

Timor-Leste: No Time for Complacency

I. OVERVIEW

A year after the near-fatal shooting of President José Ramos-Horta, security in Timor-Leste is strikingly improved. Armed rebels are no longer at large. The atmosphere on the streets of Dili is far less tense. The government does not seem to be facing any serious political threat to its survival. It has, at least temporarily, been able to address several of the most pressing security threats, in large part by buying off those it sees as potential troublemakers. Nevertheless, the current period of calm is not cause for complacency. Security sector reform is lagging, the justice system is weak, the government shows signs of intolerance towards dissenting voices, and it has not got a grip on corruption. These problems, which have been at the root of the instability facing Timor-Leste since independence, must be tackled if the country is to escape the cycle of conflict.

When President Ramos-Horta was shot in February 2008, many feared Timor-Leste was falling back into violence. But the incident and its aftermath strengthened the government. It removed the rebel Reinado from the scene, while the government's decisive response boosted popular confidence. Subsequent progress on difficult issues, such as the group of former soldiers known as the "petitioners" and the internally displaced persons (IDPs), won it further political credit. The government coalition has remained strong, while Fretilin initially found it hard to come to terms with being in opposition. Although it is increasingly effective in that important role – landing some punches on the government on issues such as financial transparency – its threats to withdraw from parliament and organise mass demonstrations against the legitimacy of the government demonstrate weakness, not strength.

Substantial challenges remain. The government has taken few serious steps to address the problems in the security sector which led to the 2006 crisis. It seems uninterested in the comprehensive security review recommended by the UN Security Council in August 2006. Responsibilities remain blurred between the army and police. The "Joint Command" created to arrest the president's attackers bolstered the army's ambitions to serve an internal security role. That operation

saw a stream of human rights abuses, stemming from ill-discipline and a sense of being above the law. There are tensions between the Timorese and the international security forces, with the Timorese police increasingly resisting UN supervision. There are also signs of worrying disdain for the justice system and civilian control over the army. The police and army depend too heavily on a few individuals and on personal relationships that have been able to hold the security forces together.

Presidential interventions in cases involving political violence have undermined an already weak justice system. They send a signal that those involved, especially the elite, will not be held to account, creating resentment among the victims and failing to create a deterrent for the future. Timor-Leste has seen too much impunity, and too many people have evaded responsibility for their actions.

The government's policy of "buying off" groups such as the petitioners and IDPs has led to short term results, but carries risks. It has encouraged other groups to demand "compensation" too. A danger is that Timor-Leste may develop an entitlement culture where increasing numbers depend on, and expect, state hand-outs.

The government has bought time and public confidence. It needs to use it to address the underlying sources of tensions which led to the 2006 crisis.

II. DEVELOPMENTS IN 2008

The security situation in Timor-Leste at the start of 2009 is much more stable than a year earlier.¹ Then, a group of nearly 600 soldiers – the "petitioners", whose dismissal sparked the 2006 conflict, plus assorted deserters from 2006 – remained at large. In loose association

¹ See Crisis Group Asia Report N°143, *Timor-Leste: Security Sector Reform*, 17 January 2008; and Asia Report N°148, *Timor-Leste's Displacement Crisis*, 31 March 2008. Previous Crisis Group reporting on Timor-Leste includes: Asia Briefing N°50, *Managing Tensions on the Timor-Leste/Indonesian Border*, 4 May 2006; Asia Report N°120, *Resolving Timor-Leste's Crisis*, 10 October 2006; and Asia Briefing N°65, *Timor-Leste's Parliamentary Elections*, 13 June 2007.

with some of these, former military police commander Major Alfredo Reinado and his group of military and police deserters posed a serious threat to the stability and security of Timor-Leste – though some regarded him as a romantic rebel.² In Dili, around 30,000 people remained in internally displaced persons (IDP) camps, with yet more lodging with family and friends, fearful of returning to homes they fled during the 2006 violence, especially with Reinado on the loose. Meanwhile, responsibility for internal security was largely in the hands of international forces – the UN Police, including the four “formed police units” from Portugal, Malaysia, Bangladesh and Pakistan, and the Australian-New Zealand International Stabilisation Force (ISF).³

In its program presented to parliament in October 2007, the AMP (Alliance for a Parliamentary Majority) coalition government of Prime Minister Xanana Gusmão identified nine short-term priorities, three of them essentially security issues: solving the “Reinado problem”, the petitioners, and the IDPs – the last by tackling the insecurity throughout the country which was deterring them from returning home.⁴ Little progress had been made on any of these problems between the end of the 2006 crisis and early 2008, either by Gusmão or his immediate predecessors in the position, José Ramos-Horta and Estanislau da Silva. After Gusmão became prime minister in August 2007, fitful negotiations had

been taking place between the AMP government, Ramos-Horta (now president) and Reinado, marked by clear differences of approach between the increasingly impatient Gusmão and the more conciliatory Ramos-Horta. It was the latter who in April 2007 – with dubious constitutionality – ordered the international forces to suspend their operations against Reinado and issued him with a “freedom of movement” letter.⁵ The decision was to have disastrous consequences for Ramos-Horta himself.

