewer seats than Fretilin.

Tensions around government formation were more limited in 2012. In part, the simpler distribution of seats within parliament made the process clearer: after CNRT carried close to half the total, putting together a coalition required less effort. The real question became whether CNRT would offer Fretilin a role. Public discussions began over the benefits of either a government of national unity (both parties joining a single government) or an inclusive government (formed by CNRT but including certain Fretilin figures in the cabinet). The Fretilin leadership publicly insisted on a coalition. Discussions between CNRT and Fretilin representatives seem, however, to have gone only as far as possible inclusion of a handful of Fretilin figures within a CNRT-led cabinet, on condition they joined as unaffiliated independents.⁴⁵ This was unacceptable to the Fretilin leadership.

These discussions came to a head at the CNRT party conference on 15 July, when delegates met to formally discuss the options in a session broadcast live on national television. It is likely a decision had already been made. During the conference, a handful of party figures made what Fretilin supporters and even independent observers viewed as “inflammatory comments” about the former ruling party and why a coalition was undesirable.⁴⁶ That night, violence broke out on the streets of Dili, less a result of the CNRT decision than the manner in which it was taken. Fretilin supporters argued that the meeting had been televised to embarrass their party, and some rioted in Dili that night.⁴⁷ The killing of a party supporter by police the next day (see Section III.B below) had the potential to escalate the situation further, but after the party leadership sent strong messages that it would not tolerate violence, tensions subsided somewhat.

D. *Stagnation or Stability?*

Following formation of the government, the legislature and executive are stable in configuration, but weak in terms of implementation and performance.

1. The executive

The current government has expanded the cabinet while centralising power among a handful of ministers. With 55 members, the cabinet is nearly the same size as the parliament. A smaller group of fifteen comprise the Council of Ministers, the government’s chief decision-making body. The prime minister has retained a large amount of spending power for himself, a process that began under the 2011 budget to move control over the bulk of infrastructure spending out of the infrastructure ministry

⁴⁵ Crisis Group interviews, Fretilin and CNRT party figures, Dili, November 2012.

⁴⁶ See Fundasaun Mahein, “Fundasaun Mahein (FM)’s observations on the party conference of Congresso Nacional Reconstrução de Timor-Leste (CNRT)”, 15 July 2012, at www.fundasaunmahein.org/2012/07/16/fundasaun-mahein-fm-nia-observasaun-ba-konferensia-partido-congresso-nacional-reconstrucao-de-timor-leste-cnrt/.

⁴⁷ Sara Everingham, “Violence as East Timor moves towards coalition govt”, ABC Radio, 16 July 2012.

and into an autonomous fund. The prime minister now directly controls roughly half the budget.⁴⁸

Two holdovers from the AMP administration have particular influence: Ágio Pereira, in the new post of minister of state, and Emília Pires, who remains finance minister. Pereira, a former independence activist in exile, has worked for Gusmão since he was elected president in 2002 and was the spokesman for the AMP administration. During the month-long campaign, Gusmão delegated almost all his powers to Pereira. Pires retains an important management role as finance minister, though perhaps with somewhat reduced influence following creation of the infrastructure fund under the prime minister. She is also increasingly a face of the government abroad as chair of the G7+ group of fragile states. Both were members of the diaspora that fled to Australia in the 1970s and are known as strong managers, but because they were absent during the struggle against the Indonesia, it is not clear that they would possess political legitimacy separate from Gusmão.

2. The legislature

Parliament during the AMP's tenure was characterised by a passive majority and an active but largely ineffective opposition. It initiated almost no legislation and rarely made significant amendments to government bills.⁴⁹

With the opposition reduced to a single party, it may become even weaker. It is at least mathematically possible for the government to fall if it loses the support of all eight PD members, but this is very unlikely.⁵⁰ In its first five months, it approved just two bills: a revised 2012 budget and the 2013 general state budget.⁵¹ While Fretilin has committed to being a vigorous opposition, it has struggled to find its voice or present credible alternatives. Nonetheless, in February Alkatiri spearheaded creation of a Fretilin-dominated ad hoc committee that cut \$150 million from the government's proposal for the 2013 state budget, leading to discussion of what Gusmão called a "new political arrangement" of cooperation under which ministers must report to parliament every three months.⁵² Alkatiri says this should make the cabinet more accountable. He is not a sitting member of parliament, however, though he temporarily took a seat for the budget debate.⁵³ Whether the party can be effective in parliament without its leader will be the true test of its performance.

⁴⁸ This includes \$641 million allocated under the Infrastructure Fund, which the prime minister controls, \$103 million budgeted for the office of the prime minister, and \$64 million under the defence and security ministry for a total of \$804 million of the \$1.6 billion budget.

⁴⁹ A notable exception was the package of two draft laws that would have set up a Public Memory Institute and a reparations program for victims of violence between 1975 and 1999. In both instances, consideration has been repeatedly deferred since 2010.

⁵⁰ PD parliamentarians were nonetheless able to use this constructive tension to bargain for greater representation as committee heads. Crisis Group interview, Lurdes Bessa, PD parliamentary bench chair (and chair of Committee B), Dili, 13 September 2012.

⁵¹ During this period, it also approved a change to the regime regulating private lawyers. A record of all legislation is kept in the government gazette, available online at www.jornal.gov.tl. See also "2012 Parliament Watch Project, JSMP annual report", Judicial System Monitoring Programme, April 2013.

⁵² "Xanana informa conjuntura politica foun ba TMR" ["Xanana tells TMR about new political arrangements"], *Suara Timor Lorosae*, 21 February 2013.

⁵³ Alkatiri had been second on the party's electoral list of representatives but deferred taking his seat upon election. "Líder da oposição timorense no parlamento como deputado para discussão do

Donors have supported some efforts to strengthen parliament, particularly its research and advisory services, but to little effect. A single national list system gives government legislators, who are elected as representatives of the party rather than individuals, few incentives beyond approving government legislation. There is much inconclusive discussion about how existing legislation is “not in keeping with Timorese social reality”. One reason is that much of it is very technical, drafted by foreign legal experts who rely heavily on foreign precedents. Civil society criticised Ramos-Horta for promulgating the 2,195-article Civil Code that was adopted in 2011 in less than 24 hours.⁵⁴ But most parliamentarians lack either the resources or the expertise to properly scrutinise such legislation.

One way to begin addressing this problem would be to informally engage parliamentarians from both sides of the aisle earlier in the legislative process and focus on building consensus behind policy before a bill is drafted. Civil society should also look for further ways to engage with parliamentarians and the government to promote this process.

3. The presidency

With limited changes in the cabinet and an often sleepy parliament, the most dynamic political development has been Ruak’s election as president. Since being sworn in, he has underscored his independence from the prime minister and from the government as a whole. He welcomed the new administration to office by noting that its predecessor had helped drive “unbalanced development ... often providing poor quality services”, and has emerged as one of its most public critics.⁵⁵

Ruak’s legitimacy in this role is grounded in his service with the Falintil guerrilla army, which he commanded after March 1998, following the death of Konis Santana. Service in Falintil is still the pre-eminent path to political legitimacy in Timor-Leste, and the very personal loyalty of a large group of veterans – particularly former members of the younger, more numerous clandestine wing – helps afford Ruak credibility his predecessor did not enjoy. This gives him more latitude to use the presidency as a check on the administration. In visits to poorly served rural areas, he has brought with him cabinet members responsible for the delivery of services and asked them to directly answer complaints. He has transformed the office of the presidency by engaging a young and dynamic new staff to work alongside a handful of older, trusted advisers and tasking them with more active involvement in the work of government, including legislative review. His presidency will be far more inward-looking, however, as he lacks either the interest or the familiarity with the diplomatic world that characterised Ramos-Horta.

Orçamento de Estado” [“Timorese opposition leader to take seat as MP for budget discussion”], *Lusa*, 31 January 2013.

⁵⁴ “Horta aprova Proposta Lei Kodigu Sivil iha loron ida, JSMP Konfuzau” [“Horta approves Civil Code in one day, JSMP is confused”], *CJITL* 21 September 2011. The Civil Code, approved by Law 10/2011 of 14 September 2011, is nearly identical to Portugal’s.

⁵⁵ President Ruak’s address “on the Inauguration of the Fifth Constitutional Government”, 8 August 2012 (English translation at easttimorlegal.blogspot.com/2012/08/the-presidents-address-on-inauguration.html).

4. Future directions

So long as the state provides a means for distributing Timor-Leste's petroleum wealth to a broad swathe of the population, regardless of party affiliation, resource revenues are likely to promote political stability. CNRT is widely identified as the "big tent" party, happy to distribute benefits to a wide range of actors, including former political enemies – an approach Fretilin would be less likely to entertain due to the premium it has placed on loyalty. This difference, paired with CNRT's strong embrace of business interests, will make unseating it in future elections difficult. But the key questions are how long the country can afford such policies, and what happens when the money runs out or if Gusmão is no longer in office?

Complicating any transition is the rise of a construction industry class that, given the lack of a vigorous private sector, is dependent on government contracts. This diverse group emerged by trading on its links to expertise and capital in Indonesia (including a significant number of those who formerly supported integration with Jakarta), on its membership in influential families, and/or on being well-connected spoilers, including in several cases during the 2006 crisis. As it becomes wealthier, it is likely to be even more influential in politics. At present, it is a powerful supporter of the status quo.

Given the almost mythic primacy afforded to Gusmão by many voters, his eventual exit from politics is certain to prompt a period of uncertainty and a reconfiguration of power. It is not clear that the CNRT party would survive his departure, because it is such a disparate group of competing interests with neither an ideology nor a charismatic replacement for its leader. The reconfiguration, therefore, is likely to be messy. Sending a clear signal about when he intends to step down as prime minister (assuming he remains in full health) might be an important contribution to a smoother transition, but Gusmão has shown a preference for leaving even his supporters guessing about his next move. Few give credence to comments he made in August 2012 that he would retire in 2017.⁵⁶

A scenario already gaining currency among many in Dili in late 2012 was a choreographed – though democratic – transfer of power from Gusmão to Ruak in time for the 2017 elections. There is still a strong strain of thinking, particularly among the older generation, that leaders should be anointed rather than elected.⁵⁷ The record Ruak is building as president may lessen some of the unpopularity he acquired, particularly in the west, for his role in the 2006 dismissal of the army petitioners. If he is to stand for parliament and make a bid for executive office, Ruak will either have to join a party or create his own.

