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## Is There Still a Place for Liberal Peacebuilding?

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For the past 20 years the concept of liberal peacebuilding has ostensibly guided the efforts of Western governments, the United Nations and other international institutions to stabilise and rebuild conflict-affect states.<sup>2</sup> Liberal peacebuilding sought to build state institutions that adhere to the key tenets of the ‘liberal peace’: democracy, the rule of law and human rights, and which provide the conditions for capitalist market economies to flourish. The concept was based on the assumption that liberalism was inherently attractive and offered the most likely path to peace and prosperity. Its authority was buttressed by the claim that promoting liberal peace would also end conflict between states, based on the democratic peace thesis.<sup>3</sup>

While critics have argued that the wide variety of contemporary peacebuilding interventions have not been exercises of liberal peacebuilding,<sup>4</sup> and instead interveners have aimed for ‘regulatory stability and regional and domestic security’,<sup>5</sup> the ‘rhetoric, if not the practice,

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1 The research leading to this chapter was generously funded by Australian Research Council Discovery grant DP160104692, ‘Doing State-building Better? Practising Hybridity in Melanesia’.

2 United Nations, *An Agenda for Peace*.

3 Doyle, ‘Three Pillars of the Liberal Peace’.

4 Hameiri, ‘The Crisis of Liberal Peacebuilding’; Zaum, ‘Beyond the “Liberal Peace”’.

5 Chandler, ‘The Uncritical Critique of ‘Liberal Peace’, 148; Hameiri, ‘The Crisis of Liberal Peacebuilding’.

is most firmly liberal and in the Wilsonian tradition'.<sup>6</sup> Data from Peace Accords Matrix also suggests that 'liberal ideals have been embedded in the vast majority of post-1989 peace accords'.<sup>7</sup> Yet, there is remarkably little consensus regarding what the liberalism that guides liberal peacebuilding actually is, with 'competing and often contradictory claims' made about its content.<sup>8</sup> This has meant that neoliberal peacebuilding has instead been implemented, guided by an emphasis on individual autonomy removed from basic principles of justice.

(Neo)liberal peacebuilding has not built sustainable peace in most places where it was attempted. There are also new ideological challenges to Western conceptions of the liberal peace. The first comes from China, which, despite resisting the temptation towards liberal political reforms, seems to demonstrate that authoritarian capitalism can deliver prosperity. The second comes from the new form of transnational political actor represented by Da'esh, which raises existential questions about liberal peacebuilding; despite the massive efforts to build stable liberal democracies in Iraq and Afghanistan, Iraq now hosts the Da'esh insurgency against the fundamental principles of liberalism and the concept of sovereign statehood. The third comes from disruptions to the West's pragmatic approaches to international order; after the Arab Spring, Western states realised they could no longer credibly support longstanding authoritarian allies in the face of popular demands for democracy, but as a consequence had to contemplate the possibility of hostile groups taking power. These challenges have underlined emerging questions about whether the liberal peace, or even liberalism as a political ideology, is inherently attractive in all contexts and offers the only path to prosperity, recognition of identity or stability.

Accordingly, there is a palpable sense of hubris within Western governments, the United Nations and other international institutions, which now pursue the more modest goal of 'good enough' outcomes that may involve 'combinations of state, private sector, faith-based, traditional, and community structures for service delivery'.<sup>9</sup> This move away from liberal peacebuilding might be interpreted as an instrumental lowering of the liberal peace standards sought during peacebuilding, such

6 Richmond and Mac Ginty, 'Where Now for the Critique of the Liberal Peace?', 174.

7 Ibid., 177–178; Peace Accords Matrix, Kroc Institute for International Peace Studies, [peaceaccords.nd.edu/about](http://peaceaccords.nd.edu/about).

8 Bell, 'What Is Liberalism?', 687.

9 World Bank, *World Development Report 2011*, 106.

as shifting from attempting to hold ‘free and fair’ elections to merely holding ‘credible’ ones, in order to reduce the burden on the international community of the expense and time required to institutionalise liberal democracy during interventions. Yet it also reflects the emergence of the concept of hybrid peacebuilding in the academic literature, which seeks to negotiate elements of the liberal peace in a local context by advocating ‘an intersubjective mediation between local and international scales and norms, institutions, law, right, needs and interests, depending on both power and legitimacy’.<sup>10</sup> Ideally, this will generate a ‘positive hybrid peace’, ‘rooted in accommodation, reconciliation, emancipation, autonomy, social justice and a sense of liberation’.<sup>11</sup>

