



# Border Management and Immigration Control

(Mahein Nia Hanoin (Mahein's Thoughts) No. 03, 13 February 2013)



The Report Was Wrote to Support Activities of Department of Peace-building and Social Cohesion, with Fund from UNDP Timor-Leste and the Embassy of Finland in Jakarta (the Embassy)



[www.fundasaunmahein.org](http://www.fundasaunmahein.org)



# English Version

Contents	3
Executive Summary	4
I. Introduction	7
II. The Objective of the Report	7
III. Relevant Institutions	8
1. Migration Service (MS)	8
2. Border Police Unit (BPU)	10
3. Maritime Police Unit (MPU)	10
4. FALINTIL-FDTL (F-FDTL)	11
5. Quarantine	11
6. Customs	11
IV. Coordination of Work	12
V. Reasons for Illegal Border Crossing	15
VI. Irregular Migration and its Impact on Timor-Leste	19
VIII. Foreign Workers in Timor-Leste	27
IX. Summary Recommendations	29
Bibliography	31

## **Executive Summary**

1. The frontier problem is a security problem that is crucial to a sovereign state, as it presents security threats that can come through the border from abroad. These threats could come in the form of illegal entry, drug trafficking, human trafficking, illegal trade, resource theft – among others.
2. In this context, the institutions associated with the frontier must control the border with a clearly defined mission, integrated among the institutions. However this integrated mission will encounter problems such as human resources capacities, and poor facilities and conditions for the UPF, UPM, Immigration Service, Customs, and Quarantine.
3. This report verifies that there are irregular, unlawful activities that involve individuals, organized groups, and security authorities (UPF and TNI-Republic of Indonesia). It also indicates that there are illegal entries/exits, illegal commerce, and illegal trafficking of animal, plants, drugs and human beings.
4. Regarding the issue of illegal border crossings, the fundamental reasons for such activity relate to family connections, culture, commerce, bureaucracy, and lack of control by the UPF. Furthermore, the "Border Pass" does not yet cover all frontier districts and the proposed border market is, still, not yet functioning after abandonment.
5. This contextual threat for Timor-Leste presents tremendous risks to public security. Individuals and organized groups will take advantage of the fragility of security resulting from a lack of border control and incomplete implementation of the law. These conditions allow drugs to enter Timor-Leste in different forms through the land border and through the airport. These conditions also allow for human trafficking and prostitution, along with an increased risk of sexually transmitted diseases. They also permit the traditional market to be occupied by foreign business actors, and job vacancies to be taken away by foreign workers entering with a tourist visa.
6. Another large problem is that immigration services have not verified foreigners present in Timor-Leste from town to village. Further challenges arise from the ineffectiveness of law implementation due to budget limitations. Immigration services have recognized that it is not capable of deporting all such foreigners and only pursue the "voluntary renunciation". Therefore, individual and organized groups will take advantage of Timor-Leste's weakness to violate its law and its legal procedures.
7. Therefore, the integral authorities at the Timorese borders – namely in the airports, ports, and the land border – need to enhance effective control of the border, including patrolling to combat and prevent illegal activities (drug trafficking, human trafficking, illegal commerce, and other illegal activities) which are currently increasing in Timor-Leste and border areas.

## **Recommendations**

- Recommendation to the Ministry of Defense and Security to implement the report it has published in 2009 on “Strengthening Border Management is a Dynamic and Secure Way for Timor-Leste”.
- Recommendation to the Relevant Institutions incorporated in border management, namely Migration Service (SM), Border Police Unit (BPU), Customs, FALINTIL-FDTL, Maritime Police Unit, Quarantine, Business and The National Directorate for Transport to strengthen the integrated coordination of work in the area of management and control.
- Recommendation to the Ministry of Defense and Security to augment the number of staff at the Migration Service, BPU and the MPU to back-up the the work operation in border control and management in the prevention of irregular practices such as the contrabands smuggling, drug smuggling, and human trafficking.
- Recommendation to the Ministry of Defense and Security to allocate adequate facilities such as transportation to the BPU to allow them to perform their duties as based on Fundasaun Mahein’s observation in the border that some posts, namely Nunura and Saburai, do not have adequate transportation facilities and that the Saburai post does have a motorbike but it is broken.
- Recommendation to the Ministry of Defense and Security that it needs to give more attention to the conditions of the BPU in terms of basic facilities such as electricity, water, and sanitation as Fundasaun Mahein has observed in the border that some posts have no electricity and clean water in addition to other basic necessities such as food.
- Recommendation to the institutions responsible for the integrated posts to establish other working conditions such as health facilities to attend to the members of the BPU, Migration Service, Customs and other institutions as they often have to travel to the health centers which are located far from their posts, and that they have to the public transportation with their own money.
- Recommendation to the Ministry of Justice, Ministry of Defense and Security and Ministry of Foreign Affairs to promptly coordinate the implementation of the “Border Pass” for the population in the border areas in order to prevent irregular practices such as illegal border crossing and the deployment of the immigration authorities in the border posts to legalize and issue authorization for the “Border Pass”, as it is currently concentrated only in Mota-Ain.
- Recommendation to the relevant institutions taking part in the integrated post to operationalize the border market in order to prevent illegal businesses and other illegal activities along/through the border.

- Recommendation to the Government and the National Parliament to debate and immediately approve the law on human trafficking, which is currently being drafted by the Ministry of Foreign Affairs.
- Recommendation to the Government to draft and implement the law on international or foreign investment and to impose rigorous control over foreign investments in order to prevent mobile businesses which are currently occupying the traditional markets.
- Recommendation to the Migration Service to conduct effective operations to control the movement of foreign citizens in the national territory when they are using the tourist visa to work.
- Recommendation to the authorities incorporated in the integrated post at the airport, harbor, and land border to control and conduct effective patrolling to combat and prevent illegal activities such as drug smuggling, human trafficking, illegal businesses, and other illegal activities which are currently increasing in Timor-Leste and has been growing along the land border.
- Recommendation to the National Parliament, in particular Committee B, which is in charge of defense, security, and foreign affairs to conduct effective supervision over the work of the border authorities incorporated in the integrated post.

## **I. Introduction**

Border issues are a crucial security issue for a sovereign state as external security threats may arrive through a border. This threat can be in the form of organized crime, intelligence activities, theft of natural resources, illegal border crossings and many other forms. These kinds of situations require the State to have an adequate and integrated strategy to prevent and combat the threats coming from the border.

This edition of Mahein's Thought analyzes border management, specifically Timor-Leste's land border with the Republic of Indonesia and its maritime borders with the Republic of Indonesia and Australia. Fundasaun Mahein (FM) will also analyze the work of the institutions representing the State's sovereignty at the borders and the international zones which control the movement of personnel and economic activities in arriving and departing from Timor-Leste.

In this regard, on the one hand, the report covers the management of integrated posts at the border which are institutionally comprised of the Migration Service, the Border Police Unit (BPU), Customs, Quarantine and other relevant institutions responsible in the border and international zones.

On another hand, the report analyzes the issues occurring at the border including irregular acts committed by the security actors and the local community -- including illegal border crossing, contraband and illegal charging, which may threaten Timor-Leste and the neighboring countries and impact the national security. The impact may compromise the credibility of the security institutions in guaranteeing the State's sovereignty and the national development as set out in the constitution.

This report also provides an analysis of irregular migration and its impact for Timor-Leste by looking at the existence/presence of the foreign workers in Timor-Leste which signals the weakness of inadequate control in the border.

## **II. The Objective of the Report**

The main objective of this report is to raise points of concern regarding management and immigration control and its impact for Timor-Leste. The method used in the research is based on the interviews conducted with the members of Migration Service, Border Police Unit (BPU), Customs and the civil society organizations.

Fundasaun Mahein (FM) also conducted direct observation in the border area to observe the work of the relevant institutions; in particular work conditions, and interviewed the communities near the area of Batugade, Memo/Tapo, Saburai and Tunubibi. The report concludes with recommendations based on the actual border situations encountered by these relevant institutions.