The tense situation came to a head early in the morning of 11 February 2008 when Reinado unexpectedly arrived at Ramos-Horta’s residence and was shot dead, apparently by a Timorese soldier. Ramos-Horta, who was out jogging, returned home and was shot and seriously wounded by one of Reinado’s men. Approximately an hour later, the leader of the petitioners (and Reinado’s second-in-command), Gastao Salsinha, staged an unsuccessful ambush on Gusmão’s convoy. The media, following the government’s lead, reported the incidents as an attempted coup. In fact, there is no evidence Reinado planned to seize power and strong circumstantial evidence that the shooting of Ramos-Horta was not planned.⁶

Nonetheless, it was a major crisis for Timor-Leste. Vice Prime Minister José Luis Guterres sees it as the most difficult episode since the 2006 crisis, and has suggested – with probable hyperbole – that the country could have fallen into civil war.⁷ But, unlike in 2006, the government performed well. It moved decisively to assert its authority and to put effective security measures in place, while avoiding repressive measures. Gusmão and other senior figures came across as statesmanlike and took the trouble to communicate with the population and seek parliamentary approval for their actions. The government imposed a state of siege and curfew, initially throughout the country but gradually

² Reinado was a key figure in the 2006 crisis and had become a cult figure among youths and people from the western part of Timor-Leste. With seventeen men – some army, some from special police units – he deserted on 3 May 2006 in protest at what he called the military’s deliberate shooting of unarmed military protestors and civilians. On 23 May he was filmed firing on soldiers approaching his position at Fatu Ahi, just outside Dili, and the next day groups thought to be linked to him attacked the residence of army commander Taur Matan Ruak. He was arrested on by international forces on 26 July but escaped with ease from Dili’s Becora Prison on 30 August and hid in the district of Ermera, in the western part of Timor-Leste. After unsuccessful negotiation efforts involving the government, the UN and the ISF, and after he stole automatic weapons from two border police posts on 25 February 2007, then President Xanana Gusmão authorised the International Stabilisation Force to capture him. An attack on his base at Same resulted in the death of five of his men, but he escaped. The operation led to pro-Reinado unrest in Dili and Ermera.

³ UN Formed Police Units (FPUs) are specialised armoured police elements that often act as a rapid reaction force for serious outbreaks of violence. With up to 140 personnel from a single country, they fill a gap between highly armed peacekeepers and more lightly armed, or unarmed, regular UN police.

⁴ IV Constitutional Government Program, 2007-2012, p. 14, at www.laohamutuk.org/misc/AMPGovt/GovtProgramEng.pdf

⁵ “East Timor’s acting prime minister halts search for fugitive rebel soldier”, Associated Press, 23 April 2007.

⁶ According to analyst James Dunn, “almost certainly it was a botched attempt by the rebel leader, Alfredo Reinado, to corner the President and seek assurances that the proposed surrender conditions, culminating in his pardon, would in fact be carried out”, “East Timor – A New Dawn?”, Human Rights Council of Australia, May 2008. Available at www.hrca.org.au/wp-content/uploads/2008/06/a-new-dawn-james-dunn1.pdf. A detailed – though not wholly satisfactory – account of the events of 11 February may be found in a leaked internal UN document: “Report On The UN Actions In Response To The Attacks On The President and The Prime Minister On 11 February 2008”, UNMIT Internal Review Panel, 2008. Available at http://wikileaks.org/wiki/UNMIT_investigation_into_the_shooting_of_East_Timor_President_Ramos_Horta_2008.

⁷ Crisis Group interview, Dili, November 2008.

decreasing in geographical scope and severity.⁸ A week after the shootings, it brought together the two Timorese security forces – the police and army – under a “Joint Command” to enforce the state of siege and capture the president’s attackers. As Reinado’s supporters surrendered one by one, Salsinha took refuge with a hard core in Ermera district. On 29 April, the government’s dogged pursuit of a negotiated solution was vindicated when Salsinha surrendered, on negotiated terms, with his remaining men.

Meanwhile, the petitioners had started coming down from the hills in early February, lured by the prospect that negotiations with the government might lead to “compensation”, employment overseas or reinstatement in the army.⁹ This movement became a flood after 11 February. At its height over 600 people were gathered in Dili in what became, in effect, a new, voluntary IDP camp, as the government tried to work out what to do with them. In the face of strong opposition to their reintegration into the army by Commander Taur Matan Ruak and other senior army leaders, the government agreed to give them a financial package to enable them to return to civilian life.¹⁰

⁸ Given Reinado’s popularity, there were fears of unrest after his death. Attempts to apprehend him in 2007 had led to rioting by youth groups. But neither Reinado’s family nor his self-proclaimed successor, Salsinha, attempted to stir up his supporters to revenge, and political parties called for restraint. The ignominious circumstances of his death made it hard to see him as a martyr, particularly as it was Ramos-Horta, more than anyone, who had been pushing for a peaceful resolution to the rebel situation. The rapid deployment of Timorese and international security forces to secure Dili also helped prevent unrest.

⁹ The relationship between Reinado and the petitioners was complex. Reinado found it expedient to portray himself as their protector, giving the impression that he was part of a group with legitimate political grievances rather than just an individual rebel or criminal. See Crisis Group Report, *Security Sector Reform*, op. cit. The petitioners saw that the association with Reinado complicated his cause, but also saw benefits in his backing, especially once Reinado stated that he would only surrender once the petitioner issue was resolved. Crisis Group interview, Joao Mendes Concalves, minister of economy and development, Dili, 28 August 2008. One group of petitioners, led by Salsinha, became closely associated with Reinado, but others under Major Tara preferred to keep their distance. Gusmão’s strategy to bring petitioners to Dili in early February 2008 may have helped precipitate the events of 11 February, as Reinado saw he was losing his mass support base.

¹⁰ They were also offered the option of applying to join the army again as new recruits, but with no guarantee that they would be accepted. The financial package amounted to about \$8,500 each. Much of this money has been spent, and there

The removal of the threat posed by Reinado and Salsinha also simplified the task of persuading IDPs to return home. But in fact the government had already begun a measured, comprehensive program to address the situation shortly before 11 February – including the brave step of phasing out universal provision of free food in the camps. It refused to be thrown off course by fears of unrest following Reinado’s death, and returns continued apace, camp by camp, throughout 2008, supported by generous financial payments to returnees.

