



Democratic Republic of Timor-Leste  
National Parliament

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### *Substitute Text*

## **Draft Law no. ° 19/11**

### **National Reparations Framework**

#### **Explanatory Memorandum**

The right to reparation for victims who have suffered based on principles grounded in international law and was enshrined in the Constitution of the Democratic Republic of Timor-Leste.

The Commission for Reception, Truth and Reconciliation (CAVR) in its report “Chega!” urges the Government to implement a compensation program for the most vulnerable victims of human rights violations. The Bilateral Commission of Truth and Friendship also recommended reparations of a collective nature.

Both Commissions acknowledged that the people of Timor-Leste as a whole was hit by the suffering and, in one form or another, victims of the conflict, but there are people who still suffer daily as a result of that conflict and whose children will be affected, inheriting the disadvantages that their parents confronted as victims.

Moreover, the remedial measures, material or symbolic, assume a significant role in the Timorese traditional concept of justice. Reparations can contribute to the reconciliation process, to publicly acknowledge the suffering of victims, and allow material reparations which can provide assistance to those most in need.

This law is intended to achieve in law, the framework for reparations measures to be implemented by the Government.

Thus, under Article 97.1(a) of the Constitution of the Republic and under the terms specified in Article 9.1(b) and Article 90 of the Rules of Procedure of the National Parliament, the undersigned Members have the following proposed law:

*The National Parliament, under Article 95. 1 of the Constitution, decrees, as the Law, the following:*

#### **CHAPTER I General Provisions**

##### **Article 1 Subject**

This law establishes the framework of the National Reparations Program.

##### **Article 2 Purposes**

The National Reparations Program includes symbolic and material measures aimed at:

- a) Recognize, honor and remember those who lost their lives and those who would otherwise have suffered, in the context of the conflicts that occurred in Timor-Leste between 25 April 1974 and 25 October 1999;

- b) Rehabilitate and empower vulnerable victims and communities severely affected by the conflict;
- c) Recall significant events related to the conflict;
- d) Promote civic education on human rights.

**CHAPTER II**  
**Victims and beneficiaries**

**Article 3**  
**Definitions**

1. For the purposes of this Act, a victim means:
  - a) A person who has suffered an injury, including physical or mental injury or emotional suffering, economic loss or has been prevented from exercising their rights as a result of a violation of human rights that occurred in the context of political conflicts that occurred in Timor Leste between 25 April 1974 and 25 October 1999;
  - b) The spouse or others who live in conditions similar to those of spouses, the widow, widower, to the 1st degree descendants or ancestors, or the dependent of a victim covered by the preceding paragraph, when such person has been killed or remains missing.
2. For the purposes of this Act, violation of human rights means violation of international humanitarian law and Human Rights violations.

**Article 4**  
**Vulnerable victims**

For the purposes of this Act, vulnerable victims are deemed as follows:

- a) Victims resident in Timor-Leste and who continue to suffer hardships in the form of physical or psychological harm or financial difficulties as a result of one or more of the following human rights violations:
  - i) Victims of torture;
  - ii) The victims of human rights violations that resulted in permanent physical or mental disability;
  - iii) Victims of disappearance or summary execution of a spouse or with whom they lived in conditions similar to those of spouses, to the 1st degree descendants or ancestors;
  - iv) Victims of forcible removal of the parents as children and for a long period of time.
- b) Victims resident in Timor-Leste who have suffered rape or sexual slavery, or who were born as a result of an act of rape or sexual slavery.

**Article 5**  
**Right to Reparations**

Victims of human rights violations, as defined in Articles 3 and 4 of this law, are entitled to an adequate and effective reparation in accordance with the National Reparations Program, under the law.

**Article 6**  
**Beneficiaries**

1. Reparations under provided for in Article 9.1(a) of this law, intended to all victims.
2. Reparations to individual character intended solely for vulnerable victims, as defined in Article 4 of this law.
3. Reparations of a collective nature intended for local communities who have experienced a high degree of devastation as a result of the conflict.