### III. Relevant Institutions

#### 1. Migration Service (SM)

The Decree Law No. 31/2008 of 13<sup>th</sup> August, Organic Structure of the Ministry of Defense and Security, outlined that the Migration Service shall be responsible for controlling the movement of people at the borders; controlling the entry, permanence, and activity of foreigners in the national territory; preventing and repressing crime related to illegal immigration and trafficking in people; and instituting the proceedings for granting equal status to immigrants and refugees.

Furthermore Decree Law No. 30/2009 of 18<sup>th</sup> November, Organic Law of the Migration Service, set out that to reform the security sector, the maintenance of the Migration Services was not deemed an integral part of the Timor-Leste National Police (PNTL).

While there has been a clear definition of the Immigration Services, the personnel who are functioning within the Immigration Services were originally members of the PNTL even though the Immigration Service is no longer considered as an integrated part of the PNTL Command. Confusingly, the operational responsibility of the Immigration Services is directly under the SoSS while in the administration responsibility is directly under the PNTL Command (due to the uniform and financial consideration).

The scope attributed to the Migration Service under Decree Law No. 30/2009, which governs the institution, outlined the following functions to be performed by the Migration Service:

##### a. Internal/National Plan

- a) To provide surveillance and monitoring of the suborder posts, including the international areas of ports and airports and the movement of people. The MS may bar passengers and crew from disembarking from vessels and aircraft if they do not carry appropriate documents or if they have departed from ports and airports deemed to represent a sanitary risk without prior authorisation from the competent sanitary authorities;
- b) To make decisions regarding the arrival or departure of passengers, preventing the arrival in or departure from the national territory of individuals who do not fulfill the necessary legal requirements;
- c) To authorize and check the boarding of vessels and aircraft by individuals;
- d) To control and monitor the presence and activities of foreigners across the national territory, undertaking mobile checks and joint operations with other security forces or services;
- e) To investigate crimes as provided for in the Law on Immigration and Asylum, namely assistance to illegal immigration, human trafficking, and associated crimes, without prejudice to the powers of other entities;
- f) To enforce the provisions in the law regarding the entrance, departure, stay, and removal of foreigners from the national territory;



- g) To issue opinions on requests for visas and on applications for acquisition of nationality;
- h) To make decisions regarding visa requests, extensions of residence permits, asylum requests, family reunions, equality status and emergency requests for travel documents, pursuant to the law;
- i) To collaborate with the competent authorities in supervising and enforcing the law regulating work by foreigners in Timor-Leste;
- j) To initiate the procedures aimed at expelling foreigners who do not have the right to remain in the national territory; to implement court decisions regarding expulsions, escorting foreign citizens who have been the object of a measure aimed at their removal whenever required;
- k) To manage and transmit the data stored in the Border Management System (BMS), including information on movements of individuals, visa applications and their outcomes, as well as on foreigners' stay in the country;
- l) To cooperate with the diplomatic representations and consular offices of other States that are duly accredited in Timor-Leste, in particular with a view to the repatriation of their own nationals;
- m) To ensure cooperation with all the State organs and services, in particular the other security services and forces, as well as with non-governmental organisations who have a legitimate competence in relevant areas, pursuant to their statutes;
- n) To coordinate the cooperation between the national security forces and services and those of other countries with regard to matters pertaining to the circulation of individuals, asylum requests, monitoring of foreigners and investigation of crimes such as assistance to illegal immigration, human trafficking and other related crimes;
- o) To undertake research and to advise to Government on the economic and social impact of immigration policies;
- p) To authenticate the identity of individuals entering the national territory and to maintain a register with data on foreigners;
- q) To prevent and fight infringements to the Law on Immigration and Asylum, namely by detecting and reducing irregular migration, assistance to illegal immigration and human trafficking.

b. International Plan

- a) To take part and represent the State of Timor-Leste, upon a decision by the Ministry of Foreign Affairs, in international events on topics such as migration, borders and asylum, as well as to take part in working groups on matters under the purview of the MS;
- b) To ensure the international cooperation commitments of the State of Timor-Leste through liaison officers, pursuant to the law;
- c) To collaborate with similar services in foreign countries;

- d) To provide a visa service through the immigration attachés assigned to Timor-Leste's embassies and consulates.<sup>1</sup>

## 2. Border Police Unit (BPU)

The Organic Law of Timor-Leste National Police (PNTL) defines the Border Patrol Unit and its mission with the following: the Border Patrol Unit is specifically established to ensure the surveillance of the border and to control people and goods. The specific missions of the Border Patrol Unit are: a) To conduct patrolling and surveillance along the land border in coordination and cooperation with F-FDTL; b) To cooperate with the Migration Service in controlling the entry and exit of people and goods through the land border; c) To cooperate with the other administrative authorities with a view to ensuring compliance with fiscal, custom, and sanitary laws; d) And to undertake any other tasks in line with the mission legitimately entrusted to it.<sup>2</sup>

## 3. Maritime Police Unit (MPU)

The missions of the Maritime Police Unit as outlined in the Organic Law of PNTL defines that the Maritime Unit is a force with the specialized skills and powers of a Maritime Police. It is part of the Maritime Authority System and is specifically established to provide surveillance and monitor coastal areas and the so-called maritime public domain.

The missions of the Maritime Police Unit are to:

- a) To prevent and combat crime, including drug-trafficking, illegal fishing, trafficking in human beings, terrorism and piracy;
- b) To prevent and combat clandestine immigration;
- c) To provide security to coastal areas and to the maritime public domain;
- d) To monitor, preserve and protect the marine environment, natural resources, and underwater heritage and resources;
- e) To prevent and combat marine pollution;
- f) To safeguard human life on the sea and to provide maritime rescue services;
- g) To provide civil protection on the sea and in coastal areas;
- h) To protect public health;
- i) To provide surveillance along the maritime borders, in coordination and cooperation with other authorities and entities integrating the Maritime Authority System, particularly the naval component of the F-FDTL;
- j) To define the needs and the special training programs together with the Police Training Centre;
- k) To perform other tasks that is in line with the nature of its mission and legitimately assigned to it, namely those falling within the purview of the Maritime Authority System.<sup>3</sup>

---

<sup>1</sup>Decree Law No. 30/2009 of 18<sup>th</sup> November, Organic Law of the Migration Service, Article 2.

<sup>2</sup>Decree Law No. 9/2009, of 18<sup>th</sup> February, Organic Law of Timor-Leste National Police (PNTL), Article 33.

<sup>3</sup>*Ibid.*

#### 4. FALINTIL<sup>4</sup>-Força Defesa Timor-Leste (F-FDTL)

The generic mission of the FALINTIL-Timor-Leste Defense Force, referred to as F-FDTL, shall be to guarantee national independence, territorial integrity and the freedom and security of the populations against any aggression or external threat, in respect for the constitutional order.

