



**PROVEDORIA FOR HUMAN RIGHTS AND JUSTICE  
TIMOR LESTE**

**REPORT PRESENTED AT**

**16<sup>TH</sup> ANNUAL MEETING AND BIENNIAL CONFERENCE OF THE ASIA PACIFIC  
FORUM (APF)  
6-8 SEPTEMBER 2011, BANGKOK - THAILAND**

## INTRODUCTION

The Provedoria for Human Rights and Justice (PDHJ), Timor-Leste's National Human Rights Institution was established through the National Parliament's Law No. 7/2004 in compliance with the Constitution which stipulates the establishment of an "an independent organ in charge of examining and seeking to settle citizens' complaints against public bodies, preventing and initiating the whole process to remedy injustice". The PDHJ has a mandate to act to promote and protect human rights and promote good governance.

This report summarizes the developments in area of human rights in Timor Leste related to the activities of the Provedoria during the period of August 2010 to July 2011. The report provides an update to issues previously reported by PDHJ to the APF Annual Meeting in 2010. Of special significance during this period is PDHJ's work with civil society organizations to conduct nation wide consultations and draft a joint report which was submitted for the Universal Periodic Review Process (UPR). This report includes key findings and recommendations of the PDHJ and civil society UPR report.<sup>1</sup>

### A. SECURITY AND HUMAN RIGHTS

Peace and stability are fundamental prerequisites to be able to realize most human rights and stability was achieved in general through out the year. It is on a positive note that it is reported that the security situation in Timor Leste over the past year has been generally good and significantly improved from 2006-2008. In March 2011 the Timorese national Police force resumed full policing authority from the UN and although UN police presence remains, it is only in a supporting role. The PDHJ continues to focus it monitoring, investigation and education work toward the police. At the human rights day celebrations in December 2010 the Provedor sought to encourage the Police leadership to reduce human rights violations by police in presenting an award to the District Commander of the district in which the least amount of complaints against the police were received by the PDHJ.

In 2010 PDHJ received 75 complaints about human rights violations and 79% of these related to action of the security forces, 74% related to allegations of violations by the police and 5% in related to the military. Of particular concern was one case involving the physical assault a group of youth by members of the military which resulted in two people being injured and one person killed. This case was referred to the Office of the Public Prosecutor and is awaiting trial. PDHJ will continue to focus on the work of the police in 2012 as carry out their responsibilities in providing security during the Presidential and Parliamentary elections which are scheduled for 2012.

In 2010 PDHJ continued to undertake monitoring places in which former IPDs had returned or relocated after the large scale displacement in 2006-2007. The monitoring

---

<sup>1</sup> The full version of the report can be found at [www.pdhj.org](http://www.pdhj.org).

focused on areas which were identified as being at risk of conflict. While security was generally good and within many communities progress was made toward increasing stability, there were some communities in which potential for future conflict. Common themes of causes for concern for potential conflict relate to ongoing land disputes, conflicts between martial arts and political groups, and access to resources such as clean water and electricity remained evident. PDHJ conducted trainings and facilitated community meetings in relation to human rights and laws related to martial arts groups and community leaders in areas perceived to have potential for re-emergence of conflict.

## **B. PROMOTION AND PROTECTION OF WOMEN'S RIGHTS**

Discrimination against women and gender based violence remains a key human rights concern in Timor Leste. Both the occurrence of violence within the home and the acceptance of this violence is wide-spread. A recent survey found that 34 % of women have experienced violence by their husband or partner and approximately 80% of men and women believe that a husband is justified in beating his wife for a specific reason, such as neglecting children, arguing or burning food.<sup>2</sup> A number of positive advances have been made toward the protection of women and children from violence in the past year however it will take time to ensure implementation and realise reduction in the incidences of violence.

As reported to the Forum last year, on 21 June 2010 the law against domestic violence entered into force. In order to support the implementation of the law, the Secretary of State for Promotion of Equality (SEPI) together with the PDHJ and civil society has conducted socialization campaigns and trainings on the law for community leaders, police and medical staff to increase understanding about the law against domestic violence. PDHJ has also worked with SEPI in convening high level ministerial meetings to determine action plans for the inter-ministerial cooperation for the implementation of the law. Adequate resources are also necessary and toward this aim PDHJ, together with SEPI and civil society has conducted advocacy on gender responsive budgeting to try to increase financing for the law in 2012.

