

## **Security Sector Policy is not yet a Priority in Timor-Leste**

*“A Recommendation for Presidential Candidates and Political Parties in the General Election of 2017 – A Civil Society Perspective”*

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*Photo: F-FDTL*

**FundasaunMahein (FM)**

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

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## **Executive Summary**

In 2017, Timor-Leste will hold elections for the President of the Republic and the National Parliament. The presentation of Presidential Candidates will conclude by February 5<sup>th</sup> 2017, and the Technical Secretariat for Electoral Administration (STAE) has stipulated that the election for the President of the Republic will be held on March 20<sup>th</sup> 2017. This means that the Government will have to ensure that security is maintained during the General Elections of 2017, and that the rights of Timorese citizens to engage in free, fair and safe democratic elections are upheld. This will be one of the most significant tests for the Government and its ability to uphold the rule of law, since the withdrawal of the United Nations (UN) Peacekeeping mission at the end of 2012.

FM calls on both Presidential Candidates and Political Parties to devote greater attention to the development of security sector policy, and how they will implement this if elected. Policy development within the security sector is still lacking, and will require greater attention by the incoming government. The new Government must be willing to assume responsibility for both security provision and the development and implementation of more cohesive security and defense policy, to be handled by the Ministry of the Interior and the Ministry of Defense respectively.

Policy development to be considered by the incoming Government must include national security, national defense, institutional development and legislation for both the Timor-Leste Defense Force (F-FDTL) and the National Police of Timor-Leste (PNTL), as well as that for other agencies involved in internal security.

As the new President of the Republic will be also Head of State and Supreme Commander of the Armed Forces, it is essential they have a thorough understanding of both capacity and policy shortfalls within the security sector, and are able to drive the development of more effective security and defense policy.

## **Recommendations**

1. FM recommends the new Government prioritizes the development of cohesive and effective security and defense policy, rather than continuing with current policy and budgeting.
2. FM recommends that the successful Political Party prioritizes the development of the F-FDTL and PNTL, to ensure that they develop the capacity to provide for both national defense and internal security.



## Introduction

In 2017, Timor-Leste will hold elections for the President of the Republic and the National Parliament. The presentation of Presidential Candidates will conclude by February 5<sup>th</sup> 2017, and the Technical Secretariat for Electoral Administration (STAE) has stipulated that the election for the President of the Republic will be held on March 20<sup>th</sup> 2017.<sup>1</sup> This means that the Government will have to ensure that security is maintained during the General Elections of 2017, and that the rights of Timorese citizens to engage in free, fair and safe democratic elections are upheld. This will be one of the most significant tests for the Government and its ability to uphold the rule of law, since the withdrawal of the United Nations (UN) Peacekeeping mission at the end of 2012.

According to FundasaunMahein (FM), over the last ten years the government has not prioritized security sector policy and instead limited itself to spending security budgets on operational costs. This report aims to remind the candidates for President of the Republic as well as all political parties not to disregard the security sector if elected. Policy development for the security sector is fundamental to its development and effectiveness. The responsibility for this falls upon the Ministry of Defense and Ministry of the Interior. Therefore, the question is what policy development needs to be prioritized for the security sector.

This report's purpose is to reveal current security sector policy development shortfalls, and advocate for the prioritization of security sector policy development for the elected Presidential candidate and the political parties who are going to be part of the VII Constitutional Government of 2017.

## Methodology

To better understand the situation and challenges in developing security sector policy, an initial literature review on policy documents and legislation related to security and national defense issues was undertaken. Afterwards, FM organized a *Security Sector Discussion* (SSD) involving researchers from FM to analyze and debate the situation, collect data and finally produce recommendations.

## Importance of Security Sector Policy

Why is security sector policy so important? As previously mentioned, security sector policies are key to defining the government's approach to and perception of threats to national security and its people as well as the government's response to such threats. Thus, policies are different than laws and rules. For instance, a law can force or forbid some behaviours, whilst policies are a way to orient actions to their purpose. Policies are a course of action that should guide the decisions of the executive organs. Security sector policy should

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<sup>1</sup>Komunikadu Ministru Estadu no Prezidénsia Konsellu Ministru no Portavós Ofisiál Governu Timor-Leste. Dili, Loron 27 fulan-janeiru tinan 2017. Disponivel iha: <http://timor-leste.gov.tl/?p=17226&lang=tp>



identify threats, challenges and opportunities, and formulate a plan of action to address these criteria.