Still, the attention and funding given to encouraging returns has not been matched by action on other parts of the National Recovery Strategy such as promoting national reconciliation and rebuilding communities.¹¹ Unless all parts of the strategy are addressed – as well as other key measures such as land law reform – promoting returns is no more than a short-term fix to the IDP crisis.¹² The financial compensation provided to returnees is serving to exacerbate social jealousy in some communities, with – in the worst cases – reports of neighbours demanding a share of the package. Returning IDPs may also seek to regain their roles in the local economy, for example in markets, from which they have been absent since 2006, which might exacerbate communal tensions.¹³

The government’s policy of “buying off” groups such as the petitioners and the IDPs has certainly led to short-term results. In both cases, the government has broken the status quo and bought time. But the approach also carries risks. It has encouraged other groups to demand financial compensation too. For example, a group of about 200 Falintil veterans began lobbying for compensation in September 2008, drawing an explicit parallel with the treatment of the petitioners.¹⁴ There

are rumours that the petitioners are considering forming a political party.

¹¹ The National Recovery Strategy, Hamutuk Hari’i Futuru, contains five pillars which may be paraphrased as: (1) return and resettlement of the IDPs; (2) social welfare support for vulnerable groups (including food security, education and health); (3) stabilising the security situation; (4) economic development; and (5) building trust between the people and the government, and strengthening communities.

¹² See Crisis Group Report, *Timor-Leste’s Displacement Crisis*, op. cit.

¹³ Crisis Group interviews, international aid agency representatives, Dili, November-December 2008.

¹⁴ The group had failed to qualify for veteran status due to their age or length of service falling outside the requirements of the relevant legislation. One group member stated that they do not approve of the culture of compensation, but object to the fact that they have been treated less well than the petitioners – despite the latter group’s illegal actions. Crisis Group interview, Dili, 4 September 2008.

are reports that some gangs and youth groups have formed non-governmental organisations (NGOs) in order to benefit from government grants,¹⁵ and that individuals with a history of involvement in violence have been awarded government contracts. Civil servants receive free rice, and the entire population has access to subsidised rice. This may lead to an entitlement culture where increasingly large numbers depend on, and expect, state handouts.

III. SECURITY IMPACT OF 11 FEBRUARY

While the security situation in the country has improved markedly in recent months, limited progress has been made on addressing fundamental problems within and between the Timorese security forces. These problems were the proximate cause of the violent conflict in 2006. Without a serious commitment from the government to reform of the security sector, a recurrence is all too likely. A “Timorese-led” process holds the most potential, but political will is lacking.

A. LEGACY OF THE JOINT COMMAND

The Joint Command created after the 11 February shootings was a significant development in relations between the police and the army, which had broken down entirely during the 2006 crisis.¹⁶ According to Vice Prime Minister José Luis Guterres, the public display of unity between the two forces helped increase public confidence in both forces and, by extension, the state.¹⁷ While the name was something of a misnomer – the army was explicitly in charge, with the police acting as the junior partner – the two forces worked together effectively during the four months of the Joint Command’s existence. For soldiers and police officers alike, being assigned to the Joint Command was a highly attractive alternative to their mundane day-to-day duties, bringing prestige as well as a substantial per diem payment on top of their regular salaries. Despite their junior status, participation in the

Joint Command seems to have boosted morale in the police force, particularly in the special units. But it also created divisions between those selected (mostly from special units) and those retained for normal policing duties.

The Joint Command broadly succeeded in its objective of maintaining public security and securing the surrender of the suspects in the 11 February attacks. Against expectations, it refrained from using force against the remaining rebels, instead emphasising negotiations and psychological pressure. The incidents in which excessive force was used (see below) resulted from ill-discipline and poor judgment, not official policy. The government and president sought to give Salsinha and his men a face-saving exit, calling on them not to “surrender” but rather to “cooperate with justice”, and treating them with respect rather than as rebels. This choice of “words not bullets” was important in ensuring that the operation did not give rise to new discontent among sections of the population sympathetic to the rebels’ cause¹⁸ – though the army operations in Ermera did still cause local frustration over human rights abuses and the inability of villagers to farm their coffee. While the army presence provided pressure on Salsinha, it was local political figures and the church in Ermera, supported by the army or government, which eventually facilitated his surrender.

However, the Joint Command did acutely highlight the issue of ill-discipline within both forces and the lack of respect for the rule of law. Between 11 February and the expiration of the Joint Command’s mandate on 22 May, the UN received complaints of 58 separate incidents of ill-treatment of civilians by members of the Command, ranging from intimidation and threats to the use of excessive force on detainees.¹⁹ In one case, a civilian was shot dead by a soldier in Bobonaro district. Some of these incidents resulted from rules of engagement which allowed soldiers to arrest both “hostile forces” and civilians, and permitted soldiers to enter civilian homes where there were “strong indications that a criminal offence has been committed”.²⁰ The searches of homes – often for reasons entirely

¹⁵ Substantial funds are available for civil society in the national budget – \$5 million in 2008 and \$6 million in 2009, of which \$2 million is expected to be available for direct grants to civil society organisations. In the budget debate in parliament in January 2009, the government provided little information on how grants were allocated or the impact of the program. Crisis Group email interview, 27 January 2009.

¹⁶ See Crisis Group Report, *Security Sector Reform*, op. cit.

¹⁷ Crisis Group interview, Vice Prime Minister José Luis Guterres, Dili, November 2008.

¹⁸ Crisis Group interview, Vice Prime Minister José Luis Guterres, Dili, November 2008.

¹⁹ “Report on Human Rights Developments in Timor-Leste: The Security Sector and Access to Justice, 1 September 2007 – 30 June 2008”, UNMIT, July 2008, para. 17. Also Crisis Group interviews, UNPOL official, 11 September 2008, and UNMIT official, 10 September 2008.

