

POST CONFLICT HOUSING RECONSTRUCTION AND THE RIGHT TO ADEQUATE HOUSING IN TIMOR-LESTE

An analysis of the response to the crisis of 2006 and 2007

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CONTENTS

LIST OF ACRONYMS	3
1. INTRODUCTION AND CONTEXT	4
The housing rights context: from occupation to independence	5
The post-independence period	8
2. THE CRISIS OF 2006 - 2007	10
The events surrounding the crisis	10
Underlying drivers of the conflict	12
3. KEY CHALLENGES AND RESPONSE STRATEGIES	13
The key housing rights challenges	13
Early responses	14
The National Recovery Strategy	16
Hamutuk Hari'i Uma (Together Building Homes)	17
The role and responsibilities of key agencies under the HHU	20
4. PROGRAMME IMPLEMENTATION	21
Privatising reconstruction: the cash payments response	23
The dialogue and mediation process: filling the institutional void	26
The policy of return: the failure to offer resettlement housing as a genuine option	29
5. TRANSITION TO RECONSTRUCTION AND DEVELOPMENT	32
6. CONCLUSIONS AND LESSONS	37
7. RECOMMENDATIONS	40
BIBLIOGRAPHY	45
ANNEX A: CHRONOLOGY OF MAIN EVENTS	49
ANNEX B: HAMUTUK HARI'I UMA OPERATIONAL PLAN	51
ANNEX C: ROLES AND RESPONSIBILITIES	61

LIST OF ACRONYMS

AMP	Alliance for Parliamentary Majority
CAVR	Commission for Reception, Truth and Reconciliation
F-FDTL	The National Defence Force of Timor-Leste
FRETILIN	Revolutionary Front for the Liberation of Timor-Leste
GIS	Geographic Information System
HHU	<i>Hamutuk Hari'I Uma</i> 'Together Building Houses'
IDMC	Internal Displacement Monitoring Centre
IDPs	Internally Displaced Persons
INR	<i>Ita Nia Rai</i> 'Our Land' programme
IOM	International Organisation of Migration
LPU	Land and Property Unit
MoI	Ministry of Infrastructure
MoJ	Ministry of Justice
MLCR	Ministry of Labour and Community Reinsertion
MSA	Ministry of State Administration
MSS	Ministry of Social Solidarity
NDLP	National Directorate of Land and Property
NDLPCS	National Directorate for Land, Property and Cadastral Services
NRC	Norwegian Refugee Council
NRS	National Recovery Strategy
PNTL	Timor-Leste police force
TNI	Indonesian National Armed Forces
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
UNMISSET	United Nations Mission of Support in Timor-Leste
UNMIT	United Nations Integrated Mission to Timor-Leste
UNOTIL	United Nations Office in Timor-Leste
UNTAET	United Nations Transitional Administration in East Timor

1. INTRODUCTION AND CONTEXT

Timor-Leste was internationally recognised as an independent country in May 2002 following more than three centuries of Portuguese colonial rule and 24 years of Indonesian occupation.¹ Housing rights violations, and in particular forced evictions and displacement, are a key characteristic of Timorese history and continue to plague the new State. As the Commission for Reception, Truth and Reconciliation (CAVR) observed in 2005, many individuals in Timor-Leste have experienced several episodes of displacement in their lifetime.² During the era of Portuguese colonization, clans lost control of their land in areas targeted by commercial interests. The Japanese invasion of the country during World War II resulted in a period of mass upheaval and displacement. Further conflict and dislocation marred the half-island as the Portuguese administration began its withdrawal in 1974 and political divisions amongst Timorese exploded into civil war the following year. The invasion by Indonesia in December 1975 and the years of oppression and resistance that followed saw mass displacement, often through concerted policies aimed at gaining territorial control and assimilating the Timorese population.³ The violent rampage that followed the vote for independence from Indonesia in September 1999 displaced over two thirds of the population.

Displacement, whether forced by the State or individuals as a means of control or punishment, or whether self-motivated in anticipation or response to violence, has become both a driver and a product of conflict in Timor-Leste. The successive waves of displacement and occupations of abandoned properties have wreaked havoc upon land tenure systems resulting in a high incidence of land conflict, widely viewed as one driver of the civil conflict that broke out in 2006 and continued into 2007 known as “the crisis”. The frequency of violence throughout the country’s recent history, in which houses have been targeted for destruction, has had an indelible affect on the national psyche, apparent in the occurrence of “anticipatory displacement” whereby people flee their homes at early signs of conflict.⁴ The psychological impact can also be seen in the scale and longevity of displacement during the 2006/7 crisis, which were considerable relative to the

¹ The political party, FRETILIN, unilaterally declared Timor-Leste’s independence on 28 November 1975, nine days before Indonesia invaded.

² CAVR. 2005. *Chega!*, Final Report of the Commission for Reception, Truth and Reconciliation, s 7.3.7. (www.cavrtimorleste.org/en/chegaReport.htm)

³ For example, transmigration programs were implemented, whereby the Indonesian government confiscated land from Timorese families in order to entice Indonesian citizens from other islands to East Timor through the offer of housing and property. The program created the forced resettlement of *sucos* (villages) usually with no compensation. The intensity of these programs meant that by the 1990s approximately half of Dili’s population was not of East Timorese origin. A further program under the Indonesian regime involved the resettlement of East Timorese villages from mountainous Falintil-controlled areas to locations more easily accessible and controllable by the Indonesian military. (Jean du Plessis and Scott Leckie. 2000. Housing Property and Land Rights in East Timor: Proposals for an Effective Dispute Resolution and Claim Verification Mechanism. United Nations Habitat. 31 May 2000, pp 8 and 21).

⁴ Sara Gonzales Devant. 2008. Displacement in the 2006 Dili Crisis: Dynamics of an Ongoing Conflict. Univeristy of Oxford Refugee Studies Centre Working Paper No. 4. January 2008, p 22.

actual levels of violence; over ten percent of the country's population or half of the population of the capital, Dili, was displaced.⁵

History has also produced a complex web of overlaying land tenure systems. Customary land tenure, which continues to govern most of rural Timor-Leste, was supplanted in urban centres and rural plantation areas by two completely different land administration systems during Portuguese and Indonesian rule. The result is that today legitimate competing claims to land derive from customary tenure systems, titles and other rights issued by both Portuguese and Indonesian administrations, previous and current adverse possession of property and more recently from use rights granted by the United Nations (UN) administration. This muddle of different systems, coupled with recurring displacement and occupation, has contributed to chronic tenure insecurity and land conflict.

This report will focus on the most recent episode of conflict in Timor-Leste, the 2006/7 crisis, in order to distil lessons about the way in which housing and land rights violations – and the failure to address them – feed into cycles of displacement, dispossession and conflict. An analysis of the causes and housing rights implications of this conflict elucidates the repercussions of weak and incomplete responses to earlier conflict and displacement. An examination of the response to the recent episode in 2006/7 offers insights into the extent to which key actors took into account lessons learnt from previous experience and designed and implemented a programme that both addressed immediate housing rights concerns and aimed to prevent a recurrence of violence, destruction and displacement.

The housing rights context: from occupation to independence

The violence and destruction of September 1999 left an enduring impact on the housing rights situation of the country. As such a brief description of the events and responses - or lack there of – is necessary for an understanding of the crisis that occurred over six years later. In a UN-supervised referendum held on 30 August 1999, the people of Timor-Leste overwhelmingly rejected increased autonomy within Indonesia, in favour of full independence. In response, militia groups and factions of the Indonesian military (TNI) unleashed a campaign of terror on the population, killing approximately 1500 people and systematically burning and destroying houses and other infrastructure. It is estimated that, during the rampage 67,500 out of an estimated 170,000 houses, or 40 percent of all housing stock, were rendered uninhabitable.⁶ Approximately 70 percent of all physical infrastructure was destroyed or rendered inoperable.⁷ Administrative documents, including land title records, were also destroyed or taken to Indonesia.⁸

⁵ Note that several people interviewed expressed scepticism about the official figure of 150,000 people displaced, suggesting the figure may have been inflated because of double and triple registration by IDP families (sometimes because they were split across camps), the registration of non-IDPs and potentially also to attract extra funding by particular humanitarian agencies.

⁶ Hassell Pty. Ltd. 2002. Towards a Medium-Term Sector Strategy for Housing in East Timor. March 2002, para 27.

⁷ Daniel Fitzpatrick. 2002. Land Clams in East Timor. Asia Pacific Press. Canberra. p 8.

⁸ Hassell Pty. Ltd. 2002. Towards a Medium-Term Sector Strategy for Housing in East Timor. March 2002, para 27.

During the violence, of a total population of 900,000, approximately 300,000 people were forced or fled into Indonesian West Timor and an estimated 450,000 were internally displaced.⁹ Houses left empty by refugees and civil servants of the Indonesian administration were occupied by others, often because their own homes had been destroyed during the unbridled destruction.¹⁰ Over the following months and years, returning refugees frequently found their homes occupied and had to pay the secondary occupants compensation for ‘guarding’ or improving their homes so that they would leave. In many cases the secondary occupants refused to vacate, forcing the returnees to seek shelter elsewhere.¹¹ New occupiers often took over more than one vacant house and, taking advantage of the influx of foreign aid workers, rented out houses for increasingly higher rates.

In order to restore public order, and commence the process of nation-building, the United Nations Transitional Administration in East Timor (UNTAET) was established on 25 October 1999 by UN Security Resolution 1272.¹² The resolution vested in UNTAET the “overall responsibility for the administration of East Timor” and “empowered [it] to exercise all legislative and executive authority, including the administration of justice.” One of UNTAET’s most immediate and urgent challenges was to administer the return of refugees.

The United Nations High Commission for Refugees (UNHCR) was primarily responsible for the refugee return process and was aided by the International Organisation of Migration (IOM). There was no systematic response to assist the Internally Displaced Persons (IDPs), who were largely left to their own devices.

According to Daniel Fitzpatrick, UNHCR failed to develop a coherent policy for return. He states:

“Refugees were simply asked where they wanted to go - most replied Dili - and were delivered there without questions as to their place of origin or intended place of shelter. Most spent a night or two – the maximum allowed - in a transit centre in Dili, then were left to find their own shelter and food. In February 2000, this led a senior member of CNRT - the umbrella East Timorese political group - to furiously claim...that returning refugees were being "dumped" in Dili without thought as the effect of this policy on overcrowding and housing conflict in the city.”¹³

The strain placed on the capital’s much-reduced housing stock by the influx of refugees and IDPs, as well as foreign aid and development workers, was perhaps most evident by the hyper-inflation of the housing market, exacerbated by the sizeable per diems of United Nations and

⁹ Daniel Fitzpatrick. 2002. *Land Clams in East Timor*. Asia Pacific Press. Canberra. p 5.

¹⁰ According to Land and Property Authority (LPA) surveys, there were approximately 10,000 abandoned properties. (Support to National Housing Policy (SNHP): Outline Urban Strategy. Paper No 1. Ministry of Transport, Communications and Public Works, p 3.)

¹¹ Jean du Plessis and Scott Leckie. 2000. *Housing Property and Land Rights in East Timor: Proposals for an Effective Dispute Resolution and Claim Verification Mechanism*. United Nations Habitat. 31 May 2000, pp 9-10; and Centre on Housing Rights and Evictions (COHRE). 2000. *Better Late Than Never: Housing Rights in East Timor*. Mission Report. COHRE. Geneva. September 2000. p 11.

¹² See, Security Council Resolution 1272 on the situation in East Timor. UN SCOR. 54th sess. 4057th mtg. UN Doc S/RES/1272 (1999).

¹³ Daniel Fitzpatrick. 2002. *Land Clams in East Timor*. Asia Pacific Press. Canberra, p 9 (citing a pers. comm. J. Gonzalves, CNRT Official, Dili, 25 February 2000).

other international agency staff.¹⁴ With economic activity concentrated in Dili ever since, rapid urbanisation has continued, creating increasing demographic challenges on the city, including overcrowded housing conditions and the emergence or growth of slum and low-income *barrios*.¹⁵

As a result of the egregious destruction of housing that preceded UNTAET's establishment, the provision of shelter was a key humanitarian requirement throughout the country. The UNHCR coordinated the distribution of 50,000 emergency shelter kits by NGOs, serving more than 268,000 people - nearly one third of the population.¹⁶ The shelter kits - comprised of roof materials, poles, cement and tarpaulin - were used for on-site reconstruction of damaged housing.¹⁷ UNHCR blue tarpaulins were visible on housing around the country for years to come where permanent repairs had not been made.

Beyond the humanitarian response, no resources were directed by UNTAET towards the provision or reconstruction of housing or the development of a housing policy. As described by Fitzpatrick:

"It is an extraordinary fact that no provision was made for housing issues in the original planning of UNTAET. There was no division or department of housing... It is also extraordinary that the budget for 2000-01...persisted in making no specific provision for public housing."¹⁸

UNTAET set up the Land and Property Unit (LPU), in December 1999, which was vested with authority over land and property issues.¹⁹ However, the issue of titling and tenure security was not substantively addressed during this period, reflecting the complexity and sensitivity of the task that was viewed as best left to an elected government post-independence.²⁰ According to

¹⁴ During 2001 and 2002, the 'boom years' of the foreign presence, 8000 foreign nationals were residing in East Timor and over half of these lived in urban Dili. (Background Paper: National Symposium: Housing the Poor in Urban Economies. Ministry of Public Works and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). Dili. April 2006, p 1.)

¹⁵ Background Paper: National Symposium: Housing the Poor in Urban Economies. Ministry of Public Works and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). Dili. April 2006, p 1.

¹⁶ Hassell Pty. Ltd. 2002. Towards a Medium-Term Sector Strategy for Housing in East Timor. March 2002, para 3.

¹⁷ Steven Weir and Earl Kessler. 2006. Community-based Disaster Response: Only One Component of an Effective Shelter Framework. Habitat for Humanity, Asian Disaster Preparedness Center, International Housing Coalition. 20 June 2006. p 9.

¹⁸ Daniel Fitzpatrick. 2002. Land Clams in East Timor. Asia Pacific Press. Canberra, p 10.

¹⁹ See, UNTAET Regulation No. 1999/1 On the Authority of the Transitional Administration in East Timor. 27 November 1999, s 7.1.

²⁰ See, Daniel Fitzpatrick. 2002. Land Clams in East Timor. Asia Pacific Press. Canberra, p 197. The first UNTEAT regulation vested all authority in the Transitional Administration, and accordingly land that had been previously registered as state land by Indonesia was to be administered by the UN mission. Abandoned properties were also deemed to be public property to be administered by UNTAET "until such time as the lawful owners are determined." In the beginning of the UNTAET administration, the LPU granted temporary use agreements over abandoned land to new occupants. However, as original owners returned to claim land, the policy of granting such agreements was restricted. According to research carried out by the East Timor Land Law Program, there was very little knowledge of the existence of UNTAET temporary use agreements by the community as a means of securing property rights. (Edwin Urresta and Rod Nixon, 2004. Report on Research Findings: Policy Options and Recommendations for a Law on Land Rights and Title Restitution. East Timor Land Law Program. Dili. July 2004, p 80.)

Jean du Plessis, dealing with land rights issues presented “a challenge so daunting that there was a reticence, within both...UNTAET and the emerging East Timor political leadership, to tackle the problem in any immediate, direct or concerted way.”²¹ The failure to deal with land, housing and property rights from the outset, while understandable in some respects given the enormity of the challenges involved, made the task more complicated as new layers of land transfers and occupation were added on top of an unstable base.

The post-independence period

UNTAET’s mandate ended with the country’s transition to independence on 20 May 2002 (see Box 1). The new Constitution of the Democratic Republic of Timor-Leste was adopted by the Constituent Assembly in the following days. Part II of the Constitution contains an extensive bill of rights, including rights to a house and private property (see Box 2). Measures aimed at giving effect to these rights in the following years, however, were piecemeal and largely unsuccessful. Despite some commendable efforts to deal with the land tenure puzzle by a number of dedicated Timorese government officials and international advisors, successive governments failed to enact legislation to determine first ownership rights in the new country. As will be discussed in Section 5, it was not until 2010 that a draft Transitional Land Law was approved by the Council Ministers, and to date it still awaits consideration by Parliament.

Three land-related laws were promulgated in the first few years of independence, two of which deal with leasing of State and private property. The most significant piece of legislation, Law 1/2003, defines and governs the administration of State property and property that was abandoned in 1999 and has not been reclaimed by its rightful owner. Under the law abandoned properties are administered by the State but may be returned to claimants who can prove ownership. The law directed nationals and non-nationals whose property had been illegally appropriated or occupied by third parties to submit their claims of ownership to the National Directorate of Land and Property (NDLP), the post-independence successor to the LPU, within a given time period.²² For all abandoned properties that remained unclaimed, ownership reverted to the government, although for nationals of Timor-Leste the reversion of those properties could be contested in court until the end of 2008.²³ The law also established a procedure for administrative evictions.²⁴

The passage of Law 1/2003 provided a legal basis for some progress to be made during these early years towards the administration of State property and the collection of property claims. The NDLP collected over 12,000 claims, the vast majority of which were lodged by foreigners, predominantly Indonesian nationals.²⁵ Significant progress was also made in building the

²¹ Jean du Plessis. 2003. Slow Start on along Journey: Land Restitution Issues in East Timor, 1999-2001. In Scott Leckie (ed). 2003. *Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons*. Transnational Publishers. New York, p 144.

²² Law No. 1/ 2003 The Juridical Regime of Real Estate (2002) (Timor-Leste), s12.

²³ Law No. 1/ 2003 The Juridical Regime of Real Estate (2002) (Timor-Leste), s 12(4).

