

# TIMOR-LESTE 2017 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Timor-Leste is a multiparty, parliamentary republic. Following free, fair, and peaceful parliamentary elections in July, Mari bin Amude Alkatiri became prime minister of a two-party coalition government. In a March presidential election, also judged as free and fair, voters elected Francisco Lu Olo Guterres. The government conducted free and fair presidential and parliamentary elections. In contrast with previous years, elections were conducted without extensive support from the international community. Security forces maintained public order with no reported incidents of excessive use of force.

Civilian authorities maintained effective control over the security forces.

The most significant human rights issues included: extended pretrial detention, delayed trials and lack of due process; gender-based violence; and child abuse including sexual abuse.

The government took some steps to prosecute members and officials of the security services who used excessive force, but public perceptions of impunity persisted according to security sector-focused NGOs.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices and limits the situations in which police officers may resort to physical force and the use of firearms. During the year there were

multiple reports of the use of excessive force by security forces. Most complaints involved maltreatment or use of excessive force during incident response or arrest.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally did not meet international standards.

Physical Conditions: According to human rights monitoring organizations, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding, although police were making efforts to improve them. The prison in Dili (Becora), the country's largest, was overcrowded. It had an estimated capacity of 290 inmates, but in September held 547 adult and juvenile male convicts and pretrial detainees. According to independent monitoring, juvenile and adult prisoners were in the same block, although separate blocks housed pretrial detainees and convicts. Gleno Prison was not overcrowded and held women as well as adult male convicts and pretrial detainees in separate blocks. Conditions were the same for male and female prisoners, who shared recreation areas. Housing blocks separated nonviolent offenders from violent offenders. There were no specific supports for offenders with mental disabilities.

Authorities provided food three times daily in the prisons; however, there was no budget for food in police station detention centers, and officers and independent monitors reported that police purchased food for prisoners out of their personal funds. While authorities provided water in prisons, it was not always available in detention centers. Due to lack of Ministry of Health staff, the Ombudsman for Human Rights and Justice (PDHJ) found that there was no regular staffing of medical centers at the hospitals and medical staff might only be available on a weekly or monthly basis at the facility. For urgent cases and those beyond basic needs, authorities took inmates to a local hospital in Gleno or Dili. Access to clean toilets was generally sufficient, although without significant privacy. PDHJ assessed ventilation and lighting as adequate in prisons but not in detention centers. Prisoners were able to exercise for two hours daily.

Administration: Prisoners and detainees could submit complaints to judicial authorities without censorship and request investigation of credible allegations of problematic conditions. The PDHJ oversees prison conditions and prisoner welfare. It monitored inmates, and reported that the government was generally responsive to recommendations. Nonetheless, some human rights monitoring

organizations questioned how widely known the complaint mechanism was and whether prisoners felt free to utilize it.

Independent Monitoring: The government permitted prison visits by NGOs and independent human rights observers.

Improvements: Authorities completed construction of a new prison in Suai, which held 25 prisoners.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his/her arrest or detention in court, and the government generally observed these prohibitions.

#### **Role of the Police and Security Apparatus**

The law does not fully clarify the particular authority of the national police (PNTL), the judicially mandated Scientific Police for Criminal Investigations, or the military (F-FDTL). Security sector experts also said that the operational roles and relationship between the PNTL and the F-FDTL were unclear.

The PNTL is legally responsible for law enforcement and maintenance of order within the country. It has several specialized units, including border, maritime, and immigration units.

The F-FDTL is legally responsible for external security, and may play a role in internal security only in “crisis” or “emergency” situations declared by the government and president. The F-FDTL, however, may support police in joint operations if requested by a “competent entity.” The president is commander-in-chief of the armed forces, but the chief of defense, the F-FDTL’s senior military officer, exercised day-to-day command over the armed forces. F-FDTL military police responded occasionally to incidents involving only civilians.

Civilian oversight of the PNTL and the F-FDTL improved, in comparison with previous years. Various bilateral partners continued efforts to strengthen the development of the police, especially through community policing programs and technical assistance efforts, including work to improve disciplinary and accountability mechanisms within the PNTL.

