



Tortured Beginnings Police Violence and the Beginnings of Impunity in East Timor

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The boundaries and names shown and the designations used on this map do not imply the official endorsement or acceptance by the United Nations.

Regions of TIMOR-LESTE

- International boundary
- Province boundary
- District boundary
- Road
- National capital
- Province capital
- District seat
- Town, village
- Airport

Glossary

- CivPol:** U.N. Civilian Police, later called UNPOL, the United Nations police
- Falintil:** East Timorese guerrilla movement that fought against Indonesian rule of the territory
- Falintil-FDTL:** *Falintil-Forças de Defesa de Timor-Leste*, the Armed Forces of Timor-Leste containing many former members of *Falintil*
- HRU:** United Nations (U.N.) Human Rights Unit
- JSMP:** Judicial System Monitoring Programme (an East Timorese NGO specializing in court monitoring and research on the judiciary)
- OHCHR:** U.N. Office of the High Commissioner for Human Rights
- PEDU:** Professional Ethics and Deontology Unit, the new name for what was formerly (and is still widely) called the Professional Ethics Office (PEO)
- PEO:** The Professional Ethics Office, formerly known as the Professional Standards Unit (PSU) and recently renamed the Professional Ethics and Deontology Unit (PEDU)
- PKF:** U.N. Peacekeeping Force
- PNTL:** *Policia Nacional de Timor-Leste*, the National Police Force of Timor-Leste, formerly known as the East Timor Police Service (ETPS) and the Timor-Leste Police Service (TLPS)
- POLRI:** *Kepolisian Republik Indonesia*, Indonesian National Police
- Provedor:** An ombudsman-type office mandated by parliament to investigate, report on, and make recommendations regarding human rights violations in East Timor
- PSU:** Professional Standards Unit, succeeded by the Professional Ethics Office (PEO)
- ROPs:** Rules of Organization Procedures
- TNI:** *Tentara Nasional Indonesia*, the Indonesian national army
- UIR:** *Unidade de Intervenção Rápida*, Rapid Intervention Unit
- UNMISSET:** United Nations Mission of Support in East Timor (successor mission to UNTAET)
- UNOTIL:** United Nations Office in Timor-Leste (successor mission to UNMISSET)
- UNPOL:** U.N. Police, previously known as CivPol
- UNTAET:** United Nations Transitional Administration in East Timor
- UPF:** *Unidade de Patrulhamento de Fronteira*, Border Patrol Unit
- VPU:** Vulnerable Persons Unit, part of the PNTL Criminal Investigations Unit specializing in solving cases related to women and children

I. Introduction

I think that if the police arrest people, they can't beat them. You have to ask first if he is guilty, then arrest him, and then take him to the court in Dili. But because they [the police] have a bad attitude, they just arrest and straight away beat people. I think they should be fired, or arrested themselves.

Carlito Gusmao, victim of police beating, Aldeia Tasmak, Bobonaro¹

Carlito Gusmao was arrested by the police after he refused to take part in the national census. He was accused of threatening the census takers with a knife when they visited his village. He told Human Rights Watch how uniformed police officers arrived at his house at about 9:30 in the morning and took him in a police car to Maliana district police station in the western region of East Timor.² He was beaten as soon as he got out of the car and then put in a cell. While in the cell he said he witnessed police officers severely beating another detainee, using a bulletproof vest. That evening other police officers came into his cell and sprayed pepper spray into his eyes. He has not made a complaint about the abuse he alleges, for fear of retribution, and also because he believes nothing will come of it.³

Over the past two years police abuse has become one of East Timor's most worrying human rights problems. Police officers regularly use excessive force during arrests, and beat detainees once they are in custody. This behavior seems to have become so common that officers rarely try to hide their actions from the general public. Human Rights Watch experienced no shortage of cases to document wherever we went in East Timor.

One East Timorese activist working for a nongovernmental organization (NGO) in Dili that has been monitoring police violence in East Timor told Human Rights Watch:

Beatings during arrest are already prevalent. Why? Because of the attitude of the police that they are an institution that has to be respected. They do not accept the questioning of their role or authority. If I am a

¹ Human Rights Watch interview with Carlito Gusmao, thirty-five-year-old victim, Aldeia Tasmak, Bobonaro district, East Timor, May 24, 2005.

² East Timor's official name is Republica Democratica Timor-Leste (RDTL, Democratic Republic of Timor-Leste). For the purposes of this report we use the English translation "East Timor".

³ Human Rights Watch interview with Carlito Gusmao, Aldeia Tasmak, Bobonaro district, May 24, 2005.

PNTL officer and say to you that you are guilty, you have to say, “I am ready to be guilty.” Beatings are already routine.⁴

Many of these abuses, as described to Human Rights Watch, rise to the level of torture. Mario Belo, a twenty-seven-year-old man recounted what happened after he was arrested in Mulia village, Baucau, for throwing rocks at some people he suspected of tampering with his fishing boat:

By the time I got to the prison it was about 7:00 p.m.; I think it was June 18. I was ready to answer [a question], but before I could answer [the police officer] straight away hit me, kicked me on my chin. My face turned and he hit me again on my left chin and jaw. He kicked me with his feet, kicked my groin [*kemaluan*]. He was wearing police boots, full police uniform. He kicked my right side and I fell. It was inside the examination room in the prison. I stood up and then straight away he kicked me here [in the mouth]. He cut my lip, both the top and the bottom. For about a week I couldn’t eat. They took me to the hospital in Baucau. The police officer from Laga took me to the hospital. In the room at the time [the beating took place] there was the officer from the prison, the perpetrator, two policemen from Laga, and me. They all just watched, didn’t try and stop it. It was about thirty minutes this violence. Finally he took out his gun and threatened me. He was about one meter away from me. He said, “Later, I will kill you.” I answered, “I haven’t done anything wrong. Why do you hit me?” He said, “You be quiet, later I will shoot you.”⁵

Many individuals whom Human Rights Watch interviewed also described their arrest by the police as illegal. Many said that they were not told what the allegations against them were, and many were held without charges for more than the seventy-two-hour period allowed by East Timorese law. Police officers appear to habitually utilize the full seventy-two hours of detention as a punitive, rather than procedural, measure.

The police and other state institutions have often failed to respond to incidents of police abuse appropriately. There is a lack of understanding among those investigating complaints that police officers committing a crime such as assault should be prosecuted

⁴ Human Rights Watch interview with Mericio Akara, researcher, La’o Hamutuk, East Timor Institute for Reconstruction Monitoring and Analysis, Dili, East Timor, May 30, 2005.

⁵ Human Rights Watch interview with Mario Belo, twenty-seven-year-old victim, Desa Mulia, Aldeia Karano, Baucau, East Timor, May 17, 2005.

through the criminal justice system as well as through the internal disciplinary system. The internal police oversight body, the Professional Ethics and Deontology Unit (PEDU, until recently called the Professional Ethics Office, PEO), has often failed to take cases of police abuse seriously, follow up on complaints, or appropriately discipline the officers involved. Insufficient police training on internal investigations and follow up, and the absence of a functioning external, independent oversight and accountability mechanism for the police service have meant that such complaints are often dealt with inconsistently, or in some cases not at all. Where cases are taken up, victims are usually left uninformed about developments and outcomes of their cases. Human Rights Watch spoke to many victims and their families about their attempts to seek accountability for human rights violations committed by the East Timor police force. Many were frustrated and perplexed by opaque bureaucratic procedures and long delays.

Within the East Timor government, the portfolio for internal security lies with the Ministry of Interior. Ultimate responsibility for accountability for policing therefore lies with the minister of interior, currently Rogerio Lobato. However, while institutionally subordinate to the Ministry, the East Timor police service also has its own distinct legal personality and operational structure.⁶ This includes a general commander and deputies, separate heads for each specialized unit, and thirteen district commanders. Together with two Ministry-appointed officers, this group comprises the Superior Police Council, which ordinarily convenes every six months to discuss disciplinary matters such as those arising from rights violations.⁷

Swift and appropriate disciplinary action and prosecutions against police officers responsible for human rights abuses and abuse of authority are critical indicators of the commitment of East Timor's government to creating a professional police force. They are also an indicator of how seriously the government takes its human rights obligations under the country's constitution and the many human rights treaties it has acceded to. It is worth noting that the country's leaders often talk about the deficit of human resources in the country and the need for increased training. This is certainly necessary, but it will only make a difference if at a political and policy level the kind of violence described in this report is punished. Otherwise, the failure to penalize human rights violators will create a climate of impunity that in turn will undermine training as an effective tool to decrease the level of police violence.

⁶ Organic Structure of the Ministry of Interior, Decree Law No. 3/2004, article 5 (April 14, 2004).

⁷ Organic Law of the National Police of Timor-Leste, Decree Law No. 8/2004, article 28 (May 5, 2004).

With the legacy of brutal Indonesian policing during the nearly twenty-five-year occupation that ended in 1999, it is perhaps not surprising that new recruits into East Timor's police are mirroring past experience in ignorance of professional standards. However, such behavior also reflects poor training, accountability and oversight, and can no longer be excused nearly six years after the first new police graduated in July 2000. In fact it is now more likely that the lack of institutionalized responses to police brutality has been a key factor in the emergence of police abuse as one of East Timor's most pressing and current human rights problems.

One serious consequence of this emerging pattern of abuse and impunity in East Timor is the potential for long-term erosion of public respect and support for the police, both as individual officers and as an institution. With the creation of a new country, the East Timorese people expected that its police would behave differently than the Indonesian-controlled forces during the occupation. But ineffective control, inadequate training, poor accountability mechanisms and lack of proper vetting of police officers have meant that abuse of powers by police remains a serious challenge to the rule of law in East Timor. The United Nation's failure to address this issue effectively while it was in charge during the transition to independence was also a contributory factor.

East Timor is now at a crossroads. While it is recognized that resources in East Timor are at a premium, the importance of establishing a professional and accountable police force is crucial to the country's future stability. A lack of accountability for abuses will undermine trust in the police and therefore its effectiveness and capacity to uphold the rule of law. Tolerated police abuse will make individuals reluctant to report crime to the police, or cooperate with them in criminal investigations, either as witnesses or victims. This in turn may lead to a vicious cycle in which a police force increasingly criticized for an inability to do its job effectively turns to ever harsher tactics and increasingly resorts to violence to achieve results. If present violations are not addressed as an institutional problem, they run the risk of becoming part of an endemic culture of abuse and impunity in the world's newest national police force, a culture that will be hard to eliminate once it takes hold.

Key Recommendations

Human Rights Watch found evidence of human rights violations by police officers to be widespread, although not yet endemic, in East Timor. Now is the time to address this problem before it becomes endemic. Human Rights Watch urges the East Timor government to:

- Ensure through public measures and statements that there is a clear, unambiguous and consistent signal from the top that police use of torture, arbitrary detention, and excessive force will not be tolerated.
- Ensure that legislation, policy and procedures are all in place so that the police operate under a coherent and clear legal framework that specifies police powers and their limits. This should include provisions to hold police publicly accountable in a transparent and credible manner.
- Support the Provedor's Office in creating a unit dedicated to oversight of the police.
- Task the minister of interior and the police commissioner to strengthen the police force's Professional Ethics and Deontology Unit by providing strong support for the unit's authority to enforce its decisions and by penalizing officers who do not comply with its directives.
- Ensure all oversight mechanisms coordinate and work together.

We also urge the East Timor police service (PNTL) to:

- Take swift and meaningful action against police officers who torture, arbitrarily detain, or use excessive force against members of the population. This should include administrative measures up to and including dismissal, and, where appropriate, criminal prosecution.
- Take appropriate disciplinary action against commanding officers who know or should know of such acts, and who fail to take action to prevent and punish them. The police commissioner should issue a directive to each district commander advising that he or she will be held personally responsible for ensuring the officers under his or her command comply with the existing disciplinary regulation and Rules of Organization Procedures (ROPs).

Donors should:

- Raise with the government of East Timor in all official meetings, and at the highest level, concerns over police violence, including torture. Call on the East Timor government to ensure that police treatment of all individuals conforms to international human rights standards.
- Substantially increase support for effective human rights monitoring in East Timor through existing mechanisms, such as civil society. As an integral part of this strategy, provide assistance for the development of local human rights groups with the capacity for independent monitoring of police violence, and to agencies that can provide services for victims.

- Initiate and support joint meetings between the East Timorese government, NGOs and the PNTL to coordinate, fund and plan for long-term strategies on capacity building, training, and other support to the PNTL.

II. Methodology

Human Rights Watch visited East Timor in May-June 2005 and interviewed over eighty individuals on the issue of police violence and growing impunity. Research interviews were conducted primarily in Baucau, Bobonaro and Dili districts. All interviews were conducted by a Human Rights Watch researcher directly in Indonesian or English.

Human Rights Watch interviewed more than thirty victims and witnesses to police violence. We also interviewed a range of domestic and international NGOs, United Nations (U.N.) agency and United Nations Mission of Support in East Timor (UNMISSET) representatives, including Special Representative to the Secretary-General (SRSG) Sukehiro Hasegawa, and staff from the UNMISSET Human Rights Unit and Political Affairs Unit. UNMISSET has since been stood down, but many of these staff now work for the United Nations Office in Timor-Leste (UNOTIL) and have continued to provide information and assistance to Human Rights Watch. U.N. police in East Timor extended much cooperation at both national and district levels; Human Rights Watch is especially grateful to the U.N. Police Senior Advisor Saif Ullah Malik for his time.

Human Rights Watch met with a range of East Timor government and police officials. We are grateful for the cooperation of East Timor's Police Commissioner Paulo Martins and Vice Minister of Interior Alcino Barris for assistance extended during the course of our research. East Timor's police force extended a high level of cooperation throughout the research trip, and allowed Human Rights Watch access to several police stations, detention facilities, and the national training academy.

Despite several written and telephone requests by Human Rights Watch, we regret having been unable to meet with more members of East Timor's government, including with a representative from the Prime Minister's Office or the Ministry of Justice.

For the purposes of this report Human Rights Watch has only looked into the conduct of the regular police force in East Timor, and not the specialized units.

Except where noted, Human Rights Watch offers no conclusions as to the guilt or innocence of criminal charges of any victim of police abuse described in this report.

