



Fundasaun Mahein (FM), May 31st 2017

Press Release

Presidential Responsibilities for Defence, Security and International Policies

“Lessons from the Mandate of the President of the Republic 2012-2017”

The President of the Republic of Timor-Leste is responsible for ensuring national unity. As the Supreme Commander of the Armed Forces, the President of the Republic has absolute authority for the destiny of the state, national unity, security and national sovereignty. Only the President can declare war and make peace along with additional competencies according to the Constitution of the Democratic Republic of Timor-Leste (RDTL). In order to better ensure that the President is appropriately supported in their work, several organs of state are established to assist the President in institutional development and the prioritisation of public policy development. These include Casa Civil, Casa Militar, the Office of the President of the Republic and the Administrative Council.

FM's monitoring has identified that firstly, the Supreme Council on Defence and Security (Supreme Council) is an advisory organ for the President on defence and security. Yet this Council is not functioning effectively as regular meetings are not conducted. Data compiled by FM from 2012-2017 indicates that there were only 10 meetings during this period.

During the five year mandate of the President of the Republic during the VI Constitutional Government of Timor-Leste, 20 meetings of the Supreme Council should have occurred, as this is legally mandated. The Supreme Council is therefore not functioning according to its mandate.

Secondly, the President has sole authority under the Constitution to nominate and dismiss the Chief of Staff of the Armed Forces (CENGFA) and Vice CENGFA. This became controversial over the last two years, with disputes between the President, Government and National Parliament. The dispute resulted in protest by the CENGFA regarding his proposed dismissal by the President, and became a long-running dispute, with the President and Government eventually agreeing to revise legislation regarding the re-appointment of senior military officers.

The President additionally has responsibilities for the conduct of Timor-Leste's international relations. In regards to defence and security relations with other states, all such agreements should be made after consultation with the Supreme Council. However, FM notes that during the mandate of President Taur Matan Ruak, numerous protocols and memorandum of understandings were signed by the RDTL with friendly states, yet have still not been implemented. Taur Matan Ruak has also mentioned that the Ambassadors of these states have noted the lack of implementation. He also indicated these agreements were not discussed sufficiently during Superior Council Meetings, nor did the Government provide detailed information before these agreements were signed.

Fourthly, during the 2014-2015 joint operation between the PNTL and F-FDTL that resulted in the death of Mauk Moruk, a state of siege was not declared, despite the involvement of the F-FDTL. Strong protests against this were lodged by Civil Society Organisations (CSO) and the Ombudsman for Human Rights and Justice (PDHJ), concerning the use of force during the operation, and how this was outside both the rule of law and institutional guidelines regarding the legitimate use of force. This was also concerning at the community level of Timor-Leste, as this operation constituted bad practice at both the operational and policy level of the Timor-Leste security sector. The involvement of the F-FDTL in internal security operations is limited to a state of siege, after a declaration by the President.

Finally, FM's concern is that organs of state will continue to neglect their legal mandated responsibilities whilst further politicising the security sector. This will become a major challenge for effective security sector policy development in the future. These issues have been cited above. In the future senior military officers should not be allowed to maintain their tenure if dismissed, nor should any protests lodged to maintain their position be allowed, especially if in violation of the Constitution. The President of the Republic, as Supreme Commander of the Armed Forces, has sole authority under the Constitution to appoint and dismiss the Chief and Vice-Chief of the Armed Forces.

Recommendations

1. Effective communication is maintained between the President of the Republic and State security organs, wherein they are able to execute their responsibilities according to the Law and the Constitution.
2. The President of the Republic assesses the work conducted by the Supreme Council on Defence and Security, to ensure they are functioning effectively as the advisory body for the President on defence, security and national sovereignty matters.

3. Casa Militar maintains cooperation with CSO's to include their participation towards including constructive ideas for the institutional development of the Timor-Leste security sector. Also, that non-classified reports produced by Casa Militar are made publicly accessible, thereby increasing the accountability of Casa Militar and the President of the Republic for security and defence policy.

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