



Observations from Fundasaun Mahein on the Realisation of the First 120 Days Program of the IX Constitutional Government related to the Security and Defence Sector

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Photo IX Constitutional Government of Timor-Leste, 2023

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Introduction

With this report, Fundasaun Mahein (FM) shares observations made during the implementation of the First 120 Days Program of the IX Constitutional Government's related to the security and defence sectors. Several commitments were outlined in the IX Government Program, one of which is to "[c]onsolidate peace and security, necessary for national development, guaranteeing the rights, freedoms and fundamental guarantees of all citizens."¹

This report focuses on the 120 Days Program for the security sector institutions such as the Ministry of Defence, FALINTIL-Defence Force of Timor-Leste (F-FDTL), National Police of Timor-Leste (PNTL), National Intelligence Service (SNI), Scientific and Criminal Investigation Police (PCIC), and other issues related to justice and national security.

National Defence and F-FDTL

1) *Minister of Defence also functioning as F-FDTL officer*

On 18 July 2023, Presidential Decree N.º 63/2023 removed Commodore Pedro Klamar Fuik as F-FDTL Chief of Staff, effective from 30 June, and he began serving as Minister of Defence from 1 July. However, on 25 October, the Minister stated to Timor Post journalists that he had not left the armed forces and plans to resume serving as a military officer when his term as minister ends.

According to democratic principles and practices, professional military officers do not play a political or governmental role. The CAVR (*Chega!*) report stated that Timor-Leste must not repeat actions committed in the past by military personnel. This includes members of the armed forces serving in political roles. In the Indonesian New Order regime which existed up to 1998, the Chief of Staff of the Indonesian armed forces (*PANGLIMA ABRI*) also served as Minister of Defence and Security (*Menteri Pertahanan dan Keamanan*).²

2) *Proposal for "self-promotion"*

On 5 July 2023, the Minister of Defence gave a presentation at a meeting of the Council of Ministers proposing to promote himself to the rank of Counter-Admiral. The Council of Ministers sent the proposal to the President of the Republic and then consulted with the Supreme Council on Defence and Security. Finally, the proposal was approved under Presidential decree N.º 64/2023, promoting the Minister from the rank of Commodore to the rank of Counter-Admiral effective from 30 June 2023.³

¹ Summary of the IX Government's commitments for the first 120 days of its mandate.

<https://www.laohamutuk.org/misc/gov9/231107GoTL120-diasPt.pdf>

² CAVR (*Chega!*) report, 2005.

³ DECRETO DO PRESIDENTE DA REPÚBLICA N.º 64/2023, 18 de Julho. PROMOÇÃO DO COMODORO DONACIANO DO ROSÁRIO DA COSTA GOMES (PEDRO KLAMAR FUIK) PARA O POSTO DE CONTRA-ALMIRANTE.

Internal Security and PNTL

3) *Illegal reactivation of retired PNTL members*

The IX Government through the Ministry of Interior reviewed the retirement of 158 PNTL officers which occurred during the mandate of the VII Constitutional Government. The IX Government considered this as an “illegal process of forced retirement of 158 PNTL officers.” Under the 120 days program of the IX Government, the retired officers were recalled by Government Resolution N.º 43/2023 on 4 October. This decision caused significant controversy, and the Human Rights and Justice Ombudsman (PDHJ) requested that the Court of Appeal exercise its judicial oversight regarding the retirement of the officers. The decision of the court issued on 26 October stated that there was no illegality in the decision to send the officers into mandatory retirement.⁴ Therefore, FM requests that the Government respect the legal process and decision of the court, of which the Government and PNTL have been notified.

4) *Forcing PNTL and F-FDTL members to take oaths related to their involvement in martial and ritual arts*

Regarding violence occurring recently in several municipalities including Baucau, Bobonaro, Covalima, Dili, Lautem and Viqueque, many have implicated martial and ritual arts groups (MAGs) in these incidents. Therefore, the IX Government decided to suspend the activities of MAGs. In addition, several PNTL and F-FDTL have been implicated in MAG-related violence, and the IX Government as well as the security institutions will require members of the security forces with MAG connections to swear publicly that they will no longer be involved in these groups. The swearing of oaths will take place at the ceremony of the anniversary of the proclamation of independence on 28 November 2023.

