



## Prison as an Institution for Social Reintegration?

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## Introduction

The Organic Structure of the National Directorate of Prison Services and Social Reinsertion (DNSPRS) of the decree law No.2/2013 defines the duties and responsibilities of the DNSPRS. This includes the management and oversight of a prison system that provides services meant to facilitate the social reintegration of inmates. The principle mission of this system is to strengthen mechanisms to ensure a corrections system that is humane, fair, and secure.<sup>1</sup>

According to human rights principles, the objective of a detention center should be to achieve social rehabilitation for inmates. When convicts are released they should be ready and able to be productive members of society. To achieve this, prisoners should receive vocational training and other educational programs to prepare them for re-integration into their communities.<sup>2</sup>

This FM report will highlight the corrections process and the treatment of inmates in prisons, as well as the attitudes of prison guards towards violence that has occurred inside prisons. This report will also discuss the social reinsertion policy, which has been legally established by the government.

## The History of Timor-Leste's Prison System

The bitter history of Timor-Leste's colonization as well as the harsh application of punishment and the brutal treatment of prisoners is still fresh in the memory of all Timorese. The majority of people who were imprisoned received not justice, but injustice and inhumane treatment.

Under Portuguese colonial rule, the use of torture was prevalent. Foreigners and kings used whips and rods to hit people who did not obey their orders. Those who did not give fowl (alive and dead) and eggs to the rulers, and those who did not obey the rules, received severe punishment in the form of whippings and beatings. Bad treatment against political prisoners was also prevalent. In particular, Timorese who were involved in the revolt against the Portuguese colonists received all forms of physical abuse, including being bitten, punched, and kicked in the head and body to the brink of death. Physical punishment was also common in the education system, as teachers would physically reprimand students who were frequently absent.<sup>3</sup>

These violent methods of punishment were carried out not to achieve justice but to empower the rulers and assert their authority. These violent acts were not predicated on creating justice for the innocent, but for achieving the agenda of the regime in power. The old prisons based in

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<sup>1</sup> RDTL. (19 June 2013). Minister of Justice of Timor Leste; Organic Structure of the National Directorate of Prison's and Social Reinsertion. [http://www.mj.gov.tl/files/Estrutura\\_Organika\\_DNSPRS\\_versaun\\_tetum.pdf](http://www.mj.gov.tl/files/Estrutura_Organika_DNSPRS_versaun_tetum.pdf)

<sup>2</sup> HAK Association (August-October 2013); Voice of Human Rights, Facts of the Human Rights Situation. <http://www.haktl.org/wp-content/uploads/2013/12/relatoriu-DU-Agustu-Otobru-2013-2.pdf>

<sup>3</sup> Da Silva, Carlos L.F.R.Saky (09 August 2010); Can or Can not apply torture in Timor-Leste? <http://renetil.blogspot.com/2010/08/bele-ka-labele-aplika-tortura-ih-timor.html>

Balide, Dili and in Aipelo (Liquica), among others, serve as reminders of the history of Portuguese rule and subjugation of Timorese.<sup>4</sup>

During Timor's period of struggle in 1975, many political activists were arrested and imprisoned.<sup>5</sup> Many were also killed, sometimes by decapitation (cutting off the head) as was the case in Manufahi, Liquica, Ermera, and other places. In one prison all the prisoners were killed.<sup>6</sup>

Victims of arbitrary arrests were often detained at improvised prisons, such as warehouses, schools, private houses, old Portuguese prisons, the Dili museum, military quarters and other places (sometimes including bird cages and holes).<sup>7</sup> The practice of physically abusing and torturing prisoners was especially common against political prisoners, militants, and sympathizers of other political groups. Many of these prisoners were burned with hot coals or irons, tied up or hung from a tree and hit, and hit with stones before being buried alive.<sup>8</sup>

During the Indonesian occupation thousands of Timorese were imprisoned and the Indonesian authorities arrested people from all the districts of Timor-Leste.<sup>9</sup> During imprisonment Timorese were subjected to physical torture, which included beatings, cigarette burnings, electrical shocks, nail pulling, and hand-breaking.<sup>10</sup> Violence against women during interrogation was particularly heinous, and included genital mutilation, rape with foreign instruments, and cigarette burning.<sup>11</sup> The military, police and some civilians conducted these torture techniques regularly.

