



Who Should Take Responsibility for Members of the PNTL Committing Crime?

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I. Introduction

The disciplinary rules of the National Police of Timor-Leste (PNTL), in effect, systematize the rules and principality of the institution. These rules attempt to increase the responsibility and legal adherence of the institution, and the reform of these rules expresses the desire of PNTL leadership to increase professionalism and maintain the institution's prestige, according to the internal discipline mechanism of the PNTL Justice Department.¹

The PNTL response has shown that some progress has occurred, and the responsibility of PNTL members has improved, as evidenced by the reduction in crimes committed by members. However, institutional professionalism, impartiality, and responsible usage of equipment and weapons are becoming public concerns. These concerns stem from reports in some places that PNTL lack impartiality, use force in their line of duty, and use equipment in ways that violate PNTL rules and regulations.²

Some crimes committed by members of the PNTL in 2014 that are still becoming public concerns. In one instance, a PNTL member from the Especial Police Unit (UEP), sub-unit of the Batallion Ordem Publiku (BOP) in Tasi-Tolu, hit and seriously injured a civilian named Bosco Lobato. This accident took place when the police member (JS) and his colleague from BOP arrived at the scene of a land dispute between Antonio Lobato Mira Mar (the land owner) and the civilian mentioned above.³

Even worse, disputes between PNTL members of different units have undermined the prestige of the PNTL and damaged the example set by the PNTL at the community level. FM considers this a serious situation, because the PNTL should be a good example and a guide for the communities to obey the law and order. However, these members have resorted to attacking each other in public.

This FM report will examine the causes of the PNTL disciplinary infractions that have taken place thus far. It will then discuss the responsibilities of the institution, given the fact that these crimes have continued to occur. The violence that occurs is difficult to

¹ Democratic Republic of Timor-Leste; (2004); The Interior Ministry; Decree Law No. 13/2004 - 16 June 2004; Disciplinary Rules for the National Police of Timor-Leste (PNTL).

² HAK Organizational Report. Report of Human Rights 2013; Forces the Law to Strengthen the State of Rights and Democracy

³ May/Ina. (08 May 2014). Member of BOP Hit Bosco Lobato till got serious injury "Armando: 'Member of the

PNTL has committed crime'." <http://www.indiario.com/2014/05/08/membru-bop-baku-bosco-lobato-too-gravida-armando-membru-pntl-nee-komete-ona-krim/>

combat and continues to increase, because the implementation of the PNTL penal code is too weak to respond to this violence.

II. Methodology

In order to prepare this report, Fundasaun Mahein gathered information, examined literature found in national media publications, and interviewed the very important sources that have acknowledgment issue of this report. This report also uses some of the data and content of a security sector discussion (SSD) conducted at Fundasaun Mahein, which reviewed FM's monitoring of the criminal acts committed by PNTL members thus far.

III. Institutional Responsibility of PNTL

a. Justice Department

The Justice Department is a department of PNTL responsible for facilitating justice and discipline. This department also conducts investigations for serious cases of misconduct and those that could potentially damage the image of the PNTL.⁴ As guaranteed by PNTL organic law, the Justice Department of the PNTL is responsible for facilitating and supporting judicial processes directly related to the PNTL command.⁵

As sanctioned by PNTL organic law, the Justice Department has many efforts in juridical support of the police institution, particularly by performing analysis and processing disciplinary infractions committed by police members. It has also investigated the commander's decision making.⁶ From early 2009 to the 2014, the PNTL Justice Department registered many of the disciplinary infraction cases and has punished some members who were found guilty of committing serious crimes.⁷

This progress has been facilitated by the disciplinary commitment the Council Superior Command and by the maximum efforts from the Justice Department in processing cases in accordance with the PNTL command's orders in 2014.⁸ Through such efforts and hard work, the PNTL Justice Department has helped the PNTL command in its decisions to dismiss 28 members since 2009.⁹

⁴ Lopes, Isac. (19 May 2014). Justice Department. – The National Police of Timor-Leste.
<http://www.pntl.tl/dep-justisa-2/>

⁵ . RDTL (18 February 2009). Justice Department. Article 24. Organic Law of PNTL.pdf.p11.