III. Background

After almost twenty-five years of brutal occupation of East Timor by Indonesia, in September 1999 the Indonesian National Army (TNI) and Timorese militias went on a campaign of extreme violence when the people of East Timor voted for independence in a U.N.-administered referendum. An estimated 1,400 East Timorese civilians lost their lives in the months before and the days immediately after the voting. Approximately half a million people were forced from their homes or fled to seek refuge.

The violence was part of a systematically planned policy by elements of the Indonesian government and TNI to prevent the people of East Timor from freely participating in the referendum, and to punish them for voting for independence. The crimes committed against East Timorese included mass murder, torture, assault, forced disappearance, mass forcible deportations, the destruction of property, and rape and other sexual violence against women and children. These crimes were part of a pattern of gross violations of international human rights and humanitarian law, which, in many cases, constituted crimes against humanity.

Indonesia's subsequent withdrawal in late 1999 left not only a country devastated and traumatized by occupation and conflict, but it also left an institutional vacuum at all levels of civil administration and government. Many of East Timor's former civil servants were Indonesian or pro-Indonesia, and thousands left the country after the referendum. After four hundred years of Portuguese and then Indonesian occupation, the colonial legacy left to East Timor was one of very few functioning institutions, a huge human resource deficit, and an overwhelming and urgent need to build a government from scratch.

The most effective environment in which to build functioning public institutions is a secure and stable one. Although East Timor benefited from a relatively stable and smooth transition from occupied territory to independent state under the stewardship of the United Nations, the country still faces a myriad of post-conflict problems. It remains one of the world's poorest countries and ranks as one of the lowest on the Human Development Index (HDI).⁸ Unemployment and underemployment are estimated to be approximately 50 percent,⁹ while recent figures estimate the annual per

⁸ Despite significant improvements, East Timor's HDI is still the lowest among all ASEAN members, and is lower than the average for all least developed countries. See: United Nations Development Programme (UNDP), "Human Development Report 2005," (New York: United Nations Development Programme, 2005).

⁹ World Bank, "World Development Report 2006", 2005.

capita gross domestic product (GDP) to be equivalent to only U.S.\$370, falling to as low as U.S.\$150 in rural areas.¹⁰ The population is largely rural, and infrastructure for basic social services, health care, and economic support outside the capital, Dili, is extremely limited. Much of the population remains traumatized by the Indonesian occupation, and the six years since it ended have left people dissatisfied and frustrated by the slow pace of reconstruction and development.

East Timor has made formal commitments to human rights: The constitution includes important human rights protections and, on the first International Human Rights Day after independence (December 10, 2002), East Timor's parliament approved accession to seven major international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹¹ Ratification and reporting on these treaties is a key priority for the Ministry of Foreign Affairs. There is also a human rights advisor permanently appointed to the Prime Minister's office who, in 2004, convened an inclusive government and NGO working group to discuss the drafting of a Human Rights Action Plan for East Timor (to include public consultations on what should be included). In 2005 East Timor established a Provedor's Office (see below), similar to an ombudsman institution in other countries.

Establishing the East Timor Police Force

Establishing a new police force for East Timor was one of the priorities for the United Nations before sovereignty was passed to the new state in May 2002. Under a clear mandate to provide security and maintain law and order throughout the country, successive U.N. missions in East Timor were instructed and authorized to help enable the rapid development of a credible, professional and impartial police service.¹² U.N. Civilian Police (CivPol) began recruitment drives for the new East Timorese police

¹⁰ The equivalent figure for GDP per capita measured using Purchasing Power Parities gives a figure of \$732. See: United Nations Development Program, "Timor-Leste Human Development Report 2006, The Path out of Poverty: Integrated Rural Development," 2006, pp.10-12.

¹¹ The other treaties to which accession was approved on December 10, 2002, were the International Convention on the Elimination of All Forms of Racial Discrimination; the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of the Child (CRC); the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families; the Second Optional Protocol to the ICCPR; the Optional Protocol to the CEDAW; the Optional Protocol to the CRC on involvement of children in armed conflict; and the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography.

¹² United Nations Security Council Resolution (UNSCR) 1599, S/RES/1599, April 28 2005; UNSCR 1543, S/RES/1543, May 14, 2004; UNSCR 1480, S/RES/1480, May 19, 2003; UNSCR 1473, S/RES/1473, April 4, 2003; UNSCR 1410, S/RES/1410, May 17, 2002; UNSCR 1338, S/RES/1338, January 31, 2001.

service in early 2000 and basic training commenced on March 27, 2000, under the auspices of the United Nations Transitional Administration in East Timor (UNTAET). The initial graduating class of the newly inaugurated Police College numbered 1,700, the first fifty of whom took up their functions as police officers on July 12, 2000.¹³ Just over a year later, on August 10, 2001, the East Timor Police Service was officially established, working alongside CivPol.¹⁴ It later changed its name to the Timor-Leste Police Service, before finally adopting its current title of the *Polícia Nacional de Timor-Leste* (PNTL).

The joint policing arrangement between the new East Timor police and CivPol lasted into the initial independence period, and it was not until independence, on May 20, 2002, that an agreement was signed outlining the terms and timetable of the handing over of full policing duties from CivPol to the PNTL. This process started with the PNTL successively taking over control of policing district by district. Foreseen for a shorter timeframe, the process eventually took eighteen months, the PNTL finally assuming responsibility for general day-to-day policing for the whole country on December 10, 2003, when the handover of policing duties was effected for the thirteenth and final district, Dili.

UNTAET's successor mission from May 2002, the U.N. Mission of Support in East Timor (UNMISSET), was also mandated to provide interim law enforcement and public security, and was authorized to assist in the continued development of the PNTL. Originally envisaged to last one year, UNMISSET's mandate was twice extended (in May and November 2003), partly reflecting the fact that the critical threshold of self-sufficiency in key government institutions was taking longer than originally anticipated. It was at this juncture that the East Timorese national government finally assumed full responsibility for nationwide policing with the transfer of all executive responsibilities for policing, internal and external security from the U.N. to the Government of East Timor as of May 20, 2004.¹⁵

In May 2005 the U.N. Security Council replaced the Support Mission of UNMISSET with a much smaller special political mission, the U.N. Office in Timor-Leste (UNOTIL).¹⁶

¹³ "First group of UN-trained East Timorese police officers take up duties," UNTAET Press Release, Dili, July 12, 2000.

¹⁴ UNTAET Regulation 2001/22, UNTAET, Dili, August 10, 2001.

¹⁵ "Timor-Leste making steady progress towards self-sufficiency, but continued international assistance needed, Security Council Told," U.N. Press Release SC/8172, August 24, 2004. See also UNOTIL website: <http://www.unmiset.org/UNMISSETWebSite.nsf/UNPolice.htm?OpenPage>.

¹⁶ U.N. Security Council Resolution 1599, S/RES/1599, April 28, 2005, p. 2.

Composition of the East Timor Police Force

The Organic Decree-Law of the National Police of Timor-Leste was promulgated by the President in May 2004.¹⁷ It is the legal instrument governing the structure and role of the *Policia Nacional de Timor-Leste* (PNTL), and specifies the role of the police in relation to the army, *Falantil-FDTL*, in internal and external security. The PNTL is divided into the regular police and five specialist units. A July 2005 government press release stated that the PNTL had a total force strength of approximately three thousand officers. The focus of this report is the regular police force.

(Two of the special units are nevertheless of particular interest and are mentioned elsewhere in this report: the Rapid Intervention Unit—*Unidade Intervensann Rapida*, UIR—and the Border Patrol Unit—*Unidade de Patrulhamento de Fronteira*, UPF.¹⁸ The function of the UIR is to respond to civil disorder, particularly in urban areas, while, as its name implies, the Border Patrol Unit is primarily concerned with the security, patrol, and management of the border regions.¹⁹ Therefore, both internal disturbances and border security remain under the auspices of the police and the Ministry of Interior rather than with the military.²⁰ As of July 2005, there were 292 officers in the Border Patrol Unit and 217 in the Rapid Intervention Unit.²¹)

¹⁷ Although called a “Law,” it is actually a Decree-Law issued by the executive.

¹⁸ Other departments include General Command, the Criminal Investigation Unit, the Maritime Unit, the department of Traffic and Road Safety, the Community Protection Unit, the Migration office, the PNTL Intelligence Service, the VIP Protection Unit, the Police Academy, and the Reserve Police Unit. See: Organic Law of the National Police of Timor-Leste, Decree Law No. 8/2004, art. 6 (May 5, 2004); and Internal Security Act Law, East Timor (2003), [online], http://www.jsmp.minihub.org/Legislation/LegEng/07Law_Internal_09Security03.pdf (retrieved April 4, 2006).

¹⁹ While the Border Patrol Unit assumed border management responsibilities on May 20, 2004, its relationship and cooperation with the Indonesian armed forces is still developing. The UPF has not yet gained sufficient experience, confidence and capacity to manage border affairs without the support of the United Nations Military Liaison Group. Moreover, the approximately three hundred-strong unit remains considerably under-resourced and inadequately matched in comparison with the 1,500-strong Indonesian border units. UNOTIL staff members continue to assist the Border Patrol Unit. See: “Tangible Progress Made Building Timor-Leste’s Democratic Institutions, But Major Challenges Remain, Security Council Told,” U.N. Security Council Press Release SC/8323, New York, February 28, 2005.

²⁰ Constitutionally there is a clear separation of mandates. A clear and conscious political decision was made to place border control under the exclusive auspices of the police via the UPF, in the interests of ensuring non-threatening relations between Indonesia and East Timor. Nevertheless in the event that Indonesia or any other third party launched an invasion across the border, it is likely that the military would seek to take lead responsibility. Section 147 of the constitution places responsibility for ensuring the internal security of citizens with the PNTL, while under section 146.2, the F-FDTL is charged with guaranteeing “national independence, territorial integrity and the freedom and the security of the population against any aggression or external threat.”

²¹ “Government corrects report about ammunition purchases for the National Police,” Media Release, Government of East Timor, Dili, July 7, 2005. A third special department, the Rapid Deployment Service, also known as the Armed Banditry Combat Group, was initially envisaged as a unit to counter the security threat posed by militias, especially from West Timor. It has since been replaced by the Police Reserve Unit, which is authorised to intervene in non-urban areas “in situations of declared violence, where the resolution of such

The passing of the police decree-law was followed by the adoption of a disciplinary regulation in June 2004. Neither the disciplinary regulation nor the police decree-law was subject to parliamentary scrutiny or public debate. Instead both pieces of legislation were submitted to the President by the Council of Ministers and duly promulgated. Oversight mechanisms (such as those outlined below) are not mentioned in the police decree-law or the disciplinary regulation.

The police continue to have a number of institutional weaknesses including limited professional skills and experience, particularly in the areas of policy and law. The force is hampered by a lack of professional expertise in many administrative and management functions, and continues to face problems due to a lack of logistical capacity and a general lack of resources for equipment and infrastructure development.

It is also a very new and fragile police service which remains dependent on foreign aid for equipment and training support. There is a serious need for institutional strengthening across the board, but particularly in the area of mainstreaming human rights and ensuring that all police powers and procedures meet with international standards, and are implemented in accordance with them. (This is explored in detail in section V.D of this report).

Responsibility for Training, Discipline, and Investigating Police Abuse

Replacing a Code of Conduct for the East Timor police adopted by the United Nations administration during UNTAET,²² the disciplinary regulation of June 2004 sets out the duties of PNLT officers, imposes limits on police powers and outlines the disciplinary processes that would follow any breaches of the standards set out in the regulation. In its own words, the regulation claims to provide “a systematized corpus of rules and principles... to guide the action of [PNLT members]... thereby guaranteeing the professionalism and prestige of the institution.”²³ Fifteen Rules of Organisation Procedures (ROPs) have also been prepared in areas including use of force; community policing; preliminary investigation of crime; search and seizure; handling of child abuse cases and handling at-risk children; investigation and reporting of traffic accidents; police vehicle operation; court duties; and training.²⁴

violence demands more than the normal capabilities of police action.” It currently numbers approximately eighty persons.

²² PNLT Code of Conduct, adopted in March 2003.

²³ Disciplinary Regulation of the National Police of Timor-Leste, Decree-Law No. 13/2004 (June 16, 2004).

²⁴ United Nations, “Report of the United Nations High Commissioner for Human Rights on Technical Cooperation in the Field of Human Rights in Timor-Leste”, U.N. Document E/CN.4/2005/115, 2005.

There are three main bodies in East Timor that have responsibility for police oversight. First, the internal police Professional Ethics and Deontology Office (PEDU, formerly the Professional Ethics Office, PEO) is charged with investigating allegations of police misconduct or abuse (which are usually made by members of the public). The results of any investigations, together with any recommendations for discipline, are sent to the Minister of Interior, who decides what action should be taken.²⁵ Second is the office of the Inspectorate, comprising representatives from the Ministry of Interior, the police, the office of the human rights advisor to the prime minister, and the prosecutor general's office. Created in August 2003 in accordance with the Decree Law on the Organic Structure of the Ministry of Interior,²⁶ this body has disciplinary competence over all structures and institutions subordinate to the Ministry of Interior, including the police (although the legislation is not explicit on the mandate of the Inspectorate to deal with police disciplinary matters).²⁷ Third, there is the Office of the Provedor, the only external oversight mechanism, which has far-reaching powers to investigate and report on complaints against government officials and institutions, including the police.²⁸ (Analysis of the PEO/PEDU and the Office of the Provedor is provided in Section V.B of this report.)

The Ministry of Interior retains operational control over the police force, and ultimately all members of the police force, including the police commissioner, are answerable to the minister of interior.²⁹ The police commissioner has the authority to recommend dismissals of members of the police force found guilty of human rights and other violations, but the power to enact the dismissal lies solely with the minister of interior.

²⁵ Organic Law of the National Police of Timor-Leste, Decree Law No. 8/2004, art. 13 (May 5, 2004). Since the establishment of the Inspectorate in August 2004, the ministry now conducts inquiries through that office.

²⁶ Organic Structure of the Ministry of Interior, Decree Law No. 3/2004, art. 11 (April 14, 2004).

²⁷ United Nations, "Report of the United Nations High Commissioner for Human Rights on Technical Cooperation in the Field of Human Rights in Timor-Leste", U.N. Document E/CN.4/2005/115, 2005.