Whatever his future, younger politicians from PD and Fretilin will play a determining role in the post-Gusmão political landscape. PD was originally billed as the reformist party of the younger generation; many of its leaders grew out of the movement of students educated in Indonesian universities in Java and Bali. That identity was difficult to maintain while associated with the anaemic performance of its ministers in the AMP government, and much of its electoral appeal now is grounded in providing an alternative for westerners hostile to Fretilin. PD can also count on con-

⁵⁶ "PM Xanana Promete Husik Kargu Iha 2017" ["PM Xanana promises to step down in 2017"], *Independente*, 9 August 2013.

⁵⁷ This appeared to be the primary goal of the "Maubisse process", inconclusive retreats the Church organised in 2010-2011 for a few of the older political elite to discuss future political leadership.

tinued support from its strong rural networks, fed by government patronage, but the party remains far from united.

Though Fretilin can find comfort in having maintained its appeal among its formidable base, a transfer of power at its top is a prerequisite for a stronger electoral showing. The party counts among its members younger figures with significant experience in either parliament or in the Alkatiri cabinet, but Alkatiri himself has shown little interest in resigning. Under party regulations, leadership elections are held only once every five years, tied to its congress (scheduled for 2016). That gives little time to present an image of real reform in advance of the next parliamentary elections.

Both parties will have to find a way to avoid being captive to business interests. This is important not just to ensure cleaner politics: if they do not create their own identity, it will be very difficult to beat Gusmão and CNRT at their own game.

III. Security Sector: A Bill of Health

Tensions within the security sector are far lower than in the pre-2006 crisis years, but few of the institutional reforms the UN and donors prescribed have been undertaken. While important steps have been taken to increase the professionalism of the police and army, they have been taken without an overarching policy or consensus on future developments. This is likely to lead to competition between the institutions, particularly as the security sector grows increasingly crowded. A more robust security sector will require difficult decisions on where responsibilities begin and end among its components.

Security threats remain relatively few and these essentially domestic. As an isolated country with friendly neighbours, Indonesia and Australia, it faces virtually no external dangers.

Martial arts groups. As a recent incident in Sama Lete (Ermera) in which three persons were killed highlighted, violence between rival martial arts groups remains the most persistent source of internal disturbance and a consistently deadly one.⁵⁸ Police response has often been ineffective and is usually seen as insufficiently impartial, as many officers are affiliated with these groups. A public ban on martial arts implemented in December 2011 was anecdotally seen as instrumental in keeping violence in check during the elections.⁵⁹ It was renewed for a year in December 2012 but may become more difficult to uphold over time.⁶⁰ Fighting between other youth groups and gangs is also a recurrent problem but has generally proven less deadly.

Dissident groups. There are few active dissident groups, but in a young state with developing institutions, it is relatively easy to establish competing centres of power. The Popular Council for the Defence of the Democratic Republic of Timor-Leste (CPD-RDTL) is a loose affiliation of several thousand disaffected rural dwellers whose leaders continue to voice challenges to the legitimacy of the security forces.⁶¹ It poses a limited threat of direct violence but a very public test of the rule of law. As the UN withdrawal approached, members began holding public rallies dressed in military fatigues.⁶² In Manufahi district, thousands massed at what the group calls a “farming collective”, illegally occupying rural land. For months, the parliament called on the prime minister to settle the problem while the police and the military alternately promised to expel the group by force or ignored it.⁶³ On 25 February, the

⁵⁸ “PNTL kaptura ona suspeitu prinsipál ba kazu Sama Lete” [“Police have captured principal suspects in Sama Lete case”], *Independente*, 27 February 2013.

⁵⁹ See Jim Della-Giacoma, “Has Timor-Leste left behind its violent past?”, Crisis Group blog, 9 July 2012.

⁶⁰ “Meeting of the Council of Ministers on December 19, 2012”, government press release, 19 December 2012.

⁶¹ The acronym comes from the Portuguese, Conselho Popular pela Defesa da República Democrática de Timor-Leste.

⁶² “CPD-RDTL members continue wearing military uniforms and carrying machetes intimidating local residents”, East Timor Law and Justice Bulletin, 21 November 2012. The group held similar marches in advance of the UN handover to Timor-Leste’s first sovereign government in 2002.

⁶³ The armed forces commander, Major-General Lere, told reporters in December 2012 that he was “bored of talking” and was waiting for the government to act. “Lere baruk ona koaliala ho CPD-RDTL” [“Lere is tired of talking to CPD-RDTL”], *Timor Post*, 12 December 2012. Efforts by the government to reach a negotiated settlement appeared to fail, leading to the February 2013 police operation to evict the occupiers.

Council of Ministers gave the police broad authority to evict the group, but while many have returned home, the issue has not yet been settled.⁶⁴

Drugs and organised crime. Weak law enforcement systems provide attractive refuge or transit for organised crime and the drug trade. Cooperation with the Indonesian anti-narcotics agency and Singaporean authorities helped thwart a handful of drug traffickers in October–November 2012 who were using Dili as a transit point for smuggling methamphetamine into Indonesia.⁶⁵ There is also some evidence of the involvement of foreign nationals in trafficking women into the country – economic growth has helped drive a burgeoning prostitution industry in the capital.⁶⁶ Further international cooperation can help manage these challenges, but the ability to prosecute the crimes domestically is still developing; the drug traffickers arrested in October–November 2012 were sent to Indonesia for trials, even in the absence of an extradition treaty.

A weak chain of command. Some steps have been taken to strengthen chains of command in the security forces, but a far clearer division of authority is still needed between the police, army, military police and intelligence service. Coordination seems to be working well under the current configuration of personalities, but inter-force rivalries and jealousies exist, and without a more robust institutional framework risk promoting conflict in the future. The 2006 observation that the greatest security threat comes from the police and the army themselves still applies, particularly in light of the former’s continued acquisition of new long-barrelled weapons.⁶⁷

A. *The Policy Vacuum*

The lack of a policy framework for broader security sector development is a product of the prime minister’s top-heavy oversight. Upon taking office in 2007, Gusmão merged the defence and interior ministries and appointed himself as defence and security minister, with personal responsibility for managing tensions between the police and army. Two junior secretaries of state were appointed, each to manage half of the double portfolio.⁶⁸

Many Timorese credit Gusmão’s personal control for making the greatest contribution to stability after the 2006 crisis. He has used the authority acquired through his command of Falintil to keep a lid on competition between the two forces and

⁶⁴ “Extraordinary meeting of the Council of Ministers on February 25, 2013”, government press release, 25 February 2013.

⁶⁵ “More Indonesian drugs dealers detained, Xanana said drugs dealers used Dili as transit zone”, *Tempo Semanal* (online), 19 November 2012; “Timor-Leste jadi jalur favorit bandar narkoba” [“Timor-Leste becomes a favourite channel for drug smugglers”], VivaNews, 29 October 2012.

⁶⁶ Three Chinese nationals were sentenced to between thirteen and 13.5 years in prison in December 2011 for trafficking women into prostitution. These were Timor-Leste’s first trafficking convictions. See “Trafficking in Persons Report 2012”, U.S. Department of State, June 2012. The case of the three Chinese nationals is believed to be still under appeal.

⁶⁷ Edward Rees, “Security Sector Reform (SSR) and Peace Operations: ‘Improvisation and Confusion’ from the Field”, UN Peacekeeping Best Practices Section, March 2006. For more on police arms acquisition, see Fundasaun Mahein, “Paradeiru Kilat Ne’ebé Lakon La Klaru no Polemika Kilat Iha Timor-Leste” [“Lost Weapons and Other Weapons Issues in Timor-Leste”], Mahein’s Voice Report no. 49, 23 April 2013.

⁶⁸ Francisco da Costa Guterres (secretary of state for security) and Júlio Tomás Pinto (secretary of state for defence) have retained their positions in the current government.

stop others from building a competing power base.⁶⁹ The structure has allowed Gusmão to play a powerful balancing act but has also stymied long-term institutional development and underscored that there is no clear answer to the question about what will happen when he is no longer there.

Five and a half years on, no changes have been made to this structure. The cabinet proposal the prime minister originally transmitted to the president for approval and promulgation nominated Maria Domingas Fernandes Alves (known as Micató) as defence and security minister. As social solidarity minister, she had overseen IDP returns after the 2006 crisis and earned a reputation as an effective manager; it was thought that, as a political independent, she would have an advantage in a politicised sector.

The president, however, rejected her nomination. No reason was given publicly, but women's groups, including Fokupers, which Micató had helped found in 1997, objected to the perceived gender slight.⁷⁰ Whatever Ruak's reason, it was apparent there had been no consultation on the appointment, which is odd given the president's constitutional role as supreme commander of the armed forces and his history as a former head of the F-FDTL.

The ministry is in a politically charged position between the prime minister, the president and the head of the armed forces, all leading figures of the armed resistance. Micató, as a newcomer to security and defence affairs, is unlikely to have been a strong driver of policy development.

The prime minister's preference for a minister who would be unlikely to rock the boat was further reflected in his second, also unsuccessful choice. Cirílio Cristóvão had served for several years as head of the fledgling and weak national intelligence agency and is a former judge and member of the bilateral Commission on Truth and Friendship. His nomination was a surprise, as he has little political experience and few links to either the police or the military. Armed forces commander Major-General Lere apparently raised objections. While Cristóvão was named in the official gazette as minister, he was out of the country on the day the cabinet was sworn in, and no separate ceremony was arranged.⁷¹ Gusmão himself addressed a summit of Portuguese-speaking countries' defence chiefs a week later and formally took up the duties of minister in a separate ceremony in October.⁷²

Because the joint ministry has remained principally an administrative shell, there appears to be little coordination or direction in policy planning.⁷³ Formulation of a national security policy was left to the secretariat of state for security but has yet to be completed, though the Council of Ministers examined a draft in May 2012.⁷⁴

In the absence of a national security policy, the patchwork of security and defence laws approved by parliament appear overly ambitious, unsynchronised and almost

⁶⁹ For more on the destabilising effect of battles for influence over the security forces in the years before the 2006 crisis, see Crisis Group Report, *Resolving Timor-Leste's Crisis*, op. cit.

