

United Nations Country Team Report for the Universal Periodic Review of Timor-Leste, November 2016

Submitted 23 March 2016

Introduction

1. This report is submitted by the United Nations Resident Coordinator in Timor-Leste based on a collaborative effort of the UN Country Team's resident and non-resident agencies.¹ It focuses on implementation of recommendations from the first Universal Periodic Review (UPR) of Timor-Leste in 2011 and key human rights developments since. Important progress has been made in various areas. Due to the word limit set by the Human Rights Council, and in line with the objective of the UPR to improve human rights situations worldwide, this report focuses on challenges and provides suggestions how to address these.

I. Background and framework

Scope of international obligations

2. In the first UPR, Timor-Leste noted it would ratify the Convention on the Rights of Persons with Disabilities (CRPD) 'soon'.² As of March 2016, Timor-Leste had not done so, reportedly as the Government wishes to firstly establish a national council on disability, scheduled for 2016. While persons with disabilities have noted challenges in exercising rights and in Government programmes promoting their rights, they have pointed at numerous actions by Government that are in line with the Convention. These include the adoption of the 2012 National Policy for Inclusion and Promotion of the Rights of People with Disabilities, small Government stipends to persons from 17 years of age with a disability that prevents them from working, inclusion of persons with disabilities in professional training, increased accessibility for persons with disabilities to polling stations in the 2012 elections and drafting of a mental health strategy that refers to the Convention as a guiding document.

3. Of the eight 'Fundamental International Labour (ILO) Conventions', Timor-Leste has ratified six, with Conventions C100 and C111³ acceded to in 2015. Timor-Leste is one of 18 ILO member countries that have not yet ratified the Convention concerning Minimum Age for Admission to Employment (C138). It is however party to the Convention on the Rights of the Child that requires State Parties to set a minimum age. Moreover, the Labour code sets the minimum age for employment at 15.⁴ Timor-Leste is one of 11 ILO member countries not to have ratified the Convention concerning the Abolition of Forced Labour (C105), though the Timor-Leste Constitution and the Labour Code both prohibit forced labour.⁵

4. Recommendations:

- Ratify the CRPD and the two remaining fundamental ILO Conventions, C138 and C105.

¹ Contributions for this report are from FAO, the Human Rights Adviser's Unit, ILO, IOM, UNDP, UNFPA, UNHCR, UNICEF, UN Women, WFP and WHO.

² Human Rights Council, Report of the Working Group on the Universal Periodic Review, Timor-Leste, A/HRC/19/17, 3 January 2012, recommendations 77.1-8 (hereafter referred to as UPR Working Group Report). Human Rights Council, Report of the Working Group on the Universal Periodic Review, Timor-Leste, Addendum A/HRC/19/17/Add.1, 15 March 2012, paragraph 4 (hereafter referred to as the Human Rights Council's Plenary Report).

³ On Equal remuneration for men and women for work of equal value, and on Discrimination in employment and occupation respectively.

⁴ Art. 68, Law 4/2012, Labour Code.

⁵ Section 50.4, Constitution of the Democratic Republic of Timor-Leste. Art. 8, Labour Code.

Constitutional and legislative framework

5. Since the first UPR, some key legislation was passed, including the Civil Code, the Law on International Penal Judicial Cooperation, the Labour code, Strike Law and the Media Law.⁶

6. Various laws remain pending, including anti-trafficking legislation currently with Parliament. The draft largely conforms to international standards. However, while the Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children, ratified by Timor-Leste, defines a child as someone below 18, according to national law, a child reaches majority at 17. The draft lists forced marriage as a form of human trafficking, however, child marriage, a practice identified as prevalent in Timor-Leste⁷, as a form of forced marriage, is not explicitly mentioned.

7. Advances have been made in legislation to protect and promote women's rights. The Civil Code grants equal rights for spouses and the Labour Code guarantees equality of opportunities and treatment in employment and prohibits sexual harassment. There are challenges. Integration of women's human rights in legislation still lacks a systematic and comprehensive approach, rendering many laws gender neutral or non-compliant with international gender commitments, including the Convention of the Elimination of All Form of Discrimination Against Women. Equality between women and men before the law remains a challenge. For instance, the Civil Code disadvantages women and survivors of domestic violence, as it prescribes a waiting period before re-marrying after divorce or death of a spouse of 180 days for men and 300 days for women⁸. The Code does not recognize *de facto* relationships and yet many couples are such unions, affecting the right of women to inherit property.⁹

8. There are gaps in the national legal framework for child protection. Core principles and approaches to child and family welfare are not yet specified in law, while justice for children is currently administered using adult justice laws, with few or no special consideration for children.

9. Recommendations:

- Ensure all laws, in draft and when reviewed, including by the newly established Legal Reform and Justice Sector Commission, are in line with international human rights standards Timor-Leste has ratified.
- Approve anti-trafficking legislation and ensure everyone under 18 will benefit from protection as required by the Protocol to Prevent, Suppress and Punish Human Trafficking. Include early marriage as a form of trafficking in the law.
- Amend the Civil Code and ensure all provisions are non-discriminatory.
- Finalize laws regarding child protection that are compliant with international standards and contextually appropriate, most notably the Laws on Protection of Children; Educative Guardianship for children between 12-16 years; and the Special Criminal Regime for youth between 16-21 years.
- Consider aligning the definition of a minor in draft juvenile justice legislation to international standards (12 to under 18) or align the definition to include all minors as defined under the Constitution and the Civil Code (12 to under 17). Guarantee in law that criminally responsible children over 16 years are entitled to specialized treatment and protection.

