

# COMMENTARY ON THE DRAFT ARMS LAW IN TIMOR-LESTE

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## **Introduction**

The Prime Minister of Timor-Leste has proposed new legislation on firearms that would give the Commander of Timor-Leste National Police (PNTL) the power to grant firearms licences to civilians. The proposed law was first voted down in the National Parliament on June 25, 2008, and further attempts to debate the issue on 30 June were suspended following a tied vote in parliament.

This draft arms law comes at a time when there is growing awareness of the dangers posed by high levels of gun ownership by civilians. There are also growing concerns of the potential impacts on domestic violence, gang violence and electoral violence. The Small Arms Survey estimates that 75 per cent (650 million) of the world's small arms and light weapons are in the hands of civilians. Many of these are misused or are leaked into the illicit market, often as a consequence of poor legislation regulating ownership and use.

In addition to drawing attention to the issue of civilian possession of weapons, the aims of this article are fourfold. Specifically, they are to provide a balanced summary of the proposed law; to compare it with existing domestic arrangements; to provide analysis of the draft arms law in light of discussions and evolving international norms and practices in the area of possession of firearms by civilians<sup>2</sup>; and to comment on the suitability or desirability of the proposed law in light of the political and security climate in Timor-Leste.

## **Summary of draft arms law**

The aims of the draft arms law, as stated in the Preamble, are to criminalise certain types of conduct resulting from the use and possession of certain weapons, including firearms, and to criminalise the trafficking in such weapons.

The types of weapons covered by the draft arms law include firearms; certain knives and other items able to launch blades, arrows or darts; spears and other weapons that can be thrown; weapons capable of projecting toxic, noxious or corrosive substances; pyrotechnics; explosives; and ammunition.

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<sup>2</sup> Please note that this analysis is based on a review of an English translation of the original Portuguese text of the draft arms law. The English translation is available at: [http://www.eastimorlawjournal.org/East\\_Timor\\_National\\_Parliament\\_Laws/draft\\_arms\\_law.html](http://www.eastimorlawjournal.org/East_Timor_National_Parliament_Laws/draft_arms_law.html)

The draft arms law covers the following activities: possession; distribution; carrying; keeping; acquisition; manufacturing; transforming; importing; exporting and use of the weapons. A range of penalties is included in the event that anyone who engages in these activities is not authorised or licensed to do so. Such penalties are increased if anyone is actually affected or suffers as a result of such unauthorised or unlicensed activities. The following table provides a breakdown of the proposed penalties.

**Table of penalties in the draft arms law**

	Offence	Penalty	
		Imprisonment	Fine (USD)
Art 2(1)	<u>Unlicensed/unauthorised arms-related activity</u> (possession, distribution, carrying, etc)	up to 1 year*	
Art 3(a)	<i>If, as a result of the unauthorised activity, someone else suffers:</i>		
	a. A simple offence	up to 2 years <u>OR</u>	500 – 1,000
	b. A serious offence	up to 3 years <u>OR</u>	1,000 – 10,000
	c. Death	1 – 6 years**	
Art 2(2)	<u>Use of regulated arms</u>	up to 2 years*	
Art 3(b)	<i>If, as a result of the use, someone else suffers:</i>		
	a. A simple offence	up to 3 years <u>OR</u>	1,000 – 5,000
	b. A serious offence	6 months – 4 years	
	c. Death	2 – 7 years**	

\* Unless a more serious penalty applies by virtue of other legal provisions.

\*\* Sentencing for firearms homicide is low and it is assumed this would be *additional* to other provisions in the Criminal Code regulating sentencing for the offences of homicide or manslaughter although this is not clear in the draft.

Article 5 contains specific provisions on the trafficking in arms, including mediation or brokering. The provisions indicate that authorisation from the competent authority is required to sell arms or conduct brokering activities. However, no specific mention is made of a requirement that such activities be *licensed* and the procedure for obtaining authorisation is not included in the draft arms law.

