

## Law and Justice in Timor-Leste: Challenges and Prospects

Reinaldo Francisco Luis\*<sup>1</sup>

<sup>1</sup>Universidade da Paz, Timor Leste

\*Corresponding Author: [uchela123@gmail.com](mailto:uchela123@gmail.com)

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### Abstract

The legal and judicial system in Timor-Leste continues to face various structural and substantive challenges that hinder access to justice, particularly for communities in remote areas. The lack of judicial infrastructure, limited human resources, and the imbalance between customary legal mechanisms and the formal legal system are key factors that complicate the effective and equitable enforcement of the law. In the context of protecting vulnerable groups, such as women and children, the existing legal system has yet to fully provide optimal protection as mandated by the *Constituição da República Democrática de Timor-Leste* and other relevant legislation. This study aims to critically analyze the barriers and challenges to accessing justice in Timor-Leste and to evaluate the prospects for legal reform to enhance the effectiveness of the judicial system. Employing legal research methods and an empirical approach, this study examines the existing legal framework and its practical implementation through case studies and secondary data analysis. The findings reveal that the limited number of courts, the shortage of competent judges and prosecutors, and the unequal distribution of legal aid services constitute major obstacles within Timor-Leste's judicial system. Furthermore, customary law – often the primary recourse for many communities – frequently conflicts with human rights principles, particularly regarding the protection of women and children. Legal reforms, including investments in judicial infrastructure, capacity building for law enforcement officials, and the harmonization of customary and formal legal systems, are essential to improving access to justice.

## 1. Introduction

Timor-Leste, as a country that attained full independence in 2002, is still in the process of developing its legal system to embody the principles of a democratic rule of law.<sup>1</sup> The national legal system has been undergoing continuous transformation to respond to the social, political, and economic challenges faced by its society. Despite the adoption of various legal instruments aimed at ensuring access to justice, both structural and substantive obstacles remain significant barriers to the effective implementation of legal norms.

Rooted in diverse legal influences, including Portuguese colonial law and local customary law, Timor-Leste's legal system is still striving to find a balance between the application of positive legal norms and the dominant role of customary practices in dispute resolution.<sup>2</sup> One of the fundamental challenges facing the judicial system is the lack of adequately qualified human resources, limited judicial infrastructure, and the gap between

<sup>1</sup> Laura Grenfell, "Promoting the Rule of Law in Timor-Leste," *Conflict, Security & Development* 9, no. 2 (June 2009): 213–38, <https://doi.org/10.1080/14678800902925143>; Bernardo Almeida, "The Main Characteristics of the Timorese Legal System – a Practical Guide," *Verfassung in Recht Und Übersee* 50, no. 2 (2017): 175–87, <https://doi.org/10.5771/0506-7286-2017-2-175>.

<sup>2</sup> Laura Grenfell, "Legal Pluralism and the Rule of Law in Timor Leste," *Leiden Journal of International Law* 19, no. 2 (June 13, 2006): 305–37, <https://doi.org/10.1017/S0922156506003323>.

community understanding and the formal legal system.<sup>3</sup> These challenges have led to the low effectiveness of judicial institutions in guaranteeing the protection of individual rights as mandated by the *Constituição da República Democrática de Timor-Leste*, particularly Article 26, which affirms that every citizen has the right to fair and impartial justice. Furthermore, the sharp disparity between formal law and customary dispute resolution mechanisms creates legal problems in the application of human rights-based legal principles.

As highlighted in the *Plano Estratégico para o Setor da Justiça* 2010–2030<sup>4</sup>, the government has acknowledged that the formal judicial system remains largely inaccessible to the majority of the population, especially in rural areas, due to high costs, complex procedures, and the lack of understanding of the legal language used in judicial processes. One consequence of these limitations is the persistent preference for customary mechanisms, which often lack legal certainty and may conflict with internationally recognized principles of justice, particularly in the protection of the rights of women and children as provided in the *Código Penal de Timor-Leste* and international instruments ratified by the country, including the Convention on the Rights of the Child (CRC).

