

Case Study for Dispute Resolution System Design to Resolve Post-Conflict Land and Property Issues, Timor L'Este (East Timor)

Issues

East Timor, a country with a population of approximately 800,000 and speaking 18 different languages, has a tumultuous history. It has one of the highest percentages of deaths, population displacement, and manipulation of land and property rights of any country in the world.

The island, which is currently divided into East and West Timor, was first colonized by the Dutch and Portuguese more than 400 years ago. During colonial rule, forced resettlements, land seizures, mandatory sales, and conflict between occupying powers and the local population displaced large numbers of people. Portugal remained the occupying power of East Timor until a revolution led to divestiture of its colonies in 1975. When the Portuguese government ended its rule of East Timor, competing independence factions began to fight each other. Ultimately the leftist Revolutionary Front for an Independent East Timor (FRETILIN) won the armed struggle and created the Democratic Republic of East Timor. But its victory was short lived. In December of 1975, the Indonesian Army invaded the island and incorporated it as a new Indonesian province. East Timor's annexation was never accepted by Portugal, the international community, or much of its population. During the Indonesian occupation, an estimated 200,000 East Timorese—a third of the population—lost their lives because of armed struggle, war-related dislocation, starvation, disease or massacre.

In 1999 after the Asian economic crisis and the toppling of the Suharto government in Indonesia, Portugal and Indonesia agreed to hold a Popular Consultation in East Timor under the supervision of the United Nations to determine whether the island would have autonomous status within Indonesia or become independent. In August of 1999, 75 percent of East Timorese voted for independence (95 percent of the population voted).

The Popular Consultation of 1999 sparked significant violence by pro-Indonesian militias that resulted in further displacement of the population, loss or destruction of 70 percent of all buildings in the country, and loss of many deeds and records due to the burning of the government's deeds and titles office.

To address and quell the conflict, the United Nations sent in a peacekeeping force and created a Transitional Administration (UNTAET) to administer the country until such time as an East Timorese government could be formed. A United Nations Land and Property Unit (LPU) was established to address interim land and property issues.

Process

Upon formation of the East Timorese government, responsibility for handling and resolving land and property issues devolved from the UN to the Land and Property Directorate (LPD) of the Ministry of Justice. Clarification of land and property rights was seen as one of the highest priorities of the government. Clarification was seen as means to settle/resettle displaced persons, provide opportunities for securing economic livelihood, lower intergroup tensions, and encourage local and foreign investment.

Due to lack of clarity regarding primacy, existence, or national acceptability of competing and often contradictory laws (Portuguese, Indonesian, customary, or international) and absence of a formal

justice system (courts, judges, lawyers, and accepted judicial procedures), the LPD set out to establish a new administrative system and procedures for the resolution of land and property disputes. The LPD secured the services of CDR Associates and the Indonesian Institute for Conflict Transformation (IICT), its Indonesian partner organization, to consult on the design and help implement the new land and property dispute resolution system. CDR and IICT conducted a situation assessment of traditional means of resolving conflicts, facilitated participatory dispute resolution system design, and held capacity building workshops to develop the new system and prepare the LPD staff to implement culturally appropriate mediation and arbitration procedures. Additionally, program/process promoters were trained to educate the population about the new procedures and assist them in accessing them.

Players

- Land and Property Directorate and its staff, Ministry of Justice of East Timor
- Local government officials (chefe sucos) and traditional leaders
- Land and property owners without clear title to or who have been dispossessed of their land and property
- Indigenous groups living traditional migratory lifestyles
- Internally displaced people and families without land or property
- International donors
- International investors

Results

The Land and Property Directorate's dispute resolution system is in place and staff is resolving a range of conflicts successfully. Staff has negotiated a number of voluntary agreements with citizens over issues concerning government land—illegal encroachment and terms for vacation, contested title claims, resettlement, and granting alternative lands and titles. They are also mediating and settling disputes between private land claimants or owners over competing legal claims, encroachment, or occupation and right of return of internally displaced persons to their land and property. Additionally, staff is working closely with local government officials and traditional leaders to prepare them to collaboratively resolve a range of local issues.