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Chapters in books: Manuel Ennes Ferreira, "China in Angola: Just a Passion for Oil?", in Christopher Alden, Daniel Large and Ricardo Soares de Oliveira (eds.), *China Returns to Africa: A Rising Power and a Continent Embrace* (New York: Columbia University Press, 2008), pp. 295-317.

Articles in journals: Paulo Gorjão, "Japan's Foreign Policy and East Timor, 1975-2002" (*Asian Survey*, Vol. 42, No. 5, September/October 2002), pp. 754-771.

Articles in newspapers: Paulo Gorjão, "UN needs coherent strategy to exit from East Timor" (*Jakarta Post*, 19 May 2004), p. 25.

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Is Timor-Leste a failed state?

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In 2002 the United Nations Development Program (UNDP) published its report on the "poorest [country] in Asia and one of the poorest in the world", with indicators similar to those of other collapsing nations.¹ At the time, it was said that the United Nations Transitional Administration in East Timor (UNTAET) gave birth - in statistical terms - to a failed state.² Australia also approached this new sovereign state with caution. By the time Timor-Leste became independent, in May 2002, the Australian Strategic Policy Institute (ASPI), a think-tank with close ties to the Canberra government, published a report calling attention to the possibility of Timor becoming a failed state. A few months later, as the December 5 mutinies unfolded, the worst-case scenario seemed to be confirmed. On the second anniversary of Timor-Leste's independence, Australian Oxfam also warned of the danger of the country becoming a failed state.

This concern was not exclusive to Australia. In 2004 and 2005, the President of the Timorese Republic, José Alexandre "Xanana" Gusmão, stated that the risk was not diminishing. The inverse was true. The April and May events, resulting in the resignation of Prime-Minister Marí Alkatiri, once again placed the issue on the political agenda. At the time, Alexander Downer, Australia's Foreign Minister, stated that military intervention was needed to avoid Timor-Leste turning into a failed state. Last year, the attacks targeting President José Ramos Horta and Prime Minister Xanana Gusmão raised questions as to the viability of the country.

Timor-Leste is displaying signs of political, military and social instability, and it is critical to understand if it is indeed a failed state or just, as the European Parliament member José Ribeiro e Castro put it, "a state with failings".³ The answer to this question will influence the options of the various internal and external actors.

This article begins with a short overview of the nature of failed states - terminology, defining characteristics and causes. It is followed by an analysis of existing and potential failed states. Since there is a clear link between the nature of the political regime and state malfunction, the subsequent paragraphs will focus, albeit in a non-exhaustive fashion, on a few political, military, judicial and economic aspects essential to addressing the final answer.

Terminology, definition, characteristics and causes

The growing visibility of failed states on the international scene was not followed by a clear definition or a clarification of terminology. The terms *weak*, *fragile*, *failing*, *failed* or *collapsed* have been used as synonyms (or nuances) for a scale spanning strong and/or capable states to truly failed states.

Definitions of failed states also differ in scope. As Daniel Thürer stated, the expression failed state does not indicate a specific definition or situation - on the contrary. The term has been used as a label covering different situations.⁴ For instance, Michael Ignatieff identifies a failed state when "the central government loses the monopoly of the means of violence"⁵, adding that the sole characteristic shared by failed states is "an inability to maintain a monopoly of the internal means of violence"⁶. This Weberian view is minimalist, based on the lowest common denominator.

Nevertheless, one can find broader and more tangible definitions. William Zartman sees a failed state when "the basic functions of the state are no longer performed"⁷. A failed state thus amounts to something more than just a country incapable of preserving the monopoly of its internal means of violence. It is a "deeper phenomenon", and connects to a "situation where the structure, authority (legitimate power), law, and political order have fallen apart"⁸. Similarly, Timothy Raeymaekers sums up three main functions of a modern state, thus clearly outlining its potential failures: it must have a monopoly on violence, allocate economic resources and represent a more or less 'fixed' population⁹. Sharing this view, Thürer outlines three elements that characterize a failed state: geographical/territorial, political and functional. Accordingly, failed states share a set of characteristics and problems: they are incapable of preserving a monopoly on the internal means of violence, of upholding the rule of law and, in general, possess weak political, military and judicial institutions. Nonetheless, as important as they are, these elements are not sufficient. It is yet to be understood why some states with severe pitfalls do not end up as failed states.