Interestingly, the penalties imposed for unauthorised brokering or transfers are increased from 2-10 years to 4-12 years if the offender is aware that the arms are destined for a criminal organisation; if the offender carries out such activities as his or her “way of life” or occupation; or if the offender is a public servant. The latter serves as an acknowledgement that corruption on the part of government officials is often a source or cause of diversion from government stockpiles to the illicit market. The increase in penalty is presumably designed to discourage public servants from exploiting their positions of trust within the government and their ready access to state-held weapons. Another provision of interest is the fact that penalties imposed for unauthorised brokering or transfers may be mitigated or

reduced if the offender abandons such activities or helps to prevent such activities by, for example, assisting in the identification and capture of other responsible persons or offenders.

The majority of the draft arms law is devoted to the licensing and regulation of the use and carrying of firearms and ammunition by civilians. Article 4(1) of the draft arms law provides that, to be eligible for a firearms licence, civilians must:

- a) Be over 22 years old;
- b) Provide evidence that they require the licence for professional purposes or self-defence;
- c) Be in full exercise of all their civil rights;
- d) Be competent;
- e) Present a medical certificate<sup>3</sup>; and
- f) Have passed a training course on firearms provided by the PNTL.

When making an application for a licence, the following information must be provided under Article 4(3):

- a) Name of the applicant;
- b) Identity card number;
- c) Date of birth;
- d) Occupation;
- e) Place of birth;
- f) Nationality and residence; and
- g) Reason for obtaining the licence.

Article 6 provides that a person may be *temporarily* prohibited from possessing, using and carrying a weapon if they are convicted of a crime under the draft arms law or they are convicted of a crime involving the malicious or negligent use of a weapon, and Article 7 provides that the person's firearms licence may be revoked in such circumstances for between 2 and 10 years.<sup>4</sup> In such circumstances, the convicted person must hand over his or her weapon(s) and licence to the police.

Finally, Article 8 provides that the police may seize weapons, even where a valid licence is held, where:

- a) The person possessing, holding or carrying them is found to be under the influence of drugs or alcohol; or

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<sup>3</sup> The draft law does not specify the details that must be included in such a medical certificate, such as whether it must state that it has been issued for the purpose of a licence and whether the examining medical practitioner has conducted physical and psychological assessments of the applicant. The role of the medical practitioner is critical and provisions regarding how medical practitioners issue such a certificate should be included in the legislation or subsidiary regulations.

<sup>4</sup> In fact, Article 7 indicates a person's license may be revoked even if he or she is acquitted of the crimes if the acquittal is a consequence of a legal disability but the accused person's personality and the nature of the act make it likely that the offender may commit similar crimes or he or she appears to be inept to possess, use and hold weapons.

- b) There are signs that the holder of the licence has been involved in ill-treatment of a spouse or child or another person in their care or custody who is particularly defenceless as a consequence of age, deficiency, illness or pregnancy.

***Commentary: intent and adequacy of the draft arms law***

*Why is the draft arms law being considered?*

It is not clear what the broader policy behind the proposed law is since no white paper or policy paper has been released by the government. Indeed, there does not appear to have been a consultation process preceding the tabling of the draft arms law in Parliament, at least not with the police.<sup>5</sup>

There have been some media reports that the proposed law is an attempt by the government to legalise civilian possession of firearms for the first time in the country's history. However, UNTAET Regulation No. 2001/5 on *Firearms, Ammunition, Explosives and Other Offensive Weapons in East Timor*, which came into force on 23 April 2001, already includes provisions for the Head of the UNTAET International Civilian Police Contingent (CIVPOL), on behalf of the Cabinet Member for Police and Emergency Services, to issue licences permitting the possession of firearms.<sup>6</sup>

Under UNTAET Regulation No. 2001/5, the police, military and other authorised forces are exempt from having to obtain a licence, while certain other individuals are prohibited from obtaining a licence.<sup>7</sup> For all other people, a licence to import, export, possess, purchase, sell or otherwise dispose of firearms, ammunition or explosives may be granted "in exceptional circumstance".<sup>8</sup> When applying for a licence under the Regulation, an applicant has to demonstrate that the activity to be licenced: is in the public interest; will be conducted with due regard for safety; and will not be accompanied by or lead to some other prohibited activity. Most importantly, when granting a licence, the commissioner must be satisfied that no firearm subject to the licence will be *carried*, either visibly or in a concealed manner (except in accordance with the terms of the licence).

