

**TIMOR-LESTE**



# TIMOR-LESTE

*Khoo Ying Hooi\**

## Part 1: Overview of Timor-Leste

### A. Country Background

Timor-Leste Facts	
Geographical size	14,874 sq km
Population	1,268,671 <sup>1</sup>
Ethnic breakdown <sup>2</sup>	Main ethnic groups: Timorese (78%) Indonesian (20%) Chinese (2%)
Official language(s)	Bahasa Indonesia and English (working languages) Tetum and Portuguese (national languages)
Literacy rate (aged 15 and above)	67.5% <sup>3</sup>
Life expectancy	68.58 <sup>4</sup>
GDP	US\$1.442 billion (per capita US\$1,161) <sup>5</sup>
Government	Unitary semi-presidential representative democratic republic whereby the Prime Minister is head of government and the President is head of state. Follows systems of separation of powers and interdependence between organs of sovereignty.
Political and social situation	Economy is largely underdeveloped due to the long fight to restore independence. Since then, Timor-Leste has gone through three sets of highly competitive elections that have been universally recognised as free and fair.

\* Senior Lecturer, Department of International and Strategic Studies, Faculty of Arts and Social Sciences, University of Malaya.

<sup>1</sup> Data from 2016. 'Timor-Leste' The World Bank, available at <http://data.worldbank.org/country/timor-leste>, accessed on 3 May 2017.

<sup>2</sup> Approximate figures listed as of 2002. See, 'East Timor' Encyclopedia.com, available at [http://www.encyclopedia.com/places/asia/indonesian-political-geography/east-timor#ETHNIC\\_GROUPS](http://www.encyclopedia.com/places/asia/indonesian-political-geography/east-timor#ETHNIC_GROUPS), accessed on 10 October 2017.

<sup>3</sup> Data from 2015. 'Human development reports' United Nations Development Programme, available at <http://hdr.undp.org/en/countries/profiles/TLS>, accessed on 7 November 2017.

<sup>4</sup> Data from 2015. The World Bank (see note 1 above).

<sup>5</sup> Data from 2015. The World Bank (see note 1 above).

Having restored its independence in 2002, the Democratic Republic of Timor-Leste is one of the newest nations of the 21st century. Located on the eastern edge of the Indonesian archipelago, the country consists of the eastern half of the island of Timor, the Oecussi enclave on the north-western portion of the island within Indonesian territory, and the islands of Atauro and Jaco. Timor-Leste is divided into 13 district areas. Situated in the north of the country, Dili is its capital city. The people are referred to as Timorese and include Austronesians (Malayo-Polynesians), Papuans, indigenous tribes, and a small group of ethnic Chinese.<sup>6</sup> Tetum and Portuguese are both official languages. Bahasa Indonesia and English are defined as working languages, as stated in the Constitution.<sup>7</sup> In terms of religious belief, over 90% of Timor-Leste's population are Roman Catholic; indeed, under the Portuguese regime, it was the Catholic church that was largely responsible for increasing literacy in the population.<sup>8</sup>

### *Struggle for independence*

Prior to the Indonesian occupation from 1975-1999, Timor-Leste was colonised by Portugal from 1515 onwards when it was known as Portuguese Timor. Timor-Leste declared itself independent from Portugal in November 1975; however, a brief nine days later, it was invaded by the Indonesian military which continued to occupy it for a further 24 years. Finally, on 30 August 1999, a major independence referendum or 'Popular Consultation' was held (assisted by a United Nations mission) during which 78.5% of East Timorese favoured separation from Indonesia, paving the way for full independence. However, the result led to widespread violence instigated by pro-Indonesian groups that later required the intervention of UN peacekeepers. It is reported that as much as 70% of the country's infrastructure was destroyed. To restore order, a UN-administered transition government was affected through UN Security Council Resolution 1272, leading the way for a UN Transitional Administration in East Timor (UNTAET), after which Timor-Leste restored its full independence on 20 May 2002.

### *System of governance*

Timor-Leste is a multiparty parliamentary republic, where the people or some significant portion thereof, have supreme control over the government, and where offices of state are elected or chosen by elected people. The Constitution establishes a semi-presidential system of governance, following the systems of separation of powers and interdependence between the organs of sovereignty, namely, the president, the National Parliament, the government, and the courts. The National Parliament represents all Timorese citizens and is vested with legislative, supervisory, and political decision-making powers. With a minimum of 52 and a maximum of 65 members, this organ is split into two sections:

<sup>6</sup> Nguyen, JT, 'Timor-Leste' in Ness, D, and Chia, LL (eds), *International Education: An Encyclopaedia of Contemporary Issues and Systems, Volumes 1-2*, Oxon: Routledge, 2013, at 471.

