

# Land Politics under Timor-Leste's New Government



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Earlier this year, Xanana Gusmão stepped down as prime minister of Timor-Leste, appointing Dr Rui Araújo, a well-respected member of the opposition, to replace him. The long-awaited change in Timor-Leste's political leadership is underpinned by the reconciliation between Gusmão and opposition leader, Mari Alkatiri, who have both agreed to step aside into new roles. These enticing new roles ensure their respective control over the country's two largest economic development projects (the Oecusse Special Economic Zone and the Tasi Mane South Coast Petroleum Development Project). This In Brief examines how the change in government and the role of these two powerful figures in state-driven economic development might affect political will to legislate on land issues. It argues that the legislative lethargy of the past few years is a result of significant political economy factors.

Land rights in Timor-Leste are complex — a result of customary land rights, colonial injustice, foreign interventions, and conflict-related displacement. Layers of competing land claims have made it difficult to find a widely accepted solution to post-independence land issues. A package of three land laws, originally drafted with technical and financial support from USAID, has been on the table since 2008. These laws, which would regularise title to land and state expropriation of land, were strongly defended by the Gusmão government in parliamentary debates and the media throughout 2009 and 2010. Despite strong opposition from civil society, the laws were approved by a parliamentary majority with few amendments on 13 February 2012.

In March 2012, then president Jose Ramos Horta exercised his constitutional right of veto and sent the laws back to government for reconsideration. Revised drafts of the laws were reapproved by the Council of Ministers in 2013. However, despite a government majority in parliament, the laws have never been scheduled for debate and the political momentum behind them seems to have fallen away over the last two years. Rather than being a symptom of the long awaited cabinet reshuffle, a closer

examination of the political economy of Timor-Leste's mega-projects sheds light on the waning of political support for the laws.

Historically, the rift between Alkatiri and Gusmão runs deep. The recent leadership transition was possible because Alkatiri and Gusmão both agreed to step aside and take on new roles.

Gusmão has become Minister for Planning and Strategic Investment, retaining control of the crucial Infrastructure Fund and responsibility for the US\$1.4 billion Tasi Mane Development Project. The Tasi Mane Project includes three hubs of petroleum and natural gas development along the south coast in Suai, Betano, and Beacu and a 150-kilometre highway linking the three sites. Conservative estimates suggest that the first phase of the project, the Suai Supply Base, will cost the state more than US\$781 million — 'more than five times what the entire nation will spend on infrastructure for agriculture, education, or water and sanitation' (La'ò Hamutuk 16/11/2013). The state will need to alienate over 1,300 hectares of land for the first phase. This type of high-cost, land-intensive development means that retaining flexibility in state-community land dealings rather than legislating to protect land rights has become a priority for the state. The first phase of the Suai Supply Base has seen the expropriation of land using standards of consultation and compensation well below those promised in the draft expropriation law (Cryan forthcoming 2015).

Alkatiri was appointed President of the Authority of the Special Administrative Region of Oecusse,<sup>1</sup> and is responsible for the US\$1.36 billion Special Economic Zone (ZEESM).<sup>2</sup> Execution of the first phase of the ZEESM project requires the expropriation of land belonging to approximately 600 households in order to build an international airport, a highway, a four-star hotel, and an electricity-generation plant. Demarcation and clearing of land for the road and construction of the hotel at Oeupu have begun. As of March 2015, very little had been communicated to affected communities. Alkatiri and others within the authority have

stressed the need for communities to contribute to national development by donating their land to the project, and have repeatedly stated that communities will not be paid compensation; rather, all of the people of Oecusse will be investors in the project (Suara Timor Lorosae 10/3/2015). Alkatiri and the mostly FRETILIN party leadership of ZEESM are under significant pressure to showcase positive results before the 2017 elections.<sup>3</sup>

Prime Minister Araújo's position on the laws remains unclear. While his inaugural address stated that 'legislating in this area [land issues] is vital for internal and external investment' (Araújo 16/2/2015), he focused mostly on the economic dimensions of land. He has repeated in a number of forums that the new government will adhere to the *Timor-Leste Strategic Development Plan 2011–2030*, and the recent Budget rectification affirms government spending on the mega-projects.

While many FRETILIN members of parliament were vocally opposed to the laws during debates, the party does not have a clear position on land issues. Some scholars (Kingsbury 11/2/2015; Leach 18/2/2015) suggest that the new political configuration has significantly reduced opposition and accountability within the national parliament. Perhaps more importantly, with FRETILIN's credibility depending on the success of the Oecusse ZEESM project and the need to alienate community land as quickly and cheaply as possible, they are now facing many of the same land issues that Gusmão is facing in Suai.

Due to the change of government, the land laws have to be resubmitted to the Council of Ministers before proceeding to parliament for approval. Several options are available to the Araújo Government. It may forge ahead and approve the laws in their current format. This would be likely to upset and civil-society groups who have expressed serious concerns over the status of state land and the protection of community property. The government may also have concerns and perceive the compensation processes required by the laws as too onerous.

Alternatively, the government may shelve the land laws and begin a new legislative process. While this option could lead to more consultative laws, given the

looming 2017 elections, competing interest groups, and the lack of clarity over who in the new government would drive the process, it is likely that this would be a lengthy process. A third path may see the government delay producing any cohesive land legislation and instead relying on piecemeal decree laws (such as Decree Law 36/2014, used to expropriate land for the Suai Supply Base case) to transfer customary land to the state. Irrespective of which path eventuates, it is clear that the expropriation of land for state development projects is the driving force of land policy and legislative development in Timor-Leste, and that more attention should focus on the protection of community land and local policy needs.

### Author Notes

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### Endnotes

- 1 Oecusse is an exclave of Timor-Leste situated 100km inside Indonesian West Timor.
- 2 *Zona Espesial Ekonomia Sosial Merkadu*.
- 3 *Frente Revolucionária de Timor-Leste Independente* (Revolutionary Front for an Independent East Timor).

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