There is also no unanimity as to the causes that lead to state failure. Scholars are divided between those highlighting historical legacies and those focusing on contemporary internal and external factors. Michael Ignatieff suggests that academics "remain divided as to whether state failure is to be blamed on the colonial legacy or on what successor regimes did with that legacy"¹⁰. Factors purporting to account for existing and potential state failure are, indeed, wide-ranging.

Existing and potential failed states

The think-tank Fund for Peace and the journal Foreign Policy, publish, since 2005, an annual Failed State Index (FSI). Based on several social, economic, political and mili-

tary indicators, the FSI ranks countries according to their vulnerability and likelihood of becoming failed states. Divided into four categories - alert, warning, moderate and sustainable - the first group raises most concern.

Of the 177 countries evaluated by the 2008 FSI, 35 were identified as potential or existing failed states. Timor-Leste was, for the second time, contemplated in the survey, continuing in the most vulnerable group.

	Country	Failed State Index ¹	Democracy Index ²	World Freedom Index
1	Somalia	114,2	-	NF
2	Sudan	113,0	AR 2,81 (146°)	NF
3	Zimbabwe	112,5	AR 2,53 (148°)	NF
4	Chad	110,9	AR 1,52 (166°)	NF
5	Iraq	110,6	HR 4,00 (116°)	NF
6	Democratic Republic of Congo	106,7	AR 2,28 (154°)	NF
7	Afghanistan	105,4	AR 3,02 (138°)	PF
8	Ivory Coast	104,6	AR 3,27 (134°)	NF
9	Pakistan	103,8	HR 4,46 (108°)	NF
10	Central African Republic	103,7	AR 1,86 (162°)	PF
11	Guinea-Conakry	101,6	AR 2,09 (158°)	NF
12	Bangladesh	100,3	HR 5,55 (91°)	PF
12	Burma / Myanmar	100,3	AR 1,77 (163°)	NF
14	Haiti	99,3	HR 4,19 (110°)	PF
15	North Korea	97,7	AR 0,86 (167°)	NF
16	Ethiopia	96,1	HR 4,52 (105°)	PF
16	Uganda	96,1	HR 5,03 (101°)	PF
18	Lebanon	95,7	HR 5,62 (89°)	PF
18	Nigeria	95,7	AR 3,53 (124°)	PF
20	Sri Lanka	95,6	FD 6,61 (57°)	PF
21	Yemen	95,4	AR 2,95 (142°)	PF
22	Niger	94,5	AR 3,41 (128°)	PF
23	Nepal	94,2	HR 4,05 (115°)	PF
24	Burundi	94,1	HR 4,51 (106°)	PF
25	Timor-Leste	93,8	FD 7,22 (47°)	PF
26	Kenya	93,4	HR 7,79 (103°)	PF
26	Republic of Congo	93,4	AR 2,94 (143°)	NF
26	Uzbekistan	93,4	AR 1,74 (164°)	NF
29	Malawi	92,9	HR 5,13 (99°)	PF
30	Solomon Islands	92,4	-	PF

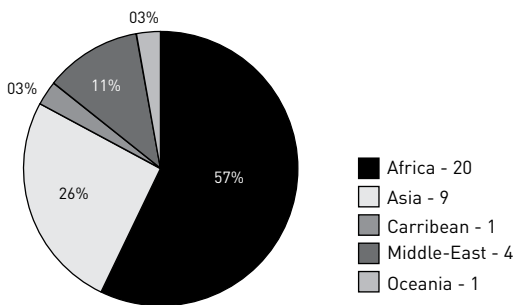
Timor-Leste was ranked 25th, scoring 93.8 points out of a possible 120.¹¹ It also received a disturbing evaluation in nine out of the twelve categories. Timor-Leste obtained terrible results in almost all of the economic, political and military indicators. Yet, these results must be viewed with some caution since they still mirror the events of 2006. Compared with 2007, Timor has improved its overall ranking, rising five positions, but still remains in a poor position.

If we look closely at the 35 existing and potential failed states, excluding Zimbabwe and Guinea-Conakry, 10 out of the first 12 countries harbor international peacekeeping and/or peacemaking missions involving the United Nations (UN), the European Union (EU) or NATO (and the United States under bilateral mechanisms).