²⁸ OHCHR, "Asia and Pacific Region: Quarterly Reports of Field Offices," June 2005.

²⁹ "Though having their own legal personality, the National Police of Timor-Leste (PNTL) and the Police Academy are institutions subordinate to the Ministry of Interior." See: Organic Structure of the Ministry of Interior, Decree Law No. 3/2004, art. 5 (April 14, 2004).

IV. Police Abuse

Since independence in 2002, police abuse has become one of East Timor's most worrying human rights problems. Police officers regularly use excessive force during arrests and beat detainees once they are in custody. The police and other state institutions have often failed to respond to incidents of police abuse with appropriate disciplinary measures or criminal proceedings.

In the course of our research the number of accounts of severe ill-treatment, including torture that former detainees and prisoners described to us at the hands of police officers was striking. Several people whom Human Rights Watch interviewed had had to be hospitalized because of the severity of their injuries.³⁰ While this level of severity of abuse may not yet be systematic or systemic in East Timor, the ease with which we found illustrative cases was alarming.

In his February 2005 report to the Security Council on the United Nations mission in East Timor, U.N. Secretary-General Kofi Annan noted that major problems within the East Timor police force remained a cause for concern, and that "reports of police misconduct, including excessive use of force, assaults, negligent use of firearms and various human rights abuses, have increased since May 2004." He continued that "lack of transparency and a slow-paced investigation mechanism have contributed to a poor level of police accountability."³¹ Six months later, he again noted that "although the skills and competencies of the East Timorese police have been considerably enhanced, instances of excessive use of force and human rights violations by police officers, including against members of political opposition groups, continue to be reported."³²

Human Rights Watch interviewed Mario Sarmento, who was badly beaten by police officers in Dili in January 2005 after a fight between some youths on a bridge. The police were using a microphone to instruct residents to remain inside their houses while they searched for the suspects. Mr Sarmento, worried about his son, Justo, went out looking for him. He described what happened:

³⁰ Human Rights Watch does not rule out the possibility that some of the torture is for the purpose of extracting confessions, but our research showed an overwhelming number of cases where violence was inflicted on detainees for what appeared to be punitive reasons, or officers' demonstrating authority or power over individuals.

³¹ United Nations, "Progress Report of the Secretary-General on the United Nations Mission of Support in East Timor," U.N. Document S/2005/99, February 18, 2005.

³² United Nations, "Progress Report of the Secretary-General on the United Nations Office in Timor-Leste," U.N. Document S/2005/533, August 18, 2005.

I called out for my son two times, called his name. Then the police, two cars, came at great speed to where I was standing. Both cars stopped right in front of me. [One car then continued and the other stopped.] They got out of the car straight away. At first two of them came in my direction. I thought they wanted to ask me some questions but they punched me straight away in the chest—one person, without any words. After that I was ready to apologize, and asked what was the matter, and asked them not to hit me. Two more people got out of the car and one of them punched me again in my chest. Then they all took out their sticks. They were wearing full police uniforms. I said “I don’t accept actions like this, I ask you to give me your names.”

After I said that they got more vicious and then they put one of the sticks under my neck. Four men, all of them carried out a beating. I was propped up against the wall. Then because it was so chaotic my wife arrived from the house, heading in my direction to try and stop what was happening. After my wife arrived she asked for their forgiveness and said that her husband had not done anything wrong and not to hit him. The four of them just continued their actions. My wife grabbed my wrist to pull me so that they would not hit me. One of the policemen grabbed the other wrist and was pulling me one way, with my wife pulling me in the other. Then the policeman pulled me strongly so that my wife fell down with my four-year-old child onto the ground.

Then Vincent [another son] arrived to intervene in this incident. He talked to the police politely and asked them not to hit his father. They didn’t listen and hit him, two of them hit him. They kicked him one time in his chest. Their faces were not clear because it was dark. So he fell, finally they took out handcuffs, and wanted to handcuff my son, and started threatening, “This uniform is not scared of anyone!” I went over to my son. I asked them to help not make him a victim. They released him and they faced me again. This all lasted about thirty minutes... Then the streetlights came on. After the light came on they stopped their action.³³

³³ Human Rights Watch interview with Mario Sarmiento, forty-six-year-old victim, Aldeia Loron Matan, Sucu Rainakadoko, Dom Aleixo sub-district, Dili, May 23, 2005.

Arbitrary Detention

Arbitrary detention is a recurring problem in East Timor. Human Rights Watch interviewed many individuals who described their arrest by the police as illegal. Many were not told by arresting officers what the allegations against them were. East Timor criminal procedure allows for a suspect to be held without charge for up to seventy-two hours, whereupon he or she must either be charged or brought before a judge to have the detention extended. Human Rights Watch found that people were regularly held for more than the seventy-two-hour period without charge or appearance before a judge.

One young man was picked up by police officers after he had shouted coarsely at them. It appears that his detention was as punishment for his words, even though he had committed no recognizable criminal offense. He told Human Rights Watch:

After that they took me to the cell in Baucau. For seventy-two hours I was detained in the cell in Baucau. On the second night, it was Sunday, [officer D, name withheld] called for me. After I was called, another police officer, [officer E, name withheld] hit me in the chest, through the bars of the cell. [Officer D] called for me to come to the front of the cell and put my hands up. [Officer E] then hit my chest. That night I didn't eat. My chest was hurting. After that on Monday, after seventy-two hours, I was released. There was no hearing or investigation. I was just let go and went straight home. That's it.³⁴

Article 9 of the International Covenant on Civil and Political Rights provides that everyone "has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention." To ensure freedom from arbitrary detention, Article 9 further requires that detention must be examined for its lawfulness by an impartial adjudicator. East Timor's constitution also states in Section 30:

2. No one shall be arrested or detained, except under the terms clearly provided for by applicable law, and the order of the arrest or detention should always be presented for consideration by the competent judge within the legal time frame.

3. Every individual who loses his or her freedom shall be immediately informed, in a clear and precise manner, of the reasons for his or her arrest or detention as well as of his or her rights, and allowed to contact a lawyer, directly or through a relative or a trusted person.³⁵

³⁴ Human Rights Watch interview with Baltazar Fatima Correia, twenty-two-year-old victim, Desa Mulia, Aldeia Sialimu, Baucau, May 17, 2005.

³⁵ Constitution of the Democratic Republic of East Timor, 2002, sections 30.2 and 30.3.

One reason for illegal detention in East Timor is the failure to implement key training on this issue. A senior U.N. police advisor, Nuno Anaia, told Human Rights Watch that some targeted training had been devised to address this issue, and that the result was a demonstrable decrease in the number of illegal detention complaints that they were receiving. Anaia told Human Rights Watch:

This is a good example of how provision of resources and training can have an effect. In the first six months of UNMISSET, we received sixty-two complaints about violations of the seventy-two hour rule. We then designed the training for investigators and called in the prosecutors etc. to explain that the seventy-two hours was not for investigations... So, in the last six months only three cases have been reported, and those are mostly because of holidays [causing non-availability of judges] etc.³⁶

However, another key problem with meeting the maximum seventy-two-hour detention rule remains the weakness of East Timor's criminal justice system, and basic lack of resources. Outside of the capital the courts are seriously understaffed and their workers under-resourced, and limited availability of judges and public defenders means that hearings to rule on detention being continued beyond seventy-two hours do not take place, or take place without the suspect having legal representation. This represents a real operational problem for the police's compliance with legal provisions for holding and detaining suspects. At a more basic level a lack of resources such as cars, fuel, and car maintenance is contributing to unlawful detention and inadequate investigations simply because, without transportation to meet with victims and witnesses, police may resort to prolonging a suspect's detention without charge until such time as they can conduct a basic investigation.³⁷

The under-resourcing of the judiciary may affect not only suspects who are held unlawfully beyond the seventy-two hours without charge, but also persons who are properly remanded in pre-trial detention. Some accused can spend six months in pre-trial detention with no judicial oversight, or without an indictment being filed against them.³⁸

³⁶ Human Rights Watch interview with Nuno Anaia, U.N. technical advisor to the PNTL Commissioner, Dili, May 31, 2005.

³⁷ One NGO monitoring police abuse in East Timor reported that of the four district police stations they visited in Lospalos, Baucau, Manatuto and Viqueque none had more than two cars for the whole station. Human Rights Watch e-mail correspondence with Forum Tau Matan, March 14, 2006.

³⁸ For more information on this see: JSMP, "JSMP concerned about illegal detentions in East Timor," January 16, 2003; OHCHR, "Asian and Pacific Region Quarterly Reports of Field Offices," March 2004, p. 24; and, Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, "East Timor: Country Reports on Human Rights Practices for 2004", February 28, 2005.

Mario's wife also described the incident to Human Rights Watch, adding:

I don't know why they began to hit straight away, I don't understand those people. They beat a lot that night. That night the back of my husband was all black, he was really sick. He was bruised all over, from that police stick. There were many witnesses. The community was standing in the road. There were so many witnesses. The police took out their guns, took out their sticks, then the lights came on and they left very quickly.³⁹

Mario Sarmiento has repeatedly tried to find out what is happening with a case he has lodged against the police. He told Human Rights Watch:

I have already checked four times at the district court but there is not yet any explanation... I like it if you use my name because we want to improve the PNTL so that they can't do things like this again. I have given a report to the police, the process is taking a long time. Because the investigation is long I also submitted a complaint to the Professional Standards Unit. I went to the hospital to get my *surat keterangan* [doctor's note], for the bruises on my back. I got some letters asking me to be a witness in a different case; I believe this is manipulation to stop the process in my case. The process is still with the prosecutor in Dili district. Last time I went to check he said that my case was still being processed. The police had been summoned, but the first time they did not come. Then the *keterangan* was in Indonesian so it is still being translated [into Tetum] to go to the court. I have not yet heard if there is a process with the perpetrator; he is still free, not detained. There has been no action from the commander.⁴⁰

Another man, Cristiano da Costa, thirty-four, told Human Rights Watch about an incident that happened in November 2004 after some policemen accused him of hitting a government minister's car with his truck and then not stopping, on a road just outside Dili. He told Human Rights Watch that there were two policemen who had followed him to his home in Taibesse, Dili, where they wanted to arrest him. He agreed to go to the police station with them to try and resolve the matter in the presence of his boss,

³⁹ Human Rights Watch interview with wife of Mario Sarmiento, Aldeia Loron Matan, Sucu Rainakadoko, Dom Aleixo sub-district, Dili, May 23, 2005.

⁴⁰ Human Rights Watch interview with Mario Sarmiento, Aldeia Loron Matan, Sucu Rainakadoko, Dom Aleixo sub-district, Dili, May 23, 2005.

who worked for *Perkumpulan HAK*, a human rights organization in the capital. Cristiano told us:

They wanted us to all go in the police car and I said it was better if I took my truck to the station so that we would know better if there was any damage. They said you take your truck, you in front, us behind. My house is on top of the hill. We drove down until we got to the river. Everything was dark, it was about 10 or 11 at night. They flashed their lights and told me to stop there. I thought maybe they wanted to take my truck and I would go in the police car. That is what I thought. They got out of their car, and I was still in my truck. They told me to turn off the engine, and turn off the lights. They ordered me to open the door, saying they wanted me to get out. I opened the door and before I had even got my foot on the ground I was hit. Once on my [left] cheek and two times in my chest. It was one of the policemen, with his hand. Then he said, "If you do anything you will be killed." Then they put me in the police car, one of the policemen drove my truck to the police station in Caicoli... I told the commander that I had to go to the hospital. My cheek was injured.⁴¹

Perkumpulan HAK has been assisting Cristiano da Costa with his complaint against the police for assault and arbitrary detention. They told Human Rights Watch:

The case has already had a hearing in the court. The result of the investigating judge's decision is that the two perpetrators would have an unconditional release [i.e. charges dropped]. Until now there has been no action from the PSU [Professional Standards Unit, now called the Professional Ethics and Deontology Unit]. On March 17, 2005, the prosecutor's case went to the court. At the time of the hearing Cristiano was not present. He was not informed, not allowed to attend. Since that hearing there have not been any further developments in the court, and the perpetrators still continue their duties as police. There are many cases like this. There is an incident, but then there is no process.⁴²

⁴¹ Human Rights Watch interview with Cristiano da Costa, thirty-four-year-old victim, Dili, May 23, 2005.

⁴² Human Rights Watch interview with *Perkumpulan HAK* staff, Dili, May 23, 2005.

In August 2004, several men who had been involved in a fight with residents of a rival village were arrested and taken into police custody in Maliana police station. One described what happened to him that night in the cell:

At midnight, police from Maliana arrived and called for me in the cell. They said for me to come out to get some medicine. However, as soon as I started to stand up, then they hit me—kicked me on the stomach and punched me on the chest. [The interviewee gives the first names of the first officer to hit him and of two others who hit him when he came out of the cell.] Then they ordered me to go back into the cell. In the morning I was taken to Maliana hospital for treatment.⁴³

One man who witnessed this told Human Rights Watch:

They took him out of the cell and took him right in front of the cell. I witnessed the beating. They used their fists and punched him in the stomach. When they ordered him to leave the cell, it was said it was to take some medicine but after he exited he was ordered to raise his hands and put his back against the wall. Then he was beaten by those two policemen. Maybe for about fifteen minutes. We didn't call out. We were just quiet.⁴⁴

Maliana hospital records seen by Human Rights Watch show that the victim was admitted to the hospital in August 2004 with a “cut on the head (above the right ear). Approximately 3cm. Scratches on the left side of the head.”⁴⁵

Several of the men submitted a complaint to the police regarding excessive use of force at the time of their arrest and ill-treatment during their detention in Maliana police station in August 2004. One of the victims told Human Rights Watch:

The three of us went to Maliana to initiate an investigation against the PNTL in Maliana. We don't yet know the result. We went again on

⁴³ Human Rights Watch interview with thirty-two-year-old victim (name withheld), Bobonaro sub-district, May 25, 2005.

⁴⁴ Human Rights Watch interview with twenty-nine-year-old witness (name withheld), Bobonaro sub-district, May 25, 2005.

⁴⁵ Maliana Hospital Admissions Record for August 2004, viewed by Human Rights Watch in Maliana Hospital, East Timor, May 26, 2005. The hospital records did not show a specific date in August 2004.

