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(RDDU)**

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**Overview Report on the
Implementation of the State of Emergency for a second period
28 April – 27 May 2020**

1. Introduction

- 1.1.** On 27 April 2020 the National Parliament authorized a request from the Government for the President of the Republic to extend the State of Emergency for a second period for another term of 30 days, from 28 April until 27 May 2020. Therefore the Human Rights Defenders Network (RDDU)¹ continued to observe the implementation of the State of Emergency in accordance with the protocols for the prevention of Covid-19 by monitoring publications in the national media, direct observation by each member in his/her respective location or workplace and through telephone communications and social media.
- 1.3.** This report was prepared based on information shared between members of the RDDU as well as discussions to analyse the situation. It is clear that some of the information presented in this report may be inaccurate, because we have very limited access to confirm information with sources, however in order to improve the human rights situation during this next stage of the State of Emergency, we hope that all entities will be able to consider this report and reflect on it as lessons that can be learned.

2. Observations

- 2.1. Political Perspective.** Based on our observations, the State of Timor-Leste decided to extend the State of Emergency for a second period for the same length of time because during the first State of Emergency the number of people affected by Covid-19 increased to 22, and 361 people were in quarantine.² Also, people continued to illegally cross the border, so the State really needs this situation to continue to apply restrictions on people's freedom, in order to allow the competent authorities and State agents to consolidate their work to prevent the spread of the virus from imported cases that lead to community transmission.

The hard work and efforts of the responsible authorities have started to show some progress. We have noted important progress in May 2020 relating to the quarantine location established by the Government in Tasi Tolu which started to

¹ The RDDU was established in 2015 and comprises HAK, AJAR, MAHEIN, ACBIT, ADTL, BELUN, JSMP, Lao Hamutuk, ALFeLa, CBRN-TL

² Press Release from the CIGC on 25 April 2020

function. In addition to reducing State expenditure, it also is providing centralized support for those in quarantine, and therefore each day the number of people in quarantine, either in hotels or in Tasi Tolu, has started to decline, because of the confirmed negative cases, as well as those found to be positive who have started their recovery, and on 15 May 2020 the Integrated Centre for Crisis Management (CIGC) informed the public that there were no positive cases of Covid-19, or zero cases.³

However, on the other hand, we have also observed and heard some disappointment from those in quarantine that the support or treatment given by staff did not really respect their human rights, for example they did not receive accurate information. Some of them did not receive accurate information about the results of their tests, and some needed clarification about their condition when they did not display any symptoms of Covid-19, but the staff in quarantine did not communicate properly, and some of them were disappointed with the food which was unhealthy (dirty and spoiled), and some felt as if they were in detention or prison because the police officers treated them like they were criminals.⁴

The current Government faced the threat of a Covid-19 outbreak during the political impasse, and therefore the behaviour of staff which lacked transparency and dignity towards those in quarantine generated rumours in the community that the State of Emergency was not purely intended to combat a Covid-19 outbreak, but rather because of some other political agenda. These concerns were exacerbated when the authorities did not implement rules with consistency (further described in Part 2.6. below).

Therefore, we have observed that the actual situation requires the State to extend the State of Emergency for a second period, and some significant progress has also been achieved, however there are still some concerns from a human rights perspective, and also regarding the right to information and dignified treatment for those in quarantine or isolation.

From a human rights perspective, with the outbreak of Covid-19, the State needs to take urgent measures to control the transmission of the virus, however these measures need to be proportional, non-discriminatory, transparent and for a specific duration. Measures restricting rights and freedoms need to be intended to achieve public health goals and these measures should not be used to suppress people's aspirations, or to justify acts of violence or to carry out arbitrary detentions. People in quarantine are not the same as criminals in detention. Our Government has made statements about these principles, however during implementation the agents or staff have not professionally managed these situations proportionally and in a dignified manner.