Among other reasons, the burden these countries place on the international community is enough to justify constant attention. According to Myron Weiner, failed states are a problem for themselves and for their neighbors since they constitute the root cause of what is called "bad neighborhoods".¹⁶ Bad neighbors are found mostly in Africa - 57.1% of the total - followed by Asia with 35.7%. In Southeast Asia, besides Timor-Leste, there is only one other failed state: Burma/Myanmar.

On the other hand, regions without failed states - Europe, North and South America - are "good neighborhoods". Apparently, good neighbors discourage the rise and proliferation of failed states.

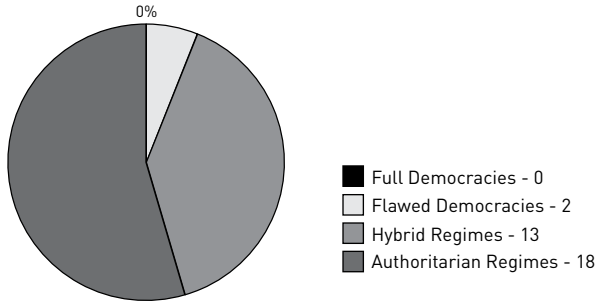
Geography and Failed States



Source: The Fund for Peace.¹⁷

In the Economist's 2008 Democracy Index, Timor-Leste surpassed Sri Lanka, and is now the *best-ranked* Flawed Democracy (see chart 1). In other words, Timor-Leste appears out of place in the eventual failed state list. It should be noted that 54.5% of failed states have autocratic regimes and, if hybrid regimes are added, the sum corresponds to 93.9% of total failed and potential failed states. There is no single full democracy in this black list.

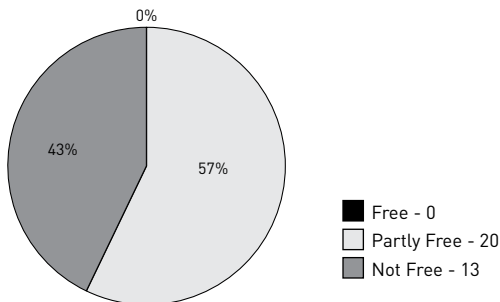
Democracy and Failed States



Source: The Economist.¹⁸

In the Freedom House ranking, the relation between the nature of the regime and state failure is less clear. In fact, there are more "partially free" regimes than "not free" ones. However, the relationship between the two variables resurfaces when we consider the fact that not a single failed state is a free regime.

Freedom and Failed States



Source: Freedom House.¹⁹

Failed states are not outcomes of geography or the environment, as Robert I. Rotberg suggests. They are the result of decisions made by political leaders in those countries.²⁰ Rather than the historical legacy, the indicators mentioned above seem to prove that it is the choice of regime that determines, at least in part, the degree of state dysfunction. In other words, the consolidation of Timor's democratic regime and institutions will lead, in a mutually reinforcing fashion, to the strengthening of the state.

Security Sector Reform

Besides the creation of a new, efficient police force - a task that the events of 2002 and 2008 proved had not yet been achieved -, the Timorese also had to demobilize a sector of the former combatants, part of a difficult process of disbanding the *Forças Armadas de Libertação Nacional de Timor-Leste* (FALINTIL). At the same time, the emergence of the sovereign state was accompanied by the creation of a regular military corps, the FALINTIL-Forças de Defesa de Timor-Leste (F-FDTL).

The facts clearly show that this process (with its political, veteran and military dimensions) has not been entirely pacific. Since no democratic regime is capable of surviving without guaranteeing internal security and stability, reforming the security sector should be a priority. The experience of other countries, in every continent, proves that the legitimacy of the state will rapidly erode in the absence of military and police forces critical to maintaining internal and external security.

Of the many challenges facing Timor-Leste, this is probably the gravest, requiring the most attention. The UN seems to share this diagnosis. Security Council Resolution 1802 plainly states that it will be necessary to reevaluate the role and needs of the security sector, particularly of the Ministry of the Interior, the National Timor-Leste Police, the Ministry of Defence and the F-FDTL. Why the UN believes Timor-Leste will succeed where it has failed in the past remains a mystery. Until now, there is nothing to suggest that Timor is now on the right path. Some of the errors committed after the 1999 referendum are still being repeated.