March 17, 2005, and were told to wait for the result of the investigation. We are not satisfied with the actions of the police. We do not accept it because their violence is as if Indonesians are still here in East Timor.⁴⁶

In August 2004, a man from Dili was detained with about fifty other members of his martial arts group while on a group visit to the district of Ainaro, about forty kilometers from Dili. The men believe they were targeted merely for membership in the martial arts group.⁴⁷ They were told they had been arrested on suspicion of burning down a house in a nearby village the night before. Human Rights Watch talked to one of the men about what happened. He recounted:

The police met us in the road and immediately searched us. We had knives—they took all of them. There was a friend of mine who was wearing a PNTL uniform but he is not PNTL. He was ordered to do push-ups by the police and the UIR [Rapid Intervention Unit] for about thirty minutes. After that we walked for about a hundred meters. We passed by the house that had been burnt and they hit us. I was beaten on my back and kicked. We were handcuffed first and then ordered to run to Ainaro town... about forty-five of us were handcuffed. When we got to Ainaro police station we were ordered to line up and take off our clothes—trousers, everything, just left in our underwear. Then we were ordered to stand on one foot with our arms stretched out to the sides. If we put our foot down we were beaten. We were also tortured with pepper spray sprayed directly into our eyes. I was beaten on the chest. I was hit four times. We arrived there at 3:00 p.m. At 10:00 p.m. we were finally put in the cell... We were detained for three days, then in the morning of the fourth day we were released to return [i.e. to be transferred] to Dili. We went in the cells again in Dili. Forty-five of us were in a cell in Dili for another seventy-two hours.⁴⁸

Human Rights Watch interviewed several men who were victims and witnesses of excessive police force at an incident in Bobonaro sub-district on August 13, 2004. A meeting to settle a land dispute turned violent after a police officer allegedly hit someone

⁴⁶ Human Rights Watch interview with thirty-two-year-old victim (name withheld), Bobonaro sub-district, May 25, 2005.

⁴⁷ There are several large martial arts groups in East Timor. The groups consist mainly of young unemployed males who have also been known to fight one another in gang-style clashes. The government of East Timor sees them as a security concern and has increasingly sought to regulate them.

⁴⁸ Human Rights Watch interview with forty-two-year-old victim (name withheld), Caicoli, Dili, May 28, 2005.

present at the meeting. At least two police officers were attacked and fled the scene. Police backup was then called into the village. One man told Human Rights Watch what happened next:

The [extra] police to arrive were from Bobonaro. They straight way started arresting and beating people here. The police were kicking my father and beating him with the police stick. They hit him on the left side of his body. There were about seven or eight men. After they beat my father, my older brother arrived and told them that there was no need to beat his father. If they wanted to beat someone they should just beat us. Then the police let go of my father, didn't beat him anymore, and started beating my brother with a stick and a bulletproof vest. They beat him on his head, until it started bleeding.⁴⁹

The man's brother told Human Rights Watch what happened to him:

After they let go of my father they started beating us. First they beat me with a bulletproof vest that they were carrying. The policeman kicked me with his feet, and beat me with his fist and the vest. Hit me on my head until it was bleeding. He kicked me in the chest. There were also other people hitting me from behind. Then the police from Maliana said that they were there to calm the situation not to beat up victims. So, the police from Maliana were able to save us. I think if the Maliana police had not arrived, we would have been half dead.⁵⁰

⁴⁹ Human Rights Watch interview with twenty-nine-year-old witness (name withheld), Bobonaro sub-district, May 25, 2004.

⁵⁰ Human Rights Watch interview with thirty-two-year-old victim (name withheld), Bobonaro sub-district, May 25, 2004.

Unauthorized Use of Firearms

The most high profile example of excessive use of force and resort to lethal force remains the police response to riots in Dili in December 2002. At that time hundreds of rioters smashed and looted their way through Dili and burnt several buildings to the ground. In several instances the response of panicked and poorly trained East Timorese police officers was to use tear gas and open fire on members of the crowd with live ammunition. This resulted in the death of two young men and the hospitalization of another thirteen people with gunshot wounds. Several victims of the shootings claimed that they were shot and wounded when police drove through the streets and fired directly at suspects.⁵¹

The government report into the incident was not published until nearly a year later, in November 2003. It confirmed the number of casualties, but was inconclusive as to the identities of the perpetrators of the shootings. Although an earlier internal police investigation had identified and suspended six UIR members who had discharged their firearms during the riots, they were not held responsible for the fatalities and injuries caused.⁵² The U.N. account of the episode criticized the “high incidence of contradictory statements” by police, which had hindered resolution of the matter.⁵³ To date, there has been no clarity on the status of any disciplinary action against police officers involved in the riots of December 2002.

Likewise, the fatal police shooting of one man during disturbances in Baucau one month earlier has yet to be satisfactorily resolved, and to date no one has been held accountable for the killing.

Although not yet a widespread problem, Human Rights Watch found other more recent incidents of disproportionate, unnecessary, and illegal use of firearms by police in East Timor.

One twenty-two-year-old man described his experience to Human Rights Watch. On July 12, 2004, he had been involved in an early morning fight with other men in the town of Tilolai. He told Human Rights Watch that the fight had only lasted about twenty minutes and no one had been injured. That afternoon the police arrived at his village:

⁵¹ Mark Baker, “East Timor At Flashpoint As Disillusionment Sets In,” *Sydney Morning Herald*, December 24, 2002.

⁵² UNMISSET, “Transcript of News Conference with SRSG Kamalesh Sharma and UNPOL Commissioner Sandi Peisley,” Dili, November 18, 2003.

⁵³ Jill Jolliffe, “UN Failed to Act Effectively in Dili Riots, Inquiry Finds,” *The Age*, November 19, 2003.

We were playing football in the field here at about four o'clock in the afternoon. Then the police—not with a patrol car, with a normal car—arrived in a passenger minibus. They got out of the bus and we saw the police. They said, 'Hey! Stop!' then they took out their guns. We were scared and so we ran. I don't know how many policemen there were. I just saw one policeman get out of the bus. As soon as I saw the gun I started running. My friends who had not been involved in the incident did not run. Just the three of us ran. The police straight away shot at us. They shot four times—I didn't see it because I was running but I heard it. [None of the three were injured.] We have not yet reported to the police about the shooting. I'm scared they will want to arrest us again.⁵⁴

Another man described an incident that occurred in January 2005. He and his nephew were out picking fruit and vegetables when they came across a PNTL officer who accused them of having stolen cattle. He told Human Rights Watch:

We went up to the hill at about ten o'clock in the morning. It was January 23, 2005... When we got to the top we met this PNTL man. They [the PNTL officer and family] were looking for cattle. They said someone had stolen them, and then they met us. When they came across us he readied his gun. The PNTL, one man, with his family, four of them altogether. He was wearing normal clothes. He was ready to shoot and told us not to do anything... We were carrying one bag and two umbrellas, and two small machetes. The PNTL ordered us to give them to him. He put all the things in his waistband. Took all of it. He also took cigarettes and some tobacco. I had a small amount of tobacco wrapped in some plastic. He took all of it. After that he told us to walk. He forced us to walk. He was holding his gun at the ready, behind us. We were in the middle. His family was in front. After we had walked maybe two hundred meters we saw cattle footprints. Two sets and we had to follow them. The PNTL was behind, always behind... We were walking for about twenty minutes and it was raining really hard. We saw the prints again and then maybe less than one hundred meters later we found the cattle. The PNTL was maybe half a meter behind me and then he shot his gun. I don't know where he shot it. I was still looking forward and the PNTL was behind me. He fired his gun one time and said, "If you don't want to die, then leave." When he fired his gun the two cows ran off... We were looking for the cows for maybe three hours. It was already afternoon by the time I went home... He is very wrong using a weapon that belongs to the government.⁵⁵

The man went to file a complaint with the police but later agreed to meet with the police officer to resolve the matter informally. Had the system been working properly the officer would have been disciplined by his superior officer, who knew about the case but took no action.

⁵⁴ Human Rights Watch interview with twenty-two-year-old man (name withheld), Baucau district, May 17, 2005.

⁵⁵ Human Rights Watch interview with forty-year-old victim (name withheld), Aldeia Tas, Bobonaro district, May 26, 2005.

Regarding the case above, the chief of the PEO office in Bobonaro told Human Rights Watch that once the perpetrator had made peace with the community then maybe there would also be a disciplinary measure imposed by the PNTL on this officer (he suggested that this might be a two-month suspension, or whatever the commander decided). When asked about the unauthorized use of the firearm, as if to explain, he responded:

Normally pistols are distributed in the morning and in the afternoon they are returned to the stock room. In this case the officer came in the morning, received his gun, then went home for breakfast. He changed his clothes and then heard about the cattle. That's why he had his gun.⁵⁶

As with other types of violations the failure to discipline and hold officers involved accountable is undermining efforts to enforce strict adherence to use of firearms policies in the police force.

The U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that firearms may only be used in very specific circumstances: "Law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury [or] to prevent the perpetration of a particularly serious crime involving grave threat to life."⁵⁷

According to the Basic Principles, "Governments shall ensure that arbitrary or abusive use of force and firearms by law enforcement officials is punished as a criminal offence under their law."⁵⁸ Although the Code of Conduct and the Basic Principles on the Use of Force and Firearms are not binding international law, they constitute authoritative guidance for interpreting international human rights law regarding policing.

⁵⁶ Human Rights Watch interview with Simao Lopes, PEO chief, Maliana, Bobonaro district, May 26, 2005.

⁵⁷ U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, General Provision 4.

⁵⁸ *Ibid.*, General Provision 7.

When Human Rights Watch asked the Bobonaro sub-district police commander about this incident, he stated:

The PSU [Professional Standards Unit] is already investigating this. I have already given them all of my reports. The result is still being processed in the PSU. It is still being considered where the truth is. It is not yet resolved... Am I a perpetrator or a victim? This is not a small case, this case has gone all the way up to the minister [of interior]. My members [officers] didn't eat for a week afterwards [i.e. after the incident] because their faces were so swollen. The community think because it is already a democracy they have the right to do anything at all. They also have to recognize that the police have the rights to defend themselves. If the U.N. Human Rights Unit or *HAK* come here I don't receive them. They document differently and always conclude that the police are the perpetrators.⁵⁹

Human Rights Watch then interviewed the head of the Professional Ethics Office in Bobonaro who was overseeing the case. He told us that the case had already been processed and they were waiting to send the details to Dili. He confirmed that allegations had been made against four PNTL officers from Bobonaro sub-district police station, and one from the Maliana police station.⁶⁰

Elisio Dominggos da Piedade, of Baucau district, told Human Rights Watch about an experience in late July 2004. He said he was arrested for an incident involving two policemen and another man who had borrowed his motorbike. On the day in question he was at work, with his motorbike outside, when two police officers in a patrol car arrived. He was mistakenly identified as the suspect, handcuffed, and taken to Baucau police station. He told Human Rights Watch:

All the way there I was asking, "Why are you arresting me?" The two men just told me to be quiet. [He identified the two officers, one by name.] As soon as they released the handcuffs, [officer's name withheld] sprayed pepper spray in my eyes. I was standing and he was nearby, very close to me. He sprayed me once in the eyes. After that they took me to the interrogation room and I was kicked in the chest. It was [name

⁵⁹ Human Rights Watch interview with Commander Atanasio Barreto, Bobonaro sub-district police station, May 25, 2005.

⁶⁰ The latter officer subsequently died of causes unrelated to the incident. Human Rights Watch interview with Simao Lopes, PEO chief, Maliana, Bobonaro district, May 26, 2005.

withheld] again. He kicked me here [shows chest] and I fell backwards against the wall. Then he kicked me again. I fell again onto the wall in front of me. I don't know how long he was kicking me for, maybe for about ten minutes. He didn't ask anything at all, he was still annoyed [jengkel] with me. Then I was put in a cell for seventy-two hours. It was completely empty. I didn't report [the assault] to anyone at the station. My eyes are still sore because of the gas.⁶¹

Baucau hospital records show that a doctor's note was written for Elisio's case detailing his injuries. It shows that Elisio was given medication for a medical complaint over a period of three days in July 2004 for a trauma to his back caused by a beating.⁶²

The charges against Elisio were dropped but during the criminal proceedings against Elisio at a court in Dili he did submit a complaint about his ill-treatment during his time in police custody. He has subsequently repeatedly sought accountability for the abuse. He told Human Rights Watch what he did after he was released from detention:

I submitted a complaint about [the policeman whom he alleges beat him and sprayed him with pepper spray, name withheld]. It is already being investigated by the police but has not yet finished. At the time of my hearing in Dili I also complained to the court [about the abuse]. I feel sad because it has not been submitted, and the process is still ongoing. About the original incident, no one was ever arrested for it. Just me and it was a mistake. Because I was wrongly arrested I was unconditionally released. After the decision in my case my defense lawyer Pedro asked the prosecutor and the Baucau police to investigate the wrongful arrest and abuse. So, after the letter of request to the police and the prosecutor, they said we have to wait for the process to proceed. Until now it has not been brought to court. I am dependent on the process. If it is investigated then [name withheld] has to be brought to justice. My opinion is that I am ready to go to court.⁶³

Elisio's father, who works at the district hospital, complained to Human Rights Watch about the lack of movement on his son's case:

⁶¹ Human Rights Watch interview with Elisio Dominggos da Piedade, Aldeia Trilolo, Baucau, May 17, 2005.

⁶² *Surat Keterangan Sakit* [Doctor's Note], Baucau Hospital Records, Baucau, viewed by Human Rights Watch on May 18, 2005. Copy on file with Human Rights Watch.

⁶³ Human Rights Watch interview with Elisio Dominggos da Piedade, Aldeia Trilolo, Baucau, May 17, 2005.