²⁰ Rules of engagement for the operational forces under the Joint Command, Government of Timor-Leste, 21 February 2008, rules 9-15. After arrest, suspects were to be handed over to the police.

unconnected with catching the rebels – created a widespread perception of intimidation. The arrest of Fretilin parliamentarian José Teixiera, apparently at the personal initiative of a senior police officer, was a further indication of a feeling on the part of the security forces that they could do anything they chose.²¹

Tensions also arose in the relationship with the international forces. UN Security Council Resolution 1704 (2006) mandated the UN police and ISF to restore and maintain security. Until executive policing responsibility is handed back to the national authorities, the Timorese police are supposed to work under the supervision of the UN police, with the UN police commissioner acting as interim commander of the Timorese police.²² The Joint Command took Timorese police officers outside this chain of command, bypassing the UN police.²³ Soldiers on more than one occasion challenged the authority of the UN police. On 27 February, for example, they forcibly removed a suspect from UN police custody after a tense stand-off during which they pointed their weapons at the UN officers. The following day, members of the Joint Command beat a suspect being held at the Dili Police Watch House, pointing their weapons at a UN police officer when he attempted to intervene.²⁴

The Joint Command also bolstered the army's claim to an internal security role. This further blurred the important principle of a clear division of responsibility between the army and the police, with the latter acting as the lead agency for internal security. On several occasions – without coordinating with the UN police – soldiers conducted night patrols in Dili, deploying six-man armed squads supposedly to deter fighting between martial arts groups.²⁵

The Joint Command took some time to dismantle. Although its legal basis expired on 22 May, it was not until 4 June that the Council of Ministers formally revoked it, and it took a further fifteen days before it was officially disabled. During this period, the Joint Command took on a number of additional security duties, again not coordinated with the UN police, leading to tensions with local police officers, particularly in Ermera district.²⁶ Even after 19 June, static security posts originally established by the Joint Command remained in place across Dili, staffed by police officers outside the established police command structure.²⁷ The slow dismantling of the Joint Command reflected the degree of autonomy it experienced and, perhaps, a reluctance on the part of some Timorese security officials to submit themselves again to foreign supervision; the generous per diem payments for participants in the Joint Command also may have made them unwilling to see it brought to an end.

B. SECURITY SECTOR REFORM

The Joint Command's success against the rebels and the improved security situation on the streets distracted attention from the basic problems within and between the two security forces, which gave rise to conflict in 2006 and remain unaddressed. These include the east-west divide, political interference, poor discipline and lack of oversight and transparency. While the police has undergone a period of close supervision by the UN, the army has not been subjected to similar attention and resists international scrutiny.²⁸ A further worrying development is growing indications of ill-discipline, disdain for the rule of law and rejection of civilian control.

The year 2008 saw action on important administrative and legislative issues in the security sector. But the government and army seem increasingly unconvinced of the need for fundamental reform. According to Secretary of State for Security Francisco Guterres, the government's priority in its first year, until August 2008, was to establish public security, primarily through resolving the Reinado and petitioner issues. Since then, it has been focusing on formulating security policy, imple-

²¹ "East Timor: President shooting used to discredit opponents, claims rival", AKI, 20 February 2008, at www.adnkronos.com/AKI/English/Politics/?id=1.0.1895626603.

²² The Supplemental Agreement of 1 December 2006 defines the UN's role in reforming and rebuilding the Timorese police. The UN police commissioner reports directly to and receives instructions exclusively from the Special Representative of the UN Secretary-General.

²³ The Joint Command also circumvented the Trilateral Agreement of 26 January 2007, which stipulates that the Timorese army, the ISF and the UN are to cooperate on security operations.

²⁴ Crisis Group interviews, Dili, 28 February 2008 and 8 September 2008.

²⁵ "Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 8 January to 8 July 2008)", United Nations Security Council, S/2008/51, July 2008, paragraph 18.

²⁶ Crisis Group interview, Dili, 9 September 2008.

²⁷ Crisis Group interview, Dili, 4 September 2008.

²⁸ A representative of one international donor agency stated that the army "is the hardest nut to crack". Crisis Group interview, Dili, September 2008.

menting the army's "Force 2020" plan, and developing an equivalent 2020 plan for the police force.²⁹

In January 2008, Crisis Group published *Timor-Leste: Security Sector Reform*, which analysed in greater depth the need for fundamental reforms in the security sector, including:

- ❑ a consultative and open review process to develop a consensus among all stakeholders – including the public – on Timor-Leste's basic security needs and how to address them;
- ❑ clear differentiation and demarcation of the responsibilities of the police and the army – with the police taking the lead on internal security and given the necessary personnel, training, equipment and political backing;
- ❑ clarity on who – president or prime minister – is responsible for security policy;
- ❑ independent and robust external scrutiny and internal complaints mechanisms; and
- ❑ measures to promote professionalism, non-partisanship and respect for the rule of law in both forces.

A comprehensive security review, as recommended by the UN Security Council in 2006, is the first logical step towards reform. But the government and president seem unimpressed by the assistance being offered by the UN Security Sector Support Unit, and there is a lack of coordination between and among international and national security stakeholders, reflecting the lack of a common vision – something which a comprehensive, inclusive review might generate.³⁰ A

²⁹Francisco Guterres, speech to seminar on "Reform and Development of the Security Sector in Timor-Leste", 11-12 December 2008. The Force 2020 plan was developed under the previous Fretilin government. See "Defence 2020: Development of the Armed Forces of Timor-Leste 2005–2020", 20 July 2006, available at www.timorleste.gov.tl/mindef/Eng/Defence%20&%20Security/Force%202020/DEFENCE%202020.pdf. It sets out ambitious aspirations for what the army should look like in 2020 and beyond. Its glossy pictures of fighter jets and frigates were much mocked, and criticised by Xanana Gusmao's CNRT during the 2007 election campaign as extravagant. But strong advocacy by army commander Taur Matan Ruak seems to have won government backing for the plan, though the proposal to introduce conscription seems to have been put on ice. A Defence 2020 Unit was created in June 2008 under the Secretary of State for Defence to implement the plan.