⁷⁰ Janet Gunter, "East Timor: President rejects woman defence minister", *Global Voices*, 9 August 2012.

⁷¹ See Presidential Decree no. 90/2012, 7 August 2012.

⁷² See Prime Minister Gusmão's address at his swearing-in as defence and security minister, 22 October 2012, available at www.timor-leste.gov.tl/.

⁷³ In 2012, it spent just \$42,000 on salaries. "Orçamento Geral do Estado 2013, Rubricas Orçamentais, PR-MdJ, Livro 4A", Government of Timor-Leste, January 2013.

⁷⁴ See "Report of Secretary-General on the United Nations Integrated Mission in Timor-Leste (... 7 January through 20 September 2012)", 15 October 2012, S/2012/765 para 33.

impossible to implement. A package of three laws passed in March 2010 emerged from no policy process and seems largely designed to create a permanent legislative basis for legitimising the joint police-army operations undertaken in 2008 (see Section II above). Few steps have been taken to implement its provisions.⁷⁵ These include creation of an Integrated National Security System, which is unmentioned in the budget. While there appears to be strong commitment to the principle of formalising police-army cooperation (requiring prior approval and coordination between force commanders for operations), there is little clarity on their respective roles. This has not been a particular problem in recent years, but the potential for trouble is likely to grow as the UN peacekeepers have left behind an operationally weak police and an army looking for a purpose.

B. *Police Development*

The withdrawal of the UN mission (UNMIT), including its 1,000-strong police contingent, following the 2012 elections was predicated on a positive assessment of the readiness of the Timorese national force (PNTL). In most cases, the Timorese police had never given up practical control over operations, and since March 2011 they had already recovered formal responsibilities. A positive final assessment was, therefore, a foregone conclusion. The final report certifying the PNTL for “full reconstitution” has not been made public (or even shared in diplomatic circles in Dili), but it paved the way for a ceremony marking the end of UN policing operations on 31 October 2012.

The PNTL nevertheless still has real limitations, as a few recent situations that it has been unable to contain illustrate. Since 2011, it has been unable to respond adequately to vicious fighting between youth gangs in the second largest town, Baucau, because different factions of the district command and the local public order battalion (Batalhão de Ordem Público, BOP) are seen as partial to either side. Military police have been consistently called in to provide back-up and are now performing their own patrols in the town.⁷⁶

A fatality in Hera, just east of Dili, on 15 July was allegedly caused when a police officer, after firing into the air to scare a young Fretilin supporter he sought to arrest, failed to lock the trigger and then accidentally shot the man, who bled to death.⁷⁷ There was unrest on the streets of Dili over the next two days that appeared to grow worse after armed forces chief Major-General Lere criticised the police for disproportionate use of force.⁷⁸ A Fretilin party leader suggested the criticism emboldened angry youth and made some police frightened to respond.⁷⁹ Violence subsided only the next day, when Lere appeared beside the police commander, Longuinhos Monteiro, and praised the police. Members of both main political parties credited Sabica

⁷⁵ Laws 2/2010, “Lei de Segurança Nacional” [“Law on national security”], 3/2010, “Lei de Defesa Nacional” [“Law on national defence”] and 4/2010, “Lei de Segurança Interna” [“Law on internal security”].

⁷⁶ Crisis Group interview, Dili, 19 November 2012.

⁷⁷ Two senior Fretilin figures conducted their own investigation and held a press conference. “Konferencia imprensa kona ba hahalok krime husi membru Policia PNTL esquadra estasaun posto Hera nebe tiru mate militante Fretilin Armindo Pereira Soares iha loron 16-07-2012” [“Press conference on criminal conduct by PNTL Hera post member who shot dead Fretilin supporter Armindo Pereira Soares”], Dili, 18 July 2012.

⁷⁸ “Lere husu lalika uza kilat hasoru fatuk” [“Lere asks [police] not to respond to stones with gunfire”], Radio Liberdade Dili, 18 July 2012.

⁷⁹ Crisis Group interview, Dili, 7 November 2012.

Besi Kulit, a senior army commander with close connections to Fretilin, for being instrumental in calming the situation.⁸⁰ In December 2012, as the flood of firecrackers imported into Dili emerged as a growing public order problem, the government relied on joint army-police patrols to enforce a hastily drafted law banning their use.⁸¹

It seems likely that the government will increasingly turn to such joint operations, given perceived weaknesses in the police and concerns over their lack of neutrality. There is a risk that rather than buttressing police capabilities during a period of development, these joint patrols may perpetuate the problem.

Three other broad areas of weakness that continue to hamper police operations and credibility need future attention.

Accountability. Long identified as a challenge, there are some signs of progress in addressing police accountability, including a number of forums for registering complaints, but incidents of serious misconduct persist, and the lack of sufficient penalties within the PNTL remains a problem.⁸² Along with the perception that many officers, and in particular the task force incident response teams (primary responders to violence, particularly in Dili), are not impartial in violent cases, this lack of accountability reinforces the PNTL's credibility problem.⁸³

Police shootings remain a problem, and criminal cases have had mixed results. In November 2009, an officer in Maliana shot a man in the stomach while firing warning shots; the criminal case was dismissed due to procedural errors in the investigation.⁸⁴ Later the same month, an officer in Dili allegedly shot a teenager in the arm; he was acquitted due to lack of evidence in January 2011.⁸⁵ In December 2009, a man died from bullet wounds after warning shots were used to break up a party; an indictment was filed in February 2011 and a conviction secured in February 2012.⁸⁶ In November 2011, a young woman was fatally wounded in the crossfire between two off-duty officers at a late-night party; one was sentenced to four years in prison in August 2012.⁸⁷ When such delays occur, the disciplinary unit within the police (now known as the Justice Department) is often reluctant to pursue sanctions before criminal cases are resolved, which can mean that it is several years before public results are obtained.

Discipline is still a major public perception problem for the force. More worrying is what a senior government official identified as the chief legacy of the unsuccessful

⁸⁰ Crisis Group interviews, CNRT and Fretilin officials, Dili, September and November 2012.

⁸¹ "Sunu paison, Xanana orienta PNTL kaer" ["Xanana orders PNTL to arrest those lighting firecrackers"], *Timor Post*, 14 December 2012; "Kontrolo sunu paison, Longuinhos-Lere diskuti operasaun konjunta" ["To control firecrackers, Longuinhos and Lere discuss joint operation"], *Timor Post*, 12 December 2012.

⁸² These forums include the PNTL's justice department, which exists both at each district command and at the national general command, its inspectorate general, the secretariat of state for security and the human rights and justice provedor (ombudsman).

⁸³ See "Mahein nia Lian No. 21, Dezenvolvimentu Polisia Nasional Timor-Leste (PNTL)" ["Development of the PNTL"], Fundasaun Mahein, 21 July 2011.

⁸⁴ "Periodic Report on Human Rights in Timor-Leste, 1 July 2010-31 December 2011", UNMIT, 2012.

⁸⁵ "Facing the Future: Periodic Report on Human Rights Developments in Timor-Leste: 1 July 2009-30 June 2010", UNMIT.

⁸⁶ The police officer involved was sentenced to ten years in prison. See "Report of the Secretary-General", 15 October 2012, op. cit., para. 38.

⁸⁷ "Membru UPF tiru mate estudante ida iha Bobonaro" ["Border patrol member shoots dead a student in Bobonaro"], *Suara Timor Lorosae*, 7 November 2011.

vetting and certification process: officers are “afraid to take the required measures”, meaning to respond to community troublemakers with force, for fear they may be accused of human rights violations and so barred from promotion.⁸⁸ The perception among some officers and those in government that the police disciplinary function is simply a constraint on effective (and robust) policing underscores the importance of establishing disciplinary proceedings that are seen to check the abuse of power but can also recognise when force is used in a legal and proportional manner.

Police handling of misconduct allegations may be improving. The Supreme Police Council (Conselho Superior da Polícia) has begun to meet regularly as the primary forum for dismissals and suspensions for grave misconduct.⁸⁹ In November 2011, it recommended dismissal of seven officers for administrative offences and fraud.⁹⁰ The challenge before this body is striking: in 2011, there were more than 1,425 disciplinary cases waiting to be addressed.⁹¹

Investigations. Investigative capacity remains very limited. Few officers properly understand the Criminal Code, and both record-keeping and storage of evidence remain problematic. Poor investigations lead to failed prosecutions. While cooperation with the prosecutions service may be improving, the gap is still wide, as much cultural as operational: prosecutors are better educated and more comfortable working in Portuguese than their police counterparts, in part a reflection of class differences.

A district commander explained the danger lies not only in non-resolution of individual crimes, but also in further erosion of faith in the institution and the justice sector as a whole. The problem is not that the crimes are unsolvable; the community believes it knows who the culprits are, often local youths viewed as recurrent offenders. When residents see them returned repeatedly by the courts with minimal parole requirements due to insufficient evidence, “they ask whether it is [the police’s] job to do anything at all”.⁹²

Strengthening PNTL investigative capacity is a long-term project. Plans to improve police responsiveness at local level are more focused on increasing numbers of officers and posts. This may help free up time for more beat patrols and improve police visibility in rural areas, but it will do little on its own to improve investigations.

Over-reliance on special units and special operations. There are limited prospects for greater local resources, particularly given the continued centralisation of resources in Dili and for special units. Two major police operations in recent years have highlighted a dangerous trend, in which a few serious but not unusual crimes have been left unsolved by poorly resourced local police, leading to the mobilisation of a large-scale operation by the special units, which do not support or conduct investigations.