In addition to challenges related to access to justice, issues regarding the professionalism of law enforcement officials, inequality in the provision of judicial services, and weak inter-institutional coordination further undermine the effectiveness of Timor-Leste's legal system.<sup>5</sup> A critical aspect requiring urgent attention is the weakness of legal protection mechanisms for vulnerable groups, especially children, as reflected in the limited implementation of children's rights within the criminal justice system. Although the *Plano Estratégico para o Setor da Justiça* has set forth several strategic measures to strengthen legal protection for children and other vulnerable groups, the implementation of these policies continues to face significant obstacles, including limited resources and inadequate coordination among relevant institutions.

Novelty of this research lies in its comprehensive analysis of the ongoing challenges in Timor-Leste's legal system, with a particular focus on how the formal justice system's limitations impact the protection of vulnerable groups, especially women and children. While previous studies have highlighted the constitutional and legal frameworks that aim to protect these groups, including the 2010 Domestic Violence Law, this research builds on existing knowledge by addressing the gap between legal theory and practice in Timor-Leste. The novelty lies in exploring the intersection of the formal judicial system and customary practices, analyzing how the latter continues to influence dispute resolution in rural areas and impacts the realization of rights-based principles, particularly in relation to women and children's rights within the criminal justice system. Additionally, while previous studies have acknowledged the lack of judicial infrastructure, limited human resources, and the conflict between customary and formal legal systems, this study uniquely integrates policy analysis and case studies to examine specific challenges in access to justice and offers actionable

<sup>3</sup> Fernando Dias Simoes, "Law and Language in Timor-Leste: Bridging the Divide," *Contemporary Southeast Asia* 37, no. 3 (December 31, 2015): 381–405, <https://doi.org/10.1355/cs37-3c>.

<sup>4</sup> The Asia Foundation, "Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008" (Washington, D.C., 2009), <https://www.laohamutuk.org/Justice/08AsiaFoundationLawJusticeSurveyEn.pdf>.

<sup>5</sup> Teresa Cierco, "Evaluating UNMIT's Contribution to Establishing the Rule of Law in Timor-Leste," *Asia-Pacific Review* 20, no. 1 (May 2013): 79–99, <https://doi.org/10.1080/13439006.2013.788335>.

recommendations for reform. By focusing on legal literacy, representation, and the reduction of court delays, as well as the shift from traditional dispute mechanisms to a state-run criminal justice system, the research contributes new insights into the strategies needed to overcome cultural and institutional barriers that hinder progress in achieving a more inclusive and effective judicial system. The findings will provide a nuanced perspective on how institutional design, civil society mobilization, and cultural norms need to align for successful legal reform in Timor-Leste.

This study aims to examine the challenges related to access to justice in Timor-Leste and explore the prospects of legal reform to strengthen a more inclusive and effective judicial system. Through policy analysis and case studies, this research is expected to provide recommendations for legal reform efforts in Timor-Leste to ensure that every citizen enjoys equal rights to access justice under the principles of a democratic rule of law.

## 2. Methods

Employing legal research methods and an empirical approach, this study examines the existing legal framework and its practical implementation through case studies and secondary data analysis

## 3. Results and Discussion

### 3.1. The Legal Framework in Timor-Leste: Critique and Analysis

As a sovereign state, Timor-Leste upholds its constitution as the supreme law governing the fundamental principles of state administration and governance.<sup>6</sup> The *Constituição da República Democrática de Timor-Leste* affirms that the nation is founded upon the principles of democracy, the rule of law, and respect for human rights.<sup>7</sup> However, in practice, the implementation of various constitutional provisions continues to face structural and substantive challenges that affect the effectiveness of the judicial system and access to justice for all citizens. The *Constituição da República Democrática de Timor-Leste* designates the Supreme Court as the highest judicial authority responsible for interpreting and enforcing the law under constitutional principles. However, in reality, the Supreme Court continues to encounter various obstacles in performing its functions, particularly in ensuring equal and non-discriminatory access to justice. One of the primary challenges is the limited number of qualified judges, coupled with institutional weaknesses in handling complex legal disputes.

In the criminal justice sector, the *Código Penal de Timor-Leste* serves as the primary legal instrument regulating criminal offenses and applicable sanctions. The *Código Penal de Timor-Leste* adopts a continental legal system that emphasizes legality and legal certainty in the application of criminal norms.<sup>8</sup> However, its implementation continues to face numerous challenges that hinder the effectiveness of law enforcement. One of the primary criticisms is the low level of public understanding of applicable legal norms, which contributes to the widespread practice of dispute resolution outside formal legal channels. This phenomenon is

<sup>6</sup> Urraca Magno Corte-Real de Araújo, "Constitution Aguarantee of Democracy," *American Journal of Medical and Clinical Research & Reviews* 02, no. 06 (2023), <https://doi.org/10.58372/2835-6276.1044>.

