



Mahein Nia Lian no. 25, 30 November 2011

PNTL's Weapons: Items of Security or Intimidation?

Introduction

As written in the Organic Law of Timor-Leste's National Police (PNTL) No. 16/2009, article 5, paragraphs 1 and 2 on Weapons and Uniforms, where paragraph 2 stated that when off-duty, PNTL members shall not be allowed to carry and use the weapons distributed to them, which must be collected and warehoused in appropriate places in the police units and stations to which the PNTL officers have been assigned. Meaning, the PNTL officers are only entitled to use distinctive weapon and uniforms during service hours. However, the reality shows the contrary. The PNTL officers are often accustomed to, and without maximum control from the institution, carrying weapons when off-duty.

The acts or attitudes of the PNTL officers who often use weapons when off-duty, have lead to a number of PNTL members committing crime, go in and out of the court for the sake of using weapons to threaten the civilian people, beating people, wounding people and, even worse, some community members have died PNTL member bullets. FM data shows that there has been four (4) reported fatalities resulting from the use of PNTL weapons in the period after the crisis and not including the period of the 2006 crisis.

The PNTL was established on 27 March 2000, as a state institution under the Constitution. Article 147, paragraph 1 states that the police shall defend the democratic legality and guarantee internal security of the citizens; and that prevention of crime shall be undertaken with due respect for human rights. However, the reality from year to year shows several PNTL members committing crimes, which raises the debate on the professionalism of the security institution.

Fundasaun Mahein's 25th report tries to broaden the debate on the effectiveness or the operation of the PNTL's weapons on the ground. Meaning, whether those weapons are used to provide security to the community or rather being threats to the community? In Fundasaun Mahein's view, the PNTL weapons have not always been used to provide security or to protect civilians as mentioned in the legislation and the RDTL Constitution.

A fresh case to bear in mind was the incident on November 4th, 2011. This case involves a PNTL member from the Border Patrol Unit (BPU) who shot dead a female student named Lulu in Lourba, Bobonaro District. Another serious case that was published in the local media and is questioned by the public was the case where a member of the PNTL shot dead Vladimir Lebre Correia on 29 December 2009 in Delta Nova Hall, Comoro, Dili. Other lethal cases include the incident where a civilian was shot by a member of PNTL in the abdomen on November 2nd, 2009 in Bobonaro; the incident involving the shooting of a youth (22 November) in Mandarin-Dili; and the case where Afonso Kudalai was shot dead (June 3rd, 2007) in Viqueque and many others.

Based on the cases Fundasaun Mahein has cited above and some other cases that will be specifically described in the next pages, FM has been drawn to the conclusion that the PNTL's weapons were not being used to protect or defend the life of the community against other civilian armed groups who intended to ruin the life of the community. In fact, the PNTL's weapons have become instruments that threaten the peacefulness of the community.

The Effects of Arms in Timor-Leste's History

Based on history, since the ancestors' time, the life of the Timorese has been filled with armed conflict. The 24 years conventional war against the invasion of Indonesian military, in particular the period of war from 1975-1980, resulted in more than 100,000 deaths as a result of armed conflict, many died from starvation and sickness.¹ The CAVR Report "Chega!" (To'o Ona!, Enough!, Cukup Sudah!, clearly stated that there were approximately 102,800 to 183,000 civilian people that died in the period from 1974 to 1999 as a result of armed conflict. From this number, there is a total of more or less 18,600 people who were illegally murdered and disappeared, and a minimum of 84,200 people who died of starvation and sickness.²

This number of victims suggests that the past of the people of this country is full of suffering as a result of armed warfare. However, why in this era of independence, do people still die by means of weapon? Death not by enemy's weapon but instead by shots with the guns carried by police officers (PNTL) who essentially aim to provide security and protect its own citizens in accordance with the law.

Another case of armed conflict which has an emotional connection with the history of Timor-Leste is the armed conflict in 1999. During this period of conflict, approximately 250.000 people were displaced to West Timor (Atambua-Indonesia) and more or less 1,400 people died as a result of the fatal violence taken place in April (1999), at the time before the signing of the May 5th agreement, and in September-October after the announcement of the result of the popular consultation (referendum).³

Similarly from April to May 2006, the internal violence linked to dissatisfaction due to rank promotion for the members of the F-FDTL and the discriminatory issue of "western" and "eastern" resulted in the emergence of the petitioners, which contributed to the civil-military crisis that directly involved the former members of the F-FDTL. This resulted in the political disintegration within the security sector in Timor-Leste and it involves the F-FDTL, PNTL, and other civilian armed group.