But, how does the turn away from liberal to hybrid peacebuilding operate in practice? Is there still a place for liberal peacebuilding? I seek to answer these questions using a case study of Timor-Leste.<sup>12</sup>

Timor-Leste is a small state with a population of 1.17 million people. It was a Portuguese colony from the early eighteenth century to 1974, when the Portuguese withdrew and a group of Timorese leaders declared independence in November 1975. In December 1975, Indonesia invaded the territory and occupied it for 24 years. Various Timorese groups opposed the occupation and a long and bloody independence struggle followed. That struggle culminated in the Timorese people being given the opportunity to vote on their political future in a United Nations–run referendum in August 1999. An overwhelming majority (78.5 per cent) opted for independence, rather than autonomy within Indonesia (21.5 per cent). After the result of the vote was announced the Indonesian military and its supporting Timorese militia engaged in a scorched earth campaign in which thousands were killed and almost three quarters of buildings and infrastructure were destroyed.<sup>13</sup> An Australian-led intervention force stabilised the territory, and the United Nations Transitional Administration in East Timor engaged in what was described as a liberal peacebuilding operation to build the new state for its independence in May 2002. However, in response to challenges that emerged following independence, since 2004 the government has attempted to engage with local sociopolitical practices

10 Richmond, ‘The Dilemmas of a Hybrid Peace’, 51.

11 Ibid., 60.

12 Fieldwork was conducted in Timor-Leste in 2009, 2010 and 2013. As Timor-Leste is a conflict-affected state, all interviews are anonymous to protect the confidentiality of interviewees.

13 CAVR, *Chega!*

and institutions in certain areas. Although the government's attempts are neither systematic nor coherent, in Timor-Leste what can be described as an attempt at hybrid peacebuilding has emerged in relation to areas such as decentralisation and justice.<sup>14</sup>

I begin with a brief outline of hybrid peacebuilding and the questions it raises. The core of this chapter is a case study about how hybrid peacebuilding has operated in practice in Timor-Leste, with a focus on decentralisation and justice. I conclude by arguing there may still be a place for liberal peacebuilding in Timor-Leste.

## Hybrid peacebuilding

As described in the Introduction, the hybrid peacebuilding literature starts from the observation that diverse sociopolitical practices and institutions can 'co-exist, overlap, interact, and intertwine' in conflict-affected societies.<sup>15</sup> Hybrid peacebuilding is taken to imply more than mere co-existence of these practices and institutions;<sup>16</sup> they must instead merge, integrate or syncretise into a 'fusion policy'.<sup>17</sup> While the literature has been criticised for oversimplification by drawing a neat distinction between the 'local' and 'liberal' or 'international',<sup>18</sup> it does not seek to create artificial binaries,<sup>19</sup> as 'hybrid forms are never simply a mix of two otherwise pure forms, but are perennially ongoing processes of amalgamation and dissolution'.<sup>20</sup>

In much of the literature the 'local' is taken to refer to 'customary law and indigenous knowledge, as well as traditional societal structures—extended families, clans, tribes, religious brotherhoods, village communities—and traditional authorities such as village elders, clan chiefs, healers, big men, and religious leaders' that determine 'the everyday social reality of large parts of the population ... particularly in rural and remote peripheral areas'.<sup>21</sup> Although some analyses tend to attribute the local with 'spatial

14 Brown and Gusmao, 'Peacebuilding and Political Hybridity in East Timor'; Wallis, 'A Liberal-Local Hybrid Peace Project'.

15 Boege et al., 'Hybrid Political Orders, Not Fragile States', 17.

16 Goodfellow and Lindemann, 'The Clash of Institutions'.

17 Mac Ginty, 'Hybrid Peace: The Interaction between Top-Down and Bottom-Up Peace', 406.

18 Björkdahl and Höglund, 'Precarious Peacebuilding'.

19 Heathershaw, 'Towards Better Theories of Peacebuilding'.

20 Albrecht and Wiuff Moe, 'The Simultaneity of Authority', 5.

21 Boege et al., 'Hybrid Political Orders, Not Fragile States', 15.

characteristics',<sup>22</sup> local practices and institutions need not 'operate in a geographically and politically defined sub-national and sub-regional space',<sup>23</sup> but can also be 'de-territorialised, networked and constituted by people and activity rather than place'.<sup>24</sup> This is because the local 'may not be local at all, but transnational or global, based upon relationships of kinship, trade, occupation, religion or leisure, mediated by direct interaction between mobile bodies, or via various types of media'.<sup>25</sup>

