



**Mandate of the Special Rapporteur on extreme poverty and human rights**

**Magdalena Sepúlveda, Special Rapporteur on extreme poverty and human rights**  
**Mission to Timor-Leste from 13 to 18 November 2011**

**PRELIMINARY OBSERVATIONS AND RECOMMENDATIONS**

Members of the press, ladies and gentlemen, I am addressing you today at the conclusion of my official mission to Timor-Leste, which I undertook at the invitation of the Government from 13 to 18 November 2011.

I would like to start by thanking the Government of Timor-Leste for inviting me and for fully supporting my visit. I have very much appreciated the spirit of openness and cooperation shown during my stay in the country.

I also would like to express my gratitude to United Nations Integrated Mission for Timor-Leste (UNMIT) for providing logistical support for the visit and in particular to the Human Rights and Transitional Justice Section of UNMIT for all the efforts made to coordinate this visit so successfully.

During my stay, I met with various Government authorities, including the President, José Manuel Ramos-Horta; the Deputy Prime Minister, José Louis Guterres; the Minister of Economy and Development, João Gonçalves; the Minister of Justice, Lúcia Maria Brandão Freitas Lobato; the Minister of Social Solidarity, Maria Domingas Alves; and the Vice-Minister of Foreign Affairs, Alberto Carlos. Please allow me to convey my deep appreciation to all of them for taking the time to meet with me, particularly in this period in which the 2012 national budget is being discussed.

Additionally, I wish to thank the representatives of the following ministries and institutions, who also met with me: the Consultative Council of the Petroleum Fund; the National Commission on the Rights of the Child; the Vulnerable Persons Unit within the National Investigation Department of the National Police of Timor-Leste; the Secretariat of State for Promotion of Equality; the Provedor for Human Rights and Justice; and the Anti-Corruption Commission.

I also met with many representatives of international organizations, donor agencies and a range of national and international civil society organizations and individuals. I take this opportunity to thank everyone for the open and candid exchanges. I was particularly struck by the vibrant and active engagement by civil society working on human rights and poverty issues during the mission.

During my stay I visited communities in Suai Loro, Galitas, Raimea and Zumalai in Covalima District; Maliana in Bobonaro District; and Dili. I am especially grateful to all those who shared their personal, and sometimes tragic, experiences of struggling with the plight of extreme poverty.

I will now limit myself to a few preliminary and provisional remarks on some of the issues that, along with others, will be explored in more detail in my final report, to be presented to the Human Rights Council in June 2012.

Ladies and Gentlemen,

Less than a decade ago, Timor-Leste emerged from a period of conflict and instability to embark on a process of peacebuilding, state building and development. It has confronted great challenges along the way: 70 per cent of all infrastructure was destroyed following the end of the Indonesian occupation, and the 2006 crisis had a devastating impact on economic and social conditions, which were exacerbated further by recent spikes in global food prices. Timor-Leste has had to dedicate significant efforts to the process of consolidating peace and security and building institutional and human

capacity, and achieving these objectives has required the investment of a large part of the country's financial and human resources, which remain small and fragile.

In spite of these challenges, the country has achieved some significant advancement over the past ten years. Timor-Leste has made considerable steps towards the consolidation of peace and security, which are indispensable not only for development but also for the promotion and protection of human rights. It has experienced rapid economic growth that has resulted in an important decline in income poverty.

The State has shown clear commitment to the protection of human rights, as evidenced by steps taken to ratify the majority of the core international human rights instruments, to enshrine the full range of human rights in the country's Constitution, and work to ensure domestic implementation. Recently it has engaged enthusiastically with various United Nations human rights mechanisms.

However, growth and development has not translated into sustained improvements in standards of living, livelihoods and job creation. Poverty remains pervasive and widespread. Around 41 per cent of the population lives on less than a dollar per day. Approximately 58 per cent of the population suffers from chronic malnutrition, while an additional 19 per cent from acute malnutrition. Unemployment and employment vulnerability is estimated to be as high as 70 per cent. In a country with a young population, where more than half of all people are less than 19 years old, 90 per cent of those between 15 and 34 years old cannot find work.