The PNTL's internal accountability mechanisms remained somewhat ineffective, but improved. Rates of reported cases closed without investigation decreased, but the office responsible for internal affairs (the PNTL Department of Justice) did not have sufficient resources to investigate and respond to all cases brought to its attention. The office increased its use of disciplinary measures, including demotions, written admonitions, and fines. Nonetheless, especially outside the capital, municipality commanders at times do not fully engage in the disciplinary process, perhaps due partly to lack of familiarity with disciplinary procedures.

The PNTL internal affairs office may recommend that the commander general refer cases to the Office of the Prosecutor General for investigation. The office reported 35 investigations during the year, including some from the previous year, of which 21 were still under investigation, 13 had been closed, and one had been transferred to the Prosecutor General's Office for criminal investigation.

F-FDTL regulations permit referral of disciplinary incidents amounting to crimes to the prosecutor general (misconduct is processed internally). One security sector NGO assessed the F-FDTL's disciplinary system as strong but not entirely free of political influence.

Citizens reported obstacles to reporting complaints about police behavior, including repeated requests to return later or to submit their complaints in writing.

There was a widespread belief that members of the security forces enjoyed substantial for illegal or abusive actions.

### **Arrest Procedures and Treatment of Detainees**

The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances or in cases of flagrante delicto.

The law requires a hearing within 72 hours of arrest. During these hearings the judge may determine whether the suspect should be released because conditions for pretrial detention had not been met, released conditionally (usually after posting some form of collateralized bail or on condition that the suspect report regularly to police), or whether the case should be dismissed due to lack of evidence. Though the government's 2014 decision to rescind visas for international legal advisors, who had filled critical roles as judges, prosecutors, and investigators, continued to affect the justice system, backlogs decreased during the year, particularly in courts outside of Dili. Justice sector monitoring organizations

reported that the system adhered much more closely to the 72-hour timeline than in past years.

Time in pretrial detention may be deducted from a final sentence, but there is no remedy to make up for pretrial detention in cases that do not result in conviction.

The law provides for access to legal representation at all stages of the proceedings and provisions exist for providing public defenders for all defendants at no cost (see section 1.e.). Due to a lack of human resources and transportation, however, public defenders were not always able to attend to their clients and sometimes met clients for the first time during their first court hearing.

Pretrial Detention: The law specifies that a person may be held in pretrial detention for up to one year without presentation of an indictment, two years without a first-instance conviction, or three years without a final conviction on appeal. If any of these deadlines are not met, the detained person may file a claim for release. Exceptionally complex cases can also provide justification for the extension of each of those limits by up to six months with permission of a judge. Pretrial detainees composed approximately 20 percent of the total prison population. Procedural delays and staff shortages were the most frequent causes of trial delays. In many cases, the length of pretrial detention equaled or exceeded the length of the sentence upon conviction.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: While persons arrested or detained may challenge the legal basis of their detention and obtain prompt release, justice sector monitoring organizations reported that such challenges rarely occur, likely due to limited knowledge of the provision allowing such challenges.

#### **e. Denial of Fair Public Trial**

The law provides that judges shall perform their duties “independently and impartially without improper influence” and requires public prosecutors to discharge their duties impartially. Many legal sector observers expressed concern about the independence of some judicial organs in politically sensitive cases, a severe shortage of qualified personnel, and the complex legal regime influenced by legacies of Portuguese, Indonesian, and UN administration, and various other international norms. An additional problem is that all laws and many trial proceedings and court documents are in Portuguese, a language spoken by approximately 10 percent of the population. Nonetheless, observers noted that

citizens generally enjoyed a fair, although not always expeditious, trial and that the judiciary was largely independent.

Administrative failings involving the judge, prosecution, and/or defense led to prolonged delays in trials. Moreover, the law requires at least one international judge on a panel in cases involving past human rights abuses. There have been no new such cases since 2014; however, the absence of international judges has meant that pre-2014 cases were pending indefinitely with no clear timeline for coming to trial.

