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# Building State Failure in East Timor

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## ABSTRACT

East Timor is the newest state of the twenty-first century. Yet its human development indicators compare with the most severely collapsed states in the world. Two and a half years of international administration by the United Nations seems to have had little effect on a social and political reality that has evolved by itself. In effect, the UN has given birth to a failed state. The purpose of governorship types of intervention — which attempt to (re)build governments that have collapsed or states that have failed — was to take control of a local political process and break with an abusive past. This aim was the rationale behind the most total form of international administration — UN statehood and international sovereignty in East Timor. In practice, however, the intervention failed to decentralize its own absolutist form of authority, but succeeded in excluding the local population from the equation. If there is to be any future for interventions that are both effective and legitimate, then they will need to guarantee much greater and genuine integration of the local population. ‘Participatory intervention’ is the next doctrinal puzzle to solve in the evolution of international state-building enterprises of any brand.

## INTRODUCTION

A paradox plagues international interventions which attempt to rebuild states that have ‘failed’ or introduce the Westphalian model where it never really existed. Perceptions of a power vacuum created by governmental breakdown or the departure of an occupier have drawn the world community into an ever more intensive role in the exercise of transitional political authority. Yet the task of state-building as an emergency response seems self-defeating. It is impractical — within a short space of time — to re-establish an executive, legislature and judiciary that did not work, or to construct them without historical foundations and where no conditions prevail for their animation.

A debate emerged in the 1990s regarding responses to anarchy, or the appearance of a void in the absence of any recognizable state machinery. Far from solving the puzzle, however, this polarized disagreement altogether missed the fact that the population continues to exist, that market forces

of whatever kind are always at work, and that the social structures of indigenous communities invariably generate sources of political legitimacy according to their own paradigm — throughout the time of the state before it collapsed or the foreign occupation before it left, and in the wake of both (Adibe, 1998; Hohe, 2002a). Some argued vigorously for a return to colonialism, favouring order over justice and forgetting why foreign domination may have been opposed. At the opposite extreme, angry scholars in Western universities ‘constructed narratives’ or ‘engaged in a discourse’ that presented all forms of intervention as racist. Somewhere in between, the peace operations cognoscenti struggled to redesign the increasingly complicated architecture of intervention.

Inter-state peacekeeping, as traditionally conceived, was proving inadequate in the challenging environments of internal conflicts that the United Nations had entered after the end of the Cold War. A symbolic referee along a thin blue line between the armies of coherent, and supposedly accountable governments, the UN now found itself in environments in which factions or splinter groups tested the mettle of unarmed observers or defensively armed peacekeepers. A ‘second generation’ of missions had come into being. A doctrine for the multinational use of limited force was developed (Mackinlay and Chopra, 1993). Experiments were conducted in peace-enforcement in, for instance, Somalia, Haiti and the Balkans. Their ineffectiveness indicated that the UN was not configured to exercise tough military operations collectively. The task instead fell to multinational coalitions of the willing, with a blessing from the Security Council.

In the meantime, it was becoming clear that the military instrument could only respond to some of the symptoms of conflict. It was equally unable to provide an operational umbrella for the multiple civilian actors deployed in ‘complex emergencies’ in the humanitarian, developmental, electoral, administrative, judicial, policing and related sectors. In order to address the underlying political sources of conflict, and to achieve harmonization throughout the elements of the intervening community, an international exercise of transitional executive powers was required. So-called peace-maintenance as a doctrine envisioned varying measures of intrusion depending upon the degree of state failure or total collapse (or purposeful destruction); the degree of political coherence or fragmentation; and the degree to which there was imagined to be a governmental *tabula rasa* (Chopra, 1999). The escalating type of activity included assistance to weak local authorities (as now in Afghanistan), partnership with a coherent national liberation movement or withdrawing occupier (as in Namibia), and control of divided factions (as in Cambodia). A final category was the total but temporary governorship of a territory and its population. ‘Transitional administrations’ were applicable when the reigning polity had disintegrated (in places like Somalia), the sovereign had been forced out (as from Kosovo), or the occupying power was transferring the territory to another sovereign (as were Eastern Slavonia or the Brcko Corridor).

In East Timor, disintegration resulted from the radical withdrawal of an occupying power and the comprehensive destruction of any semblance of a governing apparatus. If doctrinal evolution reached an apex with transitional administration and the international assumption of executive and legislative powers, global governorship achieved a kind of apotheosis in East Timor. Here not only would administrative functions be assumed more totally than ever before, the body corporate of the intervention would inherit the status of sovereignty — something that had not happened at the international level since the fall of the Holy Roman Empire and the 1648 Treaty of Westphalia. In effect, it would be state-building through UN statehood.

This project assumed a state-centric *terra nullius* and an open season on institutional invention. East Timor was not, however, a political no-man's-land. In a sense, there is never a vacuum as long as there is a population. There is a profound difference between anarchy defined as the absence of a national executive, legislature and judiciary, and the actual breakdown of indigenous social structures. If this point appears obvious, then it was absurd and extraordinary to exclude the population from the paradigm of transitional administration. Two factors were at fault.

The first was a blind ambition borne of bitter experience in Somalia, Afghanistan and elsewhere. The disarray of disparate international actors — divided amongst themselves amidst resilient warlords in the area of operation — was to be overcome by unifying the intervenors under a single political authority. Underlying causes of conflict were to be tackled by taking control of their political source and fundamentally transforming its dynamics. By taking power actually on the ground, it could then be transferred to a newly minted state machine and its head and its officials. But how could any of this be done without the participation of the local population, either ethically or functionally in terms of the mantra of the day: 'capacity building'? The role of the local population was conceptually obscured by the drive to overcome problems in past missions.