My son was beaten in the prison (cell) but he was not taken to the hospital. I asked them to take him to the hospital, to be given medicine, but they didn't take him. Until now we are still waiting for the case to be resolved. It has not yet been resolved, we have not yet received any information.⁶⁴

Another young man, who did not wish to be identified, told Human Rights Watch about what happened to him when he was arrested in his village in Holsa:

On June 25, 2004, I was arrested by the PNITL, and put in a cell for two days and two nights. I was continuously tortured, sprayed with pepper spray, beaten, and drenched with water. They constantly threatened me saying, "If you oppose the police then you will know the consequence." Three police came into the cell, locked the door, took off their jackets, then hit me. They were all Maliana PNITL. They were the night guards, and were wearing PNITL uniforms. On the first night they beat me at around 1:00 a.m., on the second night they beat me around 3:00 a.m. Both nights were different people, but both times they were beating me. The first time I was in a cell with my friends. The three of them arrived and called for me, "[name withheld], you come with us." They took me alone to another cell. When we got there they started beating me. For about an hour they were beating me. They hit me with a shoe, and kicked me on my back and on my feet. They were wearing police boots. The light was off. I was shouting for help but no one came. When they finished they took me back to the cell. I couldn't walk so they lifted me into the cell. Then they went back to their office. I was injured.

(...)

On the second night we slept until 3:00 a.m., then they came again. They arrived, called for me again, and took me again to the cell—that torture room. They beat me until I was unconscious. I collapsed and they took me to the hospital... When we got to the hospital the doctor said, "This man is almost dead, you are still doing things like this?" The doctor examined my ribs. Here [points to right side of forehead] my head was cut and bleeding. The doctor continued examining me and said that I had to spend the night in the hospital. The police said, "Let him die, die

⁶⁴ Human Rights Watch interview with Augustino Ximenes Cosme, Baucau hospital, Baucau, May 18, 2005.

in the police station.” Then they took me back to the police station and put me back in the cell.⁶⁵

One thirty-five-year-old man detailed a traumatic encounter he had with a police officer in May 2004 in his village in Batugade, Bobonaro. He told Human Rights Watch:

I saw a man standing in front of my door, he was wearing a black top and it had “police” written on the back of it. I also saw that he was carrying a gun under his left armpit. After I shone my torch he ran in my direction and took hold of my right hand. He said, “Do you know me or not?” I saw he had a gun so I told him I knew him and apologized to him but he straight away hit me once in the chest with his hand. I asked for his forgiveness three times and then he hit me again and took me from my house to my brother’s. When we got to the front of my brother’s house I called for him to come out and my brother asked the policeman not to beat me anymore. He said if there was a problem with us then we could resolve it in a manner which was better. And then the PNTL kicked my brother. . . My brother was scared and ran away. So I was dragged and hit again in my stomach. It was a severe beating and I fell backwards and my head collided with the asphalt, and then I was dragged again. I was already unconscious. There was lots of blood on my head and I only came to when the PNTL dragged me to stand up again. I was dragged about a hundred meters and I fell. I was unconscious. The policeman held my hands and stamped on my stomach, and then took out a *sangkeur* [type of bayonet/knife] and wanted to stab me. He ordered the community to say if anyone knew me or not, if no one knew me he was going to stab me because I was a militia [militiaman]. My brother ran forward and said, “I know him. He is my brother.” The policeman released me and my family took me to my brother’s house.

The PNTL member left and my brother waited with me until four o’clock in the morning and then went to rent a car from Balibo to take me to the hospital in Balibo. At the hospital the healthcare official gave me some medicine. I then went to Balibo police station [to make a complaint] . . . The police called the PNTL officer and ordered him to go to the Balibo police station. I heard them do it when I was in the station.

⁶⁵ Human Rights Watch interview with twenty-three-year-old victim (name withheld), Suco Holsa, Aldeia Belico, Bobonaro district, May 24, 2005.

My head was spinning but I heard. Because the PNTL [officer] did not arrive, I went home.⁶⁶

This man is still suffering from trauma brought on by the event. He told Human Rights Watch that he is too scared to go out by himself now, and therefore a member of his family has to accompany him everywhere he goes. It appears that the perpetrator may have been punished for the offense, but the victim has not been given any information on his complaint. He told Human Rights Watch:

The next morning [after the incident], about 8:00 a.m., the commander from Mota'ain visited my house. He promised that the next day he would meet me and we would go to Maliana. After two days I waited, he didn't arrive, and on the third day he arrived. The police commander together with the perpetrator came to my house to resolve things. At that time I said that I didn't want to, I am an ordinary citizen, I want the problem to be resolved from above, in the court. As an ordinary citizen I know the legal process. So, I went to the Dili court to give a complaint and also to *Yayasan* [i.e. *Perkumpulan*] *HAK*. . . The result? I don't know. I don't know where the perpetrator is, I haven't been told. I came home and until now I only heard that the perpetrator is in prison but I haven't seen it myself. No one has come here to tell me, not from *HAK* either.⁶⁷

In April 2004, Baltazar Fatima Correia, a twenty-two-year-old from Mulia village in Baucau district, was picked up by several drunk police officers, beaten and threatened. He told Human Rights Watch:

The five police were drinking *tuak putih* [palm wine] with my father and their friend [name withheld] at the police checkpoint. After they finished drinking *tuak* the five police wanted to return to Baucau. I've known them a long time. They arrived at the place where I was sitting on the road. I called out to my younger brother in a coarse way whether or not he also wanted to go to Baucau. But the police thought I was provoking them, they interpreted me wrongly. The car stopped. One PNTL [officer A, name and rank withheld] got out from the car. Four of his friends were still in the car. As soon as he got out of the car he straight

⁶⁶ Human Rights Watch interview with thirty-five-year-old victim (name withheld), Aldeia Lotan, Suco Batugade, East Timor, May 26, 2005.

⁶⁷ *Ibid.*

away kicked me in my chest. After that I fell to the ground. There were two other PNTL, they got out of the car. [The interviewee names these two, officers B and C, names withheld, and a third officer who punched him once on the back of his neck.⁶⁸]

After that [officers B and C] handcuffed my hands behind my back and put me in the car and took me to Baucau police station. When we got as far as the river—it's not far, maybe about a hundred meters—[officer B] said to his friends, "Is there an empty house here or not? If there is we can let him out and torture him here." There was no response. About 500 meters later at the cemetery [officer A] said, "Turn the car back," then [officer C] responded, "No, it's better if we take him to Baucau first." When he replied he then burned me with his cigarette, under my left wrist [shows scar]. I was at the back on the floor. They were constantly kicking me. They were sitting above. After he burnt me, [officer C] shouted at me, "If you do anything I will shoot you."⁶⁹

One man in the village who witnessed the event told Human Rights Watch what he saw:

We were working here for Easter, about nine or ten o'clock in the morning. I was here, working at the church, and saw the car. I saw [officer A] get out of the car and straight away hit Baltazar... Then he was hit by [officer B] who hit him and grabbed his head and smashed it on the car. At the time I was about twenty meters away. I saw it and ran over. I told [officer B], I said, "Why is that kid being hit. What has he done wrong?" After that they didn't hit him anymore. They put Baltazar in the car. I saw them going to Baucau but I couldn't say anything because the PNTL were very emotional... They were wearing uniforms and driving a TATA Sumo car with "police" written on it. There were lots of people around, tens of people.⁷⁰

Over a year after the original incident, Baltazar Fatima Correia is still trying to get some redress for the treatment he experienced in police custody. He told Human Rights Watch:

⁶⁸ Names on file with Human Rights Watch.

⁶⁹ Human Rights Watch interview with Baltazar Fatima Correia, twenty-two-year-old victim, Desa Mulia, Aldeia Sialimu, Baucau, May 17, 2005.

⁷⁰ Human Rights Watch interview with twenty-eight-year-old witness (name withheld), Desa Mulia, Aldeia Sialimu, Baucau, May 17, 2005.

I went to the prosecutor's office and he promised he was ready to take the case to the police, but there has been no result. Only [*Perkumpulan*] *HAK* sent a letter to the PSU but it has not yet been investigated. This case is already at the prosecutor level, but has not yet had a hearing [*disidang*]. It is with the PSU in Dili... I often go to the Baucau police about my case. The police only chase me out [*mengusir*] and threaten me saying, "Just go back, go back home, don't come here, if you come here I will shoot you or hit you." I have already been three times to check my case there. The last time was September 2004. I'm not afraid to go back, the problem is the money to get to Baucau.⁷¹

When Human Rights Watch questioned Baucau's police commander about this case he stated, "About the Mulia case it has already been resolved. There is no evidence that they [police officers] were involved. It went all the way to court and there was no evidence. They were all released. It was a long time ago. All the files are in Dili."⁷²

Impunity for Rape

The failure to hold anyone accountable for the rape of a teenaged girl, allegedly by nine PNTL officers on May 10, 2004, is another example of the effective impunity that police officers have come to expect in East Timor. In this case, the nine policemen were originally arrested and charged with rape, accused of taking the girl in an official police vehicle to a police training compound in the Tasi Tolu area of Dili, where they sexually assaulted her; there was also a tenth man, a civilian, who was charged in relation to having "procured" the girl for the police officers.⁷³ Following preliminary hearings, six of the suspects were conditionally released pending trial while four (three PNTL and the civilian) were kept in custody.

The preliminary hearings in June 2004 and the trial in April 2005 were monitored by the East Timorese NGO Judicial System Monitoring Programme (JSMP), which reported deep concerns about the unorthodox manner in which the proceedings were conducted and factors which demonstrated, in their view, that "neither the rights of the accused to proper legal representation, nor the expectations of the victim and the community to have an independent tribunal hold a proper trial in regard to her allegations, have been

⁷¹ Human Rights Watch interview with Baltazar Fatima Correia, Desa Mulia, Aldeia Sialimu, Baucau, May 17, 2005.

⁷² Human Rights Watch interview with Pedro Belo, Baucau district police commander, Baucau district, May 18, 2005.

⁷³ "National Police Accused of Raping Girl," *Timor Post*, June 2, 2004.

respected.”⁷⁴ JSMP noted that during the hearings on the continued detention of the men, a substantial number of PNTL members were present in the courtroom and court compound. They also reported that police officers, under questionable authority, cordoned off the public court building, reportedly harassing and verbally abusing the victim when she left the courtroom.⁷⁵ One report quoted a judge as saying that “justice was powerless since the government kept intervening in the process.”⁷⁶ JSMP has also noted that “[t]he investigating judge assigned to the case told JSMP monitors that he could not control their [PNTL and UIR officers present at the court] conduct.”⁷⁷

When the case came to trial only the three police officers and the civilian in custody were tried, with the outstanding charges against the six police officers conditionally released seemingly ignored. At the trial session of April 13, 2005, both the defense lawyers and the prosecutor claimed to have had no prior involvement in the case and to be ignorant of the evidence. The presiding judge then decided that the defendants should be released due to lack of evidence against them, and the police officers were set free. No further charges against any accused have been pursued, and no one has been held accountable for the rape.

The failure to prosecute this case is just one example of an unwillingness to tackle police abuse, as well as demonstrating that violence against women is often not treated with appropriate seriousness by the formal justice system.⁷⁸

In its human rights report for 2005, the U.S. Department of State noted that there had also been “no significant developments in the September 2004 case of an off-duty police officer who forcibly entered the home of a twelve-year-old girl who had allegedly been statutorily raped by the officer’s nineteen-year-old brother.” It appears that the Professional Ethics Office had initially opened an investigation, but by the end of 2005 no further action had been taken.⁷⁹

⁷⁴ “Dili District Court Acquits three PNTL Officers in Rape Case,” JSMP Press Release, April 14, 2005.

⁷⁵ “Dili District Court Releases Detention Decision in Rape Case Against PNTL Officers,” JSMP Press Release, Dili, June 3, 2004.

⁷⁶ “Women’s Network Protest Against Police Officers,” *Timor Post*, June 3, 2004.

⁷⁷ “Dili District Court Releases Detention Decision in Rape Case Against PNTL Officers,” JSMP Press Release, Dili, June 3, 2004.

⁷⁸ For more on the issue of judicial responses to violence against women in East Timor see JSMP reports: “The law of gender based violence in Timor-Leste: April – November, 2005,” February 2006; “Analysis of Decisions in Cases involving women and children victims: June 2004 – March 2005,” April 2005; and “Police Treatment of Women in Timor-Leste,” January 2005.

⁷⁹ Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, “East Timor: Country Reports on Human Rights Practices for 2005”, March 8, 2006.

Legal Standards on Torture and Other Physical Mistreatment

Even if an individual is guilty of a criminal offence, the use of torture and other forms of mistreatment against that individual is wholly prohibited under East Timorese and international law. Few prohibitions in international human rights law are as clear as the ban on torture and other cruel, inhuman, or degrading treatment or punishment. A large body of international legal authority exists that prohibits any derogation from the prohibition on the use of torture and other cruel, inhuman, or degrading treatment or punishment. The prohibition, which forms part of customary international law, is to be found in the Universal Declaration of Human Rights,⁸⁰ and is also entrenched in Article 7 of the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).⁸¹ East Timor acceded to the CAT in April 2003 and to the ICCPR in September 2003.

East Timor's constitution also explicitly prohibits the use of torture, stating that "no one shall be subjected to torture and cruel, inhuman or degrading treatment."⁸² The constitution also specifically refers to East Timor's obligations under the Universal Declaration of Human Rights and other international treaties.⁸³

The Convention against Torture defines torture as intentional acts by public officials that cause severe physical or mental pain or suffering for the purpose of obtaining information or a confession, or for punishment, intimidation, or discrimination.⁸⁴ In cases where beatings and humiliation of detainees and prisoners by police do not rise to the level of torture, they may nevertheless constitute cruel, inhuman, or degrading treatment or punishment. Cruel and inhuman treatment includes suffering that lacks one

⁸⁰ The Universal Declaration of Human Rights, A/RES/217, article 5 (December 10, 1948) states: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment."

⁸¹ For the scope of the prohibition under ICCPR Article 7 (Prohibition of torture, or other cruel, inhuman or degrading treatment or punishment) see Human Rights Committee General comment No. 20 (1992).

⁸² Constitution of the Democratic Republic of East Timor, 2002, sec. 30.4

⁸³ *Ibid.*, sec. 23: "Fundamental rights enshrined in the Constitution shall not exclude any other rights provided for by the law and shall be interpreted in accordance with the Universal Declaration on Human Rights"; and, sec. 9.2: "Rules provided for in international conventions... [such as the Convention Against Torture] shall apply in the internal legal system of Timor-Leste following their approval, ratification or accession by the respective competent organs and after publication in the official gazette."