### **Trial Procedures**

The law provides for the right to a fair and public trial, and an independent judiciary generally enforced this right. Under the criminal procedure code, defendants enjoy a presumption of innocence, access to a lawyer, and rights against self-incrimination and to attend their trial. Trials are held before judges or judicial panels; juries are not used. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants have a right of appeal to higher courts. The government provides interpretation, as necessary, into local languages. Observers noted that the courts made progress in providing interpretation services during court proceedings; however, interpretation services were still not available for all defendants.

Justice sector NGOs expressed concern that judges did not provide clear information or take the time to explain and read their decisions. Observers also noted that in many cases judges did not follow the Law on Witnesses, which provides important protections for witnesses. Additionally, the country has not passed juvenile justice legislation, leaving many juveniles in the justice system without protections and perhaps subject to vigilante justice by frustrated communities seeking justice.

The constitution contemplates a Supreme Court, but it has not been established due to staffing and resource limits. The Court of Appeals carries out Supreme Court functions in the interim.

Mobile courts based in Dili, Baucau, Covalima, and Oecusse operated in areas that did not have a permanent court. These courts processed only pretrial proceedings.

For crimes considered “semi-public,” some citizens utilized traditional (customary) systems of justice that did not necessarily follow due process standards or provide

witness protection, but provided convenient and speedy reconciliation proceedings with which the population felt comfortable.

The public defender's office, concentrated in Dili, was too small to meet the need, and many defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported they never saw their lawyers, and some observers noted that public defenders were confused about their duties to the client versus the state and that few viewed their role as client advocates. Public defenders did not have access to transportation to visit clients in detention, so sometimes met their clients for the first time in court.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

As there is no separate civil judicial system in the country, civil litigation experienced the same problems encountered in the criminal justice system. No regional human rights body has jurisdiction in Timor-Leste.

### **Property Restitution**

The government promulgated land tenure legislation in June. Supplemental legislation was needed to address issues of eviction and community property, among others. The formation of a new government delayed full implementation of the new law. Community concerns over inadequate compensation for government expropriation of land continued during the year. A community near the new airport and highway in Suai organized a protest in September. According to the village leader, who spoke on behalf of the community to the national media, the new houses the government provided as compensation were too small, and were in an area without sufficient space to grow vegetables. Community members also complained that the new highway blocked access to their gardens and farms.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

Although the law prohibits arbitrary interference with privacy, family, home, or correspondence, observers noted a general lack of privacy protections throughout the government, particularly in the health sector.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected these rights. An independent press and a functioning democratic political system promoted freedom of expression, including for the press.

Press and Media Freedom: Independent media were active and expressed a wide variety of views without restriction. The 2014 media law was not used to restrict press freedoms. Past concerns raised by journalists alleging that the law is restrictive have subsided. The Press Council, responsible for monitoring media under the law, consists of two council members selected by journalists, one by media owners, and two by parliament. The Press Council conducted information campaigns on the media law and worked on a registration process for journalists and media organizations.

Libel/Slander Laws: During the year Dili District Court dismissed a libel case filed by the then-prime minister, as a private citizen, in 2015. The suit followed an article published by the *Timor Post* alleging that the prime minister, while an advisor to the Ministry of Finance, used improper influence in a contracting decision. The newspaper later admitted the article contained factual errors.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. According to the International Telecommunication Union, 25 percent of the population used the internet in 2016.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events. The National Language Institute must approve academic research on Tetum and other indigenous languages and regularly did so.

### **b. Freedoms of Peaceful Assembly and Association**

The constitution provides for the freedoms of peaceful assembly and association, and the government generally respected these rights.

### **Freedom of Peaceful Assembly**

The constitution guarantees “freedom to assemble peacefully and without weapons, without a need for prior authorization.” The law on assembly and demonstrations establishes guidelines on obtaining permits to hold demonstrations, requires police be notified five days in advance of any demonstration or strike, and establishes setback requirements at some buildings. The power to grant or deny permits is vested only in the PNTL.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

In-country Movement: The government occasionally established checkpoints for various law enforcement purposes at locations around the country.