The report of the Independent Commission of Inquiry (UN COI) for the 2006 crises published in 2007 reported that it has identified several actors (male) but has not been able to identify all of them. The Independent Commission of Inquiry is satisfied that the 31 members of the Rai Los Group were supplied with illegal arms and uniforms and went to the Tibar area on the instruction of then Minister of Interior Rogerio Lobato.⁴

The result of the UN COI investigation stated that in the XIII trial in the Dili District Court, the former Minister of Interior Rogerio Lobato became a suspect on charges of distribution of

¹ Fundasaun Mahein Report no. 15, p5

² Final Report of Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR), p11, pdf

³ Final Report of Timor-Leste's Commission for Reception, Truth and Reconciliation (CAVR), p19,26, pdf

⁴ <http://www.tempo-semanal.com/?p=623>

weapons to civilians.⁵ The effect of this case shows that there were approximately 37 deaths and 150,000 displaced people during the period in which they initiate the violence.⁶ The chain of the existing armed conflicts has resulted in many people losing their family, property, and some became widows/widowers and orphans.

Two years later, on 11 February 2008, an enormous attempt (armed conflicts) against the Head of State Jose Ramos Horta and the Actual Prime Minister Xanana Gusmão emerged. The February 11th, 2008 case of attempted murder on the President of the Republic and the Prime Minister was launched by the armed group lead by the then Major Alfredo Alves Reinado (deceased) and the then petitioner spokesperson Gastão Salsinha. The consequence of the attempt on the residence of the President of the Republic in Metiaut has resulted in the President of the Republic Dr. Jose Ramos Horta and a member of the F-FDTL Celestino Gama being seriously injured and the deaths of Alfredo Alves Reinado with Leopoldinho Exposto at the scene.

Likewise, the Prime Minister Xanana Gusmão whom was attacked by the group of the then petitioner spokesperson Gastão Salsinha managed to escape, but the vehicle that drove the Prime Minister was severely damaged due to shots aimed at the PM when his convoy was on its way to Dili.⁷ Based on the archives of the armed cases in Timor-Leste's history which are cited by Fundasaun Mahein, it becomes a profound reflection for the government to establish a policy of systemic control and policy of arms management so that the members of PNTL do not abuse the use of weapons and shall be in conformity with the principles of the PNTL legislation and the RDTL Constitution.

Records of Armed Cases by the PNTL members

- **Bobonaro Case (2011)**

Recently, the publications in the national media have exposed the brutal acts of a member of Timor-Leste's National Police (PNTL) from the Border Patrol Unit (BPU) who used his gun (pistol) and shot dead Lulu, a female student of the Secondary School No. 2 Malibaka, Maliana, on Friday (04 November 2011) at a party. The incident began with a dispute between the two UPF members, but ultimately led to the use of force and violence by pointing guns to each other and pulled the trigger and the stray bullet hit the victim (Lulu) on the thighs and lower abdomen, instantly killing her at the scene.⁸

Conversely, prior to that, on 2 November 2009, in Bobonaro, a member of the PNTL shot a man in his abdomen when the officer shot a warning fire on two youth groups who were attacking each other. The facts showed that, upon conclusion of investigation, no formal indictment was made against the suspect until the end of June 2010.⁹ For this case, Fundasaun Mahein (FM) is concerned and that it has raised doubts on the PNTL. Why, in this era of independence, should people die every year from the bullets of its own security forces (PNTL)?

⁵ [http://www.jsmp.minihub.org/Press%20Release/2007/February/Lobato%20Case%20XIII/Press%20Release%20ba%20Lobato,cs%20Case%20XIII%20\(Tetum\).pdf](http://www.jsmp.minihub.org/Press%20Release/2007/February/Lobato%20Case%20XIII/Press%20Release%20ba%20Lobato,cs%20Case%20XIII%20(Tetum).pdf)

⁶ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2009 – 30 June 2010, p24, pdf

⁷ <http://easttimorlegal.blogspot.com/2010/03/desizaun-final-kazu-11-fevereiru.html>

⁸ Media STL Edition Tuesday, 08/11/2011

⁹ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2009 – 30 June 2010, p9, pdf

