

# SECURITY SECTOR REFORM MONITOR



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## INTRODUCTION

Timor-Leste is currently calm and relatively stable compared to the 2006–2007 crisis period, but is still widely seen as fragile. In the security sector, this fragility leads many observers to highlight the challenging relationship between the armed forces (Forças de Defesa de Timor-Leste – F-FDTL), and the police (Polícia Nacional de Timor Leste –PNTL) as the most significant threat to national stability.<sup>1</sup> The UN Secretary-General, in his latest report to the Security Council, acknowledges that:

Institutions are still fragile, including those in the security and justice sectors, and how well they could withstand another major crisis remains uncertain [...]. In addition, many of the other underlying factors that had contributed to the 2006 crisis remain, despite important measures taken to address some of them [...]. Whatever weight is attributed to the various factors contributing to the 2006 crisis, it is unlikely that they will be fully resolved by 2012. (UNSC, 2010a: 172)

Despite indications of positive improvements in the security sector, the institutional rivalries between the F-FDTL and PNTL remain largely unresolved,<sup>2</sup> and few of those responsible for the 2006 crisis have been brought to justice.

<sup>1</sup> Interviews with Arsenio Bano, vice president of the FRETILIN party (opposition), Member of Parliament (Parliamentary Committee B for Defence and Security); Fernanda Borges, president of the PUN party (opposition), Member of Parliament (president of Parliamentary Committee A on Constitutional Issues, Justice, Public Administration, Local Government and Government Legislation) and the director of a leading national NGO, Dili, 2010.

<sup>2</sup> Interviews with Arsenio Bano; Fernanda Borges, and the director of a leading national NGO, Dili, 2010.

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Cover Photo: A Thai UN Police officer (front, left) and an officer with the Vulnerable Persons Unit of the Polícia Nacional de Timor-Leste (PNTL), at right, respond to a domestic abuse case in Gleno, Timor-Leste, in which a seven-year-old girl was subject to beatings by her grandfather (pictured second from right). UN Photo, 2010.

## ABOUT THE SSR MONITOR

The *Security Sector Reform Monitor* is a quarterly publication that tracks developments and trends in the ongoing security sector reform (SSR) processes of five countries: Afghanistan, Burundi, Haiti Southern Sudan, and Timor-Leste. Every quarter, there will be separate editions for each case study country. Adopting a holistic definition of the security sector, the *Monitor* will cover a wide range of actors, topics and themes, from reforms in the rule of law institutions and armed forces to demilitarization activities and the role of non-statutory security and justice actors.

Research for the *Monitor* is field-based: a resident researcher in each case study country leads data collection and analysis, with support from desk-based analysts at The Centre for International Governance Innovation (CIGI). The same research guidelines are employed for each country. All editions of the *Monitor* are subjected to an external peer review process in addition to our internal editorial review.

Accountability is critical for the security sector, particularly for the wrongs perpetrated by the police and armed forces during the 2006 crisis. The growing culture of impunity since the 2006 crisis will be detrimental to the security sector's future development. The absence of effective judicial deterrence may escalate political violence, particularly if it involves the security agencies and especially during the forthcoming expected election period until 2012.

This edition of the *Security Sector Reform Monitor: Timor-Leste* examines the rise of national government ownership of the security sector reform (SSR) process, which has resulted in the exclusion of certain national communities due to a lack of broad consultation, and also of the international community from making substantive contributions. Two long-awaited major developments in SSR have already occurred in 2010: the submission of the first draft of the National Security Policy (NSP) and the National Parliament's passage of the ruling Parliamentary Majority Alliance (AMP) party's legislative framework for the security sector in March 2010. Past experience has shown, however, that laws are often not followed or even disregarded in Timor-Leste. Implementing this security sector legislation properly will be a significant test in establishing the rule of law in Timor-Leste. Clearly delineating roles for the F-FDTL and PNTL will be critical not only in developing legal frameworks, but, most importantly, in the actual coordination and operational arrangements of the security agencies.

Currently, PNTL militarization, reflected in the recent launch of large-scale special police operations, is the most important security sector development, which presents many concerns. This (re)emerging trend may exacerbate not only internal PNTL divisions but also tensions with the F-FDTL. The case of special police operations demonstrates that any blurring of mandates or political interference in the respective internal security roles of the security agencies may lead to renewed tensions between

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the F-FDTL and PNTL. It remains unclear whether the new security laws will address concerns about paramilitary policing on the ground. This situation underscores the need for a review of paramilitary policing and a drastic reduction in the number of PNTL weapons in a country with few illicit firearms.

## THE SECURITY ENVIRONMENT

### ENTERING AN ELECTION PERIOD

General improvements in the everyday security situation in Timor-Leste are widely recognized. Prime Minister Gusmão, in his recent presentation of the 2010 budget to the National Parliament, recognized the AMP coalition government's restoration of "stability and security in the country – streets are no longer deserted at dark, with whole families enjoying a true feeling of freedom and security, both in Díli and in the districts," but later cautioned in the same speech that Timor-Leste "must absolutely take precautions to prevent crises that, given Timor-Leste's still fragile state, may prove dangerous" (Gusmão, 2009). A clear indicator of the stable security environment, the Timorese government successfully held village council elections in 442 villages across the country on October 9, 2009, without any significant security incidents.<sup>3</sup>

Timor-Leste, however, is due to enter a prolonged election period: national presidential and parliamentary elections will be held in 2012 followed by phased municipal elections from 2013 onwards. Unlike the village council elections in 2009, national political parties will be fully involved in national elections and phased elections in 13 new municipalities. The politicization of candidates and campaigns during the forthcoming election period may lead to increased political tensions as national parties and local-level political actors will compete intensely for political power. In addition to deep and often historic political divisions, including at the local

<sup>3</sup> The AMP coalition government's electoral law "de-politicized" the village council elections by barring candidates from associating with political parties, in order to mitigate against local political tensions.

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level, the recent AMP policy of infusing massive amounts of funds into the economy from state petroleum revenues, often through government infrastructure contracts, will also raise the stakes compared to previous elections.

## SSR RESOURCE CENTRE

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

On April 28th The Centre for International Governance Innovation (CIGI) launched an exciting new initiative, the **SSR Resource Centre**. The Resource Centre is a website intended to serve as a hub and meeting place for SSR practitioners, analysts, policy-makers and interested observers from across the world. It features:

- A blog highlighting recent developments in the SSR field;
- A calendar listing SSR-related events across the world;
- Country profiles for countries/regions undergoing SSR;
- Multimedia content, including video and audio interviews of SSR experts; and
- Access to CIGI's SSR research, including the quarterly *SSR Monitor*.

The site will be dynamic – updated daily – and interactive – with all blog pages comment-enabled and external contributions welcomed.

To enter the SSR Resource Centre, please visit:

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

During the 2006 crisis and the 2007 national elections, certain political actors manipulated contentious issues, including the dismissal of F-FDTL soldiers, east-west regional divisions, and F-FDTL-PNTL tensions, for political gain, often fuelling violence. Many of those underlying issues have not yet been fully addressed. The lack of accountability, particularly for the 2006 crisis, means that in effect there is now *less* deterrence against

political violence from the justice system than previously, particularly in the security services.<sup>4</sup> The east-west divide remains dormant, but recent disputes over police promotions have demonstrated that the issue can easily re-surface. Local and national political opportunists from most national political parties may attempt to re-ignite that politically divisive and potentially explosive issue during future elections.<sup>5</sup> Against this backdrop, concerns remain about the political neutrality and professionalism of individuals or sections of the PNTL and F-FDTL in the event of heightened political tensions during the electoral process.