²⁴ Law No. 1/2003 Juridical Regime of Real Estate (2002) (Timor-Leste), s 7 and 8.

²⁵ Pedro Xavier de Sousa. 2005. East Timor, Land Management - a Long Way to Go, but we have started, December 2005. (http://www.fig.net/commission7/bangkok_2005/papers/6_3_sousa.pdf)

capacity of the NDLP, which successfully mediated a considerable number of land disputes despite having severe human and financial resource constraints.²⁶

However, the problems of rapid urbanisation, chronic shortage of housing stock and unclear land and property rights were not dealt with in a concerted and comprehensive manner by the new State and are often cited as drivers of the recent conflict. The failure to take significant steps towards addressing these issues during these early years, despite the warnings and efforts of a number of national and foreign advisors, ultimately contributed to the creation of a pressure cooker situation, ready to explode with rising political and social tensions.

Box 1: The Successive United Nations Missions in Timor-Leste

Following the expiration of UNTAET's mandate upon Timor-Leste's independence on 20 May 2002, the UN Mission of Support in East Timor (UNMISSET) was established to provide assistance to the new Government in the areas of public administration, law and order and external security. The United Nations Office in Timor-Leste (UNOTIL) succeeded UNMISSET on 20 May 2005. UNOTIL was a special political mission established to carry out peace-building activities and to support the capacity development of critical state institutions including the National Police (PNTL) in order to strengthen democratic governance and to help build peace in East Timor. Following the 2006 crisis, UNOTIL's mandate was extended until 20 August 2006. UNOTIL was replaced by the current UN Integrated Mission to Timor-Leste (UNMIT), which has focused on policing functions and police training, political and community reconciliation, assistance for the elections humanitarian relief services. On 26 February 2010, the UN Security Council adopted resolution 1912 (2010), which extended UNMIT's mandate until 26 February 2011 with a continued focus on *inter alia*, policing and justice sector reform.

Sources:

The Australian Government Department of Foreign Affairs website 2010
UN Security Council Resolution 1912 (2010)

Box 2: The Right to Adequate Housing in the Constitution

The Constitution of the Democratic Republic of Timor-Leste (2002) contains an impressive list of human rights protections. Section 58 largely incorporates the state's international housing rights obligations into domestic law. It states:

"Everyone has the right to a house, both for himself or herself and for his or her family, of adequate size that meets satisfactory standards of hygiene and comfort and preserves personal intimacy and family privacy."

If the words of the section are interpreted broadly, the aspects of the international law right to adequate housing are constitutionally protected: the "*right to a house*" implicitly demands affordability and accessibility; "*adequate size*" and "*satisfactory standards of hygiene and comfort*" would include a right to a habitable abode and could be interpreted to include other aspects such as the availability of facilities such as water and sanitation, location and cultural adequacy. The provision explicitly applies to both men and women, requiring non-discrimination on the basis of gender in the application of the right.

While not explicitly protected, the right to secure tenure, as a subset of the right to adequate housing, can be read into in section 58 in conjunction with other constitutional provisions. Section 37 of the constitution affords some protections in this regard stating that:

1. Any person's home...[is] inviolable, except in cases provided for by law as a result of criminal proceedings.
2. A person's home shall not be entered against his or her will, except under the written order of a competent judicial authority and in the cases and manner prescribed by law.

²⁶ Of the 972 disputes brought to the LPU and then NDLP between December 2000 and January 2006, 314 were resolved through mediation. (Daniel Fitzpatrick. 2008. Mediating Land Conflict in East Timor. In AusAID. 2008. Making Land Work. Volume Two. AusAID, Canberra, p 178.)

3. Entry into any person's home at night against his or her will is clearly prohibited, except in case of serious threat to life or physical integrity of somebody inside the home.

Section 54 enshrines a right to private property, stipulating that:

1. Every individual has the right to private property and can transfer it during his or her lifetime or on death, in accordance with the law.
 2. Private property should not be used to the detriment of its social purpose.
 3. Requisitioning and expropriation of property for public purposes shall only take place following fair compensation in accordance with the law.
- [...]

It is noteworthy that with respect to land, this section contrasts to customary notions of land rights, with a focus on individual rights to private property as opposed to communal or use rights.

Section 23 of the constitution requires “[f]undamental rights enshrined in the Constitution...[to] be interpreted in accordance with the Universal Declaration of Human Rights.” Further, it is stipulated in section 9 that:

1. The legal system of East Timor shall adopt the general or customary principles of international law,
2. Rules provided for in international conventions, treaties and agreements shall apply in the internal legal system of East Timor following their approval, ratification or accession by the respective competent organs and after publication in the official gazette.
3. All rules that are contrary to the provisions of international conventions, treaties and agreements applied in the internal legal system of East Timor shall be invalid.

Therefore upon Timor-Leste’s ratification of the International Covenant on Economic, Social and Cultural Rights in 2003 its provisions became integrated into domestic law and arguably justiciable in domestic courts. However the weight to be afforded by the judiciary to interpretive documents, including the General Comments of the United Nations Committee on Economic, Social and Cultural Rights, remains to be seen. Section 26 of the Constitution guarantees access to the courts to all “for the defence of their legally protected rights and interest” and the constitutionality of legislation is challengeable under Part VI. However endemic weaknesses in the judiciary make the possibility of the enforcement of human rights by the courts in the foreseeable future remote.

2. THE CRISIS OF 2006 - 2007

The events surrounding the crisis

The crisis was sparked when sections of Timor-Leste’s army (F-FDTL) protested against alleged discrimination by officers from the east of the country against soldiers from the west. The soldiers, known as the “petitioners”, deserted their barracks in February 2006 and were dismissed from their positions by the F-FDTL commander, Brigadier General Taur Matan Ruak in March after refusing to return. Long-standing divisions between the Prime Minister Mari Alkatiri of the ruling Fretilin party and President Xanana Gusmão, came to a head with the Prime Minister supporting the decision of Matan Ruak while the President publicly sympathized with the petitioners.

A demonstration outside the Government Palace in late April by the petitioners, joined by hundreds of civilians including disaffected youths, “quickly turned into a protest against the Alkatiri government”.²⁷ When the protests turned violent, upon the instigation of youths, the

²⁷ International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006, p 8.

police were unable to, or deliberately did not, control the situation.²⁸ With violence spreading to the streets of Dili, Alkatiri requested the F-FDTL to restore order, despite the inappropriateness and potential unconstitutionality of the defence force being deployed to quell the unrest in the circumstances.²⁹ As described by the International Crisis Group, the situation seemed to be “less and less about discrimination in the army and more about political control of the country.”³⁰

The complaints of the petitioners, and with these the emergence of an east/west divide, which previously had not been a major factor in Timor-Leste’s political landscape, exacerbated latent tensions amongst the wider population, igniting armed clashes. The regional divisions, which may not have otherwise become a serious schism, were fanned by the actions of key politicians.³¹ By late May, violence and chaos had erupted on the streets of Dili with youth gangs armed with machetes, slings and bows threatening and attacking Easterners and their properties.³² Armed clashes between the petitioners, the military and police and amongst the civilian population continued into 2007 in Dili and other parts of the country. Thirty-eight people were killed during the violence and 69 people were injured.³³

Prime Minister Alkatiri was pressured by President Gusmão to resign in June 2006 and Jose Ramos Horta was appointed as interim Prime Minister. Following elections in June 2007, Gusmão, heading a coalition of parties named the Alliance for Parliamentary Majority (AMP), became Prime Minister, with a disgruntled Fretilin in opposition.

A further complicating factor throughout the crisis and its aftermath was the desertion of the Commander of the Military Police, Major Alfredo Reinado, along with a number of military police and police officers who, taking weapons, abandoned their posts in early May 2006 and set up camp in Alieu, south west of Dili. Reinado claimed that he “broke the chain of command because there was no written order authorising the use of F-FDTL to control the civilian population on 28 April and subsequently.”³⁴ Reinado and his men were involved in a number of

²⁸ The ICG describes that as the violence erupted at the demonstrations, the police “seemed to melt away”. (International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006, p 8.)

²⁹ International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006, p 9.

³⁰ International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006, p 8.

³¹ See, Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste. UNOHCHR. Geneva. 2 October 2006; and International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006. For a deeper look into the east/west divisions in Timor-Leste, see Jose Trinidad and Bryant Castro. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa’e – Loromonu Conflict from a Traditional Perspective. 6 June 2007.

³² Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 3.

³³ The Foreign Minister requested military assistance from Australia, New Zealand, Malaysia and Portugal and the first international forces arrived on 25 May 2006. For a detailed account of the events leading up to and during the crisis, see Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste. UNOHCHR. Geneva. 2 October 2006; and International Crisis Group (ICG). 2006. Resolving Timor-Leste’s Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006.

³⁴ Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste. UNOHCHR. Geneva. 2 October 2006, p 29-30.

violent incidences over the following months and were perceived as a serious threat to security. Although over time it was never completely clear what Reinado stood for, he became a cult-like figure amongst some sections of the population, especially young men from the west, playing into existing conflicts and divisions. In February 2008, Reinado and his men were involved in an armed confrontation outside the residence of President Jose Ramos Horta, in which Reinado was killed and the President was shot and injured. The Prime Minister escaped an attack on his convoy on the same day. (See Annex A for a chronology of key events).

Underlying drivers of the conflict

According to the UN Commission of Inquiry mandated to establish the facts and circumstances relevant to the incidents that triggered the crisis in April and May 2006:

“...the crisis...can be explained largely by the frailty of State institutions and the weakness of the rule of law. Governance structures and existing chains of command broke down or were bypassed; roles and responsibilities became blurred; solutions were sought outside the existing legal framework.”³⁵

In the view of the Internal Displacement Monitoring Centre (IDMC) “the crisis resulted from several factors, including weak and factionalised state institutions, political rivalries dating back to the independence struggle, extreme poverty, and a large and disempowered youth population.”³⁶

Jose Trindade and Bryant Castro’s research identify “faultlines present in current processes of social change” such as tensions between modern-traditional; urban-rural; elder-youth; migrant-local; and not least between the world views and values at stake.”³⁷ They point to “a discord and misunderstanding between local East Timorese and Western values and belief systems; and a lack of understanding local cultural knowledge, traditions and practices on the side of (often foreign and/or government) actors leading conflict intervention.”³⁸

While there are numerous theories about what lay behind the crisis and a multitude of factors undoubtedly were involved, it is widely thought that unresolved land and housing disputes from 1999 and inequality in land access and control in Dili helped fuel the violence. As described by United National Development Programme (UNDP):

“The disputes over land tenure...are seen as a direct consequence of the housing shortage that developed after the 1999 crisis. The scale of the damage and destruction of homes and businesses that took place during the April-May [2006] crisis is also seen as directly related to the intra-communal tensions that resulted from the disorganized occupation of scarce housing in Dili after the 1999 crisis. It has been termed a first come first serve free for all. The Technical Field Survey also indicates a strong correlation between unresolved property

³⁵ Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste. UNOHCHR. Geneva. 2 October 2006, p 2.

³⁶ Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 4.

³⁷ Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa’e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 2.

³⁸ Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa’e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 15.

disputes and extent of destruction. This underscores the notion that the resolution of outstanding land and property issues are vital to the restoration of social harmony in communities...”³⁹

Many of the secondary occupants of abandoned houses in Dili in 1999 were Easterners who were less likely for geographical reasons to have been forced into West Timor by the departing Indonesian military and militia. It was therefore also most often Easterners who occupied multiple houses that earned high rents from foreigners. As the original inhabitants of those houses gradually returned and were sometimes unable to remove the secondary occupants or the renters from their homes, resentment grew towards the Easterners who were profiting from these illegal occupations.⁴⁰

According to Andrew Harrington, the security and political vacuum of 2006 provided an opportunity for the original owners or possessors of houses who had been displaced in 1999 to finally reclaim their land and properties. It also allowed them to take revenge on Easterners by burning their houses and through other violent acts or threats.⁴¹ The failure to comprehensively deal with these land and housing conflicts, through the passage of legislation and judicial or administrative dispute resolution processes⁴² is thus likely to have significantly contributed to the conflict and displacement of 2006/7. It also limited the options for dealing with the 2006/7 IDP situation, and ultimately weakened the quality of the response.

3. KEY CHALLENGES AND RESPONSE STRATEGIES

The key housing rights challenges

Between 2006 and 2008 up to 150,000 people, mostly Easterners,⁴³ fled their homes as a result of the violence. Around half of the IDPs sought refuge in Dili, while the rest fled to their districts of origin. Sixty-five recognised IDP camps and transitional shelters were set up, mostly in and around Dili. An estimated six thousand houses in Dili were destroyed or severely damaged. In rural areas, there were cases of entire villages being burnt down following the announcement of

³⁹ UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007, pp ii-iii.

⁴⁰ Andrew Harrington. 2007. Ethnicity, Violence and Land and Property Disputes in Timor-Leste. East Timor Law Journal. Volume 2 (http://www.eastimorlawjournal.org/ARTICLES/2007/ethnicity_violence_land_property_disputes_timor_leste_harrington.html); and Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 4.

⁴¹ Andrew Harrington. 2007. Ethnicity, Violence and Land and Property Disputes in Timor-Leste. East Timor Law Journal. Volume 2. (http://www.eastimorlawjournal.org/ARTICLES/2007/ethnicity_violence_land_property_disputes_timor_leste_harrington.html).

⁴² As noted earlier a number of cases had been resolved through mediation by the NDLP, but the vast majority of conflicts remained unresolved.

⁴³ Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa'e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 26.

the formation of the new AMP government in August 2007.⁴⁴ Secondary occupants quickly inhabited many of the abandoned properties, in some cases repairing damaged housing for their own use.

Beyond the immediate humanitarian needs of the IDPs, the key housing rights challenges posed by the crisis were thus the return or resettlement of the IDPs; the reconstruction of damaged or destroyed housing; and the resolution of both long-standing and new property disputes to create at least some measure of tenure security. A successful and durable response to the former challenge was dependent on effective measures to deal with the two latter ones. Integral to efforts towards addressing these challenges was the necessity to reinstate calm and restore confidence in the IDPs that it was safe to leave the camps and return home.

Early responses

In 2006 the Government made a number of efforts towards the return of IDPs and the rehabilitation of housing. In October, the Government approved a policy for the rehabilitation of damaged and destroyed houses and the construction of new houses, allocating US\$10 million towards its implementation.⁴⁵ Families living in IDP camps that lacked the financial means to carry out the works themselves were to be prioritized under the policy. State-owned land was identified for possible construction of new housing units for resettlement. In cases in which IDPs had been lawfully residing in houses prior to the conflict, the houses were to be rehabilitated. In other cases, the families would be resettled in new housing areas. In the context of continuing turmoil and political instability, little progress was made in the implementation of this policy.

The Government's initial strategy also involved concerted efforts towards restoring relationships and social networks damaged in the crisis. The Ministry of Labour and Community Reinsertion (MLCR), which led much of the support to displaced populations under the FRETILIN Government, initiated a programme known as *Simu Malu* (Mutual Acceptance). The initial aim of the programme was to restore security and trust at the community level in order to create an enabling environment for return, including through the use of customary peace building activities.⁴⁶ A lack of resources and unclear roles and responsibilities leading, inter alia, to poor integration and participation of traditional leaders, prevented the success of the programme.⁴⁷ The *Simu Malu* initiative was built upon and developed in later response efforts, discussed below.

In a parallel initiative launched by the President - the Commission for Reintegration and Community Dialogue - efforts were made towards ending *Bairro* (neighbourhood) violence and

⁴⁴ Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 3.

⁴⁵ Democratic Republic of Timor-Leste Resolution of Government 5/2006: Approval of Policy on Rehabilitation/Construction of houses destroyed during the political/military crisis of April to September 2006; and UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007, p i.

⁴⁶ Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa'e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 34.

⁴⁷ Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa'e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 34.

engendering a sense of trust by creating a mechanism to promote dialogue and empowering the youth. The project adopted a participatory community dialogue process aimed at identifying causes of the conflict, its consequences and lessons learnt. According to Trindade and Castro, while in theory the concept was meant to transform communal misperceptions by facilitating direct communication and action between relevant stakeholders, the project failed to enable meaningful engagement between conflicting strata of society and did not adequately incorporate traditional practices.⁴⁸

Another early response, initiated towards the end of 2006, encouraged return or relocation of IDP families to the districts. A package consisting of transport, US\$2000 worth of construction materials and temporary shelters was offered to those willing to go to the districts. However, it was soon evident that some of the families accepting the package were travelling with the materials to the districts, only to either sell them to local traders or give them to relatives living there, and then returning to the Dili camps.⁴⁹

At various stages, the government threatened to end humanitarian assistance in the camps, recognising that the handouts, and especially the rice distribution, constituted not only a disincentive to leave but also a pull factor for newcomers. While conditions in the camps were far from adequate, the chronic shortage of housing stock and food insecurity in parts of Timor-Leste meant that the camps - and the certainty of receiving shelter and food - were in some cases a better option than return or remaining amongst the general population. People from the districts, particularly students and those seeking employment in the city, were also attracted to the camps by the provision of free shelter and food in the city. Despite these circumstances, and the threats to do so, the provision of food and other aid was not cut off until much later both in recognition of the enduring need for assistance and for fear of sparking riots in the camps.

By the end of 2006 it became clear that there was no significant reduction in the size of the camp populations.⁵⁰ The government began offering an assistance package to anyone who volunteered to leave the camps. The package consisted of food, shelter, construction materials and transport.⁵¹ By July 2007 however, only 4,800 IDPs had accepted the offer, reflecting the failure to adequately address the security situation and underlying causes of the conflict, including mechanisms to deal with secondary occupations and land disputes.⁵² Further outbreaks of violence in early 2007, triggered by rice shortages and a botched attempt by the military to

⁴⁸ Trindade, J. and Castro, B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa'e – Loromonu Conflict from a Traditional Perspective. 6 June 2007, p 35.