Poverty should not be understood solely as an economic issue to be solved by increasing household income. As the stories shared with me testify, living in extreme poverty poses challenges beyond limited access to income, such as food insecurity, lack of access to education, health and housing, and lack of access to justice. If we look at the Multidimensional Poverty Index, which identifies multiple deprivations in the same poor households with respect to education, health and standard of living, we see a direr picture. In Timor-Leste, 68 per cent of the population suffer from multiple deprivations, while an additional 18 per cent are vulnerable.

Despite the various challenges facing the country, Timor-Leste has committed to intensifying efforts to eradicate poverty and ensure universal access to public services. I commend the Government on its ambitious vision, as articulated in the new Strategic Development Plan, and encourage it to ensure that the realization of human rights and the prioritization of the rights of the poorest and most marginalized are at the heart of its efforts.

Growth must not be viewed as an end in itself, but rather as a means to improving the lives and livelihoods of the people. Development should be a "bottom up" process in which the population can meaningfully and effectively participate in the establishment of national priorities. Mere consultation is not enough; to ensure that development will be inclusive and sustainable, those who are affected by State policies and programmes must have a say in the decisions which affect their lives. To this end, active measures must be taken to enable the participation of those living in remote rural areas. Policies should include mechanism to ensure that all barriers to participation, such as linguistic, economic or geographical, are overcome.

In accordance with its human rights obligations, Timor-Leste should pursue development that is human-centred, that respects the principle of non-discrimination, and that ensures active and meaningful participation, transparency, access to information and accountability. People from all districts, sub-districts, sucos and aldeias must be empowered to participate in the formulation and implementation of public policies.

While it is important to recognize all the improvements that Timor-Leste has made, we must recall that development must be inclusive, equitable and sustainable. The inequality in living standards between those in Dili and people in rural areas is stark. The richest segment of Timorese society enjoys almost 180 times the wealth of the poorest of the poor. Poverty, food insecurity and

unemployment are all more pronounced in rural areas, where 75 per cent of Timorese people live, the majority of whom are chronically poor, with limited access to information and means of communication. The situation of the rural population is exacerbated by the inadequate infrastructure and the concentration of decision-making processes in Dili, which severely impedes the delivery of basic services at the district, suco and aldeia level.

In order to achieve inclusive development, Timor-Leste must ensure that the allocation of budgetary resources is commensurate with the needs of the poorest sectors of society, in particular rural populations. I call on the Government to increase public investment in social services and human development. It is of great concern that even as the state budget of Timor-Leste has increased in recent years, there has been a steady decline in the percentage of public expenditures to social services, such as education and health, and to agriculture. In the projected 2012 budget of 1.8 billion, 6.3 per cent of expenditures will go to education, less than 3 per cent to health and about one per cent to agriculture, compared to nearly 50 per cent to infrastructure. Economies with higher levels of social spending enjoy higher levels of economic growth as healthy and educated people make more productive workers.

The State has much work to do to ensure that its policies and programs result in equitable and inclusive development, and that the benefits of economic growth and international assistance are enjoyed by all Timorese. The country must focus efforts on developing a more diverse economy and enhance investment in agriculture and rural development. Such measures will mitigate the risk of overreliance on finite natural resources.

Ensuring sustainable growth also implies the protection of the environment and biodiversity, and measures to preserve the sustainability of the country's forests and fisheries for future generations. It is rural populations who will suffer most from a failure to prioritize environmental considerations in development strategies.

Ladies and Gentlemen,

Timor-Leste is a young country, one beset by several challenges and hampered by resource constraints. Nevertheless, it has a clear legal obligation to dedicate the maximum amount of available resources to progressively achieve the full realization of economic, social and cultural rights and to prioritize the need of the most vulnerable members of society.

The concept of progressive realization recognizes the obstacles faced by small, developing countries such as Timor-Leste. Yet it also requires that core minimum obligations be met by the State to ensure the satisfaction of, at the very least, minimum essential levels of enjoyment of economic, social and cultural rights, which includes basic subsistence, essential primary health care, basic shelter and housing, and basic forms of education for all members of society. The obligation to achieve these minimum essential levels cannot be dispensed with even when resources are scarce, or when a country is in the earliest stages of development.