### **Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status; however, the system is not in line with international standards. There were concerns that regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entering the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for a safe return.

## **Section 3. Freedom to Participate in the Political Process**

The constitution and law provide citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage for those 17 and older.

### **Elections and Political Participation**

Recent Elections: The most recent presidential and parliamentary elections took place during the year and were the first national elections administered without UN assistance. International observers assessed them as free and fair. Concerns about possible pre- and post-election violence proved unfounded; the process of forming a new government was peaceful and continued as of December.

Following revisions to the local elections and the electoral management bodies laws, local elections were held in 2016. While there were several complaints about voting logistics, including incomplete voter registration lists and improper ballot provision, the elections were generally seen as free and fair.

Political Parties and Political Participation: Establishment of new political parties requires new parties to obtain 20,000 signatures, which must also include at least 1,000 signatures from each of the 13 municipalities, to register.

Participation of Women and Minorities: No laws limit participation of women and/or members of minorities in the political process. Electoral laws require at least one-third of candidates on party lists be women. Women held 24 of the 65 seats in the National Parliament, but only six out of 37 ministerial, vice-ministerial, and secretary of state positions. Civil society and social media users criticized Prime Minister Mari Alkatiri for the relatively small number of women named to cabinet positions. At the local level, at least three women must serve on every village council, which generally include 10 to 20 representatives, depending on village size. In the local elections, the number of female village chiefs increased from 11 to 21. Meaningful participation by women at the national and local levels, even when elected, is sometimes constrained by traditional attitudes and stereotypes.

The country's few ethnic minority groups were well integrated into the political system. The number of ethnic minority members of parliament and in other government positions was uncertain, since self-identification of ethnicity was not a common practice. Prime Minister Mari Alkatiri was the most visible member of a minority group in government.

## **Section 4. Corruption and Lack of Transparency in Government**

The penal code provides criminal penalties for corruption by officials. The government faced many challenges in implementing the law, and the perception that officials frequently engaged in corrupt practices with impunity was widespread. The Anticorruption Commission (CAC) is legally charged with leading national anticorruption activities and has the authority to refer cases for prosecution. Although the CAC is independent, the government controls its budget, making the CAC vulnerable to political pressures. To fight corruption, the government undertook surprise inspections of government-run programs and increased pressure to implement asset management and transparency systems.

Corruption: During the year the CAC addressed several corruption cases. Anecdotally, corruption was widespread among government officials. There were accusations of police, including border police, involvement in corruption--most commonly bribery and abuse of power. Allegations of nepotism in government hiring were common. The customs service was under scrutiny for alleged corruption related to incoming goods, but no cases were filed. The 2016 National Risk Assessment of Money Laundering and Terrorist Financing called corruption endemic.

A case against former president of the National Parliament Vicente Guterres for “crimes of economic participation” involving the sale of cars for parliamentarians was stalled because the Dili District Court was still waiting to see if the parliament would grant a waiver of immunity.

Financial Disclosure: The law requires that the highest members of government declare their assets to the Court of Appeals, but the declarations do not have to be made public and there are no criminal penalties for noncompliance. President Lu Olo made a public asset disclosure after taking office in May.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials usually cooperated with these organizations, although the government did not always respond to their recommendations.

Civil society criticized the government for insufficient efforts to address crimes committed during Indonesian control of Timor-Leste. The government was generally unresponsive, but created the Centro Nacional Chega to continue documentation of Timorese resistance to Indonesian occupation.

