



Challenges for the Implementation of the Decentralization and Local Governance Policy in Timor-Leste: From a Security Perspective

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I. Introduction

Recently, the Timor-Leste government has drafted a plan calling for the establishment of municipalities (Local Government) and the implementation of a policy for Administrative Decentralization and the creation of Local Government as an instrument of ensuring national development. Through this plan, the government hopes to improve and transform the lives of the Timorese people from poverty and deprivation to health and prosperity.¹ Furthermore, the government aims to develop and empower the private sector in rural areas, as well as promoting the strength and capacity of existing state institutions.² The government's logic is to focus on the local level of governance to allow closer control and support of local communities.³

The Administrative Decentralization and Local Government Policy was pioneered by the FRETILIN government⁴, which introduced it in the National Development Plan (NDP), also called the "Timor Lorosa'e 2020". The IV CNRT lead Constitutional Government subsequently built on this original plan by formulating it in the National Strategic Development Plan (NSDP) "2030"⁵ as the vision for national development by the year 2030.⁶

In order to move towards the Administrative Decentralization Policy, the IV Government has implemented pilot programs such as Decentralized Development Packages (DDP) I and DDP II as the transformation of the Local Development Program (LDP) that has been implemented by the previous Government. This is a form of initial preparation from the central Government in strengthening the capacity of the Local Government and the community prior to the full implementation of the policy.⁷ As part of the policy on Municipalities, Administrative Decentralization and Local Government, the V Government will implement comprehensive strategic planning for longer periods of time. This plan will help ensure better effectiveness of the security sector by maintaining peace and stability for all people, particularly Timor-Leste's internal security.⁸

¹ Luta Hamutuk: (2011, December 10). Progress Report Of the Results of the Second Semester Monitoring of the Technical Committee for the Implementation of Infrastructure project in the District of Aileu, Financial Year 2011. <http://www.lutahamutukinstitute.org/activity/detail/monitoring/47/>

² Government of Timor-Leste. (2013, April 12). The Project on the Implementation of Administrative Decentralization in district Bobonaro. <http://timor-leste.gov.tl/?p=8025&lang=tp>

³ President of the Council Minister. (16 August 2013). THE FIFTH (V) CONSTITUTIONAL GOVERNMENT'S PROGRAM, 2012-2017.p59.pdf.

⁴ Frente Revolucionario Timor-Leste Independente – FRETILIN.

⁵ Government of Timor-Leste (2013, September 16) <http://timor-leste.gov.tl/wp-content/uploads/2011/07/Plano-Estrategico-Desenvolvimento-TL3.pdf>

⁶ Luta Hamutuk: (2011, December 10). Progress Report Of the Results of the Second Semester Monitoring of the Technical Committee for the Implementation of Infrastructure project in the District of Aileu, Financial Year 2011. <http://www.lutahamutukinstitute.org/activity/detail/monitoring/47/>

⁷ Luta Hamutuk: (2011, December 10). Progress Report Of the Results of the Second Semester Monitoring of the Technical Committee for the Implementation of Infrastructure project in the District of Aileu, Financial Year 2011. <http://www.lutahamutukinstitute.org/activity/detail/monitoring/47/>

⁸ Presidency of the Council of Ministers. (2013, August 16). PROGRAM OF THE V CONSTITUTIONAL GOVERNMENT, 2012-2017.pdf.p71-12.

This Fundasaun Mahein report analyzes the challenges and obstacles that the Timor-Leste government faces with the implementation of the Administrative Decentralization policy. Through the establishment of Municipalities in the 13 districts, FM believes that some related issues will occur that need to be considered before they contribute to conflicts in the future and threaten national stability.