## THE SECURITY SECTOR REFORM PROCESS

The concept of SSR gained little traction and was limited to specialist use in the early development of the Timorese security sector. Indeed, “the phrase only gained currency in the aftermath of the 2006 crisis” (Peake, 2009: 215). The secretary of state for defence insists that “security sector reform and development” is currently being undertaken in Timor-Leste.<sup>6</sup> However, some critical observers maintain that there has been no reform but only security sector expansion in the post-crisis period.<sup>7</sup> In fact, after four years of discussions, the practical concept of SSR in Timor-Leste remains confused and differs widely between the various national and international actors.

## WHITHER SSR?

After the political violence between the F-FDTL and PNTL during the 2006 crisis, the “promotion” of SSR in Timor-Leste was primarily based on a broad consensus

<sup>4</sup> Interviews with Arsenio Bano; Fernanda Borges, and the director of a leading national NGO, Dili, 2010.

<sup>5</sup> Interviews with Júlio Tomás Pinto, secretary of state for defence; Arsenio Bano; Fernanda Borges, Dili, 2010.

<sup>6</sup> Interview with Júlio Tomás Pinto, Dili, 2010.

<sup>7</sup> Interviews with the director of a leading national NGO and international officials and observers, Dili, 2010.

concerning the urgent need to de-politicize, professionalize and establish full civilian control over the F-FDTL and the PNTL. Political interference in the security sector and the uncontrolled use of state semi-automatic weapons during the 2006 crisis had led to calls to disband PNTL paramilitary units. More extreme critics of the F-FDTL questioned whether the half-island state without any obvious external threats even required a national army. Most Timorese, however, hold starkly different perceptions of external security threats after years of colonization, military occupation and resistance.

Four years after the 2006 crisis, PNTL Special Police Units (SPU) are increasingly visible and the F-FDTL's role has been seen by some observers to expand with the domestic deployment of F-FDTL platoons, ostensibly to support PNTL border police,<sup>8</sup> and in response to natural disasters and other internal security functions. For many observers, the expansion infringes upon the police's mandate. In fact, for district populations at large, particularly in Dili, everyday sightings of armed F-FDTL soldiers and PNTL officers, including paramilitary police units with semi-automatic assault rifles and district task force units in riot-gear have increased substantially since the 2006 crisis. Further, the recent “ninja” operations suggest that the PNTL remains not only without effective civilian control — no executive authorization or parliamentary debate contributed to the decision to launch the large-scale police operations — but also prone to political manipulation as local political leaders seemed to use PNTL operations to target the support-base of the political opposition.<sup>9</sup> These trends and developments in the security sector explain the general confusion over what SSR is and whether it is happening or if it ever even began in Timor-Leste (see Peake, 2009).

<sup>8</sup> F-FDTL members have been deployed in Bobonaro and Covalima border districts since early 2009 but not Oecussi district. Two F-FDTL posts have been established a few kilometres behind a PNTL Border Police post close to the land-border with Indonesian West Timor. It remains unclear whether the F-FDTL deployment will remain a full-time reality.

<sup>9</sup> Interviews with Arsenio Bano; the director of a leading national NGO; international officials and observers, Dili, 2010.

## THE POLITICS OF SSR

SSR has been a sensitive and controversial issue in Timor-Leste, due largely to the inherently political nature of the process. Despite the initial high expectations of the international community, the “comprehensive security sector review” to assist the Timorese government with SSR, as clearly defined in the United Nations Mission in Timor-Leste (UNMIT) mandate, failed early on to gain significant momentum, arguably due to political complexities and the absence of early action by UNMIT (Della-Giacoma, 2009; Peake, 2009). The comprehensive security sector review has been planned since 2007, but has stalled due to a subsequent lack of attention from the Timorese authorities. UNMIT continues to identify the completion of the review in its priorities for the next two years (UNSC, 2010a). A broad public perception survey of the security sector, after long delays, has recently begun following a range of political and administrative complications.<sup>10</sup> However, the gradual “sidelining” of UNMIT by the national authorities on SSR issues and the lack of progress on the review calls into question whether the UN will be able provide substantive support to SSR in Timor-Leste apart from small development grants, and whether the time for the review has not already passed (see Della-Giacoma, 2009; Funaki, 2009).

The sidelining of UNMIT can be explained by the national leadership's intentions to fully control the SSR process. The political complexities of SSR, and, perhaps, perceived international interference, led the AMP government, and the president, to assume greater national political ownership of the process in recent years. The secretary of state for defence writes that SSR “will necessarily take its time, as only we can find what is good for Timor-Leste” (Pinto, 2009). In 2007, the national authorities established a system of national SSR committees, characterized by the

<sup>10</sup> Interviews with the director of a leading national NGO and international officials and observers, Dili, 2010.

secretary of state for defence as “a strictly Timorese team” (Pinto, 2009; see also ICTJ, 2009: 18). The top echelon comprises the president, prime minister and the president of the Parliament. The second tier includes the secretaries of state for defence and security as well as the F-FDTL commander and PNTL commander-general, while the third-tier SSR working committee includes civil servants. The tiered system of SSR committees is arguably a positive manifestation of the political will of the national authorities to take ownership of the process, but also effectively excludes the UN and the international community, as well as broad sections of national civil society.

Funaki notes specific concerns with the current national ownership of the SSR process:

There is strong government ownership for reform, albeit in a direction that may not be in full agreement with international priorities, and which leaves aside fundamental problems like the division of responsibility between the military and police. Broader and deeper local ownership, however, has not been a priority. Public concerns, including accountability, access to justice and the role of traditional institutions have yet to be sufficiently embraced by the government. (Funaki, 2009: 13)

Despite the limitations, the UN will likely continue to contribute to the SSR process, increasingly through long-term developmental support, but there are few signs of political influence or leverage by the UN. The secretary of state for defence highlighted how national civil society was included in the AMP SSR process in working groups on the National Security Policy.<sup>11</sup> Broader and deeper national ownership or consultation regarding SSR will unlikely occur, and it is improbable that sections of the rural and youth majorities of the national population will

be represented, apart from a small number of nominated NGO representatives in Dili.

At the Timor-Leste and Development Partners meeting in April 2010, the NGO Forum “commended the inclusion of NGOs in the national priority working group discussions,” but also stated:

...we also find elite groups—national and international—discussing security reform in Dili, isolated from public scrutiny, national opinion, and those the reforms are intended to benefit. Citizens, not only elites and active members of civil society organizations, must be engaged in making decisions, not locked out of discussion. (NGO Forum 2010)

According to one long-time analyst, SSR has been “appropriated by the established political elite” — a process that initially began in 2000 during the UN transitional period.<sup>12</sup>

Efforts towards broad consultation in communities and with special interest groups, such as women’s or veterans groups, to seek consensus on SSR issues, would improve the national legitimacy of the security sector. The NGO Forum recommended that “senior representatives of the security forces publicly debate the role of the security forces with the citizenry across Timor-Leste, and sit in local, public forums to identify the best ways the state can provide security” (NGO Forum, 2010).