The Prime Minister, Minister of Interior and Minister of Defence have prior experience related to the swearing of oaths by PNTL and F-FDTL members suspected of involvement in MAGs, which occurred before in 2015 at Palacio Governo. Despite members pledging not to be involved in MAGs, violence involving these groups continued, and the oaths also did not prevent members of the security forces (or other Government members) from participating in MAGs.

FM accepts the Government’s statement that “members of PNTL who have sworn to serve certain parties must either remove themselves from these oaths or resign from PNTL”. During FM’s monitoring during 2020-2023, we have frequently highlighted the necessity of depoliticising PNTL.⁵ Promises of promotions and increased responsibilities within PNTL are frequently tied to the interests of political parties in which the same PNTL members are also involved. PNTL must

⁴ Tribunal de Recurso. Proc. n.º 04/CONST/2023.TR. NUC: 0076/23.TRDIL

⁵ Fundasaun Mahein (2021). Vice-Minister of Interior Continues to Politicise the Security Sector. Available here: <https://www.fundasaunmahein.org/2021/09/28/vice-minister-of-interior-continues-to-politicise-the-security-sector/>

end such practices, which contradict the mission and identity of PNTL as non-partisan institution. PNTL must instead promote the values of integrity, professionalism, and non-partisanship.

Intelligence

As mentioned in the speech given by Prime Minister Xanana Gusmão in the swearing-in ceremony of the IX Constitutional Government, “reforms and restructuring of SNI” will take place during the 120 Days Program of the IX Government. On 1 September 2023, the Prime Minister issued Despatch n.º 005/GPM/IX/2023, relieving the Director-General of SNI Colonel Domingos da Camara “Amico” and two Assistant Directors-General from duty.

5) *Nominee for SNI Director-General involved in illegal arms case*

On 1 September 2023, the Prime Minister issued Despatch n.º 006/GPM/IX/2023 nominating Longuinhos Monteiro as Director-General (DG) of SNI and Egas Moniz as Assistant Director-General. The nomination of Longuinhos Monteiro has generated significant controversy within Timorese society due to his involvement in a case in which firearms were stored illegally in his homes in Loes, Liquicá and in Fomento, Dili. The Public Prosecutor has submitted the case to the court,⁶ but until now there has been no update regarding when the court will process the case in order to reach a verdict.

6) *Nominee for Assistant DG of SNI suspected of embezzlement, abuse of power and financial fraud*

As part of the 120 Days program, the Prime Minister nominated the previous Assistant DG of SNI Egas Moniz to resume the same position. FM observes that the Assistant DG of SNI is suspected of involvement in the crimes of embezzlement, abuse of power and fiscal fraud during his previous term, and that a case has been opened with the reference number NUK 0274/22.PCCIC.

7) *Publication of classified information*

Prime Ministerial Despatch N.º 09/GPM/X/2023, published in the *Jornal da República* on 13 October, and also available online,⁷ orders SNI to conduct intelligence operations at border posts to support the supervision and coordination of activities taking place under the scope of the Integrated National Security System (SISN). The publication of Despatch N.º 09/GPM/X/2023 is a serious violation of Law N.º 9/2008 on the National Intelligence System of the Democratic Republic of Timor-Leste and Decree-Law N.º 3/2009 on the National Intelligence Service, which clearly state that all SNI activities are classified as State Secrets.

⁶ Timor Post, 17 November 2023

⁷ Prime Minister Despatch N.º 09/GPM/X/2023. Access here:
https://www.mj.gov.tl/jornal/public/docs/2023/serie_2/SERIE_II_NO_41_A.pdf

Criminal Justice and Investigation

8) *Assistant Director of PCIC was dismissed, while the Government has maintained the PCIC Director who should have been dismissed*

FM notes that during its first 120 days, the IX Government dismissed Assistant Director of PCIC Adino Cabral. Based on FM's monitoring of PCIC's performance, this dismissal lacked a clear basis. However, FM wonders whether the decision is related to the fact that the Assistant Director led the operation and investigation into the cases of illegal firearms in Loes, Liquicá and Fomento, Dili. In FM's view, the Government should dismiss PCIC's Director, given that he facilitated the provision of a firearm to his son to practice shooting in PCIC's training centre in Liquicá. Numerous other violations have occurred within PCIC under the current Director, which FM described in detail in our previous report.⁸ FM sees that these incidents have occurred due to several factors relating to the leadership of PCIC, particularly the leader's inability to enforce laws and rules governing PCIC operations, as well as the failure to work impartially and prevent discrimination against subordinates related to training opportunities.

