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**Poor Governance:
How the controversy over the leadership of the F-FDTL was entirely avoidable**

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Photo: Presidencia da República Timor-Leste, 2016

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Introduction

Recent official State announcements have suggested that the controversy over the leadership of the Falintil-Forças de Defesa de Timor-Leste (F-FDTL) is close to being resolved. However, this resolution itself may bring about a bigger controversy over the future of ex FALINTIL veterans in the military.

Methodology

The following report was compiled from a “security sector discussion” held by FM research Staff. The report’s opinions are augmented by official documents and other sources where necessary.

A Brief Recap of the Controversy:

Earlier this year the President of the Republic and Supreme Commander of the Armed Forces, Taur Matan Ruak, rejected the Government’s proposal for the reappointment of the Chief of Staff (Major General Lere Anan Timur - referred to here as “Lere”) and Vice-Chief of Staff (Brigadier General Filomeno Paixão de Jesus) of the Military, saying that their reappointment would be in breach of the Military Statutes of the F-FDTL, which states that those holding these positions can only be reappointed once for a maximum total term period of four years (Lere was appointed on 6th October 2011 so his position expired on 5th October 2015)¹. Furthermore, Lere had passed the ‘compulsory’ retirement age of 60 years old for members of the F-FDTL. The President instead announced that he would “exonerate” Lere Anan Timur from his position (he was at pains to stress that this did not constitute a “dismissal”), and appoint the Vice-Chief Brigadier General Filomeno Paixão de Jesus to the Chief of Staff position, citing the need for “gradual generational change” within the Armed Forces (very gradual considering the new candidate was already 64).

This announcement from the President, not only to reject the Government’s proposal, but to unilaterally appoint another candidate was, unsurprisingly, received very poorly by the Unity Government and Members of Parliament, who called the move illegal (the relevant legislation requires that the President’s has the power to appoint ‘sob proposta do Governo’), unconstitutional, an abuse of power, and also implied that it was a political decision made with a view to the 2017 elections (Taur Matan Ruak is strongly rumoured to be planning to run for Prime Minister as the Head of the New Peoples Liberation Party - PLP). The Government took its case to the Court of Appeal, seeking an annulment of “the exoneration”, an appeal the Court subsequently rejected.

The Compromise Resolution:

¹ Fundasaun Mahein “Nomeasaun no Exonerasaun Polémika entre Prezidente da República ho Governu RDTL”, 23 Feveiru 2016.



Now it appears the Government and President have arrived at an agreement regarding the future leadership of the F-FDTL. According to a Government Press Release (15 April 2016):

“On April 7th, during the weekly meeting with the Prime Minister, Rui Maria de Araújo, the President of the Republic, Taur Matan Ruak, requested the presentation, by the Government, of a new proposal for the heads of F-FDTL. This proposal took into account a consultation to the current heads of F-FDTL, by the Minister of Defence, and the result of the analysis of the situation, made at the Council of Ministers Meeting of April 12th.

On April 13th, the Government presented two proposals to the Head of State. Yesterday, the President of the Republic announced the acceptance of one of these proposals.²

The two proposals referred to in the press release have been widely reported as: (1) the reappointment of the current Heads of Defence as proposed (and rejected) previously; or (2) the appointment of Donaciano Gomes “Pedro Klamar Fuik” (currently Captain of Sea and War) assuming Chief of Staff of the Armed Forces and Colonel Calisto dos Santos “Coliati” (current Attache of Defense at the Timorese Embassy in Canberra) taking the role of Vice Chief.³

On the same day as the Government’s announcement, the Office of the President released a statement indicating the President was making the formal arrangements for the succession of leadership in the armed forces under the second proposal.⁴

The two options proposed reflect the compromise that has been reached. Whilst the President was never going to choose the reappointment option he had so forcibly rejected previously, the Government, by continuing to propose it could save face by not having to back down from its previous position. The President has also had to compromise in his acceptance of the nomination of the new candidates over his previous preference for the promotion of the Vice Chief and ‘gradual generational change’ within the armed forces.