⁸⁸ Crisis Group interview, member of Superior Council on Defence and Security, Dili, 2 December 2011.

⁸⁹ The Supreme Police Council was established under the PNTL’s organic law (2009) and comprises the heads of the thirteen district commands and the major units. “Lei Orgânica da Polícia Nacional de Timor-Leste (PNTL)” [“PNTL organic law”], Decree-Law 9/2009, 10 February 2009, Article 13. By law it meets twice a year. It has no decision-making power but is tasked with issuing recommendations to the defence and security minister regarding issues including suspension and dismissal.

⁹⁰ See “Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (... 20 September 2011 to 6 January 2012)”, 18 January 2012, S/2012/43.

⁹¹ Gordon Peake, “Timor-Leste: A need for accountability not force”, The Interpreter, Lowy Institute for International Policy, 11 April 2011.

⁹² Crisis Group interview, Olávio Cristovão, PNTL Lautém district commander, Lospalos, 2 February 2011.

These deployments have resulted in mass arrests or voluntary detentions without charges and then releases of the suspects due to the lack of prosecutable evidence.

The first were the “anti-ninja” operations in Covalima and Bobonaro districts in early 2010, targeting a threat many acknowledged did not exist.⁹³ The second, in July 2011, was “Operation 88” in Quelicai, in the eastern district of Baucau.⁹⁴ It began with a series of unsolved crimes: a murder, the rape of an elderly woman, and several thefts from the elderly. Unable to determine who the culprits were, the police and the local administration set an informal curfew: anyone out at night would be questioned by police.⁹⁵ The press reported this as a “state of siege”; many local residents seem to have approved.⁹⁶ A group of local village (suco) chiefs called for intervention from parliament.⁹⁷ The president of parliament and the head of the parliamentary security and defence committee visited, and a few days later a large police operation was launched.

That operation, in which over 200 police participated, included the short-term detention of nearly 40 persons and a handful of arrests for theft and damage.⁹⁸ The UN and local civil society noted a number of complaints from the local population, including allegations of “unlawful arrest and ill-treatment of at least twenty persons”.⁹⁹ The district commander explained this as the natural outcome of an operation in which officers were overworked, housed in poor condition and underfed.¹⁰⁰

Part of the appeal of special operations is that they attract extra resources (operational per diem) and police with better equipment and training. Such operations may exert an immediate, short-term chilling effect on local troublemakers, but it does not improve long-term law enforcement. The cycle risks become self-reinforcing: more resources will be allocated to the special units to support such responses, while local criminal investigations and community engagement will continue to be inadequate. Another problem is the belief among many that “community policing” – understood as focused on improving constructive communication between police and the community – is not the solution, and that what is lacking is sufficient fear of the police.

An area in which some progress has been made is implementation of promotion reform. This is a key part of long-term professionalisation, but the gains to date are

⁹³ See Crisis Group Briefing, *Timor-Leste: Time for the UN to Step Back*, op. cit.; and “Human rights situation in Covalima and Bobonaro”, HAK Association, 15 February 2010.

⁹⁴ The operation’s name became the subject of much speculation. The police explained it came from the official licence plates given to all parliamentarians, which feature a distinctive “88” (the number of seats in the first parliament), as the operation arose from a parliamentary request. For many Timorese, however, “88” more quickly calls to mind the elite anti-terrorism detachment of the Indonesian police, Densus-88. A Timorese security sector NGO criticised the police over the name, calling it alarmist in a country with limited risk of terrorism. “Saida mak Operasaun Ualu-Ualu (88)?” [“What is Operation 88?”], Fundasaun Mahein, 10 August 2011. A local officer gave a third explanation: that the deployment of forces from all neighbouring districts to the mountainous interior schematically resembled a figure eight. Crisis Group interview, 10 August 2011.

⁹⁵ Crisis Group interview, Faustino da Costa, Baucau district police commander, Baucau, 10 August 2011.

⁹⁶ Crisis Group interviews, Quelicai, 10 August 2011; and “Polisia Baucau nega ‘estado de siti’ iha Quelicai” [“Baucau police deny ‘state of siege’”], *Suara Timor Lorosae*, 5 May 2011.

⁹⁷ Crisis Group interview, Laisorelai suco chief, Baucau, 10 August 2011.

⁹⁸ “Periodic Report on Human Rights in Timor-Leste, 1 July 2010-31 December 2011”, op. cit.

⁹⁹ “Report of the Secretary-General”, 14 October 2011, op. cit., para. 37.

¹⁰⁰ Crisis Group interview, Faustino da Costa, PNTL district commander, Baucau, 10 August 2011.

tenuous.¹⁰¹ A first round of promotions, completed in March 2010, inevitably left many officers disgruntled, including some old-timers who had failed to prepare for the competency exam (the first step toward promotion). A frequently cited complaint was that the subsequent allocation of roles upset what chains of command existed within the PNTL: when high-flying “newcomers” were advanced over those who had spent more time in command roles, new problems with absenteeism and discipline emerged.¹⁰²

In part due to fears that discontent might spread, a second round of promotions was quickly announced, which many officers seemed to interpret as indicating that those who had failed would simply be given a pass this time.¹⁰³ Special criteria were announced for veterans of the armed resistance, a small but influential group, so that time counted in a command role during the resistance would lead to automatic promotion. The second round has come under heavy criticism from police and parliamentarians for having non-transparent criteria; the prime minister is also said to have grown angry during an April 2013 Council of Ministers meeting over perceived failures in the process.¹⁰⁴

In keeping with the pace of professionalisation and improved management at command levels, some decentralisation of budgetary powers would likely go far to free up resources and improve efficiency. A district commander explained that to obtain a \$5 oil change for a district police vehicle, he must spend \$50 for petrol and set aside two working days for staff to transport it to Dili and back again.¹⁰⁵

If they are to be resolved, all these issues will require the leadership and vision of a well-respected commander. The government has not yet decided on whether to replace Longinhos Monteiro, who took the post in 2009 after serving as prosecutor-general. As his second two-year term was due to expire at the end of March, the government extended him for three months.¹⁰⁶

C. *An Expansionist Military?*

The military, unlike the police, was the subject of very little UN attention, but its pace of reform may have been quicker. It has more than doubled in size, and a raft of new legislation, including its own promotions law has been introduced.¹⁰⁷

¹⁰¹ The reform, which also expanded the number of ranks in the PNTL from four to twelve, is described in Crisis Group Briefing, *Timor-Leste: Time for the UN to Step Back*, op. cit.

¹⁰² Crisis Group interview, senior police officer, Dili, 25 November 2010.

¹⁰³ The legislative basis for this second round – formally referred to as the Extraordinary Promotions Period – was agreed in February 2012. See “Período Extraordinário de Promoções na PNTL” [“Extraordinary period of PNTL promotions”], Decree 22/2012, 10 April 2012.

¹⁰⁴ “PN ejiji investiga promosaun deviza iha PNTL” [“Parliament calls for investigation into PNTL rank promotion”], *Suara Timor Lorosae*, 16 April 2013; “Xanana hakilar Francisco Guterres” [“Xanana shouts at Francisco Guterres”], *Radio Liberdade*, 3 April 2013. The first lady, Isabel Ferreira, who has chaired the promotions process (having served as legal adviser to Guterres) has insisted the process was both rigorous and impartial.

¹⁰⁵ Crisis Group interview, Justinho Menezes, Viqueque district commander, Viqueque, 22 May 2012.

¹⁰⁶ “KM extende tan mandatu komisariu PNTL ba fulan tolu” [“Council of Ministers extends PNTL commander’s mandate by three months”], *Tempo Semanal* (online), 26 March 2013.

¹⁰⁷ For more on the development of the armed forces since 2006, see “Konsolidasaun instituisaun F-FDTL liu tiha krize 2006 no komandante nia lideransa” [“Institutional strengthening of the F-FDTL since the 2006 crisis and leadership of the new command”], *Fundasaun Mahein*, 30 October 2012.

Following the desertion of the petitioners and the 2006 crisis, only 791 troops remained in the army, but it has returned to the pre-crisis level following two waves of recruitment and now has a strength of 1,873. In 2012, authorisation was given to double in size to a maximum of 3,600 by 2020, with 500 due to be recruited in 2013.¹⁰⁸

The question of what all these troops are to do has not been answered. Although the army and the defence secretariat have developed a more comprehensive set of operational guidance than the police and emphasised developing naval capability and military engineering, supply is likely to outstrip demand for the military's services in a country with almost no external threats. A light naval force is expected to comprise up to a quarter of the total armed forces by 2020.¹⁰⁹ This has been hobbled by the poor state of the fleet: two \$14-million Shanghai-class river patrol boats (bought from China) and three Sea Dolphin class patrol boats (donated by South Korea) were added in 2011-2012 but are not suited to patrol the south coast's choppy waters. Maintenance and training issues have also complicated naval operations: a leaked 2011 audit noted that combined time at sea for the entire fleet was three days during the first four months of 2011.¹¹⁰ A temporary port in Hera on which more than \$7 million has been spent embarrassed the government, when the wharf collapsed before it had even been opened.

In early 2012, before the elections, the army deployed to nine of thirteen districts to back up the police. Rather than withdraw them afterwards, it has now deployed a platoon (33 soldiers) to all districts except Lautém, on two-month rotations as a way of increasing "familiarisation with the terrain".¹¹¹ This is a major change in strategy; until 2012, there were such deployments only at two border stations in Tunubibi (Maliana) and Tilomar (Suai).¹¹² The deployments will increase the army's visibility, especially after the dissident CPD-RDTL's rallies and demonstrations in different parts of the country.¹¹³ They are also likely to be used to bolster intelligence and civil-military cooperation; in 2010, a platoon sent to Fatubessi, Ermera district, following unusual activity in the area, helped gather intelligence while repairing schools and health centres.¹¹⁴

Particularly in light of the new territorial deployments, there is more work to be done on discipline and accountability. The military has faced disciplinary challenges similar to those of the police (though fewer, given the limited nature of its opera-

¹⁰⁸ "Efectivo autorizado para as FALINTIL-FDTL até 2020" ["Authorized force strength for Falintil-FDTL until 2020"], Government Resolution 28/2011, 21 September 2011.

