

Gender and state-building: The case for Timor-Leste

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Introduction

Scholarship on state failure and (re)construction focuses on explaining *why* states may or may not function in a manner that promotes development, but seldom addresses the differing experiences of men and women within these ‘fragile’ countries. As the remedy to state failure, state-building is commonly considered a crucial process towards improving a nation’s ability to have a positive economic, environmental and socio-cultural future. Similarly, gains in gender equality are frequently deemed to increase the effectiveness of state capacity and national development.

The following paper provides a case for including gender in the analysis of state-building efforts in Timor-Leste. There is currently little academic literature on fragile states that focuses on gender concerns in such countries. By creating a case for this inclusion, this paper seeks to broaden state-building literature to provide alternative frameworks with which to analyse these issues, while also providing the case for the continued inclusion of gendered concerns in the development efforts of Timor-Leste.

The paper will firstly provide an overview of why gender is important for state-building and more specifically why it is important for Timor-Leste. Secondly, it will discuss the emphasis placed on state-building activities by the international aid and development architecture. It will call attention to where Timor-Leste has taken steps to increase gender equality and where improvements may be made. Finally, using a small theoretical case study on domestic violence, the paper will show how a lack of gender equality can be framed as state-failure, and show how the goal has not made the leaps and bounds it should have if the interventions from the international community coupled with the constitutionalisation of these rights had been sufficient. This paper seeks to encourage a change in policies and behaviours towards gender issues, rather than the business-as-usual or default measures deemed sufficient to encourage gender equality.

Gender and state-building

When scholars write about gender, it is often discussed in relation to gender equality. The term ‘gender equality’ implies that the needs and interests of both men and women are being met in equal and comparable ways. That is, in a gender equal society men and women would have equal opportunities in accessing financial resources, employment opportunities, decision making forums and other mechanisms in both the public and private spheres.

It has been widely recognised that there is compelling evidence demonstrating the link between economic growth, increased social well-being and the mobilisation of the poor out of poverty when men and women hold relatively equal positions in a society (Coleman 2004, 80-81; OECD 2010, 6; UNDP 2012, 7). Also, the inclusion of gender equality and women’s empowerment into the Millennium Development Goals highlighted the global push toward the recognition of the need for a change in attitude toward the status of women worldwide as an end in itself as well as a beneficial contribution to the processes designed to develop nations. state-building is one such process.

Here, states seek to strengthen their capacity (DFID 2008, 4) in a way that is never finished, as it is constantly on-going as states change and adapt over time (DFID 2008, 4). The degree to which states include gender equality in their state-building efforts varies greatly as the goal of state-building is to deliver the objectives of the government which ‘may or may not emphasise areas orientated to the public good’ (DFID 2008, 4). That is, state-building is a fundamentally political process which is just as likely to be oriented toward appeasing donors as it is to be perpetuating security or securing state loans.

Scholarly literature on state-building traditionally focuses on the capacity of formal state institutions, but this focus has resulted in there being very little said about gender and state-building together (Jennings 2010, 1-3). This has caused a deficiency of critical analysis being available on gender and state-building, despite the general acceptance of the importance of gender in all aspects of development.

The concept and role of the ‘State’

It has been argued that state-building is vital to the evolution of a viable Timorese nation-state (Borgerhoff 2006, 101). Max Weber most famously defines the state as ‘a human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory’ (1946, 78). That is, a state is legitimate once an armed force is able to control a citizenry into peace under the threat of state led discipline. Fukuyama suggests that by using this definition, a country like the U.S would be considered to have a strong state as he interprets this definition as meaning ‘the ability, ultimately, to send someone with a uniform and a gun to force people to comply with the state’s laws’ even where the welfare state remains extremely limited compared to those offered by other developed democracies (2004, 21).

Building on Weber’s theory of state, Milliken and Krause (2002, 756) argue that there are three fundamental functions of statehood. These are security, representation and welfare. If we understand that these functions are to act as a blue print to inform the rights and freedoms of citizens, the obligation of the state is to provide them not only as duty to the state’s society, but also to legitimise the state itself. Any definition of state that focuses solely on security tells only part of the story of what a state can (and possibly should) be. If the state is unable to operate in a way that promotes security, representation and welfare, both its strength and legitimacy will and should be questioned. By expanding on Weber’s observations and definition, the scope of a state’s responsibilities has increased enabling a wider range of issues to be considered obligations, such as those stemming from poverty and disparity issues. Therefore, a state’s strength will be determined by a diverse range of factors including gender equality. In a post-conflict setting, once the state is legitimised through the establishment and maintenance of peace it will be in a position to further reinforce this independence both domestically and internationally, and further engage in the promotion of a gender equal society when representation and welfare sit alongside security in the functions of statehood.

