

**BUILDING TRUST IN GOVERNMENT IN TIMOR-LESTE:  
THE ROLES AND STRATEGIES OF UNITED NATIONS MISSIONS**

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**INTRODUCTION**

In a post-conflict country like Timor-Leste, trust of people in government depends on the Government's ability to maintain security and stability in the country. Furthermore, people's trust in the Government will be determined by the extent of their confidence in the functioning of respective State institutions in delivering public services and maintaining the transparency and accountability of governmental operations along with the protection of human rights and the rule of law. In this paper, I will analyze how the United Nations helped first establish and strengthen the capacity of a national law enforcement agency, Policia Nacional de Timor-Leste (PNTL), secondly deliver public services during the initial post-conflict period and build institutional capacity, and thirdly establish national institutions concerned with transparency and accountability, i.e. the Offices of the Inspector General, the Prosecutor-General, and the *Provedor*, as well as the Courts so that they can function effectively to discharge their responsibilities.

The strategies of the United Nations were drawn up based on the resolutions of the Security Council. These resolutions also established UN peacekeeping and peacebuilding

missions, namely UNTAET, UNMISSET, UNOTIL and UNMIT to help the Timorese Government and other State institutions to build their institutional capacity so that they can maintain security and stability of the society, protect human rights, sustain the rule of law, and provide basic livelihood to the people. Respective UN missions began their work towards accomplishing specific objectives that were relevant to attainment of these goals.

The first priority objective of the United Nations in the immediate period after the restoration of political independence of Timor-Leste in 2002 was to achieve the security and stability of the independent country of Timor-Leste by contributing to the maintenance of the external and internal security of the country. The second objective was to help establish core administrative structures critical to the viability and political stability of the nascent country, and thirdly to provide interim law enforcement and public security and to assist in the development of a new national law enforcement agency.<sup>1</sup> These objectives reflected the concern of the UN Security Council about the possible threats posed by former militia and other elements residing in the Indonesian part of the Timor Island and politically motivated issues groups active in Timor-Leste itself. The Security Council was also concerned about the need to build up the administrative and operational capability of the Government to maintain political stability and public security, and recognized the need for continued international engagement in support of institutional capacity development.

During the subsequent three years until 2006, the United Nations shifted its attention from peacekeeping to peacebuilding and devoted most of its manpower and

resources to strengthening the capacity of national institutions. In 2004, for example, the Security Council mandated UNMISSET with the task of supporting public administration and justice system of Timor-Leste, while continuing to develop law enforcement capacity and safeguarding the security of the country. For this purpose, UNMISSET was provided with 58 civilian advisers, 157 civilian police advisers, 42 unarmed military liaison officers, 310 formed troops and a 125-person International Response Unit.<sup>2</sup> By April 2005, contrary to the advise of the Secretary-General, the Security Council determined that security no longer posed any threat to the external and internal security, decided to remove all armed forces, and established a special political mission, with the view to transferring the capacity building tasks to UNDP and other UN agencies. The newly created United Nations Office in Timor-Leste (UNOTIL) was entrusted with the task of supporting the development of State institutions through the provision of civilian advisers to carry out training and transfer of skills and knowledge. The transition from peacekeeping to peacebuilding and then to development assistance framework was regarded a logical and effective way to accelerate the process of facilitating the new country to achieve democratic governance and sustainable development, resulting in increased public trust in the Timorese Governance structure. The key members of the Security Council also considered that such a transition to a development framework was considered possible for the Timorese had appeared to have achieved security and stability by April 2005. Thus, the Security Council decided to reduce the number of civilian advisers to the Government, he Parliament, the Courts, the office of the President and the police forces. The Security Council approved 10 human rights officers to provide training in observance of democratic governance and human rights. UNOTIL

was requested to ensure proper transfer of skills and knowledge in order to build the capacity of the public institutions of Timor-Leste to deliver their services in accordance with international principles of the rule of law, human rights, democratic governance, transparency, accountability and professionalism.<sup>3</sup>

### **1. Building of national law enforcement agency**

During the immediate period following the end of Indonesian occupation until the restoration of political independence in May 2002, the Government and the people of Timor-Leste relied entirely on the Peacekeeping Forces and UN Police for external and internal security of the nascent country. The law enforcement component of the UN Mission, UNPOL, carried out executive policing activities until the creation of the Police Nacional de Timor-Leste (PNTL) and its takeover of the executive policing power on May 2004.

There is a direct link between the trust citizens are willing to give to their government and the overall physical security a government is able to provide. In a post-conflict country like Timor-Leste, this link becomes the essential component, the very milestone against which to determine the level of trust of its citizens. Building an independent and professional police force that can protect Timorese citizens while abiding rule of law principles thus became a crucial element of the United Nations mission of the

Timorese nationbuilding process. In recent years, many civilians have become the target of violence in regional and intrastate conflicts. In order to protect civilians from armed conflict, the United Nations embarked upon the formation of national police forces first in Somalia in 1994. Since then it has become a common approach in peacekeeping and peacebuilding operations. In Timor-Leste, one of the priority tasks has been the establishment of a law enforcement agency - a national police service – that is professional and independent, capable of withstanding political pressure and manipulation. Successive UN missions attached importance to strict observance of human rights as common people had been subjected to arbitrary arrest and imprisonment and even torture during 24 years of Indonesian occupation. In Timor-Leste, furthermore, the United Nations became actively engaged in training of the Timorese national police, PNTL, and provided technical and material support to its development. Adequate resources were provided for rehabilitating a major training centre complex equipped with classrooms and training facilities. The United Nations police, UNPOL, coached and mentored PNTL national police officers while they shared police office premises throughout the country until UNPOL handed over the executive policing responsibility to PNTL on 20 May 2004.