These accounts are meant to be a reminder of the history of Timor-Leste's imprisonment system and the inhumane treatment of prisoners within it. An understanding of the past can help us understand why the current flaws of our criminal justice system are in place today, which FM believes are habits from the Indonesian occupation that must be vanquished.

When the history of Timor-Leste's prison system is compared with the current abuses taking place in Timor's prisons, the parallels are easily seen. FM believes that the attitudes of previous military regimes have influenced our current prison system. The disconnect between this old

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<sup>4</sup> Akim, Stefanus (12 December 2013); the Journey Note of Grandstand to Timor-Leste.  
<http://pontianak.tribunnews.com/2013/12/12/jejak-indonesia-di-presion-aipelo>

<sup>5</sup> Da Silva, Carlos L.F.R.Saky (09 August 2010); Can or Can not apply torture in Timor-Leste?  
<http://renetil.blogspot.com/2010/08/bele-ka-labele-aplika-tortura-iha-timor.html>

<sup>6</sup> Chega! Report of the Truth Commission, Friendship and Reconciliation in Timor Leste (CAVR)

<sup>7</sup> Chega. (2005)! Report of the Truth Commission, Friendship, and Reconciliation in Timor Leste (CAVR) Executive Summary, page103

<sup>8</sup> Da Silva, Carlos L.F.R.Saky (09 August 2010); Can or Can not apply torture in Timor-Leste?  
<http://renetil.blogspot.com/2010/08/bele-ka-labele-aplika-tortura-iha-timor.html>

<sup>9</sup> Chega! Report of the Truth Commission, Friendship and Reconciliation in Timor Leste (CAVR)

<sup>10</sup> Da Silva, Carlos L.F.R.Saky (09 August 2010); Can or Can not apply torture in Timor-Leste?  
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<sup>11</sup> Chega. (2005)! Report of the Truth Commission, Friendship, and Reconciliation in Timor Leste (CAVR) Executive Summary, page103

mindset and a progressive push for rehabilitation programs in prison and a focus on reintegration is confusing for many Timorese, as they do not know which system the government supports.

## **The Condition of Timor-Leste's Prison System**

### **A. General Condition of Prisons in Timor-Leste**

In the past year, Timor-Leste has established 3 prisons, one each in the districts of Becora-Dili, Baucau and Gleno-Ermera.<sup>12</sup> According to a report by HAK association, which worked for two prisons from August to October 2013, the number of inmates in Becora prison (341 at the time of the report) exceeds the prison's maximum capacity.<sup>13</sup>

Becora prison guards did confirm that the 341 prisoners they have exceeds their relatively small capacity to hold 250 prisoners. The prison standard is that every block should contain 30-35 detainees; blocks in Becora prison have now swelled to as many as 50 prisoners. Becora also exceeds the 45 prisoner limit for big blocks with 65 prisoners, and exceeds the minority block limit of 12-15 prisoners with over 25.

The HAK association report also discusses the poor condition of Gleno prison, particularly in block 2 of the prison (C-D). It is worth noting that poor prison conditions will negatively affect the health of prisoners.<sup>14</sup>

### **B. A Violent History**

The history of Timor-Leste's struggle for independence is full of human rights abuses, including violence against prisoners and infringement of prisoner's rights. The trend of violence and disregard for prisoner's rights has continued even after Timor-Leste's independence. There have been many instances of physical violence, intimidation, and psychological abuse perpetrated by prison guards against prisoners in Timor-Leste since independence was achieved in 2002. The public has remained ignorant to these abuses as almost none of these cases have been publicized; abuses that occur in Timor's prisons have stayed within prison walls.