³⁰In June 2008, Prime Minister Gusmao and deputy SRSG Finn Reske-Nielsen endorsed the UNMIT/UNDP project document for a security sector review. However it was October 2008 before the project board tasked with managing the process had its first meeting. The second meeting in De-

senior UN police official identified "a lack of cohesion between the security stakeholders in Timor" as a major reason for the stagnation of the security reform process.³¹

The Timorese police are keen to speed up the hand-over of executive policing authority from the UN police and are seeking to demonstrate their independence. A UN official contends that the Timorese police have reverted to their pre-crisis chain of command, from the secretary of state down through Timorese officers, bypassing the UN.³² The Timorese have been frustrated with the generally poor quality of the mentoring they have received from UN police officers, while UN officers have been equally frustrated by resistance to the screening and certification process.³³ But the police remain badly disunited, ill-disciplined and lacking in basic policing skills. In a speech on 29 December 2008, President Ramos-Horta "caution[ed] against hasty hand-over of policing responsibilities".³⁴ Further evidence of friction between the Timorese police and the UN can be seen in the case of the Baucau police chief, Adérito Neto. Suspended from duty by UN police pending an investigation into accusations of abuse of office, Neto was ordered back to work by the interim Timorese police commander Alfonso de Jesus – who allegedly also returned his weapon – and had to be disarmed and arrested by the Portuguese FPU in October 2008.³⁵

Discontent and uncertainty within the police are rife. Eight police officers accused of misappropriating funds intended for participants in the Joint Command were

ember agreed to the public perceptions survey, scheduled for completion by end 2009, and confirmed funding for it at \$300,000. Norwegian, Irish, UN and Australian financial commitments for the review have been confirmed at \$ 1.25 million. An additional €1.6 million was secured from the European Commission's Instrument for Stability for "capacity development" (therefore reform) in December 2008. The consultation process is likely to take ten months. Crisis Group telephone interview, UN official, 28 January 2009.

³¹Crisis Group interview, Dili, 9 September 2008.

³²Crisis Group interview, Dili, 9 September 2008.

³³In a letter in early 2007, the SRSG complained that two senior police appointments had been made of officers deemed unsuitable for certification: Jorge Monteiro to the position of deputy commander of operations, and Delfin da Silva as deputy commander of Dili district. Letter from Atul Khare, SRSG, Dili, 27 March 2007, reference number SRSG/07/03/025. Other officers recommended for disciplinary action are still on active service.

³⁴Address to the diplomatic corps, Dili.

³⁵"Baucau acting police commander officially leaves his post – Radio Timor-Leste, October", Timor Leste Daily Media News, October 9 2008, available at www.etan.org/et2008/10october/12/dailym10.htm.

suspended in August 2008.³⁶ East-west divisions are palpable, as demonstrated by a letter in early October, supposedly from a group of police officers, demanding that the new police commander be from the western part of Timor-Leste – a disturbing reminder of the 2006 violence which began with east-west tensions in the army.³⁷

Timor-Leste's external security needs are limited and, as one analyst noted, "it is far more exciting to be driving around Dili in the back of a truck mounted with guns than being engaged in the more mundane tasks of soldiering".³⁸ The army maintained a prominent presence on the streets throughout 2007 and the first half of 2008, notably at the Independence Day celebrations on 20 May 2008, when soldiers carried semi-automatic weapons through the VIP area,³⁹ and they remain a visible presence on the streets. The low level of police competence and capacity is a further factor encouraging the army to take on internal security functions, and political leaders have shown in 2006 and 2008 that, faced with serious unrest, they prefer to rely on the army. Police reform, including enhanced funding, personnel and political backing, is therefore essential if Timor-Leste is to avoid repeated interventions by the army into policing matters.

The army and police seem reluctant to submit to civilian control or to civilian courts. In a direct challenge to Timor-Leste's judicial system, the army refused to surrender four soldiers who had been sentenced on 27 November 2007 by Dili District Court for their role in the killing of ten police officers during the 2006 crisis. There were reports that they were seen outside the prison; one was reportedly photographed in uniform and armed among the group of soldiers who came to Ramos-Horta's residence to view the situation after he was shot on 11 February. More than three months later, they were detained in an ad hoc prison within army headquarters at Taci Tolu on the outskirts of Dili.

³⁶Dispatch No. 023/IVGC/PM, Office of the Prime Minister, 18 August 2007, available at <http://wikileaks.org/leak/xanana-gusmao-pntl-investigation-2008.pdf>.

³⁷Anonymous, "Letter to the Leadership of the Definitive PNTL", undated, unsourced.

³⁸Crisis Group interview, Dili, 26 August 2008.

³⁹One UNMIT official criticised the lack of coordination between the UN police, Timorese police and army at the event, with the latter two "doing their own thing" and the UN police only "nominally in charge". Crisis Group interview, 11 September 2008. The government decision in March 2007 that the army would provide static security at public installations such as the airport and the president's residence further strengthened their internal role.

An important test of military accountability is the recommendation by the independent commission of inquiry (CoI) into the 2006 crisis that army commander Taur Matan Ruak, former defence minister Roque Rodrigues and three other senior officers should be prosecuted in connection with the illegal distribution of weapons during the 2006 crisis.⁴⁰ Ramos-Horta's decision to appoint Rodrigues as his adviser on security sector reform – initially on a UN Development Programme (UNDP) contract – raises concerns about his commitment to pursue the findings of the CoI. And, while the accusations against Ruak seem less serious than those against Rodrigues, the fact remains that two of the country's key security officials have serious accusations hanging over their heads.⁴¹ In December 2008, Ruak and Rodrigues finally attended the prosecutor general's office to be notified of their status as defendants in an impending prosecution.⁴²