Government Human Rights Bodies: By law, the independent PDHJ is responsible for the promotion of human rights and good governance and has its own budget and dedicated staff. It has the power to investigate and monitor human rights abuses and governance standards as well as make recommendations, including for prosecution, to relevant authorities. The PDHJ has satellite offices in Manufahi, Maliana, Oecusse, and Baucau. According to the Deputy Director, PDHJ received 46 complaints related to human rights from January to September. During the year the office investigated and monitored land evictions, access to justice, governance, prisoner complaints, and abuse by security forces. There were no reports of significant government interference. The PDHJ, in cooperation with the UNDP, provided human rights training to the PNTL. PDHJ also organized a human rights training for the F-FDTL in November, which included ceremonial opening remarks from President Lu Olo.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

### **Women**

Rape and Domestic Violence: Gender-based violence remained a serious concern. A 2016 Asia Foundation study found that 59 percent of girls and women between 15 and 49 years old had experienced sexual or physical violence at the hands of an intimate partner and that 14 percent of girls and women had been raped by someone other than a partner. Although rape, including marital rape, is a crime punishable by up to 20 years in prison, failures to investigate or prosecute cases of alleged rape and sexual abuse were common. Nevertheless, the formal justice system addressed an increasing number of reported domestic and sexual abuse cases.

The law broadly covers all forms of domestic violence, including marital rape, and augments the Penal Code. Penalties for “Mistreatment of a Spouse” include two to six years imprisonment; however, prosecutors frequently used a different article in domestic violence cases (“Simple Offenses against Physical Integrity”), which carries a sentence of up to three years in prison. Judicial observers noted judges were lenient in sentencing in domestic violence cases. Local NGOs viewed the

law as having a positive effect by encouraging victims of domestic violence to report their cases to police.

According to the Office of the Prosecutor General, domestic violence offenses were the second-most commonly charged crimes in the criminal justice system, after simple assault. Several NGOs criticized the failure to issue protection orders and over-reliance on suspended sentences, even in cases involving significant bodily harm. Prosecutors routinely charged cases involving aggravated injury and use of deadly weapons as low-level simple assaults.

Police, prosecutors, and judges routinely ignored many parts of the law that protect victims. NGOs noted that fines were paid to the court and often came from shared family resources, further hurting the victim.

The PNTL's Vulnerable Persons Units (VPUs) generally handled cases of domestic violence and sexual crimes, but does not have enough staff to provide a significant presence in all areas of the country.

The Ministry of Social Solidarity is charged with providing assistance to victims of domestic violence. Due to staff shortages, the ministry had difficulty responding to all cases. To deal with this problem, the ministry worked closely with local NGOs and service providers to offer assistance to victims of violence.

Sexual Harassment: The labor code prohibits sexual harassment in the work place, but such harassment reportedly was widespread. Relevant authorities processed no such cases during the year (see section 7.d.).

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: [www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/](http://www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/).

Discrimination: The constitution states that “women and men shall have the same rights and duties in all areas of family life and political, economic, social, cultural life,” but it does not specifically address discrimination. The country's Permanent Representative to the UN acknowledged that “women are often still the primary target of social discrimination” in a September speech. Some customary practices discriminate against women, including traditional inheritance systems that tend to exclude women from land ownership.

Some communities continued to practice the payment of a bride price as part of marriage agreements (barlake); this practice has been linked to domestic violence and to the inability to leave an abusive relationship. Some communities also continued the practice of forcing a widow to either marry one of her husband's family members or, if she and her husband did not have children together, leave her husband's home.

The secretary of state for gender equality and social inclusion is responsible for the promotion of gender equality. More than 30 NGOs focused and collaborated on women's issues. During the parliamentary election campaign, this advocacy network signed pacts with the leaders of seven major political parties to uphold and defend the rights of women and children in the program for the new government.

## **Children**

Birth Registration: Children acquire citizenship through birth within the country or by having a citizen parent or grandparent. A central civil registry lists a child's name at birth and issues birth certificates. According to the 2015 census, birth registration rates were high, with no discernible difference in the rates of registration for girls and boys. While access to services such as schooling does not depend on birth registration, birth registration is necessary to acquire a passport. Registration later in life requires only a reference from the village chief.