9) *Political intervention in court decisions*

During the first 120 days, the Prime Minister intervened in the court's decision in relation to a land dispute in Becussi, Becora, Dili. FM observed that this intervention has not contributed to the development of the principle of Democratic Rule of Law, and has instead created a precedent which can lead to reduced respect for law, while enhancing personalised power. Respect for law and court decisions is a fundamental principle of democratic life. The power given to political leaders by the people must be exercised in accordance with the law, not the whims of any individual leaders.

Martial and Ritual Arts Groups

10) *Suspension of martial and ritual arts*

From a total of fifty-four violent incidents involving MAG members registered during the mandate of the IX Government, four people were killed, twenty-six were seriously injured, and serious damage was inflicted on property including twenty-one houses and ten vehicles. On 8 November 2023 the Council of Ministers approved Government Resolution N.º 45/2023 to Suspend Teaching, Learning and Practicing of Martial Arts and the Adoption of Measures to Secure Public Order.

FM observes that the IX Government led by Prime Minister Xanana Gusmão and Interior Minister Francisco Guterres have prior experience regarding the suspension and "extinction" of martial

⁸ Fundasaun Mahein (2023). Conduct a thorough investigation to accelerate the reform of PCIC. Available here: <https://www.fundasaunmahein.org/2023/10/05/conduct-thorough-investigation-to-accelerate-reform-of-pcic/>

and ritual arts groups between 2008 and 2017.⁹ This experience illustrates that “suspension” and “extinction” by the Government does not resolve the problem of violence involving MAG members. During the period of suspension and extinction, clandestine martial arts practices continued, while incidents of violence involving group members also did not end.

In FM’s view, the problem of violence between MAGs is not caused by the groups as such, but rather is the result of several structural factors which promote violence in Timorese society, most importantly the lack of presence of formal state institutions, as well as the lack of employment opportunities and other gainful activities for youth, weak formal education, and the absence of coordinated policies or programs which can guarantee the participation of the youth in the development process.

Rather than attempting to cause the “extinction” of martial and ritual arts by force, FM believes that the correct response to violent incidents involving MAG members is for the Government via the Regulatory Committee for Martial Arts (CRAM) to work with PNTL and community leaders to rigorously control and monitor martial arts activities. In this way, these authorities can guide these activities so that they fulfil their original purpose, while minimising violence between members of different MAGs. At the same time, the Government must create an integrated plan to guarantee youth participation in development, including provision of facilities for youth, opportunities for training and education, and employment opportunities across the country. For many years, FM has lamented the lack of any National Youth Policy which can guarantee the full participation of all Timorese youth in the national development process, thereby promoting peace, stability and inclusive economic development.

Conclusion

In conclusion, FM has identified ten programs or actions related to security and defence which the IX Government has implemented during the first 120 days of its mandate. Sadly, we observe that these many of these actions have been characterised by controversy, irregularities, impunity, illegality and political interference in the judicial process. We are also reminded of experiences during previous governments which failed to resolve the problem of youth and MAG-related violence.

When the Government includes individuals who are implicated in or suspected of serious crimes, and such individuals continue to be nominated for leadership roles within state institutions, institutions become discredited in the eyes of the public. Furthermore, political interference in the security sector and justice system threatens democratic principles and national security. FM therefore urges the Government to respect court decisions, ensure that legal processes reach their conclusion, and refrain from nominating individuals suspected of serious violations to key state offices.

⁹ RESOLUÇÃO DO GOVERNO N.º 16 /2013 de 10 de Julho, Extinção de Grupos de Artes Marciais

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