⁶ See www.jornal.gov.tl.

⁷ CEDAW Committee, Concluding observations on the combined second and third periodic reports of Timor-Leste, CEDAW/C/TLS/CO/2-3, 24 November 2015, paragraph 14. Committee on the Rights of the Child, Concluding observations on the combined second and third periodic reports of Timor-Leste, CRC/C/TLS/2-3, 30 October 2015, paragraph 22, 23, 50.

⁸ Art. 1494, Civil Code.

⁹ Art. 1475, Civil Code.

Institutional and human rights infrastructure and policy measures

10. As recommended in the first UPR, the Government commenced the process of drafting a national human rights action plan.¹⁰ In 2014, the process was launched with a high-level seminar and the inauguration of a broad-based national commission to draft the plan. Baseline research started in 2015, but the process stalled due to insufficient human resources and Government budget. As of March 2016, the Ministry of Justice, as the lead, was reviewing efforts to date, and drawing up suggestions how to get the process back on track.

11. Since 2013, the Ministry of Interior has led the process of developing a National Action Plan (NAP) on Women, Peace and Security to implement UN Security Resolution 1325. This NAP complements the NAP on Gender Based Violence and has involved civil society organizations (CSOs) throughout the process. By March 2016, the NAP had been submitted to the Council of Ministers.

12. Timor-Leste's Commission for the Rights of the Child is leading the preparation of an action plan on children (2016-2020), expected to be finalized in 2016.

13. Recommendations:

- Allocate sufficient resources to prepare a national human rights action plan, including for technical expertise.
- Allocate sufficient resources for the implementation and monitoring of the NAP-1325.
- Finalize and approve the children's action plan.

II. Implementation of international human rights obligations

Equality and non-discrimination¹¹

14. The community of lesbian, gays, bisexual, transgender and intersex (LGBTI) persons carry out rights promotion at the national and local level. Regarding protection in the legal framework, the exhaustive list of grounds in the Constitution on which discrimination is prohibited does not include sexual orientation. Same sex unions are not recognized in Timor-Leste, but sexual relations between consenting adults of the same sex are not criminalized. Sentiments of discrimination based on sexual orientation, constitute an aggravating circumstance if a crime is committed.¹² At the UN, Timor-Leste has promoted LGBTI rights. For instance, Timor-Leste co-sponsored the first ever resolution of the Human Rights Council on sexual orientation and gender identity.¹³ There is limited information detailing specific incidents of discrimination and violence against LGBTI persons. However, 2014 research among 198 gay and transgender persons in Timor-Leste showed that 27% reportedly had experienced physical maltreatment, 35% had been verbally maltreated, 31% had been refused access to health care services and 25% were provided with poor quality health services.¹⁴

15. Recommendations:

- Ensure LGBTI persons have equal access to services, including through capacity building of persons working in health services

¹⁰ UPR Working Group Report, recommendation 78.3.

¹¹ Gender and the rights of children and persons with disabilities are mainstreamed throughout the document where information was available and as relevant.

¹² Art. 52. 2 (e), Penal Code.

¹³ Human Rights Council, Resolution on human rights, sexual orientation and gender identity, 14 July 2011, A/HRC/RES/17/19.

¹⁴ ISEAN/HIVOS, Analysis of ISEAN-HIVOS Program (IHP) Baseline Research on MSM and TG Experiences of Stigma and Discrimination in Indonesia, Malaysia, Philippines and Timor Leste, Final Report, April 2015, page 10-14, and Annex D.

Right to life, liberty and security of the person

16. Timor-Leste accepted recommendations during the first UPR to strengthen accountability for the use of excessive force, ill-treatment and abuse of authority by police and military and to conduct human rights training.¹⁵ Such training continues for police. In early 2016, the Provedoria for Human Rights and Justice, Timor-Leste's National Human Rights Institution, discussed with the Chief of the Armed Forces and the Minister of Defence to start a programme of human rights training for the military.

17. Reports of alleged violations of the right to security of person, in particular excessive use of force, ill-treatment and arbitrary arrest, by police and to a lesser extent, the military, continue to be regular. They constitute the majority of human rights complaints received by the Provedoria.¹⁶ There were statements on two occasions by the leadership of the country encouraging police to shoot and beat persons violating the law.¹⁷

18. Security operations conducted for several months in 2014 and 2015 against groups outlawed by Parliament led to numerous allegations of human rights violations by police and military, including of torture, excessive use of force, ill-treatment, destruction of property and arbitrary arrest.¹⁸ Overall, there was limited information on whether investigations were conducted into human rights complaints or what these resulted in. By March 2016, five killings that took place in the context of the operation in 2015, had not yet been accounted for, and it was unclear whether the investigation into four of five deaths had gone beyond an autopsy.

19. Despite advances, a key challenge in rebuilding and fostering development is the high rate of gender-based violence (GBV). Recent research shows that 59% of ever-partnered women have experienced some form of physical and/or sexual abuse from a male partner in their lifetime.¹⁹ Obstacles to addressing GBV include the low reporting rate due to victims' fear of stigmatization or re-victimization; general lack of awareness of the criminal nature of domestic violence and persistent tolerance of domestic violence; excessive utilization of mediation under the informal justice system in cases of domestic violence; limited medical, psychological and legal assistance for survivors; few adequate shelters; and limited human resources and infrastructure reducing the reach of the police's Vulnerable Persons' Unit. A Government evaluation of the 2012-2014 National Action Plan on Gender Based Violence (NAP-GBV) showed limited budget allocation and insufficient inter-ministerial coordination in implementing and monitoring the Law against Domestic Violence.²⁰ The results of the evaluation will be used to develop the second phase of the NAP-GBV.