**Article 7**  
**Exclusions**

1. The individual reparations take the form of cash benefit are not combinable with any other pensions or benefits of a similar nature, including those assigned under the legislation for Combatants for Social Liberation of the State.
2. And the condition for the allocation of individual reparations is permanent residence in the country for at least two years before the date on which they are eligible to benefit under this law.

**Article 8**  
**Non-discrimination**

1. No victim can be denied the right to compensation based on your choice or political affiliation, past or present, with a view to national reconciliation.
2. No victim can be denied the right to compensation based on the option or political affiliation of any person who believes they may have committed human rights violations against the victim.

**CHAPTER III**  
**Remedies**

**Article 9**  
**Content of the National Reparations**

3. The National Reparations Program includes:
  - a) A National Program of Commemoration to honor and dignify the victims and to promote training in human rights and Timorese history, which may in particular include the following:
    - i) Ceremonies to commemorate;
    - ii) Construction of monuments;
    - iii) Search for missing persons as a result of the conflict;
    - iv) Exhumation and reburial of the remains of people who lost their lives as a result of the conflict;
    - v) Signaling and dignity of old graves and detention centers;
    - vi) Recognition of individual suffering or a community or taking any other measure of symbolic value to the victims and their communities;
  - b) An Individual Reparations Program, aimed at the rehabilitation of vulnerable victims, which may in particular include the following:
    - i) Provision of health services and rehabilitation;
    - ii) Provision of mental health services, including counseling and social services;
    - iii) Provision of education grants for children and implementation of programs of education and literacy;
    - iv) Vocational training;
    - v) Assistance in the reburial of remains of missing persons.
  - c) A Collective Reparations Program, which recognizes and provide material assistance to communities severely affected by the conflict through the implementation of community infrastructure, livelihood projects and economic projects to commemorate the victims at Community level.
4. The concrete forms of redress are defined in consultation with the beneficiary communities.
5. The law defines the forms of the benefits referred to in paragraph 1 of this article, as well as modalities of its implementation.

**Article 10**  
**Specific measures**

Other specific measures to be implemented under the program of reparations in the previous article, can be established through the procedure laid down in Articles 11 and 12 of this law.

**Article 11**  
**Priority Assistance**

1. Vulnerable victims, registered under Article 13 shall have priority access to support programs or public initiatives, ongoing or that may be adopted in the areas of Health, Education, Vocational Training and Poverty Reduction under recommendation of
2. The vulnerable victims, registered under Article 13 shall have priority in public services, on the recommendation of the IM.

**CHAPTER IV**  
**Implementation**

**Article 12**  
**Implementation Process**

1. The Institute of Memory, hereinafter referred to as IM, assists the Government in defining concrete reparations and the modalities of its provision, in accordance with the National Reparations Program.
2. Within six months from the date of its creation, the IM, in conjunction with the Government, will prepare a report containing, inter alia, the following:
  - a) Descriptive summaries of consultations under Article 11 of this law, referring to the comments received and changes according to such contributions, if any;
  - b) Summary of assistance from the IM, under the terms specified in this law;
  - c) Analysis of the impact of assistance from the IM, depending on meeting the needs of vulnerable victims.
3. The report referred to in the preceding paragraph shall also contain recommendations on how the Government will provide additional assistance to vulnerable victims, focusing on the following aspects:
  - a) Adequacy of existing services and their shortcomings, if any;
  - b) Whether there are other needs or services of particular relevance to vulnerable victims, in addition to those considered in Article 9 of this law;
  - c) Alternative ways to deliver assistance to vulnerable victims in need;
  - d) Barriers experienced by victims or vulnerable to compromise their access to services provided under the National Reparations Program;
  - e) Measures adopted by the IM in order to help overcome the obstacles affecting vulnerable victims, referring specifically to women, vulnerable victims living in remote locations and situations of poverty;
  - f) Assessing the need for supplementary measures to specific groups, such as the elderly or those unable to work;
  - g) Evaluation of the usefulness and relevance of financial assistance to projects of character as a community, in communities with high concentrations of vulnerable victims.