⁴⁹ UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007, p 16.

⁵⁰ Internal Displacement Monitoring Centre (IDMC). 2008. Timor-Leste: IDPs returning home, but to ongoing poverty and lack of access to basic services. IDMC, Norwegian Refugee Council. 31 October 2008. Geneva, p 15.

⁵¹ Internal Displacement Monitoring Centre (IDMC). 2008. Timor-Leste: IDPs returning home, but to ongoing poverty and lack of access to basic services. IDMC, Norwegian Refugee Council. 31 October 2008. Geneva, p 15.

⁵² Internal Displacement Monitoring Centre (IDMC). 2008. Timor-Leste: IDPs returning home, but to ongoing poverty and lack of access to basic services. IDMC, Norwegian Refugee Council. 31 October 2008. Geneva, p 15.

capture Reinado, resulted in a fresh wave of displacement and an expansion of camp populations.⁵³

In early 2007, the Norwegian Refugee Council (NRC) at the request of the Government constructed and began managing 596 transitional shelters in five locations, in and around Dili.⁵⁴ The Government built an additional 72 transitional shelters.⁵⁵ These houses, although basic, made for considerably better living conditions than the camps, but could only house 800 displaced families.⁵⁶ Although NRC identified a number of additional sites appropriate for transitional housing, the Ministry of Justice refused to authorize the use of this land, stating that the sites were already committed for other purpose.⁵⁷ While the NRC had suggested that the transitional shelters be eventually transformed into durable housing, the new Government did not adopt this proposal.⁵⁸

The National Recovery Strategy

With the AMP government assuming office in August 2007, renewed efforts were made to empty the camps. Towards the end of that year it was estimated that 100,000 people remained displaced with a third of these residing in Dili camps.⁵⁹ In December 2007 the Office of the Vice Prime Minister launched the National Recovery Strategy (NRS): *Hamutuk Hari'i Futuru* (Together Building the Future). The NRS was drafted by a team of representatives from a number of organisations and agencies, headed by the Ministry of Social Solidarity (MSS), formerly the MLCR. The NRS, in its preamble, recognised that the process of recovery from the crisis would require a “concerted effort by the Government, communities, civil society and the international community to address both the immediate impact of the crisis and pre-existing community-level vulnerabilities.”⁶⁰ The closure of the camps, it stated, could thus not be the only focus of the strategy.⁶¹ The Strategy objectives were:

⁵³ See, Douglas Kammen and S.W. Hayati. 2007. Crisis and Rice in East Timor. ETAN. (<http://www.etan.org/news/2007/03food.htm>). Further unrest in the eastern districts of Baucau and Viqueque following the announcement of the new Government in August 2007 led to displacement of over 4000 people in these areas with over 370 houses burnt and damaged. (Internal Displacement Monitoring Centre (IDMC). 2008. Timor-Leste: IDPs returning home, but to ongoing poverty and lack of access to basic services. IDMC, Norwegian Refugee Council. 31 October 2008. Geneva, p 110.)

⁵⁴ The transitional shelters were built in Tibar, Tasi-Tulu, Becora Unital, Becora Market and Hera. (Norwegian Refugee Council (NRC). Factsheet: NRC's Country Programme in Timor Leste. (<http://www.nrc.no/?did=9167175>)).

⁵⁵ Norwegian Refugee Council (NRC). Factsheet: NRC's Country Programme in Timor Leste. (<http://www.nrc.no/?did=9167175>).

⁵⁶ Norwegian Refugee Council (NRC). Factsheet: NRC's Country Programme in Timor Leste. (<http://www.nrc.no/?did=9167175>).

⁵⁷ Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010; Email comm. Ibere Lopes, Land Rights Adviser, Urgent Damage Assessment and Recovery Planning Project, UNDP, 21 July 2010.

⁵⁸ Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010.

⁵⁹ Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 4.

⁶⁰ *Hamutuk Hari'i Futuru: A National Recovery Strategy*, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 1.

⁶¹ *Hamutuk Hari'i Futuru: A National Recovery Strategy*, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 1.

- “1. To adopt a new vision toward national recovery, one that not only promotes mutual acceptance but strengthens communities, local economies, stability and the relationship between the Government and the people of Timor-Leste, whom they serve.
- “2. To establish a concerted ‘All of Government’ approach to address the range of issues, including: social, physical, legal, economic, security and political that combine to create obstacles to the resettlement of those who have been displaced.
- “3. To meet both the needs of those who have been displaced and the wider needs of affected communities throughout the country.”⁶²

As such, the NRS had five pillars, focusing on: IDP return and resettlement; establishing a social security system for the most vulnerable groups in society; addressing security issues including working with communities to identify and address sources of conflict; creating livelihood opportunities through job generation schemes; and building trust within communities and between the people and the government.

While the components are inter-related and all have a bearing on the realisation of the right to adequate housing, this section will describe the components of the strategy directly aimed at IDP return and resettlement and housing reconstruction.

Hamutuk Hari’i Uma (Together Building Homes)

The stated objective of the *Hamutuk Hari’iUma* (HHU) component of the NRS was to:

“...provide IDPs [with] a variety of viable options that allow[ed] for their durable return or resettlement with due respect for their rights and dignity respecting the international standards established with the context of the guiding principles on internal displacement.”⁶³

Its primary aim was the return of IDPs to their former homes, where it was considered safe to do so, although an option for resettlement was also included in the plan.

A central problem inherent to this component of the recovery strategy was the absence of a legal framework on land and property ownership and dispute resolution. In some cases, secondary occupants during the present conflict were in fact the pre-1999 owners of the houses that they had re-occupied. The primary aim of returning IDPs could therefore have the effect of dispossessing these ‘original’ owners. Connected to this dilemma was the fact that a future land law could give preferential rights to property to the pre-1999 owners, which would have the effect of re-dispossessing the returned IDPs. According to the International Crisis Group, many IDPs admitted that they did not have a formal claim to the property from which they fled.⁶⁴ The Government decided nonetheless that the best approach was to, as much as possible, return the situation to the pre-2006 state. The strategy document stated that:

⁶² Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 1.

⁶³ Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 2.

⁶⁴ International Crisis Group (ICG). 2008. Timor-Leste’s Displacement Crisis. ICG Asia Report No. 148. Jakarta/Brussels, 31 March 2008, p 10.

“In recognition of the ongoing nature of the development of Land and Property legislation this initiative will concern itself with restoring the occupants to their former places of occupancy prior to April 2006 and will not address issues of property ownership or be limited by urban planning initiatives that have yet to be begun.”⁶⁵

The government recognised in the strategy document that IDPs were refusing to leave the camps for the following reasons:

- Many people had had their houses destroyed, damaged or occupied by others after their departure and thus no longer had adequate alternative shelter.
- Many people had been displaced by violence or fear of violence during the crisis, and continued to fear reprisals if they left the perceived security of the camp.
- Many people remained in camps as a means to obtain the humanitarian assistance and to guarantee that they were included in any future assistance offered to camp residents.
- Many people were utilising the camps on an ad-hoc basis as temporary shelter whilst they studied or sought employment.⁶⁶

The operational plan set forth to deal with this situation was centred around a cash-payment system (Annex B). Both camp residents and IDPs living outside camps were entitled to the assistance, although the options set out in the operational plan were clearly designed and drafted with the primary objective of emptying the camps. The Government was explicit that the cash-payments were not to be regarded as compensation for losses during the crisis, but should instead be viewed as assistance to households to begin their recovery and to “reach certain minimum standards of habitation.”⁶⁷ The options offered were not reflective of the quality of houses destroyed but were rather a ‘one-size fits all’ package. The package amounts were based on assessments made by NRC’s shelter manager as to the value of ‘mid-range’ housing stock in Dili, with a substantive mark-up to allow for the inevitable increase in the price of housing materials.⁶⁸ The approach was meant to allow for rapid implementation, reflecting the overriding goal of emptying the camps, which was established by the AMP Government - together with dealing with Reinado and the petitioners - as one of the three ‘national priorities’ to be addressed within the first 12 months of taking office.⁶⁹

As such, the operational plan set out a number of options for displaced households, depending on whether they were willing and able to return and the extent of the damage to their houses.

The assistance packages for households willing and able to return to their previous place of residence, but for the damage to their homes, were as follows:

- A displaced household whose house was uninhabitable (defined as destroyed or so severely damaged that it no longer provided adequate shelter, i.e. it did not have a minimum of two functional rooms and a bathroom) had the choice between:

⁶⁵ Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 3.

⁶⁶ Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, p 3.

⁶⁷ Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, Annex I: Hamutuk Hari’i Uma Operational Plan, p 2.

⁶⁸ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

⁶⁹ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

- (a) \$4,500 cash, disbursed in two instalments through the MSS for the reconstruction of their home, with the second instalment paid only after verification by MSS that the household had moved to an alternative, legal accommodation and the household had permanently left the camp; or
- (b) a basic house⁷⁰ (two rooms and a bathroom) constructed and provided by the Government (value \$ 3,000) together with \$1,500 cash paid in one instalment at the moment the household moved into their new house and permanently left the camp.
- For a displaced household whose house was habitable but severely damaged (more than 50 percent structural damage) the IDP household would receive \$3,000 cash for reconstruction purposes.
- For a displaced household whose house was partially damaged (less than 50 percent structural damage) the IDP household would receive \$1,500 cash for reconstruction purposes, or if there was only non-structural damage (eg. only damage to doors and windows) the households would receive \$500.

In cases in which a displaced household was unwilling or unable to return to the previous place of residence the following steps were to be taken:

- The MSS was to verify in the local community whether or not there existed a willingness to allow the household to return;
- In case such willingness existed, the MSS was to facilitate a voluntary meeting between the household and local community representatives;
- If at the end of this process the household remained unable or unwilling to return the household was to receive a basic house (two rooms and a bathroom) constructed in an alternative location and provided by the government (value \$3,000) together with \$1,500 cash paid in one instalment at the moment the household moved into their new house and permanently left the camp.⁷¹

Although not set out in HHU, temporary relocation to a transitional shelter site was offered to those willing but unable to return immediately, although this option was only available to those that could prove that they were house ‘owners’.⁷²

In recognition of the fact that safe return of IDPs would in many cases not be possible without reconciliation at the community level, a Dialogue, Communications and Outreach Programme was also instituted. The programme was designed to facilitate dialogue and reconciliation between IDPs and communities, where elements of antagonism or fear were precluding return. The programme supported the HHU component and was a part of the *Hamutuk Hari'i Konfiansa* (Together Building Trust) component of the NRS.

⁷⁰ A basic house, according to the operational plan, should be of a standard that “reflects mid-range housing stock in the Timorese context and be of a durable nature.”

⁷¹ *Hamutuk Hari'i Futuru: A National Recovery Strategy*, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, Annex I: *Hamutuk Hari'i Uma Operational Plan*, p 1.

⁷² Internal Displacement Monitoring Centre (IDMC). 2009. *Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning*. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 4; and Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

The role and responsibilities of key agencies under the HHU

The lead ministry designated responsibility for implementing the HHU and the community dialogue process was the MSS. Amongst other roles, MSS was required to: create and develop the claims database; implement an outreach campaign targeting IDPs to explain the options available to them; process the options selected by households; verify claims; distribute vouchers for the cash grants; verify housing reconstruction or the securing of alternative legal accommodation and disburse the balance of the grants; carry out the community dialogue process; assist IDP households choosing resettlement to identify a location; and carry out post-return protection monitoring.

The IOM and the UNDP had been working closely with the MSS to provide humanitarian assistance in the IDP camps, and the designation of responsibility to MSS meant in effect that IOM and UNDP would be heavily involved in implementation. The IOM had been working with the MSS in the camps from the outset and was thus well placed to be involved in the coordination and implementation of the HHU plan inside the camps. The burden of responsibilities on the MSS, and the need to strengthen its capacity and resources, was recognised and supported by UNDP. Eight dialogue teams based within the structure of MSS were established, trained and funded by UNDP and co-managed between UNDP and the Ministry. UNDP also supported the *Hamutuk Hari'i Konfiansa* working group, which became the focus for the coordination of a range of actors working under the trust-building pillar of the NRS.

The HHU operational plan also envisaged close coordination of the MSS with key co-implementing ministries, the Ministry of State Administration (MSA), the Ministry of Infrastructure (MoI), and the Ministry of Justice (MoJ) - specifically the National Directorate of Land and Property (NDLP). The NDLP was to provide licences for occupancy to returned or resettled households “until such a time as the right to property in which the IDP households resided prior to the crisis is established.”⁷³ The licence system would thus provide a measure of tenure security until the passage and implementation of a transitional land law. It would also have the effect of clarifying to households that they should not consider the return and resettlement process as legal recognition of their right to the property in question. The NDLP was also supposed to work with MSS to identify resettlement location options. The authority to allocate State land for such purposes is vested in the MoJ. The MoI was designated the responsibility for construction of resettlement housing under the plan. (See Annex C for a table of roles and responsibilities of main agencies).

From the outset it was recognised that a major hurdle to implementation would be the weakness of State institutions and coordination between ministries. There were also concerns about the deficiency of budget allocations to ministries to execute the plan.⁷⁴ The HHU component on IDP return and resettlement was the only pillar of the National Recovery Strategy that was allocated funds in the 2008 national budget. However, the \$15 million allocated, with \$2.75 million for the

⁷³ *Hamutuk Hari'i Futuru: A National Recovery Strategy*, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, Annex I: *Hamutuk Hari'i Uma Operational Plan*, p 5.

⁷⁴ International Crisis Group (ICG). 2008. *Timor-Leste's Displacement Crisis*. ICG Asia Report No. 148. Jakarta/Brussels, 31 March 2008, p 13.

establishment of new settlements and \$10m to the cash disbursement programme, was well below the sum required.⁷⁵

4. PROGRAMME IMPLEMENTATION

The National Recovery Strategy contained a comprehensive plan that recognised that both an immediate and durable solution required coordinated action on several fronts. The NRS itself, while not without its flaws, went beyond immediate post-conflict responses and proposed to deal with underlying issues and concerns about security, livelihoods and trust within communities and between community and government. The HHU component offered clear options that encouraged IDPs to return but provided an adequate alternative housing option if return was not possible. As such, the strategy implicitly incorporated a housing rights approach, and its designers appear to have recognised and taken into account the negative repercussions of the incomplete response to the displacement of 1999.

However, the NRS was not executed in the holistic manner envisaged and ultimately the recovery programme failed to tackle some of the fundamental drivers of the conflict. Political will to carry out a whole of government response dwindled as the realisation of the difficult and complex nature of implementing such a comprehensive programme set in. Leadership by the Vice Prime Minister was weak and several of the key ministries designated responsibilities under the NRS failed to move forward on their tasks.⁷⁶

The HHU component was executed through a close and coordinated partnership of MSS, IOM and UNDP. However many crucial elements of plan were dropped during implementation. Most importantly, the resettlement option was never made a real alternative to return for IDPs, chiefly because the MoJ did not allocate State land for these purposes (discussed further below).⁷⁷ The option of *in situ* construction of a basic house by the Government for IDPs who were willing to return to their former places of residence was also not offered. This meant that the only real option available to IDPs was to accept the cash grant and agree to leave the camp. The announcement of camp closure dates placed added pressure on IDPs to register for the package and leave.

Another significant alteration to the plan was that payments were made in single upfront dispersals rather than the second instalment being distributed only after verification that families had commenced reconstruction or were living in alternative legal housing and had permanently left the camp. In effect entire payments were made to households as they left the camps.⁷⁸

Additional components were affixed to the original plan in order to empty the camps and transitional shelters, and in response to demands by IDP groups. New cash payment offers of \$200 were made to families who had been renting their former homes and to those whose houses

⁷⁵ United Nations. 2008. Timor Leste: Transitional Strategy and Appeal 2008, p 34.

⁷⁶ Email comm. Sophia Cason, Advisor, Access to Justice Policy and Programs, Justice Facility (formerly Advisor to MSS), 19 July 2010.

⁷⁷ Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010.

⁷⁸ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

had not been damaged as well as to groups of youth living in camp tents. In August 2009, once all the camps had been closed, the Government offered \$1500 to families in transitional houses to leave, which 90 percent of families accepted.⁷⁹ In November 2009 it was announced that \$500 payments would be made to IDP families that lost possessions and assets during the crisis.⁸⁰ In practice, given the impossibility of assessing these losses, these additional payments were made to all households that had previously registered and received assistance to leave the camps.⁸¹

By and large, the strategy as implemented was successful at emptying the camps, although the death in February 2008 of Alfredo Reinado, who had been perceived as a destabilising force, and the halving of camp food rations the same month were also major factors.⁸² According to IOM return monitoring reports there have been few serious problems with reintegration of returned IDPs into communities.⁸³ However the success of reintegration over the longer-term and the wider impacts on communities have not been comprehensively assessed.⁸⁴ The rate of “self-help” relocation is also unknown.⁸⁵ The outcomes of the strategy in terms of housing reconstruction is unclear as to date no systematic monitoring and evaluation of how the cash payments were used by households has been carried out.⁸⁶

Despite the ostensible success of the strategy, the failure to implement crucial elements, an endemic lack of accountability and the environment of legal and institutional deficiency in which the plan was executed, resulted in significant shortcomings from a housing rights perspective. This section will discuss three of the main elements of the implementation of the HHU: the cash

⁷⁹ According to Alfredo Zamudio, some of these families had already received \$4500 payments under the HHU scheme. (Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010.)

⁸⁰ Ministry of Social Solidarity. 2009. Press Release: Payments of Phase II Recovery Packages to Commence, 5 November 2009, Dili.