For this particular case, Fundasaun Mahein through its Research Coordinator, Frei Guterres, considered that in such incident, the PNTL has violated article 147 of the Constitution which stated in paragraph 1 (one); the police shall guarantee internal security of the citizens; and paragraph 2 (two); prevention of crime shall be undertaken with due respect for human rights; however, in reality some individuals within the PNTL do not resort to the prevention of crime and do not guarantee the internal security of the citizens. Even worse, some members of the PNTL have been actors of crimes for the killing of civilians.¹⁰ On the other hand, the president of the Parliamentary Commission B for Defense and Security, Mr. Duarte Nunes said that the security actors, particularly Timor-Leste's National Police (PNTL) have victimized the people, as the majority of the members of the PNTL have not acted according to the rules of the police.¹¹

Therefore, in regard to these thoughts, FM considers that the PNTL needs to revisit the PNTL legislation in article 5 paragraph 2 which explained that "When off duty, PNTL members shall not be allowed to carry and use the weapons distributed to them, which must be collected and warehoused in appropriate places in the police units and stations to which the PNTL officers have been assigned."¹² The tragic case of the PNTL officer who shot dead a student, while carrying and using his weapon out of the normal working hours at a birthday party, is a wake up call for action.

- **Delta Nova Case (2009)**

Another brutal act committed by a member of the PNTL from the Task Force Unit was, the case of Delta Nova (29 December 2009) where Vladimir Cesar do Nasimento Lebre (alias Kuka Lebre) was shot dead and a youth was injured during a Christmas party in Delta Nova Hall in Comoro-Dili. In relation to the case, the President of the Republic Dr. Jose Ramos Horta, in his 43 minutes end of year message addressed to the country, from the Presidential Palace in Bairro-Pite, called for serious punishment to be taken against the PNTL officer who shot dead Vladimir.¹³ However, after being suspended by the PNTL Commander on 4 January 2010, the judge released him with restrictive measure.¹⁴ And, more disturbingly, the case was pending for 2 years at the Dili District Court and the first court session has just recently commenced on 24 November 2011. From this trial, the Public Prosecutor's office charged the defendant with homicide according to article 138 of the Penal Code with imprisonment of more than 15 years.¹⁵

By looking at the lawsuit of the case, Fundasaun Mahein is left lamenting because although the PNTL officer has shot dead the victim, the trial and the inquiry has been very slow and tardy, and more aggravatingly, the judge released the suspect a day later with restrictive measure, and it took another 2 (two) years for the Dili District Court to hold the first trial to hear from the witnesses. FM considers such attitudes as highly unfair against poor people and these have started to enhance a sense of impunity within the PNTL. If impunity is enriched and it is left to be rooted within the security institution such as the PNTL, then many people will be left to die on the tip of the PNTL's weapons.

Therefore, FM would like to request the government to strengthen the controlling system over the PNTL officers who carry weapons and those officers who committed crime shall be

¹⁰ <http://cjitlnoticias.sapo.tl/nasional/fm-kondena-pntl-tiru-mate-estu-89610>

¹¹ Media Independente Edition, Thursday, 10/11/2011

¹² Decree Law n^o. 16/2009.

¹³ <http://temposemanaltimor.blogspot.com/2010/12/prezidenti-horta-ezije-justisa-ba-kazu.html>

¹⁴ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2009 – 30 June 2010, p8, pdf

¹⁵ Media Independente, Edition, Friday, 25/11/2011

processed accordingly in order to give lessons to others for not following such wrongdoings or misleading attitudes. Likewise, the police officers need to be aware of the PNTL disciplinary law and be introduced with the law on the use of weapons, as the absence of basic knowledge on these laws, may potentially increase the number of crimes committed by the PNTL officers.¹⁶

- **Mandarin Case-Dili (2009)**

Another case was committed by the PNTL agent Almeiro Pinto Soares who injured Mateus Pereira's arm in Mandarin-Dili, on the 22nd of November 2009 after attending the end of mourning ceremony (koremotan), the police officer carried his weapon but was dressed in civilian clothes. As a result of the brutal acts from the police officer, the victim was hospitalized at the Guido Valadares National Hospital-Dili, for a long period of time. However, until the end of June 2010, there had not been any legal process carried out through the court proceedings against the police officer, and instead he was only suspended from work.¹⁷

On 3 January 2011, the court decided to acquit the case as there was no profound evidence to bring the suspect before the court.¹⁸ Having carefully observed the decision, Fundasaun Mahein considers that it is unfair because the officer was carrying his weapon while off-duty and that his indecency has resulted in injury. Worse, the effect of the shooting has resulted in the victim being handicapped for the rest of his life. Therefore, FM requests that adequate sanctions shall be made against the PNTL officers proportional to the acts they commit. FM believes that whenever adequate sanctions are not taken against the PNTL officers who committed crime, those officers will continuously repeat such bad attitudes. Consequently, this will result in the community losing hope and respect for the PNTL, which are supposedly the protectors of this country and its people.