⁸⁴ Under Article 1, torture is: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

of the elements of torture or that does not reach the intensity of torture. Particularly harsh conditions of detention, including deprivation of food, water, and medical treatment, may also constitute inhuman treatment. Degrading treatment includes treatment that involves the humiliation of the victim or that is disproportionate to the circumstances of the case.⁸⁵

In addition to binding treaties on torture, cruel, inhuman, or degrading treatment or punishment, the United Nations has developed detailed principles, minimum rules, and declarations on the actions and use of force by police. The U.N. Code of Conduct for Law Enforcement Officials limits the use of force by police to situations in which it is “strictly necessary and to the extent required for the performance of their duty.”⁸⁶ Similarly, the U.N.’s Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that law enforcement officials, in carrying out their duty, shall, as far as possible, apply nonviolent means before resorting to the use of force and firearms.⁸⁷ When the use of force is unavoidable, law enforcement officials must, among other things, “(a) exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;... [and] (b) minimize damage and injury.”⁸⁸

⁸⁵ See the jurisprudence of the Human Rights Committee on Articles 7 and 10 of the ICCPR e.g. *de Buton v. Uruguay*, No. 37/1978, CCPR/C/12/D/37/1978 of March 27, 1981; *Estrella v. Uruguay*, No. 74/1980, CCPR/C/18/D/74/1980 of March 23, 1983; and *Marais v. Madagascar*, No. 49/1979, CCPR/C/18/D/49/1979 of March 24, 1983. For general commentary on the prohibition in Article 7 of the ICCPR, see Manfred Nowak, *U.N. Covenant on Civil and Political Rights, CCPR Commentary* (Kehl: N.P. Engel, 1993), p. 131.

⁸⁶ U.N. Code of Conduct for Law Enforcement Officials, General Assembly Resolution 34/169 of December 17, 1979, article 3.

⁸⁷ U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, General Provision 4.

⁸⁸ *Ibid.*, General Provision 5.

V. Reforms, Institutions and Practices Needed to Create Police Accountability in East Timor

The police are not brave enough to investigate cases where there are police involved. Cases where there are beatings of civilians are not investigated. Sometimes police who have beaten or threatened people are not investigated, so they do not want to open an internal investigation.

Tiago Amaral Sarmento, head of the nongovernmental Judicial System Monitoring Programme in East Timor⁸⁹

It is clear that police abuse is a serious and pressing problem, yet initiatives to address it have been inadequate. Existing oversight mechanisms are weak and need further support and strengthening, and new institutions and practices are needed to effectively eradicate this problem.

In March 2005 the Office of the United Nations High Commissioner for Human Rights (OHCHR) identified many of the problems when it stated in its report to the U.N. Commission on Human Rights that:

Accountability mechanisms remain unclear and inadequate. The result is an emerging pattern of impunity for PNTL abuses. The Professional Ethics Office (PEO) of PNTL is increasingly unable to investigate cases of misconduct due to lack of resources for field work and at times political interference. For unclear reasons, some cases are dealt with by PEO, while others, sometimes cases with particular sensitivity, are investigated by the Ministry of Interior. A number of allegations of criminal acts are addressed through the administrative process only and are not subject to any criminal processes. Delays are reported in investigations and decisions on disciplinary action. Disciplinary actions are not always in proportion to misconduct.⁹⁰

⁸⁹ Human Rights Watch interview with Tiago Amaral Sarmento, head of Judicial System Monitoring Programme, Dili, May 27, 2005.

⁹⁰ United Nations, "Report of the United Nations High Commissioner for Human Rights on technical cooperation in the field of human rights in Timor-Leste," U.N. Document E/CN.4/2005/115, March 22, 2005,.

Two studies published in 2004 show mixed public views of the police. One survey commissioned by the Asia Foundation in East Timor encouragingly found that “of the only 11 percent of respondents who had brought disputes to the police, most did so because they considered their dispute to be a serious matter and they believed that they would be treated fairly by the police.” However, these perceptions are not likely to remain static. The survey also found that “many feel the laws are not actually enforced, particularly those laws enacted to protect anyone arrested and accused of a crime. Less than half the public (49 percent) believe the law requiring court approval to detain a suspect for more than three days is respected, and only four in ten think the law genuinely protects the accused from police brutality or allows them access to a public defender.” Most telling is one of the survey’s conclusions that “confidence levels in East Timor’s new and inexperienced police force are likely to drop dramatically unless they are effectively trained and professionalized.”⁹¹

The second study, undertaken jointly by the Dili Institute of Technology and the United Nations Children’s Fund (UNICEF), found that the public’s respect for the work of the police was still quite high at 69.6 percent overall, but much less in the districts of Baucau, Bobonaro and Viqueque.⁹² In Bobonaro the figure was only 32 percent, perhaps reflecting negative attitudes towards the police in a district with a high number of reported cases of police brutality.

Although neither study can be used as conclusive indications of public perceptions of the police, the results do show already mixed feelings toward East Timor’s new police force. One conclusion that could be drawn is a general public reluctance to criticize the PNTL as a force. However, more specific questions on detention and abuse resulted in quite negative responses indicating that when people have come into direct contact with the police their experiences have been less positive. Another caveat is that although community confidence is generally a good indicator of the level of police abuse, the results may just reflect an attitude that the PNTL is far less abusive than the Indonesian police force—a pretty low threshold for professionalism. However, the surveys are useful in highlighting what communities believe are positive elements within the police force. The challenge for the East Timor government will be to build and support those positive elements, whilst also addressing the problem areas.

⁹¹ Asia Foundation, “Law and Justice in East Timor: A survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor”, February 2004.

⁹² Centre for Applied Research and Policy Studies, Dili Institute of Technology, “Survey on Public Perceptions of The East Timor National Police’s Work,” September 2004.

A. Addressing Impunity

Police abuse can become a serious problem when police officers and their superiors enjoy impunity for their actions. One of the most common reasons that police abuse can become commonplace within a police force is the effective impunity enjoyed by police officers and their superiors who participate in, order, or ignore it. In East Timor effective institutional mechanisms for accountability are essential if impunity is to be tackled. More robust and effective enforcement of existing legislation and stronger media vigilance and independent monitoring of the problem will also be key.

The early indications are that East Timor risks allowing impunity to become a grave and systematic problem if it does not respond appropriately. In spite of the kinds of abuses documented in this report, thus far meaningful sanctions for police officers involved in serious human rights violations have been rare. According to the OHCHR, in March 2005 the East Timor police commissioner reported that ten police officers had been dismissed from the service.⁹³ However, it was unclear whether the dismissals were linked to human rights violations or mere criminal activity. An international advisor to the minister of interior told Human Rights Watch that for the period from January to March 2005, fifty-five cases had been reported through the PEO.⁹⁴

The U.S. Department of State, in its annual human rights report on East Timor noted, for example, that for 2005 “[s]ome officers were punished for relatively minor misconduct, and in several cases police officers were convicted and sentenced for assaults committed while on duty; however, by year’s end, no action had been taken in a number of cases involving serious misconduct. There were allegations that personal connections within the police force or the Ministry of Interior were a factor in some cases.”⁹⁵

The failure to properly investigate police misconduct undermines the police force’s credibility in holding its members accountable. This is as true for high profile incidents as for day-to-day violations. For example, in July 2004 a group of approximately one hundred persons, including many *Falintil* veteran resistance fighters, staged a protest outside the main government building in Dili. On July 20, the second day of their

⁹³ OHCHR, “Asia and Pacific Region: Quarterly Reports of Field Offices,” June 2005.

⁹⁴ Human Rights Watch e-mail correspondence with Ray Murray, international advisor to the Ministry of Interior, March 9, 2006.

⁹⁵ Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, “East Timor: Country Reports on Human Rights Practices for 2005”, March 8, 2006.

protest, police officers, together with members of the elite Rapid Intervention Force, used tear gas to disperse the crowd, and subsequently arrested over thirty people. Although many of those held were detained for more than thirty hours, the exact grounds under which they were held were never clarified. Television footage showed at least one police officer beating a protester, and there were several other reports that several detainees were beaten in police custody. Ironically, many of the demonstrators' banners, trampled under foot by the security services, had proclaimed messages calling for greater democratization and reform of the police force.

This incident received much attention at the time from the government, the United Nations in East Timor, and the media. However, once again there has not yet been a satisfactory outcome either in respect of disciplinary measures against the police officers responsible for excessive use of force, or in respect of the arbitrary detention of over thirty protestors. In his February 2005 progress report on UNMISSET, the U.N. secretary-general noted the negative consequences delays in accountability could produce, commenting: "...the report of the special investigation into the incident of 20 July 2004, in which the police used excessive force to disperse a largely peaceful demonstration, has not yet been completed. These delays are perceived by the community as voluntary inaction and hence undermine the general trust in the professionalism of the police."⁹⁶

Yet at least part of this problem is a legacy of the U.N.'s failure to prioritize police disciplinary measures. Few strategies were implemented at an early stage in the U.N. transitional administration to stop inappropriate police behaviors before they became too entrenched. (Deficiencies in the UNPOL training regime are explored in detail in section V.D of this report.)

Human Rights Watch spoke with Police Commissioner Paulo Martins, who conceded that there was a problem and that this had implications for creating a culture of impunity. He was clear in his understanding that proper punishment for violators would be an effective deterrent:

We are trying to improve this which is not very good within the police. We already have a police disciplinary regulation and have taken strong measures against those who commit abuse or violence against the people... I don't think it is because of training but an increase in

⁹⁶ United Nations, "Progress Report of the Secretary-General on the United Nations Mission of Support in East Timor," U.N. Document S/2005/99, February 18, 2005.

understanding from the commanders and the communities that the police have to respect human rights. And also because the police officers realize that sanctions are heavy... if they commit an abuse.⁹⁷

The tardiness of an appropriate response to the police violence at the July 2004 demonstration shows that there is some way to go before the commissioner's words about internal disciplinary processes translate into concrete measures.

There have, however, been encouraging signs that some things can be done right. For example, in April 2005 several thousand people joined anti-government demonstrations in Dili. They were protesting a proposal by East Timor's Council of Ministers to designate religious education as an optional subject in some primary schools. Police were deployed to patrol these demonstrations, which they did in a manner widely regarded as professional and restrained. This display of professionalism has improved the public image of the police force, and significantly also appears to have given a confidence boost to the police force itself, which saw the positive outcome from implementing the standards provided by appropriate training. Looking to the future, attitudinal change within the police force is going to have to be a priority and will need a long-term strategy to have impact. Combined with training there needs to be a strong system of discipline, effective leadership and support by the management of PNTL over time, together with positive reinforcement for appropriate police behavior, for that attitudinal change to take place.

B. The Development of Oversight Institutions

Professional Ethics and Deontology Unit

The first port of call for investigating police violations is usually the PNTL's internal oversight body, the Professional Ethics and Deontology Unit (PEDU, formerly known as the Professional Ethics Office, PEO, and before that the Professional Standards Unit, PSU).⁹⁸ Staffed by serving police officers and working under the general commander of the PNTL, the unit is charged with investigating allegations of police misconduct or abuse. Such allegations are usually made by members of the public, although, according to the police Organic Decree-Law, the Ministry of Interior can also order the PEDU to conduct inquiries, especially in sensitive cases. The results of any investigations, together

⁹⁷ Human Rights Watch interview with Paulo de Fatima Martins, PNTL Commissioner, Dili, June 3, 2005.

⁹⁸ The renaming is very recent, and the unit is still widely known by its former name of PEO.

with any recommendations for discipline, are sent to the minister, who then decides what action should be taken.⁹⁹

Unfortunately, the PEDU lacks institutional authority over the various branches of the police. One then-PEO officer in Dili told Human Rights Watch that although in theory PEO officers could investigate police officers of superior rank to themselves, in practice it was the district commanders who ultimately decided which cases would be investigated in the district, which ones would be sent to Dili, and which ones would be set aside.¹⁰⁰ Another problem is the lack of understanding by police of the rights and interests of those filing complaints. It seems little thought or consideration has been given to the rights of the victims in this process, with the PNLT disciplinary regulation not even envisaging that complaints could come from outside the force.

The PEO/PEDU has also been weak and very slow to take action, if at all. In cases where complaints have been taken up by the PEO/PEDU, punishments for police officers have often just been temporary suspensions, transfers, or, in some cases, transfers followed by promotions. There is no automatic suspension for police officers under investigation for alleged offenses.

As one example, Simao Lopes, the chief of the then-PEO office for Bobonaro district, told Human Rights Watch about an incident earlier in 2005 when a uniformed police officer in his district had fired his gun in the air at the market in Maliana. Lopes recommended that the officer be discharged from the police force, but instead he was only transferred to Dili.¹⁰¹

At a more basic level the PEO/PEDU continues to be restricted by a lack of human and financial resources. In some cases PEO/PEDU staff do not have access to transport to conduct investigations, or to return to complainants to update them on the status of their case.¹⁰² As Carlos Moniz Maia, the deputy head of the then-PEO national office commented:

⁹⁹ Organic Law of the National Police of Timor-Leste, Decree Law No.8/2004, art. 13 (May 5, 2004). Since the establishment of the Inspectorate in August 2004, the Ministry now conducts inquiries through that office.

¹⁰⁰ Human Rights Watch interview with PEO officer, Dili, June 1, 2005.

¹⁰¹ Human Rights Watch interview with Simao Lopes, PEO chief, Maliana, Bobonaro district, May 26, 2005.

¹⁰² It should also be acknowledged that some reported cases do not progress very far due to lack of clarity in the complaint. For example, complaints are often made weeks after the event about a PNLT officer without a name, registered number or description.

We have several problems. First of all are the limitations in personnel and transport. The statistics of cases involving the PNTL every year is increasing. Cases from 2001 to 2003 have already finished being investigated, but there are still about 50 percent of cases from 2004 which have not yet been resolved because of restrictions of transport and staff. Likewise for 2005 we've finished about twenty cases and still have about seventy left.¹⁰³

One U.N. police officer in Bobonaro district had a poor opinion of the then-PEO in Maliana, pointing out to Human Rights Watch that the previous experience of its chief, as a patrol officer within the occupation-era Indonesian police force, did not provide him with the skills necessary to lead investigations or manage staff. In his opinion, a change of personnel in the office would improve the office's strength.¹⁰⁴

When he was interviewed by Human Rights Watch the chief of the PEO office in Maliana conceded that he lacked essential experience, but he was keen to stress his willingness to receive more training in the area of internal investigations. He told Human Rights Watch:

Before I was with the PEO I was a community police officer. I received just two days' training from the PNTL. We would be happy to participate in more training. I ask you to recommend for us to have more training about the role of the PEO so that we can understand it in more depth. We want to work but we do not get strong enough support.¹⁰⁵

It appears that lack of faith in and/or fear of the new police force is already preventing people going directly to the police to register complaints. One young man who was severely ill-treated in police detention told Human Rights Watch that he was too scared to seek accountability for the abuse he suffered at the hands of three police officers in Maliana police station. He said, "I have not yet submitted a complaint because they threatened me. I do not want to go back to Maliana police station. I don't want to be summoned again by the PNTL."¹⁰⁶ A U.N. police advisor told Human Rights Watch

¹⁰³ Human Rights Watch interview with Carlos Moniz Maia, deputy head, national PEO, Dili, June 1, 2005.