Other documents accessed by FM have shown that violence against prison inmates does not occur one-time but is often a chronically persisting phenomenon. One inmate, named Felix de Jesus, stated that he was physically assaulted by prison guards just moments after entering prison. The chronology of events that took place on 15 February 2013 at 08.00 is as follows. Prison guards were preparing to take Felix de Jesus to block A for registration. However,

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<sup>12</sup> Mahein Foundation. (22 September 2010). Prison and responsibility urge the Prison Wardens in Timor-Leste. Mahein's Voice No.11.pdf. [www.fundasaunmahein.org/2010/09/22/mahein-nia-lian-no-11-komunikadu-da-imprensa-prizaun-no-responsabilidade-husu-guarda-prizoneirus-sira-iha-timor-leste-tetun-and-english/](http://www.fundasaunmahein.org/2010/09/22/mahein-nia-lian-no-11-komunikadu-da-imprensa-prizaun-no-responsabilidade-husu-guarda-prizoneirus-sira-iha-timor-leste-tetun-and-english/)

<sup>13</sup> HAK Association (August-October 2013); Voice of Human Rights, Facts of the Human Rights Situation. <http://www.haktl.org/wp-content/uploads/2013/12/relatoriu-DU-Agustu-Otobru-2013-2.pdf>

<sup>14</sup> HAK Association (August-October 2013); Voice of Human Rights, Facts of the Human Rights Situation. <http://www.haktl.org/wp-content/uploads/2013/12/relatoriu-DU-Agustu-Otobru-2013-2.pdf>

before Felix reached the registration area (when he was still in gate 5), suspect “D” attacked him by kicking him. The prison guard accompanying Felix did nothing to stop the attack. After the attack, “D” and another suspect “J” agreed to continue to attack Felix during the remainder of his imprisonment.<sup>15</sup>

The victim, Felix, continued to receive attacks even after the attack on his first day. Minister Lucia Lobato eventually heard about this case and she asked the prison warden to conduct medical tests for Felix, but the prison officials ignored her. She has stated that the public has no idea what prison guards do to inmates like Felix behind prison walls, and that the actions of guards has disabled Felix.<sup>16</sup>

Former prisoner Juliao Amaral<sup>17</sup> also shared his experience in a Timorese prison: “I was convicted of murder. When I go into the gate of the prison I was hit by the prison guard in my chest before being taken to my cell”. Amaral added that during his prison sentence he saw physical violence directed at prisoners on a regular basis, most often against prisoners who committed crimes of sexual violence against women.

The director of HAK association, Manuel Monteiro, unveiled in his conversation with Fundasaun Mahein his awareness of the maltreatment of inmates in Timorese prisons. One example used to illustrate his point was the conjoint operation force in which 19 fugitives who had escaped from prison in 2013 were arrested and taken back into custody. It is believed that at least part of the motivation for these prisoners to make their initial escape stemmed from the physical abuse they were subjected to within the prison. The HAK association has received reports of prison guards hitting prisoners on their arrival day into prison, as well as targeting sexual offenders to assault.<sup>18</sup>

According to UNTAET regulation No 23/2001, which concerns prison regulations in Timor-Leste, part 17 line 4, cites that there is a complaint mechanism in place for prisoners who want to report their concerns of maltreatment by prison guards.<sup>19</sup> FM has observed that although prisoners technically have the right to report complaints, they hardly if ever assert this right due to fear of retribution by prison officials as well as a lack of knowledge about the complaint system and whom they should report to. Therefore, instances of prisoner abuse continue to go unreported and unpublicized.

Although many cases go unpublicized, the recent and tragic case of a prisoner hanging himself in a prison cell received widespread attention. This case highlighted the plight of inmates in Timor-Leste’s corrections system and called attention to the importance of prioritizing education

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<sup>15</sup> Lay. (02 March 2013). Hit a PNTL member the Prison Warden face the court. Timor Post News. p1.

<sup>16</sup> Lia. (05 May 2013). Two Prison’s wardens did physical aggression against prisoners. Diariu Nasional News.p1.

<sup>17</sup> Amaral, Julião. (18 January 2014) Former Prisoners of Becora 2013. Private Interview

<sup>18</sup> Monteiro, Manuel. (20 January 2014). Director of HAK Association. Private Interview.