- **Metiaut Case (2008)**

The 11 February 2008 attempt is also a part of the armed conflicts included in the list of the history of the crocodile country's (Timor-Leste) armed conflicts. As a result of the attempt, President Ramos Horta and a member of the Falintil-Forsa Defeza Timor-Leste (F-FDTL) who was guarding the residence of the Head of State, Celestino Gama was seriously injured. Likewise, The Prime Minister Xanana Gusmão who was attacked by the group of the then petitioners' spokesperson Gastão Salsinha managed to escape, however his vehicle was seriously damaged by the shootings when the PM's convoy was on its way to Dili.¹⁹

And, the deadly effect of the armed conflicts leads to the immediate death of the then Major Alfredo Alves Reinaldo and his bodyguard Leopoldinho Exposto at the scene.²⁰ In relation to the 11 February 2008 attempt, FM shares the opinion that the case originates and is rooted in the 2006 political-military crisis leading to the disintegration of the PNTL and resulted in the vanishing of a number of PNTL weapons. Based on the report of the UN COI published in 2007, it is stated that in relation to the weapons within the PNTL, the Commission notes with concern the absence of systematic control over PNTL weapons and ammunition. The PNTL General Commander removed weapons from the PNTL National Armory without the knowledge of the armory officer. On 23 March 60 Steyr weapons and 50 boxes of ammunition were sent to the URP compound at Alieu.

¹⁶ <http://cjitlnoticias.sapo.tl/nasional/fm-kondena-pntl-tiru-mate-estu-89610>

¹⁷ Human Rights Report, p9, pdf.

¹⁸ Media STL Edition, Tuesday, 04/01/2011

¹⁹ <http://easttimorlegal.blogspot.com/2010/03/desizaun-final-kazu-11-fevereiru.html>

²⁰ JSMP Report: February 11, 2008 case: More Questions than the Answers, p13

On 15th of April, 10 Steyr weapons and ammunition were sent to the Liquiça police station by the armory officer. Following the 25 May incident he ordered 10 Steyr weapons and ammunition to be stored at Gleno police station. A recent weapons audit conducted by an international team has found that 219 PNTL weapons remain outside PNTL custody and control. These weapons comprise of 190 Glock 9 mm pistols, 13 Steyr semi-automatic assault rifles, 10 HK33 semi-automatic assault rifles, 2 FN-FNC semi-automatic assault rifles and 4 12-gauge shotguns.²¹ From the description given above, Fundasaun Mahein concluded that the PNTL weapons are not securely kept and does not offer protection to the people of this country.

- **Viqueque Case (2007)**

The parliamentary campaign held in Viqueque District on 3 June 2007, resulted in a serious incident involving a PNTL officer from the Intelligence Unit, Luis da Silva Guterres, who shot dead Afonso Guterres (Kudalai), a security guard from the Conselho Nacional Reconstruksaun Timor-Leste (CNRT) Party. The suspect, PNTL agent Luis da Silva Guterres, decided to surrender himself to Timor-Leste's National Police (PNTL) Uatolari Sub-district Station, Viqueque, after hiding for four (4) days.²² As a result of the case, on 8 October, Baucau District Court sentenced the PNTL officer, Luis da Silva, with 6 years of imprisonment.²³ However, FM was informed that the officer did not fully complete his six-year sentence, and was pardoned by the President of the Republic during the course of last year (2010).

In relation to the case referred, Fundasaun Mahein really wants to question the suspect, Luis da Silva's explanation at Dili District Court, on Friday (08/6/2007), during the preliminary judicial hearing that shot the victim four times and resulted in the death of the victim (Kudalai) after he was previously beaten by the victim.²⁴ FM considers and accepted the argument and the honesty, however, the question is, "Shall weapons be the last resort in resolving a problem?"