¹⁰⁹ The authorised strength of 3,600 was broken up as follows: F-FDTL Command (Comando das F-FDTL), 174; Ground Force Component (Componente da Força Terrestre), 1,343; Light Naval Force (Componente da Força Naval Ligeira), 989; Service and Support Unit (Componente de Apoio de Serviços), 560; Training (Componente de Formação e Treino), 250; Air Support (Componente de Apoio Aéreo), 120; Military Police (Polícia Militar), 164.

¹¹⁰ "Review of procurement system for the Ministry of Finance: Review of procurement in the Ministry of Defence and Security for the period 1 January 2009 to 30 June 2011", Deloitte, July 2012, in "Exclusive *Tempo Semanal* leaks of Deloitte docs", *Tempo Semanal* (online), 8 November 2012.

¹¹¹ Crisis Group interview, F-FDTL officer, Dili, 15 November 2012.

¹¹² These were set up in 2009. The AMP government's original five-year plan had been to transfer border security responsibilities from the police to the army, but this was never done.

¹¹³ A tenet of CPD-RDTL's leadership is that the PNTL and the F-FDTL are sham security forces set up by the international community, and that no legitimate army has yet been established.

¹¹⁴ Crisis Group interview, Colonel Filomeno Paixão, Chefe-Estado-Maior of the F-FDTL, Tasi Tolu, 16 June 2010.

tions).¹¹⁵ While six soldiers were indicted in April 2012 for their role in the August 2010 death of a civilian in Lautém, and a soldier was dismissed after being convicted in October 2011 for killing an elderly woman, it is still remembered that the armed forces resolutely protected its members from serving any time for crimes committed during the 2006 crisis.¹¹⁶

D. *A More Crowded Security Sector*

The lack of clear divisions of responsibility between police and army is only one of many problems. The security sector may be becoming even more crowded, and as a result, the distribution of power may become more contested.

Plans to develop a separate criminal investigation police (Policia de Investigação Criminal, PIC), a common feature of most civil law justice systems, first took shape under the direction of former Justice Minister Lúcia Lobato.¹¹⁷ The body would support the judicial authorities, report to the justice ministry and take full responsibility for criminal investigations. Supporters argue this could transform the weaknesses of the existing prosecution system, while centralising criminal intelligence and case-tracking. Critics say that given the history of dangerous factionalism within the PNTL, it does not make sense to set up another armed security force at this stage in the country's development. It likely would run into similar problems regarding political control as those faced by the courts.¹¹⁸ It would also recruit from a very small pool of candidates.

Lobato pushed ahead with the plans despite broad opposition, particularly from the police. The minister tried to create the new body by a decree-law, requiring only Council of Ministers approval.¹¹⁹ However an armed PIC with broader powers of search and seizure would likely be considered as fundamentally affecting citizens' freedoms, so would normally be thought to require full parliamentary review and approval.¹²⁰ Ramos-Horta refused to promulgate the legislation, saying the issue should be left for the next government, as the AMP's mandate was coming to a close.¹²¹

¹¹⁵ For example, UNMIT recorded 47 cases of alleged ill-treatment or excessive use of force by the police and thirteen by the military, 7 January to 20 September 2012. "Report of the Secretary-General", op. cit., 15 October 2012, para. 37.

¹¹⁶ "Report of the Secretary-General", 18 January 2012, op. cit., para. 31. "Oknum F-FDTL oho ferik ida, PN konsidera grave" ["F-FDTL kills elderly woman, Parliament considers it a serious case"], *Suara Timor Lorosa'e*, 17 May 2011.

¹¹⁷ The PIC is sometimes referred to as a Policia Judiciária (PJ, judiciary police).

¹¹⁸ The most comprehensive recent assessment of the justice sector found that "the current situation in Timor-Leste as it relates to judicial independence is problematic. Although the country's judges have consistently asserted their independence ... the institutional independence of the judiciary is still not fully recognised by other state actors". "The Justice System of Timor-Leste: An Independent Comprehensive Needs Assessment", independent expert report commissioned by UNMIT, 13 October 2009, p. 16.

¹¹⁹ This was approved in December 2010. "Meeting of the Council of Ministers of 1 December 2010", Secretary of State for the Council of Ministers, press release. A decree-law is not submitted for parliamentary approval but if a fifth of parliamentarians call for its appraisal within 30 days of publication, parliament may enact changes or terminate its application. See Article 98 of the constitution.

¹²⁰ Early drafts of the decree-law to create the judicial police proposed far higher salaries than those of the regular police, special weapons and broader search, seizure and arrest powers. "Organic Law of the Criminal Investigation Police of Timor-Leste", justice ministry unnumbered draft.

¹²¹ Crisis Group interviews, senior police officers and international advisers, Dili, December 2011.

Undeterred, Lobato published an order authorising recruitment of 40 trainees, including twenty serving police, for legal training in Portugal.¹²² The idea was that if a separate institution was never set up, the trainees could be incorporated into the PNTL's regular investigation function. General Commander Longuinhos Monteiro, said to oppose a proposal that would remove a large part of the police's area of operations and give broader powers and larger salaries to a new force, told serving officers that if they went to the year-long training, they could not return.¹²³

The status of the PIC remains unclear, even as a new headquarters is planned, and the 40 investigators have returned from the training in Portugal. The new justice minister, Dionisio Babo, said only that it is "a political decision", and there is as yet no agreement on whether the service would best be within the PNTL or, if separate, should report directly to the justice minister or the prosecutor-general.¹²⁴ What is clear is that any new police service will not be born into an environment propitious to information sharing and realising efficiencies. A senior police commander suggested how PNTL colleagues likely would respond to a request for assistance from the new force by leaning back in his chair, saying, "you've got the fancy weapons, why not go do it yourself?"¹²⁵

¹²² See "Sobre o Recrutamento e Formação Para a Carreira de Investigação Criminal" ["Regarding the recruitment and training of criminal investigators"], Government Resolution 6/2011, 16 February 2011.

¹²³ Crisis Group interview, senior police commander, December 2011.

¹²⁴ Crisis Group interview, Justice Minister Dionisio Babo Soares, Dili, 20 November 2012.

¹²⁵ Crisis Group interview, senior police commander, Dili, 6 December 2011.

IV. Beyond the Security Sector

The health of Timor-Leste's economy is likely to be a far greater constraint on stability and prosperity than the state of its security sector. Here it may be in serious trouble. While petroleum revenues have brought an impressive stream of income since 2004, proven reserves may last only a little over a decade. The government is expanding its spending commitments, as the youthful and ballooning workforce faces very limited employment opportunities. It believes the spending will provide both the prerequisite infrastructure base and the fiscal stimulus for further growth. This would be a risky strategy in any case, but the return on infrastructure investments has been so weak to date that the largest impact of the spending risks being continued high inflation.

A. State Finances

Development prospects should be well served by the Petroleum Fund, which has now grown to more than \$11.7 billion and provides financial independence afforded few other fragile states.¹²⁶ Until a series of concessional loans was agreed in 2012, it had zero external debt, another rare asset for a small, essentially poor country.¹²⁷ The government has come under criticism from civil society for signing these loans and for an increase in withdrawals from the Petroleum Fund in recent years, but Timor-Leste still stands out among resource-rich fragile states for its relative fiscal restraint. Nevertheless, the government's record must be viewed in the context of a very challenging operating environment.

Chief among the economic constraints is the dependence on oil and gas, which produce 95 per cent of Timor-Leste's revenue, making it second only to newly independent South Sudan in such dependence. The balance of the state's income is derived from coffee exports and taxes on a small services sector. In recent years, coffee has accounted for 85-90 per cent of exports, though just 2 per cent of non-oil and gas GDP.¹²⁸ Government spending drives most economic activity.

The abundant oil and gas revenues have masked the seriousness of the development challenges. Recent gains in the human development index and other indicators have come almost exclusively from an increase in gross national income brought by the rise in oil and gas revenues. The petroleum sector economy masks weaknesses across a range of socio-economic indicators, in large part because of the discrepancy between national income and national product. The non-oil and gas economy is growing at around 10 per cent annually but is still very small.¹²⁹

This dependence is of greater concern when viewed against the uncertainty of how long petroleum reserves in the Timor Sea will last. Revenue from the Bayu-Undan field, which was developed jointly with Australia and began pumping oil in 2004, peaked in 2011 and is expected to run dry as early as 2025. There are an estimated

¹²⁶ At the end of 2012, the Petroleum Fund totaled \$11.78 billion. See "Petroleum Fund Quarterly Report: Quarter ended 31 December 2012", Central Bank of Timor-Leste.

¹²⁷ Loan agreements were signed in 2012 with the Asian Development Bank and the Japanese International Cooperation Agency to help finance road development projects. See "Timor-Leste is going into debt", La'o Hamutuk, 9 May 2012.

¹²⁸ Data taken from "Staff Report for the 2011 Article IV Consultation", IMF, 13 January 2012; See Statistical Tables 2 and 4.

¹²⁹ Ibid. Growth in non-oil and gas GDP peaked at 14.6 per cent in 2008 according to IMF figures but is projected to hover around 10 per cent in coming years.

fifteen years of reserves to be extracted from the Greater Sunrise liquid natural gas (LNG) field, but its development is frozen amid a dispute over where the gas should be processed.¹³⁰ Other fields may be discovered; the government notes that only 50 per cent of offshore resources have been explored and that onshore reserves may also be promising.¹³¹

Other resource revenue sources are possible, foremost among them mining, though this has in effect been banned in the absence of a regulatory regime. Mineral deposits are still being surveyed but are expected to be as least as promising as those of the island's western (Indonesian) half, where there has been a manganese boom.