<sup>19</sup> RDTL. (2011). UNTAET Regulation over the establishment prison in Timor Leste.pdf.

and the protection of prisoner's rights in Timorese prisons. The case referred to is that of Mateus Moniz da Silva, who hung himself inside his prison cell on the 10<sup>th</sup> of October 2013. His body was discovered at 8:00 AM in the morning when a team of prison guards was patrolling the ward and found him hanging near the gate of the jail.<sup>20</sup>

National media outlets reported that Mateus Moniz da Silva had killed a victim named Cristovao de Jesus. It was a Thursday morning when Mateus hanged himself in the Becora prison.<sup>21</sup> According to head of Becora prison João Domingos, the late Mateus committed suicide after hearing a decision made by the first interrogation from Dili court. Domingos added that prior to that point there was no indication that Mateus Monis intended to kill himself.<sup>22</sup>

Decree law No. 10/2012 article 4 defines the basic responsibilities of the prison guards on the first line:

- a. Patrol all areas, according to specified scheduling.
- b. Observe prisoners in the work place, enclosure or living space, and be careful in order to prevent any situation that would require the security service or put down the moral integrity of inmates who are detained in the prison.<sup>23</sup>

Fundasaun Mahein believes that this question should be raised in the court of public opinion: why do prisoners feel the need to hang themselves? Is it inevitable that some inmates will commit suicide? The specific reason for Mateus' suicide is unclear. Did he have psychological problems or did the prison conditions and abuses by prison guards drive him to hang himself? Furthermore, can it be believed for certain that this was a suicide or could Mateus have been murdered?

FM's believes that the systematic and violent suppression of prisoners in Timor has terrified them to the point of silence, too afraid to reach out for help from their families or the unreliable legal system. Prisoners see their relationship with their guards as one analogous to that between a novel being written by an author; the pen is in the hand of the author and the prisoner has no power over his own fate. Guards should be both enforcers and protectors of prisoners' rights, not abusing them.

### **C. Policy Challenges for Social Reintegration Implementation**

The policy of social reinsertion established by the government calls for the education and capacity building of prisoners' skills as a method to rehabilitate prisoners and prepare them to reintegrate successfully back into society. Putting this policy into practice will help change the

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<sup>20</sup> Myn/fer. (13 October 2013). Suspect killed Cristovao Self-hang. Timor Post News. p1-23

<sup>21</sup> Campos, Aquino. (11 October 2013). Suspect Kills Cristovao self-hang in the prison. Independente News. P1.

<sup>22</sup> Campos, Aquino. (11 October 2013). Suspect Kills Cristovao self-hang in the prison. Independente News. P1.

<sup>23</sup> RDTL. (2012). Ministry of Justice; National Directorate of the Prison Services and Social Reinsertion, Decree Law No.10/2012. [http://www.jornal.gov.tl/public/docs/2012/serie\\_1/serie1\\_no8c.pdf](http://www.jornal.gov.tl/public/docs/2012/serie_1/serie1_no8c.pdf)

philosophy that has been enforced over the past few decades that prison is a place meant to hurt convicted offenders.

According to the Ministerial Diploma No. 05/2013<sup>24</sup> (article 11, line 1), the Social Reinsertion Department and Criminal Observation is fundamental to the social reinsertion policy's implementation and success. This organization is responsible for the service, operation, and technical coordination of promotion and management activities as well as the reinsertion programs including education, professional training, work and occupational activities, socio-cultural support, and health management services for both body and mind.

A report released by HAK association uncovered government and civil society plans to implement a systematic and organized program in Becora and Gleno prisons to provide training to inmates, as well as health assistance, food supply, and other basic necessities.<sup>25</sup> There are two types of capacity building programs that are planned by the government and civil societies. One program is meant to provide practical training in areas such as carpentry, masonry, weaving and more, while the other program focuses on educational courses such as reading and writing, as well as English and Portuguese language courses.

Former prisoner Julião Amaral<sup>26</sup> stated that during his prison sentence he and other inmates received training in various areas including carpentry, masonry, and basic education. The purpose of this training is to help equip inmates with the skills need to be productive members of society. This training was fundamental to Julião Amaral rehabilitation, and he was able to reintegrate into his community after a six month prison sentence.

While some inmates like Julião are able to reintegrate into society, there are other offenders who are not able to develop the skills necessary for reintegration and revert back to their old pattern of committing crimes after being released from prison. These repeat offenders are arrested and brought back to re-sentencing at Becora prison.