Who formulates the policies on the security sector? As stipulated by the Constitution of the Democratic Republic of Timor-Leste (RDTL) in Article nº. 103, the government is the sovereign organ which has the responsibility to undertake and execute the state's main policies and act as the implementing organ of the state. In the security sector, the Ministry of Defense and the Ministry of Interior are the Government Ministries responsible for the creation, coordination, execution and assessment of policies, approved by the Council of Ministers, on defense and security issues.<sup>2</sup>

FM's monitoring during the last ten years identified that from the IV to the VI Constitutional Governments of Timor-Leste, security sector policies were not a priority. This is revealed by the annual budget proposals presented, allocating high levels of expenditure for the operational services but not policy development. Moreover, the national parliament was unable to execute and supervise the government's implementation on policy issues, prioritizing operational services. Up until now the government has not defined structural policy for the security sector and thus did not really prioritize policy development for the security sector. However, the National Strategic Development Plan for 2030 (PEDN) released in 2011, provided a general vision of policy priorities for the defense and security sector.<sup>3</sup>

During this ten-year period, civil society was aware that the Government and Parliament was focused on comparative studies with other countries. Despite the Government contracting international actors to conduct these studies, they did not result in the production of the necessary security sector policy for Timor-Leste. Therefore, the new VI Constitutional Government and National Parliament of 2017 should focus on the development of policy priorities for the security sector, not just on security sector budgets. As the President of the Republic is responsible for final budget approvals, he must ensure that security sector policy presented by Government for discussion by the National Parliament does include policy priorities. The failure to do should result in the President of the Republic declining to approve stipulated budgets.

### **What Policy for the Security Sector needs to be prioritized?**

There have been a few efforts from the Government to define security sector policy. In 2014, the Government together with the F-FDTL undertook a study called "Force 2020", which was published in 2007 (more details below). That same year, the Government, through the Secretary of State for Security, led a discussion to create a policy on national security. Despite discussions on a draft policy on national security that took place in Hawaii (USA) during the IV and VI Constitutional Governments, up until now there has been no policy formulated.<sup>4</sup>

Why is national security important? It is in the national interest of the State to have a plan or strategy on national security, particularly to be able to identify and guide the responses to

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<sup>2</sup>DECRETO-LEI Nº 35 / 2015 de 16 de Setembro ORGÂNICA DO MINISTÉRIO DO INTERIOR no DECRETO-LEI Nº 20/2015 de 8 de Julho ORGÂNICA DO MINISTÉRIO DA DEFESA.

<sup>3</sup>Planu Estratéjiku Dezenvolvimentu Nasional (PEDN) 2030, p. 193 – 200

<sup>4</sup>Esbosu Polítika Seguransa Nasional Timor-Leste, 2012.



both threats and opportunities to the nation. Usually, national security policies have a higher ranking than other security policies such as military doctrines, internal security strategies or others linked to security. National Security Policies are different from other security policies because of their objectives and their links to both internal and external threats.<sup>5</sup>

The National Defense Policy (PDN) was an ambitious policy published in 2007 called “Force 2020”. This study formulated a strategic vision and development plans for the F-FDTL. However, this ambitious plan was not relevant in relation to the strategic situation in the region. Despite this, the Government has maintained Force 2020 as the development plan for the F-FDTL.<sup>6</sup> Nor were the ambitious force structure or equipment acquisition plans financially viable, let alone representative of a military posture that could seriously deter potential aggressors. In a previous report, FM recommended the Government review “Force 2020”, since its policy priorities should not only focus on implementation but also assess effectiveness and relevance. Ultimately, its viability should be reflected in the state budget for its implementation, otherwise it is just an ambitious plan.<sup>7</sup>