The Bigger Issue of Veterans:

However, even if the alternative proposal is accepted and officially promulgated, a secondary and potentially more controversial problem has emerged regarding the treatment of Lere and several other high ranking ex FALINTIL veterans who will likely also be retired from the F-FDTL (FM believes there are around 20 ex-FALINTIL still serving in the F-FDTL). Lere, not one to go quietly, has publically announced that while in his official capacity he respects the power of the President as the Chief

² Government of Timor Leste, “Government and the Presidency of the Republic agree on the leadership of F-FDTL”, 15 April 2016. <http://timor-leste.gov.tl/?p=15054&lang=en>

³ Independente, “Lere sidauk protu simu desizaun PR Taur”, 18 April 2016.

⁴ The Democratic Republic of Timor-Leste Presidency of the Republic “Press Release”, 15 April 2016. <http://presidenciarepublica.tl/press-release/?lang=en>



Commander of the Armed Forces, as the representative of senior FALINTIL veterans who still serve in the F-FDTL he is “not ready to receive” the President’s decision, and has added the decision is “without dignity” for the veterans, comparing their treatment to that of criminals. Lere also indicated he will wait to present his position to his “Big Brother”, Kay Rala Xanana, who is currently overseas.⁵

Indeed, Lere’s position refers to the ongoing problem of how to treat all veterans with dignity and provide for their position in modern public life, linked to interpretation of the ambiguous provisions under Section 11 of the Constitution regarding the ‘valorisation of the resistance’ and the ‘rendering of tribute to national heroes’, which lies at the heart of the ‘veteran’s problem’ in Timor-Leste.⁶

Within the armed forces, the uneasy marriage between the FALINTIL veterans and the modern army can be traced all the way back to the formation of the F-FDTL on 1 February 2001, when 650 former FALINTIL fighters were chosen to be incorporated into the modern force, and controversially 1300 others were demobilised and excluded. Inside the F-FDTL the forced retirement of veterans upon reaching the statutory retirement age has remained an ongoing issue (including last year with the retirement of many FALINTIL veterans to coincide with the 40th Anniversary of FALINTIL), with questions as to their rights to pensions, special conditions, official recognition and a possible ongoing security or political role.⁷

Exactly what constitutes dignity to Lere and the higher-ranking veteran members of the F-FDTL remains unclear, as they will all likely qualify for the highest grades of pensions and receive full ceremonial recognition and honours (the President’s press release mentioned that the details for the process of retirement, including official ceremonies are being prepared). It is likely that a negotiated retirement may involve exceptions and perhaps even promotions for those considered for ‘retirement’, and the provision of some kind of ongoing role in the armed forces, whether active, advisory or ceremonial. Here Lere’s negotiating position is tenuous in the sense that if he demands special treatment for veteran members of the F-FDTL now, he will be asking for benefits that were previously denied to other veterans who have already been forced to retire. It is therefore possible that any negotiated retirement of Lere will have the snowball effect of provoking public discontent and new demands from other recently retired veterans.

Who to Blame?

FM has held a consistent position that the State must do everything reasonably in its power to ensure the dignity of Timor’s veterans when instituting its policies and reforms. However, in this case the controversy reflects badly on *all* the participants, as well as the strength and independence of Timor’s political institutions, and

⁵ Independente, “*Lere sidauk protu simu desizaun PR Taur*”, 18 April 2016.

⁶ Constitution of Timor-Leste, <http://timor-leste.gov.tl/?cat=37&lang=en>

⁷ Radio Timor Kmanek “*F-FDTL Activo 20 Resin Sei Reforma*”, 19 August 2015. <http://rtk.tl/berita-433-ffdtl-activo-20-resin--sei-reforma-.html>



therefore *all* must bear some of the responsibility for the instability that it has provoked.

If considered individually, there is truth in respective positions of the President, the Government and Lere (on behalf of the veterans) on this issue. However, it is their inability to look beyond their own positions and consider the bigger picture, their willingness to impose their personalities over the correct processes, their inability to effectively plan and provide for the future, and their incapacity to effectively work together within the State's political and institutional systems, that should most concern the people of Timor-Leste.