The number of UN police officers was reduced from more than 1,000 in 2002 to 157 in May 2004 and then to 60 unarmed training officers in May 2005. Meanwhile, the Timorese national police force has since grown in size to 3,300 officers with the addition of specialized units and replaced the UN police officers completely by May 2004. During the past five years, with the support of UN Civilian Police, the PNTL has made significant

progress in organizing itself and strengthening the professional calibre of its officers. The nature of UN police officers' assignment was also changed to solely capacity building of PNTL officers. The UNPOL training advisers, as they were now called, made concerted efforts to fill the gaps in capacity building of the PNTL but also in developing its managerial capabilities. In 2003, Australia and the United Kingdom joined in assisting the development of national capacity for planning, management and administration of the PNTL as an independent agency. The Timor-Leste Police Development Programme (TLPDP) funded by these two countries concentrated their assistance on crime prevention and community safety, training in investigations and operations, development of the Police Training College, and PNTL organizational finance and human resources management.

By 2005, the majority of Timorese police officers acquired adequate understanding of human and civil rights and became aware of exercising their power. When the demonstrations organized by some of the Church leaders took place in 2005, the PNTL contained them successfully without using any excess force. This made many to believe that the PNTL had attained the necessary maturity in law enforcement. Yet, it proved an optimistic assessment as the PNTL disintegrated a year later when the peaceful demonstration staged by former FDTL military officers against the Government turned violent. Some of them were then engaged in shooting incidents, resulting in armed confrontation between the PNTL and FDTL causing the death of 30 people in May 2006. As the UN peacekeeping forces had been withdrawn from Timor-Leste, there was no impartial forces that can restrain the national military and polices forces from engaging in

armed conflict. As a result of the armed conflicts, as many as half of the civilian population in the capital city of Dili fled to either areas outside of the capital city or more than 50 camps created for internally displaced persons. Fearful of their personal safety, many of them remain in these camps even after one year.

The United Nations missions in Timor-Leste were not involved substantially in building the managerial capacity of the national military forces, the F-FDTL until the mandate to do so was provided to UNMIT in 2006. The training of national military personnel was carried out by Australia, Malaysia, Portugal and other bilateral partners. One civilian officer was recruited by the UN during the period of UNMISSET and UNOTIL and advised the Minister of Defence in formulation the overall defence policy and the institutional requirement of the military establishment. However, the extent of his involvement in the management of F-FDTL as an organization was negligible. As a result, when the dispute erupted over the issue of personnel management in 2006, the F-FDTL was not able to address and resolve the issue until it had reached the crisis situation.<sup>4</sup>

The security incidents that took place in April and May 2006 furthermore revealed the need for the United Nations to maintain adequate peacekeeping forces until the managerial capacity of the national military and police forces have also been built up sufficiently so that they can manage themselves as professional and independent security agencies and avoid any major mismanagement. The outcome of the UN involvement in the capacity building of the Timorese police force showed that its full

professionalization cannot be achieved in isolation and without full development of the democratic culture of political leadership. These incidents revealed the difficulty and the necessity of changing the mindset and mentality of security personnel in a post-conflict country such as Timor-Leste.

## **2. Government capability in delivering essential public services**

The second critical requirement for enhancing trust in government of post-conflict countries is the establishment of governmental capacity to deliver essential public services particularly health, food and education. For the nascent independent state of Timor-Leste, the Security Council recognized the importance of the newly-established state institutions, particularly the Government, being able to deliver basic public services to improve the livelihoods of the people. The Security Council, through its resolutions 1272, 1410 and 1599, made this task as one of the three basic mandates of the subsequent peacekeeping and peacebuilding missions, UNTAET, UNMISSET and UNOTIL. They called for the establishment of an effective administration to provide assistance that is crucial for the stability of East Timor and the viability of its emergent public administration. The UN experience, however, showed that it was easier said than done.

With regards to the civilian administration, following the departure of international civilian administrators with the completion of UNTAET in May 2002, the Security Council decided first to maintain 100 ‘stability’ advisers funded through assessed contributions.



Along with 200 ‘development’ advisers, to be provided through bilateral and multilateral voluntary contributions, these advisers carried out essential line functions and coached their Timorese counterparts in acquiring the technical skills necessary for the proper functioning of the newly-created state systems and institutions in respective areas.

The international advisers performed their pioneering tasks of capacity building in democratic governance with varying degrees of success and failures.

- Legal advisers played a key role in help drafting, revising and submitting legal frameworks and other legislation for Government Ministries and other State institutions such as the Judiciary, the National Parliament commissions. They worked at the level of the Council of Ministers where draft legislations are reviewed prior to approval by the Council of Ministers and/or submission to the Parliament for adoption. The advisers also helped establish the basic legal frameworks for such new bodies as the Council of State and the Superior Council for Defence and Security. While most of the advisers maintained their impartiality and professionalism, some were criticized for becoming a tool of the Government to help enact laws that were considered undemocratic.
- International advisers engaged in the Justice sector included judges, court administrators, prosecutors and public defenders, as well as advisors for the prison service. Apart from performing line functions, the international judges, prosecutors and public defenders were also all involved in the formal training of Timorese court actors as part of the Judicial Training Centre Programme in Dili.