<sup>7</sup> Lydia M. Beuman, *Political Institutions in East Timor* (New York: Routledge, 2016), <https://doi.org/10.4324/9781315668772>.

<sup>8</sup> Aksi Sinurat, "Implementation of Criminal Fines Based on the Criminal Code and Applicable Laws and Regulations in the District Court of Timor," *Journal of Lifestyle and SDGs Review* 5, no. 2 (January 13, 2025): 3848, <https://doi.org/10.47172/2965-730X.SDGsReview.v5.n02.pe03848>.

further exacerbated by the limited resources available to law enforcement officials, who frequently struggle to conduct investigations and prosecutions effectively. Similarly, the *Código Civil de Timor-Leste*, which governs civil law matters, also faces significant challenges in its application. The *Código Civil de Timor-Leste* is intended to serve as the main reference for resolving civil disputes, including those related to contracts, family law, and property rights. However, in practice, there remain considerable disparities in its implementation, particularly concerning public access to civil courts. Lengthy judicial processes and high litigation costs are among the primary factors that hinder individuals—especially those from economically disadvantaged groups—from obtaining the justice that should be guaranteed under the law.

In the area of child protection and juvenile justice, Timor-Leste has adopted the Juvenile Justice Framework to provide specialized legal protection for children in conflict with the law.<sup>9</sup> This regulatory framework aims to align the juvenile justice system with international standards, including the principles of rehabilitation and social reintegration. However, the implementation of this policy continues to face several challenges, including the limited availability of rehabilitation institutions for children, a shortage of professionals with specialized expertise in handling juvenile cases, and the persistence of punitive practices that are inconsistent with children's human rights, as stipulated in the *Convenção sobre os Direitos da Criança* (CRC).

One of the key aspects of Timor-Leste's legal system is the *Lei dos Direitos Humanos*, which guarantees the protection of fundamental rights for all citizens. This law represents the state's commitment to internationally recognized human rights principles.<sup>10</sup> However, despite the existence of an adequate legal framework at the normative level, human rights violations remain prevalent in practice, committed both by state authorities and individuals.<sup>11</sup> A particularly pressing issue concerns the treatment of women and vulnerable groups, who often do not receive adequate legal protection within the judicial system.

In the formal judicial system, the Supreme Court plays a crucial role as the primary guardian of the Constitution and the national legal system. However, the Supreme Court frequently faces challenges in fulfilling its duties effectively, particularly in managing the increasing number of cases each year. At the lower judiciary level, the District Courts play an important role in resolving various criminal and civil cases. Yet, these first-instance courts still face challenges in terms of the availability of competent human resources and public access to adequate legal services.<sup>12</sup> Outside the judiciary, other law enforcement institutions, such as the

<sup>9</sup> Cyndi Banks, "Protecting the Rights of the Child: Regulating Restorative Justice and Indigenous Practices in Southern Sudan and East Timor," *The International Journal of Children's Rights* 19, no. 2 (2011): 167-93, <https://doi.org/10.1163/157181810X513225>.

<sup>10</sup> Alexandre Gentil Corte Real Araújo, "A Efetividade Dos Direitos Fundamentais Do Ponto De Vista Constituição Da República Democrática De Timor Leste Em 2002: A Dimensão Como Um Estado Direito Democrático (Atualizado, 2023)," *American Journal of Medical and Clinical Research & Reviews* 02, no. 08 (2023), <https://doi.org/10.58372/2835-6276.1057>.

<sup>11</sup> Carlos Boavida Tilman, "The Effectiveness of Fundamental Rights from the Point of View Constituting the Democratic Republic of East Timor In 2002: The Dimension as A Democratic Right State (Updated 2022)," *American Journal of Medical and Clinical Research & Reviews* 01, no. 02 (2022), <https://doi.org/10.58372/2835-6276.1008>.