¹⁰⁴ Human Rights Watch interview with U.N. police advisor (name withheld), Bobonaro district, May 24, 2005.

¹⁰⁵ Human Rights Watch interview with Simao Lopes, PEO chief, Maliana, Bobonaro district, May 26, 2005.

¹⁰⁶ Human Rights Watch interview with twenty-three-year-old victim (name withheld), Aldeia Belico, Suco Holsa, Bobonaro district, May 24, 2005.

that he heard a district police commander threatening a man who had come to complain about the police treatment of some people involved in martial groups in the district. The U.N. officer heard the commander tell the man that they wanted to solve the matter through traditional dispute mechanisms. When the man protested the commander issued a stark warning, stating, “Go to the U.N. human rights unit then and see what they will do. The U.N. will leave soon and then it will just be us.” The U.N. advisor told Human Rights Watch that in his opinion it was clearly a threat.¹⁰⁷

Tiago Amaral Sarmento from JSMP told Human Rights Watch, “If there are violations the communities don’t know who they can report it to. They are scared and just stay quiet. The police are a strong institution. The communities don’t yet know or understand that they can report to someone.”¹⁰⁸ Where such knowledge exists, the lack of resources and experience resulting in delays and incompetence of the PEO/PEDU in dealing with complaints has led to frustration amongst affected communities about lack of transparency and efficiency in dealing with their cases. This has only further increased the distrust people have in the impartiality of the office.

The Office of the Provedor

The East Timor constitution provides for a special office to scrutinize human rights practices throughout the territory. A law to establish such a position, the office of the *Provedor de Direitos Humanos e Justicia*, was promulgated in May 2004, although as parliament initially found it hard to agree on a candidate, the position of provedor was not filled until Sebastiao Dias Ximenes was inaugurated in the post June 16, 2005. The Office of the Provedor has far-reaching powers to investigate and report on complaints against government officials and institutions, including the police. Issues within the purview of the office include abuse of power, maladministration, lack of due process, nepotism, collusion and corruption.¹⁰⁹

In his August 2005 report to the United Nations Security Council on the U.N. Office in Timor-Leste, the U.N. secretary-general noted that the Provedor’s Office “provides an important legal instrument to address inter alia, the continued reports of human rights violations by the East Timorese police, including excessive use of force, ill-treatment and arbitrary arrest and detention.”¹¹⁰ In a previous report he had expressed concern at the

¹⁰⁷ Human Rights Watch interview with U.N. police advisor (name withheld), Bobonaro district, May 24, 2005.

¹⁰⁸ Human Rights Watch interview with Tiago Amaral Sarmento, head of Judicial System Monitoring Programme, Dili, May 27, 2005.

¹⁰⁹ OHCHR, “Asia and Pacific Region: Quarterly Reports of Field Offices,” June, 2005.

¹¹⁰ United Nations, “Progress Report of the Secretary-General on the United Nations Office in Timor-Leste,” U.N. Document S/2005/533, August 18, 2005.

delay in electing the provedor, “especially in light of the recent increase in reported cases of abuse of police power, including assaults and threats, which are not being adequately addressed by internal disciplinary processes and are rarely taken up by the Public Prosecutor for institution of criminal proceedings.”¹¹¹

In June 2005 Human Rights Watch met with Sebastiao Dias Ximenes shortly before his inauguration as provedor. Already aware of the limitations of his new office, he discussed his main concerns and what he saw as the priority challenges of his new role:

The Provedor has limits. I can give recommendations but not follow up. It's a problem. I don't have the power to make decisions, just recommendations. We also have limited human resources. We need training and maybe comparative studies so that we can increase our experience and knowledge. The budget for the Provedor is small. We are an independent institution but receive our budget from the government. Our program cannot go forward if we don't have facilities or a budget. But what is most important is the people and all the communities. If they don't work with the Provedor, this office cannot be a success without their support.¹¹²

By the end of 2005, the Office of the Provedor had still not been fully established or staffed.

As a relatively new body, it is hard to accurately gauge the effectiveness of the Provedor's Office. It is to be hoped that the office will contribute to an increased culture of respect for human rights and accountability. Its strengths are that it can undertake investigations on its own initiative, without waiting for a complaint, and has the power to order a person to appear for questioning.

However, there are concerns about the capacity of this new institution to comprehensively or effectively carry out the role of a police oversight body, considering the many other functions it has also been tasked with. Another major weakness of the office is that it does not have the power to make enforceable decisions—any of the provedor's recommendations can be ignored. The office can also only make recommendations to the relevant bodies such as the police, offer to act as a mediator

¹¹¹ United Nations, “Progress Report of the Secretary-General on the United Nations Mission of Support in East Timor,” U.N. Document S/2005/99, February 18, 2005.

¹¹² Human Rights Watch interview with Sebastiao Dias Ximenes, provedor, Dili, June 2, 2005.

between the complainant(s) and representatives of the public body involved, or refer a grievance to a competent jurisdiction or other recourse mechanism.

(For comment on the need to formalize coordination and cooperation between the various institutions entrusted with acting as oversight mechanisms, see below.)

C. Legal Gaps

The process leading to the establishment of the PNITL led to the existence of a range of different and sometimes competing rules, procedures and practices which govern the PNITL. The promulgation of the Organic Decree-Law in May 2004 went some way towards clarifying the legal framework for the police, but there remains little knowledge and understanding by the police about definition of crimes under the Criminal Code, or police powers under the Criminal Procedures Code and the Rules of Organization Procedures.¹¹³ There is also little training on these areas made available to the police force.

At quite a basic level, the June 2004 disciplinary regulation is only available in Portuguese, a language not understood by most PNITL personnel; as a result, the authorities continue to use the previous U.N. Code of Conduct. Even if the disciplinary regulation were available in Indonesian or Tetum, languages understood by most police officers, it has been criticized by police experts for being incoherent. Ray Murray, advisor to the minister of interior, told Human Rights Watch that the disciplinary regulation “has a formula to determine discipline that is virtually unusable and cannot be understood by the vast majority of the PNITL including trainers and advisers.”¹¹⁴

Equally important is for the PNITL to finalize its Rules of Organization Procedures (ROPs). While many ROPs have been finalized (see above), more need to be finished, including ROPs on the treatment of vulnerable persons, including persons with mental illness and victims of gender-based violence.¹¹⁵

While there have been some developments at addressing the legal vacuum, including a new policy introduced in 2003 restricting the use of force, and the 2004 regulation providing a new disciplinary code for police, there now seems to be an urgent need to

¹¹³ At the time of writing the new revised Criminal Code had not yet been promulgated.

¹¹⁴ Human Rights Watch e-mail correspondence with Ray Murray, international advisor to the Ministry of Interior, March 10, 2006.

¹¹⁵ United Nations, “Report of the United Nations High Commissioner for Human Rights on Technical Cooperation in the Field of Human Rights in Timor-Leste,” U.N. Document E/CN.4/2005/115, March 22, 2005.

formalize coordination and cooperation between the various institutions entrusted with acting as oversight mechanisms for the fledgling police force. Legislation or regulations need to be adopted to clarify the various responsibilities of the PEDU, the Inspectorate and the Office of the Provedor. There is substantial overlap between the different agencies, which is not necessarily a problem but leads to a certain amount of confusion among the public about how to report incidents or hold the PNTL accountable.

The U.N.'s senior police advisor, Saif Ullah Malik, told Human Rights Watch in May 2005 about a working group established to harmonize all the different institutions including the then-PEO, Provedor and Ministry of Interior, and that this group would also include participation from the PNTL, the Inspectorate and the U.N. Human Rights Unit.¹¹⁶ However, at the time of writing it was understood that this group had not met since March 2005.

D. The Need for More and Better Training

Although not a solution on its own, police training is an important tool for addressing human rights violations by the police. Reports of human rights violations and inappropriate behavior by officers, combined with the lingering legacy of Indonesian policing techniques, mean that continued strengthening of the human rights dimension of training for experienced officers, trainees, and police academy graduates is essential.

Unfortunately, during both UNTAET and UNMISSET the fledgling police force received largely inadequate and sometimes contradictory training from UNPOL and CivPol personnel. The first batch of new cadets received three months of basic training at the rehabilitated Police Academy in Dili followed by six months of on-the-job training in the field. Former POLRI officers (members of the Indonesian police force responsible for security in the territory before the vote for independence in 1999, who comprised 350 of the first 1,700 East Timorese police academy graduates) simply underwent a four-week "Intensive Transitional Training Course."¹¹⁷

Standard training for new recruits is now a four-month training course at the Police Training Academy in Comoro, Dili, followed by nine months of field training. In these courses, there is some training in specialized areas of investigations, intelligence

¹¹⁶ Human Rights Watch interview with Saif Ullah Malik, U.N. senior police advisor, Dili, May 31, 2005.

¹¹⁷ Recruitment of former POLRI officers amounted to 12 percent of the total PNTL personnel in 2003. This, amongst other problems, has caused a certain degree of resentment amongst members of former combatant groups excluded from the police. See: Amnesty International, "The Democratic Republic of Timor-Leste: A New Police Service", July 1, 2003, pp. 20-21.

gathering, and community policing. The curriculum at the academy has also been recently re-written by an Australian/U.K. police training team (see also below), with human rights material incorporated throughout the course. After graduation a further six months of formal field training is undertaken for probationary officers, who do not become full PNLT officers until after successful completion of this additional training.¹¹⁸

The U.N. Secretary-General noted in February 2005 that U.N. civilian police advisors were providing training to the East Timor police through a skills development plan which was based on the results of a national survey of police officers to identify gaps in capacity, but that “of the approximately 1,700 police officers who completed the first phase of the plan in December [2004], only half were able to achieve the desired level of competence.”¹¹⁹

There is still a huge lack of management and mentoring capacity in the police force, and a need for a great deal more specialized skills training, including in the area of internal investigations of police misconduct.

There is also little awareness of the appropriate treatment of women, children, or other vulnerable groups, or mainstreaming ideas such as the method of investigation into gender-based crimes. One child protection officer with UNICEF in East Timor told Human Rights Watch:

There is a notion that if children are victims there is an awareness of special treatment from the VPU [Vulnerable Persons Unit] and rights, etc. But, if they are offenders, those rights are not always recognized... It is not entirely clear within the police who is doing what. Not all children will be dealt with by the VPU, just normal investigators... We are trying to encourage children to be aware that if they have a problem they can go to the police, but you run the risk that you are not exposing children to greater risks by going to the police.¹²⁰

¹¹⁸ Human Rights Watch e-mail correspondence with Ray Murray, international advisor to the Ministry of Interior, March 9, 2006.

¹¹⁹ United Nations, “Progress Report of the Secretary-General on the United Nations Mission of Support in East Timor”, U.N. Document S/2005/00, February 18, 2005.

¹²⁰ Human Rights Watch interview with Johanna Eriksson Takyo, project officer, Child Protection, UNICEF, Dili, May 31, 2005.

Police in East Timor rely heavily on confessions as their sole means of “solving” crimes. This inherently creates an incentive to resort to excessive use of force to extract a purported “confession” from a suspect, and undoubtedly contributes to the current climate where beating of suspects is routine. More intensive training in basic investigation and forensic techniques, including the use of other sources of information and evidence, not only offers the police an alternate and better way to do their job, but would help reduce abuse of power. To reinforce this message it is essential that the judiciary rigorously and consistently refuse to allow evidence where there are credible allegations that it was obtained through illegal use of force by the police.

When Human Rights Watch met with the head of Dili’s Police Training Academy he was emphatic about the volume of human rights materials included in the basic training package taught at the academy, and the good cooperation the Academy had with the U.N. Human Rights Unit, UNDP and UNICEF, all of whom had provided materials for the training courses. However, he was also quite frank in admitting how much further they had to go. He told Human Rights Watch:

There is a Code of Conduct for the PNTL. It has already been socialized [disseminated] to all the Commanders but not yet fully to all members of the PNTL.¹²¹ Because of that we are less sure that the Code will hold [be put into practice]. There is not yet a course about it. We need a course for the PEO [now PEDU] so that they can carry out their duties well... However we are still new. The education that they receive here is still a little.¹²²

E. Problematic Past Training Approaches

The majority of U.N. training during UNMISSET was conducted by UNMISSET police advisors at the district and sub-district level, the focus being on the training of trainers in the field. A problem affecting this approach is one that is common to most U.N. police

¹²¹ In East Timor, the term “to socialize” something is often used to indicate when there has been dissemination or distribution of materials or information on a given subject. However, as the advisor to the Ministry of Interior pointed out to Human Rights Watch, “True socialization is far more complex than providing a copy of the ROP and giving a day workshop on it. This is why so many systems fail. True socialization includes assisting each of the areas in developing systems and procedures required to make the ROP work in their district command or police station, as well as changing or introducing forms, removing old forms and systems, follow up to ensure complete understanding and monitoring from headquarters to ensure information, procedures and data flow according to the ROP or regulation, and provision of training materials to identified district or command trainers.” Human Rights Watch e-mail correspondence with Ray Murray, international advisor to the Ministry of Interior, March 9, 2006.

¹²² Human Rights Watch interview with Julio da Costa Hornay, head of Police Training Academy, Dili, May 27, 2005.

missions around the world: The U.N. civilian police staffing the mission were from a wide range of countries, each with varying adherence to international standards on policing. Their experience and consequently their teaching was therefore not standardized, so PNTL officers were exposed to different approaches to policing and not all were consistent with what was being taught at the Academy, or with international standards. There had been a recommendation from the Ministry of Interior that before this program started the UNPOL officers should be given a “training of trainers” course, so that the training delivery could be uniform across the country.¹²³ As most of the UNPOL were police officers and not trainers, this would have improved some of the training delivery, but this recommendation was not followed.