- Financial management and audit service were provided in the Ministry of Planning and Finance and line ministries, as well as Inspector General's Office. Advisors in this area ensured the smooth functioning of the national financial system. International advisers who were engaged in audit service in the Inspector General's Office and internal audit unit of Ministry of Planning and Finance made attempts to enhance transparency and accountability in financial transactions. But, it should be recognized that their efforts did not produce desired result due to limited commitment at the highest level to achieving transparency and accountability
- National policy development was supported by international advisers who assisted the Secretariat of State for Defence in defence policy development and Prime Minister's Office in development of foreign investment, petroleum fund management and export development. The advisory services provided by Norwegian experts proved effective in establishing of a "Norway-plus" system of managing revenues from natural gas resources. In 2005, I myself advised both President Xanana Gusmão and Prime Minister Mari Alkatiri to show their genuine commitment to achieving the Millennium Development Goals (MDGs). They worked on aligning their development policy towards attainment of MDGs and proudly announced in their policy document that the share of national budget resources had been increased by 46 percent for health and 12 percent for education for fiscal year 2005.

### **3. Promoting transparency and accountability**

In the short time since the restoration of independence, Timor-Leste has established the basic institutional infrastructure capacity to perform the functions of democratic governance. The democratic governance system was threatened by security incidents several times from 2002 to 2008, but it overcame the challenges and the respective State institutions functioned more or less adequately, although far from perfect. The negative impact of corruptive practices, however, had more detrimental effects in eroding the confidence of people in the Government. As Timor-Leste moves into the next phase of its institutional development and challenge, the country will need to ensure that the key institutions could perform their functions in a way intended by the Constitution.

For the conflict-prone country of Timor-Leste, it was a demanding and critical phase of democratic institution building that required strong leadership and commitment of the Government as a whole to the democratic system of governance. It also required continued support from donors and healthy growth of civil society and the private sector. A crucial aspect of what remained to be done concerned the extent to which the key institutions of governance could be made more transparent and accountable to the basic welfare of the people.

The promulgation of the concept of transparency and accountability has had significant impact on enhancing trust in the government of post-conflict countries, particularly Timor-Leste. Here, I refer to “transparency and accountability” as not only financial accountability and anti-corruption measures, but also more broadly in terms of the

need for full transparency of the government decision making process and the accountability of government officials for their conduct. For this, the independence of the judiciary had significant and positive influence in fostering the culture of transparency and accountability.

In Timor-Leste, former Prime Minister Mari Alkatiri asserted that his Government placed high priority on ensuring transparency and accountability. At the national level, he created several institutions to play a central role in promoting transparency and accountability. These included respective offices of (a) the Inspector General, (b) the Prosecutor General, (c) the *Provedor* of Human Rights and Justice, and (d) the Adviser on Human Rights to the Prime Minister. The mandates of these bodies to promote good governance through transparency and accountability were laudable and the officials occupying the positions did their best to fulfil their responsibilities with assistance of international advisers.

The UN strategy was to build the national institutional capacity to ensure transparency and accountability by first developing an internal audit and evaluation system centred around the Office of the Inspector General and secondly strengthening the authority and capability of the judiciary branch to bring the cases of criminal violations for indictment. More specifically, UNMISSET and UNOTIL assisted the Prosecutor General and the Court to acquiring their technical expertise and mental strength to act independently. For this purpose, UNMISSET brought two advisers who were assigned to the office of the

Inspector General who assisted in the completion of the sixty-nine reports covering the Office's activities since its inception in October 2000. The majority of cases involved non-criminal offences such as negligence by public officers, irregularities and administrative deficiencies. Also reported were five cases of criminal offences such as bribery, theft and document falsifications. The advisers also organized monthly national seminars on auditing and investigations for both public officials and civil society, in cooperation with the Office of the Inspector General, as well as the Offices of the Provedor, the Prosecutor General, and the Adviser to the Prime Minister on Human Rights, the Timorese national police and civil society organizations. It was assumed, however, that the Office of the Inspector General would continue to require further support in the form of training in law, accounting, auditing, engineering as well as other areas, in order to strengthen its human resources capacity.

UNMISSET also brought several advisers to take up the posts of prosecutors and other positions within in the Office of the Prosecutor General. We additionally recruited several judges and legal staff from Brazil and Portugal to serve in district courts and the Court of Appeal. Furthermore, we took a diverse range of important initiatives in order to foster a culture of transparency and accountability. The number of advisers provided by UNMISSET not only in the Office of the Inspector General and the Judiciary but also in other public institutions was substantial as the advisers assigned to the Ministry of Planning and Finance numbered 14, the Parliament 2, and the Council of Ministers 2. In addition, we provided an adviser to the Prime Minister on enhancing human rights.

Specialized units within UNMISET were also actively engaged in fostering the culture of transparency and accountability, including the Human Rights Unit and UNPOL Technical Advisers.

Professional assistance included the establishment of a system of controls on financial expenditure and procurement, the drafting of appropriate regulatory documents, the implementation of the Civil Act of Ethics, the drafting of a Code of Conduct for civil servants in which income and asset declarations were suggested. Also seminars or workshops were organized to publicize the concept of transparency and accountability; and, technical assistance was provided for creation of the Office of the *Provedor*, and government staff (police and army included) was trained in ethics and other standards of transparency. During the first few years, from 2000 and 2003, Timor-Leste remained more or less devoid of any major nepotism and corruption. It was due mainly to the preoccupation of the Timorese leadership with the urgent task of achieving stability. But, it was also due to the scarcity of national budgetary resources. The scarcity of available funds was another factor contributing to government devoid of major scandals in the initial period. The revenue from natural gas in the Timor Gap remained relatively small during the first few years of the Mari Alkatiri Government.

The Office of the Inspector-General, under the auspices of the Prime Minister, developed a five-prolonged anti-corruption strategy, consisting of : (1) resolution of structural, jurisdictional, and operational overlaps within the state administration, which

could lead to duplication of mandates and competition for funds with unclear lines of responsibility; (2) proactive detection and close collaboration with allies to enhance investigate capacity of OIG staff and encourage information sharing; (3) advocacy for transparency and accountability in civil service to promote a cultural change through the codes of ethics; (4) building of governance networks within communities, e.g. through local level consultative processes; and (5) development of more informed and active citizenry, e.g. through educational activities in schools or with civil society.

