

**Opening speech by H.E. Dr. Sebastião Dias Ximenes,
Vice-Minister of Justice of the Democratic Republic of Timor-Leste
Head of Delegation**

**62nd session
CAT initial report of the Democratic Republic of Timor-Leste**

Mr. /Mrs. Chairperson

Distinguished members of the committee

Allow me, at the outset, to introduce to you the members of the delegation that are here today with me, representing the key ministries responsible for the implementation of the Convention against Torture, and I would like to thank, Mr. Chairperson, for receiving us in Geneva.

- Mr. Marciano da Silva, Ambassador and Permanent Representative of the Permanent Mission of Timor-Leste to United Nations and other International Organizations in Geneva
- Mr. Augusto Tilman da Costa, Chief Inspector, National Police
- Mr. Flaviano Leão, National Director for Human Rights, Ministry of Justice
- Mr. David dos Reis Santos, Captain of F-FDTL
- Mr. Aurélio Barros, Second Secretary at the Permanent Mission
- Ms. Maria Rosa Xavier, National Advisor for Human Rights
- Ms. Joana Santos, Legal Advisor at the Permanent Mission

Mr. Chairperson

Distinguished Members of the Committee

Since the restoration of independence on 20 May 2002, Timor-Leste has ratified most of the human rights treaties included the Convention Against Torture.

The initial report submitted, on August 2016, outlines the key measures adopted by the Government in order to implement the Convention covering the period of 2004 to 2015. The report also identifies priorities for the future actions and highlights the limitations and challenges of the Government.

I am honored to present the report, on behalf of the Government of the Democratic Republic of Timor-Leste, about the progress on the implementation and the achievements made by the Government in the fulfillment of its obligations. The Government of Timor-Leste upholds the rights of its citizens in response to its obligations stipulated in the Convention Against Torture and other human rights instruments. This shows a strong commitment of the Government in the fulfillment of its obligations as State Party to the Convention since its ratification in 2003.

In the implementation of the Convention, the Government has adopted a range of legal instruments as part of the on-going reform of Timor-Leste's legal framework. Having adopted these instruments, it has contributed to a significant improvement in the protection of people rights enshrined in the Convention. This report outlines the legislation that has been enforced since the ratification of the Convention. The adopted legal instruments include the Penal Code, the Criminal Procedure Code, the Civil Code, the Basic Law on Education, the Law against Domestic Violence, the Witness Protection Law, the Labor Code Law and Human Trafficking Law.

Mr. /Mrs. Chairperson

Distinguished members of the committee

Timor-Leste has taken effective measures to prevent acts of torture and ill-treatment, as set out in Article 147.2 of the Constitution of Timor-Leste that says that "prevention of crime shall be undertaken with due respect for human rights".

With regard to the prohibition of torture and ill-treatment, Timor-Leste's national laws respect the international legal framework since the article 30.4 of the Constitution of Timor-Leste and the article 167 of Penal Code provides guarantees and prohibit torture

and cruel, degrading or inhuman treatment. In emergency situations or states of siege the use of torture and ill-treatment are prohibited. Despite the lack of specific provisions in the national laws, the Government complies with the rules and standards set out in Article 2.2 of the Convention. Article 9 of the Constitution of Timor-Leste accept the rules provided in International Conventions. A concrete example of good practice is that following the adoption of the Law of the National Parliament No. 1/2008 that grants authority to the President of the Republic to declare a State of Siege, the National Parliament adopted a Resolution for a joint operation that prohibits the commission of torture and ill-treatment even in emergency situations.

As regard to the legal aid, Timor-Leste's law guarantees that everyone has the right to gain access to legal aid, to a lawyer, to communicating or having contact with family and to the provision of medical services.

The Ministry of Justice has implemented a range of initiatives in cooperation with international partners and civil society in order to prevent torture and ill-treatment trough providing training on human rights, on the Convention Against Torture and policy on the use of force by the PNTL and the F-FDTL members. In addition to that, the Government of Timor-Leste also raises public awareness by disseminating posters, pamphlets and trough the radios and televisions.

Mr. /Mrs. Chairperson

Distinguished members of the committee

I am pleased to inform the members of the Committee that laws of Timor-Leste provide guarantees and prohibit the extradition and return of a person to a State where there is a risk or danger of torture as outlined in Article 35.3 of the Constitution of Timor-Leste.

The Constitution of the Democratic Republic of Timor-Leste (C-RDTL) states that “Extradition shall only take place following a court decision, and extradition on political grounds is prohibited, and also extradition for a crime shall not be permitted to a State where there is a risk or danger that the person may be subjected to torture or death penalty or life imprisonment”, as outlined in Article 35.