A UNOTIL staff member was extremely critical of the support which UNPOL had previously provided:

I don't think UNPOL knew what they had to do when they were in charge. What we have now is the result of a lack of training. It would have been better to have one police force from one country, rather than a mix without any common members to work.¹²⁴

Further problems with the UNPOL training of East Timorese police recruits and officers included communication difficulties caused by language problems that restricted the ability for training sessions to be participatory and inclusive, rather than taught lecture-style. It also limited interaction between U.N. and East Timor police, and implementation of training scenarios.

Quite crucially the six-month rotations for U.N. police personnel also hindered the effective development or long-term implementation of policies. For peacekeeping this approach may be appropriate, but for institutional development it had negative consequences.

There is a sense that the U.N. was in crisis management with no coherent strategic development plan for the PNTL. Their key goal was to set up and handover to an East Timor police force, with no coherent plan for establishing oversight mechanisms and enforcement of disciplinary measures against police officers. A senior diplomat in East Timor commented: “The biggest criticism of UNPOL is that they've been here for four

¹²³ Human Rights Watch e-mail correspondence with Ray Murray, international advisor to the Ministry of Interior, March 9, 2006.

¹²⁴ Human Rights Watch interview with UNOTIL staff, East Timor, May 19, 2005.

or five years, so you would expect four or five years of training. But they just ticked a box.”¹²⁵

This diplomat identified the further problem that “the government never refuses aid, so there is a problem in trying to coordinate all the training,” and that combined with the tick-the-box approach of UNPOL meant that “their counterparts don’t have a clue.”

There are two other main reasons why current training has taken such a long time to halt police abuses. The first is that current training has failed to address the overall institutional culture of policing methods. The second is that there are few penalties if the officers do not implement what they learn in training and few incentives to follow it. In other words, for training to be meaningful, there must be consequences for failing to abide by it. Vice Minister of Interior Alcino Barris told Human Rights Watch that amongst the police force “there is still very little real understanding of what human rights are.”¹²⁶ While it is important to teach human rights, it is equally important to train officers about their responsibilities to act professionally, something that the minister also acknowledged. Ray Murray, the international advisor to the Ministry of Interior, told Human Rights Watch, “You should not only teach on what should be done, but also on why it should be done.”¹²⁷

F. Current Initiatives

Recognizing the urgent and ongoing need of the PNTL for further training and assistance, a large part of UNOTIL’s mandate is in the area of continued support and development of the East Timorese police. In establishing UNOTIL in May 2005, the Security Council authorized the deployment of up to forty police training advisors, primarily targeted at the specialist police units such as the Border Patrol Unit and the Rapid Intervention Unit. Assistance has also been given to the Professional Ethics Office. Human rights training and courses have already been provided by these advisers.¹²⁸ The UNOTIL Human Rights Unit has also been working in cooperation with the Ministry of Interior to provide human rights and use of force training to the

¹²⁵ Human Rights Watch interview with deputy head of mission, foreign embassy (identifying information withheld), Dili, May 30, 2005.

¹²⁶ Human Rights Watch interview with Alcino Barris, Vice Minister of Interior, Dili, June 2, 2005.

¹²⁷ Human Rights Watch interview with Ray Murray, international advisor to the Ministry of Interior, Dili, June 1, 2005.

¹²⁸ For example, on October 17, 2005, twenty-five officers completed a six-week unit-specific UNOTIL Master Trainer program. See: “Completion of PNTL Master Training Course,” UNOTIL Press Release, October 17, 2005; and U.N. Document S/2005/533 “Progress Report of the Secretary-General on the United Nations Office in Timor-Leste”, August 18, 2005.

national police, most recently through a "training of trainers" course and the launching of a training manual on human rights for the police in mid-2005.

International funding also plays a critical role in East Timor in all areas, not least the development of the police service. There is a wide range of bilateral international assistance to the PNTL, including training programs as well as equipment and infrastructure support. Amongst the international support, Canada and Japan have both provided small grants and provided equipment. Indonesia has been hosting a series of exchange programs for PNTL officers to visit and acquire in-house training with the Indonesian police force. At various stages Malaysia and Portugal have also extended training to various units of the PNTL. The United States is funding specialized training courses for supervisors and investigators.

One of the problems with this approach is that, as with the U.N. under UMISET (see above), the training is inconsistent in standards, with different countries' domestic procedures being taught. Recognizing this problem, the U.K. and Australia have embarked on a joint development program for the PNTL focusing on mainstreaming international policing standards across the board over the long-term. When UNPOL leaves (currently scheduled for May 2006), the U.K./Australian initiative will fill the vacuum on advice and training created by UNPOL's departure.

Part of the joint U.K.-Australian plan is to integrate standard operating procedures into all aspects of the training. The first phase will concentrate on training of trainers. Noting the wide variety of bilateral and U.N. training currently underway with the PNTL, Kevin Raue, team leader for the U.K.-Australian initiative, concedes that "bad" training was a problem. He commented "There is a problem of inconsistency in the standard of training. That problem is not yet resolved. There is a need also to avoid duplication of training and inappropriate training."¹²⁹

¹²⁹ Human Rights Watch interview with Kevin Raue, AMC team leader, Timor-Leste Police Development Program, Dili, June 2, 2005.

G. Monitoring

The presence of human rights officers here, and our readiness to report on human rights violations to the international community, does constitute a deterrent to perpetrators.¹³⁰

Special Representative of the Secretary-General Sukehiro Hasegawa

A critical issue for the future will be to ensure independent monitoring of police behavior in East Timor. Though, as noted, there are formal internal and external oversight mechanisms of the police, for most victims of police brutality the first place they turn is normally either the U.N. Human Rights Unit or an East Timorese human rights NGO, primarily *Perkumpulan HAK* or FOKUPERS, the two biggest rights organizations in East Timor and the main Timorese bodies in the country monitoring police abuse.

With the U.N. Human Rights Unit due to close with the end of UNOTIL's mandate (foreseen for May 2006), the urgency of strengthening civil society mechanisms to provide human rights monitoring and reporting has never been greater. Training for the police on the role of civil society, and the valuable place it has as a counterbalance to government, will also be crucial to ensure mutual respect and cooperation. A lack of monitoring will create a vacuum in which violations will be committed with impunity. As the head of the JSMP told Human Rights Watch:

I think that if the U.N. leaves and there are no more advisors the police will increase committing violations in the future. They will think that their behavior is correct because there will be no one to give the recommendation that they have to be processed and brought to justice.¹³¹

The senior U.N. Police Advisor in East Timor, Saif Ullah Malik, concurred, saying: "We need support in terms of training, monitoring and in terms of advance training. After the withdrawal there will be a big gap in monitoring. The U.N. cannot stay forever. Local civil society needs to be activated."¹³² He continued: "As an exit strategy we are incorporating local NGOs to monitor the human rights situation in each district. The

¹³⁰ Human Rights Watch interview with UNMISSET SRSG Sukehiro Hasegawa, Dili, May 27, 2005.

¹³¹ Human Rights Watch interview with Tiago Amaral Sarmento, head of Judicial System Monitoring Programme, Dili, May 27, 2005.

¹³² Human Rights Watch interview with Saif Ullah Malik, U.N. senior police advisor, Dili, May 31, 2005.

U.N. Human Rights Unit will be trying to visit districts at least once a week.” Indicating that lessons had been learned from the experience of shortcomings in U.N. training of PNTL, he added: “We have adopted an approach, consistency of guidance, for example my technical advisors in the districts are advising the same thing across the board.”¹³³

NGOs, donors and the East Timor government need to work more closely together to monitor the broad range of human rights violations, for multiple purposes: to remedy individual abuses, to identify patterns and perpetrators, and to highlight structural problems that allow human rights violations to emerge in the first place. Seen in this light, human rights violations by the PNTL are just one symptom of a much broader nationwide problem, and until this is analyzed and addressed then the possibility is that police abuse can only be minimized at best. The weakness of the judiciary, and emerging corruption issues, are just two areas that directly impact on police abuse and remedies for it. A participatory, partnership approach including the wide range of actors in civil society such as the media, communities of interest, and others would be the most successful way to devise an action plan for ending human rights abuse in East Timor.

¹³³ *Ibid.*

VI. Detailed Recommendations

Meaningful contribution to the long-term capacity of the PNTL will depend on related actions by the Timorese leadership, including...[a] clear commitment to respect for the professional and non-political nature of policing; encouragement to PNTL officers to adhere to the highest standards of professional conduct, based on internationally accepted values; and demonstrated readiness to take swift and decisive disciplinary action when required.

U.N. Secretary-General Kofi Annan

I think it is very correct to say that lack of speed and proper responses to PNTL violations or other activities remains the problem. I think it is important for us to provide tangible assistance for the institutions to be able to deal with these human rights violations.

Special Representative to the Secretary-General Sukehiro Hasegawa¹³⁴

Recommendations to the Government of East Timor

- The minister of interior and the police commissioner must publicly reinforce that all use of torture, cruel, inhuman or degrading treatment is illegal and will not be tolerated. They should publicly denounce use of torture, arbitrary detention, and excessive force.
- The PNTL commissioner, with the support of the government, should issue clear guidelines for the use of force consistent with international legal standards, including the U.N. Code of Conduct for Law Enforcement Officials, and the U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.
- Police training must include best practice in police investigation, emphasizing how use of torture and other cruel, inhuman, or degrading treatment, including during interrogation, is not only illegal but renders evidence inadmissible and is counterproductive. The training component must be designed to emphasize the prohibition on use of torture and other illegal activities. Training should also highlight the important role of independent monitoring—including by civil society—of police conduct.

¹³⁴ Human Rights Watch interview with UNMISSET SRSG Sukehiro Hasegawa, Dili, May 27, 2005.

- The PNTL should take prompt and decisive action against police officers who torture, arbitrarily detain, or use excessive force against individuals. This should range from administrative measures, including dismissal, up to and including criminal prosecution where appropriate. Commanding officers who know or should know of such acts, and who fail to take action to prevent and punish them, should face similar sanctions.
- The police commissioner should issue a directive to each district commander advising that he or she will be held personally responsible for ensuring that officers under his or her command comply with the existing disciplinary regulation and the Rules of Organization Procedures (ROPs).
- The minister of interior and the police commissioner should strengthen the police force's Professional Ethics and Deontology Unit (PEDU) by providing strong support for the unit's authority to enforce its decisions, including by penalizing officers who do not comply with its directives, by developing coordinated disciplinary and criminal investigation processes, and by providing adequate resources, including personnel.
- The minister of interior and the police commissioner should support the PEDU to build the necessary capacity to manage effectively its caseload. Clear criteria for ranking the gravity of the offenses should be established, with the most serious human rights violations receiving priority.
- The PEDU should ensure that disciplinary and criminal investigations are conducted in a fair and transparent manner, so that confidence in the process is engendered in the victims of police abuse, and police officers are assured that they will receive due process in the investigation of any allegations.
- The ministry of the interior should take steps to enhance coordination between the internal and external oversight bodies, including ensuring that effective protocols for the bodies' working together are drafted.
- The power to dismiss a police officer should not be a political function of the minister of interior, but should be able to be exercised only after a police officer has been found responsible for a dismissable offense through an appropriate disciplinary process. Regulations should provide for an open and transparent disciplinary process.
- Where a credible allegation has been made against a police officer, that officer should be reassigned to appropriate non-operational or non-public duties or, in more serious cases, suspended during the course of investigation of the allegation and any disciplinary process arising.
- The sanctions imposed on officers who are found guilty of offenses that do not lead to dismissal from the force should include mandatory retraining.

- The PEDU and the Provedor should develop a system whereby the progress of an investigation is regularly reported to complainants, both in writing and in meetings. All final outcomes of investigations into complaints must be communicated to the original complainant.
- The government should undertake a public information campaign on the role and responsibilities of the various police oversight mechanisms including the PEDU and the Provedor's Office. This should include distribution of written information and public information announcements.
- The government should allow independent monitoring of detention facilities. Detainees should be permitted to meet privately with representatives of independent organizations conducting monitoring.

Recommendations to Donors and Others Providing Assistance to the Police

Given the critical role of the United Nations and of international donors, particularly the U.K. and Australia, in funding the police sector in East Timor, a serious effort to eradicate police violence will require a continued and active role on the part of the international community. To supplement existing efforts international donors should:

- Raise with the government of East Timor in all official meetings, and at the highest level, concerns over police violence, including torture. Call on the East Timor government to ensure that police treatment of civilians conforms to international human rights standards.
- Substantially increase support for effective human rights monitoring in East Timor through existing mechanisms, such as civil society. As an integral part of this strategy, provide assistance for the development of local human rights groups with the capacity for independent monitoring of police violence, and prison monitoring, and to agencies that can provide services for victims.
- Continue and expand support for the police force's Professional Ethics and Deontology Unit and the Provedor's Office.
- Evaluate the appropriateness and the effectiveness of past police training, use this information to inform future training, and monitor whether this training changes performance.
- Initiate and support joint meetings between the East Timor government, NGOs, and the PN'TL to coordinate, fund and plan for long-term strategies on capacity building, training, and other support to the PN'TL.

VII. Acknowledgements

Human Rights Watch would like to acknowledge invaluable assistance extended to its researcher during the research mission from two East Timorese human rights organizations, *Forum Tau Matan* and *Perkumpulan HAK*. Human Rights Watch would also like to acknowledge the help of Ray Murray, senior advisor to the minister and vice-minister of interior, and Karen Polglaze, former manager of NDI's security sector reform program in East Timor (2003-2005), for their editorial help and comments.

Charmain Mohamed, Indonesia and East Timor researcher for the Asia division of Human Rights Watch, wrote this report based on research she conducted in East Timor in May-June 2005. Philip Jakeman provided research assistance. Brad Adams, executive director of the Asia Division; Aisling Reidy, senior legal advisor; and Ian Gorvin, consultant to the Program Office, reviewed the report. Andrea Cottom, Fitzroy Hepkins, Andrea Holley, Rafael Jimenez, and Veronica Matushaj provided production assistance.