The second factor was malevolence on the part of international officials. The unprecedented powers to be assumed by the UN attracted the very type of individual who would be intoxicated by that thought. The mission itself was corrupting, even for individuals who were not already pursuing power for its own sake. Put in a certain structure and context, foreign staff exhibited colonial-style behaviour. The economic disparity was so great, the local people were so weak, it was difficult to resist the temptation of superiority (thus, chalking up to the angry scholars of racism their point). Many felt that the Timorese could not be relied on, that they lacked skills and were not ready for self-government, that the UN should stay and its personnel could keep their jobs for longer. Some officials even attempted methodically to prevent the participation of Timorese in the transitional government of the country. They wanted to wield unfettered their newfound authority and spend the hundreds of millions of dollars committed by the world's donors.

The first factor — trying to solve a set of puzzles while not accounting for unintended consequences — permitted the second: the abuse of what should have been a sacred trust. Although rationalizations were built into the doctrine of peace-maintenance — it was claimed to be distinguished from colonialism by, for example, the fact that the administering apparatus was a servant and not a master of the local population (Chopra, 1999: 11–12, 196) — safeguards were not built in. They were also bluntly missed in the actual operational planning of an absolutist form of authority.

In addition to popular participation from the beginning, what was particularly needed was a separation of powers and (more significantly) space for opposition to the transitional administration. These things are unlikely to develop if the transitional period does not foster a culture of freedom of expression and disagreement. Multi-party elections and the one-time marking of a ballot paper in the midst of authoritarian rule by the UN is not a means of instilling democratic values (Hohe, 2002b). Opposition will inevitably form, and if it does not have a peaceful outlet within the system, it finds another channel. Relying on an inclusive government of national unity to facilitate the passage of powers from an absolutist transitional administration to some semblance of central authority has inherent long-term dangers. In East Timor, the outcome is a division of loyalties, with the politicized armed forces proclaiming allegiance to a President powerless under the constitution, and the Prime Minister who is quickly establishing one-party rule probably complicit in the rise of independent security forces (Rees, 2002).

The current international approach to state-building in Afghanistan seems to have reversed the trend of increasingly intensive interventions and has reverted to the opposite end of the scale: assistance, as enshrined in the November 2001 Bonn Agreement. The questions of participation are no less acute, however. A doctrinal concept for more participatory forms of intervention is required as a step beyond peace-maintenance and the limitations of transitional administration. It is as if a story about the containment of international statehood and its pre-constitutional form of kingship is paralleling, several centuries later, the process that occurred nationally, with the passage of power from a monarch to a parliament, bloody revolutions, and the philosophical qualification of Bodin's sovereignty for the prince by Rousseau's popular sovereignty.

#### **UNITED NATIONS' STATEHOOD**

In a UN-sponsored 'popular consultation' on 30 August 1999, 78.5 per cent of East Timorese rejected an arrangement of autonomy integrated within Indonesia and voted in favour of independence. There was a 98 per cent turnout despite Indonesia's control over security throughout the process, pursuant to the 5 May 1999 Agreement between the UN, Portugal and

Indonesia regarding the terms of the referendum. Some UN officials negotiating the agreement had wanted to obtain a disarmament provision from Indonesia preceding the ballot, but Portugal and the Secretary-General's Personal Representative for East Timor, Jamsheed Marker, did not believe the Indonesians would agree to it. Nor would the UN have any means to verify the integrity of a disarmament clause. The best deal considered possible at the time was Indonesia's retention of responsibility for security conditions, while the UN organized and conducted the 'popular consultation'. The UN acted quickly, deploying an electoral mission by the end of June, but throughout July Indonesia failed to fulfil the basic minimum security guarantees it had committed to, including freedom of movement, assembly and expression. Violent incidents continued. The date of the ballot was postponed until August, but the same conditions persisted throughout that month. The UN was prepared to postpone the ballot again, but Xanana Gusmão, President of the National Council of Timorese Resistance (CNRT), asked them to proceed. He insisted that, although there had been no fair campaigning period, the people understood the issues and were prepared to vote. By now, there were strong indications of the violence to come.

The independence vote triggered a three-week campaign called 'Operation Clean Sweep', in which Indonesian armed forces and locally-organized militia reduced buildings to rubble and executed hundreds, possibly upwards of 2,000, East Timorese (the final figure remains to be determined). More than three-quarters of the country's population of 890,000 were displaced. Indonesian families and friends fled the scene. The remaining Timorese either escaped into the steep hills of the interior or were forcibly removed to West Timor or neighbouring islands. The main cities and remote towns and villages were laid waste by hand, with inflammable accelerants and torches, melting or disembowelling 70 per cent of the physical infrastructure. Some places suffered above 95 per cent destruction in street-by-street burnings. Worse still, and impossible to reconstruct for a generation, was the removal in a single stroke of nearly all but the bottom layer of the human resources skills base.

The UN's original scheme in the event of an independence outcome was a three-stage process. The 'popular consultation' was the objective of a first United Nations Mission in East Timor (UNAMET). A precarious two to three month period would follow, in anticipation of the acceptance of the results by the Indonesian People's Consultative Assembly, during which UNAMET II civil affairs officers were to prepare for a longer-term UN presence. Then, through the spring of 2000 UNAMET III, as a transitional authority, would manage the gradual withdrawal of Indonesia's military units and administrative apparatus and assume control itself, piece by piece. The operating assumption in these plans of an orderly transfer of power had to be discarded after the events of September 1999 and the deployment of an Australian-led International Force in East Timor (INTERFET). Instead, an entirely new mission was devised.

The United Nations Transitional Administration in East Timor (UNTAET) replaced all pre-existing authorities in the territory when the Security Council approved its mandate on 25 October in Resolution 1272. UNTAET became in every respect the formal government of the country. Both legislative and executive powers were vested in a single individual, the Special Representative of the Secretary-General and Transitional Administrator, Sergio Vieira de Mello. He had the sole authority to issue 'regulations' as national legislation in the absence of an elected legislative assembly. The practice was to present draft regulations to a national council chaired by the UN Transitional Administrator and composed of Timorese appointed by de Mello. Consultation was a courtesy, but legally de Mello could have overruled any council decision and signed or rejected any regulation.