⁶ May. (28 January 2014). PNTL Command Will Dismiss Undisciplined Members. Media Diariu Nasional.
<http://www.jndiario.com/2014/01/28/komando-pntl-sei-demite-membru-nebe-la-disiplina/>

⁷ Jeronimo, Carlos. (07 August 2014) Chief of PNTL Justice Department. Private Interview

⁸ May. (06 May 2014). The Superior Council of the PNTL Dismisses 8 Members. Media Diariu Nasional.
<http://www.jndiario.com/2014/05/06/konsellu-superior-pntl-demite-membrus-nain-8/>

⁹ Jeronimo, Carlos. (07 August 2014) Chief of PNTL Justice Department. Private Interview

The impact of the Justice Department, as described above, is worthy of our praise and respect. But, according to FM's monitoring, the Justice Department will face challenges in human resources in its attempt to process and refer cases to PNTL command in a decisive manner. The BOP member that hit a civilian in Tasi-Tolu serves as an example, as this case was processed almost four months ago but is not yet finished. Furthermore, in the case involving the interpolice brawl between BOP and Task Force members at the Comoro quarter, a full investigation has still not occurred.¹⁰

FM expressed that such cases demand attention by the PNTL institution. Otherwise, the members will commit crime freely, due to the poor and lengthy disciplinary process. FM also urges the government to continue fortifying human resources at the Justice Department with facility assistance, in order for the Justice Department to effectively perform its duties as laid out by the PNTL organic law order.

b. Criminal Investigation Service (CIS)

According to the organic law of the PNTL, the Criminal Investigation Service's mandate is to investigate and prevent crimes. The CIS follows instruction from the judicial authority to prepare proof, declarations, and evidence for pending cases. Furthermore, the CIS gathers evidence based on the PNTL system. In total, the CIS is responsible for investigating and preparing information related to common crimes.¹¹

The competence and mandate assigned to the CIS have proven positive in investigating criminal offenses of PNTL members. These efforts are not only dream, as there have been tangible results. In 2013, the CIS attempted to address 1,169 types of cases, including from policy battery, assault, domestic violence and other offenses. The total of number of offenses is 467.¹²

The commitment of the CIS in collecting these cases is considered a positive step in improving and strengthening the professionalism of the PNTL institution. However, some cases are still pending, and the process takes too long from start to finish, due to lack of the institution's human resources. Some processes are becoming big questions for the community. A concrete example is the investigation process surrounding a member of PNTL Bobonaro district who shot civilian Leao Gama dead. To date, the family has not received clear information, nor has the case reached a final verdict.¹³

¹⁰ Sequera, Jacinta. (07 August 2014). PNTL Justice Department Notified of the Case of PNTL in the Comoro Quarter. Media STL. <http://suara-timor-lorosae.com/departamentu-justisa-pntl-notifika-ona-kazu-pntl-ih-eskuadra-comoro/>

¹¹ RDTL (18 February 2009). Justice Department. Article 24. Organic Law of PNTL.pdf.p14.

¹² Inspect the PNTL. (March-April 2014). The National Police of Timor-Leste (Our Police); page 6

¹³ Suara Timor Lorosa'e. (14 January 2014). PNTL Shot People Dead in Bobonaro, Calisto:

Another unresolved case involves the Especial Police Unit (UEP) from BOP sub-unit, whose chief agent Jose Mesquita hit Bosco da Conceicao Lobato in Tasi-Tolu. This case is still pending even though the case has been presented to the PNTL command. This case has taken four (4) months but the final verdict has not been made available to the public.¹⁴

Due to the aforementioned cases, Fundasaun Mahein is concerned that the investigative process will allow other members of the PNTL to continue committing crime, because the ineffective CIS processes have not served as a good deterrent thus far. The continuation of this crime will damage the institutional prestige of the PNTL at the community and international levels.

VI. Responsibility of Advocates

a. The Ombudsman of Human Rights and Justice - PDHJ

The ombudsman, or PDHJ, is an independent organ responsible for observing and responding to the citizens' problems with the public actors, such as PNTL members, F-FDTL members, teachers, public civil servants and the prisons guards.¹⁵ According to Law No.7/2004, the function of the PDHJ is to promote and protect human rights and good governance.¹⁶

As a state institution working independently to address human rights violations, the PDHJ has, thus far, shown its spirit by strengthening and enriching human rights in Timor-Leste. During 2013, PDHJ received 242 cases that were presented by communities in regards to human rights violations that directly involved members of state institutions.¹⁷

The majority of these cases are committed by members of PNTL, in relation to those committed by other public workers, such as F-FDTL personnel, public civil servants, teachers and others. The distribution of these cases is as follows: PNTL: 49, F-FDTL: 6,

It is in Investigation Process. <http://jornal.suara-timor-lorosae.com/kazu-pntl-tiru-mate-ema-iha-bobonaro-calistro-nia-prosesu-tama-ona-iha-investigasaun/>

¹⁴ Ferreira, Sonia /Mikael M. Mau. (16 May 2014). Police Member Hits Bosco Lobato, Family Urges the PNTL Commander to Expel the Bandit Member.