A further positive development in the promotion of gender equality was achieved with the increased rate of participation of women in party lists for the upcoming parliamentary elections. Law 7/2011 stipulates that at least one in every three candidates must be a women, which is an increase from the previous quota of one in every four candidates. PDHJ will conduct monitoring and training in the lead up to the 2012 elections.

## **F. UPR CONSULTATIONS AND REPORT**

A joint submission was prepared under an agreement between the Provedoria and 54 civil society organizations for the UPR process. A National Secretariat was established coordinated by the PDHJ to bring together its staff and representatives from NGOs. A

---

<sup>2</sup> National Statistics Directorate, Ministry of Finance Democratic Republic of Timor-Leste, Dili, Demographic and Health Survey for Timor –Leste 2009-2010.

team for analysis and drafting was established under the leadership of Forum Tau Matan (FTM) a Timorese national NGO. This technical secretariat gathered together reports resulting from civil society discussion groups in all the thirteen districts of Timor Leste. Subsequent to the submission of report to OHCHR in March the PDHJ and civil society has engaged in an advocacy campaign with national and international representatives in order to ensure that concerns raised in the joint submission will be discussed at the Human Rights Council session on 12 October 2011.

The UPR consultation process prioritized 20 major human rights concerns and based on discussions of these issues 54 recommendations were made to the Timorese State.

### **Children's rights**

The lack of fulfillment of children's rights was a focus of the report, in particular the poor nutritional status of children and high infant mortality rate. According to a recent health survey acute malnutrition or wasting is at high levels with 19% of children under five years old wasted and 7% being severely wasted.<sup>3</sup> The report urges a greater focus on inter-ministerial cooperation to ensure an integrated response to health problems, through access to health services, increased food productivity, access to clean water, sanitation and electricity. The State's attempts to address the problem through school feeding programmes were recognized but the report also drew attention to the fact that the programme has been undermined by a lack of quality and hygiene concerns in its implementation.

High drop out rates of school children was also raised as a problem especially for those in rural areas and it was recommended that families with limited financial resources need greater support to send children to school. Further, specific programmes aimed at encouraging children who have dropped- out to return to school need to be expanded to regional areas. The report also highlighted the need to establish a juvenile justice regime including separate detention facilities and social re-integration programmes.

### **Women's rights**

The continued high rates of violence against women in the home is another focus of the report. The report recommends prosecution of domestic violence cases, public education campaigns on the law against domestic violence as well as measures against underage marriage.

### **Access to Justice**

Within the right to access to justice the report raised concerns about difficulties detainees face in accessing *pro bono* legal assistance, restrictions of number of qualified lawyers, long delays due to a large backlog of cases and the challenge of Portuguese being used as the main language of the courts although it is understood by only a small percentage of the population. During the UPR process the PDHJ and civil society will be lobbying for a number of reforms including amending the law related to the accreditation of lawyers,

---

<sup>3</sup> National Statistics Directorate, Ministry of Finance Democratic Republic of Timor-Leste, Dili, Demographic and Health Survey for Timor –Leste 2009-2010.

inclusion of Tetun as a language of the courts, capacity development of justice personnel and enhanced infrastructure.

### **Economic, Social and Cultural Rights**

The rights to food, housing, land, health and indigenous languages were the main economic, social, and cultural rights raised in the report. The report recommends to Timor-Leste to re-evaluate efforts to achieve food security for Timor Leste in recognition that measures to date have not increased Timor's food production. In the area of adequate housing the report details that 58% of communities in the country continue to live in conditions of poor housing, with the majority having no access to clean water and sanitation, and increasing number of inhabitants. The report recommends that the state develop a social housing programme including a 'rent to buy' option to ensure accessibility for all. The report also drew attention to state plans to evict people from state land which may lead to more than seven thousand people losing their homes and called on the government to take measures to ensure evictions comply with international human rights standards.

The report highlights difficulties for youth in accessing higher education as well as work. The fact that Timor Leste only has one public university means that it is difficult to access to higher education especially for those with a low income. Further, there are 16,000 people entering the labour market each year, and just over 15% continue with higher education and professional training, only 4% have the possibility of finding work and the majority remain unemployed. The report indicates that often Timorese people do not have sufficient skills to compete in the labour market with migrant workers whose numbers have increased. The report recommends that the state approve the new Labour Code legislating minimum wages, social security and protection in the workplace as well as the need to strengthen initiatives to create jobs by adopting urgent measures to develop programs oriented at providing skills for young people.