In addition to the generic mission referred to above, F-FDTL shall also accomplish the following missions:

- a) Guarantee the vigilance and the defense of land, maritime, and air borders;
- b) Guarantee the activities of search and rescue in the sea;
- c) Support civilian authorities in their search for meeting the basic needs and improve the quality of life of the populations;
- d) Support the constitutional order in the framework of its participation in situations where there is a declaration of a State of Siege or a State of Emergency;
- e) Support the population in the events of natural catastrophe or public calamity
- f) Support the foreign policy of the State through activities of a technical and military cooperation nature and participate in Peace Operations, Humanitarian Operations, as well as in other operations established in the framework of international agreements.<sup>5</sup>

#### 5. Quarantine

Directorate of Quarantine Services means the service of the Ministry of Agriculture, Forestry and Fisheries, referred to as Quarantine that deals with the “issues related to the monitoring of the implementation and compliance with laws and regulations applicable to phyto- and zoosanitary control and quarantine.”<sup>6</sup>

#### 6. Customs

The competencies and duties of the Customs Services, referred to as Customs, are as follows:

- a) To conduct studies, formulate proposals, and define norms and techniques on how to act within the scope of its goals;
- b) To define the territory's customs system;
- c) To ensure the discharge and collection of customs duties and any other taxes, fees or charges the reception of which the Service is entitled by law.
- d) To Define and regulate the customs regimes applicable to the movement of people and goods entering, staying at, transiting through or departing from, the customs territory, and ensure the regular application thereof;
- e) To take customs monitoring action on people and goods;
- f) To define the foreign monitoring policy and co-ordinate the application thereof, promoting, namely, the articulation of the Customs Service with other monitoring bodies of the Public Administration, so as to maximize results;

---

<sup>4</sup>FALINTIL – Força Armadas da Libertação Nacional de Timor-Leste

<sup>5</sup>Article 1 Decree Law 15/2006 (Organic Statutes of FALINTIL FDTL)

<sup>6</sup>Article 1 sub-section (w) of Decree Law 21/2003

- g) To combat tax evasion and fraud, particularly the illegal drug or weapons trafficking, and collaborate with other national, foreign and international bodies in activities related to anti-fraud fight;
- h) To fulfill fiscal justice-related duties as may be entrusted thereto by law or regulation;
- i) To examine and issue opinions on conventions, agreements or other international normative instruments of a customs nature or that contain provisions falling within the scope of customs;
- j) To monitor the execution thereof and assess, at the national level, the consequences arising out of the application of the studies and opinions referred to in the previous paragraph;
- k) To ensure the representation of Timor-Leste at meetings and activities of specialized customs bodies, foreign or international;
- l) To collaborate with other state departments in pursuing their own goals, namely in the fields of economy, defense, security, morality, public hygiene and health, tourism, veterinary and phytowayologic control, protection of trademarks and patents and preservation of the country's cultural and artistic heritage, insofar as that co-operation is indispensable to the realization of those goals;
- m) To increase the awareness of the users of its services, namely on the contents and interpretation of customs laws, in order to facilitate its correct enforcement;
- n) To examine and promote the improvement of the customs system;<sup>7</sup>

For the purposes of paragraph (e) of the preceding subsection, monitoring action by the Customs Service consists of:

- a) Customs monitoring and policing on an uninterrupted basis, at any place, day or time when there are goods being handled, or, intermittently, through customs monitoring visits;
- b) Customs monitoring and policing over the entry, stay, movement and exit of people and means of transport, cargo units and goods from the border areas;
- c) Conducting searches, inspections and audits, and solicit documents and registers that support compliance with the customs law;
- d) Conducting searches of people, sale establishments, depots, ships, aircraft and other means of transport or of any other places, where there is reasonable motive to suspect that the customs law has been breached.<sup>8</sup>

#### **IV. Coordination of Work**

The report published by the Ministry of Defense and Security in May 2009 showed issues regarding coordination on the national level and revealed indications of irregularities in the BPU posts. Furthermore, Fundasaun Mahein's recent research in the border also revealed that such irregularities still continue to happen

---

<sup>7</sup>Article 1 sub-section 1 of the Decree Law 9/2003 (the Competencies and Duties of the National Directorate for Customs)

<sup>8</sup>*Ibid.*

All the posts visited by Fundasaun Mahein demonstrated their existence through the coordination of activities and works -- listed as follows. The visits confirmed that the BPU is coordinating its activities with the Tentara Nasional Indonesia (TNI) at all the posts, whereas the involvement of other agencies depended upon whether or not they were present in a given location.

#### 1. Coordination at the National Level

Such as in resolving prolonged institutional case of conflict. This situation became uncommon due mostly to the isolation of BPU posts, which impedes coordination at the national level with various authorities. The local population often requested that the BPU act as community police posts (since there are not PNTL officers posted from the general contingent) or that the BPU provide information on the illegal movements and activities in the border area.<sup>9</sup>

In posts with significantly high numbers of movements and incidents (for example: Batugade or Memo), the regular patrolling could be increased to twice a week or a month by holding meetings between the two parties whenever necessary. It is confirmed that in general there is a good relationship between the agencies. On some occasions, these inter-agency relationships were tightened by organizing social meetings (with venues of association with the people) or through sporting activities (taken place at the borders).<sup>10</sup>

#### 2. International Level of Coordination

Fundasaun Mahein confirmed that the international level of coordination which involves the authorities from Timor-Leste and Indonesia is indeed in the condition as indicated in the report published by the Ministry of Defense and Security in 2009.

Coordination in terms of illegal crossing which involves the patrolling units from both sides (BPU, TNI) and the migration service from both sides (which are responsible for the reinstatement process; the person shall be sent back to his/her country of origin if rejected by Timor-Leste). The coordination for the purpose of contrabands shall involve the two patrolling agencies (BPU, TNI) in the two borders together with each agency responsible for Customs Services.

Coordination for the purpose of plants and animal trafficking involves the patrolling of two security agencies (BPU and TNI) along with other agencies from the two countries. Coordination for the purpose of traditional ceremonies conducted across either side of the border shall take place between the security agencies (BPU and TNI) and the local community. Coordination for the purpose of joint patrolling or operation can involve the BPU and other relevant national agencies.

---

<sup>9</sup>Interview with member of BPU in the border. Thursday, 15<sup>th</sup> November 2012.

<sup>10</sup>The report published by the Ministry of Defense and Security on "Strengthening Border Management: Is a dynamic and secure way for Timor-Leste", 8<sup>th</sup> May 2009. Fundasaun Mahein verifies that such situation still continue to take place and has not been solved to date.

a. Coordination for the purpose of illegal crossings

In the event where a foreign citizen is detected of having illegally crossed the border from Indonesia to Timor-Leste, the BPU will arrest the person and will make a report according to the outlined process, despite, at the end, handing the person to the Migration Service to pursue the legal process (in effect "sent back to Indonesia"). During FM's observation at the BPU post in Nunura, it happened that some Indonesian citizens from Turiskai who illegally crossed the border in Memo/Tapo were arrested by the BPU, were registered at the BPU post, and were sent back to Indonesia as they did not have any legal documents.<sup>11</sup>

b. Coordination for the purpose of contrabands

Whenever a community member has been detected to have illegally crossed the border, illegally traded, or where a local community has been detected to have illegally entered the unauthorized market, the person(s) will be detained (to undergo the criminal process) and the commodities will be stopped and seized to be handed to the Customs in the pursuit of the applicable legal process (to be destroyed, to pay tax, etc). In a related case, wherein the BPU arrested some Timorese citizens who illegally brought motorbikes into Batugade, the person was then sent to Dili and the motorbike was stationed at the BPU post to pursue the normal legal process to be handed over to the Customs for tax payment.<sup>12</sup>

c. Coordination for the purpose of plants and animal trafficking

If a person is involved in the crossing of animal and plants (where all belong to him or others), the person is detained and the commodities are seized in quarantine to be processed according to the law (to be destroyed, to pay tax, etc.). However, from interviews with some people, FM learned that there was a livestock crossing which shares the hay in the border area. Towards the end of these interviews in Tunubibi and Memo, the interviewees accused one another robbery/thievery while they claimed others as the victim. With the existence of the issue, FM has concluded that the coordination on the international level between the BPU and TNI has become a big concern in the security of the people at least in the two posts covering the area of Tunubibi and Memo. FM confirmed a similar case with the BPU post in Saburai (Memo/Tapo) where they discussed the issue of trafficking of plants and animals in the community, which the people considered as thieving/robbery.<sup>13</sup>

d. Coordination for the purpose of patrolling or joint operation.