In spite of all these institutional arrangements, the people began to lose confidence in the integrity of the Government as the stories of corruption, collusion, and nepotism practices commonly referred to KKN in the Indonesian language began to permeate in the society. Many of the cases centred on public works and custom clearances. By late 2003, I began to feel that if the situation was not contained, it would eventually bring the Prime Minister and the Government down. <sup>5</sup> The best way, I thought, was to talk to the Prime Minister directly and suggest that he start taking preventive steps with the help of any advice that the international community could provide. It took me several weeks to persuade Mari alkatiri to accept an idea of holding a workshop on transparency and accountability. But, he eventually came along with the idea and agreed to hold it in the following year. To make sure that any initiative we take on this subject matter must be well prepared, I decided to convene a workshop among UNMISSET staff only.

The first workshop took place on 19 March 2004. The workshop was designed to enable stability and development advisers to advance transparency and accountability in Government operations. I impressed on them the importance of high standards of integrity required by them in order to contribute to sustainable development, peace and democracy, and to gain the confidence of people in the government, without which development effort could not be sustained. I referred to them what had happened in Haiti in spite of long period of international presence in the country.<sup>6</sup> Furthermore, I underlined the complex and difficult role that they sometimes face when they carry out government functions. The advisers had to sometimes give up their own personal interest in renewing UN contracts in order to foster the principles of transparency and accountability.

The Director of Administration and Chief of Administrative Services presented lessons learnt and gave a brief presentation of the UN staff Code of Conduct, the Code of Conduct of UNMISSET and the Oath of Office highlighting the importance of the core values of integrity, impartiality and respect for diversity as well as the skill of professionalism. CAS presented lessons learned from examples of breach of the UN Code of Conduct in other countries ranging from acceptance of gifts, harassment, lack of compliance with MOP rules, physical assault etc. For each example CAS encouraged the participants to judge the measures taken by the UN. The examples showed that the UN applied harder measures than what was anticipated by the participants. CAS informed that the UN is moving towards harder measures for breaches of the Code of Conduct.



I then asked some of the senior advisers who were directly involved in establishing the financial architecture of institutions. They included Mr. Quintaneiro, General Manager for Banking and Payment Authority which performed the functions of the Central National Bank for Timor-Leste. I remember the lively discussions that took place following the meeting. Some of the advisers expressed a feeling of frustration about the internal mechanism available for the external advisers in addressing the accountability issues. I felt there was an adequate ground on which we can bring in the Government officials who should have a sense of ownership and internationally recognized experts from the countries that have made tangible achievements. A one-day workshop on Transparency and Accountability was held on 4 May, hosted by the Government, with support from UNMISSET and UNDP, and attended by approximately 220 participants.

Key state and government institutions presented their action plans on how to enhance transparency and accountability. The morning session was chaired by the Prime Minister, Mari Alkatiri, and the afternoon session by the President of the National Parliament, Francisco Guterres (Lu-olo). In my opening remarks I emphasized how all actors should share a common goal to develop and maintain effective, accountable, responsive and corruption-free public administration as a prerequisite to sustaining peace and stability in Timor-Leste.

The workshop presentations involved different ministries and governmental organs concerned by the issue. The presentations were detailed and to a varying degree demonstrated a commitment from the different government and state institutions. The Minister of Planning and Finance, the Inspector General, the Vice-Minister of Education, the Minister for Transport, Communications and Public Works, the Minister of Justice, gave presentations. Also, key officials such as the Prosecutor General, Mr. Longuinos Monteiro, the Minister for State Administration, Ms Ana Pessoa, and the Director of the Banking and Payment Authority (BPA), Mr Quintaneiro participated in the meeting. In order to build an inclusive panel as to increase the influence of the workshop, two panels, comprising of representatives from parliament, media, civil society, international experts and government, commented on the presentations. In my opening address I appreciated the efforts made so far to enhance transparency and accountability and highlighted the need for continued commitment to institutionalise these efforts, including ratifying the UN Convention against Corruption by 2004.

The Minister for Transport, Communications, and Public Works, Mr. Amaral, was emphatic that this kind of workshop should have been held in earlier years , during the UNTAET mandate, as enhancing transparency and accountability was a continuous process that would take time. Amaral, moreover emphasized the importance of *moral* and organizational culture, in addition to a legal framework, for combating corruption and stressed the need for a meritocracy with service mentality amongst the bureaucrats. Alkatiri remained extremely cautious of giving authority to handle any budget execution to any

administrative office besides those directly under his control. Mari Alkatiri, however, recognized that there was a sense amongst Timorese civil servants to reap benefits from proper administration. However, he asked the rhetorical question whether the benefits should be collective or individual, warning that those civil servants who in the future did not know his or her obligations could 'leave the train'. He further underlined the need for working together with the civil society and for strengthening the independent media to build a transparent and accountable government.

Those early attempts to establish a foundation for transparency and accountability were fruitful, as exchange of views and opinions could take place for the first time on this subject in Timor-Leste. Several participants commended the fact that Timor-Leste had passed the ombudsman law, especially in light of Timor-Leste's challenging background and current context. Moreover the international experts were impressed by the fact Timor-Leste had come to the stage of presenting action plans against corruption, which was fairly favourable compared with many other developing countries. The Government was also praised for having signed the UN Convention on Corruption, and for committing to ratify it by the end of the year. Back during this meeting held in 2004, the issues of recruitment based on political loyalties instead of merit had already been evoked, signalling a scar that would cause many damage to the country in the future.