The reluctance to prosecute Ruak partly demonstrates the sense of the country's elite that they are above the law, but also reflects concerns about the stability of the army. UN officials suggest that without Ruak's strong leadership the army could become increasingly factionalised and fragmented.⁴³ As the successor of a guerrilla

⁴⁰According to the CoI report, Rodrigues arranged the distribution of police weapons to civilians without the knowledge of the police general commander; one group of recipients, under the command of Rai Los and disguised in police uniforms, participated in an attack on an army patrol on 24 May 2006. The subsequent distribution of weapons to groups characterised as army "reservists" was defended by Ruak as "a political decision for which the [Defence] Minister was responsible." See "Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste (CoI)", 2 October 2006, paras 88-99 and 132-134, available at www.ohchr.org/Documents/Countries/COITimorLeste.pdf. The other three officers recommended for prosecution are Colonel Tito da Costa Cristovão, aka Lere Anan Timor, Colonel Domingos Raul, aka Rate Laek Falur and Major Manuel Freitas, aka Mau Buti, while ten people are recommended for prosecution in connection with the illegal distribution of police weapons.

⁴¹President Ramos-Horta would have to waive Rodrigues and Ruak's immunity in order for a prosecution to take place. But he has shown no willingness to do so; instead, he has urged the prosecutor general to prioritise the investigation into the 11 February attacks, a statement which would seem to trespass on prosecutorial independence. See "East Timor blames president over trial delay", Australian Broadcasting Corporation Radio Australia, 10 October 2008.

⁴²"East Timor Defence Force chief Taur Matan Ruak to face court over 2006 illegal weapons distribution", East Timor Law and Justice Bulletin, 9 December 2008. Available at <http://easttimorlegal.blogspot.com/2008/12/east-timor-defence-force-chief-taur.html>.

⁴³Crisis Group interview, Dili, 9 September 2008.

force, the army remains dominated by a number of charismatic commanders with personal followings; Ruak exerts leadership by virtue of his personal prestige and ability to forge consensus rather than by his rank. But this is precisely why fundamental reform is needed: to produce a modern institution whose stability does not depend on individuals. Similarly, Xanana Gusmão, with his background in the armed resistance, may be able to control the army, but the real test will come when a future, civilian prime minister instructs the army to do something they do not want to do. It is now, while leaders of the calibre of Gusmão and Ruak are still in place, that military discipline, civilian control and the rule of law need to be institutionalised.

IV. POLITICAL IMPACT

The events of 11 February ended up strengthening the government. It removed Reinado – a focus for opposition – from the scene, and shocked many Timorese into rallying around the government. Foreign countries too rushed to show their backing for the democratically elected government. Meanwhile, the opposition Fretilin party has struggled to find effective lines to attack the government, frequently resorting to its old accusations over the alleged unconstitutionality of its formation. More meaningful criticisms of Gusmão's government might include its tendency to “pay off” potential troublemakers, its lack of financial transparency and allegations of corruption. There are also worrying signs of intolerance of dissent. A newspaper editor is facing charges of criminal defamation for publishing an investigation into corruption allegations against Justice Minister Lucia Lobato. In another case, the government over-reacted to a peaceful student protest in July 2008.⁴⁴

⁴⁴The students were protesting against the purchase of a luxury car for each member of parliament and a bill to allow civilians to carry firearms. Citing a law which forbids demonstrations within 100 metres of government buildings, the police fired tear gas and arrested over twenty students. The students were in fact demonstrating on their own university campus, which happens to be located less than 100 metres from the parliament building. “E.Timor police arrest student protesters”, Reuters, 8 July 2008. On the criminal defamation case, see “ETAN urges dropping of defamation charges against East Timorese editor”, East Timor and Indonesia Action Network (ETAN), 26 January 2009.

Ramos-Horta continues to run an activist presidency, leading at times to tension with the government.⁴⁵ His liberal dispensation of remissions and pardons, in pursuit of national reconciliation, has further undermined the already fragile rule of law and disappointed the population's hopes for justice for those responsible for conflict in 1999 and 2006.

A. PARTY POLITICS

The AMP coalition government is proving surprisingly stable, with few signs of internal ruptures. The only defection has been that of Associação Social Democrata Timorese (ASDT) leader, Francisco Xavier do Amaral, in early 2008, though most of his party remain in the coalition.⁴⁶ Coalition partners are enjoying being in power after five years of single party Fretilin government. Antipathy towards Fretilin is mixed with the desire to be in government, not least for the personal financial benefits that can come with government office.⁴⁷ Until Fretilin shows signs of being able to form a viable alternative government, these are seen as good reasons to stick with Gusmão.

Gusmão has also proven adept at holding the coalition together. Timorese politics is personalised, with little emphasis on policies or ideologies. This makes it less likely for the coalition to fracture over policy issues – and the coalition parties have indeed consistently voted together in parliament on major issues. But it places a premium on the prime minister's ability to attend to individual politicians' personal needs and aspirations

⁴⁵In Timor-Leste's evolving semi-presidential system, executive power rests mostly with the government, headed by the prime minister. The directly elected president is a largely ceremonial position with the important exception of being commander-in-chief of the armed forces. Both Xanana Gusmão during his tenure as president and José Ramos-Horta have sought to expand the powers of the president vis-à-vis the government. Perhaps unsurprisingly, given his foreign policy experience, President Ramos-Horta has been more visible on the international stage than his predecessor Gusmão. See Dennis Shoemith, “Timor-Leste: Divided Leadership in a Semi-Presidential System”, *Asian Survey*, vol. 43, no. 2 (March/April 2003), pp. 231–252; and Benjamin Reilly, “Semi-presidential democracy in East Asia”, East Asia Forum, www.eastasiaforum.org, 8 November 2008.

⁴⁶Amaral and some ASDT district leaders were unhappy that the party had received fewer positions in the national and district administrations than other coalition parties. The ASDT members of the government – one minister and one secretary of state – not surprisingly declined to join him in opposition.

