



TIMOR-LESTE

AMNESTY INTERNATIONAL SUBMISSION TO THE UN UNIVERSAL PERIODIC REVIEW 40TH SESSION OF THE UPR WORKING GROUP, JANUARY- FEBRUARY 2022

FOLLOW UP TO THE PREVIOUS REVIEW

1. Amnesty International welcomes the positive steps taken by the government of Timor-Leste to implement the 146 out of 154 recommendations it committed to at the last UPR session.¹
2. Timor-Leste is yet to fulfil its commitments to ratify additional human rights treaties made at the last review such as the Optional Protocol on the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Convention for the Protection of All Persons from Enforced Disappearance (CED), the First Optional Protocol to the International Covenant on Civil and Political Rights, the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights, the Convention on the Rights of Persons with Disabilities² and the ILO Domestic Worker's Convention 2011 (No.189).³
3. Timor-Leste must continue to take steps to protect the right to freedom of expression in law and practice, protect marginalized individuals from violence and discrimination and ensure the right to health in its pandemic responses.
4. Annex 1 is a matrix of recommendations from Timor-Leste's last review. Of the accepted recommendations, implemented recommendations are highlighted in green, and partly implemented are highlighted in yellow and not yet implemented highlighted in red.

THE NATIONAL HUMAN RIGHTS FRAMEWORK

5. Timor-Leste's Constitution includes a Bill of Rights which guarantees non-discrimination on the basis of 'colour, race, marital status, gender, ethnic origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.
6. Timor-Leste has a national human rights institution (NHRI), the Office of the Provedor for Human Rights and Justice or Provedoria dos Direitos Humanos e Justiça (PDHJ), that is accredited as an A-status national human rights institution. In 2020, the PDHJ received complaints related to Covid-19 emergency regulations and investigated 51 human rights complaints relating to the military, police, teachers and public servants.
7. Timor-Leste's highest court under the Constitution is the Supreme Court, but it has never been fully constituted and therefore the Court of Appeal is de facto the highest court in the country.
8. Access to justice remains costly and difficult, particularly for those living in rural areas. The diversity of

spoken and official languages makes it challenging to ensure that laws and legal proceedings are in a language that all people understand.

HUMAN RIGHTS SITUATION ON THE GROUND

FREEDOM OF EXPRESSION AND PEACEFUL ASSEMBLY

9. Timor-Leste's media freedom ratings improved in 2020.⁴ Journalists are able to carry out their work without the risk of arrest. However, concerns have been raised about recent laws, including the Media Law passed in 2014, and a draft criminal defamation law in 2020 and their impact on freedom of expression in both law and practice.
10. Some journalists reported receiving threats from the public for reporting on a criminal case involving child sex abuse charges against a Catholic Priest (who has widespread political and social support).⁵
11. In April, June, August and September 2020, journalists, students and human rights defenders protested and submitted petitions opposing government plans to re-introduce criminal defamation laws (in the Criminal Code) which could see individuals charged and imprisoned for social media posts.⁶ Fortunately, the draft criminal defamation law was shelved in 2020 and has not been passed into law.
12. In January 2021, a new cyber bill was proposed to govern the use of social networks and to prevent the spread of 'falsehoods, slander and defamation', which may present a future threat to the right to freedom of expression. The bill was submitted for the Ministers' consideration on 4 January 2021 and consultations are underway.⁷

VIOLENCE AGAINST WOMEN AND GIRLS

13. Reports of gender based violence remains high in Timor-Leste, with the last reliable data source being a baseline survey (2015) showing that 59% of women experience some physical or sexual violence.⁸ Accessing justice through the courts system, judicial officers providing lenient sentences and a lack of suitable remedies are cited as ongoing and systemic challenges.
14. Richard Daschbach, a former Catholic priest, has been charged with multiple sex offences against girls and the trial commenced on 9 June 2021. There are concerns that political support for him and interference with the justice process could undermine the right to a fair trial in line with international human rights laws and standards. There are also concerns that delays in proceedings are increasing the harm to survivors of sexual violence.⁹

PEOPLE WITH DISABILITIES

15. In spite of political and policy commitments by the government to prioritise the rights of people with disabilities, there has been very little substantive improvement in the rights of people with disabilities, including those experiencing mental health issues. For example, the Association for the Disabled of Timor-Leste (ADTL) has said that only 25% of people with disabilities have access to education, particularly beyond primary level education.¹⁰
16. While people with disabilities have been prioritised in accessing Covid-19 vaccines, this has not translated into improved access to treatment and other health services during the pandemic, particularly for people with accessibility issues.