¹⁵ UPR Working Group report, recommendations 78.20-23.

¹⁶ Provedoria dos Direitos Humanos e Justiça, Relatório Anual PDHJ 2014 (*Annual Report 2014*), Page 12.

¹⁷ See for example, Timor Post, 24 November 2014. Jornal Diário Nacional, 24 November 2014. Timor Post, 5 January 2015.

¹⁸ Provedoria dos Direitos Humanos e Justiça, Final Monitoring Report, Parliament Resolution 4/2014, 4 March, Government Resolution 8/2014, 31 March, Government Resolution 13/2014, 7 May, 2014. Published in 2014 and available on <https://www.scribd.com/doc/268114546/Timor-Leste-Ombudsman-Report-on-State-actions-against-anti-government-groups>.

Joint civil society declaration on the Joint PNTL-F-FDTL Operation Implementing Parliamentary Resolution No 5/2014 and Council of Ministers Resolution No 8/2014, 22 April 2014. Provedoria dos Direitos Humanos e Justiça, Relatório hosi Atividade sira Monitorizasaun Direitus Umanus nian relasiona ho Operasaun Komandu Konjunta, Monitoriza implementasaun husi PNTL-F-FDTL nia Operasaun Komandu Konjunta iha Munisipiu Baukau fulan-Marsu to'o fulan-Maiu tinan-2015, (*Report of Human Rights Monitoring on Joint Operation, Monitoring of the Joint PNTL-F-FDTL Operation Implementation in Baucau Municipality from March to May 2015*), July 2015. Asosiasaun HAK, Hakonu Direitu Ida La Presiza Viola Fali Direitu Sira Seluk, Relatório Direitus Umanus Tinan (*When Fulfilling one Right, No Need to Violate Other Rights, Human Rights Report*), 2015, page 7-9. Asia Justice and Rights, the Hak Association, Komunikaadu ba Emprensa, Resultadu Monitorizasaun ba Klala'ok Operasaun Konjunta entre F-FDTL no PNTL ba Mauk Moruk no ninia Grupu, (*Press Release, Result of the Joint F-FDTL and PNTL Operation Implementation against Mauk Moruk and his Group*), 22 April 2015. Amnesty International, Urgent Action, Dozens arrest and tortured in Timor-Leste, 12 May 2015.

¹⁹ The Nabilan Health and Life Experiences Study, Fact Sheet 1, Intimate Partner Violence: Women's Experiences and Men's Perpetration of Violence against Women in Timor-Leste, 8 December 2015. Preliminary results.

²⁰ Sekretaria Estadu ba Apoio no Promosaun Sosiu-Ekonómika Feto (*Secretary of State for the Support and Socio-Economical Promotion of Women*) (SEM), João M. Dos Reis C. Noronha, Relatório Avaliasaun Planu Asaun Nasionál Kona-Ba Violénsia Bazeia Ba Jéneru, (*Evaluation Report, the National Action Plan on Gender-Based Violence*), Dili, 10 December 2015.

20. Government services to children at risk or child victims of violence, abuse, neglect and exploitation remain limited, creating a great reliance on CSOs, which tend to provide emergency shelter and counselling for children in the most extreme circumstances. There are few interventions providing longer-term protection and care of children. This has serious implications for reintegration of children into safe families. The current budget is insufficient to provide quality services for children and families. The budget, still highly dependent upon contributions of international partners, has largely been used for development of infrastructure and awareness raising.

21. Recommendations:

- Ensure complaints of abuses by the security forces are seriously investigated, action is taken and outcomes are shared publicly.
- Approve and allocate resources for human rights capacity building for the defense forces, in collaboration with the Provedoria.
- Enhance inter-ministerial coordination and increase resources for NAP GBV commitments in Annual Action Plans.
- Adopt, resource and adequately monitor and report on the implementation of the second phase of the NAP-GBV.
- Approve the 2012 draft Child and Family Welfare Policy and allocate adequate human and financial resources for implementation, including for professionalization of the social welfare workforce.
- Increase budget allocation for a continuum of care services for children, and prioritize preventative services, including family support services.

Administration of justice, including impunity, and the rule of law

22. Since the previous UPR, efforts have continued to strengthen judicial institutions, in line with recommendations accepted by Timor-Leste.²¹ The number and capacity of magistrates and other judicial personnel has increased through training at the Government's Legal Training Centre (LTC). However, a long-term strategy for legal education is still required. Greater efforts are needed to revise the LTC curricula, increase the number of Timorese trainers, and develop mandatory professional development training with Superior Councils of each Magistracy.

23. The mobile courts initiative that started in 2010, was rolled out in 2014.²² Justice has thus been brought closer to the people and awareness of the formal justice system has increased. Despite this, access to justice remains a challenge for a large part of the population. There are permanent courts in only four of 13 municipalities. Travel can be lengthy due to poor road conditions and costly, especially for the poor. While increasing, knowledge of the formal justice system and of legislation, most of which available in Portuguese only, remains low. Enhanced reach and functioning of the Office of the Public Defender and a framework for free legal aid, in particular to the most vulnerable, is essential. Many Timorese prefer traditional dispute resolution due to familiarity and accessibility, but these processes do not always adhere to international human rights standards, in particular regarding women's rights.