With the recent passage of new security laws, public information campaigns in communities to facilitate the “socialization” of the laws, if they occur, will instead serve to replace any broad consultative process. Broad consultations in communities and with special-interest groups on the National Security Policy may occur prior

<sup>11</sup> Interview with Júlio Tomás Pinto, Dili, 2010.

<sup>12</sup> Interview with a long-time international observer, Dili, 2010.

to its formal approval; though it is unlikely, it should be strongly encouraged. The lack of genuine national ownership and consultation on the process may undermine future implementation efforts.

## SECURITY SECTOR ARCHITECTURE

According to the secretary of state for defence, formulating a National Security Policy and new security laws for the security sector are critical for the SSR process to provide an overarching legal framework for security sector development and coordination.<sup>13</sup> Specific recommendations for an NSP and related security sector legislation had been advanced to the pre-2006 FRETILIN government by the UN and others, and, in particular, in assessments after the 2006 crisis (Wilson, 2009: 9; UNCOI, 2006).

In early 2010, the first draft National Security Policy was submitted to the Council of Ministers for discussion.<sup>14</sup> The NSP is intended for final submission, to the National Parliament, presumably for debate, after its approval by the Council of Ministers.<sup>15</sup> While the NSP would normally provide policy direction for the development of the security sector's legal framework, the National Parliament passed the government's legislative framework of security law—the National Security Law, National Defence Law and the National Internal Security Law—after debates between March 1-16, 2010.

During the debates, opposition parliamentarians raised specific concerns that the security legislation had been completed without an overarching national security or defence policy and without broad public consultations.

<sup>13</sup> Interview with Júlio Tomás Pinto, Dili, 2010. The secretary of state for defence also highlights the passage of laws in relation to the F-FDTL and PNTL career, salary and promotion regimes as well as laws for the military police, veterans and the revision of the military service law from conscription to voluntary recruitment as significant achievements in SSR (Pinto, 2010).

<sup>14</sup> It should be noted that the drafting process for the first draft of the NSP included consultations and inputs from UNMIT, international advisers and national civil society representatives.

<sup>15</sup> Interview with Martinho Gonçalves, director for Strategic Planning and International Policy, Office of the Secretary of State for Defence, Dili, 2010.

Apart from the sequence of policy to legislation, questions have arisen about the continuity and linkage between the National Security Policy and the security laws due to the separate drafting processes.<sup>16</sup>

For the state secretary for defence, the importance of the proposed “Integrated System of National Security” in the NSP and the National Security Law is that it will enable state security agencies to “work together” for security, utilizing scarce state resources.<sup>17</sup> F-FDTL and PNTL cooperation during the Joint Command in 2008 is an example of the success of an integrated approach to security.<sup>18</sup> The recent deployment of the F-FDTL to support PNTL operations against “ninja gangs” clearly demonstrates the integrated approach in using the armed forces to address an internal security situation, namely, criminal gang activity.

## THE DRAFT NATIONAL SECURITY POLICY

For the secretary of state for security, the National Security Policy's purpose is not only to identify threats and formulate appropriate responses, but also “to regulate the coordination mechanisms between state institutions and civilian oversight over security agencies” in the country (Guterres, 2009). The draft NSP is frank in its recognition of sectoral weaknesses, including enhancing coordination and cooperation between the F-FDTL and PNTL, and strengthening civilian oversight of the security services (NSP, 2010).<sup>19</sup> The analysis of security threats acknowledges that invasion by neighbouring countries is improbable, and highlights transnational threats such as terrorism, smuggling and trafficking. The analysis of

<sup>16</sup> Interview with a long-time international observer, Dili, 2010. Wilson notes that “rather than this being a sequential and coordinated process the national security policy was drafted by advisors in the Office of the Secretary of State for Security while the national security law was drafted in the Office of the Secretary of State for Defence” (Wilson, 2009b: 9).

<sup>17</sup> Interview with Júlio Tomás Pinto, Dili, 2010.

<sup>18</sup> Interview with Júlio Tomás Pinto, Dili, 2010.

<sup>19</sup> The Draft National Security Policy was provided to the Security Sector Reform Monitor by Martinho Gonçalves, director for Strategic Planning and International Policy in the Office of the Secretary of State for Defence. References and quotations are from the unofficial translation of the Portuguese text.

national security threats is of particular interest: “Recent events in the state-building process have shown that the most significant threats to security are of an internal nature ...The volatility that is typical of post-conflict societies determines the precarious nature of the security situation” (NSP, 2010: 6.2.4). Thus, the NSP’s threat analysis articulates the proposed “Integrated System of National Security,” which is further detailed in the draft National Security Law.

## NATIONAL SECURITY LEGISLATION

According to the secretary of state for security, the National Security Law (NSL) clarifies “the respective roles of our security agencies to define their areas of responsibility, and where they will work together” (Guterres, 2009). It emphasizes integrating security agencies by using examples of the growing integration of the defence and security portfolios under the recently established Ministry of Defence and Security, and the integration of the F-FDTL and PNTL under the Joint Command in 2008. The “Integrated System of National Security” coordinates the activities of the F-FDTL, PNTL and civil protection, similar to “Homeland Defence” (NSL, 2009: 1). An Integrated National Security Plan is aimed at “the strengthening of the collaboration between F-FDTL and PNTL” and other agencies in the integrated system (NSL, 2009:19a).

As a concrete example of the “integrated system,” an Integrated Crisis Management Centre (ICMC) will facilitate technical and operational coordination of the F-FDTL, PNTL and other agencies (NSL, 2009: 29). In addition to an important coordination role during natural disasters and humanitarian crises, the ICMC will also “monitor any serious threats to internal security” and “develop conflict prevention strategies” (NSL, 2009: 29). Critics, however, view these functions as further indication of the intention to integrate the F-FDTL and PNTL in internal security

matters.<sup>20</sup> It is encouraging that several parliamentarians called for the National Parliament to be more engaged in providing civilian oversight of the Integrated Plan of National Security during the recent parliamentary debates. Whether effective civilian oversight of the integrated approach to security provision will occur, however, remains to be seen. This is largely due to the technical limitations of most parliamentarians in their ability to engage with such a legally contentious issue.<sup>21</sup> Security laws remain controversial due to the lack of substantive clarification or delineation of the F-FDTL and PNTL’s roles in the new security sector arrangements. Wilson provides insightful analysis of the laws:

Although the new suite of legislation recites the constitutionally separate roles of the two institutions (to the point of monotony), it does nothing to clarify the situation as all attention is on the extraordinary, rather than on the everyday mechanisms of managing security. The National Security Law, rather than comprehensively examining security provision at a national level only regulates the joint deployment and operation of the F-FDTL and PNTL. As well as explicitly valorising the model of the Joint Command, it is made clear that this will form the model for national security and internal security in the future. (Wilson, 2009: 10)

In late 2009, the UN position on the security laws as provided to the national authorities recommended that “the proposed mechanisms for parliamentary oversight could be strengthened, and provisions dealing with crisis situations must clearly articulate the different roles and responsibilities of the F-FDTL and the national police, in conformity with the Constitution of Timor-Leste” (UNSC, 2009).

<sup>20</sup> Interview with Fernanda Borges; civil society representative; international officials and observers, Dili, 2010.

<sup>21</sup> Interview with Fernanda Borges, Dili, 2010.