<sup>7</sup> Nguyen (see note 6 above), at 471.

<sup>8</sup> Amaral, MA, Field, J, McLellan, J, and Barnard, R, 'Timor-Leste collaborative project: A short report' *New Zealand Studies in Applied Linguistics*, 2009, Vol 15, No 1, at 55.

the plenary and committees. Parliamentary committees are comprised of groups of members of parliament (MPs) from parliamentary factions or political parties. Each committee has between 7-12 members and discusses a range of issues. Article 97(1) of the Constitution empowers the National Parliament (consisting of MPs and parliamentary factions) and the government to commence the legislative process.<sup>9</sup>

### *Political and social situation*

As a result of its long struggle to restore independence including an eruption of violence in 1999, Timor-Leste's economy has remained largely underdeveloped. As one of the poorest nations in the world, many international groups and agencies have offered assistance to rebuild its infrastructure or to support the country's development. Such assistance is necessary because in an increasingly globalised world, Timor-Leste is vulnerable, not only due to its size, but also because it suffered conflict prior to independence. For example, in 2006, tensions between the national police and the armed forces led to open conflict between the two institutions, which in turn led to a breakdown of law and order and the displacement of more than 150,000 people. Despite efforts to resolve the conflict, the violence continued with attempted attacks on both the President and the Prime Minister in 2008. However, following UN intervention, the country gradually recovered from the crisis and in 2012, presidential and parliamentary elections were held peacefully and fairly. The last UN peacekeeping mission withdrew at the end of 2012, finally removing Timor-Leste from the Security Council's agenda.

### ***B. International Human Rights Commitments and Obligations***

Timor-Leste's Constitution has adopted all the basic and fundamental human rights, for example, the right to life, the right to personal freedom, integrity, and security, and freedom of movement have all been ratified. In addition, the government also established the National Human Rights Institution (NHRI) and the Office of the Provedor for Human Rights and Justice (PDHJ) to further promote human rights.

Nationally, Timor-Leste has declared a commitment to the protection and development of human rights. As such, Art 29(2) of the Constitution declares that the state recognises and protects the lives of all its citizens. Likewise, Art 32(1) limits sentences and state security measures, thus ensuring sentences and security measures will not last indefinitely.<sup>10</sup> In 2014, based on an instruction from the Prime Minister (No 17/X/2014),

---

<sup>9</sup> 'Democratic system and legislative process in Timor-Leste' Judicial System Monitoring Programme (JSMP), available at <http://jsmp.tl/en/parliamentary-watch-programme-pwp/democratic-system-and-legislative-process-in-timor-leste/>, accessed on 3 May 2017.

<sup>10</sup> Human Rights Council, 'Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 and paragraph 5 of the Annex to Council Resolution 16/21 - Timor-Leste' A/HRC/WG.6/26/TLS/1, United Nations General Assembly, 22 August 2016, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/185/42/PDF/G1618542.pdf?OpenElement>, accessed on 4 October 2017, at 4.

the National Directive Commission (KDN) was established, led by the Ministry of Justice. The KDN comprises representatives from UN agencies in Timor-Leste, the ombudsman, representatives of civil society, and human rights groups, with additional support from the Ministry of Justice’s technical team. The KDN’s main objective was to design and draft a workable action plan for human rights. Having completed its desk research, it now plans to conduct field research with the eventual aim of producing a quality National Action Plan on Human Rights.<sup>11</sup> Other action plans include policies to deal with gender-based violence, hunger,<sup>12</sup> and disabilities. Similarly, in 2016, the government launched an action plan on women, peace, and security.

