



# TIMOR-LESTE: RESILIENT ELECTIONS BUILT ON EXPERIENCE

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## INTRODUCTION

This case study of Timor-Leste highlights how the institutional capacity of an electoral management body (EMB) to handle risks, challenges and crises can flow from the availability of skilled and experienced staff—rather than just from formal risk management processes.

For the past two decades, electoral processes in Timor-Leste have faced various risks and threats, threats. In each instance, the integrity of elections was potentially at stake. Having introduced the legal and institutional context, the case study provides an overview of key factors that have contributed to effective prevention of electoral risks; the withstanding of stresses and shocks through display of resilience; and recovery from crisis situations. The experience of Timor-Leste highlights that structural features of the electoral and political system, when strong, may be among the most significant protective factors.

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## BACKGROUND

Timor-Leste is the youngest nation in South East Asia. With a population of just over 1.3 million, it consists of the eastern end of the island of Timor and the Oecusse enclave (surrounded by Indonesian West Timor) on the north coast of the island, along with the offshore islands of Ataúro and Jaco.

A colonial possession of Portugal from the early 18th century, it encountered a political vacuum in 1975 as Portugal withdrew from overseas colonies

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following the ‘Carnation Revolution’ of April 1974. Conflict flared among political groups with differing visions for the future of the territory, and on 28 November 1975 the organization known as the Frente Revolucionária de Timor Leste Independente (FRETILIN) unilaterally declared the formation of an independent República Democrática de Timor Leste. On 7 December 1975, Indonesian forces invaded on a large scale, and with occupation a purported incorporation of ‘Timor Timur’ as the country’s 27th province ensued. Indonesian rule encountered ongoing resistance, involving guerrilla activities supported by a clandestine movement within the territory.

Catalysed by political changes in Indonesia following the death of President Suharto in 1998, a UN-organized ‘popular consultation’ (in fact, a referendum) took place in August 1999. Timorese voters opted for independence—78.5 per cent voted in favour—which was formally restored on 20 May 2002 after a period of UN transitional administration. By this point, a Constituent Assembly elected in August 2001 had adopted a new constitution (which provided for that Assembly to serve as the first Parliament of the new nation), and an incoming President had been popularly elected.

The Constitution (Timor-Leste 2002):

- incorporates extensive guarantees of basic human rights (including the right to vote, and to cast a secret ballot);
- provides for an independent judiciary;
- states (article 63) that ‘Direct and active participation by men and women in political life is a requirement of, and a fundamental instrument for, the democratic system’, and requires the law to promote ‘equality in the exercise of civil and political rights and non-discrimination on the basis of gender for access to political positions’;
- requires the President to be directly elected using a two-round system, and the National Parliament to be directly elected using a system of proportional representation (PR); and
- requires that there be an independent body to supervise the administration of elections.

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### **Timor-Leste’s electoral administration structures have evolved over time.**

Timor-Leste’s electoral administration structures have evolved over time. For the 2001 Constituent Assembly election the UN transitional authority established an Independent Electoral Commission (IEC) with both international and Timorese staff. The latter were put through an intensive capacity-building programme based on what later became the Building Resources in Democracy, Governance and Elections (BRIDGE) course (BRIDGE n.d.). At the 2002 presidential election the Timorese staff of the IEC took on leadership roles in each district. After the restoration of independence, the new government established within the portfolio of the Minister for State Administration, by decree (Timor-Leste Government 2003), the Technical Secretariat of Electoral

Administration (Secretariado Técnico de Administração Eleitoral, STAE), which has since been responsible for organizing all national elections. Its core staff at the outset came from the 'Class of 2001', and its leaders ever since have been drawn from that cohort.

The STAE is mandated (by article 6 of the Organic Statute of the Technical Secretariat of Electoral Administration—Timor-Leste Government 2007) to '... plan, carry out and provide technical support for elections, referenda and electoral register updates, both nationally and locally, through cooperation with existing administrative structures ...'.

The Law of the National Parliament entitled 'Electoral Administration Bodies' (Timor-Leste Parliament 2006), put STAE's existence on a statutory basis and defined and established the National Commission for Elections (Comissão Nacional de Eleições, CNE) as the constitutionally mandated independent supervisory body. CNE consists of:

- one member appointed by the President of the Republic;
- three members elected by the National Parliament, of whom at least one must be a woman;
- one member appointed by the government;
- one judicial magistrate elected by his or her peers; and
- one public prosecution magistrate elected by his or her peers.