2.2. Covid-19 Fund. The policy of the 8th Government to respond to the threat of a Covid-19 outbreak as well as the flooding disaster was to establish the Covid-19 Fund and the National Parliament approved an extraordinary request from the Petroleum Fund at the start of April 2020 amounting to USD 250 million, of which USD 150 million was for the Covid-19 Fund and USD 100 million was for

³ Timor-Post Newspaper, 16 May 2020

⁴ Disappointment expressed by some parents as well as some postings on social media

the Government coffers to support the duodecimal budget. According to our sources, the Covid-19 Fund was allocated to State institutions such as:

Institution	Amount
National Parliament	500,000
Ministry of Health	52,400,000
Timor Leste Defence Force (F-FDTL)	12,500,000
Timor-Leste National Police (PNTL)	670,000
Secretary of State for Communication	207,000
Centre of Integrated Crisis Management (CICM)	34,500,000
Ministry of Foreign Affairs and Cooperation	2,400,000
Ministry of Social Solidarity Inclusion	15,000,000
Ministry of Tourism, Commerce and Industry	6,000,000
Ministry of Agriculture and Fisheries	4,900,000
Ministry of Finance	9,000,000
Office of Prime Minister	1,600,000
National Logistic Center	19,100,000
Total	158,777,000

Funds were intended to attend to the need for prevention and to combat the Covid-19 outbreak as well as the flooding disaster. These funds are not to finance the operations of the VIII Government, because the existence of this Government during the political impasse has been guaranteed by the duodecimal budget. Therefore, members of the RDDU became concerned when they saw the Covid-19 Fund being allocated to certain institutions, which seems a bit strange, such as the National Parliament, F-FDTL, Ministry of Tourism, Commerce and Industry (MTCI), the Ministry of Agriculture and Fisheries (MAP), Ministry of Finance (MF) and Office of the Prime Minister, because in reality we have not received information that these institutions provide extraordinary services to attend to the Covid-19 outbreak.

Community members in many locations – especially those affected by the implementation of the State of Emergency because they have lost their work and income, have therefore complained about a lack of food, but up until the end of the second State of Emergency period, we have not seen any food assistance or subsidies from the Government for farmers to help them to continue to be productive and support the markets. In some municipalities there are committees that are directed by local authorities to mobilise humanitarian assistance from entrepreneurs and citizens to help those facing hunger, however this assistance has not come from Covid-19 funds. Many people have spoken in public through the media that the common people are facing hunger, but we have noted that the members of the Government are not concerned with these members of the community who are complaining about this issue. There

have been no real actions to distribute food, even though from a human rights perspective when the State “locks-down” the people, it should guarantee that they have food, otherwise they will be more vulnerable to Covid-19. In reality, members of the RDDU find it strange that the Covid-19 Fund has been allocated to the aforementioned institutions.

This situation is worse for vulnerable persons, the powerless or the disabled. From a human rights perspective, these people really need attention from the Government so that they don't fall into serious trouble due to the threat of Covid-19. On a daily basis the disabled need the solidarity of others, and when there are limitations placed on people's ability to move around and seek a living because they have to stay at home, this means that they are even more vulnerable. We note that some NGOs and entrepreneurs have acted in solidarity to assist the disabled, but they only help a few groups.

Meanwhile the allocation of the Covid-19 Fund to the Ministry of Social Solidarity and Inclusion (MSSI) was intended to provide a \$100 subsidy to households. In our Overview Report on the first period of the State of Emergency we mentioned that this subsidy needed to be paid quickly, but unfortunately towards the end of the second period of the State of Emergency, this had not taken place. Based on information we have received, technical staff at the MSSI have been working very hard to establish a mechanism to pay this subsidy properly to avoid the mistakes that occurred between 2006 – 2008 when the MSSI paid subsidies to victims of the security and political crisis. The payment of these subsidies has been delayed because of the process of updating and verifying data between the Ministry of State Administration (MAE) and the MSSI. We note that this situation is also a consequence of the non-existence of a cooperation program between the MAE and the Ministry of Justice (MJ) – especially the Directorate of Notary Services, for the development of village administration to update the civil registry for households (customary marriages). Therefore, when the Council of Ministers decided on this subsidy, it was only based on data from the 2015 household Census. Based on recent information from the MSSI, they requested funds for this subsidy to the MF to pay 326,734 households. Therefore USD 32,673,900 would be required, whereas the budget allocated was only USD 15 million. This did not include funds to provide a subsidy to cover 60% of salaries for companies or organisations that have kept on their staff during the State of Emergency.