**Table 1: Ratification Status of International Instruments – Timor-Leste<sup>13</sup>**

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (CAT)		16 Apr 2003 (a)
Optional Protocol of the Convention against Torture	16 Sep 2005	
International Covenant on Civil and Political Rights (ICCPR)		18 Sep 2003 (a)
Second Optional Protocol to the ICCPR aiming to the abolition of the death penalty		18 Sep 2003 (a)
International Convention for the Protection of All Persons from Enforced Disappearance (CED)		
Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)		16 Apr 2003 (a)
International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)		16 Apr 2003 (a)
International Covenant on Economic, Social and Cultural Rights (ICESCR)		16 Apr 2003 (a)
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)		30 Jan 2004 (a)
Convention on the Rights of the Child (CRC)		16 Apr 2003 (a)
Optional Protocol to the CRC on the involvement of children in armed conflict		2 Aug 2004 (a)

<sup>11</sup> Human Rights Council (see note 10 above), at 5.

<sup>12</sup> Human Rights Council (see note 10 above), at 5.

<sup>13</sup> ‘Ratification status of Timor-Leste’ United Nations Human Rights Office of the High Commissioner, available at [http://tbinternet.ohchr.org/\\_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=174&Lang=EN](http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=174&Lang=EN), accessed on 18 March 2017.

Treaty	Signature Date	Ratification Date, Accession (a), Succession (d) Date
Optional Protocol to the CRC on the sale of children, child prostitution and child pornography		16 Apr 2003 (a)
Convention on the Rights of Persons with Disabilities (CRPD)		

Timor-Leste joined the UN in 2002. Thus far, the government has ratified seven international instruments (as listed above in Table 1). Nevertheless, it has not ratified the Convention on the Rights of Persons with Disabilities and the International Convention for the Protection of All Persons from Enforced Disappearance. Article 95(3)(f) of the Constitution declares ratification to be the competence of the National Parliament which must also approve and denounce agreements. For example, it is currently awaiting a government proposal on the CRPD and its Optional Protocol before ratification can occur; however, this may not be immediately forthcoming as the government has a policy of trying to create favourable conditions, and examining and considering all circumstances relating to human rights, including the financial impact of assuming all the consequences and responsibilities of any convention, before deciding on full or partial ratification.<sup>14</sup>

Of the 8 fundamental International Labour (ILO) Conventions, Timor-Leste has ratified 6; most recently, it acceded to Conventions C100 and C1113 in 2015. However, Timor-Leste is one of 18 ILO member countries not yet ratifying the Convention concerning Minimum Age for Admission to Employment (C138). Nevertheless, it is party to the CRC which requires countries to set a minimum work age. As such, Art 68 of the Labour Code sets the minimum age for employment at 15. Timor-Leste is also one of 11 ILO member countries not to have ratified the Convention concerning the Abolition of Forced Labour (C105) – despite this, its Constitution and the Labour Code both prohibit forced labour.<sup>15</sup>

Thus far, Timor-Leste has not requested a Special Procedure of the Human Rights Council although it did go through its second cycle of Universal Periodic Review (UPR) in 2016. Notwithstanding, the country's Constitution has adopted the general and customary principles of international law and the treaties it has ratified whilst ensuring its national legislation does not contradict international law. However, Timor-Leste has failed to adopt in full the general recommendations of certain treaty bodies, in particular, those of the Committee on CRC and the Committee on CEDAW. Timor-

<sup>14</sup> Human Rights Council (see note 10 above), at 3.

<sup>15</sup> 'Report for the Universal Periodic Review (UPR) of Timor-Leste' United Nations Country Team in Timor-Leste, November 2016, available at <https://www.laohamutuk.org/Justice/UPR/2016/UNCTUPRMar2016en.pdf>, accessed on 3 May 2017.

Leste is also late in presenting its reports under the ICCPR, the ICESCR, the ICERD, and the CAT.

Having ratified the Rome Statute of the International Criminal Court, Timor-Leste incorporated its provisions into its national law, thus, criminalising actions against humanity, as laid out by s.124 of the Penal Code. Accordingly, the offences of:

*homicide, extermination, forcible deportation of a population, imprisonment or depriving a person of physical liberty in violation of international law, torture, rape, sexual enslavement, forced prostitution, forced sterilisation, any form of sexual violence of comparable seriousness, persecution against a group or a collective entity due to politics, race, nationality, ethnicity, religion, sex, enforced disappearances, apartheid, and inhumane acts that cause suffering, serious injury to body or to mental or physical health*

are punishable with 15 to 30 years' imprisonment.<sup>16</sup> Be that as it may, the country has not yet enacted legislation allowing it to co-operate with the International Criminal Court.<sup>17</sup> In addition, the Penal Code has proved insufficient to challenge impunity for past crimes, and some aspects of it are neither consistent with the Rome Statute, other human rights treaties, nor customary international law. In particular, the Penal Code does not appear to include guarantees against national amnesties, pre-conviction pardons, or similar measures of impunity for crimes under international law.<sup>18</sup>