UNTAET Regulation No. 2001/5 is still in force and indeed was referenced in the report of the Commission of Inquiry in 2006.<sup>9</sup> It is not known whether and how many licences have been granted under these provisions, if any. It is clear, however, that the Ministry of Finance

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<sup>5</sup> See Judicial System Monitoring Programme (JSMP) *Justice Update: Reflections on the Law-making Process in Timor Leste*, 22 July 2008.

<sup>6</sup> Section 3 of UNTAET Regulation No. 2001/5.

<sup>7</sup> A person will be deemed a "prohibited person" under UNTAET Regulation No. 2001/5 if, for example, they have been convicted of any offence involving the use of a firearm; if they are under 18 years old; or if they are physically or mentally unfit. (See Section 1, Definitions, for a complete list).

<sup>8</sup> See Section 3.1 of UNTAET Regulation No. 2001/5.

<sup>9</sup> See *Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste* (2 October 2006), paragraph 109. The Independent Special Commission of Inquiry for Timor-Leste was established to determine the facts and circumstances relevant to incidents that took place on 28 and 29 April and 23, 24 and 25 May and to clarify responsibility for those events and recommend measures of accountability for crimes and serious violations of human rights allegedly committed during the mandated period.

has been regulating to charge excise tax on the importation of arms and ammunition since at least 2001 and the Taxes and Duties Act 2008, which came into force on 1 July 2008, increased the excise tax for these items from 120% to 200%.<sup>10</sup> Clearly, therefore, the import of arms and ammunition is legal, and this suggests civilian possession is not illegal.

What is less clear is who now holds the authority to grant firearms licences under the Regulation. The UN retained executive authority over policing until 20 May 2004, at which point it was handed over to the PNTL General Commander. However, the establishment of the UN Integrated Mission in Timor-Leste (UNMIT) on 25 August 2006 raises the question of who now holds this power.

The latter provision raises interesting questions about the purpose or motive behind the draft arms law, given that the Commission of Inquiry held following the disturbances in April-May 2006, found that the former Minister of the Interior, the Minister of Defence and the current Chief of Defence had armed civilians and, in doing so, “acted without lawful authority and created a situation of significant potential danger”.<sup>11</sup> The Commission also found that the former Minister of the Interior and the General Commander of the PNTL had “bypassed institutional procedures by irregularly transferring weapons with the [PNTL]”.<sup>12</sup>

Whilst the motives behind the proposed law and the status of the current regulations on firearms possession are unclear, what *is* clear is that the adoption of the draft arms law would remove any ambiguity under the current mechanism as to whether civilians can be licensed to possess arms and who has authority to grant such licences, and would give the Commander of the PNTL clear authority to do so. Furthermore the proposed law would lower the threshold for obtaining licences to use and carry arms since it omits the requirements in the UNTAET Regulation that such licences are only granted “in exceptional circumstances” and that the licensed activity is in the “public interest”.

#### *Adequacy of the provisions on licensing civilian ownership and possession*

There are no internationally agreed standards governing the scope and content of legislation governing the possession of firearms by civilians. Nevertheless, a number of norms and practices are emerging. This is partly a consequence of the growing number of international and regional mechanisms on this issue, and partly a consequence of the growing awareness that most firearms in the world, both legal and illicit, are possessed by civilians and many of the problems posed by the availability and misuse of firearms relate to civilian possession and ownership.

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<sup>10</sup> See UNTAET Regulation No. 2000/18 on a Revenue System for East Timor, as amended, Section 20 and Schedule 1, Section 2.

<sup>11</sup> Ibid, paragraph 224(j). The former Minister of the Interior, Rogerio Tiago Lobato, was later convicted for manslaughter and the distribution of weapons, although he was pardoned by the President under the Presidential Decree No. 53 of 2008 on 23 April 2008. For detailed reports of the trial proceedings see the East Timor Law Journal: [http://www.eastimorlawjournal.org/LawReports/2007/Rogerio\\_Lobato\\_Trial\\_Reports.html](http://www.eastimorlawjournal.org/LawReports/2007/Rogerio_Lobato_Trial_Reports.html)

<sup>12</sup> See *Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 27 January to 20 August 2007*, paragraph 224(i).