UNTAET was unique amongst experiments in transitional administration, since it was the first time the UN had assumed its role independently of any competing authority. In Eastern Slavonia (1996–98) and Kosovo (since 1999), for instance, Croatia and Serbia respectively constituted the recognized sovereign. In East Timor, Portugal, the former colonial power for five centuries, was treated as the lawful administering authority throughout the twenty-four years of Indonesia's occupation; only Australia had recognized Jakarta's claim. On 20 October 1999, Lisbon's representative in New York, Ambassador Antonio Monteiro, told UN officials that Portugal would relinquish its legal ties to East Timor and consider UNTAET its successor with the passage of the Security Council mandate. No other written expression on the part of Portugal was required. Resolution 1272 was the instrument for bestowing sovereignty over East Timor to the UN. When a delegation of Indonesian representatives met later that day with the same UN officials to deliver their acceptance of the election results, they were informed that no such formality was required since the UN never recognized the legitimacy of their occupation.

Agreements with financial institutions affirmed that the UN had achieved a form of statehood in East Timor. From the outset, the World Bank was integrated in an unprecedented manner in a UN mission. The International Development Association (IDA) of the World Bank was designated the trustee of the reconstruction Trust Fund for East Timor (TFET). According to its Articles of Agreement, the IDA can provide funds to sovereign governments or public international organizations. The terms of reference of the TFET, however, treated UNTAET as a separate government rather than as part of the UN as an international organization. During the negotiations between UNTAET and the World Bank regarding the Community Empowerment and Local Governance Project (CEP), the UN had wanted to reduce the status of the agreement to a memorandum of understanding between the two institutions. The World Bank refused and demanded the stature of an international treaty between the IDA and a sovereign government. Whether they liked it or not, UN legal officers could not avoid the mission now having to recognize its own juridical status. The CEP Grant

Agreement defined 'Recipient' as East Timor and UNTAET, and it had to be signed by the Transitional Administrator as the head of state and not merely as a representative of the UN. This was not a matter of convenience: UN Secretary-General Kofi Annan was in Dili at the time of the negotiations, but he would not have been permitted to sign.

## **DISTRICT ADMINISTRATION**

One of the key experiments of UNTAET was the decentralization of political authority in the form of 'district administration'. The aim now was to directly administer, not merely the mission's own organization, but actual territory and its population, as well as to integrate at the local level the multiple dimensions of the operation, in a kind of 'dual mandate'.

Territory cannot be properly managed, nor capacity built for self-sustaining governance, without delegation of powers to smaller units of land and people. This assumption is taken for granted in any functioning state, but it runs contrary to the hierarchical and centralized structures of UN peace missions. In Cambodia, for instance, transitional 'authority' was exercised by separate chains of command in each sectoral component extending from the headquarters in the capital city, Phnom Penh, to the provinces. Although the civilian Provincial Director was supposed to have primacy over all the elements in the immediate area of operation, that individual had no means of enforcing instructions and challenging independent reporting lines. Zone Directors in Somalia faced similar difficulties.

In purist terms, a UN 'authority' implies the co-existence of a local government or faction exerting varying degrees of effective control over the territory in question. An international 'administration', however, suggests full responsibility for the functions of government. Shifting from one to the other required fracturing the Cambodian-style chains of command and reconstituting the elements of a mission under a local executive — in the case of East Timor, the District Administrator (DA). There had of course been antecedents in the municipalities and regions of Eastern Slavonia and Kosovo, the city of Mostar and the Brcko corridor. For UNTAET, however, decentralized, local administration was designed in its most complete form to date, even though it was at profound variance with the hierarchical subculture of the UN system.

## **Decentralization**

By the end of the 1990s, the doctrinal quarters of peace operations increasingly converged on ideas for comprehensive, political missions. The UK established a Joint Defence Centre to develop high-level joint strategic doctrine, promote civil–military operations with multiple actors, and provide

long-term conceptual assessment. The NATO peace operations manual was redrafted in this light and circulated to member states for comment. Most notably, the US created its May 1997 Presidential Decision Directive-56 process. Initiated after an internal review of the Somalia experience and first tested in Haiti, it was built on five central pillars: an executive committee for unified management; a political–military implementation plan; US interagency rehearsals; after-action reviews; and interagency training. It was an American document for better co-ordination in Washington, and its sound principles needed to be internationalized.

In spring 1999, this doctrinal step was taken through development of a genuinely international concept of operations for exercising executive and legislative authority in transition, at all levels of a mission — operational (national) and tactical (district). A draft was presented at the US Chairman of the Joint Chiefs seminar on peace operations at the US Army Peace-keeping Institute in June. It was subsequently debated later in the month at a meeting of Force Commanders and Special Representatives of the UN Secretary-General.

During the planning of UNTAET in September and October, the draft was reduced to a two-page job description for the DA and then further shortened to a single paragraph. Although retaining the essence of the concept of operations, the brevity of these sentences meant they were now out of context. Yet they were circulated to member states as the basis for recruiting the backbone of the mission. It was clear at a meeting of contributing member states that neither the meaning of district administration nor the nature of the DA had been adequately communicated. The profile of candidates being identified did not meet the expectations of the thinking behind the position.

The original design of the DA's terms of reference was comprehensive and unambiguous. To take root, an abstract, distant 'international administration' had to be personalized day-to-day in even the remotest villages. The real test and measure of success of the DA, and therefore of the international effort as a whole, would be whether it improved the ordinary lives of individuals and won the confidence of the population. To achieve this goal, the DA would have supreme executive authority in the district, and needed to be understood to have judicial powers, as a magistrate in transition, until a functioning judiciary could be established. The cardinal principles at the frontline of the administration were to be integration with the population and maintenance of a presence through district visits. The emotional support of the people would buy the UN more time and tolerance for the late arrival of material development.