## Part 2: Outstanding Human Rights Issues

### A. Land Rights

Fifteen years after independence, a comprehensive legal basis for determining land ownership remains lacking. Originating from Timor-Leste's post-colonial and post-conflict legacies, these challenges, including landlessness and forced displacement, were caused by massive land occupation and have been exacerbated by the questionable legitimacy of formal land titles issued during the Portuguese and Indonesian

<sup>16</sup> Human Rights Council (see note 10 above), at 4.

<sup>17</sup> Human Rights Council, 'Summary prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(c) of the Annex to Human Rights Council Resolution 5/1 and paragraph 5 of the Annex to Council Resolution 16/21 – Timor-Leste' United Nations General Assembly, A/HRC/WG.6/26/TLS/3, 17 August 2016, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/183/00/PDF/G1618300.pdf?OpenElement>, accessed on 4 October 2017, at 3.

<sup>18</sup> Human Rights Council (see note 17 above), at 6.

administrations.<sup>19</sup> Although Art 54(1) of the Constitution states that every individual has the right to private property which is transferable during his or her lifetime or on death, most rural Timorese access and hold land through customary law and informal systems and schemes which lack legal recognition. For example, land occupation and informal arrangements are common in rural areas with many occupants failing to formalise acquisitions.<sup>20</sup> Without legal land titles, such land rights will not be recognised under Law 1/2003.<sup>21</sup>

Since the first UPR, the number of relocations and evictions has increased, particularly in Dili on the south coast and in the special administrative region of Oecusse, where large infrastructural projects have sprung up.<sup>22</sup> In 2012, parliament approved a draft land law, establishing a set of criteria to determine initial ownership. However, this was vetoed by then-President Ramos Horta for failing to identify various land rights issues.<sup>23</sup> A package of three further land laws—the Special Regime for the Definition of Ownership of Immovable Property (also known as the ‘Land Law’), the Expropriation Law, and the Law on Spatial Planning—are still pending.

### ***B. Women’s Rights and Domestic Violence***

Timor-Leste operates under a relatively strong patriarchal system which, in some cases, prevents women from taking advantage of work opportunities, often leading to discrimination. Other concerns in this area include: the failure to prevent and provide redress for all crimes against women and girls; the low number of investigations, prosecutions, and convictions in cases of alleged rape and sexual abuse; the lenient sentences in domestic violence cases; the failure to issue protection orders; and the excessive use of mediation under informal justice systems in cases of domestic violence.<sup>24</sup>

Although the Civil Code (Law No 10/2011) of 14 September 2011 acknowledges the equal rights of women and men in marriage, the fault-based divorce system puts women, including victims of domestic violence, at a disadvantage.<sup>25</sup> Moreover, neither

---

<sup>19</sup> Almeida, B, and Wassel, T, ‘Can a new law help Timor-Leste’s land rights crisis?’ Asia Foundation, 18 January 2017, available at <http://asiafoundation.org/2017/01/18/can-new-law-help-timor-lestes-land-rights-crisis/>, accessed on 2 May 2017.

<sup>20</sup> Almeida and Wassel (see note 19 above).

<sup>21</sup> Almeida, B, and Wassel, T, ‘Survey on access to land, tenure security and land conflicts in Timor-Leste’ Asia Foundation, December 2016, available at <https://asiafoundation.org/wp-content/uploads/2017/01/Survey-on-Access-to-Land-Tenure-Security-and-Land-Conflicts-in-Timor-Leste-1.pdf>, accessed on 4 October 2017.

<sup>22</sup> Human Rights Council, ‘Compilation prepared by the Office of the United Nations High Commissioner for Human Rights in accordance with paragraph 15(b) of the Annex to Human Rights Council Resolution 5/1 and paragraph 5 of the Annex to Council Resolution 16/21 – Timor-Leste’ United Nations General Assembly, A/HRC/WG.6/26/TLS/2, 22 August 2016, available at <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G16/184/71/PDF/G1618471.pdf?OpenElement>, accessed on 4 October 2017, at 10.