## Criticisms of hybrid peacebuilding

Yet, as the Introduction to this volume notes, the hybrid peacebuilding literature has attracted criticism. The aspect of the hybrid peacebuilding literature which has attracted the most criticism is its potential to be used prescriptively or instrumentally.<sup>26</sup> There are warnings that it may be used to 'give license to intervention' and to legitimise 'top-down technocratic solutions'.<sup>27</sup> Indeed, rather than responding to local demands, the shift to hybrid or good enough outcomes during peacebuilding is more and more driven by international interveners, multinational corporations and aid agencies.<sup>28</sup>

The literature is also concerned that hybrid peacebuilding may have perverse consequences, as by emphasising local agency it might only provide the 'illusion of local ownership'.<sup>29</sup> This may see the determinants of peacebuilding attributed to the local level and overlook broader structural challenges,<sup>30</sup> such as its often discriminatory and distorting political economy.<sup>31</sup> Indeed, hybrid peacebuilding may focus too heavily on ideational issues and institutions and overlook the influence of material factors of social welfare and human security.<sup>32</sup> There is also a risk that it can be used to legitimate actions by practitioners and

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22 Hirblinger and Simons, 'The Good, the Bad, and the Powerful', 422.

23 Baker, 'Justice and Security Architecture in Africa', 29.

24 Mac Ginty, 'Where Is the Local?', 841.

25 Hughes et al., 'The Struggle versus the Song', 821.

26 Mac Ginty and Richmond, 'The Fallacy of Constructing Hybrid Political Orders', 220.

27 Millar, 'Disaggregating Hybridity', 511.

28 Meagher et al., *Unravelling Public Authority*.

29 Björkdahl and Höglund, 'Precarious Peacebuilding', 291.

30 Chandler, 'Peacebuilding and the Politics of Non-linearity'.

31 Hameiri, *Regulating Statehood*.

32 Nadarajah and Rampton, 'The Limits of Hybridity'; Newman, 'A Human Security Peacebuilding Agenda'.

policymakers focused on the ‘resilience’ of local communities as a ‘cure-all status’.<sup>33</sup> In this regard, there is the suggestion that international actors may instrumentally embrace hybrid peacebuilding because it ‘lessens the burden on the state and donors and lessens the burden on reform processes’, which highlights concerns that hybrid peacebuilding aimed at ‘good enough’ outcomes may be used as a cloak for merely attempting to institutionalise the liberal peace with lower standards.<sup>34</sup> However, it must be acknowledged that local actors are sometimes able to either ‘benefit from international intervention, or to resist intentional intervention, while enacting oppressions of their own’.<sup>35</sup>

The literature frequently cautions about the need to resist the temptation to romanticise the local practices and institutions engaged with during hybrid peacebuilding,<sup>36</sup> as they often include ‘a range of non-traditional and often unsavoury actors, including warlords, militias, gang leaders, millenarian religious movements and organized crime’.<sup>37</sup> Local practices and institutions can also obscure issues of injustice and differential power relationships, based on factors such as gender and class.<sup>38</sup> This highlights the potential dark side of hybridity ‘in which violent and oppressive social practices become embedded in officially recognised governance systems’.<sup>39</sup> Local practices and institutions should also not be essentialised; they are not immutable relics of the ‘pre-contact’ past, since the cultures in which they exist are constantly evolving living organisms.<sup>40</sup>

## Hybrid peacebuilding in Timor-Leste

Although the United Nations claimed it was conducting liberal peacebuilding in Timor-Leste, in substance it engaged in neoliberal peacebuilding; that is, it focused on building highly centralised institutions, limiting public expenditure, creating financial liberalisation and reducing the role for the state.<sup>41</sup> Consequently, the 80 per cent of

33 Chandler, ‘Resilience and the “Everyday”’; Mac Ginty, ‘Everyday Peace’, 559.

34 Richmond and Mitchell, ‘Peacebuilding and Critical Forms of Agency’, 334.

35 Hughes et al., ‘The Struggle versus the Song’, 820.

36 Richmond, ‘The Romanticisation of the Local’.

37 Meagher, ‘The Strength of Weak States’, 1080.

38 Peterson, ‘A Conceptual Unpacking of Hybridity’.

39 Meagher et al., *Unravelling Public Authority*, 5.

40 Boege et al., ‘Hybrid Political Orders, Not Fragile States’, 15.

41 Wallis, ‘A Liberal–Local Hybrid Peace Project’.

Timorese residing in rural areas and living subsistence lifestyles were left out of the peacebuilding process and continued to follow local sociopolitical practices and institutions centred on their village (*suku*) or hamlet (*aldeia*). Indeed, a 2002 Asia Foundation survey found that 61 per cent of respondents favoured their *suku* chief or traditional leader for resolving problems with their neighbours, and 65 per cent favoured their *suku* chief or traditional leader for mediating property disputes, while 54 per cent favoured their *suku* chief as the source of political information.<sup>42</sup> In recognition of these facts, with the encouragement and assistance of international interveners and donors, from 2004 the Timor-Leste Government began to engage with local practices and institutions in certain areas in a process that can be described as hybrid peacebuilding. I focus on decentralisation and justice, as these are two of the most notable areas in which this has occurred.