With respect to international mechanisms, for example, the *UN Firearms Protocol* - which was adopted in 2001 and came into force in 2005, and constitutes the first legally-binding agreement on small arms control – criminalises illicit trafficking and requires that firearms be marked at the time of manufacture, import and transfer from government into civilian hands. The *UN Programme of Action on Small Arms*<sup>13</sup> - a political agreement adopted in 2001 – includes undertakings on the part of states to criminalise illegal possession and stockpiling of small arms;<sup>14</sup> to identify and take action against individuals and groups involved in the illegal stockpiling and possession of small arms;<sup>15</sup> to adopt measures necessary to prevent the stockpiling and possession of unmarked or inadequately marked small arms;<sup>16</sup> and to ensure accurate records are kept on manufacture, holdings and transfers of small arms.<sup>17</sup>

At the regional level, numerous instruments have been adopted, many of which include provisions on the possession and use of firearms, notably the Southern African Development Community (SADC) *Firearms Protocol* and the *Nairobi Protocol* (2004).<sup>18</sup> Within the Pacific region where Timor-Leste is located, the Pacific Islands Forum has been established to facilitate cooperation on the issue of arms control and other issues, and the members of the Pacific Islands Forum adopted the *Nadi Framework* in 2000, which establishes a legal framework for a common approach to weapons control. A draft model law known as the *Pacific Islands Forum Weapons Control Bill* has also been developed that elaborates on the measures set out in the *Nadi Framework*.

Although Timor-Leste is not a member of the Pacific Islands Forum and therefore is not bound to consider the terms of the *Nadi Framework* or associated model legislation in the development of its own firearms legislation, some of the elements of the Timor-Leste draft arms law that contradict the principles in the *Nadi Framework* have been noted in the analysis that follows to highlight some of the ways in which the Timor-Leste draft arms law diverges from emerging state practice in its own region.

In reflecting on the adequacy or appropriateness of the draft arms law, reference has been made to the guidelines set out in the UNDP *How to Guide: Small Arms and Light Weapons Legislation* published in July 2008, specifically Chapter 3: Regulating arms in the Hands of Civilians. Although there are no binding or agreed standards on firearms legislation, the guidelines established by UNDP provide comprehensive suggestions and recommendations for effective firearms legislation based on a review of existing and emerging state practice and policy in this area.

In the event that the Parliament of Timor-Leste does adopt the draft arms law, there are several important considerations that have been omitted from the draft tabled in Parliament.

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<sup>13</sup> The full title is the: *Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects* (UN Document A/CONF.192/15).

<sup>14</sup> *Ibid*, para II.3.

<sup>15</sup> *Ibid*, para II.6.

<sup>16</sup> *Ibid*, para II.8.

<sup>17</sup> *Ibid*, para II.9.

<sup>18</sup> For a complete list of regional instruments that contain provisions relevant to controls on civilian possession and use of small arms see: UNDP *How to Guide: Small Arms and Light Weapons Legislation* (2008), Chapter 3: Regulating arms in the Hands of Civilians, p. 23 and 24.

As discussed above, the draft arms law includes a number of criteria applicants need to fulfil in order to acquire a licence including the need to be a certain age, to hold a medical certificate and to pass a training course on the use of firearms. Two of the criteria listed warrant particular attention: the requirement that an applicant provide evidence of the *need* for the licence for professional purposes or self-defence; and the requirement that the applicant be “competent”. Additionally, there are several recommended criteria that are not reflected in the draft arms law such as: a restriction on the *types* of firearms that may be owned by civilians; a limit to the *number* of firearms or the amount of ammunition that may be possessed; and requirements regarding the storage of arms.

### Weaknesses in the proposed licensing criteria

- a) *A need for a licence*: It is not uncommon for legislation on the licensing of civilian ownership to require an applicant to provide a good or genuine reason as to *why* he or she needs to possess a firearm, and an explanation that the weapon is needed for professional purposes can be sufficient, supported by proof that the applicant is employed, for example, as a professional hunter or private security guard.