All the BPU posts are willing to carry out patrolling or joint operations with all means possible to them, such as the patrolling activities during the night. Although they want the patrolling activity to be "regular", as many of these operations were still irregular, it is depending on their placement of the existing information and all means available.<sup>14</sup>

---

<sup>11</sup> Fundasaun Mahein's observation at the BPU Post in Nunura. Friday 16<sup>th</sup> November 2012

<sup>12</sup> Fundasaun Mahein's Observation at the BPU HQ, Batugade. Friday 16 November 2012

<sup>13</sup> The visit of Fundasaun Mahein to BPU post – Saburai. Thursday, 15 November 2012

<sup>14</sup> In the level of coordination of work Fundasaun Mahein (FM) verifies that the situations occurring since 2009 continues to take place as the actual situation outlined in the report of the Ministry of Defense and

## **V. Reasons for Illegal Border Crossing**

### **1. Family Reason**

The Timorese community in the Indonesian province of West Timor has left social imprints and other indelible indications of presence, such as cross-marriage between the two communities. The East Timorese presence has been reinforced by the Timorese refugee families who have decided not to return to Timor-Leste. The majority of such people lives along the border line and has become Indonesian citizens.

This indicates that on this side of the border (Timor-Leste) there are families that are a mixed between the two communities, but still lives with their generation. While in the other side (West Timor), there is a mix between the two communities but also another community where some individuals are refugees currently living in another country but still maintaining strong family ties with those in Timor-Leste.

The mixed but intact families, along with separated families, are always visiting one another. These families confessed that their visits have never gone through the main entrance (legal/formal entry) as regulated by law, but instead went through illegal crossings.

These families said that it is extremely difficult for the BPU to control and monitor the situation due to lack of resources (both material and human). However, the most important point is that the real situation has numerous entry points for illegal crossings, where individuals and families could enter freely and be welcomed by the families they intended to visit.<sup>15</sup>

### **2. Cultural Reason**

The populations from the two sides also shared cultural traditions and religion (faith) that have continued from generation to generation through family ties within extended families. These traditions included numerous and varied ritual ceremonies including parties/functions, burials, prayers to ancestors, post-death worships, and celebrations for sacred places and totem houses.<sup>16</sup>

For example, the community from Turiskai–Haikesak, Indonesia crossed the border illegally, without any documents, to Timor-Leste in the area of Nunura to participate in the family party in Memo/Tapo village. The people from Turiskai were ex-refugees from Timor-Leste currently living in Turiskai, Indonesia. According to the population, members of the village in Nunura have maintained good communication with their families in Turiskai. They still have strong family relationships.

---

Security on “Strengthening Border Management: Is a dynamic and secure way for Timor-Leste”, 8 May 2009.

<sup>15</sup>Ministry of Defense and Security. “Strengthening Border Management: Is a dynamic and secure way for Timor-Leste”. 8 May 2009.

<sup>16</sup>Fundasaun Mahein’s interview with the communities in Tapo/Memo village. Friday, 16 November 2012.

Based on Fundasaun Mahein's observation in the border area of Nunura, communities are crossing the border without proper documents and only with registration at the BPU and TNI posts. In the photograph taken by Fundasaun Mahein below, the BPU officers asked individuals to open their bags and check their goods, but at the end the individuals were asked to return because they did not have the proper documentation like a "Border Pass" or passport. The movement of the people by illegal crossing of the border happens everyday without any documents. People said that BPU and TNI officers allowed them to cross the border.<sup>17</sup>

### People from Turiskai – Haikesak, Indonesia.



**Source:** Fundasaun Mahein, Friday 16 November 2012

Other examples of worship of ancestral/sacred spirits include religious, traditional, and cultural rituals that are attended by the whole community. In Alto Lebos, sub-district Bobonaro, there is a mountain in the Timor-Leste side of of the border that is considered by communities on both sides of the border as sacred. This is a place where the people from both sides normally hold ceremonies and activities for worship. Many people from Indonesia participate in the event.<sup>18</sup>

Their shared traditional activities included where the communities from both sides shared small riverbeds (Fatu-Lulik or Memo) to draw water and water their vegetables, as well as for other purposes. These regular activities happened at any given time due to the insufficient number of BPU staff to conduct routine patrols. In the absence of such patrols, illegal border crossings are much easier accomplished.

---

<sup>17</sup>Fundasaun Mahein's interview in the border of Nunura, Maliana. Friday, 16 November 2012.

<sup>18</sup>Ministry of Defense and Security. "Strengthening Border Management: Is a dynamic and secure way for Timor-Leste". 8 May 2009.



In the district of Bobonaro, the community said that while they were given authorization from the members of the BPU as well as the TNI, they prefer mostly to contact the TNI since it is easier to facilitate with them to cross the border.

### 3. Business Reason

Lack of access to urban centers, which are far from the border, justifies the isolated business conducted by local communities along the border area. Not all people want to cross the border illegally with their commodities. Instead they use families and connections with people on the other side to sell their products. Individuals accomplish this by handing their products to the people from the other side whenever there are no patrolling activities.

The lighter (by weight) commodities from Indonesia are sold to the communities in the border area. The people in Timor-Leste (especially those in the rural areas) must cover a distance of many kilometers, lacking means of transport, to transport to the markets in the rural communities. To import commodities, many pay money on interest for goods that came into Timor-Leste for individual -- not commercial -- consumption, for example rice, petrol, fuel and other food commodities.<sup>19</sup>

Individual traders from Atambua, Indonesia, sell motorbikes to border communities through illegal means (Tali-Laran), and these activities are still continuing to date. Ironically the residents of Timor-Leste, despite having brought in the motorbikes through illegal means, have to pay tax in Mota-Ain and process the document for vehicles at the National Directorate for Land Transport (DNLT) in Dili.<sup>20</sup>

Another thing that becomes a fundamental issue is the government's failure to institute a functioning border market. The market was abandoned, although the mandate of the integrated post was supposed to have included the border market as part of an integrated package to facilitate community trade, in order to prevent the illegal activities from occurring. However this market never came about. This lack of a formal market motivates the community to neglect processes for legal trade. All of these situations weaken the credibility of the institutions involved with the integrated posts.

Other illegal practices are committed by the border authorities such as the BPU, Customs, Migration Service, and the TNI (Tentara Nasional Indonesia) who illegally cross the border at any time for business reasons. For example, the TNI cross the border into Timor-Leste to buy "Beer" (Sagiko and Dellos) in Batugade. In addition, the BPU, Migration Service and Customs cross the border into Indonesian territory to buy food at the restaurants in Atambua. Thus, the authorities from the two sides have also committed illegal activities for business purpose as they benefit from the cheaper prices in these activities.

---

<sup>19</sup>Ministry of Defense and Security. "Strengthening Border Management: Is a dynamic and secure way for Timor-Leste". 8 May 2009.

<sup>20</sup>Fundasaun Mahein's source of information from Batugade-Maliana. Saturday, 17 November 2012.

## Border Market, Mota Ain - Batugade



Source: Fundasaun Mahein, Saturday 17 November 2012

### 4. Bureaucratic Reason

The people interviewed were lamenting that it is not easy for them to obey the current border laws. In order to cross the border one must have a passport and a visa from the Indonesian Embassy. It is difficult to come to Dili for these documents; people have to pay tax and other necessary expenses. After Dili, they have to go to the border where many agencies will conduct checks. This also applies for those on the other side of the border. The people informed Fundasaun Mahein that, since there is too much bureaucracy, it is easier for them to cross the border through illegal ways. They also said that they cannot afford to pay 70 USD (for the passport and visa, excluding other expenses). These families are poor. They are mainly farmers. They do not have other resources, in particular transport. Moreover, in addition to the passport they may have to pay for other necessary documents, which may be unknown to them, in order to cross the border.<sup>21</sup>

The two States have decided on the application of the "Border Pass" as an access channel for crossing the border, free of charge. This can contribute to a solution for poverty reduction. This "Border Pass", will contribute to the reduction of illegal movement of people, and it can also promote the legal interrelation at the border.