## Decentralisation

In 2004 the Timor-Leste Government introduced limited administrative and political decentralisation. A wide range of political and administrative functions were decentralised to the *aldeia* and *suku* leaders and *suku* councils,<sup>43</sup> which are characterised as ‘community leaders’. As a result of this characterisation, *aldeia* and *suku* leaders and *suku* councils are ‘not included in the public administration’.<sup>44</sup> Therefore, they can access few resources, are given limited support and have little influence over higher levels of government.<sup>45</sup> This has restricted their capacity to exercise their mandate and generated a degree of frustration and ‘confusion’ concerning their status.<sup>46</sup>

There are questions about the performance of local leaders. Many *suku* leaders have ‘good coordination with the community’,<sup>47</sup> and ‘are very active in meeting their responsibilities’.<sup>48</sup> However, their capacity to plan

42 Asia Foundation, *Timor Lorosa'e National Survey of Citizen Knowledge*.

43 *Decree Law on Community Authorities No. 5/2004; Law on Community Leaderships and Their Election No. 3/2009*.

44 *Law on Community Leaderships*, section 2(3).

45 Interview with a governance adviser, 18 July 2013; interview with a subdistrict administrator, 28 August 2013.

46 Interview with a member of civil society (b), 4 September 2013; interview with a governance adviser, 18 July 2013; interview with a public servant, 3 September 2013.

47 Interview with a governance adviser, 18 July 2013.

48 Interview with a member of civil society (c), 17 July 2013.

and implement projects has varied.<sup>49</sup> Some *suku* leaders ‘don’t do a good job and many communities complain’,<sup>50</sup> others make decisions that favour their personal interests,<sup>51</sup> and some *suku* councils fail to meet regularly.<sup>52</sup> A World Bank report even claimed that some local leaders displayed ‘authoritarian characteristics’.<sup>53</sup> These issues may be partly explained by the fact that many *sukus* are large both in terms of geographical size and population (the average size is 2,000 to 3,000 people), or are socially fractured, which means that it can be difficult and expensive to generate societal trust.<sup>54</sup> In addition, because local leaders are often selected based on traditional power structures and ritual authority, their levels of literacy and numeracy can be low, which means that some struggle to manage the technical requirements of administrative activities and decentralised development projects.<sup>55</sup>

There are concerns that local sociopolitical practices which influence *aldeias* and *sukus* can discriminate against women and young people, since it is generally elder males who have authority.<sup>56</sup> To combat this, the *suku* councils reserve seats for women and young people to ensure their participation. However, there are structural and material barriers to women taking leadership positions. The small incentive local leaders receive can be economically prohibitive for women, as they usually do not have an independent source of income and are required to complete significant domestic and agricultural work.<sup>57</sup> Even when women do take a leadership role, it is difficult for them to influence decision-making,<sup>58</sup> partly because local sociopolitical practices often perpetuate a patriarchal approach.<sup>59</sup>

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49 Everett and Ragragio, *Decentralisation in Timor-Leste*; interview with a member of parliament, 30 September 2010; interview with a *suku* leader, 28 September 2010; interview with a governance adviser, 23 April 2010.

50 Interview with a member of civil society (c), 17 July 2013.

51 Cummins and Maia, *Community Experiences of Decentralised Development*; interview with a member of civil society (c), 17 July 2013; interview with a governance adviser, 18 July 2013.

52 Interview with a member of civil society (a), 4 September 2013; interview with a member of civil society (c), 17 July 2013.

53 Butterworth and Dale, *Local Governance and Community Development Initiatives*, 13.

54 Cummins and Maia, *Community Experiences of Decentralised Development*.

55 Ibid.

56 Hicks, ‘*Adat* and the Nation-State’; interview with a women’s leader, 29 April 2010.

57 Cummins, ‘The Problem of Gender Quotas’; interview with a women’s leader, 18 July 2013.

58 Interview with a member of civil society (a), 4 September 2013; interview with a women’s leader, 18 July 2013.

59 Cummins and Maia, *Community Experiences of Decentralised Development*; interview with a member of civil society (a), 17 July 2013; interview with a member of civil society (c), 17 July 2013.