Yet, on a positive note, and despite the difficulties witnesses during the most demanding moments and its many insufficiencies, the Timorese security sector has successfully resisted political manipulation. However, similar problems are encountered in other sectors.

Rule of law and Justice

Following the August 1999 referendum, and the wave of destruction it provoked, judicial power was - as were other institutions - inoperative. It is estimated that less than 10 legal officers stayed in Timor-Leste after the tumults. The UNTAET mission faced a complicated setting. The renewal of the judicial system was deemed a priority, but planning was extremely poor and based on two weak systems - Timorese and Indonesian. Lacking other options, it was decided to appoint Timorese judges with no prior training or experience since they could - with the support of international judges - better understand local realities. This symbolic gesture produced few practical consequences, and today the judicial system is fraught with many deficiencies. For instance, the Timorese non-governmental organization La'o Hamutuk points out the continued failure of the Integrated UN

Mission in establishing the groundwork for a solid system, complaining about the complete paralysis of justice. This failure was visible early on: the first sentencing occurred in 2001 and, since that time, only small offenses were punished. The Serious Crimes Unit (SCU), created by UNTAET to investigate the 1999 tumults, has yet to translate its work into charges. Of the 392 accused by the SCU, only 85 were sentenced - 70% are still at liberty in Indonesia. Actually, Timorese justice has been strongly dependent on Indonesia to prosecute the great majority of those indicted by the SCU and the Commission for Reception, Truth and Reconciliation. Unsurprisingly, Jakarta has been uncooperative.

The effective establishment of the rule of law faces many obstacles, including executive branch interference in the workings of the judicial system. This problem became quite clear during the search for the rebel Alfredo Reinado. The Reinado case exposed a judicial system that is inoperative and respected neither by the government nor by the international forces. The same can be said about government interference in the Truth and Friendship Commission between Timor and Indonesia. Since no prosecution was initiated, some NGOs accuse political leaders of both countries, but especially the Timorese, of whitewashing the past and not seeking those responsible for the bloodshed of 1999.²¹

The UN Secretary-General's Report to the Security Council - which decided the renewal of the UNMIT mandate - is more optimistic by suggesting that the freedom of expression, of assembly and of religion are established rights. It also posits that there is an increase in the 2008 budget for Justice, and recognizes Timor's efforts in strengthening the prison system and maintaining training actions.²² The February 2008 Security Council Resolution 1802 is more realistic, acknowledging the lack of means and the necessity to increase available resources.²³

Economic development

According to World Bank data, Timorese Gross Domestic Product (GDP) only grew by 2.5% in 2005. The 2006 data was even worse, with negative growth situated at 1.6%. Some explanations may be found in the World Bank's information. The *Doing Business* report places Timor-Leste in a very low ranking: situated 168th out of 178 countries. In a country where entrepreneurship and job creation are deemed critical, this placing means that context costs are too high to support. With a yearly population growth of 5%, the capacity to create businesses and jobs is not a secondary consideration.

Timor-Leste GDP per capita growth rate				
2002	2003	2004	2005	2007
-6,7%	-6,2%	1,8%	2,3%	-1,6%

Source: World Bank.

This data alone helps to better understand the explosive context in which the 2002 and 2006 mutinies occurred. The question is whether the Timor-Leste Petroleum Fund (TLPF), constituted in 2005, will be able to alleviate the structural problems facing the country.

The Peterson Institute for International Economics, an American non-profit organization devoted to research on the international economy, ranked the TLPF third in a total of 32 funds from 28 countries. Deemed almost irreprehensible in the fields of transparency and accountability - scoring 11.75 points out of 12 - it is in the governance area that the Fund's performance needs to improve since it was attributed 2 points out of a possible 4.

Concentration of national wealth resources

Timor-Leste was inspired by the best international practices regarding natural resource exploration. The Timorese government drew from the Norwegian example and seeks to respect the non-binding rules defined by the Extractive Industry Transparency Initiative. For instance, following the Oslo model, a Public Information Office was established so as to keep citizens informed of the savings and investments made with oil revenues. Only time will tell if Timor-Leste will, like Norway, be able continue managing its natural resources within those strict guidelines.