In light of the challenges, the government's fiscal expansion looks increasingly reckless. Execution rates are highest for cash transfers and handouts; the rapid growth of staff and wages make the civil service look like a de facto government employment scheme. Along with an ever higher bill of recurrent spending commitments, this is creating high public expectations regarding state largesse.

The working-age population is growing by more than 15,000 a year, a rate that will increase as babies born during a post-1999 peak in birth rates come of age.¹³² While birth rates have fallen since independence, a 2010 health and living standards survey still reported nearly six births per woman.¹³³ This emerging workforce is poorly educated and lacks key skills. The government has established a Human Capital Development Fund, but given the poor quality of primary and secondary schools, it is unlikely to be effective if not paired with at least an equivalent focus on improving basic education.

B. *The Government's Plan*

The government's guiding vision was laid out in a Strategic Development Plan issued in 2011. As it was being developed in 2010, the prime minister described it as a "Bible" for the construction of the state.¹³⁴ It lays out an ambitious level of state investment aimed at stimulating domestic economic activity and luring foreign investment. Heavily reliant on further resource revenues to fund projects, the plan appears in part a negotiating tactic in the Greater Sunrise impasse (described below), on the ultimate resolution of which it is highly dependent.

¹³⁰ See "Timor-Leste's Annual Petroleum Reserves", La'o Hamutuk, December 2011, at www.lao-hamutuk.org/econ/OGE12/OilRevenuesTotalDec2011En900.gif.

¹³¹ "Correction of inconsistencies in international media regarding oil and gas", government press release, 21 March 2013. In April 2013, the government announced its national oil company, TIMOR GAP, had entered into joint exploration activity with two commercial partners, Eni and Inpex. "Timor-Leste's national oil company commences its first exploration activity", government press release, 22 April 2013.

¹³² The NGO La'o Hamutuk has estimated that the number of young people entering the workforce in 2024, just as the Bayu-Udan and Kitan fields are anticipated to run dry, will be double what it is today. "Submission to Committees C and D", 16 January 2013, available at www.lao-hamutuk.org/econ/OGE13/LHSubCom18Jan2013en.pdf.

¹³³ "Timor-Leste Health and Demographic Survey 2009-2010", op. cit.

¹³⁴ "Planu Estratèjiku Dezenvolvimentu Nasional (PEDN) hanesan Bíblia ba Konstrusaun Estadu" ["National Development Strategy Plan (PEDN) is like a Bible for the construction of the State"], government press release, 28 April 2010.

1. The Strategic Development Plan

The plan sets out a vision for development to 2030. Gusmão led the drafting, sequestering himself for nearly three months in 2010 to help prepare the 500-page first draft. He then toured the country's 65 sub-districts over five months, delivering full-day presentations to communities. A far slimmer version of the plan presented to parliament in July 2011¹³⁵ reflected great confidence in continued growth of the economy: it assumes sustained annual GDP growth of more than 10 per cent and proclaims the ambitious goal of upper-middle-income status for Timor-Leste by 2030.¹³⁶

Its focus is the upgrading of infrastructure nationwide and establishment of a south coast petroleum industry corridor. This would include a planned supply base for the petroleum industry in the town of Suai, a petrochemicals refinery in Betano and an LNG processing plant in Beaçu, where it is hoped that a pipeline will be built to process gas from the Greater Sunrise fields.¹³⁷ All are to be linked by a toll road the cost of which an NGO estimated at \$1.7 billion.¹³⁸

2. Impasse over Greater Sunrise

No development plan has yet been agreed for producing gas from the Greater Sunrise fields. Discussions over development there and throughout the Timor Sea have been complicated by the lack of an agreed maritime boundary with Australia. Three bilateral treaties have established a framework for ownership and revenue sharing of oil and gas fields in the area of the Timor Sea known as the "Timor Gap". Rather than make progress toward agreement on a boundary, however, these treaties have instead deferred the discussion.

The "Timor Gap" emerged after a 1972 treaty between Indonesia and Australia on maritime boundaries excluded the roughly 150-mile stretch south of the eastern half of the island then administered as Portuguese Timor.¹³⁹ Portugal did not agree to the method used to determine the boundary, which falls well north of the median line between Timor-Leste and Australia; the undemarcated area became known as the Timor "Gap". In 1979, Australia began ten years of negotiations with Jakarta that produced a treaty on joint exploration for and revenue sharing from petroleum in the Timor Sea, including in water off what had become Indonesia-occupied East Timor. The deal opened the way to exploration of the fields but constituted Australian *de jure* recognition of Indonesian administration of East Timor.¹⁴⁰

¹³⁵ The plan is available on the government website at timor-leste.gov.tl/wp-content/uploads/2012/02/Strategic-Development-Plan_EN.pdf.

¹³⁶ This would put Timor-Leste in the category currently occupied by such countries as China, Thailand, Russia and South Africa that have gross national incomes between \$4,036 and \$12,475 per capita. Gross national income includes petroleum revenues; if they start to fall as forecast in the next decade, it will be even harder to meet this goal. For a study that examined the inputs needed to achieve such growth, see "Economic Growth to 2030 in Timor-Leste", Asian Development Bank, August 2011.

¹³⁷ For more on the south coast development plan, see "South Coast Petroleum Infrastructure Project", www.laohamutuk.org/Oil/TasiMane/11TasiMane.htm.

¹³⁸ A study commissioned by the government in 2011 estimated a total cost of \$1.39 billion. "Highway dreams – and their costs", La'o Hamutuk, 20 October 2011, at laohamutuk.blogspot.com/2011/10/highway-dreams-and-their-costs.html.

¹³⁹ Australia-Indonesia "Agreement... Establishing Certain Seabed Boundaries in the Area of the Timor and Arafura Seas", 18 May 1971, www.etan.org/et2003/march/01/07offsho.htm.

¹⁴⁰ Australia-Indonesia Timor Gap "Treaty... on the Zone of Cooperation in an Area between the Indonesian Province of East Timor and the Northern Australia", 11 December 1989.

In advance of Timor-Leste's May 2002 independence, negotiations began on a new bilateral arrangement, but they deferred determination of a maritime boundary. Instead, the 2002 Timor Sea Treaty established the Joint Petroleum Development Area (JPDA), in the same area that had been agreed under the Timor Gap Treaty. The two countries jointly manage exploration and production of petroleum resources inside the area. Timor-Leste receives 90 per cent of upstream revenues, Australia 10 per cent. A further agreement signed in 2003 set a single framework for development of the Greater Sunrise field, which straddles the boundary between the JPDA and waters claimed by Australia. It granted 18.1 per cent of revenues to Timor-Leste.¹⁴¹

In 2006, the two governments signed the Treaty on Certain Maritime Arrangements in the Timor Sea (CMATS), which increased Timor-Leste's share in Sunrise upstream revenues to half but also committed it to recognising full Australian ownership of two key areas to the west and east of the JPDA.¹⁴² It also suspended maritime boundary negotiations for 50 years.

There has been no subsequent agreement on a development plan for Greater Sunrise. The treaties stipulate that the lead operator of the Sunrise development (Woodside Petroleum) must submit a development plan for approval by the authorities of both countries. In April 2010, Woodside announced its preference for a floating processing facility, claiming that the option preferred by Dili – a pipeline from Sunrise to an onshore processing facility – was both too costly and too risky.¹⁴³ The Timorese immediately made it clear they would not accept the plan and criticised the company's "arrogance"; they have argued that Woodside did not seriously examine the pipeline option.¹⁴⁴ The disagreement has also complicated bilateral relations with Australia.¹⁴⁵ What is clear is that Woodside and its partners failed to recognise the Timorese government as a partner from the outset and have since struggled to regain an effective working relationship.

Dili now says it is considering terminating CMATS, an option that became available on 23 February 2013, the treaty's sixth anniversary.¹⁴⁶ Abandoning CMATS would change little in the framework for developing Sunrise. It provides that even if a party

¹⁴¹ This revenue share corresponds to 90 per cent of the 20.1 per cent of the Sunrise area inside the JPDA. While the agreement was signed by the governments in 2003, the Timorese parliament declined to ratify it until 2007. "Agreement... relating to the Unitisation of the Sunrise and Troubadour Fields", signed 6 March 2003, entered into force 23 February 2007.

¹⁴² Australia-Timor-Leste "Treaty... on Certain Maritime Arrangements in the Timor Sea", signed 12 January 2006, entered into force 23 February 2007.

¹⁴³ "Sunrise Joint Venture selects floating processing option", 29 April 2010, at www.woodside.com.au/Investors-Media/Announcements/Documents/29.04.2010%20Sunrise%20Joint%20Venture%20Selects%20Floating%20Processing%20Option.pdf.

¹⁴⁴ "Statement by the Spokesperson of the IV Constitutional Government on 29 April 2010", timor-leste.gov.

¹⁴⁵ Canberra has argued that a decision by the operators on the pipeline is a purely commercial matter; Dili has sometimes pushed the Australian government to intervene in favour of a pipeline to the Timorese coast. "East Timor urges action on Sunrise", *Australian Financial Review*, 22 October 2012.

¹⁴⁶ Article 12 of the CMATS Treaty stipulates that either party may give notice of intention to terminate if no development plan has been agreed within six years, or production does not begin within ten years (23 February 2017). Petroleum and Natural Resources Minister Alfredo Pires told a press agency that "[w]e are looking at all the possibilities, pros and cons, but there is the possibility of some changes. The government is currently engaged in conversations with Australia and we are having pretty interesting conversations" (Crisis Group translation). "Timor-Leste negocia com Austrália modificações no tratado sobre Mar de Timor", *Lusa*, 15 February 2013.

walks away, most of the key provisions relating to Sunrise (including 50-50 revenue sharing) return to force once any production begins.

What would change following termination of CMATS would be ability to negotiate the maritime boundary. This would open up discussions over fields outside the JPDA, including Corralina-Laminaria, where production of oil began in 1999 and whose tax revenues accrue exclusively to Australia. Buoyed by recent political stability and its petroleum revenues, Dili may feel it is in a stronger negotiating position than previously; at least compared with 2006, it can better afford to defer revenues while it waits for a more advantageous deal.