In this regard, while introducing elections for local leaders appears to have extended democracy to the local level, elections might actually have reduced political participation,<sup>60</sup> as they occur only every four years and *suku* leaders and councils do not necessarily consult their communities in between.<sup>61</sup> Moreover, the first round of *suku* elections in 2005 and 2006 was highly politicised. The introduction of party politics at the local level contributed to friction, hampered the ability of many *suku* leaders and councils to operate, affected the perceived legitimacy of leaders and undermined local sociopolitical practices.<sup>62</sup> As a result, the 2009 local government law prevented political parties from running in the 2009 *suku* elections<sup>63</sup> and provided that *suku* councils would be elected as ‘packages’, rather than as individuals. Yet this change has had unintended consequences, as powerful local figures are now said to compile packages from their families, which can allow one family to dominate *suku* affairs, leading to the election of people who lack capacity or are inefficient.<sup>64</sup> It has also generated social jealousy and inequalities in the distribution of benefits and opportunities.<sup>65</sup>

The opportunities to use local government positions to dispense benefits has been enhanced by the developmental decentralisation introduced in 2009,<sup>66</sup> which has distributed significant resources, created jobs and provided communities with the opportunity to undertake local decision-making.<sup>67</sup> The quality of these projects has differed, primarily due to variable local capacity, poor planning and project choice, lack of opportunities for local feedback and at times limited opportunities for

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60 Pereira and Koten, ‘Dynamics of Democracy at the *Suku* Level’.

61 Interview with a member of civil society (a), 4 September 2013; interview with a member of civil society (c), 17 July 2013.

62 Interview with a governance adviser, 18 July 2013; interview with a member of civil society, 18 July 2013.

63 *Law on Community Leaderships*, section 21. Anecdotal evidence suggests that parties were still active.

64 Interview with an academic, 18 July 2013; Asia Foundation, *Reflections on Law No. 3/2009*.

65 Interview with a governance adviser, 18 July 2013.

66 *Pakote Referendum* (Referendum Package) in 2009; *Pakote Dezenvolvimentu Desentralizasaun* (Decentralised Development Package) and *Planu Dezenvolvimentu Suku* (Suku Development Plan) in 2010; *Programa Dezenvolvimentu Dezentralizadu* (Decentralised Development Programs) in 2011; *Planeamentu Dezenvolvimentu Integradu Distrital* (Integrated District Development Plan) (*Decree Law on Integrated District Development No. 4/2012*) and *Programa Nasional Dezenvolvimentu Suku* (National Program for Village Development) (*Government Resolution Approving the Establishment of a National Mechanism to Accelerate Community Development No. 1/2012*; *Ministerial Decree on Elaboration of District Investment Plan No. 9/2012*) in 2012.

67 Interview with a governance adviser, 18 July 2013; interview with an academic, 18 July 2013.

local input.<sup>68</sup> There are also claims that the central government overrides the development priorities identified by the *sukus*, which has led to frustration.<sup>69</sup> The relatively weak links between the local level and the central government also mean there is insufficient oversight of decentralised development projects, with claims of collusion and nepotism common.<sup>70</sup> This highlights the danger of hybrid peacebuilding being used as an excuse for lowering standards of governance. This has created a perception that the government has used developmental decentralisation as ‘a strategy to execute the budget, so it can report that it executed well, even though there have been no outcomes’.<sup>71</sup>

## Justice

The Timor-Leste Government has also taken steps to decentralise activities relating to justice, such as implementing community policing and working with local justice mechanisms.<sup>72</sup> Yet, there are claims that community policing remains ‘a vague ambition rather than an immediate priority’ as it is ‘chronically under-resourced’.<sup>73</sup> There is also inadequate oversight of local justice mechanisms,<sup>74</sup> partly because there is no clear framework establishing the relationship between state institutions and local mechanisms.<sup>75</sup> The role of *suku* leaders when settling disputes is also unclear, as is how this role fits with that of state institutions.

In this regard, the recognition of local justice mechanisms has been criticised as sending ‘mixed messages’ that may undermine the rule of law.<sup>76</sup> Local mechanisms co-exist with state justice institutions and often enforce customary law rather than state law, which results in legal pluralism, whereby ‘two or more legal systems co-exist in the same social

68 Interview with a member of civil society, 18 July 2013; interview with a *suku* leader, 3 September 2013; interview with an academic, 18 July 2013; interview with a governance adviser, 18 July 2013.