The VI Constitutional Government was successful in launching the Strategic Concept for National Security (KEDSN). The first consultation regarding KEDSN was held on September 2015, followed by a consultation with civil society that same year. KEDSN was developed by the Government to clearly define strategic mechanisms of national defense and security, whilst identifying strategic interests, threats and risks. However, FM observes that Timor-Leste has not yet established any formal national defense and security policies. This lack of policy creates challenges for the implementation of KEDSN, as there are no mechanisms with which to coordinate planning and implementation by security actors to ensure national security.<sup>8</sup>

### **Relationship between PSN, PDN and KEDSN and Implementation**

In 2010 the National Parliament of Timor-Leste produced three laws composed of the National Security, National Defense and Internal Security laws. They set the roles and relationship between the executive organs (the President of the Republic, the National Parliament and the Government), the F-FDTL, PNTL and other state institutions that are a part of the security sector.

Before explaining the relationship between National Security Policy (PSN), PDN and KEDSN, PSN must first be clarified. The National Security Policy (PSN) is an overarching strategy which aims to identify national interests, threats and opportunities, and coordinate policy responses by the security sector. PSN is therefore of higher importance than either national defense or internal security strategy, as it considers both external and internal security, and how the security sector should address these challenges.

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<sup>5</sup>O Centro para o Controle das Forças Armadas de Genebra (DCAF), 2008. Política de Segurança Nacional. Genebra

<sup>6</sup>Lemos dos Santos, Francisco (2012). Tansá Timor-Leste Presiza Política Defeza Foun? Dili Institute of Strategic Studies (DISIS). Dili

<sup>7</sup>HareeDokumentuEstudu Forsa 2020.

<sup>8</sup>FundasaunMahein (2015). MaheinNiaLianNú. 104, KonstrusaunKonseituEstratéjikuDefeza no Seguransa Nasional – “PrespetivaSosiedadeSivil”.Dili



PDN is orientated towards understanding regional security strategy and what threats this may present to national defense, and what risks this may entail for Timor-Leste. Furthermore, PDN should define which of these threats relate to national defense policy, so that roles and responsibilities of security actors can be clearly delineated between internal security and external defense. Through this understanding, priorities for national defense can be coordinated between security actors.<sup>9</sup>

The PSN and PDN, by defining both external and internal security requirements, are utilized in the formulation of KEDSN, which establishes the mechanisms through which national defense and internal security are provided, notably regarding the roles and responsibilities for PNTL, F-FDTL and other security actors.

Furthermore, the military aspects contained in KEDSN are regulated under the National Defense Law, which stipulates that the F-FDTL has responsibility for all military aspects of national defense, whilst allowing for assistance to the civil powers in time of emergency. This also stipulates that the Chief of the Defense Force (CEMFGA) is responsible for the control and disposition of the F-FDTL for national defense.<sup>10</sup>

Regarding internal security provision, in 2011 the Secretary of State for Security (SES) issued an Internal Security Plan 2030 (PESI) as part of PEDN 2030, which sought to align institutional development for internal security provision with the wider policy objectives of PEDN 2030.

PESI 2030 involves four phases composed of:

- 1) Phase I – Strengthen and consolidate security base (2011 – 2015)
- 2) Phase II – Disseminate and develop internal security (2016 – 2020)
- 3) Phase III – Strengthen Base for peace and stability (2021 – 2025)
- 4) Phase IV – Better serve communities (2016 – 2030)

The implementation of PESI 2030 is currently in the second phase (2016 – 2020). In the first phase (2011 – 2015) actions were focused on legal development such as laws, rules, operational norms, policies and review of laws for the internal security institutions. Apart from those priorities, focus was placed on the finalization of policy for the next phase of PSN, and a strategic study of the police for 2030.<sup>11</sup> However, those priorities have not been implemented yet, even though the role of PSN is to clarify division of responsibilities for national defense and internal security. Nor has the PSN been finalized yet, 10 years after the initial discussions in Hawaii.

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<sup>9</sup>Lei N° 3/2010 Li Defeza Nasional, artigu 7.

<sup>10</sup>Haree mos Lei N° 3/2010 Li Defeza Nasional.

<sup>11</sup>Planu Estratájiku Seguransa Interna 2030.



## **State Sovereignty Organs with Security and National Defense Responsibilities**

Security provision and national defense is the responsibility of the state, to be executed by organs of the state, through policy development and implementation, administration, legislation and judicial control. The organs responsible for this are described below.