⁸¹ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

⁸² According to IOM Return Monitoring Reports, 90 percent of IDPs interviewed stated that they had returned home because of improvements or confidence in the security situation within their villages and 15 percent stated that receiving Government assistance to rebuild their homes influenced their decision to return. (IOM. 2009. IOM Return Monitoring Report: Community and Former IDP Households Surveys: Round 3 Monitoring (interviews conducted from January-March 2009), p 3.) President Jose Ramos Horta cited the death of Reinado as the dominant factor in IDPs leaving the camps as it helped restore people’s sense of security (Pers. comm. Dr Jose Ramos Horta, President of Timor-Leste, Dili, 1 June 2010).

⁸³ IOM. 2009. IOM Return Monitoring Report: Community and Former IDP Households Surveys: Round 3 Monitoring (interviews conducted from January-March 2009); and IOM. 2009. IOM December 2008-February 2009 Monitoring Report: Chefes de Aldeias Surveys.

⁸⁴ IOM is due to release a final cumulative monitoring report in late 2010, which will include results from interviews completed in June 2010. However, the sample size was small, with only two percent of community households and two percent of former IDP households surveyed.

⁸⁵ The last IOM Return Monitoring Report collating information from a limited number of interviews conducted from January –March 2009 indicated that approximately 70 percent of displaced households had returned to their villages of origin. (IOM. 2009. IOM Return Monitoring Report: Community and Former IDP Households Surveys: Round 3 Monitoring (interviews conducted from January-March 2009)).

⁸⁶ The IOM Return Monitoring Report stated that two thirds of former IDP households reported that they had either fully or partially reconstructed their damaged or destroyed homes. (IOM. 2009. IOM Return Monitoring Report: Community and Former IDP Households Surveys: Round 3 Monitoring (interviews conducted from January-March 2009), p 1.). In June 2010, UNDP commenced a tender process to “engage a suitable contractor to conduct an assessment of the use of the recovery cash grants given by the Government to contribute to housing reconstruction and repair in Dili.” (UNDP. Request for Proposal. RFP for the assessment of the recovery cash grants. 18 June 2010.)

payment response; the dialogue and mediation process; and the failure to offer resettlement housing as a genuine option.

Privatising reconstruction: the cash payments response

The payment of cash grants to “eligible” households coupled with the dialogue process ultimately constituted the extent of the programme implemented to return or resettle IDPs and reconstruct housing. As at July 2010 payments are still being made and in total there have been approximately seventeen thousand recipient households at a total cost of US\$50,314,850.⁸⁷

The premise of the cash payment system was to provide each household with an amount of money necessary to purchase construction materials and other inputs to rebuild their own homes. It also allowed resettlement to occur on a self-help basis, since households could use the funds to, for example, purchase or rent and construct shelters on an alternative plot of land. As the planned resettlement process under HHU was never made viable, this privatised and unregulated system of resettlement was the only long-term option available to those who did not feel safe returning to their former homes.

In the lead up to the formulation of the National Recovery Strategy in 2007, organised IDP groups and camp leaders had demanded compensation to leave the camps.⁸⁸ The technical working group that had been commissioned by the MSS to develop the strategy was concerned that a cash-only approach could exacerbate the social tensions, because it would mean distributing significant amounts of money to Easterners, who made up the majority of the IDP population.⁸⁹ It was feared that this strategy could create considerable social jealousy and inflame regional divisions. Humanitarian agencies were promoting a more sustainable process of IDP reintegration, estimating that it would take at least five years.⁹⁰ Despite these reservations, Prime Minister Gusmão, who wanted the camps to be dispersed as quickly as possible, was in favour of providing lump-sum payments to the IDPs.

The camps were viewed by the Government as a destabilising force in the country. The AMP Government took office as a relatively weak coalition facing strong opposition from Fretilin and wanted to resolve the issue as quickly as possible.⁹¹ Gusmão and other political leaders were conscious of the highly visible evidence of the recent crisis and the failure of the Government to restore confidence, stability and normalcy in the capital, more than a year and a half since the conflict broke out. The camps were in plain sight throughout Dili, situated at locations such as the airport and hospital grounds and in front of an upmarket hotel in the city centre.

The demand for cash put forward by strong elements within the IDP population were taken seriously in this context, both because of the desire to find a rapid solution and the potential

⁸⁷ Email comm. Joao Souza e Silva, Ministry of Social Solidarity, 20 July 2010.

⁸⁸ Pers. comm. Ben Larke, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010; and Pers. comm. Luiz Vieira, former Chief of Mission, IOM, Dili, 1 June 2010.

⁸⁹ Ibere Lopes. 2009. Land and Displacement in Timor-Leste. ODI. Humanitarian Exchange Magazine Issue 43. June 2009. (<http://www.odihpn.org/report.asp?id=3007>)

⁹⁰ Pers. comm. Ben Larke, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010.

⁹¹ Pers. comm. Ben Larke, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010.

threat posed by IDPs to the tenuous calm in the capital and to AMP's political power. It was clear that the quickest and logistically most simple way to close the camps would be through upfront payments to IDP households.

Thus behind the comprehensive formal policy and programme response outlined in the National Recovery Strategy, the unofficial policy as directed by top echelons of government was the rapid payment of cash to camp residents with the primary purpose of clearing and closing the camps. What happened after that, including ensuring adequate housing reconstruction and successful and durable return or resettlement, was evidently not a primary concern for top levels of Government.

The cash payment response should also be viewed in the context of Timor-Leste's significant income from oil and gas revenues and the challenges the Government ministries have faced since independence in spending budget allocations.⁹² The Government has resorted to cash payments as the primary or sole response to resolve problems and tensions in a number of other situations.⁹³ The cash payment system is an easy fix for a Government flush with natural resource money but weak in institutional development.

The pressure to close the camps, and the lax attitude towards the dispersal of money to deal with the problem, can perhaps explain the inadequacy of efforts or the insufficient time spent on building the necessary levels of capacity to ensure proper implementation of the administrative systems to register eligible households. There were major irregularities in the registration and verification processes, including bribes and threats of violence targeting MSS staff in charge of the process.⁹⁴ Double and even triple entry of households was not uncommon resulting both from attempts to defraud the system and because of the administrative complications caused by, *inter alia*, the movement and spread of households across camps.⁹⁵ An abandoned early initiative to record housing damage on property parcels and link this information with households using a Geographic Information System (GIS) referenced to orthophotos could have improved the administrative process and avoided fraudulent claims. It also could have assisted the process of return and bolstered the mediation process using information recorded early on.⁹⁶

The rapid execution of the registration and payment system can also be criticised for the failure to consider and implement measures to guard against gender discrimination. Payments were

⁹² For example, by the end of the third quarter of fiscal year 2006-7, only US\$81 million had been spent from a Central Government Budget of US\$320 million. (International Finance Corporation and Asia Development Bank. 2007. Economic and Social Development Brief. August 2007. p 2.)

⁹³ See for example, Ministry of Social Solidarity. 2009. Press Release: Minister of Social Solidarity provides update on work of MSS during 2009, 17 December 2009, Dili. Note, that the provision of financial assistance in these cases is not necessarily a problem in itself; rather the deficiency of complementary programmes to deal with underlying issues is of concern.

⁹⁴ Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010.

⁹⁵ Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010; and Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

⁹⁶ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 26 July 2010.

most often made to male heads of household.⁹⁷ According to Sophia Cason, towards the end of the process, MSS staff became suspicious when they came across female names on the list because they assumed that their husbands – the usual head of household – had already registered.⁹⁸

In a number of cases part of the IDPs recovery payments were paid to secondary occupants. This occurred in response to a variety of secondary occupant demands: compensating repair work, rewarding ‘security’ services provided to the house preventing it from further damage and, anecdotally, as direct pay-off to secure the right to return. Supporting IDPs through this negotiation over money was, in practice, part of the dialogue and mediation process facilitated by the MSS/UNDP teams and supported by a range of NGOs through the ‘Trust-Building Working Group’. In some cases the teams mediated over the amounts to be distributed to each party and handed the agreed sum directly to each.⁹⁹ Such negotiated payments may have helped to alleviate potential social jealousies resulting from the relatively high amounts of cash being disbursed to the IDPs, who as mentioned, were not necessarily the most disadvantaged households within the community. It may also have had the benefit of supporting secondary occupants to find housing in cases in which they had no alternative residence. However, the extent to which the payments resolved underlying conflicts and grievances, rather than acting as a temporary band-aid on tensions, is questionable.

Putting aside the administrative and other shortcomings in the process, the cash-payment response had significant benefits from a housing rights perspective. In an environment of weak institutional capacity it allowed IDP households to make independent decisions about whether to return or find an alternative place to live and the means to carry out these decisions. The payment of cash to foster private choices about recovery can lead to positive tailored solutions for housing and livelihood restoration. It also avoids potentially harmful blanket policies on prioritising the rights of return of IDPs versus the rights of occupiers.

However, the cash-payment system as the sole response to support restitution, housing reconstruction and resettlement where necessary, was problematic from a housing rights perspective. Although the verification of housing reconstruction never took place as a part of the process and there has been little monitoring of post-return housing conditions, the rise in the price of housing materials suggests that the payments were at least partly used for housing reconstruction.¹⁰⁰ But in the absence of checks, monitoring and other types of support, some families returned to inadequate housing conditions, described below, perhaps using the cash for other purposes. Anecdotal evidence suggests that payments were used for the purchase of

⁹⁷ In contrast to the male-dominated control of the cash payments, women, perceived as good communicators and negotiators, were apparently more active than men in the community dialogue and reconciliation process. (Pers. comm. Jose Belo, Project Manager, MSS-UNDP Dialogue Project, UNDP, Dili, 31 May 2010.)

⁹⁸ Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010.

⁹⁹ Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010.

¹⁰⁰ For example the price of cement apparently doubled. The inflationary effect of the cash payments was not dealt with by the Government and reportedly impaired housing reconstruction for some households. (Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 12.)

motorbikes, cars (sometimes used as taxis), and to start up small businesses. While the use of cash payments to support livelihood restoration clearly has positive human rights implications, in cases in which housing conditions remained inadequate as a result, it cannot be said that the response achieved positive overall housing rights outcomes. The poorest of IDP households, who are the most likely to have needed the money for livelihood restoration or to pay back debts, are also the most likely to have needed the funds - not having access to other funds - to repair, reconstruct or upgrade their houses. Thus special measures should have been considered to support these households (although it should be noted that IDPs did not necessarily constitute the poorest or most vulnerable of households in Dili or elsewhere). Needless to say, the result is significantly worse from a housing rights perspective where the cash was used for less constructive purposes, such as for purchasing alcohol or gambling. Some mechanism to check the use of the funds, as originally envisaged in the NRS, and to support the most vulnerable families, was thus warranted.

Furthermore, in the context of Dili – and many other post-conflict environments – in which housing stock is woefully deficient and land tenure systems are in disarray, it is simply impossible that every IDP household that did not feel safe to return to their former place of residence found an adequate secure alternative place to live. From a housing rights perspective, the State, with the support of the international community, has an obligation to provide or otherwise ensure access to alternative adequate housing to such households. The cash-payment response on its own does not sufficiently respect the rights of these vulnerable households. This issue is discussed further below.

The dialogue and mediation process: filling the institutional void

The role of the MSS/UNDP dialogue teams under the Dialogue, Communications and Outreach Programme was essential to the return and reintegration process. The main objective of the programme was to promote dialogue as a means of addressing community conflict and mediation in support of IDP reintegration and return.¹⁰¹ The dialogue teams worked with local authorities (*ChefeAldeias* and *ChefeSucos*) and youth representatives in the receiving communities with the aim of ensuring that the situation in areas of return was and remained peaceful.¹⁰² The teams worked alongside NGOs and support agencies through a working group designed to coordinate the coverage and activities of the various actors involved in supporting the ‘trust-building’ pillar of the National Recovery Strategy. In this manner they were able to survey community leaders regarding potential impacts of imminently returning families and to operate in the camps to survey IDP households. This enabled the prioritisation of cases that required third-party support because of, *inter alia*, secondary occupation, land and property disputes and broader tensions within the community.¹⁰³ The collaboration of members of the working group also supported accompaniment of IDP families to their place of return to ensure the situation was safe, and if

¹⁰¹ Ministry of Social Solidarity. 2009. Hamutuk Hari'i Futuru: IDP Return Process in Timor-Leste, 6 February 2009.

¹⁰² Ministry of Social Solidarity. 2009. Hamutuk Hari'i Futuru: IDP Return Process in Timor-Leste, 6 February 2009.

¹⁰³ Ministry of Social Solidarity. 2009. Hamutuk Hari'i Futuru: IDP Return Process in Timor-Leste, 6 February 2009.

necessary arranged a series of meetings for dialogue and mediation involving secondary occupants, neighbours or wider community members with the aim of conciliating and resolving tensions and disputes.

The dialogue process, which was still continuing in some communities in May 2010, is widely regarded as successful and necessary to peacebuilding and the safe return of IDPs. The concept was inspired and influenced by the CAVR project that had facilitated community reconciliation for less serious crimes committed between 1974 and 1999.¹⁰⁴ Like the CAVR project, the dialogue process incorporated the use of customary dispute resolution practices and peacebuilding ceremonies – an essential element of its successes.

However, in the context of a regulatory and institutional vacuum, the dialogue and mediation process, in combination with customary practices, was the only mechanism available to resolve disputes, including land and property disputes, and to address grievances against perpetrators of violence. The dialogue process was, in effect, required to fill the void left by the absence of a land rights regime, a dysfunctional judiciary and the unwillingness of Government to systematically prosecute crimes committed during the crisis.¹⁰⁵ While the dialogue teams appear to have been effective at facilitating safe and peaceful return in the majority of cases, the extent to which they successfully met all the responsibilities they were inadvertently required to shoulder is questionable. It is likely that the process attained temporary solutions, rather than durable resolutions to many deep-seated disputes and grievances. As described by NRC Country Director, Alfredo Zamudio, justice was compromised in favour of expeditious return.¹⁰⁶

The difficulties faced by the dialogue teams in addressing some of the more deep-seated tensions can be seen in the incidences, although few according to IOM reports, in which communities opposed the return and reintegration of IDPs. Local leaders of these communities invoked “the lack of appropriate land or housing, the scarcity of resources and the potential for renewed conflict” to reject the reintegration of IDPs.¹⁰⁷ IDMC described that:

“Between December 2008 and February 2009, chiefs from a number of *Aldeias* (sub-villages) spoke out against returns, with four refusing to accept any future returns and 11 imposing conditions on their acceptance. One flashpoint came in May 2009 when a chief refused to accept return, believing it would represent a threat to the security of the community.”¹⁰⁸

¹⁰⁴ See, CAVR website (<http://www.cavr-timorleste.org/>).

¹⁰⁵ On the failure of the Government to prosecute perpetrators see, Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 14.

¹⁰⁶ Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010.

¹⁰⁷ Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 7.

¹⁰⁸ Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva, p 7 (citing IOM. 2009. IOM Return Monitoring Report: Community and Former IDP Households Surveys: Round 3 Monitoring (interviews conducted from January-March 2009); and Integrated Regional Information Networks (IRIN). 2009. Returning IDPs Rejected by Villagers. 11 May 2009. Dili.)

Disputes between the IDPs and secondary occupants were dealt with through case-by-case mediation and negotiation. Negotiations sometimes centred on the amount of the IDP recovery package that would be paid to the secondary occupant. Mediation agreements were signed by both parties but these were explicitly temporary and without preclusion to final determination of ownership following the enactment of a land rights regime. The NDLP did not move forward in issuing licences for occupancy to returned households as had been envisioned in the HHU operational plan for lack of a legal basis to do so.¹⁰⁹

Mediated agreements, without the backing of land rights legislation or formal policy, have provided only limited and weak tenure security for returnees. It is possible that this lack of permanent tenure status has acted as a disincentive to households to invest their recovery packages and other resources into housing reconstruction and improvements.

According to Ibere Lopes, humanitarian agencies, including the UN, were critical of the Government's decision to implement a programme to return IDPs without first resolving the issue of property ownership.¹¹⁰ However, Lopes asserts that it was not feasible for the Government to enact the necessary legislation and create the required institutions to permanently resolve the complex land tenure issues while people continued to live in the camps. Lopes explains that:

“...clarifying land rights, even if only in Dili, would take years of complex work, legislative measures and additional resources not available at the time. Leaving IDPs waiting in camps would have been unacceptable. The few existing transitional shelters, built by the government and the Norwegian Refugee Council (NRC), could not accommodate the larger IDP population... Clarifying land rights would require not only a lengthy and expensive cadastral survey, but also the passage of legislation, particularly of a Transitional Land Law, in order to determine criteria for resolving conflicting claims, rights acquired through adverse possession, validation of previous titles and other sensitive issues. There was no chance that such a controversial piece of legislation could be debated and approved quickly, and resolving the displacement crisis was an urgent matter.”¹¹¹

Indeed, while the Government can be criticised for failing to deal with land and property issues since independence, the immediate post-conflict period, in which a considerable proportion of the population was displaced, was not the opportune time to do so. Had the camps remained open while the Government attempted to deal with these issues more permanently, it is likely legislation would have been rushed through Parliament, with considerable pressure on Parliamentarians to pass the law without debate. A careful drafting process, including a rigorous nation-wide consultation on the law, would have undoubtedly been relinquished in this context.

The extent to which land rights issues have been dealt with by the Government subsequent to the IDP return process is discussed in Section 5.

¹⁰⁹ Email comm. Ibere Lopes, Land Rights Adviser, Urgent Damage Assessment and Recovery Planning Project, UNDP, 21 July 2010.