From a human rights perspective, the policy of providing subsidies reflects the obligation of the State towards its people who have been affected by the lockdown policy and had their rights and freedoms limited during the State of Emergency. This is because these restrictions have resulted in people losing their income or their work which has affected their ability to survive. However, the policy to provide a subsidy of USD 100 to households has also raised concerns related to the issue of equity. Actually, this subsidy should be for those affected by the State of Emergency, namely those who have lost their work or income. If we give this subsidy to those who receive a salary that does not exceed USD 500, namely staff who have not lost their salary, even though they have had to stay at home, this would lead to an injustice for those who have become unemployed. The ones who really need it are the unemployed, not those who are employed and have also been offered a subsidy from the Government to cover 40% of their salary.

The RDDU is really concerned about the ability of this subsidy to effectively help those who really need it. Also, the management of a large Fund during an “Emergency” situation is also a concern. We have received information that the execution of these funds has used the single-source method, meaning that the companies that have received projects such as hotels, quarantine locations, catering, and vehicle rentals, may have a conflict of interest, and therefore some members of the RDDU have also tried to demand for the Anti-Corruption Commission (CAC) to proactively monitor the execution of the Covid-19 Fund. The CAC commissioners have already replied that they are monitoring this issue.⁵

- 2.3. Workers’ rights.** The implementation of the State of Emergency has limited people’s movements and some business activities have been restricted, which has therefore had a massive effect on the income of traders and businesspeople. Many employers feel that it is very hard to retain their workers because it is difficult to pay their salaries. This situation has been exacerbated by the political impasse that has been going on for more than two years, whereby many companies cannot offer work to workers because there are no projects as a result of the political impasse.

When the State of Emergency started the 8th Government had a policy of ensuring that companies or employers would not be allowed to terminate their workers. The Minister for Legislative Reform and Parliamentary Affairs (MRLAP), Mr. Fidelis Magalhaes spoke to the media and said that companies may not terminate workers and the Government would help companies or employers – by subsidizing 40% of their salaries to ensure that workers could continue to work.⁶ However, this policy has not resulted in any real actions from the competent authority, namely the Secretary of State for Vocational Training and Employment (SEFOPE), which has the competency to monitor workers’ rights.

The main issue regarding workers’ rights during this situation is the security of their jobs, not a subsidy. Of course the subsidy is important, however the job of organizing the payment of this subsidy is being done by the Social Security Institution, and we have observed that documents are still being gathered, meanwhile many companies and employers have taken measures to terminate their workers, because they cannot handle the major crisis relating to their income. SEFOPE has been passive in terms of responding to the unfair measures taken by employers towards their workers.

During May 2020 the RDDU received a complaint from 37 workers from Kmannek Lda who have been terminated (30 males and 7 females), and also on 26 May 2020, the RDDU received another complaint from 10 workers from East Burger Corner Lda because they were not satisfied with the Confederation of Timorese Trade Unions (KSTL) that is not defending their rights in relation to their boss or employer. Workers have complained that their bosses have not increased their basic salary of USD 115, - in accordance with the law for 10 years. On the other hand, during the State of Emergency the KSTL has received

⁵ Meeting with a delegation team from FONGTIL with CAC on 8 May 2020

⁶ News from RTTL and GMNTV

complaints from 82 workers who have had their work contracts suspended by employers, because income has declined during the State of Emergency.

The RDDU believes that the policy of the 8th Government in this area has been sound, by trying to assist employers – by subsidizing 40% of their salary to ensure that workers can continue to work and receive a salary during the State of Emergency. However, if this subsidy is delayed excessively, then employers cannot manage to retain their workers and pay their salaries when they have no income. The Government not only needs to accelerate the payment of this subsidy, but also needs to actively monitor or engage in dialogue with employers to have a sense of solidarity regarding the economic circumstances facing employers and workers.