President Gusmao who came to the concluding session appealed to the participants not to forget that the state was still fragile and weak. He mentioned that we

were all working through a very difficult process of change; building schools, and changing mentality, while at the same time facing poverty. He underlined the commitment to push for the fight against corruption, while reiterating the need for both parliamentarians and the press to verify facts before criticizing. President Gusmao was very attached to the need for a functioning independent Office of the Prosecutor General, for which he would promulgate the Organic law.

My strategy was then to induce the Prime Minister Mari Alkatiri, as Head of Government, to formally commit himself to the principles of transparency and accountability. I thought that from best practices from other parts of the world, Timor-Leste could eventually present its own plans on how to enhance transparency and accountability. I thought the best way could be to ask him to chair a meeting and commit himself to the accountability and transparency before representatives of both bilateral and multilateral donors. After some prodding, the Prime Minister agreed to chair *the meeting of the Transition Working Group on Transparency and Accountability today. Bilateral and multilateral donors were keen to assist the Government in this area, but it appeared that the Government had yet to determine its requirements for advisers after UNMISSET's departure. The meeting succeeded in reminding the Government that it needed to determine and indicate its needs in this area to the international community as soon as possible.*

In a continuation of the series of Transition Working Group (TWG) meetings,

Alkatiri chaired the *Transition Working Group* on the Enhancement of Transparency and Accountability. In that new high-level setting, I deemed wise to invite members of the international and diplomatic community to join the group, such as the Ambassador of Portugal and representatives from the Embassies of Korea, the US and from UNDP.

Alkatiri began by emphasising the importance of the issues of transparency and accountability and the need to prevent corruption or to fight it where it existed. The objective was to create a system that would make it impossible to undertake corrupt practices. The rumours of corruption in the Government had so far been unsubstantiated. As an example of the Government's seriousness in tackling corruption the Prime Minister was pointing to one of the investigations currently underway involving a case in the President's Office that the President himself had wanted the Government to investigate.

Alkatiri pointed out that the Government had already established internal mechanisms to guarantee transparency and accountability, such as the Office of the Inspector-General, the appointment of his Adviser for Human Rights, an Audit Committee in the Ministry of Planning and Finance and to the Office of the Provedor.

For the Inspector-General, the role of UNMISSET Advisers in his office was to perform mentoring tasks and they were not performing line functions. Intensive training of national staff was to begin early the next year and he insisted that with the presence of the Advisers, the Office could perform its tasks more expeditiously. He felt that international

advisers should continue to assist his office especially in auditing. In his mind, they should not be there for the long-term so as to motivate the nationals to learn faster from the international advisers.

I considered essential that the Government and more specifically the Inspector-General and the Prosecutor-General had to formulate an action plan for transparency and accountability and indicate to the international community what assistance it required beyond May 2005. A systemic approach was required on the part of the Government. It appeared that more momentum was needed so that the Security Council could be informed that the Government was doing and would require after the departure of UNMISSET.

Knowing the importance of taking preventive actions swiftly, I thought of organizing a visit of a team of experts to Timor-Leste and make specific recommendations for measures to be taken.<sup>7</sup> The Prime Minister to whom I spoke first was receptive of the idea. I then contacted an old friend of mine, Shabbir Cheema, Programme Director for Public Administration of UN Department of Economic and Social Affairs. Cheema had earlier been Director of the Governance Division of UNDP in New York when I was Deputy Assistant Administrator of UNDP for Asia and the Pacific. He agreed readily to assemble a team of experts. A High-Level Mission headed by Shabbir Cheema, eventually visited the country in January 2006. The team included experts from the World Bank, Transparency International, UNDP, and the Government of Finland.<sup>8</sup> The expert from Finland was added as I felt we should have someone to come from the country as it had

been rated on the top of the internationally recognized Transparency Index list. As the importance of transparency and accountability had been a key factor in establishing the integrity of the democratic governance, I had earlier launched a series of training, workshops, and conferences.

The High-Level Mission was expected to publish a report that would set the ground for the adoption of an ‘Alkatiri Initiative’ that the Prime Minister would take a lead in its implementation. I recall of the discussions held with Prime Minister Alkatiri, who was keen on making his own inputs in the terms of reference of the report. Jokingly, he referred to it as the ‘Alkatiri initiative’ with ‘Hasegawa ideas’. Alkatiri reiterated many times that he wanted to reflect his own ideas in the report, but he had little time to develop and implement any of its recommendations. On 31 January 2006, a consultative group meeting was organized to address the issue of transparency and accountability in Timorese public administration. For Alkatiri, Timor-Leste was already ‘striving to be one of the references of good governance and transparency and accountability for the region and the world, although it would take considerable effort.’ With the Prime Minister as a chair, the five-member mission team provided the participants of the meeting with a summary of its findings and recommendations. Some Government members had viewed the work of the mission suspiciously, fearing that the mission might be making some criticism at them. However, we asserted that this was neither the intention nor the objective of the mission’s work. Mission members were quite aware that we would gain more by making the

government officials associate and own the initiatives, even if they may be limited in scope. Otherwise the Government would simply reject whatever is recommended by the mission as an attempt by foreigners to impose their views and ideas.

The mission, I simply hoped, would entice the Timorese leadership to develop further the institutional framework and capacity to enhance the transparency and accountability of governance, especially in the areas of procurement, public service contract, criminal prosecution, and law enforcement.

After much discussion and argument, the mission finally agree to recommend that a law defining the role of the Inspector General should be enacted to include operational links with the Office of the Provedor.

Secondly, the Provedor's anti-corruption plan should be endorsed and funded.

Thirdly a high administrative tax and audit court should be established. Fourthly the parliamentary practice should reflect more closely the constitutional authority and independence of the institution. Draft legislation should be made publicly available, and interpretation services be strengthened.

The mission also recommended that priority be given to training of civil servants on code of conduct and ethics and delegation of authority.