69 Interview with a subdistrict administrator, 28 August 2013; interview with a district administrator, 29 August 2013; interview with a district administrator, 31 August 2013; interview with a district administrator, 1 September 2013; interview with a *suku* leader, 3 September 2013.

70 Interview with a member of civil society (a), 17 July 2013; interview with a member of civil society (c), 17 July 2013.

71 Interview with a member of civil society (a), 17 July 2013.

72 *Organic Law of Timor-Leste's National Police (PNTL) No. 9/2009; Law on Community Leaderships*, section 11.

73 Belo and Koenig, *Institutionalizing Community Policing in Timor-Leste*, 1.

74 USAID, *Rule of Law in Timor-Leste*.

75 Asia Foundation, *Timor-Leste Law & Justice Survey 2013*.

76 Grenfell, ‘Promoting the Rule of Law in Timor-Leste’, 228.

field'.<sup>77</sup> As the system currently operates it 'does not serve the rule of law because it operates without any of the checks or balances' as there are 'no formal avenues of appeal and thus minimal accountability and transparency'.<sup>78</sup> This challenge is exemplified by the fact that people can receive customary sanctions under a *tara bandu*, 'an agreement among the community regulating aspects of behaviour and relationships among people, between people and natural resources, and economic life',<sup>79</sup> and then face punishment under the state system for the same crime.<sup>80</sup> There is also the risk that people may be sanctioned under *tara bandu* for behaviour that does not contravene state law. As a solution, efforts could be made to minimise the contradictions between *tara bandu* and state law, so that they can be seen as 'complementary'.<sup>81</sup> Moreover, a draft customary law provides for appeals from local mechanisms to state justice institutions, which gives people the opportunity to access state law if they are dissatisfied with the outcome of the local mechanism.<sup>82</sup> This draft law has been under development as a partnership between the United Nations Development Programme and Timor-Leste Government for several years, with little sign that it will be adopted.

The use of customary sanctions raises questions concerning the human rights implications of recognising local justice mechanisms. There are concerns over the neutrality of local justice decision-makers, the consistency of their decision-making and their treatment of women, particularly in cases of sexual assault and domestic violence.<sup>83</sup> For example, a 2008 Asia Foundation survey revealed that 58 per cent of respondents disapprove of women being able to speak for themselves in local justice mechanisms, although this number had shrunk to 39 per cent in 2013, reflecting changing community attitudes.<sup>84</sup>

This last point highlights the fact that local justice mechanisms should not be romanticised, nor should state justice institutions be 'automatically disregarded as imposed, harmful and culturally inappropriate'.<sup>85</sup> While local mechanisms can provide a 'check on the inability of state law to

77 Merry, 'Legal Pluralism', 870.

78 Grenfell, 'Legal Pluralism and the Rule of Law in Timor-Leste', 307.

79 Brown and Gusmao, 'Peacebuilding and Political Hybridity', 67.

80 Belun and The Asia Foundation, *Tara Bandu*.

81 Interview with an academic, 17 July 2013.

82 Interview with an international justice adviser, 14 May 2010.

83 Hohe and Nixon, *Reconciling Justice*; UNOHCHR and UNMIT, *Facing the Future*.

84 Everett, *Law and Justice in Timor-Leste*; Asia Foundation, *Timor-Leste Law & Justice Survey 2013*.

85 Mac Ginty, 'Indigenous Peace-Making Versus the Liberal Peace', 150.

grapple with contextual injustices in a local language in which citizens can understand the proceedings', state justice institutions can be 'a check on the failure of traditional justice to guarantee' liberal human rights.<sup>86</sup> There is potential for state justice institutions to supervise local mechanisms, such as through reviewing whether penalties are proportionate and comply with constitutional human rights protections. In this regard, there are proposals to empower the *provedor de direitos humanos e justica* (human rights and justice ombudsman), who is mandated to investigate complaints against 'public bodies',<sup>87</sup> to monitor local mechanisms. In addition, education programs could assist communities adapt to the constitutional human rights protections.<sup>88</sup> Indeed, the consultation process on a draft customary law indicated that, once it was explained how local practices conflict with liberal human rights, communities were prepared to alter their local practices.<sup>89</sup>