¹¹⁰ Ibere Lopes. 2009. Land and Displacement in Timor-Leste. ODI. Humanitarian Exchange Magazine Issue 43. June 2009. (<http://www.odihpn.org/report.asp?id=3007>)

¹¹¹ Ibere Lopes. 2009. Land and Displacement in Timor-Leste. ODI. Humanitarian Exchange Magazine Issue 43. June 2009. (<http://www.odihpn.org/report.asp?id=3007>)

The policy of return: the failure to offer resettlement housing as a genuine option

A central feature of HHU was that in cases in which displaced households were unwilling or unable to return, they could receive a basic house constructed in an alternative location provided by the government.¹¹² This feature should have ensured that in the context of looming camp closures, limited availability of transitional shelter and a chronic shortage of adequate affordable housing in Dili, the decision to return was truly voluntary.

The enduring tensions and hostility towards displaced families in some communities meant that safe return was not a viable option for all IDPs. The UN humanitarian coordinator and deputy special representative of the Secretary-General in Timor-Leste, Finn Reske-Nielsen, described the situation in early 2008:

“For many IDPs it is simply not an option for them to return to their neighbourhoods as the people there don’t want them back... Six thousand of their houses have been burned and only 450 transitional shelters have been built to date... There is nowhere to go back to.”¹¹³

In light of this situation and in accordance with the HHU plan, MSS teams commenced the execution of the recovery strategy in the first half of 2008, asking IDPs in the camps for their preference as to return or resettlement.¹¹⁴ However, as it became increasingly clear that the resettlement option was illusive; the only choice available to IDPs was to accept the recovery package and register as willing and able to return, or request accommodation at a transitional shelter. As mentioned previously, only a limited number of transitional shelters were available. Moreover, the transitional shelters were purportedly not widely regarded as an attractive option - perceived by some IDPs as unsafe or too far from public facilities.¹¹⁵ According to the International Crisis Group, some families feared they would get stuck in the shelters permanently and never receive a proper house.¹¹⁶ As such, the shelters stood empty for approximately the first six months, as IDPs apparently preferred to live in the camps.¹¹⁷ The process of selecting and registering eligible families for transitional shelter was, according to UNDP, severely flawed.¹¹⁸ In some cases, transitional housing units were simply taken over by displaced families and treated as an extension of IDP camps with the provision of humanitarian assistance.¹¹⁹ Thus, for many, there was no realistic alternative to accepting the cash payment and agreeing to leave the camps.

¹¹² Hamutuk Hari’i Futuru: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, Annex I: Hamutuk Hari’i Uma Operational Plan, p 1.

¹¹³ Integrated Regional Information Networks (IRIN). 2008. East Timor: 100,000 IDPs still displaced early two years on. 31 January 2008. Dili. (<http://www.irinnews.org/Report.aspx?ReportId=76508>)

¹¹⁴ Ministry of Social Solidarity. 2009. Hamutuk Hari’i Futuru: IDP Process in Timor-Leste, 6 February 2009.

¹¹⁵ International Crisis Group (ICG). 2008. Timor-Leste’s Displacement Crisis. ICG Asia Report No. 148. Jakarta/Brussels, 31 March 2008, p 5.

¹¹⁶ International Crisis Group (ICG). 2008. Timor-Leste’s Displacement Crisis. ICG Asia Report No. 148. Jakarta/Brussels, 31 March 2008, p 5.

¹¹⁷ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

¹¹⁸ UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007, pp 15-16.

¹¹⁹ UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007, pp 15-16.

Three main reasons can be identified for the failure of the Government to proceed with the resettlement option as described in HHU. First, as explained earlier, the Government's priority was the closure of camps. It was also reluctant to extend or continue the operation of transitional shelters.¹²⁰ Thus the resettlement option was probably seen to have been too time-consuming, diminishing the political will to carry it out.

Second, the implementation of a proper resettlement and social housing programme may have been perceived as beyond the capacity of relevant ministries and institutions. While such a programme was to be the shared responsibility of the MSS and MoI under the plan, the MoI was showing no inclination to move forward with the process. The MSS, with the support of UNDP and IOM, was already shouldering the burden of the registration and verification of IDPs, recovery package payments, and dialogue process, stretching its own capacities and resources to near breaking point.¹²¹

The third and biggest obstacle was that MoJ did not allocate land for the construction of housing for IDPs.¹²² According to Ibere Lopes, MoJ was constrained by the refusal of other ministries and State institutions to relinquish their own claims to land that would have otherwise been suitable for these purposes.¹²³ This obstruction by the MoJ and other ministries also prevented the building of additional transitional shelters by the NRC and has also aborted other social housing initiatives.

This situation created a dilemma for the teams working to implement the recovery strategy, under pressure by camp closure deadlines. The teams, having initially asked IDPs if they wished to return or resettle, were unable to follow through with the offer of resettlement. Ben Larke, the Social Reintegration Team Leader at UNDP at the time, explains that significant numbers of IDPs had indicated their desire to resettle, which became known as the "bairofoun' (new suburb) option." He describes the experience as follows:

"We were repeatedly asked about 'bairofoun' during implementation by IDPs who remembered the options presented when the HHF was launched, but the simple truth of the matter was that we could never secure agreement from MoJ on sites to develop. Money was earmarked and numerous presentations were made to the Inter-Ministerial Committee and the Council of Ministers...but no site was ever approved for permanent resettlement.

"With this in mind some of the IDPs who couldn't return (and were up front about that) moved into transitional shelter... No doubt some of those IDPs who knew that return was not a realistic option simply pretended that it was, and found ways to side-step the procedural steps intended to check this, and took the money and made their own arrangements for resettlement using the recovery packet as start-up capital. Therefore a lot of what appears to be 'return' may well have been 'resettlement'..."¹²⁴

¹²⁰ Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010.

¹²¹ Pers. comm. Ben Larke, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010 and email comm. 12 June 2010.

¹²² Pers. comm. Alfredo Zamudio, Country Director, NRC, Timor-Leste, Dili, 25 May 2010; Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010; Pers. comm. Ben Larke, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010; and Pers. comm. Luiz Vieira, former Chief of Mission, IOM, Dili, 1 June 2010.

¹²³ Email comm. Ibere Lopes, Land Rights Adviser, Urgent Damage Assessment and Recovery Planning Project, UNDP, 21 July 2010.

¹²⁴ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 12 June 2010.

It is probable that some families used their recovery packages to purchase or rent secure and adequate alternative housing, and thus for whom ‘self-help’ resettlement was effective in realizing their housing rights. However anecdotal evidence also suggests that in other cases households were forced into insecure and inadequate conditions. Empty land and burnt down buildings became occupied by former-IDPs using their camp tents as shelter.¹²⁵ Housing conditions in the city became more cramped where former IDPs have moved in with relatives.¹²⁶ Local leaders were reportedly opposed to new resettlement of families in their communities, particularly in cases in which there were no familial connections, because of a lack of available land and housing.¹²⁷ In some cases, families with no other choice returned to very poor and in some cases dangerous housing conditions. In one area of Dili, returnee families used their recovery packages to rebuild or repair their houses in a flood-prone area. Months later, in early 2010 the new houses were destroyed by flooding. The families received compensation from the Government and again rebuilt their houses just a few metres away.¹²⁸

The result of the failure to implement the resettlement housing option was an exacerbation of the unplanned and chaotic nature of settlements in Dili, as well as an added layer of complication to the land tenure situation. The initiation of a resettlement and low-cost housing programme - integrating where appropriate wider benefits for host communities including improved access to services and livelihood support - could have alleviated some of Dili’s urban planning problems. There has been an increasing demand for additional housing stock since the rampant destruction in 1999, and even before the crisis of 2006/7 there was an estimated need for an additional 5500 houses extra dwellings each year.¹²⁹ For the IDP families who were otherwise forced to resettle in or return to very poor conditions, the provision of adequate housing or the means to construct adequate housing of at least minimum basic standards of quality, size, access to services etc. was an obligation of the State.

To be sure, resettlement housing programmes are fraught with difficult challenges: the identification, acquisition where necessary and allocation of land in suitable locations close to livelihood opportunities and facilities; the design and actual construction of housing; the selection of eligible or most “in need” households; decisions on the extent to which recipient households should be required to contribute to the cost of the housing and through what mechanism access to credit should be provided if at all; support to livelihood restoration for recipient households; and the mitigation of social jealousies or resentment from host communities. A decision as to the land tenure status of households in resettlement housing must also be made: Should families receive full or partial rights to the land?: Should full ownership be recognised over time?: In the case of communal resettlement sites, should collective or individual rights be granted? Questions concerning tenure are made all the more complicated by the absence of a comprehensive legal framework and thus the legal basis for issuing rights to

¹²⁵ Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010.

¹²⁶ Pers. comm. Joao Pequinho, Executive Coordinator, Forum Tau Matan (FTM), Dili, 31 May 2010; and Pers. comm. Sophia Cason, Adviser, Access to Justice Policy and Programs, Justice Facility (formerly Adviser to MSS) Dili, 26 May 2010.

¹²⁷ IOM. 2009. IOM December 2008-February 2009 Monitoring Report: Chefes de Aldeias Surveys, pp 8 and 13.

¹²⁸ Pers. comm. Joao Pequinho, Executive Coordinator, Forum Tau Matan (FTM), Dili, 31 May 2010.

¹²⁹ Timor-Leste National Housing Policy. Adopted by the Council of Ministers, March 2007. Gazetted as approved public policy, August 2007, p 7.

resettlement land would need to be created. These decisions and processes take time - especially where capacity is limited – and for eligible IDPs who selected the resettlement housing option, transitional shelters or improved conditions at camps would be necessary in the meantime. Yet, notwithstanding these challenges, at a time when the international community was disposed to contributing funds and technical assistance to find solutions for the IDPs in the immediate post-conflict period, the failure to initiate a resettlement and affordable housing programme was a squandered opportunity.

5. TRANSITION TO RECONSTRUCTION AND DEVELOPMENT

As the situation has normalised in Timor-Leste, there have been renewed efforts towards the clarification of land rights, primarily through the finalisation of the Transitional Land Law and the commencement of a systematic land claims process. The USAID sponsored *Ita Nia Rai* ('Our Land') programme¹³⁰ was established in 2007 with the stated aim of providing "technical and policy support to develop a sustainable and transparent property rights system in Timor-Leste."¹³¹ The five-year, \$10 million programme builds on previous USAID funded Land Law programmes, under which a number of land-related laws were passed, including on some aspects of administration of State land and the leasing of State and private property.¹³²

The *Ita Nia Rai* programme (INR) operates under what is now called the National Directorate for Land, Property and Cadastral Services (NDLPCS)¹³³ within the Ministry of Justice, and has five tasks to be completed by 2012, namely:

1. Public information and awareness and increased transparency;
2. Land policy, laws and implementing regulations;
3. Support to a national land commission;
4. Land administration (cadastral, registration and land titling system); and
5. Dispute resolution, mediation and processes for competing claims to land.

To this end, under authorisation of the *Decree on the Cadastre*, promulgated in July 2008, INR embarked on a systematic land claims registration process.¹³⁴ Under the process, which is restricted to urban areas, claims to land are collected and property boundaries are demarcated and mapped. Mediation is offered in cases of conflicting claims and where disputes are not resolved they are noted for future referral to a Cadastral Commission or the courts. Once the

¹³⁰ The official English-language name of the programme is 'Strengthening Property Rights in Timor-Leste'.

¹³¹ Strengthening Property Rights in Timor Leste "Ita Nia Rai" website. (<http://www.sprtl.tl/eng/index.html>)

¹³² The laws passed were: Law No.1/2003 *Juridical Regime of Immovable Property – Part I: Ownership of Immovable Property* (which will be repealed with the passage of the Transitional Land Law); Decree-law 19/2004 *Juridical Regime of Immovable Property – Official Allocation and Lease of State Property*; and Law 12/2005 *Juridical Regime of Immovable Property – Part II: Leases between Private Parties*.

¹³³ Formerly the National Directorate of Land and Property (NDLP).

¹³⁴ This process also takes into account an earlier claims process under Law 01/2003 *Juridical Regime of Immovable Property*, which called for the lodgement by nationals and non-nationals of claims to property that had been "illegally appropriated or occupied by third parties" by March 2004 (section 6). The majority of the claims under the earlier process came from former Indonesian residents of Timor-Leste.

process in an area is complete no new claims can be registered.¹³⁵ The final data will eventually be entered into the National Cadastre. An analysis of the process, including the appropriateness of collecting people's claims – based on perception of “ownership” - and barring future claims before a legal regime determining rights is in place, is warranted but beyond the scope of this report.

INR has also supported the drafting and consultation process for the Transitional Land Law, which is currently awaiting consideration of Parliament. The draft law, officially the *Special Regime for Determination of Ownership of Immovable Property*, “has the purpose of clarifying the legal status of immovable properties in East Timor, promoting the distribution of property among citizens and ensuring access to land for all.”¹³⁶

The task of clarifying and determining the legal status of land and first ownership rights, presents a formidable challenge. From a human rights perspective, the drafting of such a law calls for the balancing of the right to restitution for those who have been displaced or otherwise deprived of their rights, with the right of current possessors to secure tenure. The law must deal with the complex issue of customary land tenure and how the rights of communities to maintain access to and control over their land will be incorporated into and protected by the formal system. It must also address the prevalence of gender discrimination in the control over land. From a transitional justice perspective it is important that the law does not entrench past human rights violations, especially those that occurred under policies of control and oppression during Indonesia's occupation. From a peacebuilding perspective, the law must be widely respected and considered as fair. From a development perspective, the law must codify a clear and secure property rights regime that causes minimal disruption and promotes access to land for all, to ensure at a minimum, adequate landholdings for the maintenance of livelihoods.

The draft Transitional Land Law, which passed the first hurdle of the legislative process when it was approved by the Council of Ministers in March 2010, only partly succeeds at meeting this array of demands. The bill establishes an order of priority of right-holders to land. The claimant with the strongest right is eligible for title to that land. The claimant with the second strongest right is, in some cases, eligible for compensation. Under the draft law, Timorese citizens who hold full Portuguese or Indonesian titles, equivalent to freehold rights (*propriedade perfeita* and *hak milik*) have ownership rights to the land.¹³⁷ This provision is controversial since many of these titles were acquired under dubious circumstances: according to Fitzpatrick it is estimated that between ten and 30 percent of land certificates granted by the Indonesian administration were issued corruptly to people other than the true landowners.¹³⁸ Advisors to the Ministry of Justice had reportedly recommended that long-term possessors be prioritised above titleholders but these views were rejected,¹³⁹ probably in the interests of securing the rights to land of political elites. The draft law however does make provision for an assessment of the “existence of the underlying rights” during the cadastral survey process, dependent on the “probative

¹³⁵ Strengthening Property Rights in Timor Leste “Ita Nia Rai” website. (<http://www.sprtl.tl/eng/index.html>)

¹³⁶ The draft law is available at <http://www.sprtl.tl/eng/legal.html>.

¹³⁷ Article 27.

¹³⁸ Daniel Fitzpatrick. 2002. Land Clams in East Timor. Asia Pacific Press. Canberra. p 104.

¹³⁹ Lao Hamutuk. 2010. Who will get land under the draft transitional Land Law?. 19 May 2010. (<http://www.laohamutuk.org/Agri/land/10WhoGetsLandEn.htm>)

diligence” of the NDLPCS.¹⁴⁰ The rigour with which the NDLPCS undertakes the assessment of the bona fides of the grant of titles under the previous administrations will determine the transformative justice value of the law, which should not be undermined for the sake of clarity and ease.

Current possessors of land, who were granted inferior rights to that land under previous regimes (i.e. a Portuguese *aforamento* – right to use; or Indonesian *hak guna bangunan* or *usaha* – the right to build or use) are next in line for priority of claim.¹⁴¹ Land held under title by foreigners becomes State property, unless a Timorese national can show “special” adverse possession of the land because he or she has been living on or otherwise using the land peacefully, publically and continuously since before 31 December 1998.¹⁴² Special adverse possessors are eligible for ownership rights over other land so long as there is no superior claim by Timorese full titleholders.¹⁴³ People who fall into this category but were displaced during the 2006/7 crisis are not barred from claiming ownership,¹⁴⁴ however households that took possession in 1999 cannot claim special adverse possession. Previous inferior right holders (i.e. *aforamento*, etc.) who are not currently in possession of the land can claim ownership only if there is no competing superior claim.¹⁴⁵ Finally, peaceful possessors with an uncontested claim will be granted ownership rights.¹⁴⁶

Thus according to these provisions, people who took possession of property in the aftermath of the 1999 vote for independence have the weakest rights to the land. As explained previously, many of these households, often Easterners, were displaced during the 2006/7 crisis because of attacks or threats, and their homes in some cases were repossessed by the pre-1999 owners. While there is no data on this point, and such cases are likely to be minimal, it is possible that during the IDP return process, negotiations in a number of cases led to the displaced family returning to their homes and the pre-1999 owner moving out. However under the draft law the pre-1999 owners/possessors will have stronger rights to the property in question. The draft law gets around this by stating that “agreements resulting from negotiation or mediation in which the parties have agreed on the definitive transmission of ownership rights over immovable property shall be valid for the purpose of ownership claims.”¹⁴⁷ However, in cases where the pre-1999 owners dispute the definitive nature of the agreements, which were explicitly temporary, the law could reignite land disputes settled through mediation by the dialogue teams. Recognising that mediated cases that had been previously deemed resolved could be re-ignited, particularly during the INR land claims process, the dialogue teams have participated in a series of meetings with INR and other stakeholders to share information about cases which have been mediated across Dili in the wake of the crisis.¹⁴⁸

¹⁴⁰ Articles 27, 61 and 62.

¹⁴¹ Article 29.

¹⁴² Article 8.

¹⁴³ Articles 34 and 35.

¹⁴⁴ Article 16.

¹⁴⁵ Articles 35 and 36.

¹⁴⁶ Article 31.