The DA needed to be a certain kind of person that could not be identified by the boxes on a UN personnel form or the level of a UN grade. The required characteristics included, not so much age as personal maturity, sincerity, a sense of protectiveness and empathy with the pervasive psychology of trauma. The last thing that would be needed would be to appoint uncreative

bureaucrats who would instead preserve the status quo — the conditions on arrival would be desperate or abusive, and they had to be changed. Dynamism and initiative also meant minimal reliance on headquarters in the capital city, which would at best provide limited kinds of support.

Subordinated to the DA were all of UNTAET's elements in the district, with the strict exception of the military, which remained unquestionably under the control of the Force Commander in Dili. The DA's line authority over all civilian officials in the area was readily accepted in New York. In addition to the UN civilian police, the DA had charge of a team of civil/political, humanitarian, human rights and legal/judicial affairs officers. A Deputy DA had responsibility for public services and agricultural affairs officers.

This rather awkward division with the Deputy was aimed at getting fiscal authority delegated to the district level, to render decentralization real and capable of making a material difference. In Kosovo, the terms of reference for the reconstruction Trust Fund permitted discretionary expenditures of up to US\$ 50,000 for quick impact projects. However, the regional administrators felt that they could not access central decision-making in Pristina quickly or efficiently enough. For East Timor, it was possible to delegate fiscal authority to the districts if the spending limits were lowered and the UN Controller could be satisfied that someone with budgetary competence was deployed at that level, as a control mechanism. Budgetary authority was given to the Deputy DA, whose seniority would create confidence in the Controller, but one of the public service officers would most likely have budgetary experience.

To avoid delaying their acceptance, delegation of fiscal authority to the districts was not explicitly referred to in the final terms of reference for the UN's East Timor Trust Fund. The language of the draft was intended to allow for delegation, but this was not enough: appreciation of these planning details was discarded in the field and decision-making was re-centralized, greatly frustrating the DAs who felt that all they could do was to hold meetings.

### **Re-Centralization**

In November 1999, Timorese debated whether there should continue to be thirteen districts in the country. Several plans emerged for reducing the number and redrawing the boundaries. However, UNTAET — as a new administration — needed to build as much as possible on what already existed, and then transform it over time. The UN was not in a position to reinvent too much too soon, otherwise it would disassemble something that it could not replace. In the meantime, a World Bank Joint Assessment Mission (JAM) identified regional hubs for concentrating the bulk of the civil service, to minimize an unaffordable number of bureaucrats at the national and district levels. The time to change the boundaries was, perhaps,

at the time of an election, when the population could be registered according to newly determined centres.

UNTAET should have been tackling substantive matters like this one; instead, individuals were preoccupied with centralization under their personal control. The dispatch of UN personnel was a particularly acute problem. It had been delayed for more than a month, narrowing dangerously the window of opportunity for success on the ground and alienating the Timorese resistance. The chief of personnel in the Department of Peace-Keeping Operations had refused to approve any new contracts as part of his own bureaucratic territorial battle. When new staff did finally arrive, they were retained in Dili to increase the influence of the Transitional Administrator's inner circle. As late as January 2000, the capital boasted 174 professional-level staff, while across the thirteen districts, only seventeen officials had been deployed. Further compounding the resulting difficulties, at the end of November 1999, some twenty-five of the thirty-seven remaining UNAMET staff had resigned or refused to renew their contracts. They felt denigrated by the leadership of the new mission and had been blamed privately for the earlier violence.

During the planning of UNTAET, it had been feared that an office with only a DA and few staff would be too small to handle the demands of a district area as a whole. An additional layer of UN administrators was argued for, but rejected on budgetary grounds. In the field, however, up to 200 UN Volunteers (UNV) were available for reassignment after having conducted the August vote. They were designated as District Field Officers (DFO), two to be deployed in each of the sixty-three sub-districts. They would not have the executive powers of the district level. Rather, they would link into the World Bank CEP that was establishing local Timorese administration upwards from the hamlets to the villages and sub-districts. Ideally, the DFOs could maintain a presence and further personalize UNTAET in the intimacy of the sub-district setting. In the absence of professional staff in the district offices, however, most of the DFOs were redirected and absorbed, filling the gaps under isolated DAs.

In the wake of East Timor's destruction, UNAMET staff had enterprisingly established 'reconstruction committees' in some of the population centres. This was coincidentally in keeping with the original concept of operations, which envisioned functional 'task committees' composed of relevant actors in the district, whether UN, non-governmental or Timorese. An attempt was made to integrate the existing committees into the new UNTAET district structure. The outcome would have preserved continuity in appearance, institutional memory and ground knowledge from one UN mission to another. It could also have been a means of creating an active nucleus around which to build district administration in the absence of personnel, and generate momentum in the process and confidence amongst Timorese. Instead, this delicate transformation was purposely fractured to give primacy to nascent ministries in Dili — or more precisely, to further increase the personal influence of the centrists

Similarly, the subordination of civilian elements to the DA was unravelled with independent chains of command reasserting themselves from the capital. The civilian police were the first. With many officers having come from UNAMET, a direct line to the Police Commissioner in Dili already existed. Awaiting the appointment of the DA, UNVs had often assumed the mantle of the position. Seasoned police officers refused to submit themselves to a younger Volunteer, however bright and capable. More seriously, the police misinterpreted their mandate as one of assistance in, as opposed to the actual enforcement of law and order. They therefore failed to appreciate the political significance of helping the DA, once in place, to perform temporary judicial functions. There was even more bitter tension with those in charge of humanitarian affairs over control of their district counterparts.

As some at the centre attempted to exert more and more control over district functions, specialist positions atrophied or, paradoxically, the centre lost control of the DA. In one case, a DA redesigned the district organigram, and within it the various lines of responsibility. Unopposed by the self-interested, who were therefore disinterested in such substance, this undermined the critical requirement of uniformity of administration across all districts; for it was the guarantee of consistency that permitted the delegation of authority to a local level in the first place. The Timorese rejected some DAs as inexperienced, while others were lauded for learning Tetum. Worse still was the bottleneck of resources in Dili, not just in terms of Land Rovers and modern equipment like computers — some DAs were lucky to have tables and chairs. The opulence of the UN in the capital was detested; and with destitution in the districts, it was difficult to command respect.