The people are questioning about the "Border Pass" which, up to now, only few people have benefitted while many of them have not have access to it. The implementation has not covered all the people who lived along the border areas. Those who have obtained the "Border Pass"

---

<sup>21</sup>Ministry of Defense and Security. "Strengthening Border Management: Is a dynamic and secure way for Timor-Leste". 8 May 2009.

were having difficulties to get the authorization to cross the border as because the Migration Service is still only concentrated at the Mota-Ain post.<sup>22</sup>

#### 5. Reasons for Lack of Control from BPU

Even though all the state entities received questions from Fundasaun Mahein about the illegal paths, illegal businesses, and other illegal activities taking place along the border, all of which are under the responsibility of the BPU, Fundasaun Mahein observed that in the border areas, particularly at the BPU posts, state entities faced so many limitations. The most notable limitations were in the limited number of staff, inadequate facilities for communication, and issues with the radios, transportation, and emowatch-towers provided to the BPU to monitor the situation in the area.

The members of BPU in the border area said that they can perform all possible actions to secure the border line against the illegal activities yet they need adequate facilities to support them in doing their jobs. Fundasaun Mahein's observation was that at the border posts, such as in Tunubibi, only five BPU personnel were deployed at each post (additionally -- the watch-tower at Tunubibi was also in bad condition). These conditions made it difficult for the BPU to observe/monitor area activities; it was difficult for them to patrol such a large area of coverage without adequate means of transportation. The transportation facilities in other areas had also become a large obstacle for the BPU, especially for those at the Saburai, Alto Lebos, and Nunura posts. At the Kalohan-Saburai post, Fundasaun Mahein observed that there was one motorbike, but it had already broken.

#### **VI. Irregular Migration and its Impact on Timor-Leste**

Those who move from one country to the other by crossing the border by land, ocean, and air, and then stay in that country without legal/formal consent. Such attitudes include: Staying in the foreign country without legal/formal documents, overstaying legal documents, unclear address, and irregular employment.<sup>23</sup>

---

<sup>22</sup>Interview with Communities in Balibo, Tapo/Memo, Tunubibi and Maliana. Thursday, 15 November 2012.

<sup>23</sup>Presentation of Alola Foundation on human trafficking in Timor-Leste in a seminar organized by Alola Foundation. On, 12 September 2012.

1. Cases of Irregular Migration in Timor-Leste from 2003-2011

No.	Country	Year									Total
		2003	2004	2005	2006	2007	2008	2009	2010	2011	
1	Indonesia	24	70	225	23	54	169	30	270	418	1283
2	China		33	95	12	22	104	19	54	91	430
3	Philippines	2	5	20	4	3	1	1	19	106	156
4	Brazil				1				1	7	9
5	USA				1						1
6	Morocco				1				1		2
7	Timor Leste	1	11	1	3	6	15		14	25	64
8	Malaysia			3		7	5		9	3	20
9	India		1	2		7	7		6	17	40
10	Vietnam		3	2	3	1	1		11	1	22
11	Nigeria		1	1	1		3	1			7
12	Angola										
13	Zimbabwe						1				1
14	Kenya				2						2
15	Portugal	1					2			1	4
16	Bangladesh					3	6		6	3	18
17	Singapore		5	3		2	2			1	13
18	Pakistan			1		1	1	1	4	5	8
19	Argentine						1				1
20	Myanmar					3	2		11		16
21	Srilanka					4	17		3	27	51
22	Afghanistan					5	7				12
23	Australia	2		4			1		2	1	9
24	Thailand		15			4	2		4	17	42
25	Nepal		1	1				2			4
26	Cuba						4				4
27	New Zealand	1									1
28	Korea		3								3
29	Russia			2							2
30	Egypt			1							1
31	Canada			1							1
32	Uzbekistan			1							1
<b>Total</b>		31	148	363	51	122	351	54	415	723	2228

Source: Aloia Foundation, 12 September 2012

2. The Impact on Timor-Leste

a. Drug smuggling

Timor-Leste is facing a huge threat from the mobilization of drugs, following an incident where illegal drugs were placed in aircraft luggage from Africa to Timor-Leste, via Singapore. Between the 18th and the 20th of October 2012, the PNTL started proceedings to arrest a suspected four Indonesian citizens and one Mozambique citizen, and seized evidence associated with the

drugs -- which entered on a Silk Air plane from Singapore to Dili -- in some hotels in the capital Dili.<sup>24</sup>

On the morning of 18 October 2012, the operation of the PNTL arrested two Indonesian citizens at the Central hotel in Dili. The two Indonesian citizens were "R.S." and "S." In the evening of 18 October 2012, Timor-Leste authorities arrested another Indonesian "A.T.", also at the Central hotel.

On the morning of 19 October 2012, the Timor-Leste authorities arrested the other Indonesian citizen "M.A.R.", alias "A.", along with one bag containing a drug called shabu-shabu. Also on that same morning, the authorities also arrested a South African citizen at the Ventura hotel as he was suspected for having handed the bag to "A." to be handed over to "S."

On Saturday 20 October 2012, the PNTL was accompanying one of the suspects to the airport to seize a red colored bag placed in the aircraft luggage of Silk Air with the destination Singapore-Dili which arrives in Dili after lunch time.<sup>25</sup>

Despite the collaboration between the BNN and PNTL managed to have an effect on the mass arrest of the drug importers on 18 to 20 October 2012, the movement of drugs still continue to occur from Singapore to Dili. On 25 October 2012, the drug smuggling from South Africa via India is, again, entering Timor-Leste, just one day before the PNTL transfers the five suspects to Indonesia..

According to information from the newspaper Tempo Semanal, a citizen with the initial "W.P.J.", passport number A 02324974, born on 21 March 1975, came back to Timor-Leste carrying 3 kilograms of shabu-shabu drugs and stayed in room 13 at HD hotel. He brought the drugs to Timor-Leste's neighbor country, Indonesia, through the border on the following day.<sup>26</sup>

Additionally, drugs through organized crime groups also enter through the network of fishermen who fish in the waters between Atauro and Dili, and who come from Alor and Wetar of the Republic of Indonesia into Dili. The network of fishermen from both sides, Timor-Leste and Indonesia, enter during the night and meet offshore to go out for fishing. Often the fishermen bring in the drugs when they come to dock in the areas of Meti-Aut and Fatukama-Dili to distribute to other networks in Dili.<sup>27</sup>

#### b. Human trafficking

---

<sup>24</sup>Despite Mass Arrests, Drug Smuggling Continue to Occur:

<http://temposemanaltimor.blogspot.com/2012/11/maske-kaptura-massal-maibe-trafiku.html>

<sup>25</sup>Timor-Leste's PNTL handed over the Drug Smuggling case to the Indonesia's BNN:

<http://temposemanaltimor.blogspot.com/2012/10/pntl-entrega-kazu-droga-ba-bnn.html>

<sup>26</sup>Despite Mass Arrests, Drug Smuggling Continue to Occur:

<http://temposemanaltimor.blogspot.com/2012/11/maske-kaptura-massal-maibe-trafiku.html>

<sup>27</sup>Fundasaun Mahein's Reliable Source who monitors the activities of the fishermen. Tuesday, 23 October 2012

Human trafficking occurs as a result of well-organized regional trends of organized crime groups, which has a huge impact on Timor-Leste because the traffickers consider Timor-Leste very in terms of control. Fundasaun Mahein believes that Timor-Leste can be source nation for human trafficking (women, men and children) and can also be the destination country for female (young) victims of human trafficking to become victims of prostitution.