¹⁴⁷ Article 87.

¹⁴⁸ Email comm. Ben Larke, former Social Reintegration Team Leader, UNDP, 11 July 2010.

Pursuant to the draft law, holders of a previous right (ie. granted under Portuguese or Indonesian administrations) and special adverse possessors (ie. people who possessed the property before or on 31 December 1998) are eligible for compensation if they do not obtain an ownership right because of a superior claim.¹⁴⁹

Chapter V of the draft law vests rights in customary landholders who continue to live on or use their land, although *propriedade perfeita* and *hak milik* (freehold) titles trump customary claims to land. The Chapter provides only a vague framework for the governance of customary land. Policy options for regulations on Chapter V are currently being prepared by the World Bank. The draft law enshrines the equality of access to and security of property rights for “national individuals, male or female, as well as legal entities as local communities” and prohibits any form of discrimination.¹⁵⁰

The law places considerable control over land in the State, through a broad and non-exhaustive list of property within the public domain¹⁵¹ and by recognising State ownership over all properties in its current possession to the detriment of any previous rights.¹⁵² It also recognises all property utilized by the Portuguese and Indonesian administration until the end of their respective reigns as State domain.¹⁵³ If the State is not in current possession of such land, it has one year from submitting its claim through the INR claims registration process to declare, by an order of the Ministry of Justice, its intention to own the property.¹⁵⁴

Section II sets out a process for eviction of occupiers of property that is determined under the law to be owned by another party. The occupants have 30 days from the receipt of notice from the NDLPCS to vacate unless the “special protection against eviction” provisions apply. Article 50 states that:

“Residents of family homes who are occupying immovable property with ownership recognized or awarded to a third party can only be evicted after being offered an alternative place of residence or after a period of eighteen months from the recognition or award of the property right, whichever occurs first.”

Article 51 places the responsibility on the government to offer adequate alternative housing to residents of family homes who are subject to eviction under the previous article. These requirements on government only apply in cases in which the resident has “no other adequate home or the means to obtain it.”¹⁵⁵ The MSS is vested with the responsibility to determine whether the occupants fall within these provisions.¹⁵⁶

Although the draft law goes some way in safeguarding occupants’ rights to adequate housing and protection from forced eviction, it falls short of Timor-Leste’s international law obligations. Evictions should not occur at any time unless the evictee has access to alternative adequate housing. There is the potential for significant displacement as a result of this law, which does not

¹⁴⁹ Article 39.

¹⁵⁰ Article 4.

¹⁵¹ Article 5.

¹⁵² Article 6.

¹⁵³ Article 6.

¹⁵⁴ Article 38.

¹⁵⁵ Article 52.

¹⁵⁶ Article 55.

in all cases prioritise and secure current possession. Protections before, during and after evictions as set out in, inter alia, UN Committee on Economic, Social and Cultural Rights General Comment 7¹⁵⁷ and the UN Basic Principles and Guidelines on Development-Based Evictions and Displacement¹⁵⁸ should be fully incorporated into the law or an adjunct decree or policy. It is foreseeable that the 18-month time period stipulated in article 50 could lapse without the occupants having secured access to alternative adequate housing, at which point they would be subject to a 30-day notice period to vacate. This could, for example, lead to the further displacement of the IDPs from the 2006/7 crisis, without the provision of adequate resettlement. If the past indisposition of MoJ to allocate land and of other ministries to move forward with resettlement housing programmes is any indication, one can predict that households subject to eviction will once again be left to their own devices to secure alternative accommodation.

So far the Government has failed to initiate the development of a comprehensive resettlement policy and housing programme. These steps are necessary for the Government to fulfil its international law obligations and safeguard against further displacement and deterioration of urban living conditions. The registration of land, which would trigger the evictions provisions under the law, should not commence until such a policy is promulgated. The Government must ensure that people who will be evicted and will not otherwise have access to adequate housing are either provided with resettlement housing in an appropriate location or are sufficiently supported - financially and otherwise - to access affordable housing. Given the housing deficit in Dili, both of these options will require the construction of new housing and will thus also require the allocation of appropriate land by the MoJ for these purposes. The appropriate ministries (probably the MoI perhaps coupled with the MSS) should be allocated sufficient funds and be provided with appropriate technical support to carry out a housing programme in partnership with the private sector where appropriate.¹⁵⁹

The National Housing Policy, adopted in March 2007 recognises, although does not discuss in detail, the need for the “drafting of legal instruments dealing with resettlement and compensation.”¹⁶⁰ The Policy promotes the “upgrading of existing neighbourhoods...[as the] optimum approach” to dealing with the inadequate condition of housing in the country “through redressing infrastructure inadequacies, improving the quality of the dwellings within a regulated layout, providing secure tenure and involving the absolute minimum of demolition and resettlement.” It recognises, however, that construction of new housing is required “to accommodate unavoidable resettlement and meet the needs for reducing overcrowding within

¹⁵⁷ UN Committee on Economic, Social and Cultural Rights, General Comment 7, Forced evictions, and the right to adequate housing (Sixteenth session, 1997), U.N. Doc. E/1998/22, annex IV at 113 (1998), reprinted in Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies, U.N. Doc. HRI/GEN/1/Rev.6 at 45 (2003).

¹⁵⁸ Miloon Kothari. 2006. Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Miloon Kothari: Appendix - Basic principles and guidelines on development-based evictions and displacement, E/CN.4/2006/41.

¹⁵⁹ The draft *Real Estate Financial Fund Law*, does include in its stated purposes the “financing of the acquisition, development and implementation of social housing projects under the terms foreseen in [the] Law...establishing the special system for defining title of real estate assets.” (The draft law is available at <http://www.laohamutuk.org/Agri/land/tll/FundoFinImobCMEn.pdf>)

¹⁶⁰ Timor-Leste National Housing Policy. Adopted by the Council of Ministers, March 2007. Gazetted as approved public policy, August 2007, p 10.

dwellings and for newly formed households.”¹⁶¹ As such the Policy commits to a national programme for new housing development that will encourage the “contribution of the private sector and civil society to low-income housing.”¹⁶²

It is yet to be seen whether the Government will proceed with and give effect to these legislative and policy initiatives to improve tenure security and housing conditions throughout the country. Consideration by Parliament of the draft Transitional Land Law has been put on hold, potentially reflecting a continued political unwillingness to deal with the complex and fraught problem of land rights. The current Government has endorsed the National Housing Policy and in 2010 the Ministry of Infrastructure hired a consultant to develop a National Housing Program including action plans for each district.¹⁶³ However, inter-ministerial buy-in and coordination has been weak to non-existent.¹⁶⁴ There is little awareness of the adoption of a National Housing Policy amongst Government and civil society.¹⁶⁵ Remarkably, the leaked draft Strategic Development Plan 2011-2030, rumoured to have been written exclusively by Prime Minister Xanana Gusmao, sets as a target for 2010-2011, the formulation of a National Housing Policy for Timor-Leste.¹⁶⁶

6. CONCLUSIONS AND LESSONS

Five years since the crisis broke out, there are no IDP camps left in Timor-Leste and calm has been restored. The Government and other actors have transitioned from post-conflict responses back to state-building and development, including the continuation of peacebuilding efforts. Ostensibly, the National Recovery Strategy as implemented was a success at closing the camps and getting the country back on track.

However, below the surface it is apparent that the drivers of conflict have not been comprehensively addressed and may have been exacerbated by the response – or rather its unimplemented components. Key amongst these drivers is the prevailing uncertainty with respect to land, housing and property rights. Deep-seated feelings of injustice with regard to these and other human rights violations, including criminal acts, have not been dealt with and may well be aggravated by the environment of impunity with which many instigators of violence and conflict have operated. As emphasised by the Representative of the Secretary-General on the human rights of IDPs, Walter Kalin, “meaningful and enduring reconciliation will remain elusive unless impunity for crimes is addressed.”¹⁶⁷ The prevailing absence of accountability for wrongful acts

¹⁶¹ Timor-Leste National Housing Policy. Adopted by the Council of Ministers, March 2007. Gazetted as approved public policy, August 2007, p 4.

¹⁶² Timor-Leste National Housing Policy. Adopted by the Council of Ministers, March 2007. Gazetted as approved public policy, August 2007, pp 15-16.

¹⁶³ Pers. comm. Charmae Pyl C. Nercua, Consultant to the National Directorate on Building, Housing and Urban Planning, Ministry of Infrastructure, Dili, 27 May 2010.

¹⁶⁴ Pers. comm. Charmae Pyl C. Nercua, Consultant to the National Directorate on Building, Housing and Urban Planning, Ministry of Infrastructure, Dili, 27 May 2010.

¹⁶⁵ Pers. comm. Charmae Pyl C. Nercua, Consultant to the National Directorate on Building, Housing and Urban Planning, Ministry of Infrastructure, Dili, 27 May 2010.

¹⁶⁶ The draft Strategic Plan 2011-2030 is available at <http://www.laohamutuk.org/econ/SDP/10SDPindex.htm>

¹⁶⁷ UNMIT. 2008. Press Release following the visit to Timor-Leste of the Representative of the Secretary-General on the human rights of IDPs, Mr. Walter Kalin, 12 December 2008, Dili.

has meant that conditions have not been created to deter people from seeking revenge or settling old scores during future periods of conflict by destroying the homes and property of others who they perceive to have aggrieved them.

It is also possible that the payouts, and the perceived zeal with which the Government resolves problems by dispersing cash, might even act as an incentive for people to flee their homes and seek shelter in public spaces during early signs of conflict in the expectation of receiving a government handout to return. The Government was essentially held to ransom by powerful elements within the IDP camp population and succumbed to their demands - taking the path of least resistance - setting a potentially dangerous precedent.

The emphasis on cash-payment and community dialogue in the approach to implementation, in of itself is not necessarily problematic from a housing rights perspective given the institutional weaknesses, the absence of a land and property regime and the undeniable need for financial assistance of some, although not all, IDP families. Following a period of conflict and displacement, providing families with the means to rebuild, meet basic needs and/or invest in their livelihoods through a grant is a legitimate measure. Luiz Vieira explains that “the grants gave people power over their decisions” at a time when institutional capacity may have been too low for the Government to be actively involved in housing reconstruction efforts.¹⁶⁸ Considering the environment in which the dialogue and mediation teams have been operating, the process has been a remarkable success in providing support to returning and returned IDPs.

However, the failure to properly ensure that the registration and payment process occurred in a fair, transparent and accountable manner, and the decision not to verify and monitor housing reconstruction, were major weaknesses in the response. The decision not to proceed with the resettlement option was unacceptable from a housing rights perspective and meant that the decision to return was not in all cases truly voluntary. It also meant that an opportunity was missed to begin to address inadequate housing conditions in Dili and avoid further land tenure complications. In this respect, the response to the 2006/7 crisis did not heed lessons from the 1999 response: providing IDPs with grants and allowing them to settle in an ad hoc manner, where return was not possible, was in some ways reminiscent - albeit on a smaller scale - of the post-1999 response. In cases in which the dialogue process facilitated IDPs’ return, the post-2006/7 response was, however, abundantly superior.

The absence of efforts to increase supply of construction materials or to otherwise control inflation of building costs was another weakness in the response, jeopardising the affordability of housing reconstruction. The failure to implement measures tailored to addressing discrimination against women and facilitating a situation whereby mothers and wives would be more likely to assume some control over payments was also problematic. These factors all undermined the extent to which the response advanced the realisation of the right to adequate housing. Indeed, despite the holistic nature of the National Recovery Strategy as planned, the approach as implemented was reactionary in nature and constituted a missed opportunity to begin to tackle the mounting housing rights challenges.

¹⁶⁸ Pers. comm. Luiz Vieira, former Chief of Mission, IOM, Dili, 1 June 2010.

Moving forward, to create conditions for sustainable peace and stability, institution building is of prime importance. Given the role of tenure insecurity, property disputes and perceived land injustices in instigating or exacerbating the crisis, laws, institutions and programmes that are effective in determining and upholding people's right to land tenure security are indispensable to establishing genuine peace and healthy development. The INR programme is contributing to the building of land and property administration systems, however a great deal more is urgently needed. A primary step should be the development of institutions that can conduct thorough community consultations on land rights issues and undertake community awareness campaigns in order to create public confidence and endorsement in a future land rights and dispute resolution regime. As noted by Fitzpatrick "[b]ecause land is life in most countries suffering from violent conflict, community acceptance and political support are essential components of a viable system of land administration."¹⁶⁹ Measures at obtaining opinions and buy-in at the community level have been inadequate to date.¹⁷⁰

Substantive and comprehensive progress on housing construction, reconstruction and *in-situ* improvements, especially in Dili, is contingent on the passage of legislation clarifying land rights and securing tenure for all, as well as other laws and policies, such as urban plans, spatial and zoning regulations and building codes. The deteriorating housing conditions in Dili and the severe shortage of housing stock must be addressed through programmes aimed at affordable housing, including through private sector initiatives and access to microfinance. The National Housing Policy should be embraced and operationalised through a coordinated effort of the appropriate ministries. As long as land tenure remains insecure, property disputes remain unresolved and housing stock remains severely deficient, Timor-Leste will be vulnerable to future episodes of conflict, destruction and displacement.

In a number of respects the shortcomings in the handling of the aftermath of the 2006-7 conflict echoed earlier failures in dealing decisively and comprehensively with the crisis of 1999. This needs to be recognised, and its implications dealt with, in an attempt to reduce the likelihood of a repeat of future cycles of displacement, dispossession in Timor-Leste.

¹⁶⁹ Daniel Fitzpatrick. 2002. Land Policy in Post-Conflict Circumstances: Some Lessons from East Timor. UNHCR. PDES Working Paper No. 58. 28 February 2002, p 3. (<http://www.jha.ac/articles/a074.htm>)

¹⁷⁰ See, for example, Lao Hamutuk. 2010. Transitional Land Law: Public Consultations. 21 April 2010. (<http://www.laohamutuk.org/Agri/land/10TransitionalLandLawEn.htm#consult>)

7. RECOMMENDATIONS

Each episode of conflict is generated by and sits within a complex set of unique factors, causes and repercussions. One must be wary of setting “hard and fast rules” for recovery that may work well in a particular post-conflict context, but which may have unintentional adverse repercussions in others. With this caveat, the following recommendations may be extrapolated from the recovery experience from the 2006/7 crisis in Timor-Leste in terms of housing rights:

1. Where a cash grant system is used as a key part of recovery it should be used as part of a more comprehensive, holistic and guided response.

- A cash-payment response can have significant benefits from a housing rights perspective. In an environment of weak institutional capacity it can allow IDP households to make independent decisions about whether to return or find an alternative place to live and the means to carry out these decisions. The payment of cash to foster private choices about recovery can lead to positive tailored solutions for housing and livelihood restoration. It also avoids potentially harmful blanket policies on prioritising the rights of return of IDPs versus the rights of occupiers. However, a cash-payment system as the sole response to support restitution, housing reconstruction and resettlement where necessary, will usually be problematic from a housing rights perspective, especially for the poorest and most vulnerable groups. The following types of measures should be considered to bolster cash-payment responses:
 - Implement a process to verify and monitor the use of grants provided to IDP households and where households opt to use the money for other urgent purposes such as debt repayment or to support livelihood restoration, consider additional support for housing reconstruction and repair.
 - Support and monitor the use of grants for “self-help” resettlement to ensure that IDPs are resettling themselves in secure and adequate housing conditions.
 - Consider whether a voucher system for the purchase of construction materials would be preferable to a cash-payment system or whether a combination of approaches would better ensure positive housing rights results.
 - It may be necessary to regulate the supply of construction materials, including through increased imports and other controls on inflationary pressures.
 - Encourage households to select mothers and wives, who are often in charge of household finances, to control the use of grants.

2. Develop resettlement and/or affordable housing programmes where necessary for those IDP households who will not otherwise have access to adequate alternative housing.

- In many post-conflict circumstances where there is a housing deficit new housing construction, although challenging, is unavoidable from a housing rights perspective. For IDP families who would otherwise be forced to resettle in or return to very poor or unsafe conditions, the provision of adequate housing or the means to construct adequate housing of at least minimum basic standards of quality, size, and access to services etc. constitutes an international law obligation on State parties to the ICESCR.

- To the extent possible, bilateral and multilateral partners should be prepared to support the government through the challenges that must be overcome and the decisions that must be made to implement a new housing programme, including inter alia:
 - the identification, acquisition where necessary and allocation of land in suitable locations close to livelihood opportunities and facilities;
 - decisions as to whether the programme will provide actual housing units or the means for families to construct their own housing;
 - initiatives to engage and partner with the private sector for the construction of housing;
 - the design and actual construction of housing and the incorporation of community participation in these processes;
 - the selection of eligible and most “in need” households;
 - decisions as to the extent to which recipient households should be required to contribute to the cost of the housing and through what mechanism access to credit should be provided if at all;
 - support to livelihood restoration for recipient households;
 - the mitigation of social jealousies or resentment from host communities; and
 - decisions as to the land tenure status of households in resettlement housing to guarantee tenure security.
- Practical guidelines on when resettlement or new affordable housing programmes are necessary from a human rights perspective and on each of the decisions and steps outlined above may be useful in this regard.

3. Measures should be taken from early on to assist registration and improve accountability in administrative processes.

- Financial and technical support should be provided as early as possible to initiate activities to gather and record information about IDP households and link them to data on affected properties and housing destruction. Information on households should include, inter alia, number of members and the location of household members, former address, description of housing conditions and tenure status. Data should be carefully cross-referenced across camps as appropriate. A GIS containing housing parcel data and referenced to orthophotos should be used as the foundation to gather data on property and link the data to IDP households.
- Multilateral and bilateral partners should take measures to make sure that government staff involved in the registration and payments system have sufficient support. When few staff are required to carry out a heavy burden of responsibilities at a rapid pace, they are more likely to acquiesce to pressures to give in to or overlook cases of fraud or other forms of corruption. One way to avoid this problem may be to spread the burden of responsibilities across ministries or institutions where possible. Despite the temptation to work exclusively with the most forthcoming and efficient ministry, international partners should make an effort to engage and support a number of ministries to take on roles in the recovery programme in order to alleviate pressures on any single ministry and to spread the capacity building benefits.