C. *Broader Policy Engagement*

The new administration wants to shift policy in two major areas, by introducing a comprehensive land titling and land tenure administration system and decentralising government, hoping the latter initiative might mitigate wealth inequality and smooth the impact of future spending. Both initiatives were planned by earlier governments, have proven difficult, but will only grow more important.

Unlike in some other fragile states, the Timorese state and its institutions generally enjoy a high degree of legitimacy; even those who fought for integration with Indonesia now say they fully recognise this. The new administration also faces fewer challenges to its tenure than its predecessor, which the opposition party Fretilin often referred to as a “de facto government”. What is less assured is the legitimacy of government policy.

1. Land laws

Finding a regulatory solution to overlapping histories of colonial land administration has been a decade-long effort.¹⁴⁷ A package of three laws on tenure, expropriation and compensation was debated by the previous parliament in February 2012.¹⁴⁸ Few legislators seemed to fully grasp their complex technical impact, but the house approved the laws with a few small amendments. Outgoing President José Ramos-Horta vetoed them in March, responding in part to civil society pressure.¹⁴⁹ Expecting delays in approval of the package, the AMP government had already promulgated a decree-law in July 2011 that enables titles to be issued for undisputed parcels.¹⁵⁰ The full package would provide means for settling conflicting claims and establishing a basis for expropriation, as well as a compensation fund for some cases.

A slightly revised version of the three laws is now being prepared for submission to parliament.¹⁵¹ A few key changes have been made to satisfy critics: these focus pri-

¹⁴⁷ Crisis Group explored the subject in depth in its Briefing, *Managing Land Conflict in Timor-Leste*, op. cit. For a comprehensive review of the subject, see Daniel Fitzpatrick, Andrew McWilliam and Susana Barnes, *Property and Social Resilience in Times of Conflict: Land Custom and Law in East Timor* (Farnham, 2013).

¹⁴⁸ These laws are referred to as the Regime Especial para a Definição da Titularidade de Bens Imóveis [Special Regime for the Definition of Property Ownership], also known as the Lei de Terras [Land Law], Lei do Fundo Financeiro Imobiliário [Special Real Estate Fund Law] and the Lei de Expropriações [Expropriations Law].

¹⁴⁹ The texts of these letters are at www.laohamutuk.org/Agri/land/2012/12PNpassPRveto.htm.

¹⁵⁰ “Regularização da Titularidade de Bens Imóveis em Casos Não Disputados” [“Regularisation of ownership of immovable property in undisputed cases”], Decree-Law no. 27/2011, 6 July 2011.

¹⁵¹ Crisis Group interview, Justice Minister Dionísio Babo Soares, Dili, 20 November 2012. A number of changes were made to conform the law with the 2011 Civil Code.

marily on concerns that the laws offered insufficient protection to those evicted from their property; the need for greater protection of some customary rights associated with land use; and the lack of clarity surrounding valuation for the purpose of compensation.¹⁵² Remaining controversial provisions include a limit on ownership rights of the many who moved into properties (particularly in Dili) abandoned during the 1999 chaos¹⁵³ and a bar on foreign nationals holding even secondary property rights.¹⁵⁴

Wide consensus on such a complex topic is unlikely, particularly given the extent to which any property regime is certain to create winners and losers. A broad basic understanding of the legislation should be the priority. Much of the potential for conflict over land has built up over a decade of what many described as “waiting for the law” – placing disputes on hold until there is a legal mechanism for settlement.¹⁵⁵ There will be greater pressure for resolution once the laws have been passed, even if it does not meet the expectations of some (particularly in rural communities). The laws are also likely to carry new potential for conflict, as tenure questions take on greater financial implications. The package leaves the question of community land to further research.

As Crisis Group has argued, the laws, even after ten years, are only one step toward improved land management.¹⁵⁶ There remain serious questions regarding the capacity of the land and property directorate to administer them effectively, particularly since the initiation of full titling will place a heavy burden on its thin staff. Pressure will grow with the planned south coast development and the possibility of opening up tracts for mining exploration. A transparent government-wide policy on what compensation will be paid to those forced to relocate should be a top priority: none exists, and in recent years the process and size of payments has often been left to the company developing property.

2. Decentralisation

The government has also revived the decentralisation agenda that was put on hold in 2010 amid disagreements over the structure of local government and the difficulties of organising another round of elections. During this parliamentary term, it intends to create between three and five new municipalities, using existing districts as a geographical basis but devolving greater control to a municipal assembly and admin-

¹⁵² The ministry has provided a review of these changes and their rationale in documents on its website, at www.mj.gov.tl/?q=node/338.

¹⁵³ The law limits the potential acquisition of property by adverse possession (*usucapião*) to those claimants peacefully occupying property before 31 December 1998. A first draft used a date of 31 December 1999.

¹⁵⁴ This is particularly important with regard to the significant number of Indonesian and Portuguese citizens with property claims based on previous rights. An explanatory note on the law issued by the justice ministry warned this provision could become the subject of litigation by foreign nationals holding Portuguese or Indonesian-era property rights. See “Regime Especial para a Definição da Titularidade de Bens Imóveis – Relatório de alterações” [“Special regime for the determination of ownership of immovable property – review of changes”], Government of Timor-Leste, 12 November 2012, p. 17, www.mj.gov.tl/?q=node/338.

¹⁵⁵ Two of the leading authors on land administration issues in Timor-Leste used this as a title for an article in 2005. Daniel Fitzpatrick and Andrew McWilliam, “Waiting for law: Land custom and legal regulation in Timor-Leste”, *Development Bulletin* 68, pp. 58–61.

¹⁵⁶ Crisis Group Briefing, *Managing Land Conflict in Timor-Leste*, op. cit.

istration.¹⁵⁷ Under existing plans, voters would directly elect a municipal assembly, likely beginning in 2015, but the final contours of the policy remain under debate.¹⁵⁸

Several factors support a push for decentralisation. Foremost is the hope that devolution would do something to address the slow pace of development outside the capital. District-level decisions on PDD projects (see Section I above) have always been viewed as a precursor to fuller decentralisation. There is also strong pressure following the 2012 parliamentary elections, during which some parties promised that the policy would reward their supporters with patronage.¹⁵⁹

Decentralisation will create jobs through increased allocation of resources at municipal level, the creation of salaried municipal assemblies and the channelling of more funds through the municipalities for local contracting. The initiative appears in the government's five-year plan under the framework of employment generation.¹⁶⁰ Earlier drafts on decentralisation have called for party-based municipal elections. In view of the geographical distinctions in party support (see above), this could lead to the emergence of the kind of regional-dominated politics that Timor-Leste's national-list system was nominally designed to avoid.

Whether this would bring improved services is far less certain. As the amount of money administered at their level has expanded in recent years, districts have struggled with oversight and quality control.¹⁶¹ A district administrator explained that audit controls over projects executed under the PDD program were in place, but that auditors lacked the expertise to give good evaluations: district-level staff might declare an irrigation canal a success, only to see it collapse in the first big rains.¹⁶² National ministries have struggled to recruit skilled staff and increase efficiency, so it is difficult to know what gains will be made by developing up to thirteen new municipal administrations.

Though existing district administrations have minimal control over service delivery, a building spree in recent years has led to new district administration buildings in many areas and establishment of district offices for many national-level services, such as the prosecution service, the public defender and the land and property directorate. An administrator said he had three full-time staff, each with the title "head of section", but none had any subordinates to manage.¹⁶³

D. *Unemployment and Social Inequality*

The two most dangerous potential triggers for conflict as the population expands are youth unemployment and social inequality. The former has been acknowledged as a growing challenge, but there has been little frank assessment of its extent, and even

¹⁵⁷ "Programa do V Governo Constitucional, Legislatura 2012-2017" ["Program of the Fifth Constitutional Government"], Presidency of the Council of Ministers, 26 August 2012.

¹⁵⁸ The prime minister began a nationwide campaign in April 2013 to explain the benefits of the planned decentralisation program.

¹⁵⁹ Crisis Group interview, political analyst, Dili, 4 September 2012.

¹⁶⁰ "Programa do V Governo Constitucional", op. cit.

¹⁶¹ In comments to the press recently, the public works state secretary estimated that 60 per cent of infrastructure projects are poor quality. "Projeitu 60% laiha kualidade" ["60 per cent of projects are poor quality"], *Timor Post*, 22 April 2013.

¹⁶² Crisis Group interview, Viqueque district administrator, Viqueque, 23 May 2012.

¹⁶³ Crisis Group interview, Bobonaro district administrator, Maliana, 6 September 2012.

mitigating policies are not yet clear. Despite a recent decline, Timor-Leste's birth rate remains Asia's highest: 5.7 per woman.¹⁶⁴

As SUVs increase on Dili's congested streets and the number of luxury homes creeps upwards, so will the potential for social inequality to trigger instability. Reliable data on income inequality does not exist, but 71 per cent of the available workforce is either unemployed or informally employed. At the same time, a relatively wealthy middle class is emerging. A 2009-2010 demographic survey showed the geographic disparities: in Dili, 91 per cent of the population in the top two income quintiles; in rural areas, 28 per cent.¹⁶⁵

Public service jobs carry a lot of benefits. Monthly salaries are relatively high – from \$2,500 for secretaries of state and parliamentarians to \$4,500 for ministers – but the fringe benefits are even greater.¹⁶⁶ Following retirement, parliamentarians and ministers can draw their full salaries for life. For cabinet members or above, this includes full health benefits (including treatment in Singapore) paid by the government.¹⁶⁷ Parliamentarians have pledged several times to review the benefits so as to make it less costly, but there have been no changes. The government may be beginning to invest money with the goal of inclusive growth, but the will to restrict elite largesse appears to be absent.