SEXUAL ORIENTATION, GENDER IDENTITY, EXPRESSION AND SEX CHARACTERISTICS

17. Timor-Leste's government has failed to comprehensively implement laws, policies and practices, including awareness training, to improve non-discrimination based on sexual orientation, gender identity

or expression and sex characteristics. The Ministries are yet to implement comprehensive training to ensure sensitivity to issues of sexual orientation, gender identity, expression and sex characteristics. In particular, the Ministry of Health should actively engage with the community to ensure the right to health is protected and respected without discrimination.¹¹

18. Same sex sexual activity is not criminalized; however, same sex unions and marriages are not recognized. There are no laws protecting people from discrimination on the basis of sexual orientation, gender identity or expression and sex characteristics.
19. One of the important impacts of the lack of recognition of same sex relationships (who are not considered a household unit), is that they have been left out of food and monetary relief provided as a pandemic response, compounding existing inequalities.
20. Timor-Leste held its first annual pride march in 2017 with the support of the government. There have since been two other pride marches in 2018 and 2019.
21. Civil society organization CODIVA (Coalition on Diversity and Action) has noted that transgender members of the community are more vulnerable to violence, harassment and discrimination. A 2017 study documented rape, physical and psychological abuse, ostracism, discrimination and marginalization of lesbian and bisexual women and transgender men.¹²

ADEQUATE HEALTH CARE AND COVID-19 PANDEMIC RESPONSE MEASURES

17. Since April 2020, various restrictions, including stay at home orders and quarantine for international arrival have been used to suppress the spread of Covid-19. The government of Timor-Leste implemented a state of emergency from March to June 2020 and again since August 2020. The current state of emergency includes closure of non-essential businesses, required face masks in public and restrictions on internal domestic travel, with limited exemptions.
18. While much of the response to the pandemic has been timely and appropriate, emergency powers have been used to restrict movement, and peaceful assemblies or to limit public debate and consultation on new laws and policies.¹³ Timorese Police arrested more than 200 people in Dili for breaching restrictions in March, but they were later released.¹⁴
19. As of 12 July 2021, Timor-Leste reported 9862 Covid-19 cases and 25 deaths, with most of these cases occurring since February 2021.¹⁵ As of 6 July 2021, a total of 244,497 vaccine doses had been administered, from supplies mainly from the COVAX facility's AMC and donations from New Zealand,¹⁶ and from China.¹⁷

CLIMATE CRISIS AND HUMAN RIGHTS

17. All countries have an obligation under human rights law to protect human rights from the worst effects of the climate crisis by taking all feasible measures to the full extent of their abilities to reduce greenhouse gas emissions in the shortest timeframe possible. States should aim to keep global temperature rise below 1.5°C above pre-industrial levels, as recommended by the Intergovernmental Panel on Climate Change (IPCC). Developing countries like Timor-Leste should aim to reduce their emissions by levels consistent with a 1.5°C target as soon as possible in line with their own respective capacity.
18. Timor-Leste, as a small island state, accounts for less than 0.003% of global emissions but is particularly vulnerable to the impacts of climate change such as rising sea levels and increased severe weather events (cyclones and heavy rainfall), that threaten people's way of life, livelihoods and security.

19. In 2016, Timor-Leste committed to a range of adaptation and mitigation targets, including increased reliance on renewable energy and improving climate resilience.¹⁸ A further National Action Plan was published after consultation in 2020, but it failed to include clear and measurable targets for the just and sustainable transition to renewable energy.¹⁹ Timor-Leste made a conscious decision not to have a target for emissions reduction. A joint project with the Australian government, regulated by a bilateral agreement, for the extraction and combustion of natural gas and oil for the energy sector is the major source of emissions in the country (70% of overall energy emissions), followed by agriculture.

RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Timor-Leste to:

The national human rights framework

- Accede to the remaining core human rights treaties and incorporate these into domestic law.
- Issue a standing invitation to the United Nations Special Procedures and fully co-operate with all communications with them.
- Fulfil its existing obligations for treaty body reporting as a priority and ensure that future reports are submitted in a timely manner with appropriate civil society engagement and consultation.

Freedom of expression and peaceful assembly

- Refrain from passing any new laws (such as the draft criminal defamation or the digital security laws) that criminalize the right to freedom of expression and ensure that any new laws are consistent with international human rights law and Article 40 and 41 of Timor-Leste's Constitution (on the right to freedom of expression and a free media).