II. The V Government's Administrative Decentralization and Local Government Policy

The dreams for well-being for the people of Timor-Leste by means of the decentralization policy serves as the main mandate of the V Constitutional Government building on the policy of the former government in respect of the principles of the local government.⁹This is established in article 72 of the Constitution of the Democratic Republic of Timor-Leste - RDTL.¹⁰

The Timor-Leste government is establishing municipalities throughout Timor-Leste and implementing the Administrative Decentralization and Local Government policy as an instrument to ensure development from the national to local level.¹¹In support of this policy, the V Constitutional Government has recently prepared draft laws: Law on Local Administrative Decentralization Policy, Organic Decree Law on Municipal Structures, Law on the Framework for Administrative Decentralization and Local Government, Election Law for Local Government Bodies, Law on Local Finances, Law on Binding Status, Career and Compensation, Local Government Staff, and Law on Voter Registration.¹²

However, before submitting it to the Council of Ministers for approval, the Secretary of State for Administrative Decentralization (SEDA), accompanied by the Prime Minister Kay Rala Xanana Gusmão, went through a consultation process. The consultation process included the distribution of materials in the 13 Districts in Timor-Leste as well as organizing an international workshop for sharing ideas on the Administrative Decentralization and Local Government

⁹ Farming Study Group. (2013, May 23). LAUTEM DISTRICT PROPOSAL FOR THE POLICY ON MUNICIPAL DECENTRALIZATION. <http://farmingstudygroup.blogspot.com/2013/05/proposta-politika-desentralizasaun.html>

¹⁰ Constituent Assembly. (2002, March 22). Local Government. Section 1 and 2. Constitution of the RDTL.

¹¹ Presidency of the Council of Ministers. (2013, August 16). PROGRAM OF THE V CONSTITUTIONAL GOVERNMENT, 2012-2017.pdf.p59.

¹² Jenova. (2013, April 05). In the Preparation for Municipality, Xanana Goes Directly to All the 13 Districts. http://partidocrt.com/index.php?option=com_content&view=article&id=2290:preparasaun-munisipiu-xanana-diretamente-tun-ba-distritus-13&catid=32:nasional&Itemid=47

Policy.¹³The main goal of this consultation was to share information to the public on the policy of establishing municipalities in Timor-Leste.¹⁴

In addition, the government through the Secretary of State for Administrative Decentralization has set up 14 Installation Committees across the 13 Districts, including an Inter-ministerial Technical Team to provide administration support and training.¹⁵ However, there remain pros and cons raised among Timorese intellectuals towards national leaders in relation to the decentralization policy. Former Prime Minister Mari Alkatiri expressed the doubts on the implementation of the decentralization policy, because even the central Government is not yet functioning properly.¹⁶

III. Challenges and Impacts for the Implementation of the Decentralization and Local Government Policy in the Future

a. The Issue of National Unity

The importance of national unity is predominant factor in supporting the process of implementing the Administrative Decentralization and Local Government policy as planned by the Government. For that reason, during the process of consulting the material for Municipality and Decentralization of Local Government across the 13 districts, Prime Minister Kay Rala Xanana Gusmão requested the intellectuals consolidate all their knowledge in identifying the issues and potential human and natural resources needed to support the successful implementation of the Municipality.¹⁷

However the issue of national unity among the intellectuals in some districts is still superficial and it is considered to be a challenge towards the implementation of Municipality for the future. Based on past historical conflicts and the process of struggling for national liberation between political parties in 1975, Timorese are divided and social cohesion was depleted as a result of differing political ideology.¹⁸

¹³ Jenova. (2013, April 05). In the Preparation for Municipality, Xanana Goes Directly to All the 13 Districts. http://partidocnrt.com/index.php?option=com_content&view=article&id=2290:preparasaun-munisipiu-xanana-diretamente-tun-ba-distritus-13&catid=32:nasional&Itemid=47

¹⁴ RDTL. (2013, April 12). The Project on the Implementation of Administrative Decentralization in district Bobonaro. <http://timor-leste.gov.tl/?p=8025&lang=tp>

¹⁵ Jenova. (2013, April 05). In the Preparation for Municipality, Xanana Goes Directly to All the 13 Districts. www.partidocnrt.com

¹⁶ THD. (2013, May 29). International Conference on Local Government: "Dr. Mari Alkatiri: There Still Doubts in Implementing the Municipality". <http://www.timorhauniandoben.com/2013/05/konferensia-internasional-poder-lokal.html>

¹⁷ Martins, S, Evaristo. (2013, May 06). PM Xanana: If You Were Divided, I Will Not Grant Municipality. Newspaper Independente.