⁴⁷One AMP politician suggested that access to lucrative contracts was one attraction of being in government. Crisis Group interview, 17 August 2008.

– particularly as several of the parties are themselves divided into factions. One Fretilin politician describes the government as “a coalition of personal interests”.⁴⁸

Fretilin has found it hard to come to terms with being in opposition, seeing itself as the natural, or even the rightful, governing party. It continues to claim that Ramos-Horta acted unconstitutionally by asking Gusmão to form a government in August 2007, and to label the AMP government a “de facto government”.⁴⁹ The accusation has gained little traction, though Fretilin still reverts to it when it is short of other ideas for attacking the government. In practice, however, Fretilin has acknowledged the government’s legitimacy by engaging and debating with it in parliament. Crucially, it demonstrated bipartisanship after the 11 February shootings, while at the same time seeking to make political capital over the alleged failings of the international security forces.

A healthy democracy needs an effective, constitutional opposition, and Fretilin has been active in parliament, the media and the courts in attacking the government’s agenda. It has been a more constructive parliamentary opposition than the fractured opposition parties it faced during its own time in office. A consistent, and effective, Fretilin line has been to criticise alleged government corruption and misuse of funds. It had a spectacular success on 13 November when the Court of Appeals ruled against the government over the transfer of funds from the Petroleum Fund. This was a big step forward for constitutional law in Timor-Leste – making the government’s response all the more disappointing (see below). Fretilin has also been working hard to rebuild bridges with key foreign governments, and reestablish a reputation – in Australia, in particular – as a responsible and competent political force.

Other Fretilin tactics have been less encouraging. They have raised the possibility of withdrawing all their MPs from parliament, something which they believe

– on the basis of another dubious reading of the constitution – would trigger a new general election.⁵⁰ However, Fretilin Secretary General Mari Alkatiri portrays this as a last resort as it would be a potentially destabilising precedent for the country.⁵¹

Fretilin has also been planning a mass “March of Peace” to demonstrate their support and to further their claim that the government is illegitimate. They have claimed between 20,000 and 50,000 people will attend, although it is doubtful they will be able to mobilise such high numbers.⁵² The march has been discussed for several months but without setting a date – an indication of Fretilin’s own organisational and financial problems. The possibility that such an event could turn violent is real. Fretilin has insisted that the march will be non-violent but there is always a risk that political mobilisation on that scale could descend into violence, perhaps prompted by heavy-handedness on the part of the security forces. The government has reacted strongly to talk of the march, seeing it as a deliberate act of destabilisation; Gusmão has threatened more than once that marchers would be arrested.⁵³

B. LACK OF TRANSPARENCY

Corruption and lack of financial transparency remain problems in Timor-Leste.⁵⁴ Fretilin has sought to attack

⁴⁸ Crisis Group interview, Arsenio Bano, vice president of Fretilin, Dili, 24 October 2008.

⁴⁹ The constitution stipulates that the party or coalition with the largest number of seats in parliament should be given the first opportunity to form a government. Fretilin argues that this only applies to coalitions formed before the election, and that, as the largest single party in parliament, it should have been given precedence over the AMP coalition which was only formed after the election. The point is dubious. Fretilin has not attempted to challenge the decision in court, and Fretilin Vice President Arsenio Bano acknowledges that it might not be in line with a “legal interpretation” of the constitution – but contends that the “spirit” of the constitution should have been upheld. Crisis Group interview, Arsenio Bano, Dili, 24 October 2008.

⁵⁰ Fretilin points to article 93.2 of the constitution, which states that “Parliament shall be made up of a minimum of fifty-two and a maximum of sixty-five Members”. But a mass resignation by Fretilin’s 21 members of parliament would arguably simply create a number of vacancies to be filled by by-elections – not lead to the dissolution of parliament as a whole. The implication of Fretilin’s reading of the constitution is that any medium-sized party could bring down the government at any time. If true, this would make governing virtually impossible.

⁵¹ Crisis Group interview, Mari Alkatiri, Dili, 12 December 2008.

⁵² Crisis Group interview, Arsenio Bano, Dili, 24 November 2008.

⁵³ Fretilin has made much of a reported comment made by Gusmão during a visit to Ainaro on 28 September, “I hear you are preparing for a peace march in Dili. I am waiting for you there. I will put you all behind bars”. Press conference by Fretilin leader Lu Olo, Dili, 2 October 2008. See <http://easttimorlegal.blogspot.com/2008/10/fretilin-president-lu-olo-press.html>.

⁵⁴ Transparency International’s Corruption Perceptions Index and the World Bank Institute’s Worldwide Governance Indicators both showed increased levels of corruption in Timor-Leste in 2007. See www.transparency.org/policy_research/surveys_indices/cpi/2008 and <http://info.worldbank.org/governance/wgi/pdf/c217.pdf>. However, these data refer to the whole of 2007, while the AMP government only took office in August 2007.

the government on these issues, and to portray its own record in government somewhat rosily as fiscally conservative and accountable. Gusmão has promised to establish an anti-corruption commission, but it has not yet materialised. In fact, the courts and Provedor (ombudsman) are already empowered to tackle corruption, but lack resources and political support to perform the task effectively.

Successive governments have faced major problems spending their budgets. This is mainly due to poor procurement processes and a lack of budget execution capacity, especially in the ministry of finance, exacerbated by unrealistically rigorous controls put in place to prevent corruption. This may, ironically, have been one driver for corruption and nepotism, with ministers accused of seeking to bypass the system by giving contracts to friends. Rice – the staple food for most Timorese, much of which is imported at considerable expense – has been at the centre of recent controversy, with accusations made that lucrative government contracts were granted without a proper and transparent tendering process.⁵⁵ Meanwhile, the purchase of 65 luxury cars for parliamentarians at a reported price of \$2 million (most Fretilin parliamentarians rejected theirs) and Christmas bonuses for government workers have added to the perception that funds are being misused.