Education: The constitution stipulates that primary education shall be compulsory and free. The law requires nine years of compulsory education beginning at six years of age; however, there is no system to ensure that the provision of education is free. Public schools were tuition-free, but students paid for supplies and uniforms. According to government statistics, the net access rate for primary education was 88 percent, while the net access rate for secondary education was 32 percent. Non-enrollment was substantially higher in rural than in urban areas. While initial attendance rates for boys and girls were similar, girls often were forced to leave school if they became pregnant and faced difficulty in obtaining school documents or transferring schools. Lack of sanitation facilities at some schools also led some girls to drop out upon reaching puberty.

Child Abuse: The law protects against child abuse; however, abuse in many forms was common. Sexual abuse of children remained a serious concern. Despite widespread reports of child abuse, few cases entered the judicial system.

Observers criticized the courts for handing down shorter sentences than prescribed by law in numerous cases of sexual abuse of children during the year.

While the Ministry of Education has a zero tolerance policy for corporal punishment, there is no law on the issue, and reports indicated the practice was common.

Early and Forced Marriage: Although a marriage cannot be registered until the younger spouse is at least age 16, cultural, religious and civil marriages were recognized in the civil code. Cultural pressure to marry, especially if a girl or woman becomes pregnant, was strong. Underage couples cannot officially marry, but are often married de facto once they have children together. Forced marriage rarely occurred, although reports indicated that social pressure sometimes encouraged victims of rape to marry their attacker or persons to enter into an arranged marriage where a bride price was paid. According to the most recent information from UNICEF (2015), an estimated 19 percent of girls married prior to the age of 18.

Sexual Exploitation of Children: Sexual assault against children was a significant problem, but largely unaddressed. The age of consent is 14, according to the Penal Code. Some commercial sexual exploitation of children also occurred. The penal code makes sexual conduct by an adult with anyone below the age of 17 a crime, and increases penalties when such conduct involves victims younger than 14. The penal code also makes both child prostitution and child pornography crimes. It defines a “child” for purposes of those provisions as a “minor less than 17 years of age. The penal code also criminalizes abduction of a minor.

There were reports that child victims of sexual abuse were sometimes forced to testify in public fora despite a witness protection law that provides for video link or other secure testimony.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at [travel.state.gov/content/childabduction/en/legal/compliance.html](http://travel.state.gov/content/childabduction/en/legal/compliance.html).

## **Anti-Semitism**

There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## **Persons with Disabilities**

The constitution grants equal rights to and prohibits discrimination against persons with disabilities in addition to requiring the state to protect them. No specific legislation addresses the rights and/or support of persons with disabilities.

The Ministry of Social Solidarity is responsible for protecting the rights of persons with disabilities. The Ministry of Health is responsible for treating mental disabilities. In many municipalities, children with disabilities were unable to attend school due to accessibility problems. Beginning in 2016, the Ministry of Social Solidarity worked with the Ministries of Health and Education on an inclusive education pilot program to improve access to education for people with disabilities.

Electoral regulations provide accommodations, including personal assistance, to enable persons with disabilities to vote.

Service providers noted that domestic violence and sexual assault against persons with disabilities was a growing concern. They indicated that such cases had been slow to receive support from the justice sector. Persons with mental disabilities accused of crimes are entitled to special protections by law. Prisons did not have specific supports for persons with mental disabilities.

## **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

The constitution and law are silent on same-sex relations and other matters of sexual orientation and gender identity. The PDHJ worked with civil society organization CODIVA (Coalition on Diversity and Action) to increase awareness in the lesbian, gay, bisexual, transgender, and intersex (LGBTI) community regarding processes available for human rights complaints. While physical abuse in public or by public authorities was uncommon, LGBTI persons were often verbally abused and discriminated against in some public services, including medical centers. CODIVA noted that transgender members of the community

were particularly vulnerable to harassment and discrimination. A November study conducted for Rede Feto, a national women's advocacy network, with lesbian and bisexual women and transgender men in Dili and Bobonaro documented the use by family members of corrective rape, physical and psychological abuse, ostracism, discrimination, and marginalization against LGBTI individuals.

Access to education was limited for some LGBTI persons who were removed from the family home or who feared abuse at school. Transgender students were more likely to experience bullying and drop out of school at the secondary level.