The last two weeks of November 1999 were the opportunity for UNTAET to succeed. That was the moment to capture the emotional support of the population before reconstruction funds had arrived and the mission fully deployed. With the presence of the International Force, the remainder of UNAMET civil affairs officers, and the newly arriving UNTAET staff, sufficient human resources were available to personalize from the beginning the most complete transitional administration of its kind. This required the delegation of authority, which the mission had been designed to enable; methodical 'TimORIZATION' then had to start and be sustained through commitment to the building of popular capacity and a visionary campaign plan with a timetable for the transfer of power. Instead, there were personal agendas. Re-centralization in the field resulted in the exclusion of Timorese from the transitional administration as a whole, an explosive question that then overshadowed the specifics of effective district administration.

## **POPULAR REPRESENTATION**

In peace operations and the parallel humanitarian and development enterprises throughout the last decade, accountability has been divided and

directed upwards, to the headquarters of international organizations and financial institutions, to their authorizing bodies, to individual donor governments, to the national capitals of troop-contributing nations and to the private funders and boards of directors of non-governmental organizations. At best, accountability has amounted to a complex web of lines controlling different operational centres of gravity; it has had painfully little to do with substantive performance and the reasonable accomplishment of tasks mandated for missions. The careers of international staff are determined in power centres far from the reality of an area of operation.

The idea of international accountability has not matured democratically, for it has not been subjected downwards to the will of a local population as a constituency. Just as international personnel are immune from domestic prosecution, so too the people of a territory do not participate in deciding on the nature of international actions. Nor are they in a position to demand transparency from or to ensure effectiveness of those who intervene. In this context, politically-driven and blunt declarations of 'success' are readily made, regardless of the actual — often dismal — results.

The problem of accountability has been most acute with the advent of transitional administration. During the planning phase of UNTAET, the Timorese resistance was not meaningfully consulted. A staffing table was created for UN personnel that did not make provision for Timorese integration in it. Proposals from the Timorese regarding their role during the transitional period were ignored. The organizational chart for UNTAET obliquely indicated some kind of Timorese consultative bodies at the national and district levels, but purposely did not specify what they might be. When the new Transitional Administrator reached Dili, he immediately began a direct dialogue with Gusmão, but then relied on this relationship almost exclusively instead of leading effectively himself. It did not work (Beauvais, 2001; Chopra, 2000; Gorjão, 2002).

The design of the mission had failed to account for a separation of powers and genuine accountability to the population it would have to govern. What kind of community empowerment can provide a means for local participation in state-building exercises?

### **Consultative Councils**

At the national level, the structure and composition of a National Consultative Council (NCC) were negotiated between UNTAET and the Timorese resistance in late November 1999. The NCC included a fixed number of representatives from both pro-independence and pro-integration groups, although the latter were not really part of the political landscape any longer and were located in West Timor. The significant complications of security and their personal safety meant that they did not really participate in the NCC. Much to the dissatisfaction of other elements in Timorese society,

UNTAET had accepted that no new political parties would be admitted to the NCC — giving exclusivity to the voice of the CNRT. This had been accepted in a spirit of conciliation — and frankly without any careful thinking behind it — but partly also because the negotiated formula included representatives of women's groups, youth organizations, traditional leaders and others. Somehow, these categories were discarded in the finalization of the terms of the NCC between the Transitional Administrator and Gusmão, on the pretext that lower numbers would make for a more workable body. Months later, popular opposition reached a point that forced expansion of the NCC, and it was transformed into a larger National Council (NC).

Neither the NCC nor the NC had legislative powers — these were strictly in the personal hands of the chair, the Transitional Administrator. Similarly, at the district level, it was expected that the District Administrator would chair a district council (later a District Advisory Council, DAC). The details of these bodies should have been negotiated and finalized at the same time the NCC was established. However, time pressure and other issues demanding attention delayed any conclusion regarding the district-level councils. This was a fatal error, given the disassembling of district administration that would follow and the protracted tensions preventing the delegation of authority from the centre. Half a year passed before any moves were made to establish DACs. In the districts, it was unrealistic to include some kind of pro-integrationist representation. It would not have been accepted in the villages and so its role would have been quite irrelevant. Representatives of women, youth and chiefs most likely would have come directly from the Timorese resistance, raising concerns about independent voices. In the end, the convening of councils varied from district to district and their role depended on the effectiveness of individual District Administrators; for the most part, Timorese activity at that level was simply located elsewhere.

### **Top-Down Authority**

The approach to establishing councils in East Timor at different levels of administration had been conditioned by the UN's experiences in utterly fragmented environments such as Somalia. Under conditions of anarchy, it made sense for an international mission to reach out at the national and local levels to establish new political centres of gravity. The aim was to outmanoeuvre fighting warlords and establish some alternative activity. To guard against councils being hijacked by a recalcitrant faction, it was logical to avoid an independently direct connection between the national and local councils. Once a new government was formed, reliance on the hierarchical structure of the mission could be replaced.

East Timor was not Somalia, however. A defined backbone within the Timorese resistance structure already connected all levels in the country more effectively and pervasively than a small number of UNTAET staff

would ever manage to do. The national and district councils were not going to — and did not need to — undermine this relative organizational coherence. Instead, precisely to counter UN officials who were actively recentralizing district administration, and thereby attempting to control all aspects of Timorese participation, a provision was deftly included in the DAC formula. The purpose of it, as it turned out, was not detected. Quite simply, the DAC would report directly to the NCC in a principally Timorese chain of command, thus attempting to minimize the UN centrists' control through the District Administrator of the local communities represented in the council. Ultimately, the relevance of this subtlety was overtaken by the establishment of the East Timor Transitional Administration (ETTA).