**Article 13**  
**Queries**

1. The IM, will consult the victims, particularly vulnerable victims, in order to meet their needs and nature of appropriate remedies to respond to those needs.
2. The IM may also consult with organizations to provide assistance to vulnerable victims, to obtain relevant information.
3. The consultations in no. 1 of this Article may be carried out by IM, by itself or in collaboration with other relevant organizations.
4. In making the report, IM, takes into account the comments received as a result of the consultations referred to in paragraphs 1 and 2 of this article.

5. It is necessary to consult:
  - a) Organizations representing the victims;
  - b) Representatives of religious denominations;
  - c) Services and State agencies with expertise in this field or related.

**Article. 14**  
**National Register of beneficiaries**

1. The IM will create a national registry of beneficiaries, collective and individual, entitled to compensation under the law
2. The records referred to in the preceding paragraph contains information concerning the violation of human rights, including in particular:
  - a) The current situation of the victim,
  - b) The characterization of physical or mental disability of the victim today as a result of violation of human rights suffered;
  - c) The current permanent obstacles or difficulties as a result of violation of human rights suffered;
  - d) The socio-economic situation of the victim;
  - e) Other relevant information needed to characterize the situation of the victim for the purposes of the provisions of this law.
3. The registration request is submitted by the applicant or their representative, in accordance with law.
4. Registration is carried out by the IM services, or to an organization designated for that purpose by the IM.

**Article 15**  
**Surveys**

For the purposes of article previous IM, can, by itself or in collaboration with third parties, conduct surveys, with voluntary responses, in order to facilitate the identification and registration of potential beneficiaries.

**Article 16**  
**Procedure**

1. It is assured to all applicants interviewed the confidentiality of private life.
2. The confidentiality of information provided by applicants is guaranteed under the law.
3. And guaranteed the support of technical expertise in support of the victim, and, upon request, of the same sex.
4. During the interview, is also guaranteed:
  - a) Assistance in completing the documentation, including forms, required for this purpose;
  - b) Assistance in identifying and obtaining the evidence required for the purposes of this Act;
5. It is for the IM to declare the beneficiaries, depending on the requirements considered substantiated.
6. The lack of documentation or witnesses, by itself, does not constitute grounds for rejection of an application.
7. In the case of victims of rape or sexual violence, or in the case of human rights violations of a similar nature, crimes commonly committed without the attendance of witnesses or leaving evidence, as well as crimes committed in remote areas or in times and circumstances that was difficult to request help, participate or complain of such crimes, special care and flexibility in providing care to the victims should be used.
8. The IM may refuse registration has reasonable grounds for believing that the applicant does not meet the criteria to enable it to be recorded.

9. The decision to refuse registration may be appealed to a jury specially constituted for that purpose, under terms fixed by IM regulations.
10. The regulations referred to above regulates the use and the procedure and process.

**Article 17**  
**Referral of vulnerable victims**

1. The IM can assist vulnerable victims by providing information on the benefits or services and take measures enabling them to access such services.
2. The measures referred to in the preceding paragraph, may include:
  - a) explanation of the nature of the service and how to assist;
  - b) connection with the service provider;
  - c) provide assistance to fill and / or translate the application forms.
3. For the purposes of this article, existing services means services provided by government, nongovernmental organizations or religious institutions.
4. IM works with existing service providers in order to inform them about the nature of the identified needs and their expected impact.
5. The information provided by the IM, in connection with their duties will be publicized in general and abstract, to ensure the anonymity of the victims and their families.

**Article 18**  
**Financing**

In order to perform the functions set forth in this Law, IM will have additional funds, included in the State Budget, in addition to the funds entrusted to it under the law establishing it.

**CHAPTER V**  
**Final and transitional provisions**

**Article 19**  
**Entry into force**

The present law enters into force the day following its publication.

Dili, the National Parliament, May 11, 2010.