The July 2008 mid-year revision increased the state budget by 122 per cent and highlighted the issue of lack of transparency, as well as demonstrating the government's belligerence in the face of judicial criticism. In the revised budget, the government proposed to transfer \$240 million from the Petroleum Fund into the Economic Support Fund, which had been established to stabilise prices of food, fuel and construction materials. The latter was established by decree, not through a parliamentary process, and little information has been made public on how it will operate or who will manage it.

Sixteen opposition parliamentarians filed a case against the government on 29 August. On 13 November, the Court of Appeals ruled that the Economic Support Fund violated the constitution's prohibition against "secret funds" and parliament's power to oversee budgetary operations. The government was also in breach of the Petroleum Fund Law by failing to justify the with-

drawal of funds in excess of the estimated "sustainable income" from the fund.⁵⁶

The government responded by criticising the judgment, and on 18 November, President of Parliament Fernando La Sama Araujo petitioned the court to reverse its decision. More worryingly, the Superior Council for the Judiciary decided not to renew the contract of the principal author of the court ruling, Portuguese judge Ivo Rosa. This decision was seen by some as a punishment for the budget ruling although the Council maintained that the judge was dismissed for his performance.

C. PARDONS, REMISSIONS AND IMPUNITY

A series of decisions by President Ramos-Horta have undermined the independence of the judiciary, allowed key figures involved in the 2006 crisis to avoid justice, and maybe even increased the chances of further conflict. As noted above, he continues to employ Roque Rodrigues in the sensitive position of presidential adviser on security sector reform, despite the serious charge hanging over him.⁵⁷ On 20 May 2008, the anniversary of Timor-Leste's independence, Ramos-Horta remitted a number of sentences, setting free the only people ever sentenced for the militia violence in 1999, as well as former interior minister Rogerio Lobato, convicted of distributing weapons to civilians in 2006. The Court of Appeals upheld the remissions in September

⁵⁶ See www.laohamutuk.org/econ/MYBU08/BudgetRuledUnconstitutional08.htm. The Petroleum Fund is set up to ensure the wise management of Timor-Leste's petroleum income for the benefit of current and future generations. Unless it gives a detailed explanation of why it is in the country's long-term interests to do so, the government may only withdraw "sustainable income" for use in the annual budget – no more than 3 per cent of the country's "petroleum wealth", defined as financial assets from petroleum already produced plus estimates of petroleum still in the ground. Not long before the mid-year budget review, the World Bank and IMF advised the government against seeking to withdraw more than the sustainable income. See "Timor-Leste Petroleum Fund: A Case for Caution", World Bank/IMF, May 2008, leaked memo, available at http://wikileaks.org/wiki/Worldbank_memo_on_withdrawals_from_Timor_Petroleum_Fund_2008.

⁵⁷ Ramos-Horta is not the only member of the political elite who seems to consider accusations of serious crimes to be no bar to senior public office. Following his appointment as second vice prime minister, Mario Carrascalao proposed his seat in parliament be given to Major Augusto Tara de Araujo, a member of the petitioners, who was named in the CoI report as probably being behind the 8 May 2006 riot in Gleno which led to the death of a police officer. "Mario Carrascalao named second vice prime minister", *Timor Post*, 22 January 2009; and CoI, op.cit., para. 61.

⁵⁵ Douglas Kammen, "Rice and Circus in East Timor", Japan Focus, 12 August 2008, at www.japanfocus.org.

2008. In July 2008, Ramos-Horta proposed legislation that would grant an effective amnesty to the perpetrators of the 2006 violence, who would be able to avoid prosecution by simply issuing a public apology; the draft law is still under discussion.

Ramos-Horta also adopted a reconciliatory approach to the final report of the Commission for Truth and Friendship (CTF), set up by Timor-Leste and Indonesia to look into the violence in 1999. Confounding expectations of a diplomatic whitewash, the report held the Indonesian military, police and civilian government “institutionally responsible” for serious abuses carried out in the main by Timorese militias set up and armed by the Indonesian army. Ramos-Horta stated that he was content with President Yudhoyono’s expression of regret, and said he would not press for judicial proceedings against Indonesian personnel, in line with his forgive-and-forget attitude towards Timorese militia members. In late 2008, parliament again postponed its long-awaited debate on the recommendations of the Commission for Reception, Truth and Reconciliation (CAVR) on the 1975-99 Indonesian occupation of Timor.

Ramos-Horta’s interventions in the process of justice are intended to promote national reconciliation, but could well have the opposite effect. They send a signal that those involved in political violence – especially the political elite and the army – will not be held to account. This creates resentment among the victims and fails to serve as a deterrent for the future. With local and municipal elections due in 2009, potential troublemakers and arsonists can see that there is little prospect they will be punished. It also undercuts public trust in the justice system, already severely damaged by the huge backlog of cases.

While many countries grant their head of state power to grant pardons in certain circumstances, it is a power which should be used with caution if it is not to undermine due process and equality before the law. Timor-Leste has seen too much impunity, and too many people have evaded responsibility for their actions.

V. CONCLUSION

The government deserves credit for its achievements in its first eighteen months in office. Of the three immediate security challenges it identified, Reinado is no longer a threat; the petitioners have been bought off; and a good start has been made on resolving aspects of the IDP problem. But the government’s tactics have often amounted to little more than buying off the complainants. The ready granting of money, rice or other economic inducements to various pressure groups – not just the petitioners and the IDPs, but also veterans, civil servants, and others – may foster an entitlement culture, creates social jealousy, and risks distorting the economy. The underlying drivers of conflict – most especially in the security sector – remain. The government has bought time to pursue permanent solutions. A lasting return to health will require the government to show seriousness of purpose in tackling the causes of conflict, including fundamental reforms in the security sector, and in promoting rather than undermining the rule of law.

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