The Director General of STAE is permitted to participate in CNE meetings, without voting rights. Successive governments have made considerable investments in the staffing of these bodies: both STAE and CNE now have permanent staff at the national and municipal levels. They have also built up international connections: STAE is an Associate Member of the Pacific Islands, Australia and New Zealand Electoral Administrators' (PIANZEA) Network, while CNE is a member of the Association of World Election Bodies (A-WEB).

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## PREVENTION OF ELECTORAL AND INSTITUTIONAL RISK

The ultimate strategic risk for an electoral process is that its outcome will not be accepted as legitimate by a critical mass of the voters. This risk is mitigated specifically by the checks and balances involved in having an independent CNE, and a mechanism for disputes to be resolved by the independent Court of Appeal. But in Timor-Leste it has also been reduced by a range of policies and practices.

First, the constitutionally mandated system of PR—implemented as a closed list d'Hondt system with a legislated threshold of 4 per cent (initially 3 per

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cent)—has meant that since 2007, every government has consisted of a coalition or alliance rather than a single party. The use of PR has also produced a relatively dynamic party structure: of the eight parties and coalitions which contested the 2018 parliamentary election only two, FRETILIN and the Partido Democrático (PD), had taken part in the 2001 election. The net effect of this has been to reduce the risk of extreme bipolar partisanship which can sustain a culture of disputed elections. Instead, pragmatic coalition formation is now an embedded feature of the Timorese political system, discouraging parties from taking the sorts of stances which may create permanent enemies.

The use of closed lists, moreover, has effectively removed any incentive for individual candidates to engage in the type of vote-buying which has marred elections in nearby countries such as Papua New Guinea and Solomon Islands (Hawkins 2020; Radio New Zealand 2022). A notable feature of Timor-Leste's closed list system is its requirement that at least one out of every three candidates on a list be women: at the 2018 parliamentary election, women constituted 39 per cent of the representatives elected. That having been said, Niner and Nguyen (2023: 163) have noted that:

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Although an overwhelming majority of Timorese believe that women and men are equal and should each have the same opportunities, reservations about women's capacity and capabilities to be political leaders remain common. This confirmed past research findings about lack of support from political parties, including women members, for gender quotas because women were seen as unqualified. ...While women are generally perceived to have most of the important innate characteristics necessary for political leadership, such as intelligence, honesty, and articulateness, it was believed they lack either the requisite skills, abilities, or experience. ...gender stereotypes which create an unconscious bias or prejudice against women being political leaders. ...Furthermore, even when they have won a position, they faced near-impossible expectations, primarily that their first priority should always be the care of their families, while men escaped this double burden.

Second, risk management in Timor-Leste is served by the processes for polling and counting being exceptionally simple and transparent. There is a permanent computerized register of voters, and those on it are issued with a photographic voter registration card to be presented at polling centres. A vote is given for one candidate at a presidential election or for one party at a parliamentary election. Multiple voting is prevented by the marking of voters with indelible ink, serving as a confidence-building measure (it was first deployed in the UN's 1999 popular consultation and has been used ever since). Ballot secrecy is preserved by the provision of private voting screens, and by a ban on the carrying of cameras or mobile phones by voters in polling stations. The ban was put in place in response to the

widespread availability of smartphones in Timor-Leste, the rise in other countries of the phenomenon of ‘ballot selfies’, and a small number of cases when Timorese voters posted photos of their marked ballots on social media.

Vote counting takes place at each polling centre immediately after voting ends, and involves the display of each ballot individually so that all present can satisfy themselves that a vote has been correctly allocated. The result of the count at each polling centre is publicly displayed, making it feasible for organizations to validate the tabulated national results by doing their own parallel tabulations. The national tabulation is undertaken by the independent CNE rather than STAE, with the final election results being formally validated by the independent Court of Appeal (which also has a mandate to rule on electoral disputes).