- 2.4. Guarantees for creditors.** During May 2020 debtors or persons who have borrowed money from credit institutions such as Moris-Rasik, have expressed regret to some members of the RDDU because they have been unable to pay back their monthly interest and principal amount during the State of Emergency because their business has stopped or they have had no income. Members of the RDDU received this information in Dili⁷ and also in Maliana and Suai.⁸ The debtors have said that staff from the credit institutions have kept asking them to pay back the loan and the interest and they are not concerned that the business activities of the debtors have stopped.

Meanwhile the RDDU also heard that Minister Fidelis Magalhaes told the media that during this situation debtors would have their obligation to pay back loans and interest to credit institutions suspended, because the Government would guarantee these loans.⁹

The statement of the aforementioned Minister gave hope to debtors that the Government was concerned about their circumstances, but unfortunately we see it as just rhetoric and not a policy of the Government, because there have been no concrete measures to notify credit institutions to suspend demands on debtors, and therefore debtors are finding it very difficult. The business activities of debtors have stopped, and they have no income and now creditors are demanding for them to pay. Therefore, the RDDU believes that the Government really needs to take measures to notify and meet with credit institutions so that they understand the situation and so they will suspend the obligations of debtors.

- 2.5. Right to education.** During the Second State of Emergency Period the Government has continued to suspend learning at all school levels. In order to ensure that students do not fall behind with their education during the State of Emergency, the Ministry of Education and Sport has conducted an education program with the use of technology.

The RDDU has observed that students from some schools have had access to some learning activities using mobile telephone apps (WhatsApp and Zoom meeting), and also some university students from *Universidade Nacional Timor Lorosa'e* (UNTL) and *Universidade da Paz* (UNPAZ) have participated in learning activities via WhatsApp. Also, the national television (RTTL) and private

⁷ One debtor sent an SMS telling AJAR staff to talk to the Government

⁸ Observation from the FONGTIL team at the Timor-Leste and West Timor border

⁹ GMNTV on 30 April 2020

television (GMNTV) channels have had learning programs for classes at the Primary School level.

The problem that we have seen with this virtual learning is that access is not available to all students across the entire territory of Timor-Leste, and it is also not inclusive, because disabled students cannot participate and there are no interpreters for the deaf. The children of families with very limited economic capacity, both in rural areas and urban areas, are unable to access education programs via modern technology, because they don't have a television in the home, or don't have good television reception, and many of them don't have a mobile phone or are able to buy credit for their phone.¹⁰ Some members of the RDDU conducted a survey regarding the circumstances facing survivors of past human rights violations to find out how they are managing during the State of Emergency. 15 of the 174 respondents demanded schooling for their children.¹¹

Because there is no universal access to education for all students, we observed that the Director of the Santu Ignatius Loyola Kasait School stopped the virtual learning process in early May 2020, because it was felt that this could create a social gap between students. Some of them had access, but many of them did not.¹²

Therefore, the RDDU believes that the Government needs to revise its policy of suspending attendance at schools, so that our future generations do not fall behind with their education or have no education at all.

2.6. Right to access justice

Some members of the RDDU also observed that the First State of Emergency Period and the Second State of Emergency Period also had an impact on the right to access justice for cases of gender based violence, especially rape, sexual abuse of minors or sexual exploitation of women and children. According to data¹³ that members of the RDDU obtained between March-May 2020 there were 81 cases involving sexual acts with an adolescent, child pornography, mistreatment of a spouse, maltreatment of minors, domestic violence, rape, sexual abuse of minors and sexual exploitation in the municipalities Baucau, Same, Aileu no Oecussi. Some of these cases have not yet been reported to the Public Prosecution Service, but some have been registered and have not yet been followed up because of the State of Emergency. From our perspective, the Public Prosecution Service and the courts need to establish an appropriate mechanism during the Covid-19 pandemic to ensure the trials of urgent cases are ongoing, particularly cases of gender-based violence, so that women and children are not revictimized (because the justice system has not stopped functioning).