The most commonly identified cases of human trafficking are of an international nature where Timor-Leste becomes the country of destination rather than the source country. It is considered an international case because it is well-organized through the existing network of traffickers outside of Timor-Leste. On the other hand, it is considered a national case because the traffickers are taking advantage of Timor-Leste's fragility in its level of control over its borders, and are looking for opportunities where the organized groups can accomplish their planned actions.<sup>28</sup>

**Cases of Human Trafficking in Timor-Leste, National and International Victims**

No.	Country	Age	Female	Male	Total
1.	Indonesia	15-39	14	19	8
2.	China				3
3.	Myanmar				13
4.	Cambodia				6
5.	Timor-Leste				3
<b>Total</b>					<b>33</b>

Source: Alola Foundation, 12 September 2012

From the above figures, 19 were confirmed for forced labor on the ship as fishermen and 12 were confirmed for sexual exploitation. There are other attempts where the traffickers tried to bring two victims from Timor-Leste to abroad.<sup>29</sup> In Timor-Leste, the case of human trafficking is known in two important aspects: state of origin (which means that where the traffickers brought the victims from Timor-Leste abroad) and as the country of destination for the victims to be exploited.<sup>30</sup>

The case in Timor-Leste with a trafficker brought before the court pursuant to the trafficking law applicable in Timor-Leste was the case of the owner of Hotel Macau who brought in 19 Chinese women for sexual exploitation or prostitution. The owner was sentenced to thirteen (13) years of imprisonment.<sup>31</sup>

Human trafficking has been a concern for the President of the Republic, Taur Matan Ruak, who appeals for the PNLT to work hard to combat human trafficking in Timor-Leste. In addition, the Deputy Ombudsman for Human Rights and Justice (PDHJ) stated that human trafficking is

<sup>28</sup>Interview with Fatima Guterres. Alola Foundation, on 12 September 2012  
<sup>29</sup>Presentation of Alola Foundation on human trafficking in Timor-Leste in a seminar organized by Alola Foundation. On, 12 September 2012.  
<sup>30</sup>Interview with Fatima Guterres. Alola Foundation, on 12 September 2012.  
<sup>31</sup>Daily Timor Post. Tuesday, 20 December 2011.p1

organized by foreigners particularly in China, where these women are working at the restaurants, hotels, and shops but are later used as prostitutes or sex attendants. The challenge for Timor-Leste is that there are no laws on human trafficking. Therefore, the National Parliament and the Government shall proceed with producing the human trafficking law in order to process those people who organize the trafficking.<sup>32</sup>

In a similar case, some groups or people have organized bringing women from Indonesia into Timor-Leste through illegal border crossing to practice prostitution in Timor-Leste. As a result of this, some youth in the Bobonaro district have been identified with HIV/AIDS transmitted from prostitution activities. Therefore, the District Administrator of Bobonaro has requested to increase the number of members of BPU-PNTL at the border area to control and act against the people or groups who committed this type of human trafficking and illegal activity along the border.<sup>33</sup>

Another case raised during the International Conference on Human Trafficking event held in Dili, organized by the Ministry of Foreign Affairs and the civil society organizations, when participants of the conference stated that the program sending Timorese workers to South Korea and Australia was considered a legal/formal form of human trafficking as they were brought abroad by the State. Yet, in contrast, there are some practices that violate the rights of the workers as they have not feel the presence of the state and that during that time they are only visiting.<sup>34</sup>

### c. Prostitution

The community is questioning the activities of organized crime syndicates which has been operating over some time. Fundasaun Mahein observed that the majority of the organized crime group involved foreign citizens. The comparative measure is shown during the operations of the Timor-Leste National Police (PNTL) when it managed to arrest male and female citizens in bars and discotechs around Dili such as the Monalisa Bar and Moon Bar. In other operations where the PNTL arrested people in discotechs around Dili, the investigation indicated that the majority of the arrested were from Indonesia and China. Therefore, such women are working in the discotechs and karaokes.<sup>35</sup>

After the arrests, the Migration Service carried out investigations to complete the necessary documents to continue the process in accordance with the migration law. The result of the inquiry conducted by the Migration Service indicated that the majority of the people arrested were using the tourist visa.<sup>36</sup>

Opinions made by the State leaders in the media have been that they, and their State Ministries, will collaborate to pursue an integrated response against these practices. This response will

---

<sup>32</sup>Timor Post. Wednesday, 21 November 2012

<sup>33</sup>Timor Post. Thursday, 22 November 2012

<sup>34</sup>Discussion during the international conference in Dili delivered by conference delegate Jose Luis Oliveira. on Wednesday, 06 December 2012.

<sup>35</sup>Operation of the Organized Crime in Timor-Leste. Mahein Nia Lian No. 14, 10 November 2010.

<sup>36</sup>Interview with Director of Migration Service: Jose da Costa. Tuesday 17 January 2012

involve the Secretary of State for Vocational Training and Employment Policy (SEPFOPE), the Ministry of Foreign Affairs (MoFA), the Migration Service (SM), and the Ministry of Commerce, Industry and Environment (MoCIE).

FM observed that this cooperation has only been in the form of statements made to the media and nothing has been put into practice. Another challenge FM has identified is that there is no proper law to regulate the activities related to prostitution and that prostitution in the context of Timor-Leste, although it definitely occurs due to necessities in family and other economic needs that force some women to become prostitutes.<sup>37</sup>

#### d. HIV/AIDS

Prostitution implicates and transmits HIV/AIDS in the society. The report from Church World Service (CWS) in 2009 indicated that 49 Timorese citizens were affected by HIV/AIDS, and six of these people had died. In 2010, the number of people affected by HIV/AIDS increased to 198 people who were HIV positive and from this figure, 20 people had died.<sup>38</sup>

Statistic data issued by the National Council to Combat HIV/AIDS in Timor-Leste indicates that from 2003 to 2010 the number of people with HIV/AIDS rose to 198, and 22 people had died. The majority of the people with HIV/AIDS were female with 52% and male with 48%.<sup>39</sup>

In addition, based on the data from the Health Information System (HIS) of the Ministry of Health (MoH), between 2003 and June 2012 (Q2 2012), the Government of Timor-Leste detected 294 cases of HIV/AIDS, of which 147 were male and 147 were female. From this total number of cases, 73 had already accessed ARV (Anti Retro Viral) treatment (46 male and 27 female) and 31 Timorese people had already passed away (22 male and 9 female).<sup>40</sup>

---

<sup>37</sup>Timor Post. Monday, 29 October 2012

<sup>38</sup>Operation of the Organized Crime in Timor-Leste. Mahein Nia Lian No. 14, 10 November 2010.

<sup>38</sup> Interview with Director of Migration Service: Jose da Costa. Tuesday 17 January 2012

<sup>39</sup>Newspaper Nacional Diario, Edition 15 October 2010.

<sup>40</sup>The Government of Timor-Leste Has Detected 294 Cases of HIV/AIDS, <http://knlhs-tl.org/?p=1691>



### Distribution of HIV Cases by Year:

Year	HIV Case Survivor	Death	Total Case of HIV/AIDS
2003	1	0	1
2004	3	1	4
2005	7	5	12
2006	22	6	28
2007	22	3	25
2008	26	4	30
2009	50	1	51
2010	57	3	60
2011	47	4	51
2012-Q1	8	3	11
2012 – Q2	20	1	21
<b>Total</b>	<b>263</b>	<b>31</b>	<b>294</b>

Source: National Commission to Combat HIV/AIDS (KNLHS) <http://knlhs-tl.org/?p=1691>

### Distribution of HIV/AIDS Case by District:

District	HIV Case in Control Phase	Death	ARV	Total Case of HIV/AIDS
Dili	151	24	67	242
Aileu	0	1	1	2
Ainaro	3	0	0	3
Covalima	1	0	1	2
Manufahi	1	1	0	2
Viqueque	2	0	0	2
Lautem	2	0	0	2
Baucau	11	0	0	11
Manatuto	0	1	0	1
Liquica	1	0	0	1
Bobonaro	13	4	4	21
Ermera	4	0	0	4
Oecusse	1	0	0	1
<b>Total</b>	<b>190</b>	<b>31</b>	<b>73</b>	<b>294</b>

Source: National Commission to Combat HIV/AIDS (KNLHS) <http://knlhs-tl.org/?p=1691>

#### e. Unemployment

The number of local unemployment is increasing in part due to the presence of the foreign workers who are taking over job opportunities -- even when the local workers are capable of doing the given work. This is the result of using the tourist visa for work in Timor-Leste. This opens the space and time for endless conflict and violence between the martial art groups, while the Timorese people feel like there is no space for them to receive job opportunities in their own country.