<http://jornal.suara-timor-lorosae.com/kazu-oknum-polisia-baku-bosco-lobato-familia-husu-komando-pntl-hasai-nia-membru-bandidu/>

¹⁵ Pinto, Silveiru Batista. 12 February 2014. Assistant Ombudsman of Human Rights and Justice (PDHJ). Private Interview

¹⁶ PDHJ. (2010). Development of Human Rights 2010. Annual report of PDHJ 2010.pdf.p4.

¹⁷ Max. (24 January 2014). Many PNTL Members Commit Human Rights Violations. Media Timor Post. <http://www.diariutimorpost.tl/berita-856-membru-pntl-barak-komete-violasaun-diretus-umanus.html>

teachers: 5, and civil servants: 4.¹⁸ PDHJ has investigated these cases and provided recommendations PNTL for management of disciplinary infractions. Furthermore, PDHJ will make recommendations to Public Ministry in regards to processing the criminal cases in a court of law.¹⁹

However, according to Fundasaun Mahein's monitoring, the PDHJ has failed to rigorously follow up with the PNTL and Public Ministry in regards to its recommendations for these cases. This lack of follow-up and oversight in carrying out its recommendations constitutes a major failure for the PDHJ thus far.²⁰

Therefore, FM urges the PDHJ to rigorously monitor its recommendations that have been presented to the PNTL command and Public Ministry in regards to disciplinary infractions and criminal cases involving members of the PNTL. This will play an important role in strengthening the PDHJ's measures against human rights violations committed by members of PNTL.

c. National Parliament Committee B

Committee B of the National Parliament (NP), responsible for responding to security and defense issues, has received many cases from the communities regarding actions of the security institutions on the ground. This has become the main method for communities to present their cases to the National Parliament. These communities are losing confidence in the PNTL, due to the immediate involvement of PNTL personnel in some crimes.²¹

When presented cases by the public regarding PNTL brutality community members, National Parliament Committee B has responded by strongly demanding that PNTL leadership improve the discipline of PNTL members.²² The family of the late Leão Gama presented the case to Committee B because the autopsy process had taken too long after he was shot dead by a member of the PNTL stationed in Bobonaro.²³ In another

¹⁸ Gomes, Domingas. (23 January 2014). Human Rights Violation, Majority are PNTL case.

Suara Timor Lorosa'e. <http://jornal.suara-timor-lorosae.com/violasaun-direitus-humanus-maoria-kazu-pntl-nian/>

¹⁹ Pinto, Silveiru Batista. 12 February 2014. Assistant Ombudsmaan of Human Rights and Justice (PDHJ). Private Interview

²⁰ The Analysis Outcomes of the Fundasaun Mahein Team, via Security Sector Discussion (SSD).

²¹ Fundasaun Mahein. (20 March 2014). Secure and True to Present Case. Mahein's Voice No. 73.p4. http://www.fundasaunmahein.org/wp-content/uploads/2014/03/MNL_Nu.73_20032014_DALAN.pdf

²² Ximenes, Carmen & Sanches, Tomas. (14 May 2014). Police Responsibility is to Protect, not to Injure. Dismiss the Civilian Police. Media STL. <http://jornal.suara-timor-lorosae.com/knar-polisia-proteje-laos-hakanek-povu-demite-polisia-preman/>

²³ Alm, Ina. (09 January 2014). Dead by Bullet, Family Presents the Case to the National Parliament. Media Diariu Nasional. Can be Accessed here <http://www.jndiario.com/2014/01/09/mate-ho-kilatmusan-familia-keixa-ba-pn/>

case, Odete Varela presented her case NP Committee B after purportedly being hit by a member of the PNTL stationed in Baucau.²⁴

By inviting community members to present their cases, Committee B is demonstrating its desire to solve their problems and achieve real justice. In reality, however, the communities' problems have become political instruments for Committee B during discussions within the National Parliament. This is believed because, though Committee B is state organ responsible for representing people in these matters, the committee has not taken concrete actions to resolve these problems through the National Parliament.