Moreover, prior to the passage of the security laws, the UN Secretary-General reported to the Security Council on February 12, 2010 that despite efforts by the government and the Office of the President, and despite “substantial support” from UNMIT to define the roles of the security agencies in the laws, “as yet, these draft laws do not fully set out a clear delineation of roles between the F-FDTL and the PNTL, but it is anticipated that subsidiary legislation will further address [the issue]” (UNSC, 2010a: 37).

It remains to be seen whether subsidiary legislation will properly address the issue, and, if so, whether the security laws and subsidiary legislation will be effectively implemented in the security sector, particularly in the increasingly integrated system governing the F-FDTL and PNTL in internal security matters and other areas.

## REMAINING CHALLENGES TO THE SECURITY SECTOR

Despite this criticism, and the absence of broad national consultation on the NSP and related security sector legislation, passage of the legislation, and, to a lesser extent, finalization of the NSP, will be a significant step in the SSR process. It will be a significant development for the AMP coalition government and the broader security sector. Nevertheless, the security sector will likely face immediate problems in implementing the laws because they refer to “outdated governmental structures [and] create an extraordinary number of new bodies for [such] a small nation” (Wilson, 2009: 8).

In addition, the security sector and its security providers continue to face serious challenges in institutional capacity, internal accountability mechanisms and professionalism. However, the biggest challenge to implementing the legislative framework for security will be the increasingly entrenched lack of accountability in the security sector in recent years, particularly with regard to internal

discipline, human rights abuses and criminal prosecutions. Even though legislation is passed, policy is approved and accountability mechanisms are established, precedence is given to personal, institutional and political agreements. Consequently, the rule of law is being bypassed not only for broad political reconciliation or political balance, but also for personal allegiance and institutional cohesion (see below and also ICTJ, 2009: 20).

It is against this backdrop that recent developments in the security sector such as the militarization of the PNTL and the potential for renewed F-FDTL-PNTL rivalries present serious concerns regarding the advancement of SSR and the broader security environment.

## DEVELOPMENTS AND TRENDS IN THE SECURITY SECTOR

### NINJA OPERATIONS

Recent large-scale PNTL operations against “ninja gangs”<sup>22</sup> in the western border districts is a major development in the security sector and security environment.<sup>23</sup> After two unrelated murders in the remote border area and alleged intimidation by criminal elements associated with dissident political groups,<sup>24</sup> 120 PNTL from the new PNTL Unidade

<sup>22</sup> In recent years, “ninja gangs” have commonly referred to groups of petty criminals operating at night with covered faces. Pro-Indonesian gangs with army links reportedly used “ninja” tactics from the early 1990s until the 1999 referendum. Since 1999, frequent rumours of “ninjas” have been commonplace in remote areas of the country often without much basis other than perhaps petty crime.

<sup>23</sup> It should be noted that reports and rumours of “ninja gangs” in several other districts have rapidly escalated in Parliament plenary sessions and in the media since the police operations against “ninja gangs” in the two border districts began. This may be indicative of localized targeting of criminal gangs as the PNTL is demonstrating a heavy-handed “show of force” in its current “ninja” operations.

<sup>24</sup> The “ninja gangs” referred to here can be explained as a mixed bag of criminal elements with overlapping linkages to the Committee to Defend the Democratic Republic of East Timor (CPD-RDTL) and Bua Malus political/ritual groups, which have a long and perplexing narrative history in those remote areas. With origins in the resistance period, these groups are nothing new, but would have loose political allegiances to the FRETILIN political party and the FALINTIL resistance rather than AMP political parties due to their resistance origins. Their membership is often fluid between remote communities in those mountain areas. Authorities consider the groups a long-term problem for allegedly being involved in extortion albeit unarmed. Previous governments have targeted such groups for alleged criminal activities but also political activities, particularly CPD-RDTL for its refusal to accept the legitimacy of the State of Timor-Leste. In the current operations, these groups have become synonymous with “ninja gangs.”

Especial de Polícia [Special Police Unit] (SPU) along with 100 district PNTL officers were deployed to identify “ninja” groups in the community on January 23 (HAK, 2010). Reports of alleged police abuses, illegal detentions and political targeting began to surface (HAK, 2010). Leaders of the Committee to Defend the Democratic Republic of East Timor (CPD-RDTL) claimed that they were abused by the PNTL, including forced detention, beatings, forced confessions and death threats (Suara Timor Lorosae, 2010). After four weeks, PNTL General Commander Monteiro announced that 118 people had been apprehended to help in police inquiries while seven men who “engaged in ninja activities” were being held in pre-trial detention; a further 448 people had voluntarily surrendered to the PNTL (Diario Nacional, 2010a).

As outlined in the previous edition of the *Security Sector Reform Monitor: Timor-Leste*, the UN Police (UNPOL) has primary policing authority over the PNTL in Timor-Leste (CIGI, 2009). The government and the PNTL general commander want to expedite the resumption of policing authority. According to the UN, there is a strong possibility that the phased resumption of policing authority from UNPOL to the PNTL will be completed by the end of 2010 (UNSC, 2010b).<sup>25</sup> The two border districts where special police operations are currently being conducted remain under UN policing authority. UNPOL, however, is not involved in the ongoing PNTL special operations, which are instead being led by the PNTL general commander, himself largely relying on the PNTL SPU. In fact, the PNTL SPU was recently assessed by a Joint Government-UN Technical Team as not having met the criteria for the resumption of policing authority (UNSC, 2010b).<sup>26</sup> The current “ninja operations” thus support some analyses that

## BOX 1: PNTL EXCESSES

In the first months of 2010 a great deal of negative public attention has been focused on PNTL actions. The fatal shooting of a young man by a Dili PNTL officer during a police response to a fight at a Christmas party led to strong public criticism of the police for regularly resorting to excessive force. The PNTL officer was suspended and the case quickly referred to the public prosecution service for criminal investigation, but it remains unclear when the case will be prosecuted. The acting President of the Parliament, aligned with the AMP coalition government, called for an investigation into the police response with automatic weapons (Timor Post, 2009). The question is being asked why the PNTL respond with semi-automatic assault rifles to everyday incidents that do not involve the use of firearms.

In another high-profile case of PNTL excessive force in early 2010, video footage surfaced showing PNTL officers seriously assaulting a solo student demonstrator carrying an apparently inoffensive placard in November 2009. The footage also shows a UN police officer observing the incident without intervening. The Parliamentary Defence and Security Committee launched an investigation into the incident (Diario Nacional, 2010). Parliamentarians, the media and civil society are often critical of such PNTL cases, but it remains unclear to the public whether disciplinary or criminal investigations will proceed to hold PNTL officers accountable for their actions. Such a perceived lack of accountability in the PNTL has existed for several years.

<sup>25</sup> In addition to the national police training centre, the PNTL maritime unit and the PNTL intelligence service, as of April 16, 2010, PNTL has resumed primary policing functions in six out of 13 districts in the phased district resumption process.

<sup>26</sup> The incoming SRSG informed the Security Council that “the team concluded that Dili and the Special Police Unit do not yet meet the criteria for resumption and require further measures to strengthen capacities, while Ermera has met the criteria. As per the usual practice, action plans for Dili and the Special Police Unit will be developed and implemented to prepare them for resumption” (UNSC, 2010b).

UN Police authority over the PNTL is essentially “fictive” (Wilson and Belo, 2009; ICG, 2009).