### **1. The President of the Republic**

The President of the Republic is the Head of State and the symbol and guarantor of national independence and the unity of the State and the smooth functioning of democratic institutions.<sup>12</sup> They are also the Supreme Commander of the Defense Force, must appoint and swear in the Prime Minister, Chair the Superior Council on Defense and Security, appoint and dismiss senior Defense Force leaders and approve or veto legislation drafted by the National Parliament.<sup>13</sup>

The President of the Republic also has powers under the National Security Law of 2010 to monitor the activities of security forces that make up the Integrated System of National Security, and take part in decision-making processes with regard to the joint deployment and control of security forces in times of crisis.<sup>14</sup>

### **2. The National Parliament**

In matters of National Security, the National Parliament has the political and legislative powers provided in the Constitution, inclusive of oversight of the Government's activities. This involves participation in decision-making processes and monitoring of decisions taken regarding the operational deployment of security forces that make up the Integrated System of National Security, especially in times of crisis and pursuant to the law, and partaking in debate and approval on National Security policy formulated by the Government.<sup>15</sup>

### **3. The Government**

The Government is responsible for guiding and defining policy in matters of National Security, guiding Public Administration in regards to fulfillment of the powers bestowed upon the entities and organs that make up the Integrated System of National Defence, whilst the Prime Minister is to chair the Inter-Ministerial Committee on Security.<sup>16</sup>

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<sup>12</sup>Konstituisaun Repúblika Demokratika Timor-Leste nian, artigu 74, n° 2

<sup>13</sup>Konstituisaun Repúblika Demokratika Timor-Leste, artigu 85, 86, 87, no 88. Haree mos Lei N° 3/2010 Lei Defeza Nasional, artigu 14 no 19.

<sup>14</sup>Lei N° 2/2010 Lei Seguransa Nasional, artigu 21

<sup>15</sup>Lei N° 2/2010 Lei Seguransa Nasional, artigu 22. Haree mos Lei N° 3/2010 Lei Defeza Nasional, artigu 15.

<sup>16</sup>Lei N° 2/2010 Lei Seguransa Nasional, artigu 23. Haree mos Lei N° 3/2010 Lei Defeza Nasional, artigu 16, 17 no 18.





#### 4. The Courts

The Courts shall have the power of legal oversight with regards to the activities of the various entities that make up and coordinate the Integrated System of National Security, namely through the initiatives of the Public Prosecution Service.<sup>17</sup>

#### **The Role of the Superior Council for Defense and Security**

Finally, the Superior Council for Defense and Security should be consulted during the development of defense and security policy, before final approval is granted and throughout the process of implementation. This is due to the Council's role as the consultative body for the President of the Republic on matters related to defense, security and sovereignty. The Council members have the collective expertise to advise the President of the Republic, who as Head of State and Supreme Commander of the Armed Forces has significant influence in the shaping and approval of defense and security policy. The Council is composed of the Prime Minister, the Ministers or Secretaries of State responsible for the areas of defense, justice, interior and foreign affairs, three representatives from the National Parliament, the Chief of Staff of the Defense Force, the PNTL General Commander, the National State Security Officer and two civilian representatives appointed by the President of the Republic.<sup>18</sup>

#### **Recommendations**

In conclusion, the development of effective security sector policy and its implementation is a critical priority for the newly elected President of the Republic. As Chief of State and Supreme Commander of the Defense Force, the President will be responsible under Article 85 of the Constitution for nominating the Prime Minister, Minister of Defense and Minister of Interior, and these choices will have a significant influence on the both the quality of advice the President will be privy too, and how effective the President and the Superior Council on Defense and Security will be in shaping and implementing effective and relevant security sector policy.

1. FM recommends the new Government prioritizes the development of cohesive and effective security and defense policy, rather than continuing with current policy and budgeting.
2. FM recommends that the successful Political Party prioritizes the development of the F-FDTL and PNTL, to ensure that they develop the capacity to provide for both national defense and internal security.

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<sup>17</sup>Lei N° 2/2010 Lei Seguransa Nasional, artigu 24.

<sup>18</sup>Lei Konsellu Superior Defeza no Seguransanian/2005, artigu 1 no 2.



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