4. A community level dialogue and mediation process to facilitate return and peacebuilding, using where appropriate customary or pre-existing local dispute resolution and peacebuilding mechanisms, should be supported and extended beyond the immediate post-conflict period.

- An in depth study and analysis of the ongoing MSS-UNDP Dialogue Project in Timor-Leste should be undertaken with a view to providing the necessary information for its replication, with appropriate adaptation, in other post-conflict contexts.
- The plausibility of extending the dialogue process into a wider grievance mechanism, to for example, incorporate and fortify local mechanisms for people to air their grievances and conciliate disputes at a community level where possible and appropriate, should be examined. Such programmes could fill an important gap left by justice deficits in post-conflict environments where administrative and judicial accountability mechanisms are weak.

5. In the transition to development, a comprehensive community level consultation on housing, land and property issues and concerns should be implemented with the support of international development partners.

- As there is a transition to “normal” development programming, a full community level consultation on people’s housing, land and property rights concerns should be conducted for the purpose of providing people with a safe, structured and participatory mechanism to air their concerns and grievances; to facilitate community level dialogue and constructive action concerning these issues; and to inform future policy and programme design.
- Multilateral and bilateral development partners should provide financial and technical support to the government to carry out consultations and analysis of the results in recognition that these measures are imperative to continued peacebuilding and healthy development.

6. In cases in which there is significant land tenure insecurity and unresolved land conflict, the clarification of land rights should be addressed as early as possible.

- Although sorting out land tenure is a highly complicated and politically-fraught challenge, the failure to deal with land, housing and property rights from the outset will make the task more complicated as new layers of land transfers and occupation are added on top of an unstable base. If housing and property disputes are not resolved through appropriate administrative and judicial mechanisms, grievances and resentment can fester, to be unleashed in periods of conflict manifested through housing destruction and displacement. If land tenure is not secured, it will remain a disincentive to households to improve their own housing conditions and to private sector investment initiatives. It will also encourage the securing of rights through political patronage rather than legal processes, favouring the wealthy and well-connected, and leading to land-grabbing and

increasing inequality in landholdings. As political patronage systems are entrenched over time, they become increasingly difficult to challenge and overturn.

- Rights to housing, land and property should be clarified and secured and disputes should be resolved through legislation and administrative and judicial processes that are widely perceived by the population as fair and just, that fully respect human rights, and that are appropriate to the context in question. A comprehensive consultation process as described in recommendation 5, is one way to build public confidence in land law legislation, registration mechanisms and dispute resolution processes and bodies. While a consultation process will slow down the legislative and administrative processes, such a process is imperative to peacebuilding and public confidence in - and thus success of - the future land rights regime.
- Land dispute mediation teams should be trained, resourced and supported from early on, building where applicable, on dialogue and mediation projects operational in the more immediate post-conflict period. Mediation teams should target as a priority areas of known tension in order to try to diffuse potential cases that could trigger a recurrence of conflict.
- The drafters of land rights legislation and the institutions that give effect to their provisions should, as applicable to the context in question, take into account the following considerations:
 - From a human rights perspective:
 - The importance of land tenure security for all should be recognised. Laws, institutions and programmes should be formulated and implemented effectively to protect this basic underlying right, in both rural and urban areas. Recognition and protection should be given to the full range of tenure forms, with particular emphasis on the rights of the poor and vulnerable.
 - The right to restitution for those who have been displaced or otherwise deprived of their rights and the right of current possessors to secure tenure should be balanced and respected;
 - The rights of customary communities to their land should be respected and careful consideration must be given to how their rights to maintain access to and control their land will be incorporated into and protected by the formal system and in the context of economic development.
 - The rights of women should be respected, and the law and institutions should explicitly prohibit gender discrimination in the control of land.
 - Forced evictions should be prohibited and clear human rights-compliant legislative or policy rules should be developed to govern evictions, which should only occur in exceptional circumstances after all alternatives have been considered.
 - There should be a guarantee that no one will be made homeless or landless as a result of the implementation of the legislative provisions.

- From a transitional justice perspective it is important that past human rights violations are not entrenched, and are redressed wherever possible.
- From a peacebuilding perspective, the law and institutions must be widely respected and considered as fair.
- From a development perspective, the law and institutions must codify a clear and secure property rights regime that causes minimal disruption and promotes access to land for all, to ensure at a minimum, adequate landholdings for the maintenance of livelihoods.

BIBLIOGRAPHY

Publications and Reports

- CAVR. 2005. *Chega!*, Final Report of the Commission for Reception, Truth and Reconciliation. (www.cavrtimorleste.org/en /chegaReport.htm)
- Centre on Housing Rights and Evictions (COHRE). 2000. Better Late Than Never: Housing Rights in East Timor. Mission Report. COHRE. Geneva. September 2000.
- Cohen, D. 'Indifference and Accountability: The United Nations and the Politics of International Justice in East Timor' (East-West Centre Special Reports, No 9, Honolulu, 2006).
- Devant. S.G. 2008. Displacement in the 2006 Dili Crisis: Dynamics of an Ongoing Conflict. Univeristy of Oxford Refugee Studies Centre Working Paper No. 4. January 2008.
- Du Plessis J. and Leckie. S. 2000. Housing Property and Land Rights in East Timor: Proposals for an Effective Dispute Resolution and Claim Verification Mechanism. United Nations Habitat. 31 May 2000.
- Du Plessis. J. 2003. Slow Start on along Journey: Land Restitution Issues in East Timor, 1999-2001. In Scott Leckie (ed). 2003. Returning Home: Housing and Property Restitution Rights of Refugees and Displaced Persons. Transnational Publishers. New York.
- De Sousa. P. 2005. East Timor, Land Management - a Long Way to Go, but we have started, December 2005. (http://www.fig.net/commission7/bangkok_2005/papers/6_3_sousa.pdf)
- Ferguson. P. 2010. IDP camp closure and gender inequality in Timor-Leste. Forced Migration Review 34, University of Oxford, Refugee Studies Centre, 2010.
- Fitzpatrick. D. 2002. Land Claims in East Timor. Asia Pacific Press. Canberra.
- Fitzpatrick. D. 2002. Land Policy in Post-Conflict Circumstances: Some Lessons from East Timor. UNHCR. PDES Working Paper No. 58. 28 February 2002. (<http://www.jha.ac/articles/a074.htm>)
- Fitzpatrick. D. 2008. Mediating Land Conflict in East Timor. In AusAID. 2008. Making Land Work. Volume Two. AusAID, Canberra.
- Harrington. A. 2007. Ethnicity, Violence and Land and Property Disputes in Timor-Leste. East Timor Law Journal. Volume 2 (http://www.eastimorlawjournal.org/ARTICLES/2007/ethnicity_violence_land_property_disputes_timor_lete_harrington.html)

Hassell Pty. Ltd. 2002. Towards a Medium-Term Sector Strategy for Housing in East Timor. March 2002.

Internal Displacement Monitoring Centre (IDMC). 2008. Timor-Leste: IDPs returning home, but to ongoing poverty and lack of access to basic services. IDMC, Norwegian Refugee Council. 31 October 2008. Geneva.

Internal Displacement Monitoring Centre (IDMC). 2009. Timor-Leste: IDPs have returned home, but the challenge of reintegration is just beginning. IDMC, Norwegian Refugee Council. 9 December 2009. Geneva.

International Crisis Group (ICG). 2006. Resolving Timor-Leste's Crisis. ICG Asia Report No. 120. Jakarta/Brussels, 10 October 2006.

International Crisis Group (ICG). 2008. Timor-Leste's Displacement Crisis. ICG Asia Report No. 148. Jakarta/Brussels, 31 March 2008.

International Finance Corporation and Asia Development Bank. 2007. Economic and Social Development Brief. August 2007.

Lopes. I. 2009. Land and Displacement in Timor-Leste. ODI. Humanitarian Exchange Magazine Issue 43. June 2009. (<http://www.odihpn.org/report.asp?id=3007>)

Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste. UNOHCHR. Geneva. 2 October 2006.

Trindade. J. and Castro. B. 2007. Rethinking Timorese Identity as a Peacebuilding Strategy: The Lorosa'e – Loromonu Conflict from a Traditional Perspective. 6 June 2007.

Urresta. E. and Nixon. R. 2004. Report on Research Findings: Policy Options and Recommendations for a Law on Land Rights and Title Restitution. East Timor Land Law Program. Dili. July 2004.

Weir. S. and Kessler. E. 2006. Community-based Disaster Response: Only One Component of an Effective Shelter Framework. Habitat for Humanity, Asian Disaster Preparedness Center, International Housing Coalition. 20 June 2006.

Websites

IOM. 2010. Timor-Leste: Overview. (<http://www.iom.int/jahia/Jahia/activities/asia-and-oceania/east-and-south-east-asia/timor-leste>).

Lao Hamutuk. 2010. Transitional Land Law: Public Consultations. 21 April 2010. (<http://www.laohamutuk.org/Agri/land/10TransitionalLandLawEn.htm#consult>)

Norwegian Refugee Council (NRC). Factsheet: NRC's Country Programme in Timor Leste. (<http://www.nrc.no/?did=9167175>).

Strengthening Property Rights in Timor Leste “ItaNiaRai” website.
(<http://www.sprtl.tl/eng/index.html>)

United Nations Documents

Security Council Resolution 1272 on the situation in East Timor. UN SCOR. 54th sess. 4057th mtg. UN Doc S/RES/1272 (1999).

UNDP: Timor Leste. 2007. Damage Assessment Report. UNDP. September 2007.

United Nations. 2008. Timor Leste: Transitional Strategy and Appeal 2008.

UNMIT. 2008. Press Release following the visit to Timor-Leste of the Representative of the Secretary-General on the human rights of IDPs, Mr. Walter Kailin, 12 December 2008, Dili.

UNTAET Regulation No. 1999/1 On the Authority of the Transitional Administration in East Timor. 27 November 1999.

Government Documents

Background Paper: National Symposium: Housing the Poor in Urban Economies. Ministry of Public Works and the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP). Dili. April 2006.

Democratic Republic of Timor-Leste Resolution of Government 5/2006: Approval of Policy on Rehabilitation/Construction of houses destroyed during the political/military crisis of April to September 2006.

Hamutuk Hari’iFuturu: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili.

Hamutuk Hari’iFuturu: A National Recovery Strategy, The Office of the Vice Prime Minister of the Democratic Republic of Timor-Leste. December 2007. Dili, Annex I: Hamutuk Hari’iUma Operational Plan.

Ministry of Social Solidarity. 2009. Press Release: Minister of Social Solidarity provides update on work of MSS during 2009, 17 December 2009, Dili.

Ministry of Social Solidarity. 2009. Press Release: Payments of Phase II Recovery Packages to Commence, 5 November 2009, Dili.

Support to National Housing Policy (SNHP): Outline Urban Strategy. Paper No 1. Ministry of Transport, Communications and Public Works.

Timor-Leste National Housing Policy. Adopted by the Council of Ministers, March 2007.

Gazetted as approved public policy, August 2007.

Interviews

Belo, J. Project Manager, MSS-UNDP Dialogue Project, UNDP, Dili, 1 June 2010.

Cason, S, Advisor, Access to Justice Policy and Programs, Justice Facility (formerly Advisor to MSS), Dili, 26 May 2010 and email, 19 July 2010.

Danby, C, Country Director, Save the Children, Dili, 28 May, 2010.

Esteves, L, Program Manager, Community Stabilisation Projects, IOM, 27 May 2010.

Francisco, D, Country Director, CARE Timor-Leste, Dili, 1 June 2010.

Howell, F, Adviser, Ministry of Social Solidarity, Dili, 31 May 2010.

Larke, B, former Social Reintegration Team Leader, UNDP, Dili, 29 May 2010 and email, 11 July 2010.

Lopes, I, Land Rights Adviser, Urgent Damage Assessment and Recovery Planning Project,

Martins, I, Hawkes, S and Scheiner, C, Researchers, Lao Hamutuk, Dili, 28 May 2010.

Nercua, C. Consultant to the National Directorate on Building, Housing and Urban Planning, Ministry of Infrastructure, Dili, 27 May 2010.

Pequinho, J, Executive Coordinator, Forum Tau Matan (FTM), Dili, 31 May 2010

Ribeiro, S. Land Registration Specialist, ARD, Ita Nia Rai project, Dili, 25 May 2010.

Thomson, N, Chief of Party, ARD, Ita Nia Rai project, Dili, 24 May 2010.
UNDP, email, 21 July 2010.

Vieira, L, former Chief of Mission, IOM, Dili, 1 June 2010.

Zamudio, A, Country Director, NRC, Timor-Leste, Dili, 25 May 2010

ANNEX A: CHRONOLOGY OF MAIN EVENTS

Background

1702	Portuguese Timor declared a colony of Portugal
1942-1945	Japanese invasion and occupation
1974	Portuguese decolonisation begins
August-September 1975	Brief civil war (conflict between political parties UDT, favouring gradual disassociation from Portugal and Fretilin, favouring immediate independence)
28 November 1975	Fretilin declares East Timor's independence.
7 December 1975	Indonesia invades East Timor
17 July 1976	Official annexation by Indonesia of East Timor
30 August 1999	Referendum held to decide between autonomy within Indonesia or independence
4 September 1999	UN Secretary General Kofi Anan announces that 78.5 percent East Timorese voters reject autonomy within Indonesia in favour of independence.
September 1999	Pro-Indonesian militias supported by the Indonesian military (TNI) unleash rampage of terror, killing approximately 1500 people and destroying 70 percent of infrastructure. Of a total population of 900,000, approximately 300,000 people are forced into Indonesian West Timor and an estimated 450,000 were internally displaced.
20 September 1999	First international troops arrive
25 October 1999	Security Council Resolution 1272 establishes the United National Transitional Administration in East Timor (UNTAET)
20 May 2002	East Timor becomes an independent State.

2006/7 Crisis

February 2006	F-FDTL soldiers desert their barracks, claiming discrimination against soldiers from the west
March 2006	Soldiers ordered to return and are dismissed by Brigadier General TaurMatanRuak when they refuse. Decision backed by Prime Minister Mari Alkitiri but called "unjust" by President XananaGusmão. First attacks on Easterners with 17 homes burnt down. Easterners begin to flee Dili.
24-28 April 2006	Dismissed soldiers "petitioners" and others protest outside the Government Palace. Protests turn violent. Violent incidences on the streets of Dili.
4 May 2006	Major Alfredo Reinado, along with 20 military police defect and join the soldiers. They take weapons and make a base in

	Aileu.
May 2006	Violence erupts in Dili.
May 2006	Foreign troops from Australia, Portugal, Malaysia and New Zealand arrive to restore order.
26 June 2006	Prime Minister Alkatiri resigns and Jose Ramos Horta takes up office.
August 2006	Establishment of the United Nations Integrated Mission in Timor-Leste (UNMIT) with a broad mandate to provide humanitarian, security, political and development support.
February 2007	Rice shortages spark renewed protests and violence.
19 May 2007	Estanislada Silva becomes interim Prime Minister. Jose Ramos Horta is inaugurated as President
30 June 2007	Parliamentary elections held.
8 August 2007	Xanana Gusmão becomes Prime Minister heading a weak coalition of parties called the Alliance for Parliamentary Majority (AMP). Gusmão's party is called the National Congress for the Reconstruction of East Timor (CNRT). Further violence breaks out.
December 2007	National Recovery Strategy adopted
February 2008	President Jose Ramos Horta is shot and Alfredo Reinado is killed. Failed attack on Prime Minister Gusmão. Food distributions to IDP camps are halved.
April 2008	MSS starts systematically distributing recovery packages to IDPs willing to return.
August 2009	Last IDP camp is closed

ANNEX B: HAMUTUK HARI'I UMA OPERATIONAL PLAN

In order to meet the (re)construction and resettlement needs, the Government will undertake the following actions:

I. Establish Recovery Support Benefits Programme for IDPs

Each IDP household that was forced to leave their home during the 2006 crisis and regardless of present place of residence (camp or host community) will receive the following recovery support benefits:

- if their house is **uninhabitable** (i.e. destroyed or so severely damaged that it no longer provides adequate shelter, i.e. it does not have a minimum of two functional rooms and a bathroom) the IDP household will have the choice between:
 - (a) \$4,500 cash, disbursed in two installments through MSS for the reconstruction of their home, with the second installment paid only after verification by MSS that the household is in an alternative, legal accommodation and the household has permanently left the camp; or
 - (b) a basic house (two rooms and a bathroom) constructed and provided by the Government (value \$ 3,000) together with \$1,500 cash paid in one installment at the moment the IDP household moves into it their new house and permanently leaves the camp.
- if their house is **habitable but severely damaged** (i.e. house but has suffered more than 50% structural damage) the IDP household will receive \$3,000 cash for reconstruction purposes.
- if their house is **partially damaged** (less than 50% structural damage) the IDP household will receive \$1,500 cash for reconstruction purposes.

In case an IDP household is unwilling or unable to return:

- the Ministry of Social Solidarity will verify in the local community whether or not there exists a willingness to allow the household to return;
- in case such willingness exists, the Ministry of Social Solidarity will facilitate a voluntary meeting between the household and local community representatives;
- if at the end of this process the IDP household remains unable or unwilling to return the household will receive a basic house (two rooms and a bathroom) constructed in an alternative location and provided by the government (value \$3,000) together with \$1,500

cash paid in one installment at the moment the IDP household moves into it their new house and permanently leaves the camp.