The role of Lere:

Regarding Lere and other veterans both inside and outside of the F-FDTL, FM continues to respect their opinions and right to dignity. However, FM is also committed to the concept of strong independent state security institutions and the rule of law. FM therefore has grave concerns if any citizen, veteran or otherwise does not adhere to the laws of Timor-Leste and the proper conventions of public office. Lere's public rejection of the imminent legal decision from the Government and President, and his calls for Xanana to resolve the issue highlight the continued predominance of personal patronage for public officials over the institutions and laws in Timor's political, economic and social systems. For the new generation, such special treatment sets a poor example in terms of the requirement for transparency, accountability and consistency from those in public office. All veterans, as indisputable heroes of the nation, deserve a strong voice in national political life, but this power cannot come at the price of pulling down the public institutions they fought so hard to build.

The role of the Government:

It seems unbelievable that the Government were apparently unable to understand the law limiting the appointment terms of the leaders of the armed forces. The Ministry of Defence has a large number of local administrative staff and advisors, and also some very highly paid foreign consultants. If they are unable to effectively brief the Government on the legislative requirements of military appointments, then questions must surely be asked as to their competency. The Government, who either did not receive or ignored the advice of the Department, must always act within the provisions of the law without exception. It is a primary function of the Government to anticipate and resolve potential problems through the creation of appropriate laws and policy. The question of succession and retirement for ex-veterans in the armed forces was hardly an unexpected issue, but this controversy has illustrated the failure of successive Governments to adequately address it, along with many other national veteran's issues. For example, the Council of the Combatants of National Liberation was an idea first floated back in 2006 to give an official political voice to veterans, but is still yet to be established, and soon it may be too late to serve its intended purpose.



The role of the President:

The President too must wear some blame for this controversy. Regardless of what his constitutional and legislative powers are in regards to appointments and as the Commander in Chief of the Armed Forces, he has a higher duty as the symbol of the stability and authority of the State. His decision to act unilaterally, while perhaps both legal and practical, was against the spirit of his role and was always destined to bring unnecessary controversy to his Office. The President's duty to provide an effective check and balance to the Government is essential, but he must achieve this through the means of good communication and with respect of the elected Government. Here consider the words from the Minister of State, Agio Pereira's, regarding the resolution that:

" ... both sovereign bodies have reached an understanding regarding the leadership of the Defence Forces of the country. The dialog and mutual respect that characterise our democratic system were, once more, put into practice, which is an evidence the indisputable peace, stability and progress of our young nation".⁸

The failure of both the Government and the President was that they were unable to put into practice this "understanding, dialogue and mutual respect" to resolve this issue *before* it became a public controversy, leading to instability and division in what was an otherwise avoidable situation.

The role of the Media:

Finally, FM wishes to comment upon the seemingly endless public statements and media commentary from the Government, President and F-FDTL command on this issue. Such statements, often contradictory in the sense that they contained accusations and demands to provoke the controversy, while at the same time calling for public calm, only served to further confuse and divide the Timorese people on this issue. All participants have appeared more concerned about winning the public relations war than working together for the best interests of the nation. It is a potentially serious sign of division and instability when the Executive, Government and Military elements of the State primarily communicate with each other through leaks and veiled threats in the media, and sadly ironic that if they had spent this time communicating with each other instead of with the media, this controversy could easily have been averted. In the lead up to the 2017 elections, FM encourages rational, evidence-based security sector discussion from both inside and outside of State institutions, but asks that security and military issues not be used by for self promotion or to serve personal agendas.

Recommendations:

⁸ Government of Timor Leste, "Government and the Presidency of the Republic agree on the leadership of F-FDTL", 15 April 2016. <http://timor-leste.gov.tl/?p=15054&lang=en>



Based its analysis of this issue, FM recommends that:

1. The Government and President jointly review the processes and systems for statutory appointments: to ensure that all proposed appointments are always consistent with relevant laws; to clarify the conventions and roles of both the Executive and Government with regards to appointments; and to ensure that there is effective expertise, planning and communication in both Government Departments and the Office of the President in regards to appointments, so that potential problems are resolved proactively, cooperatively and prior to the expiry of each appointment.
2. That Major General Lere Anan Timur and other FALINTIL veterans within the F-FDTL show leadership and set a powerful example to the public by always complying with the law.
3. That the veterans and Government increase their efforts to come together and finally establish the Council of the Combatants of National Liberation, to give veterans a unified and official voice in the nations public and political life.
4. That all parties, the Government and Members of Parliament, the President and Major General Lere Anan Timur show restraint and strong leadership by refraining from releasing unnecessary and counter productive public commentary, leaks, rumours and accusations in the media



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