Moreover, the operations have confirmed several observers’ fears that the PNTL is returning to a pre-2006 crisis stance of politicization, militarization and increasing rivalry with the F-FDTL.<sup>27</sup> Human rights monitors raised concerns that the PNTL operation was being manipulated by political parties ahead of municipal elections scheduled for 2010 (HAK, 2010). National politicians and observers, as well as PNTL and F-FDTL officers, question whether the “ninja” threat really exists, and why the long-term problems have not been dealt with as a routine policing matter by district PNTL officers. Observers suggest the PNTL general commander launched the large-scale special police operation in an attempt to counter public criticism of recent PNTL cases of abuse, to strengthen the weak image of the PNTL and to provide training, as well as daily stipends, for the PNTL SPU.<sup>28</sup> Allegations of excessive use of force and politically motivated targeting of local groups, however, seem to have undermined any original intention to improve the image of the PNTL (HAK, 2010).

## THE RETURN OF JOINT OPERATIONS?

As confusion and criticism of the nature of the PNTL “ninja” operations mounted, the F-FDTL commander announced that 200 soldiers were to be deployed “to support the national police to hunt down local ninja gangs” (Timor Post, 2010). According to the secretary of state for defence, the F-FDTL deployment to the area was merely unarmed “civilian support” to “build roads” and to promote the national security role of the F-FDTL in remote communities, but also served as “training for F-FDTL and PNTL to integrate their work.”<sup>29</sup> Field reports indicate that the F-FDTL deployment is separate from the PNTL

deployment, involving community engagement rather than police-type operations. The arrival of two deployments of F-FDTL troops had calmed the aggressive posture of PNTL operations, perhaps due to the F-FDTL’s reputation of strength compared to the perceived institutional weakness of the PNTL, but also as a result of previous institutional rivalries.<sup>30</sup>

Various sources have confirmed that F-FDTL officers had been concerned with the posture of the PNTL SPU’s initial operation and the potential political consequences of their actions in that area.<sup>31</sup> The circumstances of the F-FDTL deployment suggest dormant institutional rivalries in the security sector, particularly caused by the “military” posture of the PNTL Special Units, but also the ongoing demonstration of localized political manipulation of the PNTL by local authorities and political parties in targeting rival political groups, in this case, the CPD-RDTL.<sup>32</sup> National human rights monitors also criticized the PNTL operation for its “militaristic character rather than an approach characteristic of community policing” (HAK, 2010). For some observers, the real objective of the F-FDTL deployment is to monitor PNTL SPU activities in an area previously supportive of the dismissed F-FDTL soldiers during the crisis of 2006, rather than to assist the PNTL.<sup>33</sup>

The PNTL general commander had stated that the police operation against alleged ninja gangs will continue at least until August 2010 “in order to restore peace and security within the troubled districts” (Diario Nacional, 2010a). However, on May 6, PNTL operational commander, inspector Mateus Fernandes, reportedly said that the security situation had normalized and that the PNTL officers participating in the crackdown against ninja gangs would be withdrawn “shortly” (Diario Nacional, 2010b). Fernandes gave no specific timeline.

27 Interviews with international officials and observers, Dili, 2010.

28 Interviews with the director of a leading national NGO, international officials and observers, Dili, 2010.

29 Interview with Júlio Tomás Pinto, Dili, 2010.

30 Interview with a long-time international observer, Dili, 2010.

31 Interviews with international officials and observers, Dili, 2010.

32 Interview with Fernanda Borges, Dili, 2010.

33 Interviews with Arsenio Bano; Fernanda Borges; a director of a leading national NGO; a long-time international observer, Dili, 2010.

TABLE 1: COMPARISON OF MAJOR NATIONAL SECURITY OPERATIONS SINCE 2002

Internal Operation	Year	Military	Police	Arrests
Operation against suspected militia infiltration: Hatolia subdistrict, Ermera district	January 2003	Two F-FDTL companies. (around 200 members.)	None	90 arrests with 39 handed over to Police.* 50 cases rejected by the Court.**
Joint Command Operation: western region, mainly areas of Ermera district, including Hatolia subdistrict	February-May 2008	300 F-FDTL members	165 PNTL including the Police Reserve Unit (URP) and the Rapid Intervention Unit (UIR)	Final surrender of 12 members of armed rebel group. Many other surrenders and arrests including 11 reported illegal arrests (OHCHR, 2009: 10).
Operation against ninja gangs: Bobonaro and Covalima districts	January 2010- present, (reportedly until August 2010)	200 F-FDTL members as “civilian support”	120 Special Police Unit, 100 District PNTL	By late March, 7 pre-trial detention; 118 arrests; 448 people voluntarily surrendered to the PNTL (Diario Nacional, 2010).

\* UNMISSET Peacekeeping Operation “temporarily handed over responsibility for the defence of an area of operations” to permit the F-FDTL “to conduct a sweeping operation” (UNSC, 2003).

\*\* The 50 cases were thrown out of court because the F-FDTL had no legal basis to make the arrests (ICG, 2008:14).

It was a positive step that the F-FDTL deployment was subsequently withdrawn from what was an internal security operation. The purpose and the legality of the F-FDTL deployment was nevertheless correctly questioned, albeit not widely (HAK, 2010).<sup>34</sup> In fact, the F-FDTL deployment to the ninja operations did not even have legal authorization similar to the controversial legal approval of the Joint Command in 2008 (see CIGI, 2009). Notwithstanding these legal considerations, most observers and the national media characterized the deployment as a “joint operation” reinforcing the general perception that the F-FDTL is directly engaged in internal security operations against so-called ninja gangs. A leading FRETILIN opposition

parliamentarian from the Defence and Security Committee criticized the F-FDTL deployment as “vague,” and worried that it could “cause misunderstandings between the F-FDTL and PNTL” (Timor Newline, 2010).

The increasingly integrated security sector strategy of bringing the PNTL and F-FDTL together in internal security situations should be viewed in terms of the potential for seemingly minor security issues, usually caused by underlying political problems, to escalate in complexity. Any escalation would impact F-FDTL and PNTL relations, which would prove particularly problematic during the election period since the underlying issues of the 2006 crisis remain largely unresolved. Arguably, those issues have been exacerbated by political events subsequent to the 2006 crisis, including the national elections of 2007 and

<sup>34</sup> Interviews with Arsenio Bano; Fernanda Borges; a director of a leading national NGO; international officials and observers, Dili, 2010. Several international officials and observers were highly critical of the nature of the police operation, particularly the F-FDTL deployment. The large-scale police operation was not raised in the statement of SRSQ Haq on Timor-Leste to the UN Security Council on February 23, 2010 (UNSC, 2010b).

the attacks on the president and prime minister in February 2008.<sup>35</sup>

## “MILITARIZATION” OF THE PNTL

A growing perception of the PNTL militarization has recently received widespread attention from national and international actors and observers. The new organic law for the PNTL, passed in 2009, is officially recognized as part of the police reform process; however, the following section of its first article is often used to support claims of PNTL militarization:

Whereas, with regard to its strategy and approach to policing, PNTL shall have the characteristics of a community police, its nature shall be identical to that of the military insofar as its organization, discipline, training and personal status are concerned without however constituting a force of a military nature. (PNTL, 2009: 1)