Sixthly, a freedom of information law should be put in place, and government plans and programmes should be publicized more vigorously.

Finally and most importantly, the mission recommended that the operational authority over



police officers should rest with the Commissioner of Police and no one else. This meant that the police should not be placed under the direct authority or interference of the minister of interior. As the security crisis of April and May 2006, the use of police forces by the minister of interior resulted in clashes between the police and the military.

We all agreed that the Office of the Inspector General should be empowered to play the critically important role in ensuring the proper functioning of the government administration. The organic law for this institution needed to be put in place as soon as possible. However, after two years since the Office was created, it proved rather ineffective for it was directly under the control of the Prime Minister. Now that the Office of the Provedor had been established, the mission members felt the oversight role currently played by the OIG be removed from the Office and left in its entirety to the Provedor. The prevailing view was that the Inspector General could not be effective as long as he was under a strong Prime Minister who wanted to maintain close control of its governmental functions. It was felt at the same time that the Provedor was able to work closely with the Inspector General. The Office of the Provedor should become a central organ of the national anticorruption campaign. It should have the mandate to investigate all complaints about corruption as well as maladministration and human rights. It would be able to carry out investigation, prevention and education concerning corruptive practices. The mission report reflected the high expectation placed on the Provedor. But, the reality was not so encouraging. The Provedor had little financial resources and expertise to carry out its responsibilities effectively. I therefore supported the mission recommendation that

additional resources be supplied to the Provedor so that it can become fully operational by June 2006 and that qualified expert expatriate staff be recruited as soon as possible to work alongside Timorese staff. I also endorsed the proposal that independent surveys of citizen attitudes and perceptions be conducted to provide benchmarks against which progress can be measured.

Establishing respect for human rights and protecting them constituted part of the mandate of the Office of the Provedor. To help ensure that Government was kept fully informed of human rights issues, a human rights advisory position has been established in the Office of the Prime Minister. I endorsed this position and recommended that the organic law of the Office of the Adviser on Human Rights be made. It was clearly important that the Prime Minister`s Office established relations with the Provedor`s Office and liaised with civil society organizations in order to keep abreast of community views.

It was noteworthy that based on wide ranging and exemplary consultation, Prime Minister Mari Alkatiri established a Petroleum Fund to receive and invest all funds derived from oil and gas resources and to ensure that the benefits are available for future generations. An Investment Advisory Board to the Fund had been established in 2005. The Fund should continue to adhere to the principles of transparency agreed at its establishment, which correspond to those subsequently adopted by the Extractive Industries Transparency Initiative (EITI). The Independent Consultative Council, which would include representatives of civil society, should be appointed by Parliament as soon as possible.

According to the Constitution the financial audit function of Government was to be performed by the High Administrative, Tax and Audit Court. However, this Court was yet to be established, and the mission rightly recommended that this should be done as soon as suitably qualified personnel become available. The organic law of the Court would be able to ensure the independence of the Court in carrying out its functions. Until the Court was constituted, the Government – through the Ministry of Finance and Planning – would continue to engage an international firm of accountants to audit the State accounts.

The mission members also felt that building the strength and integrity of the civil service should be accelerated by approving subsidiary regulations under the Civil Service Act that address, among other things, recruitment and selection, performance appraisal, and career development. Government was urged to give consideration to the creation of an entity that has overall authority over these matters, which would play the role of a Public Service Commission. It was suggested that the strategic management of capacity building within the civil service would be improved by reviewing the (potentially overlapping) roles of the disparate entities involved, and possibly rationalising them. Priority was to be given to civil service wide training on ethics and codes of conduct and management methods involving delegation of authority. Downward accountability can be enhanced by the diffusion to other parts of the country of the limited form of decentralisation that is being tried, which allows for citizen participation through local level committees in such areas as health and education. Allied to this, elected local government representatives would be

made more aware of the importance of community involvement and representation and informed of means for bringing this about.

Interestingly, Alkatiri had not set a time frame for the Government to convey its requirements. It appeared to me that it was necessary for us to make him and government senior officials to realize the importance of taking it seriously and take effective actions without further delays. I could sense at the same time that Alkatiri was getting weary of having so many public meetings on the need to address this issue. It took therefore several months before we could organize another meeting on the topic. But it materialized when meeting chaired my Deputy Anis Bajwa held a meeting with Prime Minister Alkatiri on 26 January 2006. The discussion included members of an experts' review mission to discuss a summary of their report on transparency and accountability in Timor-Leste.

During the meeting that the five members of a Review Mission of Experts to Timor-Leste had with Alktiri, they could provide and discuss the summary of their findings and recommendations on the way forward to improve transparency and accountability in Timorese public administration. The mission's leader informed Alkatiri of the mission's focus on an institutional approach to the issue and on formulating recommendations that do not "reinvent the wheel" as Alkatiri had directed. Overall, the Mission stressed to Alkatiri that they found a need for existing institutions to be able to work in accordance with their

mandate, for strengthening capacity on institutional, entity and individual levels and for investing heavily in institutional infrastructure, both by Government and by development partners, for the future of the country.

The mission sought Alkatiri's point of view on its summary recommendations. He found the overall opinions to be clear, though a time-frame needed to be recommended for their implementation. Alkatiri's view was that leadership was as important as skill and technical capacity in his post-conflict country, in this period of time. He stressed the strength and commitment of the leadership to move forward and not to use power excessively. With respect to the recommendation to give disciplinary authority over police to the Commander of the PNTL, Alkatiri was of the view that command and control must be maintained at the political level until the capacity of the police's leadership was sufficient to devolve the authority. In drawing an analogy to the need for centralizing power at the initial stages stabilizing a post conflict country, he observed that all power was concentrated in one person during the UN Transitional Administration period, though the UN was committed to democratizing the society.