However, a justification that the weapon is needed for “self-defence”, as proposed in the draft arms law, is not uncontroversial. In fact, in Annex B of the *Nadi Framework*, which sets out a set of “genuine reasons” why applicants may be permitted to carry certain weapons, it is specifically noted that: “personal protection or protection of another person is not considered a genuine reason for possession” (Article 9). The draft arms law indicates that “evidence” that the applicant needs the firearm for self-defence will be required, but does not give details of what form that evidence will take. If this justification for owning a firearm *is* permitted, there should be a substantial burden on applicants to prove to the licensing authority that their lives are genuinely in danger.<sup>19</sup>

The provision requiring the applicant to prove he or she has a need of a licence states that the need should be “for professional purposes” *or* “for self-defence”. If this provision is intended to allow certain individuals to purchase firearms to defend themselves *because* of their profession, such as judges and magistrates, there are other means of accommodating such special circumstances. For example, under Portuguese law, legal magistrates and parliamentarians, among others, are not required to apply for regular licences to own certain types of private firearms because the special laws that regulate their professional status, rights and obligations, already allow them to own such firearms. In other words, they are licensed under special provisions governing their professional status.<sup>20</sup> Furthermore, Article 21(1) of the Organic Law of the National Police of Timor-Leste contemplates the establishment of a VIP Security Unit “specially designed to provide personal security to such entities as determined by the PNTL within the scope of

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<sup>19</sup> Ibid, page 28.

<sup>20</sup> Notably they still have to apply for a special permit to *purchase* a firearm, and all firearms must be declared and registered with the police.

its responsibilities.”<sup>21</sup> Such a unit could be assigned to provide personal security to government officials deemed to be at risk.

Applicants must be “competent”: The provision in Article 4(c) that applicants must be “competent” is somewhat vague, although Article 4(2) does indicate that if someone has been sentenced for committing a crime, this *may* establish a lack of competence to own a gun. However, the circumstances when a prior conviction *may* be an obstacle to getting a licence are unclear. For instance, it could be assumed that where the crime in question involved the use of a gun or weapon, this would be a strong indication that the applicant is not a suitable candidate for a weapon. Indeed, under the current provisions in UNTAET Regulation 2001/5, a person who has been convicted of an offence involving the use of a firearm, ammunition or explosives will be deemed a “prohibited person” under the Regulation and will be barred from obtaining a licence.

On the one hand, a vague provision that a person must be simply ‘fit’ or ‘suitable’ to have a licence can be beneficial as it allows the licensing authority a broad discretion to disallow firearms licences on a case-by-case basis. On the other hand, such vague provisions may be difficult to apply in practice as there are virtually no criteria guiding what determines whether someone is fit or proper, and so the efficacy of this provision is determined by the rigorousness of the relevant authority.

#### Omissions in the draft arms law

There are a number of elements and issues regarding the possession of firearms by civilians that have not been included in the draft arms law but which warrant further consideration if the draft law is pursued:

- a) Types of firearms: There is no restriction in the draft arms law on the types of firearms that may be possessed by civilians. In many jurisdictions, civilians are banned from possessing certain weapons that are not deemed appropriate for civilian use such as: military assault rifles, semi-automatic and automatic firearms, and in some instances handguns because they are easily concealed and frequently used in criminal activities.
- b) Number of firearms: The draft arms law does not indicate that there is a limit on the number of firearms that a single individual may possess. Since, in accordance with Article 4(1)(a), licences will only be granted if a firearm is needed for “professional purposes” or for “self-defence”, arguably only a limited number of firearms (perhaps even a single firearm) are required, and an upper limit for the number of firearms that can be possessed should be reflected in the legislation. Additionally, if it *is* contemplated that licensees may possess more than one firearm, it should be made clear in the legislation that a separate licence is required for each firearm.

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<sup>21</sup> The Organic Structure of the Timor-Leste National Police, Government Decree-Law No. 8/2004, 5 May 2004.