The organic law also establishes a PNTL Unidade Especial de Polícia [Special Police Unit] (SPU). The SPU is a reserve unit under the direct operational command of the PNTL general commander. Operational command of the special police was previously under the deputy commander. The PNTL general commander has shown his interpretation of the command role through his direct participation in the recent operation against the ninja gangs. The PNTL SPU consists of three separate parts: the Batalhão de Ordem Pública [Public Order Battalion] (BOP) consisting of two regional companies of riot police, the Companhia de Segurança Pessoal [Close Protection Company] (CSP) and the Companhia de Operações Especiais [Special Operations Company] (COE), which purportedly “deals with situations of extreme violence,” including terrorism and armed

groups.<sup>36</sup> Currently, the BOP numbers 193 officers based in Dili and Baucau, the CSP numbers 192 officers mostly assigned to state dignitaries,<sup>37</sup> and the COE numbers 84 officers.<sup>38</sup>

In addition to PNTL reform and restructuring, other factors have also contributed to the growing perceptions of PNTL militarization, including the increasing visibility of the newly formed SPUs carrying semi-automatic rifles in everyday situations. Further, recent television footage of paramilitary training of SPUs with semi-automatic rifles, with the participation of the PNTL general commander, in remote mountain areas also led to widespread public criticism. The controversial background of the newly appointed PNTL general commander has also fuelled such perceptions.<sup>39</sup> The first edition of the *Security Sector Reform Monitor: Timor Leste* reported that General Commander Monteiro attempted to increase the PNTL’s arsenal with a variety of semi-automatic and automatic weapons soon after his appointment (CIGI, 2009). An opposition leader suggests that Monteiro, widely known for his high regard for heavy weaponry, was selected by Prime Minister Gusmao due to his “strongman” image as part of a “dangerous game to balance the weak PNTL against the strong F-FDTL.”<sup>40</sup> As discussed previously, his personal role in leading PNTL special operations against ninja gangs in recent weeks has also exacerbated fears of the militarization of the PNTL and, perhaps of most concern, also re-opened some

36 See articles 26-30 of PNTL (2009). The Unidade de Reserva da Polícia [Police Reserve Unit] (URP) and the Unidade Intervenção Rápida [Rapid Intervention Unit] (UIR), from the PNTL structure of 2004, have morphed into the BOP and the COE, respectively, and been brought under the new Police Special Unit.

37 The PNTL general commander was reported to have 26 CSP detailed to his own personal protection (CIGI, 2009:7).

38 From available information, the PNTL has 180 HK33, 200 Steyer and 66 FNC semi-automatic assault rifles and seven F2000 automatic machine guns, thus a total of around 450 semi-automatic assault rifles and automatic machine guns (TLAVA, 2008). Most of these weapons are understood to reside with the PNTL SPU, particularly the CSP and the COE. The PNTL Unidade de Patrulhamento de Fronteiras [Border Police Unit] (UPF) with 240 officers is understood to be allocated the 180 HK33s.

39 Prior to Monteiro’s appointment as the PNTL commander general, Jose Luis de Oliveira, former director of Asosiasaun HAK Human Rights NGO, strongly criticized Monteiro’s prior performance as prosecutor-general; criticisms included a backlog of 4,700 prosecution cases, political bias and allegations of corruption (Klaak, 2009).

40 Interview with Fernanda Borges, Dili, 2010.

35 Interview with a long-time international observer, Dili, 2010.

underlying rivalries with the F-FDTL.

## THE RENEWED “MILITARIZATION” OF THE POLICE?

In the previous PNTL structure, the PNTL Special Units—namely, the Unidade de Reserva da Polícia [Police Reserve Unit] (URP), the Unidade de Patrulhamento de Fronteiras [Border Police Unit] (UPF) and the Unidade Intervenção Rápida [Rapid Intervention Unit] (UIR)—were set up by the respective UN peacekeeping missions and the former Interior Minister, Rogério Lobato. The PNTL Special Units, particularly the UIR and the URP, quickly developed reputations for being heavily armed and increasingly politicized, especially in relation to the 2006 crisis.<sup>41</sup> In late 2003, the URP’s establishment as a counterinsurgency police unit to prevent militia incursions from Indonesian West Timor was particularly controversial, partly due to the support given by the UN peacekeeping mission.<sup>42</sup> Further, the F-FDTL was frustrated by the political decision to mandate a PNTL paramilitary unit rather than the F-FDTL to secure the land border after several militia incursions in 2003 (Rees, 2004). The URP was also largely drawn from the western region, often without a proper recruitment processes, contributing to the URP’s image as Lobato’s “private army.” In significant contrast, the F-FDTL command largely originates from the eastern region, and some harboured deep political grievances against Interior Minister Lobato dating back to the period of resistance. Currently, the underlying issue for the F-FDTL would be the implication of URP officers in the 2006 crisis, including participating in attacks on the F-FDTL in late May 2006, for which no URP members have been prosecuted or otherwise penalized until now.<sup>43</sup>

41 Prior to the 2006 crisis, 180 HK33 semi-automatic assault rifles donated by Malaysia to the URP, 200 Steyr semi-automatic assault rifles were purchased for the PNTL Border Police and 66 FN-FNC semi-automatic assault rifles and seven F2000 automatic machine guns were purchased for the UIR (ICG, 2009: 3).

42 From 2004, the URP was trained by a Malaysian Formed Unit of the UN Police in counterinsurgency tactics.

43 In particular, the armed attack by Major Reinado’s group on F-FDTL on the outskirts of Dili in Fatu Ahi on May 23, 2006. For further information, see the *Report of UN Independent Special Commission of Inquiry*, paragraphs 29, 47, 64–65.

## A CAUSE FOR CONCERN

The renewed militarization of the PNTL is increasingly causing concerns for national politicians and civil society.<sup>44</sup> The secretary of state for defence recently raised the question of the PNTL taking on a military posture in its paramilitary functions to the secretary of state for security at an open meeting on the security sector.<sup>45</sup> The alleged human rights abuses during recent PNTL Special Operations in the western border districts also prompted a leading national human rights group to recommend to the prime minister that the government “quickly revise the Plan for PNTL Reform in order to assure conformity and consistency between the plan and its implementation, including the establishment of a “special” PNTL unit with a military character or attributes” (HAK, 2010: 9). In April 2010, a joint NGO Forum statement also raised concerns at the “increasing reports of human rights violations by PNTL and the growing use of military weapons and tactics” (NGO Forum, 2010).

The international community is also critical of recent developments with regard to the PNTL SPU. The UN Secretary-General’s report to the Security Council in February 2010 recognized that “perceptions of ‘militarization’ of the PNTL, focusing on renewed visibility of special units armed with long-barreled weapons, are a concern” (UNSC, 2010a: 26). The International Crisis Group (ICG) is more explicit in recommending the “re-consideration of the paramilitary policing model,” highlighting how the “elite military-style program” of PNTL Special Police Units and the plan for the F-FDTL to train the Special Police Unit may undermine internal cohesion within the PNTL, but also inflame competition with the F-FDTL (ICG, 2009: 18).

44 Interviews with Júlio Tomás Pinto; Arsenio Bano; Fernanda Borges; a director of a leading national NGO; civil society representatives; international officials and observers, Dili, 2010.