Another part of the original logic of the councils was that they should be appointed rather than elected. This was to be a provisional arrangement, necessary because (it was felt) the establishment of popular representative bodies would take a year and so could not be created quickly enough to be of use during the transitional period. The premise that selected Timorese had to be appointed, however, was mistaken. In fact, it was quickly apparent that some kind of imperfectly elected bodies, which were adequate for the transitional period, could be formed in the space of weeks. The real barrier to elected bodies turned out not to be their achievability, but rather stinging opposition from UN bureaucrats within a centralized organizational hierarchy. They stated openly that since UNTAET was not a representative government, it could not tolerate other bodies in the country being more representative.

### **Community Empowerment**

The drama of opposing forces of centralization and decentralization unfolded during the negotiations for the World Bank CEP. Co-sponsored by the Asian Development Bank (ADB), the project was intended to facilitate the establishment of village and sub-district councils composed of equal numbers of men and women, elected from hamlets and the new village councils, respectively. Block grants would be provided directly to each sub-district, which would then decide development priorities based on proposals submitted by the villages. This experiment was to be an elegant introduction to local democracy as well as a pure form of self-determination in reconstruction. Indeed, the project deliberately aimed to reverse the historical tendency of accountability upwards; each layer of administration, rather than receiving instructions from higher authorities, would now be accountable downwards to a popular constituency. The process would be fraught with difficulties, no doubt (Ospina and Hohe, 2002). Structurally, nevertheless, the CEP fitted neatly with the essentially decentralized scheme of district administration. Cynically, it could have been regarded as a form of 'indirect rule' by understaffed district offices, which would be organized

and paid for by the World Bank but for which the UN would get full credit. In fact, it became the battleground for a Timorese role in the exercise of power.

UNTAET bitterly opposed the project and attempted at all costs to stop it. The centrists rejected the CEP twice, along with the US\$ 35 million available at a time when no other funds had arrived from the international community. Only the political configuration of back-to-back visits by Kofi Annan and World Bank President James D. Wolfensohn forced a signature. UN officials realized that the logic of the project dictated that they would control neither the expenditure of the funds nor the councils to be established. They made extraordinary arguments to the World Bank and the Timorese resistance. Their shotgun positions included the following: the UN could not approve gender equality; international staff needed to dictate community empowerment; the election of local officials would confuse the Timorese with national elections; and the entire exercise had to be conducted in a legal vacuum since UNTAET did not want national legislation governing local administration. Each of these arguments was a deal-breaker for the World Bank, and was rejected as a condition of the grant. Ultimately, the UN refused to accept local elections. An accommodation was eventually reached in which the World Bank would in fact conduct local elections, and present them to the population as such, but UNTAET Regulation 2000/13 passed for the purpose would use the words 'democratic selection'.

Given the speed with which elected village and sub-district councils were established, it would have been conceivable — if politically impossible — to extend the process higher upwards. The ADB pushed for elected district councils to be formed from the sub-district councils in the same manner in which they were formed from the village councils. In the negotiations for the CEP, the World Bank was willing to concede to UNTAET on this point in exchange for preserving the integrity of the rest of the project. It would have been further conceivable — though it was never raised in view of what would certainly have been strong UN opposition — to establish an elected national council drawing on the districts.

These kinds of informal elections are not comparable to a single national election preceded by a registration of voters. But a participatory process can get moving quickly through shows of hands or discreetly marked slips of paper over a number of mornings, and this could infuse an intervention with some kind of popular representation from bottom to top.

The CEP was unable to recover from the acrimonious negotiations leading up to its establishment. It continued to be effectively rejected by UNTAET internally, with the consequence that the transitional administration never had much of a presence below the district level, where 80 per cent of the population lives (Hohe, 2002a). The UN failed to create any kind of local government and lost the opportunity for introducing democratization alongside existing hierarchical paradigms. Instead, villages reverted to traditional power structures, which were manipulated — well below the

radar screens of international observers — to achieve an overwhelming result in the Constituent Assembly elections of August 2001 (Hohe, 2002b). Thereafter, a single individual, Mari Alkatiri (to whom the Transitional Administrator now turned his attention, away from Gusmão), from a single party, Fretilin, was poised to control from the capital all aspects of legislative and executive life in the country, inevitably spawning opposition and divisiveness.

The Timorese had been largely patient with the slow pace of fulfilment of the mission's original mandate. They then discovered that the UN had prepared a plan for departure after the election. Predictably, the election — which had not been the mission's objective — became its exit strategy. Out of frustration, and with the backing of political, religious, traditional and other leaders at the highest levels, Lucas da Costa, the Rector of the Higher Institute for Economics and Management, addressed a letter to UNTAET that he requested be forwarded to the Secretary-General. In it, he challenged the UN's claim of mission success based on a peaceful election. That result, he charged, had been brought about by the discipline of the Timorese people and was not evidence of a functioning rule of law and order. Da Costa called for a reliably accountable international assessment to be conducted of the gap between UNTAET's original mandate and the persisting debris of a nation unbuilt, the ruins of which the Timorese would inherit while the UN presented itself externally as successful. Such an outcome, da Costa argued, would be a breach of an international promise to the Timorese people. They had entered into a social contract with the UN, openly accepting it on the condition that it fulfilled the bargain in good faith. Only by measuring the current status of the initial blueprint for international action in East Timor (from the Secretary-General, Security Council and World Bank) could a demand be articulated for what the UN needed to do before it left. To ensure that the assessment would be truly transparent, there was a further call for the removal of the Transitional Administrator.

Insulted, de Mello punished da Costa by rejecting his candidacy for a cabinet post in the new government. The incident reflected an environment that prohibited dissent and opposition, conventionally the hallmarks of a democratic culture and the basis for meaningful accountability.