- c) *Amount of ammunition*: Similar to the above, there are no provisions in the draft arms law restricting the amount of ammunition that may be possessed or purchased at any one time.
- d) *Carrying of firearms in public*: In contrast to UNTAET Regulation No. 2001/5, the draft arms law does not restrict the manner in which firearms may be carried nor the places where a firearm may be carried, such as public gatherings. Under the UNTAET Regulation, as mentioned, no firearm may be carried either visibly or concealed, except in accordance with the terms of the licensed activity. So, for example, if the licence is granted for hunting purposes, presumably the licensee can carry the weapon in a visible manner for the purposes of hunting.

Although it does not expressly allow the carrying of firearms in public, there are several provisions in the draft arms law that infer that carrying firearms in public is permitted. For example, Article 8 allows police authorities to seize weapons where the person possessing, holding or *carrying* them is found to be under the influence of drugs or alcohol.<sup>22</sup> The suggestion is that a person will only be stopped from carrying firearms in public if he or she happens to be drunk or intoxicated whilst carrying them. There is nothing else in the draft arms law to prohibit or penalise the carrying of firearms in public, nor to restrict the manner in which they are carried. The carrying of firearms in public by civilians should be restricted, and this should be explicitly stated in the legislation.<sup>23</sup>

At the very least, the arms law should prohibit the carrying of arms at public gatherings to reflect Section 42 (Freedom to assemble and demonstrate) of the Constitution of Timor-Leste, which stipulates that: “Everyone is guaranteed the freedom to assemble peacefully and *unarmed*, without a need for prior authorisation” (emphasis added). And further, Article 14 of the National Parliament Law No. 01/2006 “Freedom of Assembly and Demonstration”, promulgated on 16 January 2006, which prohibits the carriage of firearms and other weapons in assemblies or demonstrations.<sup>24</sup>

- e) *Storage of firearms and ammunition*: There is no mention of the need for licensees to store firearms or ammunition in a safe and secure manner, for example, ensuring that the firearm and ammunition are stored separately. Given the acknowledgement of the role of firearms in domestic and intimate partner violence as reflected in Article 8(1)(b) (which

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<sup>22</sup> See Article 8(1)(a) and Article 8(4).

<sup>23</sup> See UNDP *How to Guide: Small Arms and Light Weapons Legislation* (2008), Chapter 3: Regulating arms in the Hands of Civilians, p. 28.

<sup>24</sup> Anyone who contravenes this provision shall be guilty of illegal possession and will be punished under Section 4.4 of UNTAET Regulation No. 2001/5 (USD 100 or 7 days imprisonment). In March 2007, the perpetrators of a shooting that occurred in the Jardim IDP camp in 2006 were tried for (and acquitted of) various crimes, including carrying firearms/dangerous weapons to a public meeting or demonstration in contravention of Section 4.4 of the UNTAET Regulation (JSMP Justice Update, 23 April 2007). Incidentally, under the terms of UNTAET Regulation No. 2001/5, possession of an *offensive weapon* in public meetings or demonstrations is prohibited. Curiously the definition of *offensive weapon* under the Regulation includes “any knife, machete, sword or other sharpened metal instrument that is capable of causing injury to persons”, but does not include firearms. Article 14 of the Freedom of Assembly and Demonstration Law seems to rectify this.

provides for the apprehension of weapons where there are signs that a licensee may have committed an act of violence against a spouse or dependent), it is remiss that provisions on safe storage were not included in the draft arms law since this can reduce misuse and prevent ready access to weapons that can escalate incidents of inter-personal or self-directed violence in the home.<sup>25</sup>

A breach of such conditions should also constitute a reason for the revocation of a licence. At present, Article 7 “Revocation of licence” only stipulates that *criminal* behaviour may lead to a revocation of a firearms licence and does not contemplate that behaviour that breaches administrative provisions or leads only to civil liability might be a cause for revocation. The circumstances that lead to a revocation of a firearms licence should be broader.

- f) *Registration and record-keeping*: There are no provisions in the draft arms law indicating that firearms owned by civilians will be registered in a central database allowing police and law enforcement officials to trace guns and keep track of their whereabouts. There is also no suggestion in the draft arms law that the Commander of the PNTL, who will be responsible for granting licences under Article 4, is also required to keep a record of the licences granted, including the identity of the licensee and the firearms licensed.
- g) *Duration of licence*: The draft arms law does not indicate whether a firearms licence, once granted, is valid indefinitely or whether it is subject to renewal after a certain period of time. Since the granting of a firearms licence will be subject to evidence of a need for the licence based on professional purposes or self-defence, and given that these conditions or needs may change over time (for instance, the licensee may change jobs or the threat justifying a licence on the grounds of self-defence may subside), licences should be subject to periodic review and renewal to confirm the need for the licence is still present.