This seems to suggest that Committee B is not seriously advocating on behalf of the communities as the supervisory and legislative organ. Fundasaun Mahein urges National Parliament Committee B to monitor cases that involve members of the PNTL then make subsequent recommendations to the PNTL commander and the Public Ministry as soon as possible, in order to expedite these processes within the PNTL institution.²⁵

d. Civil Society

Civil society organizations responsible for advocacy have sometimes received cases from the community in regards to human rights violations committed by members of the PNTL. In particular, the non-government organizations (NGO) that fight for human rights are very concerned with the use of military actions by PNTL members, because these NGO have received many complaints by communities that have been tortured by police.

The association 'HAK' reports that, between February and April, it has registered 24 cases from local authorities that have identified the involvement of the police members in human rights violations. These cases have been identified in many districts, such as Baucau and Dili. These village chiefs mourned police actions that have victimized many civilians.²⁶ A prominent example is the Conjoint Operation Command (COC) implementation of the Friendship Operation in Baucau recently, which brought both physical and emotional trauma to innocent citizens.²⁷

²⁴ Da Silva, Domingos. (26 August 2011). PNTL Tortures a PNTL Agent, Wife of Nunu de Deus. <http://www.cjitl.org/cjitltimor-today/cjitl-flash/725-pntl-halo-torturasaun-ba-ajentepntl-nunu-de-deus-nia-fen/>

²⁵ TS. (22 February 2011). Suspecting that the PNTL Would Protect its Members, Ligia Presents Her Case to the National Parliament. <http://temposemanaltimor.blogspot.com/2011/02/deskonfia-pntl-proteze-niniamembru.html>

²⁶ Report of Association HAK. (2014). The State of the Human Rights Situation.

²⁷ Fundasaun Mahein. 16 June 2014) The Friendship Operation; Reintegrate or Threats; Mahein's Voice No.

Fundasaun Mahein recognizes the important role of civil society in facilitating social control. However, many cases that have been processed by civil societies have not yet been resolved. With some cases, civil society organizations have made the effort to help the victims access competent institutions such as PDHJ and PNTL, because establishing effective advocacy has been a challenge for civil society organizations so far.

In response to shortages in human resources and facilities, NGOs are unable to effectively supervise cases that have been recommended to the competent institutions. This has been a major criticism of civil society organizations, which have spent a significant amount of time and money on these resources. Fundasaun Mahein believes that civil society organs should exercise commitment in monitoring cases have been recommended to PNTL and PDHJ, in order to accelerate those cases and bring about swift justice.

Conclusion

The development of the PNTL institution and professionalism of its members are still public concerns in Timorese society, as they have been since the establishment of the PNTL. The disciplinary violations and criminal actions of PNTL members have not yet subsided. This is, in part, due to because of weakness and malfunctioning within the Justice Department as well as the Criminal Investigation Service. These departments have experienced shortages in human resources and capability in fulfilling their mandates of investigation and analysis. These shortages present large challenges to the PNTL institution, which should continue fortifying in these areas in the aim of accelerating the many pending cases.

Weakness in advocacy by government institutions (PDHJ and the NP), state organs (Committee B), churches, academic institutions, and civil society has also become a hindrance to enriching human rights in Timor-Leste. In turn, this problem has also hindered the holistic development of the PNTL institution. The communities have presented their allegations to various bodies, but these cases have not been met with swift or decisive action. This lack of urgency is partly attributable to the failure of organizations to follow-up on their recommendations to higher authorities, such as the PNTL leadership and the National Parliament.

80;http://www.fundasaunmahein.org/wp-content/uploads/2014/06/MNL_Nu.80_26062014_Operasaunpdf1.pdf

FM's Recommendations

1. FM recommends that the government fortify human resources within the PNTL, particularly in the Justice Department and the criminal investigation service (CIS), in order to accelerate pending cases involving wrongdoing by PNTL members. This measure will minimize negative actions of PNTL members and can improve the prestige of the PNTL.
2. FM recommends that the PDHJ, Committee B of the National Parliament, and civil society that fight for human rights by continuing to monitor police activity. Furthermore these advocates should continue voicing their recommendations to leadership at the PNTL command and the Public Ministry, in order to accelerate cases as soon as possible.

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