1.1 Summary of Recovery package options for damaged and destroyed houses

Condition of House/Status of IDP*	Willing and Able	Unable or Unwilling
Uninhabitable	Option 1: Basic House* (min 2 rooms and bathroom) + \$1,500 Option 2: \$4,500 Cash Recovery Grant	Basic house in alternative site + \$ 1,500
Habitable but severely damaged	\$3,000	Basic house in alternative site + \$ 1,500
Partially damaged (less than 50% structural damage)	\$1,500	Basic house in alternative site + \$ 1,500
Non-structural damage (e.g. windows, doors)	\$500	Basic house in alternative site + \$ 1,500
Not damaged	-	Basic house in alternative site + \$ 1,500

* The basic house should provide shelter to a standard that reflects mid-range housing stock in the Timorese context and be of a durable nature. The design and costing should be determined by the Ministry of Infrastructure, however, this model envisages a basic house that has a total cost as built of \$3,000

Risks/Considerations

1. Recovery as a Strategic Aim:

The strategy does not aim to compensate persons for the exact value of assets lost. It endeavours instead to allow persons affected by the crisis to begin their recovery from it. As such it does not take into consideration the different pre-Crisis standards & values between the houses that were damaged or destroyed. That said, the Government remains committed to assisting persons affected by the crisis to reach certain minimum standards of habitation and an opportunity to enhance their livelihood options, particularly as it relates to their shelter and post-crisis economic recovery. The Strategy's approach is also meant to allow for quick implementation.

2. Social Jealousy:

This approach may result in some potential social jealousy as some who will potentially benefit from this scheme will receive an assistance package that may exceed the original value of their previous home. Similarly there may well be some dissatisfaction from those whose houses exceeded the value of the recovery package.

3. Recognizing differences between Dili and the Districts:

3.1 Nature of Displacement

There are differences in the character and nature of the displacement between Dili and the outlying Districts that have witnessed displacement (Baucau, Viqueque, Ermera, Liquica). The majority of those who have been displaced from their homes in the districts are victims of aggressive acts which are the results of long-standing animosities and conflicts. In these circumstances extra care must be taken to ensure that the recovery support is not seen as excessive in order to prevent heightening tensions between those conflicting groups.

3.2 Housing Stock

There are differences in the housing stock and economies in the districts when compared with Dili. While the destruction and damage to homes in Dili has been somewhat more interspersed, in the Districts in some cases entire villages were destroyed that were previously constructed of non-durable local materials. Similarly, fewer houses in the Districts had bathrooms. Replacing pre-existing basic homes with much better quality housing, complete with sanitation, such as foreseen in the Strategy and allocating relatively large sums of money is likely to result in increased tensions between conflicting groups there.

3.3 Availability of building material

There are also differences in the availability of building materials in the districts. Whilst providing cash-only options in Dili carries a certain level of risk, such as the inflation of material costs as demand grows for construction materials, there are a number of suppliers in the capital. In the districts however, distributing cash-only options for recovery to areas where there are high densities of IDPs whose houses have been damaged or destroyed may result in scarcity of resources and hyper-inflation of prices. Experience elsewhere demonstrates that the combination of higher than predicted prices and scarcity of material may make recovery plans unimplementable and may lead to persons without adequate shelter over long periods.

3.4 Expected rate of return:

Many in the districts are already living in make-shift shelter on their former land and thus re-occupation is likely to happen instantly and in large numbers. In Dili, return is anticipated to happen quickly only for those whose sole obstacle to return is infrastructural; however these are expected to represent a minority within those displaced from Dili as many are prevented from return by fear of attack or other security concerns. The necessary dialogue and other follow-up

support needed to facilitate what is expected to be a very significant portion of the returns in Dili will result in a more phased and slower return in the capital and therefore decrease the impact of the packages on communities in the immediate term.

For the majority of Dili-based IDPs, return will need to be on a case-by-case basis with support and dialogue opening the door for their return to communities, thus allowing a steadier, more stable, process. Recovery packages have been proposed that offer substantial funds for house repair and reconstruction and the purchase of other related materials in recognition of the long-term nature of displacement of the majority of IDPs in Dili, the reluctance of many to leave the camps and the corresponding need to provide a financial and housing incentive for return.

3.5 Economic impact and justification of cash-only option:

Whereas the proposed \$4,500 cash package when viewed within the Dili's economic context can be justified, the provision of \$4,500 cash in the Districts where much less money circulates is likely to result in a high degree of social jealousy which will potentially place recipients at risk. This is particularly the case where IDPs are members of one party in an area with long-standing conflicts.

Possible Mitigation Strategies

By developing different packets of recovery support for those displaced from the districts and those displaced from Dili it may be possible to significantly decrease the potential risks and negative impacts of the proposed Strategy. Mitigation efforts should focus on adjusting the strategy to reflect the differences in the circumstances of IDPs in these contexts.

By offering recovery support that recognises the generally lower housing-stock, cost of living and economic environment in the districts with lower value recovery packets, it may be possible to reduce perceptions of inequality between conflicting groups there while meeting their basic recovery needs.

To prevent hyper-inflation of the price of construction materials in the districts the recovery support provided to those in the districts could be adapted further to allow recovery packets that contain more materials than cash. In order to assure that all construction can be completed, the processes of procurement and supply could be administered through a government-controlled process.

II. Process Flow

This process flow provides a basic overview of the implementation process. A more detailed matrix is attached.

The different steps of the process include:

Step 1: Identification, assessment and status determination of damaged and destroyed houses and registration of IDPs (Levantamento de Dados e Campo).

Responsibilities: Ministry of Social Solidarity for Levantamento de Dados and creation of claims database. Ministry of Infrastructure for Levantamento de Campo.

Step 2: Launch IDP Recovery Support Benefits Programme as part of the National Recovery Strategy

Nation-wide information and outreach campaign informing the population as a whole about the National Recovery Strategy including the IDP Recovery Support Benefits Programme.

Responsibility: Office of the Vice Prime-minister

Step 3: Specific Information and Outreach Campaign towards IDPs explaining the options available to them under the IDP Recovery Support Benefits Programme.

Responsibility: MSS

Step 4: Call IDP Household Representatives who are willing and able to return to come forward to present themselves to four selected sites in Dili and additional sites in the Districts and indicate their preferred option (cash recovery grant or basic house plus small cash grant)

In this step all personal information and preference will be registered in the database including photo ID and voter registration card and it will be verified whether or not these households are registered in the Levantamento de Dados e Campo database. In case they are not in the latter database a further verification will be carried out.

Responsibility: MSS leading inter-ministerial teams composed of MOI, MSA, and National Directorate of Land and Property staff.

Step 5: Implementation of the options chosen by the IDP household

For IDP households choosing cash recovery grant:

The following sub-steps will be taken in respect of these households:

(a) prepare individual case-files ;

Responsibility: MSS

(b) according to operationally manageable geographical areas a small team of the Ministry of Social Solidarity will go together with the relevant IDP households to verify with the local authorities that the households were indeed living in the houses they identified in the Levantamento de Dados e Campo process;

Responsibility: MSS and MSA

- (c) IDP households that pass the verification process will receive a voucher for the first installment of the cash recovery grant to the value of \$1,500. IDP households will have between three and five months to commence reconstruction. In the meantime they can remain in the camps or host communities;

Responsibility: MSS

- (d) MSS to prepare 'Affidavit of Voluntary Return' to document responsibilities of both parties underscoring, inter alia, that IDP assumes responsibility for return.

Responsibility: MSS

- (e) NDLP to provide a license for occupancy until such a time as the right to property in which the IDP household resided prior to the crisis is established.

Responsibility: NDLP

- (f) Latest at the end of the five month period, IDP households will present themselves at Ministry of Social Solidarity to obtain the voucher for the second and final installment of the cash recovery grant.

The Ministry of the Social Solidarity will verify that the household has commenced reconstruction of their home or is otherwise in alternative, legal accommodation. The household will also have to present a form signed by the SLS that they have dismantled their tent and definitely left the camp.

Responsibility: MSS

- (g) In cases where IDP households are unable to demonstrate that the funds disbursed have been used for reconstruction/accommodation they will be ineligible for the second tranche of the cash recovery grant. They will however remain eligible for the basic housing component.

Responsibility: MSS

For IDP Households who are able and willing to return and who have chosen the basic house and small cash grant option:

IDP households whose houses are uninhabitable

- (a) Prepare individual case files for all verified destroyed homes (by 'area of operation')

Responsibility: MOI

- (b) according to operationally manageable geographical areas a small team of the Ministry of Social Solidarity will go together with the relevant IDP households to verify with the local authorities that the households were indeed living in the houses they identified in the Levantamento de Dados i Campo process;

Responsibility: MSS

- (c) Ensure logistical preparation and procurement of materials for the construction of the basic houses.

Responsibility: Ministry of Infrastructure

- (d) Prepare community consultation process immediately prior to return and construction including a local information campaign.

Responsibility: MSS

- (e) MSS to prepare 'Affidavit of Voluntary Return' to document responsibilities of both parties underscoring, inter alia, that IDP assumes responsibility for return.

Responsibility: MSS

- (f) NDLP to provide a license for occupancy until such a time as the right to property in which the IDP household resided prior to the crisis is established.

Responsibility: NDLP

- (g) MSS/MOI staff and household representative identify and visit the site to ensure ability to build (particularly space) and to determine 'habitability' in cases where lack of clarity from existing data.

Responsibility: MSS/MOI

- (h) In cases where substantial remnants of the house remain, household representative together with MOI representative determine and record what structures shall remain.

Responsibility: MOI

- (i) Once the site is cleaned, construction will commence. Framework projections are based on a maximum of a one-week construction time frame.

Responsibility: MOI manages community labour with support, as needed from implementing partners.

- (j) Beneficiaries will receive a voucher for the \$1,500 cash grant upon moving into their basic house. The household will have to present a form signed by the SLS that they have dismantled their tent and definitely left the camp.

Responsibility: MSS

IDP households willing to return and whose houses are habitable but were severely damaged

The following sub-steps will be taken in respect of these households:

- (a) prepare individual case-files;

Responsibility: MSS

- (b) according to operationally manageable geographical areas a small team of the Ministry of Social Solidarity will go together with the relevant IDP households to verify with the local authorities that the households were indeed living in the houses they identified in the Levantamento de Dados i Campo process;

Responsibility: MSS and MSA

- (c) MSS to prepare ‘Affidavit of Voluntary Return’ to document responsibilities of both parties underscoring, inter alia, that IDP assumes responsibility for return.

Responsibility: MSS

- (d) NDLP to provide a license for occupancy until such a time as the right to property where the IDP household lived immediately prior to the crisis is established.

Responsibility: NDLP

- (e) The household will also have to present a form signed by the SLS that they have dismantled their tent and definitely left the camp.

Responsibility: MSS

- (f) IDP households that complete the above requirements will receive a voucher for \$3,000 upon re-occupancy of former home.

Responsibility: MSS

IDP households willing to return to habitable but partially damaged homes.

Process the same as above except that the voucher will have a value of \$1,500.

IDP households willing to return to homes with non-structural damage.

Process the same as above except that the voucher will have a value of \$500.

For IDP Households unwilling or unable to return to the homes where they resided immediately prior to the crisis:

- (a) Prepare individual case files;

Responsibility: MSS

- (b) according to operationally manageable geographical areas a small team of the Ministry of Social Solidarity will go to verify with the local authorities that the households were indeed living in the houses they identified in the Levantamento de Dados i Campo process;

Responsibility: MSS and MSA

- (c) Area by area, the Ministry of Social Solidarity will verify with the local community whether or not they are willing to receive the relevant IDP households.

Responsibility: MSS

- (d) In case the local community is willing to receive the relevant IDP households the Ministry of Social Solidarity will assist the IDP to identify the remaining obstacles to return and seek to address them.

Responsibility: MSS

- (e) Should the IDP household decide at the end of this process that they can return they will have the same options as those that were immediately willing and able to return (*see above*).

Responsibility: MSS

- (f) Should the IDP household remain unwilling or unable to return the following steps will occur:

- a. The Government should propose the IDP household a number of alternative locations for resettlement.

Responsibility: Led by MSS in coordination with NDLP

- b. Once the IDP household has selected the location it wants to go to, the construction process of the basic house is started (*see above for more detailed description*).

Responsibility: Ministry of Infrastructure

- (g) MSS to prepare ‘Affidavit of Voluntary Return’ to document responsibilities of both parties underscoring, inter alia, that IDP assumes responsibility for return.

Responsibility: MSS

- (h) NDLP to provide a license for occupancy for the resettlement basic house. The document will also stipulate that the IDP gives up right to occupy the home of residence immediately prior to the crisis.

Responsibility: NDLP

- (i) Beneficiaries will receive a voucher for the cheque of the \$1,500 cash grant upon moving into their basic house. The household will have to present a form signed by the SLS that they have dismantled their tent and definitely left the camp.

Responsibility: MSS

Step 6 Post-return Protection Monitoring

The Ministry of Social Solidarity together with partners will set up a programme of post-return protection monitoring which will involve regular visits to return or resettlement communities to find out how the reintegration process is going. Where necessary, the Ministry will initiate specific reintegration activities or measures.

Responsibility: MSS in coordination with ProvedorparaosDireitosHumanos.

III. Activities Outside the Process Flow

- The Ministry of Infrastructure will process the data collected through the Levantamento de Campo in order to establish the category of each case (uninhabitable, habitable but severely damaged, etc). This information will be transferred from the MOI to the MSS and included in the individual case file.
- The Government will immediately need to start identifying and preparing land for resettlement of IDP households who are unable or unwilling to return to their places of origin. Upon identification of the land, the Government will commence a dialogue with the local community to prepare them for the arrival of former IDP households.
- The Government must find a solution for the non-IDPs currently residing in the camps.
- The government should envisage the decommissioning of the camp sites post-closure and consider compensation for the land-owners of the former camp sites.
- The Government should use the opportunity to highlight success stories and proceed, as far as possible, simultaneously with infrastructure development projects that address community needs.

ANNEX C: ROLES AND RESPONSIBILITIES

Role and responsibilities of the main national institutions and international agencies

Government ministry	Roles and responsibilities
Office of the Vice Prime Minister	<ul style="list-style-type: none"> Responsible for overall coordination of the National Recovery Strategy (NRS)
Ministry of Social Solidarity (MSS)	<ul style="list-style-type: none"> Led the drafting of the NRS. <p>Under the NRS was tasked to:</p> <ul style="list-style-type: none"> create and develop the claims database; implement an outreach campaign targeting IDPs to explain the options available to them; process the options selected by households; verify claims; distribute vouchers for the cash grants; verify housing reconstruction or the securing of alternative legal accommodation and disburse the balance of the grants; carry out the community dialogue process; assist IDP households choosing resettlement to identify a location; and carry out post-return protection monitoring. <ul style="list-style-type: none"> Under the draft Transitional Land law is delegated responsibility under the “special protection against eviction” provisions.
Ministry of Justice (MoJ) - National Directorate of Land and Property (NDLP) later named the National Directorate for Land, Property and Cadastral Services (NDLPCS)	<ul style="list-style-type: none"> Has the authority to allocate State land for transitional, resettlement or social housing but has been averse to doing so. Under the NRS, the NDLP was to provide licences for occupancy to returned or resettled households “until such a time as the right to property in which the IDP households resided prior to the crisis is established.” Works with Ita Nia Rai to implement the systematic land claims registration process. Has significant powers and responsibilities under the draft Transitional Land Law, including undertaking the cadastral survey process, which includes that assessment of the bona fides of claims; and issuing eviction notices.
Ministry of Infrastructure (MoI)	<ul style="list-style-type: none"> Was supposed to construct housing under the NRS. In 2010 employed a consultant to develop operational plan for National Housing Policy

Ministry of State Administration (MSA)	<ul style="list-style-type: none"> Under the NRS was tasked to assist MSS with a number of administrative activities.
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Main international agencies	Roles and responsibilities
International Organisation for Migration (IOM)	<ul style="list-style-type: none"> Managed IDP camps Worked closely with the MSS to carry out its tasks under the National Recovery Strategy including through the <i>Enhancing Stabilisation through Sustainable Reintegration of IDPs</i> project. Conducted post-return monitoring and produced reports
United Nations Development Programme (UNDP)	<ul style="list-style-type: none"> Worked closely with the MSS to carry out its tasks under the National Recovery Strategy Implemented Dialogue and Mediation Process with MSS under two projects called <i>Strengthening Institutional Structures and Mechanisms for Dialogue</i> and <i>Support to the Trust-building Pillar of the National Recovery Strategy</i>
Norwegian Refugee Council (NRC)	<ul style="list-style-type: none"> Constructed and managed 596 transitional shelters between early 2007 and September 2009.
USAID - <i>ItaNiaRai</i> ('Our Land') programme	<ul style="list-style-type: none"> Five-year, \$10 million programme established in 2007 to provide "technical and policy support to develop a sustainable and transparent property rights system in Timor-Leste." Operates under what is now called the National Directorate for Land, Property and Cadastral Services (NDLPCS) within the Ministry of Justice. Five tasks are: <ol style="list-style-type: none"> 1. Public information and awareness and increased transparency; 2. Land policy, laws and implementing regulations; 3. Support to a national land commission; 4. Land administration (cadastral, registration and land titling system); and 5. Dispute resolution, mediation and processes for competing claims to land.
The World Bank	<ul style="list-style-type: none"> Preparing policy options for regulations on Chapter V of the draft Transitional Land Law in relation to community protection zones and community property.