¹⁸ CHEGA, Report of the Commission of Friendship, Truth and Reconciliation Timor Leste (CAVR), from colonialism to military oppression. p11,12 no14.

The situation is further exacerbated by the conflicts before and after the referendum in 1999 which lead to divisions among the people of Timor-Leste and resulted in the emergence of a new concept in the Timorese society known as Opportunist vs. Nationalist or (Autonomist vs. Pro-Independence) which exist until now.¹⁹ This concept continues to thrive within the Timorese society despite thereconciliation process initiated by the CNRT²⁰ since the time of resistance and continues at the time of independence, during the mandate of former President Kay Rala Xanana Gusmão.²¹ FM can site numerous examples of disagreement at the elite level.

In Viqueque there is an internal conflict between the intellectual leaders of the district because the District Administrator appointed Mr. João Saldanha to organize the intellectuals of Viqueque to facilitate the group's discussions on decentralization. However, the group of Mr. Antero Bendito refused to participate on the grounds that their history of the resistance case did not contribute to the struggle for Independence.²² Furthermore, in Dili intellectual leaders failed to organize the first meeting on the 6th and 7th of May to participate in the disbursement of municipality materials in GMT Dili.²³

Another issue is the discrimination among the intellectuals of Lautém District (Fataluku vs. Makasa'e, Makalero, Sahani). This tension has arisen due to the lack of proportionality in representation during the discussion organized by the intellectuals of Lautém District in Dili and Los Palos. For example, the intellectuals of Fataluku were dominant in leading the discussions at Canossa Has-Laran, in early May of this year. As a result, it is perceived that they lack respect for the ideas and opinions expressed by intellectuals of Makasae, Sahani and Makalero; which has somewhat alienated them.²⁴ Yet another problem lies with the concept of opportunists (militia), which continues to be a cause of concern and debate among the intellectuals of Lautém, especially for several members of the Steering Committee who had previously opposed the principles of independence.²⁵

All of these examples mentioned above, reported by Fundasaun Mahein, suggest that the issue of national unity will be a challenge towards the implementation of the Administrative Decentralization and Local Government Policy in the future, and an obstacle to the national stability. Thus, Fundasaun Mahein requests that the Government implement the recommendations of the CAVR²⁶ on reparation to victims in order to minimize the social tensions between Timorese in the future.

¹⁹ Da Costa, Zack. (2008, March 13). Politic of Reconciliation, Politic of Canibalism. <http://klaak-semanal.blogspot.com/2008/03/opiniaun-politika-rekonsiliasaun.html>

²⁰ National Council for Timorese Resistance - CNRT

²¹ Da Costa, Zack. (2008, March 13). Politic of Reconciliation, Politic of Canibalism. <http://klaak-semanal.blogspot.com/2008/03/opiniaun-politika-rekonsiliasaun.html>

²² Fundasaun Mahein. (2013, April 06). Meeting of the Intellectuels from Viqueque. Direct Observation.

²³ Tap. (2013, May 07). Xanana Posponed the Disclosure of Municipality Materials in Dili. Newspaper STL.

²⁴ Dos Santos, Edo. (2013, September 06). An Intellectual from Makasae. Interview in person

²⁵ Dos Santos, Edo. (2013, September 06) An Intellectual from Makasae. Interview in person.