<sup>23</sup> Almeida and Wassel (see note 19 above).

<sup>24</sup> Human Rights Council (see note 22 above), at 8.

<sup>25</sup> Human Rights Council (see note 22 above), at 8.



the Constitution nor its ordinary legislation includes a definition of discrimination against women in accordance with Art 1 of CEDAW.<sup>26</sup> While the Law against Domestic Violence (No 7/2010) criminalised domestic violence, including sexual violence, “even within a marriage,” it does not adequately meet the standards of CEDAW, e.g. it fails to implement necessary services and protection for indigenous women and girls. Further, concern was expressed about the absence of legal provisions specifically criminalising marital rape and qualifying rape as a serious crime.<sup>27</sup> In addition, the policing and judicial processes for survivors of domestic violence seeking both protection and justice from their abusers were deemed lacking. In fact, due to fear of reprisals, victims often prefer not to report abuse at all. Even when cases of domestic violence become known, such disputes are often solved using traditional laws and practices, either within the family or before community leaders.

To address the issue of inequality, a Dili Declaration (DD) entitled, ‘Invest in Women and Children – Invest in Equality’ was signed in 2016.<sup>28</sup> The DD provides comprehensive guidelines to achieve dynamic gender equality by ensuring: gender mainstreaming in national development plans; the development of gender sensitive budgets; the eradication of violence against women and children by the introduction of a funded implementation plan to treat domestic violence issues; the development of a mechanism to promote access to property and land rights; equal access to higher levels of education for women including scholarships in natural resource management; the promotion of gender sensitive health policies to prevent HIV/AIDS; the promotion of family planning and integrated community health services; and investment in women through a policy of decentralisation.<sup>29</sup>

In April 2016, Timor-Leste officially launched its national action plan to implement United Nations Security Council Resolution (UNSCR) 1325 (2000)/NAP UNSCR 1325, on Women, Peace and Security, becoming the third country in Southeast Asia to adopt such a measure. Covering the four pillars of Resolution 1325, including women’s participation, prevention, protection, and peace building,<sup>30</sup> the plan calls for action to advance the participation and leadership of women in all aspects of decision-making and peacebuilding. Accordingly, it aims to increase the role of women in preventing and mediating conflicts to ensure they can live free from violence and feel the benefits of the country’s development.<sup>31</sup>

<sup>26</sup> Human Rights Council (see note 22 above), at 5.

<sup>27</sup> Human Rights Council (see note 22 above), at 6.

<sup>28</sup> Human Rights Council (see note 10 above), at 8.

<sup>29</sup> Human Rights Council (see note 10 above), at 9.

<sup>30</sup> ‘Investing in women for peace and future generations: Timor-Leste adopts a National Action Plan on Security Council Resolution 1325’ UN Women, 28 April 2016, available at <http://asiapacific.unwomen.org/en/news-and-events/stories/2016/04/adopts-a-national-plan-for-womens-security>, accessed on 3 May 2017.

<sup>31</sup> ‘Timor-Leste officially launches its National Action Plan for United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security 2016-2020’ UN Women, 20 October 2016, available at <http://asiapacific.unwomen.org/en/news-and-events/stories/2016/10/timor-leste-officially-launches-its-national-action-plan>, accessed on 3 May 2017.

### ***C. Children's Rights***

In Timor-Leste, the abuse and neglect of children and the widespread sexual abuse of children, including incest, is a major concern. Another worry is the high number of children in work. As such, under s.68 of the Labour Law, Timor-Leste adopted a minimum working age of 15, although children between 13-15 are still permitted to do “light work” (defined in s.69). However, upon ratification of ILO Convention 182, under Art 9 of the Constitution, the Convention’s internal legal system should have applied, therefore setting the minimum working age at 18. Hence, Government Resolution No 1/2014 established the National Commission Against Child Labour to monitor implementation of the Convention.<sup>32</sup> Although the government established internal regulations approving a list of prohibited activities for children under the age of 18 (to complement s.67(2)(d) of the Labour Law which prohibits children from performing work under dangerous conditions),<sup>33</sup> child labour is still common in Timor-Leste, primarily because children’s wages are necessary to support the family income or to settle outstanding debts. Consequently, labour is sometimes prioritised over education, especially in rural areas. The majority of children work in agriculture, fishing, construction, domestic service, street and market vending, and prostitution.<sup>34</sup>