24. While progress has been made, women continue to face particular challenges in accessing justice that include the lack of systematic gender-sensitive capacity building for the judiciary, an inconsistent approach by police to investigate cases of GBV and protect survivors, a low number of investigations, prosecutions and convictions in cases of rape and sexual abuse, delays in administration of justice and frequent suspensions of sentences, lenient sentencing, limited issuing of protection orders and the absence of an effective legal aid system.

²¹ UPR Working Group Report, recommendations 77.30-34, 78.24.

²² Ministry of Justice, Justice Sector Strategic Plan for Timor-Leste (2011-2030), 2010, page 85.

25. There are few targeted services for children in conflict with the law. The Government has prioritized the establishment of a detention centre for youth between 16-21 years of age and educative rehabilitation centres for children between 12-16. There is limited investment in the development of a holistic juvenile justice system that would include prevention, diversion, social reintegration and after-care.

26. Of the two prisons in the country, the largest one is holding persons beyond capacity. Despite space for approximately 250 persons, it housed more than 500 in 2016. Persons in prison and in police detention reported receiving inadequate legal aid, with many not knowing their defender and/or only meeting just before court hearings.²³ Police detention conditions are not fully in line with international standards, in particular regarding health and hygiene, and police officers have raised that budget for food for detainees was not adequate.

27. There were instances of interference by the executive and legislative with the independence of the judiciary. On a number of occasions, the leadership of the nation expressed public criticism of judicial decisions. In 2014, due to Parliamentary and Government resolutions on an audit in the justice sector²⁴, international judicial personnel were dismissed and left the country. The Special Rapporteur on the Independence and Judges and Lawyers wrote to the Government, but received no response.²⁵ Judges launched an association in March 2016 to defend their interests including the independence of the judiciary.

28. Regarding transitional justice, the UN Serious Crimes Investigation Team completed the outstanding 396 investigations by June 2013, and submitted these to the Prosecutor-General's office for decisions on indictments. Since the first UPR, a few trials were held in crimes against humanity that occurred in 1999. Processes came to a halt in October 2014 when international judges, who by law are required to sit on the panel in serious crimes cases, were dismissed based on the aforementioned Parliamentary Resolution, seriously affecting the rights of victims to a remedy for human rights violations. A Parliamentary debate in 2012 on draft laws on reparations and a memory institute was postponed, but had not been put on the body's agenda as of March 2016. The Government undertook various efforts in memorialization, some of which were criticized by survivors for insufficient consultation. Bilateral efforts to establish a commission for the disappeared as recommended by the Timor-Leste – Indonesia Commission for Truth and Friendship had not seen progress.²⁶

29. Recommendations:

- Expediently establish a framework to provide free legal aid, outreach and referral services to the most vulnerable.
- Strengthen the response to GBV through pre- and in-service training on relevant law to public defenders, judges, prosecutors, private lawyers, and police.
- Prioritize investments in developing a juvenile justice system, in particular in diversion and community based alternatives.

²³ Asosiasaun HAK, Hakonu Direitu Ida La Presiza Viola Fali Direitu Sira Seluk, Relatoriu Direitus Umanus Tinan (*When Fulfilling one Right, No Need to Violate Other Rights, Human Rights Report*), 2015, Page 9-11. Provedoria dos Direitos Humanos e Justiça, Relatoriu Anual (*Annual Report*) 2014, page 16.

²⁴ Parliamentary Resolution 11/2014 (24 October 2014) and Government Resolutions 29/2014 (24 October 2014) and 32/2014 (31 October 2014).

²⁵ United Nations Office of the High Commissioner for Human Rights, UN human rights expert urges Timor-Leste to reconsider dismissal of international judges and prosecutor, News Release, Geneva, 25 November 2015. Human Rights Council, Communications report of Special Procedures' Communications sent, 1 June to 30 November 2014; Replies received, 1 August 2014 to 31 January 2015, A/HRC/28/85, page 128.

²⁶ UPR Plenary Report, paragraph 13. Recommendations 78.27-31 with regard to transitional justice, including on implementing recommendations by the Timor-Leste Truth, Reception and Reconciliation Commission and the bilateral Truth and Friendship Commission, reparations and a memory institute were partially accepted by Timor-Leste.

- Ensure timely and adequate legal aid for defendants, including children in conflict with the law at the point of access/referral which often is at the level of police.
- Train police, lawyers, prosecutors, judges, and prison staff in juvenile justice and the domestic legal framework.
- Address overcrowding in prison and improve conditions in police detention.
- Ensure full respect by all for the independence of the Judiciary.
- Guarantee that processes in serious crimes committed in 1999 can recommence.
- Debate the laws on reparations and a memory institute.

Freedom of expression, association and peaceful assembly, and the right to participate in public and political life

30. Timor-Leste adopted a Media Law in 2014. It guarantees everyone’s freedom of speech through the media, freedom of the press and prohibits censorship. Several provisions appeared not in line with international standards. Grounds on which press freedom can be limited are broader than those provided for in the International Covenant on Civil and Political Rights (ICCPR);²⁷ new journalists need to be licensed by the Press Council, despite such systems having been ruled incompatible with article 19 of the ICCPR by the Human Rights Committee²⁸; and the law places duties on journalists to publish a plurality of opinions,²⁹ but also “defend the public interest and democratic order”³⁰, with the latter duty drawing concern from civil society as having the potential to suppress publication of diverse views.³¹

31. Generally, citizens, including human rights defenders, are free to express themselves. Occasional incidents of threats and intimidation have been reported against NGO staff after publicly raising issues of human rights concerns or to prevent them from speaking out on sensitive issues. In January 2016, human rights defenders reported being harassed to stop them from publicly demanding accountability for past human rights violations during the Indonesian President’s visit to Timor-Leste.