Between 2005 and 2008, Timor-Leste expects to receive revenues of around two billion US dollars, which should be invested, according to the Petroleum Fund Act, after taking into account domestic and international consultations. In practice, all of the oil revenues will be sent to an investment bank account - the Consolidated Fund - which will continue to deliver a rent even after the wells dry out. By opting for this mechanism, the Timorese government seeks to uphold independent management of the Fund - handing it over to autonomous institutions (through the creation of a Payment and Banking Authority or an Investment Counseling Board) - while at the same time guaranteeing long-term revenue. If this control system is implemented, the Trust Fund will steadily grow, thus securing Timor-Leste's financial sustainability for some decades. In December 2008, the Fund had reached an estimated four billion dollars²⁴.

At the same time, the goal is to assure the modernization of the economy. However, recent developments lead us to believe that this is not happening. In addition, budgetary execution is very limited. For instance, between 2006 and 2007, the Bank and Payment Authority transferred about 260 million U.S. dollars; yet, only 12 million were invested. Rent investment, if it does indeed stimulate productive activities, is quite limited.

Aiming to alleviate the frustration caused by state dysfunctions, elites may be tempted to obtain immediate benefits from oil revenues. The pressure to spend these revenues is being felt and, despite warnings from World Bank and the International Monetary Fund, the country is currently debating how to apply the Fund.²⁵ Also, the NGO La'o Hamutuk raises doubts regarding the newly created National Petroleum Authority, admonish-

ing the government for a lack of transparency and the vague mandate attributed to this body.²⁶ Judge Ivo Rosa ruled that the transfer of an additional 240 million dollars from the Fund to the 2008 state budget was unconstitutional.²⁷ This ruling casts a serious shadow over the management of revenues in the near future.

Even more worrisome, the Superior Council for the Judiciary, controlled by Gusmão's party, decided, on the same day that the decree was sent for official publication, not to renew the judge's contract as head of the country's courts.²⁸ Even if this decision is lawful, one may ask how proper it is.

Failure to apply correctly and carefully the stipulations outlined in the Petroleum Fund charter would be a mistake leading inevitably to the resource curse. Over-dependence on oil rents can lead to an absence of domestic taxation, thus creating a lack of accountability and providing no incentive for elites to alter the status quo.²⁹ In this manner, democratic consolidation is stalled and the risk of Timor-Leste becoming a failed state increases. Recent events indicate that Timor-Leste is playing the role of a 'successful failed state', acting as a gatekeeper state - maintained by oil revenues and a façade of sovereignty. Its legitimacy comes from the outside, from the ability to negotiate contracts, not from its own population.³⁰ It is still too early to be certain, but only a strong judiciary, popular scrutiny and international guidance can avoid the so called 'curse'.

Path and political options

The presence of Timor-Leste in the failed state list is somehow anomalous, allowing for some sustainable - but realistic - hope for its future. In fact, it is one of two flawed democracies included in the FSI: only 6% of the 35 most vulnerable and at risk countries are imperfect democracies. Actual or potential failed states are, in general, autocratic regimes. Since there is a clear correlation (which is not synonymous with causality) between consolidated democratic regimes and strong states, desirable political options are evident. Internal and external political actors should, if they wish to avoid the emergence of a failed state, promote a course of action allowing for the strengthening of political, military and judicial institutions.

Rather than a failed state, Timor-Leste is a state marred by severe failings. Weak levels of economic development, risks linked to the resource curse, postponed reforms in the volatile security sector and an inoperative judicial system may lead to a repetition of crisis situations, of political and military instability, and economic and social turbulence.

Notwithstanding the international support it may receive through multilateral and bilateral channels, the Timorese state warrants a reticent diagnostic. Although upsetting, the current situation is not insurmountable. If, in 2002, the creation of this new sovereign state was hailed - albeit in an overstated fashion - as an unequivocal success,

today it would be wise to avoid a prognosis of total failure. As Marí Alkatiri quite convincingly observed, "one can only speak of a failed state after 20 or 30 years of independent government, not only after four or five years".³¹ Unfortunately, time is not a luxury for Timor-Leste. However, time, more than anything else, is what the Timorese need.

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