The traditional markets are still occupied by the foreigners. A concrete example showed that the traditional markets in Dili and other districts are occupied by Chinese,<sup>41</sup> Indonesian, and other foreign traders.<sup>42</sup> The Government has not created a solution to the issue, despite the Ministry of Tourism, Commerce, and Industry issuing an ultimatum in December 2011 to the foreign traders to vacate the locations within two weeks' time.<sup>43</sup>

According to data from SEPFOPE – Office of the Inspectorate General of Labor who collaborates with the Migration Service in carrying out the operation indicated that there were more than 200 workers who used the tourist visa to work in Timor-Leste. The statements made to the media by these relevant institutions stated that those workers will be deported to their country.<sup>44</sup> The Director of Migration Service, Jose da Costa, said that many workers who utilized the tourist visa are from Indonesia, the Philippines, and China, and that Migration Service will coordinate with the MoFA and the Embassies in Timor-Leste to keep an eye on their citizens who are using the tourist visa.<sup>45</sup>

Foreign workers using the tourist visa to work have been increasing in Timor-Leste. They occupy the traditional markets, including work which can actually be performed by Timorese people but are being taken over by foreign workers. These same concerns came from the District Administrator of Liquica, Domingos da Conceição, who requested that the Secretary of State for Commerce make an ordinary regulation to regulate the foreign workers and foreign mobile traders occupying the traditional markets.<sup>46</sup>

### 3. Challenges

The challenges faced in relation to the work of the institutions that are responsible for controlling the entry and departure of the foreigners to and from the national territory has been that there is no rigorous law enforcement to strengthen the level of control pursuant to the law. As a result, the foreigners or foreign workers have taken advantage of the weaknesses encountered by Timor-Leste to go in and out and conduct illegal activities.

Other issue in relation to the mission of the Migration Service in Timor-Leste is that there is no fund to enforce “Deportation” of foreigners who use the tourist visa for work and conducting business. In the normal process of deportation, the responsible authorities shall accompany the person to his/her country of origin. Yet the Migration Service is only applying “Voluntary Departure,” to order the person violating the law of Timor-Leste to voluntarily leave Timor-Leste.<sup>47</sup>

---

<sup>41</sup>Newspaper Suara Timor Lorosa'e. Friday, 16 December 2011.p1

<sup>42</sup>FM observation in the Capital of Dili. Tuesday 17 January 2012

<sup>43</sup>Newspaper Suara Timor Lorosa'e. Friday, 16 December 2011.p1 no 15

<sup>44</sup>Timor Post. Tuesday , 20 November 2012

<sup>45</sup>Timor Post. Monday, 19 November 2012

<sup>46</sup>Timor Post. Friday, 23 October 2012

<sup>47</sup>Presentation of Director of Migration Service, Jose da Costa on migratory control and human trafficking in Timor-Leste in a seminar organized by Alola Foundation. On, 12 September 2012.

Another weakness that exists in Timor-Leste is that the integrated coordination of work between relevant institutions in controlling illegal and other illicit activities has been merely talk for media consumption and has never been put into practice.

A final question from the public is that the Migration Service is not serious in controlling foreigners who enter and leave the country, and this practice causes many violations at the end. These foreigners were registered with the Migration Service and it has to have control over them: where they live, the purpose of their visit, and the type of visa they use. Otherwise the lack of control will result in irregular acts that compromise the law and regulations of Timor-Leste, and may jeopardize Migration Service's institutional credibility.

The analysis of Barbara Oliveira<sup>48</sup> indicates that Timor-Leste has only applied the existing Penal Code in dealing with cases of human trafficking and is yet to have a specific law on human trafficking. Thus, the victims of human trafficking are considered as ordinary victims, since Timor-Leste has no national system in place to protect the victims of human trafficking.

Other aspect to consider is that Timor-Leste has not enforced the prevention measures against the illegal practices such as human trafficking, illegal border crossing, illegal business and drug smuggling due to the weakness in the law and its enforcement. The limited human resource implicates the integrated control by the relevant institutions in the border area as well as in the country.

## **VII. Foreign Workers in Timor-Leste**

The data on foreign workers who have their working visa approved and annulled during 2011. The data registered at the SEPFOPE indicated that the types of work the foreign workers were engaged in were namely banking, business, carpentry, construction, merit, minerals, workshop and fisheries.

From all these numbers, most of them were Indonesians and Chinese where 332 are Indonesians and 115 are Chinese. The majority of the Indonesians are engaged in activities that include selling goods, restaurants, mobile businesses, carpentry, and workshops. Meanwhile the Chinese were mostly engaged in activities such as construction, workshops, selling goods, restaurants and massage parlors.

Other figure shows that there were 60 Philipinos engaged in construction and workshop activities. Next is Australia with 25 people who were engaged in minerals and merit activities. In addition, the data from SEPFOPE showed that there were 21 Portuguese engaged in merit and banking activities.<sup>49</sup> A further 37 foreign citizens were working in Timor-Leste and also engaging in business activities.

---

<sup>48</sup>Presentation of Project Manager for Human Rights and Capacity Building – PDHJ- on International Conference to Combat Trafficking in Women. On Thursday, 06 December 2012.

<sup>49</sup>Source from the Inspectorate General of Labor- IGTSEPFOPE presented at the ALOLA Foundation, 12 September 2012

General Recap		Approved												Failed			Type of Business										Total
No.	Citizen	NOVO VT			EXT. VT			NOVO VFR			EXT. VFR			SEX			Agriculture	Banking	Business	Carpintry	Construction	Industry	Merit	Minerals	Workshops	Fisheries	Total
		M	F	Total	M	F	Total	M	F	Total	M	F	Total	M	F	Total											
1	Australia	12	20	32	4	3	7	3	1	4	1		1	2	3				1		2	19		1		25	
2	Germany	1	2	3			0									1										1	
3	Argentina		1	1			0															1				1	
4	Brazil	9	10	19	2	2	4	3	1	4										2	8					10	
5	Bangladesh	8		8			0	3		3							9			1						10	
6	Britain	3	2	5			0														3					3	
7	China	168	60	228	4	2	6	13	1	14	5	2	7	35	18	53			103	23	11	14	1	1		155	
8	Cape Verde			0			0	1	1													1				1	
9	Cameroon	1		1			0																				
10	Canada	2	2	4			0						1	1	2							1				1	
11	Spain	1	1	2			0															2				2	
12	Philippines	109	35	144	11	5	16	2	5	7			7	5	12			1	3	27	5	22		2		60	
13	France	2		2			0			1	1											1				1	
14	Ghana	3	1	4			0															3				3	
15	Indonesia	450	151	601	20	7	27	17	7	24	5	4	9	55	23	78		1	174	14	30	30	64		19	332	
16	India	10	3	13	4		4	1		1									4		1	1	5			11	
17	Italy		1	1			0	2		2												2				2	
18	Japan	1		1			0						1		1			1								1	
19	Korea	4	1	5	2		2	1		1										2		2	1			5	
20	Lebanon			0			0	1		1																	
21	Malaysia	10	2	12	1	1	2	1	1	2			1		1			5		1	1	1		1		9	
22	Myanmar		1	1			0															2				2	
23	New Zealand	1	3	4			0											1				3				4	
24	Nepal	4		4			0											2				2				4	
25	Nigeria	1	1	2			0																				
26	Portugal	29	9	38	2	2	4	2		2								5		7		9				21	
27	Pakistan	9	1	10			0							1		1		2			1	3				6	
28	Panama												1		1												
29	Guinea	3	2	5			0															3				3	
30	Singapore	8	5	13	3	2	5	1		1			2		2			5		1		7				13	
31	Srilanka	5	4	9	3	1	4													2		1		1		4	
32	Switzerland	2	2	4			0																				
33	Thailand	1	5	6			0														2	1				3	
34	Tonga		1	1			0															1				1	
35	USA	5	4	9		1	1						1		1			1		1		5				7	
36	Uganda	2		2			0															2				2	
37	Vietnam	6	1	7		1	1													1		2				3	
	<b>Male</b>	<b>784</b>				<b>57</b>		<b>50</b>		<b>11</b>			<b>106</b>		<b>1008</b>	<b>3</b>	<b>3</b>	<b>294</b>	<b>14</b>	<b>82</b>	<b>52</b>	<b>146</b>	<b>1</b>	<b>23</b>	<b>0</b>		
	<b>Female</b>		<b>331</b>			<b>26</b>		<b>18</b>		<b>6</b>			<b>49</b>		<b>430</b>											<b>706</b>	
	<b>Total</b>			<b>1115</b>		<b>83</b>		<b>68</b>		<b>17</b>			<b>155</b>		<b>1438</b>												