32. The law is inconsistent regarding the right to vote for persons with mental disabilities. While an article denying persons “clearly and publicly known as mentally ill” the right to vote was repealed in the Parliamentary Electoral Law³², the same article remains in force in the Presidential Election Law, in violation of the ICCPR.³³

33. Recommendations:

- Guarantee implementation of the Media Law is in line with Timor-Leste’s obligations under international human rights treaties.
- Investigate and take necessary action in incidents of threats and intimidation against human rights defenders.
- Repeal the prohibition of persons with mental disabilities to vote in Presidential elections.

²⁷ Art. 19.3, ICCPR.

²⁸ Human Rights Committee, General Comment 34 on the freedom of expression and opinion, 2011, paragraph 44.

²⁹ Art. 20.1b, Media Law.

³⁰ Art. 4, Media Law.

³¹ La’o Hamutuk, Letter to the President on the proposed media law, 29 May 2014, Endorsed by more than 30 individuals, journalists and organizations. www.laohamutuk.org.

³² Law 7/2011, Second Amendment to Law 6/2006 (Law on the Election of the National Parliament). Law 8/2011, Second Amendment to Law 7/2006 (Law on the Election of the President of the Republic), article 5 b).

³³ Article 25, ICCPR.

Right to an adequate standard of living

34. Since the previous UPR, Timor-Leste has consolidated stability and focused efforts on developing the nation based on the Strategic Development Plan (2011-2030). The country has embarked upon a number of large infrastructure projects bringing to the fore issues of land use and ownership.

35. The UNCT recognizes that regulating land is highly complex in a post-conflict country that experienced extended foreign rule and significant displacement. However, a legal framework which settles fairly competing land claims and provides proper protection from forced evictions is key to ensuring that Timor-Leste will fulfil obligations regarding the right to adequate housing, and other rights likely impacted if people have no security of tenure over the land they use or own. Three draft laws regulating, among other things, land ownership, evictions and expropriation were vetoed by the President in 2012. Revised drafts were pending with Government as of March 2016. Current law in force allocates all land previously administered by the Portuguese and Indonesian administrations to the Timorese State, does not recognize customary rights over land, and provides minimal protection from forced evictions with no provisions to prevent homelessness for the most marginalized.³⁴

36. There has been an increase in the number of relocations and evictions since the first UPR, in particular in the capital, Dili, as well as the South Coast and in the Special Autonomous Region of Oecusse, where large infrastructure is being developed, impacting on hundreds of households. While there has been some consultation and compensation, some of the affected have expressed that information and consultations have been inadequate, and that there has been no or insufficient compensation. There have been reports of intimidation of those affected, absence of affordable legal aid, and a threat of deteriorating living conditions making those affected vulnerable to other human rights violations.³⁵ The Special Rapporteur on extreme poverty and human rights echoed several of these concerns in November 2011, after meeting communities evicted in Dili.³⁶

37. The Government is leading a campaign to raise awareness on zero hunger and the cause and effect of malnutrition. The Government's policy includes interventions to improve productivity and sustainability in agriculture to achieve food security. However, the country remains a net food importer and food shortages are widespread across rural areas during the lean season, from November to February.³⁷

38. Recommendations:

- Ensure draft land laws conform to national and international standards, in particular those on adequate housing, and expedite adoption.
- Ensure implementation of existing land laws conforms to international norms ratified by Timor-Leste, avoid forced evictions and ensure adequate protection for the most vulnerable if evictions take place. Seek technical advice and capacity building on the standards and implementation.
- Implement multisector nutrition and food security programs to support the Zero Hunger Action Plan outcomes.

Right to health

39. Advances have been made to increase availability, accessibility and quality of health services since the first UPR. In 2015, the Government launched a family health programme, as part of which health providers conduct home visits including in rural areas, for early detection, to give services and refer as

³⁴ Law 1/2003, The Juridical Regime of Real Estate.

³⁵ See for example: Meabh Cryan, Impacts of the Suai Supply Base Project in Timor-Leste, Australian National University, In Brief 2015/47, State, Society & Governance in Melanesia, ssgm.bellschool.anu.edu.au. Meabh Cryan Dispossession and Impoverishment in Timor-Leste: Potential Impacts of the Suai Supply Base, Australian National University, In Brief 2015/15, State, Society & Governance in Melanesia, ssgm.bellschool.anu.edu.au.

³⁶ Human Rights Council, Report of the Special Rapporteur on extreme poverty and human rights, Mission to Timor-Leste, A/HRC/20/25.Add.1, paragraph 66-68.

³⁷ Ministry of Agriculture and Fisheries, Seeds of Life / Fini ba Moris, Seeds of Life 3 Mid-Term Survey, Dili, November 2013.

required. More than 900 Timorese who studied medicine in Cuba, returned and are currently working in the system, also in remote areas.