In addition to child labour, there are also important gaps in the legislative and institutional framework of child protection, including juvenile justice. For example, two draft laws relating to juvenile justice—a draft law on punitive-educational measures for minors 12 to 16 years of age, and the Special Penal Regime for 16 to 21 year-olds—have not moved forward within the Ministry of Justice with both requiring further consultation.<sup>35</sup> As a result, juveniles and adult prisoners are currently incarcerated together at Becora prison because of a lack of special juvenile facilities. Recognising this issue, the juvenile justice regime is currently undergoing significant review and reform although it suffers from limited investment. Limitations also exist in terms of capacity especially as regards the specialised training of personnel in child justice administration and the use of informal community mediation mechanisms.<sup>36</sup> As a result, a National Action Plan for Children is being drafted under the Commission on the Rights of the Child (KDL).<sup>37</sup>

### ***D. Persons with Disabilities***

Articles 16 and 21 of the Constitution explicitly provide for non-discrimination and equal treatment for persons with mental or physical disabilities. While s.153 of the Penal Code classifies the mistreatment of a person with a disability by a caretaker as a crime

<sup>32</sup> Human Rights Council (see note 10 above), at 11.

<sup>33</sup> Human Rights Council (see note 10 above), at 11.

<sup>34</sup> Human Rights Council (see note 22 above), at 7.

<sup>35</sup> Human Rights Council (see note 17 above), at 6.

<sup>36</sup> Human Rights Council (see note 22 above), at 8.

<sup>37</sup> Human Rights Council (see note 10 above), at 5.

punishable by up to 6 years' imprisonment, despite having ratified 7 international human rights instruments, Timor-Leste has yet to ratify the CRPD. However, the government has begun to implement measures to address some key aspects of disability rights as demonstrated by its National Policy for the Inclusion and Promotion of the Rights of Persons with Disabilities and its National Action Plan for Persons with Disabilities 2014-2018.<sup>38</sup>

In 2015, the government drafted a Statute for the National Disability Council which will eventually lead to a Government Decree-Law.<sup>39</sup> For example, the National Action Plan for Persons with Disabilities provides a disability allowance through social security programs for persons with disabilities aged 17 and above, funding support to institutions (such as a centre for national rehabilitation for persons with disabilities), as well as equal opportunities for adults or children with disabilities to access school through inclusive and regular learning systems.<sup>40</sup> To ensure all people, including persons with disabilities, can gain access to fair justice, from 2016 onwards, the Sixth Constitutional Government began training magistrates, judges, prosecutors, and public defenders.<sup>41</sup>

### ***E. Access to Justice***

Access to justice remains a challenge for large parts of the population in Timor-Leste. In 13 municipalities, there are only 4 permanent courts. Due to poor road conditions and the high cost of travelling from one place to another, access to justice is therefore limited. To overcome this, Timor-Leste implemented 'mobile courts' to increase access to the judicial system but so far, it has not been successful.<sup>42</sup> In addition, formal justice systems and legislation are mostly only available in Portuguese, posing a challenge because most Timorese speak Tetum with the majority not even understanding Portuguese. Moreover, many Timorese prefer traditional dispute resolution mechanisms owing to their familiarity and accessibility, despite these mechanisms not always adhering to international human rights standards, particularly regarding women's rights.<sup>43</sup>

### ***F. Law Enforcement***

According to the 2015 Annual Report issued by the PDHJ, the state institutions committing most human rights violations are the National Police (PNTL) and military forces (F-FDTL), with the former committing about 70% of reported offences, 50%

---

<sup>38</sup> Human Rights Council (see note 10 above), at 4-5.

<sup>39</sup> Human Rights Council (see note 10 above), at 12.

<sup>40</sup> Human Rights Council (see note 10 above).

<sup>41</sup> Human Rights Council (see note 10 above), at 8.

<sup>42</sup> Human Rights Council (see note 17 above), at 2.

<sup>43</sup> Human Rights Council (see note 22 above), at 7.

of those involving inhuman and degrading treatment.<sup>44</sup> Moreover, the military are regularly involved in joint operations to address serious disturbances of law and order – since the restoration of independence in 2002, there have been many such police and military operations.