45 Interview with an international observer, Dili, 2010.

TABLE 2: PNTL AND F-FDTL WEAPONS: RECOMMENDED REDUCTIONS IN PNTL WEAPONS

Institution	Unit	Section	Personnel	Current Weapons	Recommended Levels
PNTL	All units		3,168 officers	+3000 Glock pistols, 180 HK33, 200 Steyer, 66 FNC, 7 F2000, 450 semi-automatic assault rifles and automatic machine guns.*	PNTL district officers recommended 10 Glock pistols per district (130), 100 semi-automatic assault rifles allocated for specific purposes as below. Total reduction of 3,000 to 330 pistols (90 percent) and 450 to 100 semi-automatic weapons (75 percent).
PNTL	<i>Unidade Especial de Policia</i> [Special Police Unit] (SPU)	<i>Companhia de Seguranca Pessoal</i> [Close Protection Company] (CSP)	192 officers		200 Pistols.
PNTL	<i>Unidade Especial de Policia</i> [Special Police Unit] (SPU)	<i>Batalhão de Ordem Pública</i> [Public Order Battalion] (BOP)	193 officers	Allocation includes FNC semi-automatic assault rifles.	30 semi-automatic assault rifles divided between its two regions.
PNTL	<i>Unidade Especial de Policia</i> [Special Police Unit] (SPU)	<i>Companhia de Operações Especiais</i> [Special Operations Company] (COE)	84 officers	Allocation includes up to 81 Steyer semi-automatic assault rifles.	20 semi-automatic assault rifles for specific use in an armed hostage or other “situations of extreme violence.”
PNTL	<i>Unidade de Patrulhamento de Fronteiras</i> [Border Police Unit] (UPF)		240 officers	Allocation includes upto 180 HK 33 semi-automatic assault rifles.	50 semi-automatic rifles to secure the land-borders in three border districts.
F-FDTL			Around 1300 members including 579 new recruits.**	1,190 M16A2s; 75 M203 grenade launchers; 1 Minimi; 1 .38 Special; 1 Browning 9 mm; 2 G3 semi-automatic rifles; 1 M16A1; 1 M2 .50 calibre**	

\* See TLAVA (2008: 6).

\*\* See CIGI (2009: 11).

\*\*\* For more detailed information, see TLAVA (2008: 5).

One short-term recommendation for SSR actors and policy makers in Timor-Leste is urging a review of the need for paramilitary policing. It is recognized that riot police and reserve police for special operations are required in most national police services. However, the reassessment of PNTL special policing would not only build professional confidence within the PNTL institution, but also allay community fears of their state security providers and, importantly, further improve the relationship between the F-FDTL and PNTL.

Further, the drastic reduction of the large numbers of PNTL SPU semi-automatic assault rifles is recommended in the short-term due to the fact that only minimal numbers of illegal firearms exist in Timor-Leste. In fact, a leading FRETILIN opposition parliamentarian for security sector issues,<sup>46</sup> in strong criticism of the PNTL's "military posture rather than community police approach," recently called for the removal of all PNTL semi-automatic rifles as "[PNTL] wander around Dili and districts carrying all manner of semi-automatic assault paramilitary rifles including HK33s, Steyrs, and FNCs" (Tempo Semanal, 2009). This action would be widely supported in the community.<sup>47</sup> To reduce the number of semi-automatic weapons is a simple recommendation that could mitigate the distribution and illegal use of firearms in any future escalating conflict situation.<sup>48</sup>

Currently, the PNTL has more than 450 semi-automatic assault rifles, understood to be mostly in the PNTL Special

46 David Ximenes was formerly secretary of state for Veterans' Affairs in the FRETILIN Government until 2006. Currently, Ximenes is a member of the Parliamentary Defence and Security Committee and also the Joint UN-Timor-Leste Security Sector Review Project Management Board representing the National Parliament.

47 Interviews with Arsenio Bano; Fernanda Borges; the director of a leading national NGO; a civil society representative; international officials and observers, Dili, 2010. During the interview with the *Security Sector Reform Monitor*, an NGO leader also recalled that in October 2004, a coalition of civil society groups had called for the disarming of the increasingly weaponized security sector.

48 During the 2006 crisis the illegal distribution of firearms to civilians and desertions of armed PNTL and F-FDTL increased tensions leading to F-FDTL-PNTL violence: civilian "militia" received 18 HK33s from the PNTL Border Police, armed F-FDTL and PNTL special police deserted their posts, the F-FDTL command distributed 200 M16s to civilians were given to a civilian group (TLAVA, 2008: 7; UNCOI, 2006).

Unit (TLAVA, 2008: 6). A simple recommendation would be that the CSP close protection company only carry pistols, as standard in close protection, and the COE special operations company have access to approximately 20 semi-automatic assault rifles for specific use in an armed hostage or other "situations of extreme violence" (PNTL 2009). The BOP riot police unit arguably requires up to 30 semi-automatic assault rifles divided between its two regions. The PNTL Border Police (UPF) would require no more than 50 semi-automatic rifles to secure the land borders in three border districts, unless the F-FDTL takes full responsibility for the external land borders. The recommendation would mean a reduction of more than 75 percent of the estimated 450 semi-automatic assault rifles in PNTL hands to around 100 allocated for specific purposes.

Further, it is questionable why all regular PNTL officers usually engaged in community-level policing currently receive Glock pistols at all, particularly given the minimal numbers of illegal firearms in the country and the reality that inadequate police armouries mean that PNTL officers frequently take their pistols home (TLAVA, 2008). Of course, disarmament is a difficult policy within any national police service or security sector. Despite the dovish simplicity of the recommendation, its implementation, or even general discussion, would be an effective step forward in the security sector, not only to improve policing in communities, but also as a preventive measure to reduce the escalation of any future conflict.

## THE CULTURE OF IMPUNITY

In terms of broader SSR, the underlying issues from the 2006 crisis, particularly between the F-FDTL and PNTL, remain unresolved and may strain future F-FDTL-PNTL relations. As an indication of the involvement of the security sector in the 2006 crisis, the interior minister, the defence minister and the top F-FDTL commanders were all recommended for investigation or prosecution by the

independent UN Commission of Inquiry for the illegal distribution of weapons to civilians, as were F-FDTL soldiers and PNTL officers, who fled their posts with heavy firearms leading to armed conflict between the F-FDTL and the PNTL. (UNCOI, 2006).<sup>49</sup> As Peake notes:

Many of the members of the security institutions implicated in the events of 2006—including the F-FDTL accused of shooting the eight unarmed PNTL, convicted and sentenced to a collective 48 years in prison—remain in uniform. This apparent reluctance to prosecute has prompted some observers to question the degree of apparent impunity within the uniformed institutions. (Peake, 2009: 231)

Further, even if prosecutions do occur, in recent years post-trial political intervention in the form of presidential pardons or commuted sentences has become the norm.<sup>50</sup>

As recently as December 25, 2009, President Ramos-Horta granted three pardons and 46 commuted sentences, including the pardon of one of four F-FDTL soldiers convicted for the fatal shooting of nine unarmed PNTL officers after their surrender on May 25, 2006, and commuted sentences for the other three soldiers.<sup>51</sup> President Ramos-Horta strongly defends such political intervention in the justice system in the pursuit of peace and reconciliation:

[In] the efforts to bring about peace between long-standing rival communities, often we have to compromise on justice. [...] While the notion of blind pursuit of justice might sound

heroic and politically correct, the blind pursuit of justice without regard to the complex and often fragile balance in conflict societies may ignite new tensions and conflicts and derail the entire peace process. (Ramos-Horta, 2010)

The implications of such cases and other unresolved cases lead politicians and observers to deem the emerging culture of impunity as seriously undermining the rule-of-law system.<sup>52</sup>

The critical question is whether political intervention in the dynamics of justice and political reality in post-conflict situations necessarily prevents future conflict.<sup>53</sup> It remains to be seen whether the current bypassing of judicial deterrence would prevent political actors, especially F-FDTL soldiers and PNTL officers, from participating in future political violence, particularly at a time of elections or crisis.<sup>54</sup> Nevertheless, the UN, international community and civil society remain in a position to positively influence the SSR process in relation to the justice system, particularly in objecting to political decisions and actions which further entrench the culture of impunity.<sup>55</sup>

## CONCLUSION

Marking a major development in SSR for the national authorities, the security sector legislative framework will soon enter into law and the National Security Policy is close to being finalized. Whether the security sector legislation will be properly implemented, particularly whether the integrated system for the security sector will include

49 Interior Minister Lobato was sentenced to 7.5 years imprisonment by the national court. Subsequent to the decision, Lobato was allowed to travel overseas for extended medical treatment and then received a commutation of his sentence by the president thereby ending his sentence (UNMIT/UNOHCHR, 2008).