Agents appointed by parties or presidential candidates, national and international election observers, and media professionals have extensive rights (typically taken up on a grand scale) to observe and record all elements of the polling and counting; and Timor-Leste has always encouraged the presence of international observers. It is especially notable that the country has eschewed the adoption of high-tech mechanisms such as biometric voter registration and identification, which in a number of other countries such as Kenya (Barkan 2013; Wrong 2013) and Afghanistan (International IDEA 2020) have reduced the transparency of the electoral process and given rise to myriad technological challenges, while failing to generate the benefits which they seemingly promised.

Third, at the political level it has apparently come to be increasingly understood that both the perception and reality of Timor-Leste’s electoral integrity are national assets for a small and relatively poor country. The conduct of the country’s elections has been consistently praised by international electoral observers (EU EOM 2007: 1–3; 2012: 3–6; 2017: 1–3; 2022: 1–2). Timor-Leste was ranked first in South East Asia in *The Economist’s* Democracy Index in both 2016 (EIU 2017: 34) and 2019 (EIU 2020: 26), and second behind Malaysia in 2022 (EIU 2023: 8). The quality of elections was a major contributor to all of those high rankings. In the 2019 Index, Timor-Leste was ranked highest in South East Asia on the specific dimension of ‘Electoral Process and Pluralism’ (EIU 2020: 26). In 2022, on that dimension, it shared the highest South East Asian rating with Malaysia; and was rated equal with Austria, France, Germany, Spain, Sweden and Switzerland, and more highly than India, Japan and the USA (EIU 2023: 8–11). As of May 2022, Timor-Leste was also ranked first in South East Asia in the Perceptions of Electoral Integrity Index compiled by the Electoral Integrity Project (Garnett, James and MacGregor 2022: 7).

The value which Timorese voters place on their democracy is evinced in several ways. Turnout at elections is relatively high, even though voting is not compulsory. At the 2018 parliamentary election, it reached 81 per cent, and at the first round of presidential voting in March 2022, it was only slightly lower at 77.3 per cent (International IDEA 2023 n.d.). In 2022, although slightly fewer

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women than men were registered to vote—with women constituting 48.2 per cent of registered voters (STAE 2022)—77.9 per cent of registered women voted in the first round, compared to 76.7 per cent of registered men (CNE 2022a). This pattern was repeated at the second round of voting in April 2022 (CNE 2022b). Beyond turnout, the willingness of voters to switch their votes from one party or presidential candidate to another provides further evidence of the widespread appreciation of the power of the act of voting.

Finally, both STAE and CNE have been able to build on these strengths in such a way as to gain public trust. In a USAID-funded survey of public opinion in Timor-Leste conducted by INSIGHT Lda in October–November 2018, 81 per cent of respondents expressed a ‘very favourable’ view of STAE, and another 14 per cent expressed a ‘somewhat favourable’ view. Only 2 per cent had a ‘somewhat unfavourable’ view; the remaining 3 per cent did not express a view. For CNE, the corresponding figures were 77 per cent ‘very favourable’, 16 per cent ‘somewhat favourable’, and 4 per cent ‘somewhat unfavourable’, with 3 per cent expressing no view (Center for Insights in Survey Research 2018: 45). Overall, STAE had the third best rating of all government institutions included in the survey, being outranked only by the armed forces and the national police. Long-standing support for the country’s electoral institutions from the UN and from the international community more generally has also helped to reinforce public confidence.

Furthermore, the use of manual, labour-intensive processes means that many Timorese men and women have worked as polling officials, or have friends or members of their large extended families who have done so. Such workers can perform the additional function of being long-term advocates for the processes in which they have been involved, reducing the likelihood of a build-up of distrust. Polling officials in Timor-Leste, even those in management roles, are overwhelmingly young. Their visibility may especially promote trust among people of similar age.

Associated with these levels of trust has been the development of a culture of respect for the electoral process, and of an understanding that its success is a matter of shared societal responsibility rather than being dependent purely on the work of STAE and CNE. Civil society is significantly engaged in activities such as election observation, voter education and policy advocacy (for example, on behalf of persons living with disabilities).

Given this relatively positive environment, Timorese EMBs apparently have not seen a need to develop detailed risk management plans (i.e., with risks identified and their probabilities assessed, and appropriate responses identified in advance). For the more day-to-day operational risks, such as disruption of polling by bad weather, natural disasters or civil disturbances, standard provisions permitting postponement or adjournment of polling are included in the Law on the Election of the National Parliament (Timor-Leste Parliament 2017). However, the Law is silent on precisely who is to be the decision maker in such cases. Depending on the circumstances, polling may be resumed at the affected polling centre (if the problem which led to a

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suspension is resolved within two hours) or resumed or undertaken at another site (with voters being redirected there).

