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**STATUS OF HUMAN RIGHTS IN THE DEMOCRATIC REPUBLIC OF TIMOR-LESTE
FOR THE 40TH SESSION OF THE
UNIVERSAL PERIODIC REVIEW**

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Introduction:

1. The European Centre for Law and Justice (ECLJ) is an international, non-governmental organisation dedicated to promoting and protecting human rights around the world. The ECLJ holds Special Consultative Status before the United Nations Economic and Social Council. The purpose of this report is to voice concerns regarding human rights abuses in the Democratic Republic of Timor-Leste (Timor-Leste) for the 40th Session of the Universal Periodic Review (UPR).

Background

2. Timor-Leste is an island country located in Southeast Asia with an estimated population of 1.4 million¹. The country is predominately Christians with 97.6% of the population identifying as Roman Catholic, 2% as Protestant/Evangelical, 0.2% as Muslim, and 0.2% as other².

3. Timor-Leste's previous review was held on 3 November 2016³. As a result, Timor-Leste received 154 recommendations, 146 of which Timor-Leste supported. One recommendation that Timor-Leste received and supported was for it to "[e]nact comprehensive anti-trafficking legislation to ensure that everyone, including those under 18 years of age, is protected in accordance with the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime"⁴. There were no recommendations made regarding religious freedom.

Legal Framework

4. Section 50 of the Constitution of Timor-Leste states the following:

1. Every citizen, regardless of gender, has the right and the duty to work and to choose freely his or her profession.
2. The worker has the right to labour and safety and hygiene, remuneration, rest and vacation.
3. Dismissal without just cause or on political, religious and ideological grounds is prohibited.
4. Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.
5. The State shall promote the establishment of co-operatives of production and shall lend support to household businesses as sources of employment⁵.

5. Additionally, Section 18 of the Constitution enshrines protections for children:
 1. Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.
 2. Children shall enjoy all rights that are universally recognised, as well as all those that are enshrined in international conventions commonly ratified or approved by the State.
 3. Every child born inside or outside wedlock shall enjoy the same rights and social protection⁶.
6. Furthermore, Article 163 of the penal code of Timor-Leste describes the crime of human trafficking as the following:
 1. Any person who recruits, assigns, purchases, transports, transfers, houses or receives persons, through use of threats, force or other forms of coercion, kidnapping, fraud, trickery, abuse of power or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, to obtain the consent of a person with authority over another, for purposes of exploitation, shall be punishable with 8 to 20 years imprisonment.
 2. The penalty referred to in the subarticle above shall apply to any person who recruits, transports, transfers, houses or receives a minor under the age of 17 for the purpose of exploiting the same, even if none of the means referred to in the subarticle above are involved.
 3. For the purpose of applying the provisions of this article, exploitation shall include but is not limited to exploitation through prostitution of another person or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or extraction of organs.
 4. Consent of the victim is irrelevant, if any of the means referred to in subarticle 1 were employed⁷.
7. On 25 January 2017, Timor-Leste enacted the Law on the Prevention and Fight Against Human Trafficking and the Fourth Amendment to the Penal Code, which was designed to complement Article 163 of the Penal Code and align its laws with the international treaties to which it is a party⁸. The new law further expounds upon the penal code by instituting new ways of combatting human trafficking and establishing methods of compensation and protection for victims.
8. In 2004, Timor-Leste acceded to the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children supplementing the United Nations Convention against Transnational Organized Crime. Under Article 2, the purpose of this Protocol is “(a) To prevent

and combat trafficking in persons, paying particular attention to women and children; (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and (c) To promote cooperation among States Parties in order to meet those objectives”⁹.

9. Timor-Leste has also signed and ratified the Convention on the Rights of the Child (CRC). Under Articles 34 and 35 of the CRC:

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- (b) The exploitative use of children in prostitution or other unlawful sexual practices;
- (c) The exploitative use of children in pornographic performances and materials¹⁰.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form¹¹.

10. Furthermore, Timor-Leste has also signed and ratified the International Covenant on Civil and Political Rights (ICCPR). Under Article 8 of the ICCPR:

1. No one shall be held in slavery; slavery and the slave-trade in all their forms shall be prohibited.
2. No one shall be held in servitude.
- 3(a) No one shall be required to perform forced or compulsory labour¹².

Human Trafficking in Timor-Leste

11. According to the UN, there are approximately 500 victims of human trafficking in Timor-Leste every year¹³. There are three ways that human traffickers engage in their illicit activities. First, approximately 70% of all human trafficking cases in Timor-Leste consist of Timorese citizens being trafficked to neighboring countries¹⁴. Poverty serves as one of the main drivers for human trafficking. Since 42% of Timor-Leste’s population lives below the poverty line, human traffickers are able to entice their victims by falsely promising them employment opportunities or education¹⁵.

12. Second, 20% of human trafficking victims come from neighbouring countries such as China, Indonesia, Thailand, Myanmar, and the Philippines¹⁶. The victims face forced labour and sexual exploitation¹⁷.

13. Third, 10% of human trafficking victims are Timorese citizens and are trafficked within Timor-Leste¹⁸. In this form of internal trafficking, the primary victims are children under 18 years of age who are sold into domestic servitude, forced labour, and sexual exploitation¹⁹.