²⁶ Commission of Friendship, Truth and Reconciliation - CAVR

b. Land Conflicts (Village, Sub-District and District boundaries) in the future

During the process of consultation and disclosure of the Municipal materials, the youth and intellectuals from the districts declared that they were ready to support the policy on the implementation of decentralization and local government.²⁷ The V Constitutional Government guaranteed that decentralization will bring people towards a more prosperous, peaceful and safe environment because everyone will be guaranteed State protection and enabled to enjoy independence.²⁸ As the purpose of the Decentralization and Local Governance Policy is a process to bring the values of independence down to the community, thereby accelerate the development to reach the community in the local level.

However, FM notes that it is necessary to acknowledge some of the social problems that are still shrouded within the decentralization policy and are potentially going to cause conflict in the future. Issues such as land dispute (village boundaries and Municipal) create social tensions that will ultimately undermine the national stability.²⁹ The causes of land disputes not only led to conflict but also inhibit the process of national development. The fact has shown that the conflict over land has increased due to the lack of adequate land administration system to regulate the land ownership in Timor-Leste.³⁰ This resulted in the emergence of land disputes ranging from tribes, customary houses, between families, Hamlet and Village, Sub-District and District which has created insecurity in the Timorese society.³¹

Examples of these border disputes can be illustrated by the case between Babulo and Vessoru in Viqueque district that has been presented to the court, but it is yet to be resolved.³² In addition, the cases of land disputes occurred nearly throughout the territory were unresolved. Many cases of land disputes are still pending and awaiting the land law to give clarifications and provide solutions to the land disputes in Timor-Leste.³³ Other cases are the border disputes which occurred in the hamlet of Dara-Sula between the community of Village Gariuai and Triloka that led to conflicts and resulted in some members of the community being injured.³⁴

Based on the opinion of Fundasaun Mahein, the issues of land and boundary disputes are obstacles toward the implementation of the Administrative Decentralization and Local Government policy in the future. The problem is the lack of the capacity of the local authorities

²⁷ Nax. (2013, May 06). District Lautem is Ready For Municipality. Newspaper Diariu Nasional.

²⁸ Tap. (2013, May 03). PM Xanana Gusmão: "Municipality Is Not For All". Newspaper Diariu Nasional

²⁹ Noronha, Mundus. (2013, May 06). Former Local Leader (Village Chief). Interview in person.

³⁰ Fundasaun Mahein. (2013, April 17). Endless Land Dispute: From Security Perspective. The Voice of Mahein No. 48.p18.pdf.

³¹ Fundasaun Mahein. (2013, April 17). Endless Land Dispute: From Security Perspective. The Voice of Mahein No. 48.p20.pdf.

³² Baptista Joao (11 September 2013) Youth from Village Vessoru. Interview in Person

³³ Fundasaun Mahein. (2013, April 17). Endless Land Dispute: From Security Perspective. The Voice of Mahein No. 48. http://www.fundasaunmahein.org/wp-content/uploads/2013/04/MNL-nu.-48_17042013_Disputa-Rohan-Leak2.pdf

³⁴ Anibal. (2013, September 29). Gariuai Vs Triloka No Solution. Newspaper Matadalan. Edition 14.p10.

to contribute to the settlement of conflicts of land disputes in the districts and villages have been put burden on the local leaders in relation to the policy of Decentralization and Local Government.

c. Lack of Political Maturity

With regard to the implementation of the Administrative Decentralization and Local Government policy in Timor-Leste, the government has planned to hold the Municipal Council and Municipality elections in 2015, to elect the heads of the Municipality and Heads of the Municipal Council.³⁵ As part of a human resources development initiative aimed at facilitating the Municipal Council and Municipal elections in the future, the government sent 24 Timorese in May of 2012 to undergo a comparative study on the Municipal election in Australia. The group consisted of 4 STAE (Technical Secretariat for Election Administrations), 18 from the CNE (National Elections Commission) and the final 2 from the districts.³⁶