Within its current constraints, there are a number of areas where the Government could strengthen its efforts to improve the enjoyment of minimum essential levels of economic, social and cultural rights. While my final report to the Human Rights Council will articulate these recommendations in full, I wish to touch on several of them now.

Education is both a human right in itself, and an indispensable means of realizing other human rights. It is an empowerment right that is the vehicle by which economically and socially marginalized groups, particularly children, can lift themselves out of poverty and obtain the means to participate fully in their local communities and broader public life. Education is vital in a country like Timor-Leste, where the number of children under 10 years old is double the number of those between 10 and 20 years old.

I commend Timor-Leste for guaranteeing the right of every citizen to education, and ensuring that public primary and secondary education is free and compulsory from grades one to nine. In 2008, the adoption of the Ministry of Education Organic Law (2008), the Education Policy (March 2008) and the Basic Law on Education (October 2009) provided the foundation for the establishment of a new education system.

The solid legal framework for education notwithstanding, the challenges of building a new education system in Timor-Leste are monumental. Many schools are in poor physical condition, lack necessary equipment and teaching materials, and the quality of teaching remains low. Education is key to economic development and the enjoyment of many other human rights. The great importance of education and the immense needs in the sector must be met with adequate public investment.

Literacy is a key prerequisite for individuals to benefit from information and access to services. Unfortunately, 42 per cent of the adult population 15 years and above is unable to read and write in either of the two official languages of Tetum and Portuguese. In this regard, I encourage the Government to intensify efforts to improve Timor-Leste's literacy rate by ensuring more effective and quality education, and minimize dropouts and repetition.

While respecting the constitutional designation of Tetum and Portuguese as the official languages, the State must ensure that the absence of proficiency in either of these two languages does not impair the enjoyment of human rights, such as the right to education or to access justice. I encourage the State to invest resources in ensuring a coherent application of its language policy.

In Timor-Leste, women have historically experienced structural discrimination, and this persists in all aspects of Timorese society today. Timor-Leste must adopt significant and comprehensive measures to ensure that women have equal rights as men.

Women's rights to food, health, including sexual and reproductive health, education and access to justice must be improved. To this end, the State must take all appropriate measures to eliminate prejudices and customary or other practices that undermine women's enjoyment of rights in line with the Convention on the Elimination of Discrimination against Women (art. 5).

One acute problem in the country is domestic violence. In this regard, while I commend the adoption of the Law against Domestic Violence (2010), and the designation of domestic violence as a public crime under the 2009 Criminal Code, additional efforts must be made to ensure the full implementation of the law. For example, as a public crime, domestic violence cases must not be resolved through traditional mechanisms in infringement of international human rights norms and standards.

Ladies and Gentlemen,

Given the immediacy of some of the issues that were raised with me by various stakeholders, I feel compelled to address them here today, and to not wait for consideration of the issues in my final country mission report for June 2012. While I recognize that much more could be said on a range of issues, including encouraging Government policies and programmes, this is a deliberate choice. As such, the following comments are – and should be reported as – a work in progress.

Throughout my visit, I received a considerable amount of information concerning forced eviction practices in and around Dili. I met with some families temporarily living in Aitarak Laran, after having been evicted from their homes in Ex-Brimo in Bairo-Pite, who told me their stories. While the majority of the evicted families had received some financial compensation, many informed me that this was insufficient to purchase new land and to rebuild new homes.

I witnessed the dramatic conditions in which they are living. Eviction inevitably renders all affected families extremely vulnerable, but I am particularly concerned about the situation of the children.

They have suffered not only from the traumatic psycho-social experience of the forced eviction, but also from the infringement of their rights. For example, these children are now farther away from their schools, with many unable to attend due to the long distance; they do not have adequate shelter that can withstand the rainy season; and they do not have access to adequate sanitation facilities. The difficult situation in which they are living must be addressed by all competent authorities as a matter of priority.