Based on Government Resolutions No 8/2014 and No 9/2014 and Parliamentary Resolution No 4/2014 which sought to disband illegal groups such as the Popular Council for the Defence of the Democratic Republic of Timor-Leste (CPD-RDTL) and the Revolutionary Council of Maubere (KRM), the operations leading to the most serious human rights violations took place in 2014 and 2015. Amongst other issues, these groups demanded constitutional reforms and the election of a new government.<sup>45</sup> Thus, in 2015, Government Resolutions Nos 11/2015 and 12/2015 were passed to authorise joint military and police operations. These resolutions were then promulgated into Presidential Decree No 41/2015 which ultimately led to the Hanita Command Joint Operation to capture the leader of KRM, Mauk Moruk, and his followers.<sup>46</sup> As a result, many human rights violations occurred including deprivation of liberty, arbitrary arrest and detention, ill treatment during arrest and detention, torture, and arbitrary interference with privacy and the home, including the destruction of property.

According to data from the HAK Association, between 19-22 January 2016 in Baucau district, 35 community members were arbitrarily captured and brought to court. As there was scant evidence against them, all were unconditionally freed. The operation to capture Mauk Moruk continued between 24 March 2016 and 10 April 2016 during which time the number of community members arbitrarily captured and brought before court rose to 232, of whom 229 again were later unconditionally freed. It was also reported that community member, Luis Ramos, was unlawfully killed by the joint command on 16 June 2016 when following orders to act as a guide in the operation.<sup>47</sup>

### ***G. Human Trafficking***

In 2016, the Ministry of Justice and the Office of the Prime Minister re-established a working group (comprised of members of the relevant ministries and representatives of civil society) to devise a national action plan to combat human trafficking. In addition, Timor-Leste also signed and adopted another plan to fight human trafficking among member states of the Community of Portuguese Speaking Nations (CPLP). In order to implement these policies, the government through the Ministry of Justice, drafted

---

<sup>44</sup> 'Provedoria's annual report 2015' available in Tetum at <http://pdhj.tl/wp-content/uploads/2014/06/RELATORIU-ANUAL-2015.pdf>, accessed on 21 April 2017.

<sup>45</sup> Pereira, J, 'Timor-Leste: Active response needed' in '2016 ANNI Report on the Performance and Establishment of National Human Rights Institutions in Asia' FORUM-Asia, available at <https://www.forum-asia.org/uploads/wp/2016/11/3.-Timor-Leste-Final.pdf>, accessed on 4 October 2017, at 48.

<sup>46</sup> Pereira (see note 45 above), at 49.

<sup>47</sup> Pereira (see note 45 above), at 50-51.

laws on human trafficking which were approved by the Council of Ministers – these have now been submitted to the National Parliament for appraisal and approval. When passed, the legislation will complement s.163 of the Penal Code dealing with human trafficking and s.165 covering witnesses, trafficking in human organs, as well as the rights of victims to obtain compensation.<sup>48</sup>

### ***H. Freedom of Expression and Assembly***

Citizens, including human rights defenders, are generally free to express themselves in Timor-Leste. However, occasional incidents of threats and intimidation have been reported, especially against staff of non-governmental organisations publicly raising human rights concerns or to prevent them speaking out on sensitive issues.<sup>49</sup> For example, the Law on Freedom of Assembly and Demonstration (No 1/2006) places unreasonable restrictions on freedom of assembly by prohibiting gatherings and demonstrations less than 100 metres from the offices of organs of sovereignty, residences of such officeholders, military and militarised installations, prison buildings, offices of diplomatic missions and consulates, and the offices of political parties. However, because of its coastal location and the fact government buildings and diplomatic missions are closely packed in the capital city of Dili, this requirement makes it virtually impossible for protestors to demonstrate within sight and sound of their target. Indeed, the PNTL continues to interpret the law narrowly, insisting protest organisers obtain permits which has had the effect of banning a number of peaceful gatherings linked to demands for accountability regarding past crimes and government corruption.<sup>50</sup>

In January 2016, during the visit of Indonesian President, Joko Widodo, the police made harassing telephone calls to the Executive Director of HAK Association for helping to organise and participating in a peaceful demonstration demanding the two governments address the issue of past human rights violations. Further, on the day of the demonstration, two armed forces personnel visited the NGO's office and instructed a staff member wearing a 'Free West Papua' T-shirt to remove it. They also requested the use of its compound for security operations, but HAK refused.<sup>51</sup>

Freedom of the press came under attack in 2014 when the Media Act was passed after several reviews. In particular, some provisions were deemed unconstitutional by the Court of Appeal; these were consequently removed. The Act stipulated that to work as a journalist, individuals must first undergo a six-month internship in a media organisation and be accredited by the government-funded Press Council established in 2016. Further, the Press Council has the power to grant, renew, suspend, and revoke

---

<sup>48</sup> Human Rights Council (see note 10 above), at 18.