2.7. Policing the rules regarding Covid-19 prevention. The main differences between the rules applied during the First State of Emergency Period and the Second State of Emergency Period are the Measures of Execution. The execution of Second State of Emergency is set out in Government Decree No. 8/2020 and there is a significant difference with the previous decree which started to reduce

¹⁰ Observations made by the FONGTIL Team, second week of May 2020

¹¹ Results from a Survey between March – Abril 2020 from the AJAR, ACBIT, HAK & AVKP Team

¹² Information from some of the parents of students at the Jesuita Kasait School

¹³ JSMP and ALFeLa Press Release "http://jsmp.tl/wp-content/uploads/PrISMPnoALFeLAKazusiraihaEE_TETUM.pdf

some of the restrictions and to allow the operation of public transport (Article 21) and business activities (Articles 22, 23 and 24), whilst the rules on prevention have continued – especially preventing large gatherings, therefore meetings and demonstrations of more than five people are still prohibited. There has also been an increase in the rules regarding sanctions – especially if a person does not adhere to the protocols regarding Covid-19 prevention, whereby the police authorities can report to the Public Prosecution Service to hold the person criminally responsible.¹⁴

According to our observations, police officers in general are beginning to understand how to exercise their powers to ensure that the population is disciplined and follows the rules regarding the prevention of the outbreak. In the capital Dili, we observed several times that when Police carried out “check point” operations, police officers were courteous with the passengers to ensure that they complied with the protocol. But we also noted that the understanding and awareness of epidemic prevention-related rules among PNTL officers varies. We found that some police officers were operating “*outside the rules*” or misusing their powers. On 11 May 2020, for example, RDDU received a phone call from someone complaining that the police had banned physical exercise and sports in the area of Cristo Rei, Metiaut, Dili. This is an instance where police officers did not understand that an important aspect of the fight against the virus is people’s overall health status. Thus, physical exercise as part of maintaining one’s health is necessary. Besides, it is not a sporting activity that brings together many people in one place such as football, volleyball, etc. Some police officers only thought about the rules regarding the prohibition of gatherings and acted thoughtlessly. The Police should have communicated with people exercising and should have advised them about physical distancing and the use of masks, and not dispersed them to stop them from doing their exercises.

If Police had been truly consistent in applying the rules regarding the banning of gatherings, their vehicles shouldn’t have transported police officers sitting side by side, which was creating a greater risk, and they should have acted when there was a clear violation of the rules during the procedure to remove the President of the National Parliament on 18 – 19 May 2020. That political action took place in front of police officers in violation of Article 17 (Prohibition of meetings and demonstrations).

We also found inconsistency in applying the rules among police officers in the municipalities. In many municipalities, we observed that officers did not carry out operations to enforce the Covid-19 prevention rules among the population. In many markets people did not wear masks and no officials were present to remind people that they should wash their hands, use masks and keep a physical distance. On the contrary, on 27 May 2020, some RDDU members saw the police beat street traders who were selling vegetables in the Audian area in Dili, whereas the Government Decree (Article 24) allows those activities to take place.

During the period under analysis, RDDU recorded instances of violent crime that are a matter of concern. For example, the case of a Timor-Leste National Police

¹⁴ Article 36 of DL No. 8/2020

(PNTL) officer from the Public Order Battalion (BOP) who shot a youth in Maubara on 30 April 2020.¹⁵ There were also skirmishes in village of Trilolo Baucau municipality on 12 May 2020 between youths that involved some police officers¹⁶, and in Dili on 19 May 2020 in the early hours of the morning, a fire destroyed part of the Taibessi Market, causing damage to several homes and one person died.¹⁷ According to several sources, the incident began when several youths gathered near the scene to drink alcohol. However, the Deputy Commander of PNTL for the Dili municipality claimed that the fire was started by a short-circuit.¹⁸ Also, a few days later, on 25 May 2020, another confrontation between youths occurred sub district Quelicai in Baucau municipality, resulting in almost 10 people being seriously injured. Also, on 26 May 2020 in Dili, in the Kampung Alor neighbourhood, a group of youths on motorbikes threw darts (*rama-ambon*) at youths from that neighbourhood.