Source: Inspectorate General of Labor – IGT SEPFOPE at Alola Foundation, 12 September 2012

### **VIII. Summary Recommendations**

At the end of this report, Fundasaun Mahein would like to make the following key recommendations to the relevant institutions:

- Recommendation to the Ministry of Defense and Security to implement the report it has published in 2009 on “Strengthening Border Management is a Dynamic and Secure Way for Timor-Leste”.
- Recommendation to the Relevant Institutions incorporated in border management, namely Migration Service (SM), Border Police Unit (BPU), Customs, FALINTIL-FDTL, Maritime Police Unit, Quarantine, Business and The National Directorate for Transport to strengthen the integrated coordination of work in the area of management and control.
- Recommendation to the Ministry of Defense and Security to augment the number of staff at the Migration Service, BPU and the MPU to back-up the the work operation in border control and management in the prevention of irregular practices such as the contrabands smuggling, drug smuggling, and human trafficking.
- Recommendation to the Ministry of Defense and Security to allocate adequate facilities such as transportation to the BPU to allow them to perform their duties as based on Fundasaun Mahein’s observation in the border that some posts, namely Nunura and Saburai, do not have adequate transportation facilities and that the Saburai post does have a motorbike but it is broken.
- Recommendation to the Ministry of Defense and Security that it needs to give more attention to the conditions of the BPU in terms of basic facilities such as electricity, water, and sanitation as Fundasaun Mahein has observed in the border that some posts have no electricity and clean water in addition to other basic necessities such as food.
- Recommendation to the institutions responsible for the integrated posts to establish other working conditions such as health facilities to attend to the members of the BPU, Migration Service, Customs and other institutions as they often have to travel to the health centers which are located far from their posts, and that they have to the public transportation with their own money.
- Recommendation to the Ministry of Justice, Ministry of Defense and Security and Ministry of Foreign Affairs to promptly coordinate the implementation of the “Border Pass” for the population in the border areas in order to prevent irregular practices such as illegal border crossing and the deployment of the immigration authorities in the border posts to legalize and issue authorization for the “Border Pass”, as it is currently concentrated only in Mota-Ain.

- Recommendation to the relevant institutions taking part in the integrated post to operationalize the border market in order to prevent illegal businesses and other illegal activities along/through the border.
- Recommendation to the Government and the National Parliament to debate and immediately approve the law on human trafficking, which is currently being drafted by the Ministry of Foreign Affairs.
- Recommendation to the Government to draft and implement the law on international or foreign investment and to impose rigorous control over foreign investments in order to prevent mobile businesses which are currently occupying the traditional markets.
- Recommendation to the Migration Service to conduct effective operations to control the movement of foreign citizens in the national territory when they are using the tourist visa to work.
- Recommendation to the authorities incorporated in the integrated post at the airport, harbor, and land border to control and conduct effective patrolling to combat and prevent illegal activities such as drug smuggling, human trafficking, illegal businesses, and other illegal activities which are currently increasing in Timor-Leste and has been growing along the land border.
- Recommendation to the National Parliament, in particular Committee B, which is in charge of defense, security, and foreign affairs to conduct effective supervision over the work of the border authorities incorporated in the integrated post.

## **Bibliography**

### **Laws**

Decree Law No. 31/2008 of 13<sup>th</sup> August, Organic Structure of the Ministry of Defense and Security.

Decree Law No. 30/2009 of 18<sup>th</sup> November, Organic Law of the Migration Service.

Decree Law No. 31/2009 of 18<sup>th</sup> November, Migration Service Staff Regulations.

Decree Law No. 9/2009, of 18<sup>th</sup> February, Organic Law of the Timor-Leste National Police (PNTL).

Article 1 Decree Law 15/2006 (Organic Statutes of the FALINTIL FDTL)

Article 1 sub-section 1 of the Decree Law 9/2003 (Allocation and Competence of the National Directorate for Customs)

### **Document**

Ministry of Defense and Security. "Strengthening Border Management: is a Dynamic and Secure Way for Timor-Leste". 8 May 2009.

Presentation of the Alola Foundation on human trafficking in Timor-Leste in a Seminar Held by Alola Foundation. On 12 September 2012.

Presentation of the Project Manager for Human Rights and Capacity Building – PDHJ- on International Conference to Combat Trafficking in Women. On Thursday, 06 December 2012.

Operation of Organized Crime in Timor-Leste. Mahein Nia Lian No. 14, 10 November 2010.

Presentation of the Director of Migration Service Jose da Costa on Migrant Control and Human Trafficking in Timor-Leste on a Seminar Held by Alola Foundation. On 12 September 2012.

Discussion during international conference in Dili presented by a conference delegate Jose Luis Oliveira. On Wednesday, 06 December 2012.

Presentation and response of the Secretary of State for Vocational Training and Employment Policy (SEPFPOPE) Ilidio Ximenes on International Conference on Human Trafficking organized by MoFA and the Civil Society. On Thursday, 06 December 2012

### **Interview**

Fundasaun Mahein's interview with the community in Suco Tapo/Memo. Friday, 16 November 2012.

Fundasaun Mahein's Source of Interview from Nunura Border, Maliana. Friday, 16 November 2012.

Fundasaun Mahein's Source of Information from Batugade-Maliana. Saturday, 17 November 2012.

Interview with the Community in Balibo, Tapo/Memo, Tunubibi and Maliana. Thursday, 15 November 2012.

Interview with member of BPU in the Border. Thursday, 15 November 2012

Fundasaun Mahein's Observation in the Border Areas of Nunura, Tunubibi, Balibo, Saburai, Tapo/Memo and Mota-Ain. On 15, 16, 17 November 2012.

Interview with Fatima Guterres. Alola Foundation, on 12 September 2012.

Interview with the Director of Migration Service: Jose da Costa. Tuesday 17 January 2012

Interview with Cillian Nolan. South East Asia Analyst. International Crisis Group: Working to Prevent Conflict Worldwide. Wednesday, 23 November 2011

FM's Observation in the Capital of Dili. Tuesday 17 January 2012

Fundasaun Mahein's Reliable Source who monitors the fishermen's activities. Tuesday, 23 October 2012.

### **Media**

Newspaper Nacional Diario, Edition 15 October 2010.

Newspaper Suara Timor Lorosa'e. Friday, 16 December 2011.

Daily Timor Post. Tuesday, 20 December 2011.

Timor Post. Monday, 19 November 2012

Timor Post. Friday, 23 October 2012

Timor Post. Tuesday, 20 November 2012

### **Links**

The Government of Timor-Leste has Detected 294 Cases of HIV/AIDS, <http://knlhs-tl.org/?p=1691>

Timor-Leste's PNTL Handed Drug Smuggling Case to Indonesia's BNN:

<http://temposemanaltimor.blogspot.com/2012/10/pntl-entrega-kazu-droga-ba-bnn.html>

Despite Mass Arrests, Drug Smuggling Continue to Occur:

<http://temposemanaltimor.blogspot.com/2012/11/maske-kaptura-massal-maibe-trafiku.html>