Talking with my deputy, Alkatiri noted that access to justice was one of his biggest concerns and thought that the Mission's recommendations concentrating on the language barriers were reasonable. He believed it important for the same group of international persons to work on law drafting, and for longer periods of time than current contractual periods. Regarding the Inspector General, who the Mission recommended should not

investigate corruption cases, leaving that role solely to the Provedor, Alkatiri noted that the Office of the Inspector General represented the political will of the Government itself to control such problems within public administration. He was of the view that the Provedor should cooperate with the Inspector General and the Adviser on Human Rights. He was stressing that he has never interfered with the work of the Inspector General. Alkatiri viewed well the recommendation of the Mission to hold public consultation on a proposed electoral system but noted the short time frame in which to do it, particularly in light of the 3 ½ years and 2 ½ years it took to complete public consultation on the investment laws and the Petroleum laws, respectively. With regard to the defamation provisions in the new Penal Code (which is awaiting the signature of the President of the Republic), Alkatiri's view was that this was done not to target anyone but to educate people in forming a sense of responsibility. He saw that many democratic countries had similar criminal defamation provisions in their laws. He also acknowledged that certain types of defamation allegations in Timor-Leste could result in the arrest of the accused, which the Mission asked be reconsidered. The Mission's further recommendation that the Civil Code currently being drafted by Government include civil liability for defamation (in addition to those included in the Penal Code) was taken under advisement, and Alkatiri informed the mission that he had already attempted to seek publishing of apologies and retractions by the media for defamatory statements but, due to the lack of any law forcing them to do so, he was simply ignored. Alkatiri was intrigued with the Mission's specific recommendations to increase the capacity of media, particularly in investigative journalism and ethics, which he thought to be another way of encouraging the media to be more responsible. This thorny

issue of civil liability for defamation as presented by Alkatiri would severely raise doubt in my mind in the difficult path to form leaders in post-conflict country like Timor-Leste to embrace a truly democratic political culture and its values.

In the end, Mari Alkatiri as the then Prime Minister announced publicly at that time his strong support for the recommendations of the mission, eventually leading to his promotion of the “Mari Alkatiri Initiative”, which relayed these propositions on the Timorese political arena. The collapse of the Alkatiri Government within six months after the departure of the mission did not allow Alkatiri to pursue any further the ideas embodied in the mission report. If Alkatiri had been willing to act faster or had more time, he might have indeed started implementing some of the measures recommended by the mission. Recognizing that the implementation would require continuous institutional reforms backed by the commitment at highest level, I took the initiative to Mr. Ramos-Horta when he became the Prime Minister in July 2006. I impressed on him the need to implement the recommended measures. He agreed and started following up some of the measures despite of the short period of time he had as the Prime Minister. Once elected President, Ramos-Horta suggested to me that he wanted to appoint a senior Timorese leader with impeccable credential to become a High Commissioner on Good Governance, Transparency and Accountability, as he thought it should not be affected by changes in government.<sup>9</sup>

Among the basics of transparency and accountability, the formation of a reliable electoral system is the bedrock of a strong democratic state. The high-level mission thus emphasized in its report that it was vital that the electoral law, which was yet to be put in place, be developed in a consultative manner that takes account of the views of all segments of society. There were many issues to be considered, some of which we were going to enumerate, and on others for which we would simply make recommendations. For example, despite the greater financial costs, we thought that it would be helpful to voters to hold presidential and parliamentary elections separately on different days. In order to help sustain the transparency and credibility of the electoral process, we recommended that the independence of the National Electoral Commission be safeguarded and that the NEC should be strengthened in terms of financial and professional resources available to it. We also considered it important that Government and donors begin now to mobilise the resources required to prepare for and conduct the elections.

The elections provided an opportunity for strengthening the operation of Parliament. The proper functioning of Parliament was constrained by a lack of office facilities and equipment; by an insufficient quantity and quality of translation and interpretation services; by capability limitations among parliamentarians; and by inadequate secretariat services. More importantly, however, parliamentarians had not given enough time to consider draft legislation and national budget. We found also that insufficient opportunity had been granted to parliamentary committees for questioning senior members of government about such matters. Suggestions for strengthening parliament in these respects included the



necessity for the Government to respect fully the independence and authority of Parliament, to require Ministers to attend committee discussions, and the desirability of providing various forms of capacity building support. Considerable strengthening was also needed in the legal system. An important aspect of this was clear access to justice for ordinary citizens. It should be possible for them to engage with the legal system in a language that they understand. To facilitate this we recommended that steps be taken to ensure that laws be published and legal proceedings be conducted in both official languages, even though the evolving language of Tetum had a limited technical vocabulary. Translation and interpretation services were also needed to be strengthened.

As far as the protection of reputation and privacy, we recommended that court should be, as regards the Penal Code offences, satisfied that the defendant should be held accountable only when his or her intention to deliberately cause harm is clearly established. We also recommended that the power to arrest for these offences should be reconsidered. Furthermore, we suggested that the Civil Code should allow for civil defamation proceedings for redress and compensation. Although there had been some improvements, the legal system was characterised by systemic bottlenecks, a significant backlog of cases, and work overload. These problems arose primarily from changes in the law since independence and the criteria applied to the selection and qualification of legal professionals, which resulted in the disqualification of a majority of Timorese legal professionals. In so far as the strengthening of the judicial system is concerned, we recommended among other things that the public defence system be improved. It was also

found necessary to provide more support to language training for Timorese legal professionals as well as interpreters and translators. We also stressed that the Superior Council for the Public Prosecution be formed as soon as practicable, and that the Superior Council for the Judiciary be reactivated.