For us at RDDU, those instances of violent crimes represent not only a distraction from the focus on addressing the Covid-19 outbreak, but also cause trauma among the population because they suspect that those cases are related to the ongoing political impasse in the country. The experience of the political and security crisis in 2006 – 2008 shows that cases of community violence can be manipulated to serve political interests and the outcome is that many people suffer. We therefore expect PNTL to act responsibly and to investigate and bring charges against those who were involved in the incident, whether PNTL officers or members of martial art groups. The statement by the Deputy Commander of PNTL for the Dili municipality about the fire in the Taibessi Market is regrettable because he drew a conclusion before undertaking a proper investigation.

3. Conclusions and suggestions

- 3.1. On the basis of RDDU's observation of the implementation of the second period of the State of Emergency, we conclude that the Government achieved significant results in strengthening the prevention and fight against the Covid-19 outbreak with a view to reducing the number of infected persons to zero. But this outcome does not mean that everything went well. There are some "urgent promises" that have yet to be fulfilled by the Government, such as the payment of the subsidies, both to households and to businesses facing difficulties under the current State of Emergency, as well as the intervention of competent authorities to ensure that a policy is put in place to support debtors who are having difficulties in paying back their principal and interest during the current State of Emergency.
- 3.2. From a human rights perspective, the Government's measures at the political level under the second phase of the State of Emergency have respected the principles of human rights, but in relation to implementation, more has to be done to continue to improve and increase the skills of officers and other staff so that they become more professional. Increasing the skills and performance of staff and officers will mean reinforcing the control and application of sanctions

¹⁵ News in Timor-Post and RTTL on 1 May 2020

¹⁶ Information collected among the people who were affected in Baucau

¹⁷ Timor-Post newspaper and news in RTTL

¹⁸ GMNTV, 21 May 2020

applicable to them in order to improve their integrity and to strengthen the public's trust in and satisfaction with the authorities.

- 3.3. The ongoing political impasse and the violent crimes that have taken place are shifting the focus of many people away from the threat that the Covid-19 outbreak represents for the nation. RDDU is seriously concerned with the possibility of the aforementioned circumstances representing a politicizing of the State of Emergency, as this would mean that the stated aim of the State of Emergency of recovering public health would not be achieved.
- 3.4. At the time of drafting this report, the National Parliament had already agreed to grant the President of the Republic permission to extend the State of Emergency for a third period. We have no objections to that but would like to suggest the following to the Government and the relevant institutions:
 - a. It is necessary to speed up the payment of the subsidies and to fulfil the promises made to ensure loan payments are suspended.
 - b. If possible, food should be mobilized and distributed soon to the people most affected by the State of Emergency, namely poor people in remote areas and the unemployed.
 - c. The learning process in schools should be re-activated with the necessary adaptations to the protocol for the prevention of Covid-19. If schools have the ability to organize classes at different times with a limited number of students, it is important for these schools to start functioning again.
 - d. Efforts to raise the awareness and understanding of police officers about the implementation rules in force during the second period of the State of Emergency should continue, including the strengthening of the mechanisms to control their performance.
 - e. Efforts to educate the population about the protocol for the prevention of the Covid-19 (regularly washing one's hands, using masks, physical distancing) need to continue and may be used to educate them about other health issues. Ideally, the education campaign should be geared towards the development of a new attitude of healthy living.
 - f. PNTL and Police Forensic and Criminal Investigations (PSIK) have to seriously investigate organized violent crimes taking place in the community and take the perpetrators to court to interrupt or prevent a cycle of political violence.
 - g. The Public Prosecution Service and the Courts have to develop their own mechanism to deal with urgent cases, including cases of gender-based violence – especially cases involving rape, sexual abuse of minors or sexual exploitation of women and children while adapting their procedures to the protocol for the prevention of the COVID-19;

The present circumstances are an opportunity for the Water & Sanitation Service to seriously engage in the development of a quality system that covers the whole population, in an effort to prevent future outbreaks of diseases. Water installations everywhere have to operate normally. Tap water and water tanks have to become a regular service and not be perceived as urgent.

Dili, 28 May 2020