According to the PNTL Organic Law No. 16/2009, article 4 paragraph 3, the force to be used shall always be the minimum deemed necessary for re-establishing legitimate order and has to be proportional to the threat.²⁵ However, the reality shows the contrary. The PNTL officer is in violation of the legislation as because the PNTL agent is using the force of weapon while the victim was not using any weapon. Therefore, FM suggests that the government revise the system for distributing firearms to the PNTL officers. Meaning, the government shall conduct psychology tests to the PNTL officers before distributing and receiving weapons.

- **Ossu Case (2007)**

On 3 June 2007, a deadly shot against Domingos Monteiro and the injury of a teenager (17 years old) in sub-district Ossu, Viqueque District were suspected to be committed by the PNTL officer from Baucau District. After two years, the case has not been presented to the Public Prosecutor's office with the reason that there is no sufficient number of staff, and at the end in October 2009, the case was closed. The notification letter received by the family in May 2010 stated the case has been closed since there is no sufficient evidence in identifying the suspect.

²¹ Tempo Semanal Publication : Many Weapons Have Not Being Registered, Edition, Tuesday, 06/09/2011, can be accessed in this link; <http://www.tempo-semanal.com/?p=623>

²² <http://manufahi.blogspot.com/2007/06/tribunal-desidi-arguidu-luis-da-silva.html>

²³ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2008 – 30 June 2009, p9, pdf

²⁴ <http://manufahi.blogspot.com/2007/06/tribunal-desidi-arguidu-luis-da-silva.html>

²⁵ Decree Law n^o. 16/ 2009, article 4 paragraph 3.

The family of the victims requested the re-opening of the case based on article 235.4 of the Penal Code.²⁶

In regard to the case, Fundasaun Mahein is of the opinion that (1) there is a lack of seriousness from the PNTL, in particular the Department of Criminal Investigation (SIC), when conducting an intensified investigation relating to the case referred and (2) the lack of spirit of institutional loyalty to contribute to investigating the case. When a member of the PNTL commits a crime and there is no legal sanctions taken against, it will give room for the PNTL officers to repeatedly commit such actions in the future.

- **Covalima Case (2007)**

Another brutal act was committed by PNTL officer Antonio Malik Dasi who injured a male in Fohorem (Covalima) on 6 April 2007, causing the victim to being handicapped for the rest of his life. Two years later, on 10 February 2009, the Court of Appeal confirms four (4) years of imprisonment to the PNTL officers. The conviction is based on the homicide attempt for shooting and injuring a civilian. The defendant was also ordered by the court to pay a fine of \$1,000 to the victim who suffered permanent disability as a result of the shooting. However, one month later, the suspect walked out freely, and worse, the victim has yet to be compensated by the suspect.²⁷ Thus, FM came across a question that “Is It the Law That Commands or the Big Brother?” so that the suspect does not fulfill the court decision. The constitution stated that court decisions shall be binding and shall prevail over the decision of any other authority.²⁸

Based on the referred law, FM considers that there is a need to strengthen our judicial system. This means, (1) everyone must obey the law and that the law shall become the supreme commander that all people are fully aware of and appreciate, and (2) all leaders shall produce a strong policy in order to make the law as the commander and there shall not be a big brother way of approach in giving pardons carelessly. Everything shall be subject to the command of the “Law”. This is because, such a decision of giving pardons to the suspects have indeed built the confidence in the minds of the criminal actors that they will be given pardons albeit they have not fulfilled the criteria of the judicial terms in Timor-Leste.²⁹

- **The Case of Political-Military Crisis (2006)**

The political-military crisis that emerged on 28 April 2006 is also being part of an enormous armed conflict that affects the national security in the given period. The crisis occurred because, on the 9th of January 2006, 159 members of the F-FDTL from the western part of the region, submitted a signed petition to the then President of the Republic, Xanana Gusmão (as the Supreme Commander of the army force) and also sent copies to politicians, the diplomatic corps and the religious leaders, claiming that there had been discrimination on rank promotion against those members of the F-FDTL who originated from the western part of country.

Gastão Salsinha and his group of 593 soldiers, a significant number from a total of 1.400 active F-FDTL soldiers, withdraw and abandoned their headquarters. In March 2006, Taur Matan Ruak dismissed those deserted soldiers. The President responded by launching a strong criticism in

²⁶ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2009 – 30 June 2010, p10, pdf.

²⁷ Periodic Report on Human Rights Development in Timor-Leste: 1 July 2008 – 30 June 2009, p9, pdf.