## **CONCLUSION: PARTICIPATORY INTERVENTION**

In light of events in East Timor, it is an open question whether we should continue to seek to improve doctrinal concepts for international interventions to (re)build states. After the escalation of peace-maintenance to the governorship category, there cannot be another degree of intrusiveness or increased scope of activity. The evolution of peace operations doctrine has reached a final point, perhaps a dead-end. Indeed, throughout the 1990s, theoretical breakthroughs were made consistently, refining what to do and

how to do it, but the results have been poor or disastrous, particularly in comparison with the underlying assumptions and purposes of the intervention and the original articulation of mandates. What is certain at this stage is that — if there is to be a way forward— local populations require much fuller and more genuine integration in the variety of international interventions. The need for a concept of ‘participatory intervention’ constitutes, then, the next puzzle to solve.

Strikingly, the prevention of success has been largely the work of individuals, both international and national civil servants. Institutions are not anonymous nor are the causes of operational mismanagement depersonalized, structural and inevitable. In the area of international criminal law, it has been acknowledged since Nuremberg that the individual official is responsible, separately from the body corporate of the organization. It must follow that within international organizations, to paraphrase: duties and liabilities are imposed upon individuals because international activities are conducted by them, and not abstract entities, and only by holding them responsible can there be accountability.

Meanwhile, on the ground, the situation seems to evolve by itself, regardless of the type of international intervention in its midst. Superficiality is the result of mandates vast in scope implemented by missions minimal in capacity and deployments of relatively short duration, with six-month personnel contracts among a population who are there for good. The shallow resolve of international officials, either from disinterest or self-interest, cannot confront resistance or liberation movements or warlords and factions playing to win. Operational planners fail to comprehend the degree of social engineering necessary to achieve the mandate, and either prepare for and tackle it, or decide that it is impossible under the circumstances and resort to development assistance over a much longer time period. In this manner, missions like UNTAET can render themselves irrelevant, as the country comes back to life by itself without much physical reconstruction. The self-evolving balance of power replaces the minimal and weak state structures left behind, and the political process plays itself out exactly as it would have done without a transitional administration.

Equally, such missions can contribute to outcomes more negative than if they had not intervened at all. They may undermine indigenous forms of political legitimacy without establishing a reliable alternative and functioning administrative structure. They have often facilitated the strongest player in taking the capital city. It was a habit of UN deployments in the past to follow on the ground the line of least resistance, unable therefore to challenge recalcitrant warlords, or to prevent the largest factions from dictating terms of a peace process. This is why Hun Sen’s State of Cambodia, that lost the 1993 elections, never gave up power. This is also why the Northern Alliance dominated the Bonn conference on Afghanistan in November 2001. Between these two events, it had been the aim of transitional administration to overcome the phenomenon of might-as-right, by taking control of power

dynamics altogether and then transforming the political process and achieving an outcome that was different, in some way better, than what would have happened by itself. Instead, in East Timor, the UN legitimated the party that had managed to extend its control the furthest into the districts as the successor to the UN's absolutist form of kingship (Hohe, 2002b).

All of these factors contribute to the next round of state failure in East Timor. The greatest reliance is now on the discipline of party leaders, village chiefs and ordinary people not to express their differences through violence. There will need to be good governance through good intentions in the absence of much of a functioning state — including a rule of law and pacific means of dispute settlement — and it is difficult for good intentions to survive the pursuit of power at any level of whatever form. It is even more difficult to be disciplined without a means of addressing past injustices, due to recent militia violence or earlier civil war, and with the option of vigilante justice as a last resort.

This outcome leads to the question of whether or not there should ever have been a UN transitional administration in East Timor. What if the World Bank, as organized as its team was at the outset in this case, had entered into a direct relationship with the CNRT? It is a scenario worth replaying to assess the results of UNTAET. For the UN claims success based on the fact that there was an orderly election in 2001 — or rather, that there are no bodies piling up and that there is someone to whom to transfer the mantle of authority. But neither the absence of short-term violence nor the election were the point of a transitional administration. These aims could have been achieved with a peacekeeping force and another voting exercise like UNAMET — a transitional administration was not necessary if these are the measures of success. The purpose was to rebuild the country and to take control politically to break with the past.

UNTAET did not take control in real political terms, however, and any kind of transfer of authority has been to a party that took power by itself during the transition, replicating precisely what international administrations had been invented to solve. There had been desperate attempts in the early months of UNTAET amongst its staff, in the capital and in the districts, to convince the mission leadership to confront the question of internal political dynamics. There were differing views. A very few felt that the CNRT should be broken up as soon as possible. Anyone who had been in Somalia was horrified by the thought of the loss of a single interlocutor and its fragmentation into disparate, perpetually shifting factions. The World Bank also strongly opposed this idea. At the other extreme were those who believed there should be recognition of the CNRT as the *de facto* local authority, an argument made more possible with the essential absence of pro-integrationist forces in the political arena. Yet it was hindered by the underlying assumption from New York that the August 1999 vote was for independence, not for the CNRT as the government. As the old Namibia hands stated in meetings, unlike SWAPO's recognition in 1973, they did not

consider the CNRT as 'the sole authentic and legitimate representative of the Timorese people'. Consequently, another position held that elections should be conducted at the beginning of the mission, and not in the middle or at the end. Still others somehow thought the issue and the CNRT itself could be ignored, just as the Timorese could be excluded.

Major-General Peter Cosgrove, the Australian commander of INTERFET, approached the question in pragmatic terms. The CNRT was the only identifiably coherent entity on the ground. It made sense to deal with them as necessary, without concern for the formalities. In the absence of instructions from the UNTAET leadership, this is also how officers in the districts and in Dili dealt with the CNRT. It was a functional relationship without any kind of formal recognition. It was also one way of managing the issue day-to-day. But it defied the logic of a transitional administration that had been the result of a certain history, encapsulated in the planning of its design, and which intended to manage directly the local political process. It was contradictory to be the government of a country and to remain aloof from the politics of the people.