E. *Corruption Allegations: A Threat to Legitimacy*

There is a perception of high levels of corruption.¹⁶⁸ If left unaddressed, it risks challenging the legitimacy of government. Tackling corruption has proven a challenge for the judiciary, even as public attention on the issue has blossomed. A proliferation of forums for addressing the issue, including the office of the Provedor [Ombudsman] and the post of vice prime minister for state administration (established in 2009), has proven ineffective. The vice prime minister position was in effect abolished after the incumbent, Mário Carrascalão, resigned in September 2010, citing “rampant” corruption in the government, an allegation the government rejected as “unfounded” in a detailed public statement.¹⁶⁹

¹⁶⁴ “Timor-Leste Health and Demographic Survey 2009-2010”, op. cit.

¹⁶⁵ Ibid.

¹⁶⁶ Most civil service positions carry a maximum monthly salary of \$850 (for directors general), but specialist positions pay more. A range of advisory positions recruited from outside the civil service pay far more.

¹⁶⁷ The terms of this *pensão vitalícia* for former office-holders are laid out in a law passed at the end of the first parliament's tenure. “Estatuto dos Titulares dos Órgãos de Soberania” [“Statute of the office holders of the Organs of Sovereignty”], Law 7/2007, 22 July 2007. In 2011, the value of associated benefits, except health, was capped at \$180,000 per year per ex-office holder, “Quarta alteração ao Decreto do Governo no. 2/2007” [“Fourth change to Government Decree no. 2/2007”], Decree 12/2011, 7 December 2011.

¹⁶⁸ A survey commissioned by the Timorese Anti-Corruption Commission reported that 57 per cent of respondents viewed corruption as a serious or very serious problem; 55 per cent believed it was increasing but also that the government had a sincere interest in combating it. There were no previous surveys, so trends were not evident. “Corruption Perception Survey 2011”, 2011. In the annual scorecard published by the Millennium Challenge Corporation, Timor-Leste's score under the “control of corruption” indicator has fallen slightly in recent years.

¹⁶⁹ “E. Timor deputy PM resigns over corruption”, Agence France-Presse, 8 September 2010; and “Statement regarding the office of the vice prime minister Mario Carrascalao”, media release, Secretary of State for the Council of Ministers and Official Spokesperson for the Government of Timor-Leste Ágio Pereira, 2 September 2010.

Creation in 2010 of an Anti-Corruption Commission (Comissão Anti-Corrupção, CAC) gave the judiciary a broader set of investigative tools.¹⁷⁰ By mid-2012, the CAC had initiated investigations into 34 suspects in 28 cases, and handed twelve cases over to the prosecutor-general for follow-up.¹⁷¹

The only two convictions on corruption-related charges emerged from investigations that pre-date the CAC. They are the August 2011 conviction of former Dili district administrator Ruben Braz de Carvalho and the June 2012 conviction of former Justice Minister Lúcia Lobato. De Carvalho's case related to the alleged embezzlement of \$21,800 in state finances in 2002, but he has filed an appeal and remains at liberty pending its disposition.¹⁷² A second case against him, related to alleged falsification of documents in the 2010 Dili PDD process, is reportedly now before the Dili District Court.¹⁷³

Lobato was found guilty on one of the charges against her in connection with a procurement process, though was found not guilty on others. The appeals court upheld the conviction in December 2012, and she began serving a five-year sentence the next month.¹⁷⁴ The case remains controversial. On 15 April 2013, her lawyers alleged in a press conference that its treatment in the appeals court – which also rejected a habeas corpus filing in January – was marked by lack of impartiality and political interference.¹⁷⁵ More developments are likely.

It is unclear whether there is a broader political commitment to ending corruption. With the approach of the 2012 elections, Gusmão distanced himself personally from the issue, giving little response to emerging rumours and allegations other than to suggest that individual AMP cabinet members should be investigated.¹⁷⁶ Several of those ministers were re-appointed in the new government. Nonetheless, the number of cases reaching formal investigation or prosecution has increased. Allegations concerning the former tourism and culture minister,¹⁷⁷ the education minister,¹⁷⁸ and

¹⁷⁰ A law setting up the CAC was passed in April 2009, but it only began operations following the swearing in of Commissioner Adérito de Jesus Soares on 22 February 2010, after a lengthy and difficult search for a consensus candidate.

¹⁷¹ See Samuel de Jaegere, "Principles for Anti-Corruption Agencies: A Game Changer", *Jindal Journal of Public Policy*, vol. 1, issue 1, August 2012.

¹⁷² "Timor-Leste: Presidente do distrito de Díli recorre da decisão do tribunal" ["Timor-Leste: Dili district administrator appeals court decision"], Portuguese News Network, 23 August 2011.

¹⁷³ "TDD seidauk finaliza prosésu kazu Ruben Braz" ["Dili District Court has not yet ended trial in case of Ruben Braz"], *Jornal Independente*, 8 January 2013.

¹⁷⁴ João Manuel Rocha, "Ex-ministra da Justiça de Timor-Leste começou a cumprir cinco anos de prisão" ["Former Timor-Leste justice minister begins serving five-year prison term"], *Público*, 23 January 2013.

¹⁷⁵ "Advogado Lúcia Lobato halo akuzasaun sériu ba mal-komportamentu hasoru juis sira iha Tribunal Rekursu" ["Lúcia Lobato's lawyers issue serious accusation of misconduct against Appeals Court judges"], Judicial System Monitoring Program, press release, 22 April 2013.

¹⁷⁶ "Xanana Kontinua Husu KAK Atu Halo Auditoria ba Membru Governu" ["Xanana repeats request to Anti-Corruption Commission to audit cabinet members"], CJITL, 11 August 2011. CNRT Secretary General Dionísio Babo also explained the party did not fear that backlash from corruption allegations would hurt it with voters, because "[t]he people generally know that CNRT has no minister in this government; it only has secretaries of state and one vice-minister". "Partido de Xanana imune à corrupção, garante secretário-geral", *Lusa*, 3 June 2012.

¹⁷⁷ "TDD absolve kazu ASDT, MP sei hatama rekursu" ["Dili District Court acquits in case of ASDT, prosecutor will appeal"], *Suara Timor Lorosae*, 21 March 2013.

¹⁷⁸ "KAK aplika TIR ba eis-ministru Cancio" ["Anti-Corruption Commission applies TIR to ex-minister Cancio"], *Jornal Independente*, 25 February 2013.

the finance minister¹⁷⁹ have all received attention, though not without controversy. For a country with such a young prosecution service, so much activity should be viewed as an important achievement, as well as a testament to the CAC's intention to use its powers.

Tools have been introduced that could be used to promote greater accountability in spending. These include transparency websites that provide information on what has been budgeted and what contracts have been awarded and to whom.¹⁸⁰ But these portals do not appear to be reliably updated, and some key information is frequently missing. When the data is retrievable, there does not seem to be much follow-up.

¹⁷⁹ "KAK Investiga Ona Kazu Emilia Pires" ["Anti-Corruption Commission is investigating Emilia Pires"], *Jornal Independente*, 19 February 2013. The minister has not commented on the reported investigation but has criticised the poor quality of Timorese investigative journalism. See "Finance minister 'trips' over HNGV beds", *Tempo Semanal* (online), 27 February 2013.

¹⁸⁰ These are all online at www.transparency.gov.tl.

V. Conclusion

Timor-Leste appears to have recovered from the 2006 crisis and to have consolidated its post-independence stability. In the process, the AMP government ignored the advice of international experts who suggested sustainable recovery would take a decade. Following the 2012 elections, the two great poles of politics, Gusmão and Alkatiri, have put aside their sometimes acrimonious relationship to work together. In line with these positive developments, Crisis Group anticipates maintaining a watching brief on the young country rather than writing further reports. There are, nonetheless, serious concerns about sustainability that will have to be dealt with over the next decade:

Running out of money. The current government's development plans are predicated on the transformative effects of shock investment and a gamble that costly planned developments on the south coast will attract investments from the petroleum industry. These are risky assumptions. Untold riches may still lie under the Timor Sea, but this is unlikely since exploration has been continuous since the 1970s. Spending all the petroleum sector money now, when open reserves could run dry within fifteen years, risks wasting much while the domestic absorptive capacity simply is not there.

A messy political transition. The centralisation of political power around the current prime minister, the lack of stable alliances and of substantive platforms among most political parties, and the difficulty younger politicians have in emerging as credible alternatives to the generation that first declared independence in 1975 are all factors that could make a political transition following Gusmão's exit messy.

Creating a culture of dependency and incentives for violence. The AMP government and its successor, now in power, have sought to redistribute the wealth of the state and to silence disaffected but influential individuals (many of them former guerrillas). But giving contracts to unskilled combatants and troublemakers is not a good way to drive development. Paired with the impunity that followed the political violence of the 2006 crisis, there appear to be strong perverse incentives to foment unrest.

Failing to develop a well-functioning justice sector. The lack of a responsive justice sector has the potential to make any future economic downturn more incendiary. Weak investigations and weak prosecutions, paired with the effect of an effort to sweep violence between 1974 and 2008 under the rug, risk fuelling further resentment and social jealousy. Justice sector improvements are not purely an issue of resources; they also require far greater political will to reinforce a culture of rule of law.

Sliding towards authoritarianism. Timor-Leste is principally viewed as a post-conflict state, but it is sometimes overlooked that it is also a post-authoritarian state. Just as it emerged from the administration of the Portuguese dictatorship that was toppled by popular protests in Lisbon in 1974, it came under the administration of the Indonesian Orde Baru (New Order) state. An influential part of the current leadership has also been steeped in the anti-democratic experience of guerrilla warfare. The political culture and the security forces have not always kept pace with the reforms of the past thirteen years. Particularly if the government is unable to deliver greater development gains in the coming years, a weak state and security forces whose default approach is coercion could support a move toward a state with fewer democratic freedoms.

Following the withdrawal of UN peacekeepers in December 2012, the government is less interested in pursuing difficult reforms than in transforming the image of a country known for too long as a place of violence. The optics of government policy are as much (if not more) a concern of fragile states as they are of wealthier states with fewer immediate challenges. But the government urgently needs to examine the costs of its approach to shoring up stability and fostering development. It may find the medium-term risks unaffordable.

Dili/Jakarta/Brussels, 8 May 2013