Another case investigated by FM involved a suspect who was arrested and convicted of theft. After serving a two-year prison sentence, this convict continued to steal as well as attack and rob foreigners at the beach. He was arrested again and sentenced to another two years in prison.<sup>27</sup>

An interview with the director of the National Directorate of Prison Services and Social Reinsertion (DNSPSR)<sup>28</sup> revealed some cases in which convicts who had received training in

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<sup>24</sup> RDTL. (2013). (Ministry of Justice of Timor Leste Organic Structure; National Directorate of the Prison Services and Social Reinsertion. Ministerial Diploma; Diploma Ministerial No. 05/2013. [Http://www.Mj.Gov.Tl/Files/Estrutura\\_Organika\\_Dnsprs\\_Versaun\\_Tetum.Pdf](http://www.Mj.Gov.Tl/Files/Estrutura_Organika_Dnsprs_Versaun_Tetum.Pdf)

<sup>25</sup> HAK (August-October 2013); Voice of Human Rights, Facts of the Human Rights Situation. <http://www.haktl.org/wp-content/uploads/2013/12/relatoriu-DU-Agustu-Otobru-2013-2.pdf>

<sup>26</sup> Amaral, Julião. (18 January 2014) Former Prisoners of Becora 2013. Private Interview.

<sup>27</sup> Former Prisoners. (14 January 2014). Informal Discussion.

<sup>28</sup> Belo, Marsal Helder Gosme. (20 January 2014). National Director of the Prison Prison Services and Social Reinsertion) (NDPPSSR) Private Interview.

prison still continued to commit the same crimes after being released (instead of implementing their new skills). This only applies to some prisoners; as there are many other cases where prisoners are released from prison and utilize their training to reintegrate successfully into society.

FM suspects that maltreatment and abuse in prisons may have an affect on whether or not prisoners utilize their training to become productive citizens or disregard their training and continue a life of crime after being released from prison. FM theorizes that prisoners who are mistreated and have their rights abused are far less likely to apply the skills and training they received in prison, and far more likely to revert back to a life of crime after being released.

## **Conclusion**

Timor-Leste's history is full of human rights abuses against prisoners. Much of the reasoning behind this falls on the colonial philosophy of prison as a place meant to detain guilty people, and that inmates should have no right to express themselves or their ideas. This philosophy of the criminal justice system places an uncompromising emphasis on punishment, and should be viewed by contemporary standards as overly cruel and ineffective.

We can only speculate as to the environment that existed when Timor-Leste was governed by military rule. It is well known, however, that Portuguese colonists ruled with severity and pounced on anyone who did not obey their orders. In particular, political dissenters involved in revolts against colonialism were received all kinds of retribution in the form of physical beatings and in many cases, death.

Under the Indonesian occupation, the military and police used various forms of torture to torment prisoners: burning prisoners with cigarettes, using chairs to crush feet, not allowing prisoners to sleep, and sexually violating women.

Since the establishment of the prison system, there have been numerous cases of physical violence, intimidation, and other abuses perpetrated against prisoners. Although the public has been unaware for many years of these abuses, the recent case of Mateus Moniz has broken the cycle of secrecy. Questions that are still yet to be answered include how was this prisoner able to kill himself within the restricted jail setting, and was his death truly a suicide or was there another unknown factor at play?.

## **Recommendations**

1. Recommend to the National Parliament committee A, to be responsible for the supervision of every prison in Timor-Leste in order to be aware of what is happening in the prison as well as the condition of the prison. The supervision should be conducted from the perspective that prisons are institutions meant to reintegrate inmates into society, not places for abuse and torture.
2. Recommend to the Ministry of Justice through the National Directorate of the Prison Services and Social Reinsertion to provide increased training to prison guards to inform them of the role they play and the responsibilities they have, to help ensure that they act professionally and do not violate prisoners rights.
3. Recommend to the Ministry of Justice through the National Directorate of the Prison Services and Social Reinsertion, to place a renewed emphasis on rehabilitation and skill building for prisoners to help them become constructive citizens after release and reduce their chances of being repeat offenders.

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