The authority that can determine this expulsion is the Minister of Defence and Security and the decision on the expulsion is mandatory.

There are processes and mechanisms to ensure that the person is identified and the case is forwarded to the competent authorities and then transferred to the national level. The PNTL will carry out investigations, and then will send the matter to the Public Prosecution Service and finally to the courts for a final decision.

Mr. /Mrs. Chairperson

Distinguished members of the committee

Timor-Leste’s legislation criminalized torture as set out in Article 167 of the Penal Code, which says: “Any person, who having the duty to prevent, investigate and decide on any types of offence, and to enforce the respective penalties, or to protect, guard, conduct surveillance on or monitor any persons who have been detained, based on the orders from a superior or in accordance with any competent authority, or any act consisting in inflicting severe physical or psychological suffering, acute physical or mental strainer employing chemical products, drugs and other means, whether natural or artificial, with the intent to disrupt the victim’s decision-making capacity or free expression of will, is punishable with 2 to 8 years imprisonment”.

Timor-Leste’s national laws “consider torture to be a serious crime, therefore perpetrators of torture are liable to a maximum prison sentence of 20 years”, as described in Article 117 of the PC.

Existing legislation on disciplinary measures to be taken against law enforcement officials who are responsible for acts of torture are as follows. The Internal Regulations of the F-FDTL consider torture to be a disciplinary offence and violation of military duties as set out in Decree-Law No.17/2006, Regulation on Military Discipline, and administrative measures or disciplinary sanctions that are set out in Article 29 of the Regulation on Military Discipline.

The National Police of Timor-Leste adheres to the concept of Rule of Law which is based on a system of rule of law, supremacy of law; equality before the law, human rights and due process. This shows that any behavior by a PNTL member in breach of disciplinary regulations will result in severe measures.

Mr. /Mrs. Chairperson

Distinguished members of the committee

Since Timor-Leste ratified CAT there have been no cases of torture registered at the Public Prosecutor. When a case of torture occurs, the State will take measures in accordance with the existing domestic and international laws.

In addition, Timor-Leste has not yet had any cases of extradition Timor-Leste. The extradition mechanisms require a bilateral extradition agreement between the countries whilst investigations are being carried out against suspected perpetrators of torture by the Public Prosecution Service and in relation to extradition, the Public Prosecution Service does not have the competency to impose sanctions or to extradite perpetrators of torture, only the Court has the competency to apply other restrictive measures.

Timor-Leste guarantees that alleged offenders or perpetrators of torture are given fair treatment, including when there are official proceedings, whereby the judge or prosecutor will always read out information or provide information to the suspect about his and her rights and the facts relating to the alleged torture that he or she has committed.

So far Timor-Leste has no extradition treaty with other State parties that have ratified the Convention for cases of torture, however Timor-Leste has its own Law on International Penal Judicial Cooperation. This law provides guarantees and the possibility to accept a request for extradition from other countries, as long as it does not violate this law and any new laws that come into force in Timor-Leste.

Mr. /Mrs. Chairperson

Distinguished members of the committee

I would like to inform the members of the Committee that Timor-Leste has an agreement with the Community of Portuguese Speaking Countries (CPLP), pursuant to Parliamentary Resolution No.15/2009 “with a particular focus on prisoner exchange in general and on extradition”.

So far, Timor-Leste has not accepted or requested mutual assistance from or to State Parties on mutual judicial legal aid for any criminal proceedings for cases of torture and crimes relating to attempted torture.

Mr. /Mrs. Chairperson

Distinguished members of the committee

To guarantee that judicial actors are an important pillar, the Ministry of Justice through the Judicial Training Centre provides training to judicial officers, magistrates and public defenders. This program aims to strengthen their knowledge about issues relating to torture and ill-treatment, especially in relation to vulnerable groups such as children, women, the poor and the disabled, facilitated by UN agencies such as UNICEF and UN Women.

To increase the knowledge of PNTL officers regarding the prevention of torture, policies on the use of force and human rights, between 2004 to 2015 UN agencies such as the Human Rights and Transitional Justice Unit of UNMIT together with the Ombudsman for Human Rights and Justice provided training to 2,484 PNTL officers from a total of 3,571 officers. 40% of the female PNTL officers, from a total of 588, attended the training at the Police Training Centre.

The Ombudsman for Human Rights and Justice, which is an independent State institution that promotes and protects human rights, has facilitated training on the use of force, the prevention of torture and zero tolerance for violence against children.

There are also specific programs for medical personnel on how to conduct physical and psychological exams for asylum seekers to obtain satisfactory results before handing them over to judicial actors.