There is also evidence that many Timorese want state justice institutions to play a more active role at the local level. In the 2008 Asia Foundation survey 85 per cent of respondents said that they wanted a court official to help settle disputes, which was echoed by 80 per cent of respondents when asked the same question in 2013.<sup>90</sup> Consequently, reflecting the government's turn to the local, pilot mobile courts that hold hearings at the local level now function in four districts, although the quality of justice they deliver has been questioned.<sup>91</sup> In a 2013 Asia Foundation survey, 96 per cent of respondents also recorded a high level of confidence in the effectiveness of the police force (Polícia Nacional Timor-Leste; PNTL).<sup>92</sup> Indeed, there is an increasing preference to the PNTL for violent crimes; in 2008, 91 per cent of respondents agreed that someone who kills another person should go to jail, while only 5 per cent favoured the traditional remedy of compensation.<sup>93</sup> Similarly, if threatened by a gang, 51 per cent would request assistance from the PNTL, 21 per cent from the *suku* leader and 13 per cent from the *suku* council or elder.<sup>94</sup>

86 Braithwaite et al., *Networked Governance of Freedom and Tyranny*, 218.

87 Constitution, section 27.

88 Grenfell, 'Legal Pluralism and the Rule of Law'.

89 Interview with an international justice adviser, 14 May 2010.

90 Everett, *Law and Justice in Timor-Leste*.

91 IPAC, *Justice at the Crossroads*.

92 Asia Foundation, *Timor-Leste Law & Justice Survey 2013*.

93 Wassel and Rajalingam, *A Survey of Community-Police Perceptions*; Everett, *Law and Justice in Timor-Leste*.

94 Wassel and Rajalingam, *A Survey of Community-Police Perceptions*.

The above discussion raises a number of questions about how hybrid peacebuilding has operated in Timor-Leste. The Timor-Leste Government appears to have instrumentally engaged in decentralisation to local institutions in order to lessen the burden of certain political, administrative, developmental and justice functions. Yet this transfer is not accompanied by sufficient linkages between the central government and local level, or the development of capacity and resources at the local level, in order for local leaders to perform their roles. Although the government has adopted policies which seek to engage with local practices and institutions, it also frequently acts as a spoiler to these hybrid frameworks, particularly by ignoring or undermining local decision-making in relation to decentralised development projects. This highlights the danger that governments or international peacebuilders use the language of hybrid peacebuilding either as a cloak for shifting the burden of state functions to the local level, or as an excuse for lowering the standards of governance. There are also concerns that local institutions can be discriminatory or undemocratic, which underscores the risk that an uncritical emphasis on local agency can obscure issues of injustice and differential power relationships, particularly the marginalisation of women. Problems with the implementation of developmental decentralisation also highlight the risk that emphasising local agency might see the determinants of the success of peacebuilding attributed to the local level, which may overlook broader structural problems.

## Space for liberal peacebuilding in Timor-Leste?

Despite these challenges, hybrid peacebuilding in Timor-Leste has increased opportunities for political participation and the delivery of public goods at the local level. Therefore, the Timor-Leste case suggests that, by foregrounding the importance of local agency, hybrid peacebuilding offers an important correction to the top-down, technocratic approach that has characterised neoliberal peacebuilding.

However, there is emerging evidence that many Timorese desire a role for modern liberal state institutions as a response to the inequality, exclusions and injustices that can occur under local practices and institutions. While local sociopolitical practices and institutions remain influential in Timor-Leste, it may be that they were an attractive alternative to Timorese

in the immediate aftermath of the 1999 referendum and in the first decade of independence, not because state institutions were inherently illegitimate, but because they were highly centralised, under-resourced and lacked capacity. The effectiveness and reach of state institutions is slowly improving, which has increased their legitimacy and attractiveness. However, calls by Timorese for state institutions to play an increased role in their lives should not necessarily be interpreted as implying that those institutions are unproblematic. Instead, they might indicate a desire for those institutions to work more effectively and to be more locally legitimate.

An advocate of hybrid peacebuilding might argue that Timor-Leste has only achieved a negative hybrid peace, which rests ‘mainly on hybrid forms of politics which reify existing power structures and hierarchies’ and leans ‘too far towards the preferences of internationals, state elites or global capital’.<sup>95</sup> Indeed, it does appear that the government has instrumentally engaged with local practices and institutions in relation to decentralisation and justice, which has undermined the legitimacy and effectiveness of its attempt at hybrid peacebuilding.

However, for many Timorese at least some aspects of the liberal state seem genuinely attractive, which suggests that building state liberal institutions may retain a place in contemporary peacebuilding. Therefore, the assumption that populations prefer their local practices and institutions to those of a liberal state may not necessarily hold in the long term, nor may the assumption that populations favour the fusion of local and state practices and institutions envisaged by hybrid peacebuilding. Instead, much will depend on how the government engages with local practices and institutions. Alternatively, it may be that people are more concerned with having effective and legitimate institutions that will meet their needs, than about whether these institutions are local, liberal or hybrid.