Similarly, the passing of a single, initial training course conducted by the PNTL should not be the only form of firearms training that is required to retain a firearms licence since skills acquired during this training course may deteriorate over time. Rather licensees should be required to undergo periodic competency assessments to ensure they continue to be responsible and suitable persons to possess and use firearms.

## ***Conclusion***

Anecdotal evidence suggests there are relatively low levels of firearms possession in Timor-Leste and that civil disturbance incidents in Dili have been decreasing since the disturbances in 2006.<sup>26</sup> However, there have been spikes of violence, and the incidents in which firearms

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<sup>25</sup> Ibid, see Box 6: Issue: Gender aspects of civilian possession and use, p. 27. See also Kellerman AL, Rivara FP, Rushford NB, et al. (1992). Suicide in the home in relationship to gun ownership. *New England Journal of Medicine*, 327, 467-472.

<sup>26</sup> See paragraph 30 of the *Report of the Secretary-General on the United Nations Integrated Mission in Timor-Leste (for the period from 9 August 2006 to 26 January 2007)*.

were used are of “growing concern”<sup>27</sup>, most notably, perhaps, the armed attacks on the President and Prime Minister on 11 February 2008. It is curious, therefore, that the Prime Minister of Timor-Leste is looking to adopt legislation that would potentially increase the number firearms in circulation.

Growing awareness of the challenges associated with the proliferation and misuse of firearms in the hands of civilians and pressure from civil society has led many states to reform and strengthen their firearms legislation in recent years and there is ongoing debate about improving the effectiveness of such legislation. If the draft arms law is pursued, there are a number of weaknesses and omissions that should be rectified before it is adopted. There is a large body of existing good practice among other states in this area, and some of the main elements have been touched on in this commentary.

Timor-Leste is in a position to take advantage of some of the lessons learned and examples set by other states in establishing mechanisms for effectively regulating the licensing and ownership of firearms by civilians. Further consultations with civil society and review of the draft arms law could help to ensure that Timor-Leste’s domestic legislation on firearms corresponds with its international commitments and the emerging principles and practices in this area, and that a robust and comprehensive system regulating civilian ownership is established at the outset.

**Endnote: Background to the project *Timor-Leste Armed Violence Assessment***

*This article is part of an ongoing assessment of armed violence in Timor-Leste being carried out by Austcare and the Geneva-based Small Arms Survey. The assessment aims to identify and clarify concrete policy-relevant entry points to prevent and reduce real and perceived armed violence in Timor-Leste. Undertaken between May 2008 and May 2009, a Dili-based repository of existing international and domestic data on armed violence will be established and serve as a clearing house for information and analysis. The objective of the assessment is to provide valid and reliable policy options for the Timorese government, civil society and their partners in identifying appropriate priorities and practical strategies.*

*In systematically examining the gap between real and perceived armed violence and assembling existing and new research, the assessment can inform interventions. Focus areas include the risk factors, impacts and socio-economic costs of armed violence in relation to population health--particularly women, children and male youth and IDPs; the dynamics of armed violence associated with ‘high risk’ groups such as gangs, specific communities in affected districts, petitioners, veterans, state institutions, and potential triggers such as elections; and the role of arms as a factor contributing to armed violence.*

*On the basis of ongoing consultations with government, Timorese civil society and international partners, the assessment will provide actionable evidence for decision making, monitoring and evaluation. Issue Briefs will be released in multiple languages from late 2008 onwards. More importantly, the assessment promises to ensure the transfer and exchange of skills and training for sustainable research on armed violence. Where appropriate, Austcare and the Small Arms Survey will assist and strengthen domestic monitoring and information management capacities in the public health and security sectors to prevent and reduce armed violence.*

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<sup>27</sup> Ibid, paragraph 31.