²⁸ RDTL Constitution, Chapter I, Article 118, paragraph 3, p106

²⁹ Fundasaun Mahein’s Thoughts, Is It The Law That Commands or the Big Brother, can be accessed on; <http://www.fundasaunmahein.org/2011/04/20/lei-mak-sai-komadante-ka-maun-abut-mak-komadante/>

his speech on television, which at the end amounting the level of tension on the issue of discrimination. In April 2006, the petitioners organized a demonstration against the government, which immediately transformed into violence, particularly in Dili and created instability in Timor-Leste. It is estimated that the conflict had resulted in 150.000 people being displaced and at least the deaths of 37 people.³⁰

The negative result of the crisis has led to the disintegration of Timor-Leste's National Police (PNTL) which then prolonged the crisis in the country and contributed to the national instability as the PNTL General Commander removed weapons from the PNTL National Armory without the knowledge of the armory officer. On 23 March 60 Steyr weapons and 50 boxes of ammunition were sent to the URP compound at Alieu. On 15 April 10 Steyr weapons and ammunition were sent to the Liquiça police station. Following the 25 May incident he ordered 10 Steyr weapons and ammunition to be stored at Gleno police station. And, according to the UN COI report in 2007 that 219 PNTL weapons remain outside PNTL custody and control.³¹ Based on the UN COI report, it shows that, all this time, the PNTL weapons have not contributed to the national stability and does not guarantee or protect the peaceful living of the citizens.

- **Hera Case (2004)**

Another case that FM would like to explore is the case, which took place on 22 February 2004 in the hamlet of Halidolar, Village of Hera, Dili District. During this event, the PNTL officers assaulted and opened fire with automatic rifles to threaten and beat the population. Such an attitude frightened the community and made them feel unsafe to carry out their daily activities for sustaining their lives. Based on the law, such an action of assault by the police officers is contrary to the law and has violated their human rights. Such assaults with physical force against unarmed civilians have not been in conformity with the procedures in the context of Criminal Law.³² Fundasaun Mahein considers such actions as a nature of para-militaristic police which always resorts to the use of force in its interventions. Therefore, FM would like to recommend the government to strengthen and reinforce the development policy of community policing in order to prevent the PNTL officers from committing human rights violations, particularly in the use of weapons.

In making a comparison between the F-FDTL and PNTL in terms of the potential misuse of weapons, it can be concluded that the PNTL officers are more likely to abuse as the institution itself has not been legally defined on the ranking level required of the PNTL officers to be allowed to carry weapons/guns. Until now, all individual PNTL officers were carrying weapons and the PNTL itself does not have management control over its weapons and bullets.³³ This shows that the weapons of the security institution requires proper management and control in order to minimize the misuse of weapons which reflects poorly on the institution's (PNTL) professionalism.

The Government Planned to Purchase Weapons for the PNTL

In the 2012 State General Budget (OGE) the government also proposes a budget for the purchase of 105 firearms for Timor-Leste's National Police (PNTL), providing the reason that it

³⁰ JSMP Report: The 11 February 2008 Case: More Questions Than The Answers, p12

³¹ <http://www.tempo-semanal.com/?p=623>

³² Human Rights Monthly Review Edition 27 June 2004, p12, pdf.

³³ Opinion: Who Hides Behind the Shootings?, Filipe Rodrigues Pereira.

is to replace the old ones. The Secretary of State for Security (SES), Francisco Guterres stated that those weapons will be purchased in order to give support to the security in the border.³⁴

Based on the government's proposed plan, the Minister for Defense and Security, the Actual Prime Minister Kay Rala Xanana Gusmão, during a bilateral meeting with the President of the Republic of Indonesia, Susilo Bambang Yudhoyono (SBY) in Jakarta, on Tuesday (22/03) have also made several agreement on the support that they be provided by the Indonesian government to Timor-Leste including Timor-Leste's plan to purchase military equipments such as weapons from Indonesia. However, representatives in the National Parliament requested the government to firstly have a debate in the National Parliament prior to purchasing the military equipments.³⁵

The government's policy on the purchase of weapons is deemed reasonable when referring to the PNTL organic law article 4 paragraph 1 which states that in the exercise of their mission, the PNTL members shall be authorized to use weapons allocated to them.³⁶ However, the concern of FM is whether or not the PNTL has the capacity to control its weapons? This is because the reality has shown that there has not been effective control imposed by the PNTL over its members who carry weapons, thus resulting in a number of civilian casualties caused by the bullets from the PNTL weapons carried by its members.