More generally, reliance is placed on staff being able to draw on past experience to come up with solutions to challenges as they arise. Normal operational planning deals with predictable issues such as problems with vehicular access in the wet season, and limited access to electricity and telecommunications at some polling centres. Scope exists for external advice or support (both formal and informal) to be obtained in relation to more technical problems, such as software issues, from both local agencies and the international institutions.

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## RESILIENCE TO STRESSES AND SHOCKS

Timor-Leste's electoral processes have come under significant strain on two separate occasions. First, the political system more broadly was greatly stressed by a crisis in 2006–2007, the origins of which were complex. As noted in the definitive account (Nuttall 2021: 152):

In the middle of May 2006, Timor-Leste was poised on the brink of violent conflict. Political tensions had come to a head between Prime Minister Mari Alkatiri and President Xanana Gusmão, among factions within Fretilin, between the government and opposition parties, between and within the police and the army, and between *Iloromuno* [western region] and *Ilorosa'e* [eastern region] communities in [the capital] Dili.

The deterioration of the situation, marked by outbreaks of inter-agency and intercommunal violence and the internal displacement of significant numbers of people in Dili, led to the resignation of Prime Minister Alkatiri (of FRETILIN) and his replacement by a more neutrally perceived figure, the Foreign Minister and Nobel Laureate José Ramos-Horta. An Australian-led International Stabilization Force was deployed, with the elections due in 2007 seen as a potential flash point, but this was also a mechanism for addressing the country's divisions through politics rather than violence.

One of Ramos-Horta's early acts as Prime Minister was to request the UN to 'contribute to building Timor-Leste's institutional capacity to organize democratic elections that are genuine and periodic and have the full confidence of the contending parties and the electorate', and to 'observe and verify the election process in Timor-Leste, including the legislative and presidential elections scheduled for April and May 2007' (UN Security Council 2006). At the time, CNE had not been established and STAE had a relatively small staff, all based at headquarters. Opportunities since 2002 to reinforce and consolidate institutional capacity had therefore largely been lacking. The Prime Minister's requests were met through the deployment of a substantial UN technical assistance team, including UN Volunteers placed in every district,

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and the establishment of an independent UN Certification Team which visited the country on multiple occasions. The latter issued detailed reports, the main impact of which was to reinforce public confidence that the electoral process was being closely and independently monitored.

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With those mechanisms in place, the elections in 2007 proceeded relatively smoothly, though government formation after the 2007 parliamentary election was more hotly disputed. The crisis which began in 2006 came to an abrupt end in 2008, with the attempted assassination of the (by then) President Ramos-Horta. The aftermath of that event was marked by a renewed close attention to correct constitutional processes, and a strong sense of public horror at what might have been: anecdotal evidence also suggests a widespread perception among ordinary members of the public that they had been encouraged by various political leaders to engage in civil conflict, sometimes violent, which in hindsight appeared to have been motivated predominantly by those leaders' personal political rivalries. Citizens also expressed a feeling of resolve that they would not allow themselves to be so used again.

Second, Timor-Leste, like every other country in the world, was challenged by the Covid-19 pandemic. As it was primarily a public health problem, the nation's frontline response took the form of steps which were of indirect but significant benefit to the 2022 electoral processes: travel restrictions, testing for infection, infection control measures and the rollout of vaccines. Specific electoral mitigation measures were also researched and proposed by an International IDEA expert team (International IDEA/UNDP 2021), but most of those were not in fact taken up. Requirements were however put in place for polling staff, observers and monitors, media professionals and agents of the candidates: to be fully vaccinated; for the wearing of gloves and face masks (by polling staff); and for hand sanitizer to be provided.

For reasons which remain unclear, a Government Decree dealing with polling (Timor-Leste Government 2022) also included a provision which would have required voters displaying symptoms of Covid-19 to be transferred to the nearest isolation centre to vote there. That was plainly unworkable, since there were very few such centres nationwide, and no resources to effect the transfer of the voters. STAE's response, therefore, was simply to ignore the provision, making only passing reference to it in documentation provided to polling staff, excluding it from staff training programmes, and doing nothing to publicize it. That approach attracted no criticism, and while it might not have been workable in a more litigious society, it was well-matched to the exigencies of the situation on the ground.