Violence against women and girls

- Ensure all criminal complaints of violence against women and girls are thoroughly investigated and where there is sufficient evidence, promptly prosecuted in accordance with the law and the right to a fair trial, and that no preferential treatment is given to perpetrators based on their position or social status.
- Continue efforts to address violence against women and girls, including by ensuring access to justice and the right to a remedy through ongoing judicial and institutional training on gender based violence awareness and responses, as well as increasing the availability of resources such as women's shelters and medical and psycho-social support.
- Ensure the relevant authorities, including family services, health care providers, police officers and the judiciary are adequately trained on sensitisation to violence against women and girls.

People with disabilities

- Ratify as a priority, the Convention on the Rights of Persons with Disabilities, and implement this into domestic laws and policies.
- Establish a National Council for People with Disabilities to advise and support Ministries on issues affecting people with disabilities.

- Uphold and protect the right to education for all persons with disabilities, beyond primary level education and ensure access to education without discrimination.

Sexual orientation, gender identity and expression and sex characteristics

- Ensure adequate and comprehensive gender awareness training within all Ministries.
- Formally recognise same sex sexual relationships as a matter of government policy so that no person is left behind or discriminated against because of their sexual orientation, gender identity and expression and sex characteristics, including in the provision of economic and social welfare support in relation to the COVID-19 pandemic and other disasters.
- Develop and adopt legal and administrative measures to investigate acts of discrimination, stigmatization and violence against people because of their sexual orientation, gender identity and expression and sex characteristics and ensure people are able to effectively access remedies when their rights are violated, including through criminal prosecutions, compensation, shelters, medical and psycho-social support.

Adequate health care

- Ensure that COVID-19 responses only impose such restrictions on rights that conform with the principles of legality, necessity, proportionality and non-discrimination and not use the State of Emergency to implement policies which are designed to undermine human rights.
- Empower and support people to comply with public health regulations, including by ensuring access to public health information and by enabling people who are marginalised to satisfy their essential needs, and ensure that penalties are only imposed after other alternatives have proven, or are clear to be, unsuccessful.
- Develop a plan to ensure that the public health system is adequately funded and staffed and increase budgetary allocations to the public health sector as necessary.
- Ensure that economic recovery packages protect the right to an adequate standard of living of all persons, including people on lower incomes, those working in the informal sector, based on a person's sexual orientation or gender identity, single-parent households and others who may be at risk and most affected by the COVID-19 crisis and set up monitoring and review mechanism to assess their impact and amend them as necessary.
- Prioritise cooperation with international mechanisms aiming to ensure global access to vaccines and treatments.
- Ensure national and international criteria to guides the allocation of vaccines are consistent with human rights standards, pay attention to the needs of marginalised groups, and reflect the WHO's Equitable Allocation Framework. Civil society should be represented in any national and international decision-making process.

The climate crisis and human rights

- Develop ambitious, clear and measurable renewable energy targets to reduce their emissions by levels

consistent with the Intergovernmental Panel on Climate Change's 1.5°C target as soon as possible in line with their own respective capacity, while ensuring a just transition that enhances human rights.

- Re-negotiate the current bilateral agreement with the Australian government to ensure it promotes a shift to renewable energy through a human rights-consistent just transition rather than expansion of gas and oil production.
- Ensure any COVID-19 response measures facilitate the transition away from fossil fuels and towards human rights consistent renewable energy and a zero-carbon economy and also provide for greater social protection and the creation of green and other new jobs that deliver sustainable and decent employment (in line with Sustainable Development Goal 8) for all workers without discrimination of any kind.
- Adopt and implement human rights-consistent adaption and disaster risk reduction measures that allow to adequately protect people from the foreseeable and unavoidable impacts of the climate crisis.
- Respect, protect and fulfil the right to information, participation and to effective remedies, as well as the rights to freedom of expression and peaceful assembly in all climate policies and strategies in line with human rights law and Sustainable Development Goal 16 (peace, justice and strong institutions).
- Ensure that gender equality and the rights of members of marginalized groups receive adequate consideration in all climate and just transition policies and that people can participate in decisions affecting them.