It is difficult to determine what an international transitional administration should do to manage internal political dynamics. In social and political engineering terms, one option is to decide that the task is impossible, while another is to map out the complexity of the task and formulate a strategy to achieve it. An honest assessment would have indicated the degree of pervasiveness of the CNRT structure in every corner of the country. How could this be discarded, while at the same time the Transitional Administrator relied on his relationship with the CNRT head? Typically, there was UN disinterest in what happened outside Dili. To determine a relationship with that structure which would be comprehensive, intimate and uniform, but adaptable as necessary, would probably always be beyond the capacity of most UN generalists selected in the manner that they are.

Part of the problem also had to do with a binary view in the UN system: either there is a sovereign government for the UN to relate to as a national institution, or else there is an illegitimate faction fighting on the ground. The CNRT was neither of these. It was much more than merely a faction and to reduce it to that status would be folly. It was an umbrella organization for all resistance groups. As such, there were deep divisions within it. That is what ought to have been of concern, the issue to be addressed. There should have been political analysis of the internal dynamics of the CNRT, based on deep knowledge of local politics, discussion and a decision about what to do.

No such process developed, however, and some of the explanation is surely sub-cultural. Not only was the Transitional Administrator not expecting to stay long, and therefore did not invest in engagement of complicated matters, but his background as an international bureaucrat was rooted in a diplomatic context. It is the diplomatic habit to remain removed from local politics and not to participate in the social process behind it. The problem was precisely that the head of the government and the preconstitutional king of the state,

or the proconsul of the territory, was not functioning like a politician in contact with the population and their various interests. He was speaking almost exclusively, in an asocial and diplomatic fashion, to a single individual. As important a figure as Gusmão was, the requirements of leadership were far more complex and demanding than a single relationship could provide.

Comparably, the Deputy Special Representative of the UN Secretary-General who was responsible for the Governance and Public Administration pillar of the mission — or properly, the government apparatus of the country — was a professional administrator from France. His career had been as a provincial *préfet*, which is the position of a generic civil administrator distinct from the politician of the area. It is the idea of purely functional administration divorced from the political fray. In the context of an intervention during a transition, however, every act in whatever arena (military, humanitarian or developmental) has profoundly political proportions and incurs implications that do not fit within generic administration.

Thus, the transitional administration was being implemented as if a political vacuum existed — an extension of the sense of a state vacuum that had first rationalized the intervention. This approach of state-building aocially and apolitically contributed to the local reality that evolved by itself. The UN backed into the ETTA arrangement awkwardly. Fretilin, the largest organized party, left the CNRT at its Congress in August 2000, and continued a process of consolidation of influence at local levels. The CNRT finally dissolved itself at the last minute in June 2001, weeks short of the August Constituent Assembly elections, in which political parties had to be formed, campaigns conducted and the balloting prepared for with very little time for organization. Civic education for democracy had started not long before that, with predictably minimal results. There was a rush towards an end-state, relying on the familiar coping mechanism of UN missions: hold an election and withdraw from and abandon the territory. By the autumn of 2001, the priority of UNTAET was its short-term image, rather than long-term concrete results on the ground. The future constitution would be more the result of socialization than consultation, as the winning party presented its draft.

This was in lieu of fulfilling the point of a transitional administration to fundamentally transform a political environment through social engagement. The Transitional Administrator had always been more concerned with international, strategic-level politics, in the capital cities of the UN member states and donor governments. They were the real constituency, and the source of power and the determinant of his future, more than of the Timorese people. If this kind of social alienation was true of the leadership, it was also true of the whole state-building enterprise that skidded on the surface of the country, and that did not penetrate the sub-districts and villages or make a positive difference in the daily lives of individuals.

On the eve of the Constituent Assembly elections, UNTAET published its twenty-one greatest achievements in the September issue of its own broadsheet, *Timor Tais*, for the benefit of international press and observers there

for a quick visit. Afterwards, the student group RENETIL rejected the list as blunt propaganda and, in what they termed 'A Popular Challenge to UNTAET's Achievements', exposed the veracity of each item on it, arguing that either UNTAET had been forced, by the Timorese people or international critics, into many of what it now counted as achievements, or it misrepresented its claims altogether. The UN was painting its story as a success to justify its investment during the transitional period, they said. At a press conference on 14 September, RENETIL declared: 'East Timor will be left by the United Nations in a much poorer state than what the international community had promised the country in its mandate. It is time for a popular dialogue on the ineffectiveness of the governing authority'. Indeed, on 20 May 2002, East Timor achieved its full independence and became the newest state of the twenty-first century. The UN Development Programme published its human development index for 'the poorest country in Asia', with indicators comparable to the most severely collapsed places in the world (UNDP, 2002). In statistical terms, UNTAET had given birth to a failed state.

After East Timor, if there is to be any future for peace operations that are both legitimate and effective, then a much more participatory form of intervention has to be considered. The idea of 'participatory intervention' stands in contrast to the practice in state-(re)building processes of relying on only international appointees or elites self-appointed as representatives of the people. Instead, the aim would be to include direct involvement of the local population from the very beginning of an international intervention, in order to ensure justice for the parts and that new governing structures resonate with local social reality. Participation has become a minimum standard and a moral imperative. It might also overcome some of the difficulties of state-building or force acknowledgement that at least the UN cannot do it.

Concretely, more genuine forms of 'democracy' may be possible through CEP-type elections, from bottom up through to national levels, which are imperfect but adequate for transitional purposes. Having some meaningful effect will require, in the operational planning phase, valuable anthropological information to understand local social structures, as well as the deepest possible political analysis of all the actors in the deployment environment. Certainly, there needs to be an accurate assessment of the scale of the social and political engineering project, and either seriousness of purpose about achieving it or realizing its unfeasibility. Although, the reality is that, whether the international community proves timid about it or not, whoever takes power will conduct that project for his own purposes, and possibly in brutal ways.

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