40. While progress has been made in reducing under-five and infant mortality, the level remains high compared to countries in the region, and considerable rural-urban and inter-municipal differences remain.³⁸ Routine immunization coverage has remained stagnant around 70 – 80 % for last several years.³⁹ Under-nutrition is a major determinant of ill health and contributes to 1/3 of child mortality.⁴⁰ Stunting and wasting of children under five stood at 50% and 11%,⁴¹ classified by WHO standards as “critical” and “significant” respectively. The Government is working with humanitarian actors to address malnutrition, but, while advocacy is targeting the whole country via radio and printed materials, funding for treatment and prevention is insufficient to address the problem. For example, action against moderate acute malnutrition is concentrated in only six of the 13 municipalities.

41. Poor hygiene practices contribute significantly to malnutrition. Only 27% of the rural population has an improved toilet facility⁴² and 37% practice open defecation.⁴³ Seventy percent of the population has access to improved water sources, with a significant disparity in access between rural (61%) and urban populations (95%).⁴⁴

42. The Food and Nutrition Survey showed a high prevalence of childhood illnesses with almost half of the care-givers reporting that their child had illness two weeks preceding the survey, among which 17% were diarrhoea. Proper feeding during diarrhoea was reported among only 24% children highlighting the need for improving home care.⁴⁵

43. Maternal mortality remains one of the highest in the region.⁴⁶ Though 50% of deliveries occur in health facilities, less than half of the facilities have the infrastructure, equipment and staff trained to address obstetrical emergencies.⁴⁷ Ninety-six per percent of women 15 to 49 years of age reported at least one serious problem accessing health care.⁴⁸

44. Two of five married women have an unmet need for family planning. Among married women between 15-19 of age, less than 23% of the demand is being met and for the lowest wealth quintile, less than one in three women have their need met.⁴⁹ Two of three health posts did not provide the minimum standard of three methods of family planning and at three of five sites, one or more family planning methods were out of stock in 2014.⁵⁰

45. Persons with disabilities face challenges in using health services, including as many health sites are not physically accessible and health workers lack basic knowledge and skills to assist persons with a

³⁸ Ministry of Finance, Direcção Geral de Estatística Timor-Leste, UNICEF, Situation Analysis of Children in Timor-Leste, July 2014, page 60-62 (hereafter referred to as SITAN on Children, 2014)

³⁹ EPI Fact Sheet Timor-Leste 2014. World Health Organization, Regional Office for South-East Asia. Available at http://www.searo.who.int/entity/immunization/data/epi_factsheet_timor_leste_2014.pdf. Accessed on 23 March 2016.

⁴⁰ Ministry of Health, Report, The Economic Consequences of Undernutrition in Timor-Leste, 2014, page 17.

⁴¹ Ministry of Health, Timor-Leste Food and Nutrition Survey 2013, Final Report 2015, Dili.

⁴² UNICEF & WHO, 2015 Update and MDG Assessment, 25 years progress of sanitation and drinking water.

⁴³ Ministry of Finance, General Directorate of Statistics, Government of Timor-Leste, 2010 Census, Population and Housing Census of Timor-Leste, 2010, Volume 4: Suco Report.

⁴⁴ Update and MDG Assessment, 25 years progress of sanitation and drinking water.

⁴⁵ Timor-Leste Food and Nutrition Survey 2013.

⁴⁶ WHO et al. 2015. Trends in maternal mortality: 1990 to 2015. Estimates by WHO, UNICEF, UNFPA, the World Bank and the United Nations Population Division.

⁴⁷ Ministry of Health and UNFPA, Presentation on Emergency Obstetric and Newborn Care in Timor-Leste, 29 January 2016.

⁴⁸ Ministry of Health, General Directorate of Statistics, Demographic and Health Survey, 2009-10.

⁴⁹ Ibid.

⁵⁰ Joao Martins, Report on Assessment for Reproductive Health Commodities and Services in Timor-Leste 2014, table 10 and 18.

disability.⁵¹ Services for persons with mental disabilities remain extremely limited, resulting in instances of persons being held in restraints by families or communities.⁵² A new mental health strategy (2016-2020) was in final draft by March 2016.

46. Recommendations:

- Significantly increase budget to address malnutrition and ensure open defecation-free communities.
- Implement evidence-based multisector social and behavior change communication strategies to improve nutrition, in particular of specific groups, such as adolescent girls and children.
- Ensure immunization coverage of more than 90% in each municipality as per the 2016-2019 Reproductive Maternal Newborn Adolescent Health Care Strategy.
- Implement the draft 2016-2019 Emergency Obstetric and Newborn (EmONC) Care Plan of Action to ensure no village is more than two hours from a health facility and no health facility more than 2 hours from a higher level referral EmONC facility.
- Ensure family planning services are available according to the Reproductive Maternal Newborn Adolescent Health Care Strategy—Health posts to provide at a minimum condoms, oral contraceptives and injectables; Community Health Centres to provide methods available at Health Posts as well as IUDs and implants; and hospitals to provide sterilization in addition to the five methods.
- Improve access to health services for persons with disabilities, and increase availability of services for persons with mental disabilities.

Right to education

47. Important efforts continue to increase the availability, accessibility and acceptability of education, in line with recommendations from the first UPR⁵³, but significant challenges remain. While growing, there are few pre-schools, and in 2013, only 14% of children enrolled.⁵⁴ Net enrollment in primary education stood at 88% in 2015. While the number has increased, there were only 106 secondary schools (grades 10-12). Net enrolment in secondary education in 2015 was 29%, though gross enrolment stood at 62%.⁵⁵

48. While progress has been made, physical conditions of schools require continued improvement in particular regarding water and sanitation facilities. Only 61% of primary schools had toilet facilities and water,⁵⁶ especially affecting girls. Government approved guidelines on water, sanitation and hygiene in schools in 2016.