Another issue lamented by FM is that the PNTL does not have a good policy over weapon management to allow it to define which ranks of the PNTL officers are eligible to carry weapons and which ones are not eligible. Thus, FM is concerned with the government's plan to purchase weapons. This is because, even with the current stocks of weapons, the institution does not have sufficient capacity and good policy in terms of control and management, moreover purchasing new ones. Therefore, FM would like to suggest to the government, in particular the PNTL, to have a policy in place over weapon management for it to be able to carry out effective control over the PNTL weapons in order to minimize the number of incidence of misuse of weapons within the institution. Meanwhile, FM believes that with the absence of proper weapon management, the future incidence of civilian casualties caused by the bullets from PNTL weapons will be high.

Are PNTL Weapons Safe?

This is such a rigorous question for all entities to find out; are the PNTL weapons safely stored in the PNTL National Armory or is it safe in the hands of the PNTL officers. However, in Fundasaun Mahein's view, there is no guarantee for safety over the PNTL weapons. Why? *First*; The PNTL has not created an appropriate system, particularly on the policy over firearm management which allows some PNTL officers to draw with red blood ink on the PNTL's forehead, this is because every year civilians die from the bullets of the PNTL weapons. *Second*; There has not been an effective and efficient system in place over the functioning of the armory. This means, the PNTL officers shall keep the weapons in the armory when off-duty. This is because, if the PNTL officers continue to use weapon when off-duty and carry the weapon to participate in parties or other events, it will enable the PNTL officers opportunities to commit crimes.

³⁴ Media STL Edition Tuesday, 25/10/2011

³⁵ <http://suara-timor-lorosae.com/berita-3508--sosa-kilat-husi-indonesia-ffdtlpntl-presija-ekipamentus-militar.html>

³⁶ Decree Law n^o.16/2009

Therefore, FM would like to recommend to the government to create an appropriate system on the functioning of the armory and needs to strengthen the firearms management system for those PNTL officers who carry weapons in order to reduce the number of misuse of weapons by the PNTL officers in the future. Also, we would like to request the government and the justice institutions to process those PNTL officers who have committed crime and to impose adequate sanctions so that to give lessons to other PNTL officers in order not to replicate the error or the wrongdoings. Likewise can empower the police officers to understand the PNTL disciplinary law and they must be aware of the law on the use of weapon.³⁷ This is because, if the PNTL officers do not have a profound knowledge of the law on the use of weapons, it will, in the future, contribute to the increase in the number of the PNTL officers committing crimes.

Whom Does the PNTL Weapon Protect?

According to the Constitution of the Democratic Republic of Timor-Leste, Timor-Leste's National Police (PNTL) shall defend the democratic legality and will guarantee the internal security of the citizens.³⁸ PNTL weapons are to protect and guarantee the national sovereignty and the security of the citizens; however, the reality shows the contrary because the community has been victims of the PNTL weapons. Thus, Fundasaun Mahein is questioning the efficiency of the use of weapons by the PNTL officers in accordance with the Constitution; and would like to request the government and the security institution, PNTL, to reaffirm the policy on the human resource development of the PNTL officers and building the knowledge of the PNTL officers on the judicial law including the disciplinary law on the use of weapon.

Fundasaun Mahein would also like to cite the statement of the PNTL General Commander Longuinhos Monteiro whom stated that the PNTL will always uphold Law and Order in responding to any problems occurring in the country, however if the problem is of violent nature, it will be also be handled with violence.³⁹ FM considers that such statement is a poison to the institution, particularly to the PNTL officers, where they will always use violence against the community. Such statement can be used as a basis for the PNTL officers to resort to the use of force at any given time albeit the PNTL organic law stated that with regard to its strategy and approach to policing, PNTL shall have the characteristics of a community police, its nature shall be identical to that of the military insofar as its organization, discipline, training and personal status are concerned without however constituting a force of a military nature.⁴⁰

Therefore, Fundasaun Mahein would like to request the General Commander to not make emotional statements or of a violent nature as it could become poison to the PNTL officers to instantly commit crime on the basis of the statement issued by the leaders of the institution.

Conclusion

Based on the cases and facts cited above by Fundasaun Mahein, FM draws a simple conclusion that the PNTL weapons has not been protecting the security of the citizens and that there has been no security provided over the PNTL weapons. This is because the armed cases committed by the PNTL officers each year, since the establishment of the PNTL on 27 March 2000 until today, are relatively high.