Two challenges have contributed to liberal peacebuilding falling from favour. First, in much of the academic and policy literature liberalism has been ‘used promiscuously to explain a broad range of often contradictory policy perspectives and practices across very differing circumstances and with very differing outcomes’.<sup>96</sup> Indeed, even in the political theory literature there is remarkably little consensus regarding what liberalism

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95 Mac Ginty and Richmond, ‘The Fallacy of Constructing Hybrid Political Orders’, 230.

96 Chandler, ‘The Uncritical Critique of “Liberal Peace”’, 145.

actually is. This has created space for what has essentially been neoliberal peacebuilding, guided by an emphasis on individual autonomy removed from basic principles of justice, to be described as liberal peacebuilding. Neoliberal peacebuilding has strayed far from most understandings of liberalism, which recognise that individuals may have conflicting—as well as common—interests and therefore need to be offered the protection of basic principles of justice.<sup>97</sup>

Second, while the failures of neoliberal peacebuilding have led Western states and international institutions to conclude that people do not want liberalism, what it actually means is that people do not want the shallow, ineffective, distant and corrupt governments that neoliberal peacebuilding has built. Instead, the liberal needs to be restored to peacebuilding, with peacebuilding guided by the liberal principle of popular sovereignty, which implies that people should consent to the manner in which their political unit is governed, including deciding the extent to which it reflects liberal and local principles and incorporates state and local institutions, in the form of a ‘social contract’.<sup>98</sup> Existing political and legal pluralism should neither be rejected as uncivilised nor accepted uncritically, but instead brought into critical dialogues in discussions of how society will be organised. Therefore, liberal norms can be ‘renegotiated in context, producing hybridity’.<sup>99</sup> Elsewhere I have argued that a participatory constitution-making process can provide an opportunity for this negotiation to take place.<sup>100</sup> That is not the only forum in which this can occur, as there can be multiple opportunities for people to exercise their popular sovereignty during peacebuilding, such as during transitional justice processes and elections for their new institutions.

Critics may accuse me of advocating ‘hybridity *for* liberal peace’<sup>101</sup> or say that I am trapped in a ‘paradox of liberalism’ that ‘sees the liberal peace as oppressive but the only true source of emancipation’.<sup>102</sup> My response has two parts: first, I question what alternatives these critics propose in order to achieve truly emancipatory peace; to date no one has made a sustained attempt to make such a proposal in either theoretical or

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97 Rawls, *A Theory of Justice*.

98 Rousseau, *The Social Contract and Other Later Political Writings*.

99 Richmond, ‘The Dilemmas of a Hybrid Peace’, 56.

100 Wallis, *Constitution Making During State Building*.

101 Nadarajah and Rampton, ‘The Limits of Hybridity’.

102 Sabaratnam, ‘Avatars of Eurocentrism’.

empirical terms.<sup>103</sup> Second, I question why critics assume that many conflict-affected populations will not see a place for—and indeed may even favour—liberal state institutions. Although liberalism has its roots in Europe, the idea that individuals have political autonomy and that government should be based on a population's consent in order to be legitimate is not necessarily attractive only to Europeans. It seems to me that much of the critical literature is not really critical of liberalism per se, but of how liberalism has purportedly been implemented by neoliberal peacebuilding interventions as occurred initially in Timor-Leste. By advocating for mediation between the local and liberal, hybrid peacebuilding provides ways to limit the neocolonial and negative power dynamics that commonly arise during neoliberal peacebuilding.

In conclusion, my case study of Timor-Leste reveals that many of the critiques of hybrid peacebuilding have merit. This does not mean that we should abandon hybrid peacebuilding, which offers an important correction to neoliberal peacebuilding by foregrounding the importance of local agency. However, the assumption that populations prefer their local practices and institutions to those of the state may not hold in the long term, nor may the assumption that populations favour the fusion of local and state practices and institutions. Instead, my research in Timor-Leste suggests that liberalism may retain a place in contemporary peacebuilding.

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103 Paris, 'Saving Liberal Peacebuilding'.

This text is taken from *Hybridity on the Ground in Peacebuilding and Development: Critical Conversations*, edited by Joanne Wallis, Lia Kent, Miranda Forsyth, Sinclair Dinnen and Srinjoy Bose, published 2018 by ANU Press, The Australian National University, Canberra, Australia.

[doi.org/10.22459/HGPD.03.2018.05](https://doi.org/10.22459/HGPD.03.2018.05)