49. Gender balance in enrollment in primary and secondary education has been reached.⁵⁷ The most recent figures regarding attendance - from 2010 – however, show that, after the age of 13, attendance by girls decreased more rapidly than for boys, with gender-based violence and early pregnancies as key obstacles for girls to remain in school. Almost half of teenage mothers had left school.⁵⁸

50. The latest available data from the 2010 Census indicate that about 60% of children with disabilities attended primary school, and 72% of persons with disabilities had never attended school. People with

⁵¹ Megan McCoy, Cornelio de Deus Gomes, Joel Alex Morais, Jonio Soares, Access to Mainstream Health and Rehabilitation Services for People with Disability in Timor-Leste, Situational Analysis, July 2013.

⁵² PRADET, Annual Report 2012, page 12. Accessed on www.pradet.org. Media report of one specific instance in Liquica Municipality, Timor-Leste National Television, 10 March 2016.

⁵³ UPR Working Group Report. Recommendations in paragraph 78.17, 78.36-40.

⁵⁴ Gross enrolment. SITAN on Children, 2014, page 120.

⁵⁵ Figures from the Education Management Information System (EMIS), 2015. Available on www.moe.gov.tl.

⁵⁶ From EMIS, 2010. SITAN, page 130.

⁵⁷ See EMIS, figures for 2015.

⁵⁸ SITAN on Children, 2014, page 123-124.

disabilities have noted inaccessible infrastructure, lack of access to assistive devices and rehabilitation and lack of training on disability for teachers as obstacles to participate in education. Only one third of the 8,000 working children, aged 10-14, the vast majority of which live in rural areas, attended school.⁵⁹

51. The Ministry of Education has drafted an inclusive education policy guaranteeing equal access to education for all, including persons with special needs, linguistic minorities and teenage mothers, but it had not yet reached the Council of Ministers. People with disabilities have expressed concern about limited consultation on the draft.⁶⁰ Legislation currently being drafted on recurrent education will guarantee avenues for teenage mothers to continue education. Four pilot resource centres were established at the municipal level supporting teachers how to better integrate children with special learning needs in regular classes.

52. Curriculum reform for grades 1-6 started in 2013, and culminated in the adoption of a curriculum law⁶¹ which calls for child centered education and participatory teaching methodologies. New lesson plans have been introduced since 2015 in grades 1-4, which in social science integrate gender, disability, respect for diversity, and protection of children from violence and abuse. To address the reported prevalence of violence by teachers in schools, positive discipline is integrated in the curriculum, lesson plans and teacher training. Corporal punishment has been outlawed by legal diploma and guidance rules to support positive discipline by teachers established. Limited disciplinary and criminal responsibility for sexual and physical violence committed by teachers continued to be of concern.

53. Teacher training is conducted three times a year, and a three-year programme of teacher mentoring will start in April 2016. Capacity building is essential as many teachers are yet to meet national qualification standards. The budget for professional development is however limited. While there has been a consistent increase in absolute spending in education for over a decade, spending has declined as a proportion of the total national budget and gross domestic product. In 2014, only eight percent of the State budget was allocated to education, and within the sector, there was a decline in funding for basic education⁶², despite it being compulsory and thus catering for the greatest numbers of Timorese children.

54. In line with experience that children learn better in their mother tongue in the formative stages and in the initial period of education⁶³, preliminary results from the pilot project on the use of mother tongue in some primary schools show improved learning outcomes.⁶⁴ Education in mother tongue in Timor-Leste may thus have the potential to positively impact on the chance of children from linguistic minorities to have equal opportunities and more successful lives.

55. Recommendations:

- Increase resources to continue efforts to increase the quality, accessibility and availability of education, including resourcing adequately continuous teacher training and oversight.
- Ensure adequate resources for primary education as it is compulsory.
- Ensure adequate resources for pre-school education due to high return to child development
- Monitor systematically school attendance of children for policies to ensure continued access.
- Conduct further consultation, resource adequately and implement the inclusive education policy.
- Investigate complaints of abuses by teachers in schools and take swift action.

⁵⁹ Ibid. Based on EMIS 2010 and 2010 Census Data. See also: Submission of Ra'es Hadomi Timor Oan (RHTO), the National Disabled Person's Organisation in Timor-Leste, to the 70th Session of the Committee on the Rights of the Child, page 7-8.

⁶⁰ Asososiaun Defisiensi Timor-Leste (*Timor-Leste Disability Association*), *Politika Nasional kona-ba Edukasaun Inkluzivu, Submisaun Hamutuk, (National Inclusive Education Policy, Joint Submission)*, 21 July 2015.

⁶¹ Decree-Law 4/2015, Approving the National Curriculum for the First and Second Cycle of Basic Education.

⁶² SITAN on Children, page 132-133.

⁶³ Human Rights Council, Report of the Special Rapporteur on the right to education, A/HRC/17/29 and Corr.1, paragraph 63.

⁶⁴ Dr. Stephen Walter, Preliminary Report of the Endline Assessment of the EMBLI Programme, February 2016.