14. In recent years, the government's focus on investigating and prosecuting human trafficking cases has been severely lacking. In 2018, the government investigated only 65 cases of human trafficking—down from 267 cases in the prior year²⁰. Even more concerning is that very few cases that are prosecuted result in successful convictions²¹. While there are estimates on the number of human trafficking victims in Timor-Leste, the government has failed to curate data that would reveal the true scope of the issue²². Furthermore, the country's National Action Plan to Combat Human Trafficking expired in 2018, and the Government has yet to either renew or create a new one²³.

15. Since the previous UPR in 2016, Timor-Leste government agencies such as the Ministry of Justice, Ministry of Foreign Affairs and Cooperation, Ministry of Interior, and the Ministry of State Administration have begun working with civil society groups and international organisations such as the International Organization for Migration (IOM) to form a Working Group on Human Trafficking²⁴. Since partnering with the IOM in 2016, Timor-Leste has trained 660 individuals who work as law enforcement agents, government personnel, social services staff, NGOs, judges, and prosecutors with the focus on developing national surveillance and referral mechanisms to better protect victims of human trafficking²⁵.

16. However, despite these measures, Timor-Leste still convicts few human traffickers²⁶. Since victims who are trafficked from foreign countries are not legally in Timor-Leste, law enforcement officers often deport them as criminals rather than recognizing them as victims of human trafficking²⁷. Therefore, it is difficult to effectively prosecute cases of human trafficking because victims are not properly identified and testimonies are not obtained from the victims before they are deported²⁸. Furthermore, while the government has increased human trafficking training and education for law enforcement, the country still fails to provide adequate assistance to victims of human trafficking²⁹.

Conclusion

17. Timor-Leste has taken commendable steps to effectively combat human trafficking. To further improve, the government should adopt Standard Operating Procedures (SOPs) to help identify victims of human trafficking, especially those who have been trafficked from foreign nations. Additionally, the government must provide proper aid and assistance for victims through a new National Action Plan based on accurately collected and reported data regarding the true scope of human trafficking within Timor-Leste.

¹ *Timor-Leste*, WORLD FACTBOOK (15 Mar. 2021), <https://www.cia.gov/the-world-factbook/countries/timor-leste/>.

² *Id.*

³ *Universal Periodic Review – Timor-Leste*, UNHRC, <https://www.ohchr.org/EN/HRBodies/UPR/Pages/TLIndex.aspx>.

⁴ UPR of Timor-Leste – Thematic List of Recommendations A/HRC/34/11/Add.1 – Para. 5, <https://lib.ohchr.org/HRBodies/UPR/Documents/Session26/TL/MatriceRecommendationsTimorLeste.docx>.

⁵ Constitution of the Democratic Republic of Timor-Leste sec. 50, http://timor-leste.gov.tl/wp-content/uploads/2010/03/Constitution_RDTL_ENG.pdf.

⁶ *Id.* at sec. 18.

⁷ Penal Code of the Democratic Republic of Timor Leste art. 163, <https://www.wipo.int/edocs/lexdocs/laws/en/tl/tl006en.pdf>.

⁸ Concluding Observations on the initial report of Timor-Leste Information Received from Timor-Leste on Follow-up to the Concluding Observations, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CMW%2FC%2FTLS%2FCO%2F1%2FAdd.1&Lang=en.

⁹ United Nations Convention Against Transnational Organized Crime and the Protocols Thereto, annex 2 art. 2, https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf.

¹⁰ Convention on the Rights of the Child, 20 Nov. 1989, G.A. Res. 44/25, art. 34, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

¹¹ *Id.* at art. 35.

¹² International Covenant on Civil and Political Rights, 16 Dec. 1966, S. Treaty Doc. No. 95-20, 6 I.L.M. 368 (1967), 999 U.N.T.S. 171, art. 8.

¹³ *Timor Leste 2021/2025*, UNSDCF, https://www.undp.org/content/dam/undp/library/corporate/Executive%20Board/2020/Second-regular-session/DPDCPTLS3_UNSCDF%20signed.pdf.

¹⁴ *10 Facts About Human Trafficking in Timor-Leste*, INTERNATIONAL ORGANIZATION ON MIGRATION, https://www.iom.int/sites/default/files/country/docs/timor-leste/10_facts_about_human_trafficking_in_timor-leste_iom_counter-trafficking_programme_2018.pdf.

¹⁵ Sarah Betuel, *5 Facts About Poverty in Timor-Leste*, THE BORGES PROJECT (22 Aug. 2020), <https://borgesproject.org/facts-poverty-in-timor-leste/>.

¹⁶ *10 Facts About Human Trafficking*, *supra* note 14.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Timor-Leste*, FREEDOM HOUSE, <https://freedomhouse.org/country/timor-leste/freedom-world/2020>.

²¹ *Id.*

²² *Timor-Leste Supporting Gender Equality and Women's Rights*, UN WOMEN, https://www.unwomen.org/mdgf/A/Timor-Leste_A.html.

²³ *Timor-Leste 2021/2025*, *supra* note 13.

²⁴ Concluding Observations on the initial report of Timor-Leste Information Received from Timor-Leste on Follow-up to the Concluding Observations, *supra* note 8.

²⁵ *10 Facts About Human Trafficking in Timor-Leste*, *supra* note 14.

²⁶ *East Timor: State Has One Year to Correct Problems of Human Trafficking – USA*, MACCAU NEWS AGENCY (6 May 2021), <https://www.macaubusiness.com/east-timor-state-has-one-year-to-correct-problems-of-human-trafficking-usa/>.

²⁷ *Id.*

²⁸ *Id.*

²⁹ *Id.*