50 Most of the cases recommended for investigation or prosecution by the Commission of Inquiry remain under investigation (13) or are archived (2). Presidential pardons and commutation of sentences have resulted in the release of three convicted individuals, including the former interior minister.

51 It is significant that after being convicted in civilian court, those F-FDTL soldiers were never released by the F-FDTL to serve their sentence in civilian prison, but instead were held at an ad hoc military detention facility.

52 Interviews with the director of a leading national NGO and international officials and observers, Dili, 2010.

53 Ongoing impunity for the 1999 conflict related to the independence vote also remains a divisive issue. Anecdotal information suggests that widespread complaints target former pro-Indonesia supporters who are now perceived as “winners” under the AMP government by acquiring positions of influence and the benefits of current graft — ten years after “losing” the referendum in 1999.

54 Interviews with Arsenio Bano; Fernanda Borges; the director of a leading national NGO and international officials and observers, Dili, 2010. Also see ICTJ, (2009).

55 Interview with the director of a leading national NGO, Dili, 2010.

clearly delineated roles for the F-FDTL and PNTL, will be critical issues in SSR monitoring. Concerted efforts to urge the clear definition of the roles of the F-FDTL and PNTL, particularly in internal security matters, must continue. It will also be important for the legitimacy of the SSR process to consult national communities on national security issues, which, at this stage, would now be limited to public outreach “socialization campaigns” regarding the security legislation after the fact, but opportunities for consultation on the National Security Policy remain.

With the prospect of heightened political activity surrounding national and municipal elections from 2012 onwards, the security sector will remain fragile for some time to come. Ongoing special police operations with F-FDTL support reveal the complexities of the internal security situation and the political environment. The urgent review of paramilitary policing, including the drastic reduction of semi-automatic assault rifles is strongly recommended, particularly as UNPOL continues to have executive policing authority for the coming months. To cut back heavy weaponry in the PNTL would not only improve policing, it would prevent any escalating institutional rivalries with the F-FDTL and also reduce available firearms in any future internal conflict.

Despite increasing government ownership, the SSR process is proceeding against a deepening culture of impunity particularly for the crimes of the 2006 crisis, including against both the F-FDTL and PNTL. The 2006 crisis demonstrates that the F-FDTL and the PNTL remain the biggest threats to future stability. Those political actors, the F-FDTL, PNTL and others responsible for political violence, particularly in the 2006 crisis, should be held accountable as an important deterrent to future political violence. The impact of political intervention on the rule of law and exacerbating perceptions of imbalance in the justice system, particularly in 2006 cases, are short-term political gains with potential disastrous consequences for

the future security environment and the SSR process.

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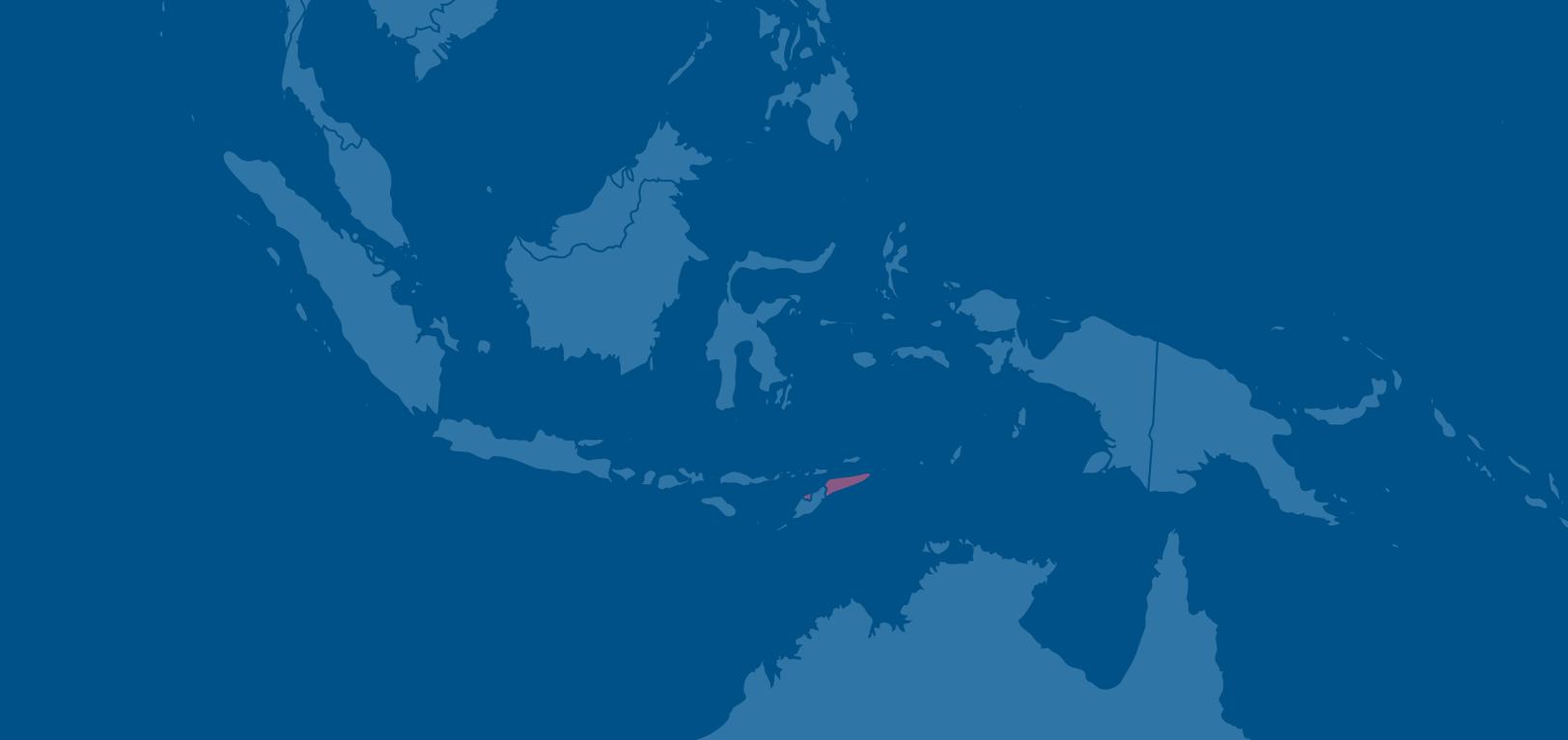
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