The Timorese EMBs' approach reflected in part a disinclination to move even slightly from mechanisms which had worked successfully in the past and in which there was strong public confidence. But it also appeared to flow from the fact that in a country where infectious diseases such as malaria and dengue fever remain common, Covid-19 simply had less capacity to shock the public than in countries where large-scale communicable diseases had been largely



eliminated. In the event, the 2022 polling processes went smoothly, with no evidence that they had produced any spike in Covid infections, or a decrease in turnout on a scale which would suggest a major unwillingness on the part of voters to participate.

The experience of those two crises highlights the extent to which Timor-Leste has benefited from the long-term support of international actors such as the UN (and specifically the UN Development Programme), the European Union, the International Foundation for Electoral Systems (IFES), the International Republican Institute (IRI), the National Democratic Institute for International Affairs (NDI) and International IDEA; and of donors from a range of countries including Australia, Japan, South Korea and the USA. STAE and CNE have also drawn strength from links fostered with foreign EMBs such as those of Australia, Indonesia, Portugal, and the various PIANZEA Network members.

Perhaps most importantly, electoral experience is valued. Timor-Leste's investment in a full-time professional EMB stands in contrast to the approach taken in many countries of similar size, where election administration is undertaken as a somewhat peripheral, intermittent duty of public officials with a range of other tasks (many of whom will only focus on electoral duties intermittently, rather than throughout the electoral cycle). Particular depth flows from the existence of STAE and CNE offices across the country, rather than just in the capital. Some of those dispersed staff have now been working on elections for well over a decade, and have international experience—STAE has deployed two assistance missions to Guinea-Bissau—or experience working in headquarters. STAE has also made good use of the BRIDGE course, and the country has sufficient accredited BRIDGE facilitators to run courses with little or no international support. Moreover, the use of BRIDGE in Timor-Leste has, for longer than any other country in the world, served to reinforce capacity among EMB staff—fostering a culture of open internal communication and understanding of values underpinning operational work, among others.

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## CONCLUSIONS

Timor-Leste's policies and practices for dealing with electoral crisis situations are virtually all informal and implicit rather than structured and explicit. In some cases, they have also been highly pragmatic, based on a blend of common sense and an understanding of what actions will be defensible. STAE and CNE have not yet experienced institutional or situational crises that actually undermined electoral integrity.

In some respects, Timor-Leste's approach to risk management looks distinctly old-fashioned, especially in its reliance on people and experience rather than formal processes and documentation. It is worth noting, however, that many successful elections, all over the world, were conducted using a similar risk management approach until comparatively recently.

One could question whether the existing approach would be workable and safe if the country were to adopt complex, especially technologically complex, electoral mechanisms. But it appears to have been adequately matched to the simple and transparent processes which have been in place to date. That having been said, any move by Timor-Leste to adopt more elaborate and unfamiliar technology, such as biometric voter registration, could well make the existing approach to risk management harder to sustain. However, more structured and systematic risk management processes are not by themselves a magic bullet: the most elaborate risk matrices will be of limited value unless their content has been devised by people with a very strong understanding of the underlying electoral requirements.

More broadly, the approach of Timor-Leste's EMBs when confronted with a possible crisis of some sort has been to seek to ensure that the fundamental requirements for a free, fair and trusted electoral process—universality and transparency—will be prioritized through reliance on mechanisms which have worked well in the past and are widely understood and accepted. To date this has sufficed; but it is yet to be tested by a truly catastrophic set of circumstances.

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**Michael Maley** had a 30-year career with the Australian Electoral Commission, retiring in 2012, as Special Adviser, Electoral Reform and International Services. A frequent visitor to Timor-Leste, he served as a Commissioner of the Independent Electoral Commission created by the UN to conduct the 2001 Constituent Assembly election, and as a member of the Certification Team appointed by the UN for the 2007 presidential and National Assembly elections. He has been an international observer at all subsequent National Assembly elections in Timor-Leste, and has also worked as a consultant to International IDEA, the Commonwealth Secretariat and IFES.

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