Mr. /Mrs. Chairperson

Distinguished members of the committee

National laws, regulations and instructions that govern the treatment of persons who have been deprived of their liberty to prevent torture and ill-treatment are the Constitution, Penal Code, and Internal Regulations of the Prisons, F-FDTL Regulations and PNTL Regulations. These are adequate measures have been established to ensure that detainees obtain legal aid and immediate medical treatment.

The aforementioned measures are not just applied to detainees who are national citizens but also for detainees from overseas or foreigners who have the same right to obtain satisfactory treatment.

Domestic laws reflect the Standard Minimum Rules for Treatment of Prisoners, especially the protection of prisoners' rights as set out in Decree-Law No. 14/2014., Article 15.2 a) on "the rights of detainees" during the execution of criminal

proceedings, the following rights of the prisoner shall be protected, namely: “protection of his/her life, health, personal integrity and freedom of conscience, and shall not be subjected to torture, ill-treatment, cruel, degrading or inhuman punishment”.

Independent institutions have been established to conduct monitoring in the prisons and other places of detention to monitor all forms of violence against men and women.

Accordingly, to article 48.1 of the Criminal Procedure Code, “The Public Prosecution Service is the holder of the criminal action and must cooperate with the court in disclosing the truth and upholding rights by complying *in every procedural intervention* with legality and objectivity.”

During the investigative process the counsel of the defendant must be present during the entire investigative process.

There is, also, an immediate access to a medical examination and forensic expertise, when there is reason to believe torture has been committed.

Mr. /Mrs. Chairperson

Distinguished members of the committee

Any individual who alleges that he/she has been subjected to torture and mistreatment has the right to complain and to receive protection, in line with Timor-Leste Criminal Procedure Code.

There is an established mechanism to guarantee and protect complainants and witnesses so that they are not subject to intimidation or ill-treatment as set out in Law No.2/2009 on Witness Protection, which in Article 12 on “Non-disclosure of Identity” states that the witness's identity is to remain concealed.

The State of Timor-Leste has procedures to provide compensation to victims for their recuperation and compensation that are codified in national laws and policies: The Law Against Domestic Violence, Immigration Law, Ministry of Social Solidarity policies on services for vulnerable people through Public Funds Transfer.

The Ministry of Social Solidarity has developed a support program for vulnerable people (poor families, female victims, children at risk, former prisoners, and vulnerable patients) which are referred to as the reinsertion plan for vulnerable people. Support is provided to respond to the immediate needs of the victim and his/her family.

There are programs implemented by government institutions on counseling for victims, awareness-raising in the community about programs implemented by the Government for victims and approaches for families of victims and the victims themselves.

Timor-Leste has an established legal procedure to ensure that statements made as the result of torture will not be used as evidence in any proceedings and will consider such evidence invalid because it was obtained through an act of torture, as set out in Article 34.4 of the C-RDTL and article 110.1 of the Criminal Procedure Code.

Mr. /Mrs. Chairperson

Distinguished members of the committee

As a State-Party to the Convention State of Timor-Leste is obliged to guarantee and immediately define in its policies that the State of Timor-Leste has taken a firm stance to eliminate all forms of human rights violations, as set out in the C-RDTL. Public officials or others in an official capacity can take action against any act that subjects a person to intense suffering, physical or mental suffering.

To improve the circumstances and conditions in prisons, the Ministry of Justice has established a Prison Support Service Network, a monitoring network comprised of representatives from civil society organizations, representatives from independent institutions, the Ombudsman for Human Rights and Justice and representatives from Government. The aim of establishing the network is to “share information about the results of monitoring in prisons, and also to update the progress achieved in the field of correctional services based on the results of monitoring in order to improve the conditions in prisons”.

The government of Timor-Leste has established the Police Forensic and Criminal Investigations with the important role of “conducting investigations into cases of torture and ill- treatment” as set out in Article 6 of the Organic Law on Criminal Investigations.

To respect human dignity, the government of Timor-Leste continues to strive towards improving the living conditions of those in police detention centers and prisons. Detention centers and prisons have satisfactory conditions, but currently the prisons in Gleno, Dili and Covalima are not big enough to accommodate more prisoners. The Ministry of Justice has taken measures to build a prison in Baucau and Manufahe.

To respect human rights principles, the government of Timor-Leste has put all efforts to fulfill its obligations as a State Party to CAT by providing a better prison condition in Gleno-Ermera municipality are that female and male prisoners are kept in the same prison, but in different blocks and cells, and also in Becora Prison juvenile prisoners are there with adult prisoners but in locations or blocks that are separated from each other. In response to this situation, the Ministry of Justice created a project to start building a Mental Health Center and a Juvenile Centre for young prisoners in Tibar.