<sup>49</sup> Human Rights Council (see note 22 above), at 8.

<sup>50</sup> Human Rights Council (see note 17 above), at 7.

<sup>51</sup> Pereira (see note 45 above), at 44-45.

journalists' credentials and administer disciplinary sanctions including fines for contraventions of the law.<sup>52</sup> In addition, new journalists must be licenced by the Press Council and all journalists are required to defend public interest and the democratic order. Unsurprisingly, such provisions have been accused of stifling freedom of expression in the country. While breaches of the Act could trigger fines against journalists and media outlets, there is also concern the legislation's vague language could be used to prevent media outlets being critical of the government. Defamation is also criminalised under the Penal Code, punishable by a fine or imprisonment for up to three years.

The Press Council came into existence at a challenging time, just as current Prime Minister Rui Maria de Araújo asked the Prosecutor General (under s.285 of the Penal Code on defamatory false information)<sup>53</sup> to investigate an "inaccurate" article published in November 2015 by the Timor Post alleging that he manipulated procurement processes while an advisor in the Ministry of Finance to steer a contract, and that the newspaper intentionally falsified the information. On 11 April 2016, the prosecutor questioned both the reporter, Raimundos Oki, and the editor, Lourenco Vicente Martins, leading the latter to resign and the newspaper to apologise for the error.

### **Part 3: Conclusion**

Timor-Leste's 15 years of independence have been marked by a mixed bag of progress and crisis. Over the past decade, Timorese politics has been notable for the dynamism of its democratic state as evidenced by the sheer number of political parties contesting its elections. Since independence was restored in 2002, Timor-Leste has gone through three sets of highly competitive elections that have been universally recognised as free and fair. Even when tensions were high in the wake of the 2006 political crisis, presidential and parliamentary elections were held in 2007, albeit not entirely without incident.

As a post-conflict small state, Timor-Leste has been widely praised as one of the standout democracies in Southeast Asia. Thus, as published by the Economist Intelligence Unit (EIU) in January 2017, the Democracy Index 2016 ranked Timor-Leste as the most democratic country in Southeast Asia based on five variables: (1) electoral process and pluralism; (2) functioning of the government; (3) political participation; (4) political culture; and (5) civil liberties. Overall, Timor-Leste's score was indeed impressive; besides being first in Southeast Asia, it was ranked fifth in Asia, and 43rd out of all the countries assessed by the EIU.

---

<sup>52</sup> 'Timor-Leste's Second Universal Periodic Review (UPR)' Timor-Leste Civil Society Coalition, March 2016, available at <https://www.laohamutuk.org/Justice/UPR/2016/NGOUPRMar2016en.pdf>, accessed on 4 October 2017, at 20-21.

<sup>53</sup> 'Proposed law on media' La'o Hamutuk, 7 February 2014, available at <http://www.laohamutuk.org/misc/MediaLaw/14MediaLaw.htm>, accessed on 4 May 2017.

However, having emerged from war and internal conflict in the late 1990s, Timor-Leste still has a way to go, particularly regarding development issues which explains why human rights abuses in the country are generally driven by economic, social, and cultural concerns. Although an oil-rich country, the relationship between its democracy and development remains far from universally positive. Natural resources undoubtedly play a crucial role in the economies of countries and it is even more vital to post-conflict small states. Accordingly, Timor-Leste must carefully balance its resource dependency against the needs of its still developing democracy whilst ensuring the well-being of its citizens.

What remains lacking in Timor-Leste is more decentralisation of political power and its promotion thereof, aimed at empowering those at the grassroots level. Increasing levels of self-governance and self-reliance will thus enable more socio-economic development, which, in turn, will protect and secure its citizens' economic, social, and cultural rights. Therefore, Timor-Leste's political leaders must find solutions to move the country toward sustainable democracy in the midst of such challenges as poverty, uncertain land rights, illiteracy, low employment, corruption, and cronyism.