A crucial aspect of accountability and transparency in the police service concerned the relations between civilian officials in the Ministry, and elsewhere in Government, and the PNTL command structure. According to the police discipline regulations, the disciplinary authority of the Commissioner of Police is not paramount but is subject in line of command to the Minister of the Interior. The organic law of the Minister of the Interior states that the Ministry's own Office of Inspection "is the organ with disciplinary competence" over the police. As head of a discipline service, the Commissioner of Police should be solely accountable for the conduct of his officers and should be their final disciplinary authority. As regards operational authority, the organic law of the Ministry of the Interior seemed to give to the Ministry operational authority over the police in normal policing activities. In no circumstances should civilians exercise any operational authority over police officers in their normal policing activities.

Freedom of information and the timeliness, comprehensiveness and validity of information that is made available to the public by Government are central to the functioning of society and the economy. Conscious efforts at maintaining an effective

dialogue between government and civil society organizations are essential to promoting a culture of accountability and transparency in society as a whole. Inadequate or insufficient information can lead the people to mistrust the intentions of government officials and the circulation of rumour and misinformation. We recommend that a freedom of information law be put in place and that Government publicise its policies and programmes more vigorously; that requirements for the registration of CSOs be publicised more widely and that consideration be given to extending the deadline for their registration; that consideration be given to including CSO representatives in national commissions such as the National Electoral Commission; that capacity building support to CSOs from external donors should be encouraged; and that the coverage of the national broadcaster should be expanded to the whole country. We also supported the formation by members of the media of a press council, which should set professional standards and provide advisory services to the profession. Journalists were in desperate need of training on investigative journalism and on ethical conduct, and we encouraged Government to endorse the channelling of donor assistance to them for these purposes. We also felt that there could be some merit in the making of a media or press law that defines the rights and responsibilities of the media and confirms their right to freedom of expression guaranteed under the Constitution. The mission's work closed in Dili on 27 January with a UN Office in Timor-Leste (UNOTIL) Consultative Group Meeting chaired by Prime Minister Mari Alkatiri. The meeting was designed to expose the Mission's findings to a wider audience and to provide a final opportunity for gaining feedback. In his opening remarks, the Prime Minister portrayed the country as one that was striving to be a model of good governance in terms of its

transparency and accountability - for the region and possibly more widely. He reiterated his Government's strong commitment to the ideals of transparency and accountability and to taking forward the recommendations contained in the mission's report. At the same time, he acknowledged the considerable challenges posed by such ambition.

As the mission concluded its work, the international experts and others agreed that Timor-Leste was indeed still facing many challenges. The action plan for the Government departments alone would not be enough. There was the need for further institutional strengthening of the Office of the President, the Parliament and the Judiciary. Moreover, enhanced transparency and accountability depends on continued political will, participation by all the stake holders, effective laws passed by the parliament and effective preventative mechanisms, as well as an independent prosecution authority who can prosecute the corrupter. The transparency and accountability of State institutions were still deemed inadequate for the sustainable peace to be developed in post-conflict Timor-Leste.

## **CONCLUSION**

Since independence, Timor-Leste has made considerable achievements in laying the foundation for democratic governance in spite of formidable challenges faced by the leaders and the people of this newly born country. The element of trust in such a newly formed government has become a striving force of the strength and sustainability of Timorese institutions. A long-lasting commitment to ensure security for its citizens, deliver

essential services, and remain transparent and accountable, are all fundamental elements for Timor-Leste to, in the long run, thrive on sound, inclusive and people-centred development. Such a success lies as well on a joint partnership and constructive dialogues among the four state institutions of Presidency, Government, Parliament and Judicial Branch as well as civil society, business communities and international development partners. It is essential that as the international community continue to render all necessary assistance to independent Timor-Leste as it now goes through the process of peace building and sustainable development.

The long-term and protracted commitment of international multilateral and bilateral development partners to post-conflict countries and failing states to prevent repeated conflict or state failure is required more than ever for the promotion and sustainability of citizens' trust in the Government of Timor-Leste.

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<sup>1</sup> United Nations, Security Council Resolution 1410, S/RES/1410 (2002).

<sup>2</sup> United Nations, Security Council Resolution 1543, S/RES/1543 (2004).

<sup>3</sup> United Nations, Security Council Resolution 1599, S/RES/1599 (2005).

<sup>4</sup> As G. Shabbir Cheema points out the distinction between causes of conflict and conflict triggers, the petitioners' desertion in January 2006 triggered crisis situation, while the unfair treatment in the F-FDTL was one of the structural causes of conflict in Timor-Leste. For the distinction between causes of conflict and conflict triggers, see Shabbir Cheema, *Building Democratic Institutions, Governance Reform in Developing Countries*, Kumarian Press, Bloomfield, CT, 2005, pp 191-212

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<sup>5</sup> Custom office was set on fire in August 2007 shortly after the elections which resulted in a change of the Government.

<sup>6</sup> Loss of confidence in the Government led to the deterioration of the security situation in Haiti although the Government led by Aristide had been supported by the UN peacekeeping forces since it was installed by the United States.

<sup>7</sup> Government of Timor-Leste, Report of the Review Mission of Experts, *Alkatiri Initiatives: Strengthening Accountability and Transparency in Timor-Leste*, United Nations Office in Timor-Leste, 27 January 2006.

<sup>8</sup> The mission consisted of Shabbir Cheema, Programme Director of UNDESA, Peter Blunt, an independent consultant appointed by UNDP; Bertrand de Speville, an independent consultant appointed by the World Bank; Terhi Nieminen-Makynen, appointed by the Government of Finland; and David Mattiske, representing Transparency International. Peter Blunt

<sup>9</sup> He also decided to appoint me as the Special Adviser to The President on Good Governance and Democracy.

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