However, It must to be taken into consideration that Timor-Leste has just recently emerged from a post-conflict situation and has adopted a democratic multi-party system that is politically immature. This creates a concern regarding future elections to elect Municipal heads and heads of the Municipal Council.³⁷ Based on monitoring conducted by Fundasaun Mahein, it was found that elections are moments which are at the root of conflicts in Timor-Leste. Many Timorese feel that elections are a curse to the national stability. In particular, many facts came to light during the general elections in 2007 and 2012 which lead to conflicts between political parties and militants, resulting in deaths and injuries.³⁸

In addition to other brutal incidents during the general election periods of 2007 and 2012 and following the announcements of election results, conflicts arose between party militants, culminating in the burning of houses across the territory of Timor-Leste including in Baucau, Viqueque, Ermera and other places.³⁹ For example, following the announcement of the results for the formation of IV Government on August 8, 2007, there was an outbreak of violence and people started to set fire to houses in Naedala as well as parts of Dasuwhati. On the dates of August 9 and 10, 2007, more houses were set on fire from Naedalato Aliambata.⁴⁰

³⁵ Parada, Josefa. (2013, February 09). 2015, THE STATE ADMINISTRATION IS PREPARED FOR THE MUNICIPAL ELECTIONS. <http://timorlorosaenacaodiario.blogspot.com/2013/02/2015-statal-prepara-ba-eleisaun-camara.html>

³⁶ Pinto, Acasio. (2012, August 16). 24 Delegates Depart for Darwin to Watch the Municipal Elections. <http://www.radioliberaldadediili.com/notisia/729-delegasaun-24-aranka-ba-darwin-hodi-asisti-eleisaun-munisipiu>

³⁷ Fundasaun Mahein. (2012, December 20). Security Analysis Post UNMIT Mandate in 2012. http://www.fundasaunmahein.org/wp-content/uploads/2012/12/MNL-no-43_20122012-UNMITpdf.pdf

³⁸ Fundasaun Mahein. (2011, April 28). Potential Security Threats Ahead of 2012 Elections. <http://www.fundasaunmahein.org/wp-content/uploads/2011/04/mahein-nia-lian-no-19-elisaun-20123.pdf>

³⁹ Fundasaun Mahein. (2011, April 28). Potential Security Threats Ahead of 2012 Elections. <http://www.fundasaunmahein.org/wp-content/uploads/2011/04/mahein-nia-lian-no-19-elisaun-20123.pdf>

⁴⁰ Baptista Joao (02 October 2013) Youth from Village Vessoru, Interview in Person.

Drawing from the experience of conflicts during the 2007 and 2012 elections, Fundasaun Mahein believes that the future Municipal and Municipal Council elections will continue to present a challenge; this is a threat to social cohesion. In addition, given the immaturity of Timor-Leste's political environment, election unrest will hamper the implementation of the Decentralization policy.

Based on Fundasaun Mahein's perspective, it is necessary for the government to establish preventive mechanisms through civic education for party leaders, political party militants and supporters with the purpose of preventing conflicts and tension. This is necessary because the conflicts that occurred in the past, during the 2007 and 2012 Parliamentary and Presidential elections, have always victimized ordinary Timorese. This is strongly related to political fragility from the national level all the way down to the community level.⁴¹

*d. Legislation and PNTL Structure*⁴²

As mentioned in the policy of the V Constitutional Government, implementation of internal security will be based on the National Strategic Development Plan 2030. For that reason, the government will continue to develop operational capacity in the areas of crime prevention and investigation, public security consolidation and border control. It is also important to continue to reinforce the community policing model, thereby maintaining stability and public security as the primary responsibility of the PNTL.⁴³

Yet, the question raised by Fundasaun Mahein is how the PNTL structure will be integrated into the Municipality and the Municipal Council structure? Will the current structure be maintained under the Municipality or will there be divisions by region within Municipalities? For example, in the establishment of the Municipality and Municipal Council in Oe-Cusse, will the current structure of the district command be retained? Furthermore, is there any new policy regarding the administrative decentralization of the PNTL Command? Under the current structure, the top ranking official is the PNTL General Commander, followed by the PNTL 2nd General Commander and the PNTL District Commanders.⁴⁴