¹ UN Human Rights Council, Report of the Human Rights Council on its thirty-fourth session, UN Doc. A/HRC/34/2, 18 June 2018

² UN General Assembly, Report of the Working Group on the Universal Periodic Review: Timor-Leste, UN Doc. A/HRC/34/11 and its addendum A/HRC/34/11/Add.1 – Recommendations 89.1-22 (Italy, Bulgaria, Pakistan, Turkey, Algeria, Angola, Costa Rica, Guatemala, Madagascar, Mongolia, Ukraine, Uruguay, Slovenia, Spain, Germany, Thailand, Iraq, Australia, Mexico, New Zealand, Viet Nam, Afghanistan, France, Sudan, Indonesia, Portugal, Senegal, Cabo Verde, Costa Rica, Denmark, Montenegro, Ukraine, Japan, Panama, Canada, Mexico, New Zealand, Viet Nam and Indonesia)

³ A/HRC/34/11, Recommendation 89.29 (Philippines)

⁴ Reporters Without Borders, *Press Freedom Rating for Timor-Leste*, rsf.org/en/timor-leste

⁵ Reporters Without Borders, *Press Freedom Rating for Timor-Leste*, rsf.org/en/timor-leste

⁶ Asia Pacific Report, *Timorese journalists protest over plan to turn defamation into a crime*; 3 August 2020, available at asiapacificreport.nz/2020/08/03/timorese-journalists-protest-over-plan-to-turn-defamation-into-crime/

⁷ CIVICUS, 3 March 2021, *Bill Governing Cyberspace threatens to restrict freedoms, State of Emergency Extended*, monitor.civicus.org/updates/2021/05/03/bill-governing-cyberspace-threatens-restrict-freedoms-state-emergency-extended/

⁸ The Asia Foundation, *Understanding violence against women and children in Timor-Leste – Findings from the Nabilan Baseline Survey*, 2016, asiafoundation.org/publication/understanding-violence-women-children-timor-leste-findings-main-report/

⁹ Sydney Morning Herald, *The disgraced priest the children's shelter and a fight for justice in East Timor*, 4 June 2021, smh.com.au/world/asia/the-disgraced-priest-the-children-s-shelter-and-a-fight-for-justice-in-east-timor-20210604-p57y2o.html

¹⁰ Tatli, *Only 25% of Timorese people with disabilities have access to education*, 3 December 2020, tatoli.tl/en/2020/12/03/only-25-of-timorese-people-with-disabilities-have-access-to-education/

¹¹ Spotlight Initiative, *Timor-Leste reducing stigma and discrimination against LGBTI Community*, 30 November 2020, spotlightinitiative.org/news/timor-leste-reducing-stigma-and-discrimination-against-lgbti-community

¹² Rede Feto and ASEAN SOGIE Caucus (2017), *A Research Report on the Lives of Lesbian and Bisexual Women and Transgender Men in Timor-Leste*, aseansogiecaucus.org/news/asc-news/112-new-publication-a-research-report-on-the-lives-of-lesbian-and-bisexual-women-and-transgender-men-in-timor-leste

¹³ Oxfam, *Civic Space in Timor-Leste during Covid-19 Part 1*, 8 February 2021, newmandala.org/civic-space-in-timor-leste-during-covid-19-part-1-governance-and-civil-society/; and CIVICUS, *Bill Governing Cyberspace Threatens to Restrict Freedoms, State of Emergency Extended*, 3 May 2021, monitor.civicus.org/updates/2021/05/03/bill-governing-cyberspace-threatens-restrict-freedoms-state-emergency-extended/

¹⁴ Covid-19 Timor-Leste Dashboard, *Timorese Police detain 233 people for violating confinement - LUSA*, 14 March 2021,

<https://covid19.gov.tl/en/timorese-police-detain-233-people-for-violating-confinement-lusa/>

¹⁵ WHO Coronavirus (Covid-19) Dashboard, accessed 12 July 2021, covid19.who.int/region/searo/country/tl

¹⁶ UNICEF, Timor-Leste receives 100,800 doses of COVID-19 vaccines from COVAX, the largest single batch of vaccine doses delivered to the country to date, 9 June 2021, [unicef.org/timorleste/press-releases/timor-leste-receives-100800-doses-covid-19-vaccines-covax-largest-single-batch](https://www.unicef.org/timorleste/press-releases/timor-leste-receives-100800-doses-covid-19-vaccines-covax-largest-single-batch)

¹⁷ World Food Programme, WFP helps transport COVID-19 vaccine donated by China to Timor-Leste, 5 June 2021, [wfp.org/news/wfp-helps-transport-covid-19-vaccine-donated-china-timor-leste](https://www.wfp.org/news/wfp-helps-transport-covid-19-vaccine-donated-china-timor-leste)

¹⁸ Timor-Leste's Intended Nationally determined contribution, submitted to United Nations Framework Convention on Climate Change at COP 21 in Paris, unfccc.int/sites/ndcstaging/PublishedDocuments/Timor-Leste%20First/Timor-Leste%20First%20NDC.pdf

¹⁹ *Timor-Leste's National Adaption Plan*, UNFCC, 2020, unfccc.int/sites/NAPC/Documents/Parties/Timor%20Leste%20NAP.pdf