Development cannot be an excuse to displace and destroy the homes of people living in poverty, who are entitled to protection against forced evictions and arbitrary interference in their home and privacy. In addition, where justifiable in the most exceptional circumstances, evictions must meet the following requirements: they must be (a) authorized by law; (b) in full accordance with relevant provisions of international human rights law; (c) reasonable and proportional; (d) all feasible alternatives must be explored in consultation with the affected persons; (e) provide adequate compensation for any property (personal and real) that is affected; and (f) comply with various procedural protections and due process.<sup>1</sup> Evictions should not result in people being rendered homeless or vulnerable to the violation of other human rights. When those affected are unable to provide for themselves, the State must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

Nevertheless, to the greatest extent possible Timor-Leste should give priority to strategies that minimize the need for displacement and eviction. Comprehensive and holistic impact assessments should be carried out prior to the initiation of any project that could result in forced eviction and displacement, with a view to securing fully the human rights of all potentially affected persons, groups and communities. The international human rights legal framework with respect to evictions must be respected in all cases, notwithstanding the underlying land disputes in each case.

In this regard, let me briefly acknowledge the complexity of land claims in Timor-Leste and welcome the steps being taken to provide a clear legal framework. I believe that the three land laws under discussion in the parliament will benefit from an inclusive, participatory and transparent process of consultation with all relevant stakeholders prior to their adoption. Yet in the absence of a clear legal framework on land issues, I call on the Government to address the immediate and basic needs of the people who have been evicted and displaced, in particular the children.

Another issue that requires immediate attention is the Law on the Juridical Regime Governing the Private Legal Profession and Lawyers Training (Law 11/2008 of 30 July 2008), which has the potential to impact negatively the population's access to justice by reducing the numbers of licensed private lawyers. The Law requires all legal practitioners to successfully complete a 15-month full-time training course at the Legal Training Centre, followed by nine months of practice. Lawyers currently practicing must complete this course by 2012 or will lose their license to practice. Although it is clear that further capacity development of the legal profession is a positive measure that will ensure the quality of legal services provided to the population, there is a concern that the strict time requirements of the law will reduce drastically the amount of private lawyers available. I have heard concerns that by July 2012 only 14 private lawyers will have completed the course. This group, combined with the 16 public defenders, is absolutely insufficient to meet the legal assistance needs of the people. Therefore, I encourage the Government to amend the transitional provisions of the Law to extend the timeframe for completion of the training course by at least two years, and to consider providing support to non-governmental organizations that provide legal aid services.

Finally, I would like to take this opportunity to call upon the international community to continue its cooperation, including financial and technical support, with Timor-Leste, and to ensure the continuity of its assistance after the withdrawal of UNMIT.

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<sup>1</sup> See also Basic Principles and Guidelines on Development-Based Evictions and Displacement, A/HRC/4/18.

As I have already observed, my remarks today are preliminary, and they are certainly not comprehensive.

I have the impression that progress is being made in realizing the rights of those living in poverty in Timor-Leste, yet more can and must be done. The structural problems require greater political commitment and will. Given the various indicators, the situation also requires long-term structural changes to be implemented in a targeted and coherent manner, concerning food security and nutrition, education, housing, social protection, employment, land reform and access to justice among others.

Given that much has been achieved already, I believe all of these changes are feasible.

A focus on equitable and sustainable development will not only help Timor-Leste comply with its human rights obligations; it will also create a more stable society. For, if inequality, poverty and unemployment continue to go unaddressed by the Government, the result is likely to be increased feelings of resentment and dissatisfaction by the Timorese people, and a subsequent breakdown of social cohesion. This risks undermining the impressive gains made by Timor-Leste towards the consolidation of peace and stability in the country.

I will finish by reiterating my commitment to continuing the dialogue initiated during this visit, and look forward to working with the Government in a spirit of cooperation on the implementation of my recommendations.

Thank you.

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*Magdalena Sepúlveda was appointed the Special Rapporteur on extreme poverty and human rights in May 2008 by the United Nations Human Rights Council. She is independent from any government or organization.*

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