Fundasaun Mahein argues that any possible changes in the commanding posts may implicate the PNTL Organic Laws specifically under Chapter I General Principles in article 6⁴⁵ PNTL Hierarchy, article 7 PNTL Bodies and under Chapter II PNTL Organic Structure Section I PNTL Command, article 9⁴⁶ Organization of PNTL Command, Section II PNTL Bodies in article

⁴¹ Fundasaun Mahein. (2012, December 20). Security Analysis Post UNMIT Mandate in 2012. http://www.fundasaunmahein.org/wp-content/uploads/2012/12/MNL-no-43_20122012-UNMITpdf.pdf

⁴² Polisia Nasional Timor-Leste - PNTL

⁴³ Presidency of the Council of Ministers. (2013, August 16). PROGRAM OF THE V CONSTITUTIONAL GOVERNMENT, 2012-2017.p72.pdf.

⁴⁴ PNTL Organic Law. (2009). Police Authorities and Bodies. Article 7 Section 1 sub-section a,b and c.

⁴⁵ PNTL Organic Law. (2009). Hierarchy. Article 6 sub-section a.

⁴⁶ PNTL Organic Law. (2009). The Organization of the PNTL Command. Article 9 sub-section a to g

13⁴⁷ Superior Council of Police and Section V on District Commands, and article 36⁴⁸ PNTL Command and Mission.

Fundasaun Mahein requests that the Secretary of State for Administrative Decentralization and Local Government establish an inter-ministerial cooperation network, such as the one created with the Ministry of Defense and Security. In particular, the Secretary of State for Security and Defense should engage in meaningful discussions concerning relevant legislation so as not to incriminate other state institutions.

IV. Conclusion

The Administrative Decentralization and Local Government policy is an issue that is pertinent to the national development of Timor-Leste. The V Constitutional Government is currently making a wide range of efforts to introduce the decentralization policy to the people of Timor-Leste under the direct leadership of the Prime Minister Kay Rala Xanana Gusmão. In addition, the government has prepared laws on Municipality and decentralization policy as part of the legal proceedings to govern the functioning of the Municipal administration.

Nevertheless, there remain some social issues considered to be challenges for the implementation of the Administrative Decentralization and Local Government policy, and can have a negative impact on national stability. These include potential social conflicts such as land disputes (village, sub-district and district boundaries), Municipal and Municipal Council Elections, human resources, and many other issues. The government needs to take all these issues into consideration in order to avoid disastrous conflicts in the future.

⁴⁷ PNTL Organic Law. (2009). Superior Council of Police. Article 13 sub-section a to i

⁴⁸ PNTL Organic Law. (2009). Command and Mission. Article 36 Section 1 to 4

V. Recommendations:

1. Fundasaun Mahein recommends to the Secretary of State for Administrative Decentralization and Local Government, including the Minister for Territorial Administration, to speed up the drafting process of the law on decentralization and submit it to the National Parliament for review and discussion prior to approval.
2. Fundasaun Mahein recommends to the government to implement the CAVR recommendations on reparation to war victims during the Indonesian occupation. Additionally, FM recommends the government implement a more formal and improved process of Veteran recognition and commemoration prior to the implementation of the Administrative Decentralization and Local Government policy.
3. Fundasaun Mahein recommends that the Secretary of State for Administrative Decentralization and Local Government collaborate with the CNE and STAE to continue the facilitation of civic education. This should be done to raise awareness among political party leaders that provocative statements should not be stated during election campaigns and Municipal Council Elections.
4. Fundasaun Mahein recommends that the Ministry of Justice speed up the drafting of land legislation for submission to the National Parliament. This should be done to allow time for review and approval of the legislation prior to the implementation of the decentralization policy, thereby minimizing the occurrence of future land dispute conflicts.

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