In June members of civil society organized Timor-Leste's first-ever Pride March in Dili. The march included participation from students, activists, and a representative of the Prime Minister's Office. Then prime minister Araujo met with LGBTI organizations and called for acceptance of LGBTI individuals on his official Facebook and Twitter accounts.

### **HIV and AIDS Social Stigma**

The National AIDS Commission is responsible for providing information, programming, and campaigns on HIV/AIDS; however, no government body was tasked with providing specific services and advocacy. According to civil society organizations, HIV and AIDS patients experienced social stigma and were ostracized by their families and communities.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law protects the right of workers to form and join unions of their choosing, the right to strike, and bargain collectively--all of which the government generally respected. The law prohibits dismissal or discrimination for union activity, and it allows for financial compensation in lieu of reinstatement. The law prohibits foreign migrant workers from participating in the leadership of trade unions, but does not restrict their membership. The law does not apply to workers in family-owned agricultural or industrial businesses used primarily for subsistence, nor does it apply to civil servants.

There are official registration procedures for trade unions and employer organizations. Workers employed by companies or institutions that provide "indispensable social needs" such as pharmacies, hospitals, or telecommunications

firms are not barred from striking, but they are “obliged to ensure the provision of minimal services deemed indispensable” to satisfy public needs during a strike. The law allows the Council of Ministers to suspend a strike if it affects public order. The law prohibits employer lockouts.

The secretary of state for youth and labor is charged with implementing the labor code and labor dispute settlement. The government lacked sufficient resources and skilled staff to enforce the right to freedom of association adequately. The trade union confederation registered 187 cases of alleged violations of labor rights between October 2016 and October 2017. According to the trade union confederation, many disputes involved employees who were fired upon returning from sick or maternity leave. Violations of the labor code are punishable by fines and other penalties, but they are not sufficient to deter violations. The confederation alleged that the secretary of state for youth and labor’s mediation procedures favored the employer. Alleged violations included failure to provide maternity benefits, nonpayment of wages, and unfair dismissal.

Workers’ organizations were generally independent and operated without interference from government or employers. Unions may draft their own constitutions and rules and elect their representatives. The majority of workers were employed in the informal sector, resulting in a large nonunionized work force. Attempts to organize workers were slow since workers generally lacked experience negotiating contracts and engaging in collective bargaining.

#### **b. Prohibition of Forced or Compulsory Labor**

The penal code prohibits and criminalizes enslavement. The penal code also considers forced labor and deceptive hiring practices to be a form of human trafficking. The secretary of state for youth and labor acknowledged having insufficient human and financial capacity to enforce the laws. The law prescribes imprisonment penalties; however, these were not sufficient to deter violations.

In February the government promulgated the Law on Preventing and Combating Human Trafficking to amend the criminal code, extending criminal liability for trafficking to “legal persons,” such as corporations. The new law prescribes fines, judicial dissolution, and asset forfeiture as penalties, and authorizes compensation of victims. The government coordinated implementation of a new national action plan through the Interagency Working Group to Combat Human Trafficking.

Forced labor and trafficking of adults and children occurred (see section 7.c.), but was not widespread. Timorese women, girls, and occasionally young men and boys from rural areas who came to Dili in pursuit of better educational and employment prospects were in some instances subjected to sex trafficking or domestic servitude. Timorese family members placed children in bonded household and agricultural labor, primarily in domestic rural areas, to pay off family debts.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law prohibits child labor and specifically prohibits children under age 15 from working, except in "light work" and in vocational training programs for children between 13 and 15 years of age. The labor law specifically outlaws all of the worst forms of child labor and prohibits minors (defined as a person younger than age 17) from all forms of hazardous work, a definition that leaves 17-year-olds vulnerable to child labor and exploitation. The government generally did not enforce child labor laws outside the capital. The labor code does not apply to family-owned businesses operated for subsistence, the sector in which most children worked. The government has not adopted a list of prohibited hazardous work.