State-building, the international community and Timor-Leste

Although state-building in its essence is a local or domestic undertaking, there is much emphasis placed on this process by the international community. The influence of international human rights norms on the state-building practices of singular states is widespread through the introduction or reinforcement of these norms by state champions and international development actors (Lotz 2010, 233). These norms are ‘not the exclusive property of international agencies or a group of developed countries that can control their application’ but rather are commonly known and desired by people living in fragile conditions all over the world (Lotz 2010, 233). Timor-Leste provides a clear example of a country that has adopted the discourse of international norms as central to its own state-building and development process.

For instance, the Constitution of Timor-Leste is ripe with gender equality rhetoric. In section 17 of the Constitution it is written that ‘women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life’ (2002, Section 17). Explicit mention of gender equality is also highlighted as it is written that ‘all citizens are equal before the law’ and that ‘no-one shall be discriminated against on grounds of...gender’ (2002: Section 16). This definitive stance suggests that there is a push for real increases in gender equality in the country. In fact, many influential documents designed to influence state-building processes and the development of Timor-Leste has the common thread of a gender equality discourse.

A gender equality sensibility is also reflected in the Timor-Leste Strategic Development Plan 2011-2030 (SDP), which outlines the direction that the Government of Timor-Leste sees as being vital to the development of the country. Here, the ambition to be progressive agents in achieving gender equality is

undeniable. The SDP addresses gender inequalities and reiterates the constitutions rationale, again echoing the guarantee of the 'protection against discrimination based on sex' and the promotion of an equality of rights in 'familial, political, economic, social and cultural life' (2010, 49). Earlier in the document it is stated that 'our vision is that in 2030 Timor-Leste will be a gender-fair society where human dignity and women's rights are valued, protected and promoted by our laws and culture' (2010, 50). The strategies designed to achieve this vision cover a wide range of areas including education, employment and political representation among others. These are hoped to be realised through the provision of rights enshrined within the constitution as well as through the ratification of international treaties such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), of which Timor-Leste became a signatory in 2003.

As we have seen, the push for the application of gender equality can be traced throughout the development of Timor-Leste's state-building plans and the documents designed to influence the development process within the country. This positioning has enabled Timor-Leste to participate with the international community in gender and state-building dialogues, both issues which have had great importance placed upon them by the international community through the establishment of international norms.

Through provisions afforded in international conventions and treaties and conditions placed on foreign aid provisions by donors, the international community has placed great emphasis upon gender equality. How this community of actors has gone about increasing the likelihood of fostering a state that has gender equality has particular relevance for Timor-Leste.

It has been written that 'failed states' have provided 'the opportunity to the international community with 'green field sites' in which to test development theories' (Julien 2008, 308). A clear example of how this can be applied to Timor-Leste can be seen in a claim made by the United Nations. Here it was hoped that the United Nations Transitional Administration in East Timor (UNTAET) could 'serve as a model for future (UN peace keeping) missions' (Whittington 2003, 1288). Inspired by the addition of the United Nations Security Council's Resolution 1325 in 2000, it was hoped that the Timor-Leste peacekeeping mission would be successful as the first operation that would implement the new commitment. This resolution affirms 'the important role of women in the prevention and resolution of conflicts and in peace-building' as well as 'recognising the urgent need to mainstream a gender perspective' (UNSC 2000). UNSC's call in Resolution 1325 was to 'all actors involved, when negotiating and implementing peace agreements, to adopt...measures that ensure the protection of and respect for human rights of women and girls, particularly as they relate to the constitution, the electoral system, the police and the judiciary' (UNSC 2000) all of which are state mechanisms subject to state-building practice.

As a country under UN administration at the time of the formulation of this resolution, Timor-Leste served to be somewhat of a testing ground for the policies outlined in Resolution 1325. However, current indicators suggest that gender based violence is extremely high in Timor-Leste and has not shown great improvement since the UNTAET period. Gender equality indicators should be showing greater increases than are currently being seen if this resolution and its impact promoted adequate policy change to improve gender equality.

Theoretical implications of gender blind state-building: The issue of domestic violence

As has been shown, there is a strong case for the inclusion of gender considerations into state-building efforts. Furthermore, we can understand that the relevance for the push for this in Timor-Leste has come about due to both domestic policy, as well as policy from international actors. We have seen how theories of statehood have evolved from being primarily concerned with security and control to the diversification of a state's duty to include representation and welfare. Now the task at hand is to understand the theoretical implications of a state that does not adequately take the task of gender equality seriously. To do this, I will be using the well-known issue of domestic violence to give an example of how, despite the promotion of gender equality, a lack of strong state intervention could result in the state to be considered 'failed'.