Migrants, refugees and asylum-seekers

56. No accurate data exists on the extent of human trafficking to, from and within Timor-Leste. The International Organization for Migration (IOM) and civil society were preparing a baseline assessment in early 2016. A Government led Trafficking Working Group was reformed in late 2015, but had not yet met. In 2015, the police conducted arrests in at least eight cases of alleged trafficking compared to none in 2014. Prosecutors, Judges and the new Scientific and Investigations Police Unit (PSIC) which conducts investigations into trafficking, have not yet received training. Capacity building for police and migration on victim identification is underway, and in 2016 will be conducted for Government and civil society on providing psycho-social services to victims of trafficking. In 2015, Police, Migration, Prosecutors and the Defence Force received training regarding smuggling of migrants. IOM supports voluntary return of vulnerable stranded migrants from member states of the Bali Process to their home country.⁶⁵

57. Of migrants coming to Timor-Leste to work, many stay in an irregular manner, as the process to obtain a work permit can be lengthy as migration management and policy systems are not yet fully effective. This makes the workers vulnerable to human rights abuses.⁶⁶

58. The 2003 Immigration and Asylum Act stipulates that persons who wishes to file an asylum claim must do so within 72 hours of arrival in Timor-Leste. This deadline can be a substantial impediment to individuals seeking asylum and may lead to considerable hardship, particularly for individuals with specific protection needs like women and children. This prerequisite can also restrict the exercise of human rights enshrined in various international legal documents.⁶⁷ Five individuals in Timor-Leste who wish to seek asylum have been unable to do so due to this condition.

59. Despite having ratified the Refugee Convention, in 2013, the Government reportedly forcibly returned a group of 95 potential asylum seekers from the Rohingya minority in Myanmar and from Bangladesh to Indonesia. Humanitarian actors and CSOs were allegedly refused access to the group.⁶⁸

60. Recommendations:

- Allocate sufficient resources for targeted capacity building on human trafficking for PSIC, Prosecutors and Judges.
- Reinforce migration management policy and systems, introduce an effective visa management system, implement measures to reduce irregular employment, disseminate information on the legal requirements for entry, raise awareness of migrant communities on the risk associated with irregular migration, and allocate adequate financial and human resources to this end.
- Guarantee all potential asylum seekers access to the asylum procedure, and remove the time limit for filing asylum claims in the law
- Establish an age, gender and diversity sensitive approach to adjudication of asylum claims.⁶⁹

⁶⁵ Bali Process on People Smuggling, Trafficking in Persons and Related Transnational Crime.

⁶⁶ For example see T. Santos and C.A. Florindo, New country, new needs, new responses: Irregular labour migration to Timor-Leste, AC Observatory on Migration, 2013, page 52-53.

⁶⁷ For example, the 72 hour deadline prevents the lodging of “sur-place” claims, which may be viewed as a violation of Article 14 of the Universal Declaration of Human Rights.

⁶⁸ The East Timor NGO Forum, Letter to the President, Prime Minister and the Provedor for Human Rights and Justice, 26 July 2013.

⁶⁹ In this regard, see UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 1: Gender-Related Persecution Within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees, 7 May 2002, HCR/GIP/02/01, available at: <http://www.refworld.org/docid/3d36f1c64.html> ; UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 8: Child Asylum Claims under Articles 1(A)2 and 1(F) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees, 22 December 2009, HCR/GIP/09/08, available at: <http://www.refworld.org/docid/4b2f4f6d2.html>; UN High Commissioner for Refugees (UNHCR), Guidelines on International Protection No. 9: Claims to Refugee Status based on Sexual Orientation and/or Gender Identity within the context of Article 1A(2)

Right to development

61. Timor-Leste is in the second phase (2016-2020) of the implementation of the Strategic Development Plan (2011-2030). This term is a critical to fully transit out of fragility and build stability. Timor-Leste is categorized as a lower middle income country with Gross Domestic Product annual growth of seven percent⁷⁰ and its petroleum fund was reaching 16.2 billion USD.⁷¹ Despite progress since 2002, critical challenges remain. Nearly half of the population lives under the national poverty line,⁷² and Timor-Leste ranks low in the Human Development Index.⁷³ Investing in people, ensuring their active participation, focus on the most marginalized and robust accountability is key for sustainable development and promoting the right to development. The Government's programme places emphasis on four priority sectors: health, education, water and sanitation, and agriculture. According to civil society analysis, budget allocation for 2016 for these sectors, however, comprised only approximately four (health), nine (education), one (water and sanitation) and two (agriculture) percent of the overall budget.⁷⁴

62. Recommendations:

- Apply a human rights based approach to programming, and avail of technical assistance on the approach from partners including the UN.
- Increase spending and capacity to execute budget in priority sectors: health, education, agriculture and water and sanitation.

of the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees, 23 October 2012, HCR/GIP/12/01, available at: <http://www.refworld.org/docid/50348afc2.html>.

⁷⁰ World Bank, Timor-Leste 2014, accessed on <http://www.worldbank.org/en/country/timor-leste>, 16 March 2016.

⁷¹ Central Bank of Timor-Leste, Petroleum Fund of Timor-Leste, Quarterly report 2015, Volume 11 Issue XXXI, 31 December 2015. Accessed on www.laohamutuk.org, 16 March 2016.

⁷² Government of Timor-Leste, Timor-Leste Living Standards Survey 2007.

⁷³ UNDP, Human Development Report 2015. Timor ranks 133 out of 188 countries.

⁷⁴ La'o Hamutuk, Allocation of the Enacted 2016 State Budget. See www.laohamutuk.org.