The lack of recognition and official use of indigenous languages was the main cultural right raised in the report. The report noted that the reliance on Portuguese within state bureaucracy, courts, laws and education, resulting in a lack of accessibility and leaning difficulties for Timorese people. The report called on the State to develop and use Tetun as an official language as well as using other indigenous languages in education.

### **Rights of people with disabilities**

The report also highlights the disadvantage faced by people with disabilities in Timor Leste. The report details the difficulties of children with disabilities being able to access education services due to a lack of policy on inclusive education as well as lack of infrastructure and trained teachers. Further, it was documented that in general the participation of disabled people in public life in Timor-Leste is very low with almost no program of integrated protection, access to public life, health treatment, and social security. Further, most support is provided to disabled people from approximately 10 NGOs in Timor Leste rather than from State programmes. The report calls on the State to take urgent measure to create a specific policy to provide reasonable assistance to access

employment, communications, transport, sporting activities, individual assistance, and the provision of health and education services. The State is also urged to take strong measures to combat discrimination against people with disabilities including adopting and implementing the United Nations conventions regarding the protection of people with disabilities.

## **G. NATIONAL AND INTERNATIONAL COOPERATION**

PDHJ continued its partnership with other institutions in carrying out its efforts toward education, monitoring and advocacy on human rights issues including cooperation with UNMIT Human Rights Justice Section, the Office of the Prosecutor General, and also national NGOs. PDHJ also increased its regional human rights cooperation becoming a member of the South East Asian National Human Rights Institutions Forum (SEANF). PDHJ contributed to SEANF's technical and planning meetings during the year. The PDHJ continued its involvement with AFP and ICC with the Provedor presenting at the Annual ICC meeting in Geneva on PDHJ's work in protecting women human rights defenders.

## **I. INSTITUTIONAL DEVELOPMENT**

During the past 12 months a number of positive developments have strengthened the Provedoria's institutional and legal framework and will enhance the PDHJ's effectiveness in the future. Firstly, in July 2011 the Organic Law of the Provedoria came into force. This law outlines the functions and coordination of sections within the PDHJ. The provisions of the Organic Law fortify the independence of the Provedor ensuring that the Provedor has control over recruitment and disciplinary matters related to PDHJ staff. The law requires gender parity in PDHJ recruitment and provides a legal basis for the work of the PDHJ consultative council. The special nature of the work of the staff of the Provedoria as well as the risks that their work entails has also been recognised with a 20% increase in salary.

In 2011 PDHJ's work has been supported by an increase in budget USD1.3 million, up from USD 864,000 in 2010. Further a recruitment of an additional 34 new staff will be undertaken in the coming months to bring total number of staff to 100. This additional staff will serve to enhance PDHJ's regional presence. The majority of PDHJ staff have been on temporary contracts for many years and in July 2011 nearly all PDHJ staff have received permanent status which will strengthen the sustainability of PDHJ's work.

## **J. CAPACITY DEVELOPMENT**

The capacity development of PDHJ staff continued as an institutional priority in the past year with the implementation of the capacity development plan through state funded activities and with the support of development partners UNDP and OHCHR. Over the past year the Project has supported the development of technical skills of PDHJ legal officers and human rights investigators, human rights analysis and report writing skills, as

well as the regulatory and policy framework of the PDHJ including support for development of the organic law of the Provedoria, strategic plan, case management and information systems.<sup>4</sup>

In addition to the trainings, mentoring and workshops organised by the UNDP/ OHCHR Project, PDHJ staff attended technical human right trainings overseas including Equal Status and Human Rights of Women in South East Asia (AFP blended learning course), Human Rights Education Training (EQUITAS, Canada), Human Rights and Migrant Workers (DPT), and Study Tour with the National Human Rights Institution and the Women and Children's Commissions of Indonesia.

---

<sup>4</sup> The details and reports of the UNDP/ OHCHR Capacity Development Project of the Provedoria for Human Rights and Justice can be accessed at [http://www.tl.undp.org/undp/democratic\\_ongoingproject.htm](http://www.tl.undp.org/undp/democratic_ongoingproject.htm).