It is a distressing fact that currently in Timor-Leste 38% of women aged 15-49 have experience domestic violence in their lifetime and 36% of women experience sexual, physical and emotional abuse from their husband or partner (IRIN 2012). Recently, the Government of Timor-Leste passed a law making domestic violence a public crime in a bid to curb the issue. This law change means that now the reporting of the crime can be done by people privy to the violence, not just those involved. As an improvement to the previous process, this achievement should not go unnoticed as any measure taken by the state to improve to the current situation is to be commended. However, since the implementation of this law the JSMP have consistently reported that once cases of domestic violence are taken to the courts the perpetrators are not being adequately disciplined. In Baucau for instance, a recent case of domestic violence was put to the courts where the defendant was charged by the public prosecutor with an offence against physical integrity. On this particular case, the Executive Director of JSMP, Luis de Oliveira Sampaio stated that:

JSMP is very disappointed because the public prosecutor failed to apply the appropriate article in this case of domestic violence where by the defendant should have been charged with the crime of serious maltreatment of a spouse, not a simple offence against physical integrity (IRIN 2013).

Of all the cases monitored by the JSMP in 2012, 37% of these were cases of domestic violence with a further 10% being cases of sexual violence. In the 2012 Institutional report produced by the JSMP, it is stated that there is a 'worrying prevalence of violence against women and girls in Timor-Leste' (JSMP, 2012: 6). That is, current trends of violence in the country are not isolated cases but rather represent a consistent failing of the current system to afford women and children the equality provided to them by the Constitution. This means that despite the policy work that has been developed, the implementation has not happened in a manner conducive to the actualisation of positive outcomes.

I argue that the presence of widespread domestic violence without strong institutional intervention or justice for victims indicates state failure in the broadest sense of the term. As defined by Weber it is the *monopoly* on the use of violence that legitimises the state. The two key institutions designed to control violence in a society are the military and the police. Thirdly, the court system needs to be included due to its ability to deter perpetrators of committing violent crimes and to provide justice where violence has occurred. If there are no mechanisms in these state institutions pushing to cease domestic violence or at least provide the disciplinary action necessary to deter future offences, then it is a matter of, at least, '*de-facto* state failure'. That is, despite the policies of state institutions to control the presence of violence within its territory, there remains little follow through in cases of domestic violence thus rendering the state ineffective in its duties. The presence of laws and policies consistent with the attitude that domestic violence is unacceptable is not sufficient. Domestic violence needs to be viewed as a challenge to the monopoly on violence.

In Timor-Leste, other incidents of violence seem to be prioritised for heavier interventions from the state despite domestic violence being one of the most destructive forms of crime. For example, in Dili there has been a recent push to curb gang violence that has surfaced on the streets of Colmera. As a reaction the authorities have placed members of the police force to patrol the streets at night and intervene in any such activity swiftly and with serious consequences. Therefore, I wish to pose the question of why street violence is treated in this way. What justifies these measures when the more common form of violence, that which takes place in the home, is still taken to be less consequential?

As suggested by Peterson and Runyan, 'states and international organisations reduce issues like reproductive rights, rape, and wife battering to domestic or even personal problems, which then appear irrelevant to the so-called real politics of war and economic competition' (1993: 80). Could this opinion be reflected in the case for Timor-Leste and the differing measures taken to curb domestic violence and street violence? This question is not posed to suggest that street violence should not be of concern to state actors but more to suggest that there are other forms of violence that require the attention and action of the state. Therefore, there needs to be an intrinsic imperative that both global and local development actors implement strong gender equality sensitivity in state-building efforts *if* the aim of development is to foster secure and stable nation states.

Conclusion

As has been shown, the case for analysing state-building from a gender perspective in Timor-Leste is two-fold. Firstly, the emphasis on state-building activities from the international aid and development architecture highlights the need of partner countries such as Timor-Leste to continue to define state-building to maintain ownership over its own development. The political will to do this has been highlighted by the Government of Timor-Leste's ratification of major international human rights instruments such as CEDAW and through the gender-forward nature of the country's constitution and recent changes to the domestic violence laws. Secondly, there are serious theoretical implications when a State does not act in a manner that takes its commitment to gender issues seriously.

Great gains have been made in Timor-Leste as it has transitioned to independence, particularly in relation to the passing of laws on domestic violence. It will be the great success of Timor-Leste if it is able to develop into the country its constitution and strategic development plan seeks to become. This provides a prime opportunity for Timor-Leste to become a leading player in a subject that so many countries struggle with.

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