To reduce cases of violence in prison, the government has set up a Camera Closed Circuit Television (C-CCTV) aiming at monitoring the movement of prisoners within the prison with the intention of controlling them and reducing violence among

prisoners and disturbances, and also to control the prison guards when they are performing their tasks.

The treatments provided by nurses assigned by the Ministry of Health and there is a regular weekly visit from doctors and mental breakdowns which are treated by mental health doctors and assistance is provided by psychological health staff from the Ministry of Justice. The prisoners have access to satisfactory food, because the food given to prisoners is nutritious, and they receive three meals per day and the food is provided by contractors that the government has contracted through a competitive procurement process.

Mr. /Mrs. Chairperson

Distinguished members of committee

Before concluding, allow me, to brief the Committee, on recent developments made by the Government of Timor-Leste, that are not reflected on the report before you.

Since submitting its initial report on the implementation of the Convention in August 2016, Timor-Leste has taken additional measures to protect its citizens from torture and other cruel, inhuman or degrading treatment or punishment. Earlier this year, a law against human trafficking was adopted.

We have adopted the second National Action Plan (2017-2021) to combat Gender-Based Violence. We also approved a National Action Plan on Children's Rights (2016-2020), that is now in place and has as one of its key focuses child protection. The Plan calls for action to address corporal punishment and other violence, including in the home and in schools, in line with recommendations made by the Committee on the Rights of the Child.

With a view to, among other things, providing support to the most vulnerable victims of past human rights violations including torture, the Government inaugurated the *Chega! National Centre*, in July 2017, based on a Government Decree-Law n.

48/2016. The Center's mission is to promote the implementation of recommendations of the Commission for Reception, Truth and Reconciliation in Timor-Leste. It also aims to promote and monitor the human rights situation in the country, through the education and training and solidarity with survivors vulnerable to human rights violations.

The Ministry of Defence and our national army, the Falintil Defence Forces of Timor-Leste, have engaged actively with our National Human Rights Institution - the Provedoria for Human Rights and Justice - over the past year, and have, with support from the UN Human Rights Adviser's Unit in Timor-Leste, established the first comprehensive training programme on human rights for medium-rank officers.

Actually, earlier this week, on 20 November, the Ministry of Defence and Security organized a high-level seminar in Dili for senior officers of the armed forces. Our President of the Republic delivered opening remarks in the event. At the seminar, a comprehensive manual including the subject of human rights during arrest, detention and the use of force, was launched. The aim of this event was to create awareness on the human rights issues among trainers of the Ministry of Defence and Security and members of the armed forces, so that in the future, they can implement the comprehensive manual, alongside with the NHRI and the UN.

We have recently learnt about violence against members of our Lesbian, Transgender and Bisexual community, when the findings of small scale research done by civil society was made public. Such violence has reportedly been committed within families and by members of the community, even though there are no cases of report to the National Police. As we have done at the global level at the UN, in the General Assembly and the Human Rights Council, Timor-Leste condemns such violence, including in our own nation. In June, in the first public speech ever, broadcasted widely in the national media, Timor-Leste's Prime Minister called on all people to accept and respect all lesbian, gay, bisexual and transgender persons.

In Timor-Leste, there is a LGBT group called the Coalition of Diversity and Advocacy (CODIVA). This group was properly registered at the Ministry of Justice, so they are a

member of the NGO forum. When the Government consults with NGOs, it doesn't discriminate the LGBT groups, they have the same rights and opportunities to access to government services, they are also included in national events.

Taking into consideration reports of violence among young people involved in martial arts groups, on 19 April 2017, the Government approved the Law n. 5/2017 on the Jurisdictional Regime concerning the Practice of Martial Arts, Rituals, Light Weapons and *Rama Ambon*, in order to prevent that the practice of these martial arts would lead to violence in the community.

Due to some incidents involving members of the national police, the National Police is currently working on an amendment to its Organic Law and Disciplinary Regulation, aiming at strengthen the regulation of the actions undertaken by members of the police force in cases of unlawful interventions. Since 2015, the PNTL have established the Community Police Post, named *Police Suco Officials (OPS)* in all 442 sucos across the country.

Mr. /Mrs. Chairperson

Distinguished members of committee

To conclude this presentation, allow me, to reiterate my Government's strong commitment to the implementation of the Convention and the fulfillment of its obligations as a State Party.

Finally, on behalf of the Timor-Leste delegation, I would like to express my sincere thanks to the Chairperson and all members of the CAT Committee. We are looking forward to your feedback and exchange of views during this inter-dialogue session.

We have done our best to implement the Convention and fulfil our obligations as a State Party, however we recognize that challenges remain and there are still a lot to be done. We count with your support and recommendations.

Thank you for your attention!