³⁷ <http://cijitlnoticias.sapo.tl/nasional/fm-kondena-pntl-tiru-mate-estu-89610>

³⁸ RDTL Constitution, Article 147 paragraph 1.

³⁹ Diariu Nasional News, Edition, Friday, (01/04/2011).

⁴⁰ PNTL Organic Law, Chapter I, Article 1 paragraph 2, 16/2009

Fundasaun Mahein also concluded that the PNTL officers always employ firearms to shoot civilians. This occurs every year due to the lack of maximum control from the PNTL on the use of weapons. And, the flourishing system of impunity (there has been no strict sanctions taken against those actors/ if it does exist, not being 100% implemented) has become a basis for other PNTL officers to be stubborn in committing crime as their other colleagues does.

A statement of the PNTL General Commander, Commissioner Longuinhos Monteiro that “from the 97 cases of disciplinary breach that were opened this year, there have been 10 cases which propose that 9 of them were dismissed and 1 is suspended,⁴¹” made FM concerned and is doubtful of the decision on the dismissal. This is because it has only been applied to 9 out of 97 officers. This shows that the commander is still taking care of the rest of the PNTL officers other than the 9 who continuously commit crime in the near future. Also, FM believes that the decision of the dismissal will create polemics and public debates on the seriousness of the commander in defending the institutional credibility of the PNTL.

Many questions arise and accumulate in the minds of the people in order to define whom the law is destined for and who is in command of this country? Everybody has great hope for the provision of security to all the people in the country, however, the emerging question is that the law is still being used as a curtain to cover one self. The reality that is visible to us is that, our police have several heavily armed units such as the Special Police, POB and others which are carrying heavy weapons in completion with the F-FDTL.

The reality also shows that the emerging social conflicts in the country which highly affect the security sector requires (1) a community policing which does not carry weapon but shall have broader knowledge (courage) of conflict prevention areas and (2) we need to empower our judicial system for it to become stronger. This means, everyone must obey the law and that the law shall become the supreme commander, where everyone will have greater conscience to pay respect for, and (3) that all leaders shall produce a strong policy in order to make the law as the commander and there shall not be a big brother way of approach in giving pardons carelessly. Everything shall be subjects to the command of the Law⁴²

Also, another issue is that the government, particularly the PNTL, has not established a system to make use of the armories which have been prepared in each unit or station to which the PNTL officers have been assigned. All these situations have given the opportunity to the PNTL officers to carry weapons freely in the streets, such as by going to parties and public premises which in the end result in civilians being victims of the PNTL weapons.

Recommendations

Drawing from the armed cases committed by the PNTL officers as described in this report, and also based on the conclusions FM has cited above, FM would like to make the following recommendations to the government:

1. Fundasaun Mahein requests the government to conduct psychological tests to all PNTL officers before issuing them with weapon. This is to find out about the mentality or psychological state of each individual member in terms of whether or not s/he is fit to

⁴¹ Diariu Nasional News, Edition, Wednesday, (16/11/2011)

⁴² Fundasaun Mahein's Thoughts: Is It The Law That Commands or the Big Brother? Can be accessed in this link; ; <http://www.fundasaunmahein.org/2011/04/20/lei-mak-sai-komadante-ka-maun-abut-mak-komadante/>

carry weapons? By having the PNTL adopting this option, FM believes that it will reduce the number of individuals committing crimes. The psychological test shall also be applied to the new cadets during the recruitment process.

2. Fundasaun Mahein recommends that the government should reinforce the disciplinary law on the use of weapons; reinforce control, including the PNTL Commander, to impose serious sanctions to the individual members who committed crime by means of weapons, in order to give lessons to other members to disregard such erroneous attitude.
3. Fundasaun Mahein recommends that the government makes use of the existing warehouse or armory in each PNTL stations, including the national warehouse, thus this will curb the opportunities for PNTL officers to carry weapons out of working hours.
4. Fundasaun Mahein also recommends that the PNTL Commander shall impose serious sanctions to the PNTL officers who commit crimes, with the proportionality where the individual employs arms to injure or shoot death community members, shall be dismissed rather than being suspended.
5. Fundasaun Mahein also suggests that the PNTL Commander to consider every statement before issuing to the media and shall not use violent words in order to prevent the PNTL officers to follow, as violent statement may create violence in the minds of the PNTL members.

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