

La'o Hamutuk

Timor-Leste Institute for Development Monitoring and Analysis

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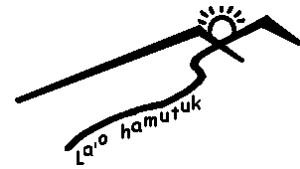
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Submission to the Australian Parliament

from the

Timor-Leste Institute for Development Monitoring and Analysis

to

Joint Standing Committee on Treaties

Parliament House, Canberra Australia

regarding the Inquiry into the

**Agreement between the Government of Australia and the
Government of the Democratic Republic of Timor-Leste on
Cooperation in the Field of Defence and the Status of Visiting
Forces**

11 April 2023

La'o Hamutuk/Walking Together, the Timor-Leste Institute for Development Monitoring and Analysis, is a Timor-Leste civil society organization which started in 2000. We analyse, monitor, publish and advocate regarding programmes and policies of Timor-Leste's government, development partners and multilateral agencies. Through this work, we try to help all Timor-Leste's people – women and men, current and future generations – to participate in sustainable, just, inclusive and transparent development which respects human rights and people's cultures.

We appreciate the opportunity to offer this submission. Ten years ago, we made a submission¹ to the Australian Parliamentary inquiry on Australia's relationship with Timor-Leste which discussed several issues relevant to the present inquiry. We hope that you will consider these issues as you conduct the current inquiry, and have summarized a few of them below.

Although the present agreement is more respectful of Timor-Leste's sovereignty than earlier ones, the troublesome history² of Australian military activities has left deep scars.

¹ https://www.aph.gov.au/Parliamentary_Business/Committees/House_of_Representatives_Committees?url=ifadt/timor_leston_2013/subs/sub%20040.pdf

² One incident, where Australian soldiers created perceptions of interference with Timor-Leste's politics, is described at <https://www.laohamutuk.org/Justice/ISF/10SoldiersPolitics.htm>.

We appreciate that Australian and Timorese people supported each other during World War II, although we wonder if Japan would have invaded Timor-Leste (at the cost of more than 40,000 Timorese lives) if Australian soldiers had not already come to our country.

In September 1999, the Australian-led InterFET peacekeeping force entered Timor-Leste under a UN mandate, securing the territory and handing it over to UNTAET. Although InterFET had its shortcomings, it played an important role in stabilising Timor-Leste. Well-trained and well-disciplined Australian troops provided a clear contrast to the Indonesian military.

In 2006, our Government requested international assistance, and Australian troops again deployed to Timor-Leste as part of an International Stabilisation Force (ISF). Although many Timor-Leste citizens believe ISF could have left in 2008, the force finally left four years later.

In August 2010, the Australian Department of Defence admitted that since 2008, Australian ISF soldiers had been in nine vehicle crashes in which civilians were injured.³ Unfortunately, the Status of Forces Arrangement⁴ between Timor-Leste and Australia at that time exempted ISF personnel from Timor-Leste laws and judicial systems, and the ISF was not under UN jurisdiction. Timor-Leste citizens had no venue for effective action to resolve complaints against ISF.

After a horrific crash in 2009 that severely injured two Timorese brothers, the Australian Department of Defence withheld all details from the public until an Australian journalist asked questions. It was later revealed that the Australian army vehicle had collided with the brothers' motorcycle so hard that both needed hospitalization; their injuries have permanently limited their ability to work.

La'o Hamutuk discussed other cases in our submission⁵ to a 2008 Joint Standing Committee on Foreign Affairs, Defence and Trade inquiry into Human Rights Mechanisms and the Asia-Pacific, including a father who was killed when an ISF truck collided with his motorcycle in 2007. In another case, the family of an elderly woman pedestrian killed by an Australian military vehicle in 2009 received mixed messages (as did your Parliament) and confused compensation.⁶ Unfortunately, this has been the pattern for nearly all Timorese people injured or killed by Australian weapons or vehicles.

In the proposed new agreement signed on 7 September 2022, Article 4 requires any disputes to be "resolved solely by consultation and negotiation between the Parties and

³ *Sydney Morning Herald*, 6 August 2010, <http://www.smh.com.au/world/army-refuses-to-pay-crash-victims-20100805-11kqj.html>

⁴ For the 2006 edition, see <https://www.laohamutuk.org/reports/UN/06SOFAs.html>

⁵ Available at <https://www.laohamutuk.org/Justice/08LHSubOz.pdf>. See also our 2010 letter to the ADF, at <https://www.laohamutuk.org/Justice/ISF/LHtoHouston8Mar10.pdf>

⁶ *The Age*, 4 May 2010, <http://www.theage.com.au/national/defence-flip-on-timor-death-20100503-u3uv.html>

shall not be referred to any third party or tribunal.” As the long, sordid history⁷ of the maritime boundary between our two countries demonstrates, fair resolution of a dispute between two such unequal parties may require assistance from a third party. We recommend that this article be deleted.

Although the proposed agreement and its Annexes discuss disciplinary and criminal matters, they are silent on civil responsibilities. For example, if a visiting Australian soldier, civilian or dependent were to impregnate a Timorese citizen, would he have any responsibility to support his child and its mother?

In another example, Article 4.7 of Annex 1 says that Australia, if requested, should pay reasonable costs of removing a person whom Timor-Leste reasonably requests be repatriated, but it says nothing about the costs of any damages or injuries that that person may have caused. Timor-Leste’s people should not be victimized by the unconscious ignorance or racism of people sent to our country by Australia.


Article 10 of Annex 1 should be clearer that Visiting Force members shall only wear their uniform while performing official duties, and not at other times.

Article 16 of Annex 1 appropriately protects “the environment, cultural heritage and human health and safety in the Receiving State”, but says nothing about the human, political or civil rights of its citizens. It should.

Article 18 of Annex 1 has an apparent typographical error in three references to “official aircraft, vessels or aircraft of the Sending State,” while not mentioning cars, trucks or other land vehicles. Should one of the “aircraft” be “vehicles”?

We are happy to answer any questions or to provide additional information regarding issues discussed in this submission, and would welcome the chance to appear in person before your Committee.

This submission is authorized by our organization, including for publication.



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⁷ For a review, see <https://www.aph.gov.au/DocumentStore.ashx?id=86702d1e-82be-403a-ad91-c2eb2a353c4e&subId=671076> or <https://www.laohamutuk.org/Oil/Boundary/18ConcilTreaty.htm>