The Ministry of Social Solidarity, the secretary of state for youth and labor, and the PNTL are responsible for enforcing child labor law. A lack of child labor professionals at the Office of the Secretary of State for Youth and Labor hindered proper enforcement. The number of labor inspectors was inadequate to investigate child labor cases and enforce the law, particularly in rural areas where child labor in the agriculture sector is prevalent. Penalties for child labor and forced labor violations may include fines and imprisonment; however, they were insufficient to deter violations.

Child labor in the informal sector was a problem, particularly in agriculture, street vending, and domestic service. The National Commission against Child Labor conducts national assessments of child and forced labor, to identify and create a list of work regarded as hazardous for children, and create a national action plan.

Children in rural areas continued to engage in dangerous agricultural activities, such as cultivating and processing coffee in family-run businesses, using

dangerous machinery and tools, carrying heavy loads, and applying harmful pesticides. In rural areas, heavily indebted parents sometimes put their children to work as indentured servants to settle debts. If the child is a girl, the receiving family could also demand any bride price payment normally owed to the girl's parents. Children were also employed in fishing, with some working long hours, performing physically demanding tasks, and facing dangerous conditions

There were some reports of commercial sexual exploitation of children.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/reports/child-labor/findings/](http://www.dol.gov/ilab/reports/child-labor/findings/).

#### **d. Discrimination with Respect to Employment and Occupation**

The labor code prohibits discrimination based on color, race, civil status, gender, nationality, ethnic ancestry or origin, social position or economic status, political or ideological convictions, religion, physical or mental condition, age, or health status. The code also mandates equal pay. There is no specific protection against discrimination based on sexual orientation. The government did not effectively enforce the code's provisions.

Employers may only require workers to undergo medical testing, including HIV testing, with the worker's written consent. Work visa applications require medical clearance.

Discrimination against women reportedly was common throughout the government, but sometimes went unaddressed. NGO workers noted that this was largely due to lack of other employment opportunities and fear of retaliation among victims. Women also were disadvantaged in pursuing job opportunities due to cultural norms, stereotypes, and an overall lower level of qualifications or education. Some reported that pregnant women did not receive maternity leave and other protections guaranteed by the labor code.

#### **e. Acceptable Conditions of Work**

The legally set minimum monthly wage is \$115 (the U.S. dollar is the legal currency). The official national poverty level is \$1.00 per day. According to the World Bank's October East Asia and Pacific Economic Update, 30.3 percent of the population lived at or below the International Poverty Rate of \$1.9 per day, while the Basic Needs Poverty Rate was 41.8 percent. The labor code provides for a

standard workweek of 44 hours. Overtime cannot exceed 16 hours per week, except in emergencies, which the labor code defined as “force majeure or where such work is indispensable in order to prevent or repair serious damages for the company or for its feasibility.” The law sets minimum standards for worker health and safety. The law provides explicitly for the right of pregnant women and new mothers to discontinue work that might harm their health without a cut in pay. It does not provide other workers the right to leave a hazardous workplace without threat of dismissal. The law requires equal treatment and remuneration for all workers, including legally employed foreign workers.

The law covers all formal sectors except civil servants, defense and police force members, and family-owned businesses operated for subsistence. The secretary of state for youth and labor is responsible for enforcement of the law. The secretary of state for youth and labor acknowledged that it lacked staff and resources to provide effective protection. The law, including legislation pertaining to hazardous work, does not apply to the informal sector; according to data from the Ministry of Finance, the informal sector employed 72 percent of the workforce. Domestic workers, a large percentage of the working population, especially of working women, were inadequately protected and particularly vulnerable to exploitative working conditions, with many receiving less than minimum wage for long hours of work. The number of inspectors was insufficient to enforce the law adequately.

The labor code does not assign specific penalties or fines for violations of wage, hour, or occupational health and safety laws. Labor unions criticized inspectors for visiting worksites infrequently and for only discussing labor concerns with managers during inspections.

According to a local union, the government lacked the political will and institutional capacity to implement and enforce the labor code fully, and violations of minimum safety and health standards were common, particularly in the construction industry.