<sup>12</sup> Ricardo Sousa da Cunha, "Constitutional Exception as the Basis for Security Sector Reform in Timor-Leste," 2020, 405-23, [https://doi.org/10.1007/978-3-030-49000-3\\_23](https://doi.org/10.1007/978-3-030-49000-3_23).

*Polícia Nacional de Timor-Leste* and the Attorney General's Office, also have a central role in upholding law and order. However, the effectiveness of these institutions is still questioned, given the persistence of corruption, abuse of power, and lack of transparency in the law enforcement process. Another concern is the insufficient coordination between law enforcement agencies when handling complex, cross-sectoral cases. To improve the legal and judicial system in Timor-Leste, comprehensive and systematic reforms are required. These reforms must include enhancing the capacity of law enforcement officials, updating legal policies to be more responsive to public needs, and strengthening mechanisms for monitoring the performance of judicial institutions.<sup>13</sup> Additionally, there must be more inclusive policies to ensure access to justice for vulnerable groups, including women, children, and the poor.

Legal reform in Timor-Leste must align with the principles enshrined in the Constitution, while also considering the various international legal instruments ratified by the country. One of the steps that can be taken is to strengthen the capacity of the Supreme Court as the highest judicial body within the judicial system, as well as improve the quality of judges and prosecutors to ensure they can uphold the law in a professional and just manner. Furthermore, a community-based approach within the legal system should also be reinforced, given the strong influence of customary law in the social life of Timor-Leste.<sup>14</sup> This approach must be implemented in a way that does not disregard human rights principles and ensures that every citizen has equal access to legal protection. In this regard, better integration between the formal legal system and customary dispute resolution mechanisms is necessary to create a more inclusive and just judicial system.

### 3.2. Access to Justice: Barriers and Challenges

As a newly independent state since 2002, Timor-Leste has faced numerous challenges in developing and consolidating its legal and judicial system.<sup>15</sup> Over the past decades, despite significant progress, access to justice for all segments of society – particularly those in remote areas – continues to be hindered by substantial obstacles. Several key factors influencing access to justice in Timor-Leste include limitations in infrastructure and human resources, reliance on customary legal mechanisms, challenges in child rights protection, issues in law enforcement by the police, and difficulties within judicial processes and the right to legal aid.

#### 1. Lack of Infrastructure and Resources

One of the most significant challenges faced by the judicial system in Timor-Leste is the lack of adequate infrastructure, particularly in remote areas. Article 164 of the *Constituição da República Democrática de Timor-Leste* mandates that the judicial system must cover the entire national territory. However, in practice, there are only four District Courts located in Dili, Baucau, Suai, and Oecusse, which serve as the primary centers for judicial access for most of the population. As a result, individuals residing in remote areas experience significant difficulties in accessing judicial services fairly and equitably. The limited number of courts translates into increased costs and time for those seeking justice, ultimately undermining the effectiveness and credibility of the national legal system. In addition to the shortage of courts,

<sup>13</sup> Hohe, "Justice without Judiciary in East Timor."

<sup>14</sup> Grenfell, "Legal Pluralism and the Rule of Law in Timor Leste."

<sup>15</sup> Selver B. Sahin, "Building the State in Timor-Leste," *Asian Survey* 47, no. 2 (April 1, 2007): 250–67, <https://doi.org/10.1525/as.2007.47.2.250>.

the judicial system in Timor-Leste also faces challenges in terms of the availability of competent human resources. The Law on the Organization of the Judiciary stipulates that the judicial system must be managed by highly qualified personnel, including judges, prosecutors, and lawyers. However, in reality, many positions within the judicial sector remain vacant or are occupied by individuals with minimal legal experience. This shortage not only slows down judicial proceedings but also has the potential to affect the quality of judicial decisions. According to data from the *Conselho Superior da Magistratura Judicial*, the number of available judges remains critically low compared to the annual caseload. This imbalance leads to an excessive workload for judges, contributing to case backlogs and delays in legal resolution. In addition to human resource challenges, technical and logistical aspects serve as major obstacles within Timor-Leste's judicial system. Courts often face significant limitations in forensic tools necessary to support the evidentiary process in criminal cases. For instance, in numerous criminal cases requiring forensic analysis, courts must rely on laboratories abroad due to the absence of adequate domestic facilities.<sup>16</sup> This dependency not only delays investigative procedures but also escalates operational costs for the government.

Furthermore, the judicial case recording system, which remains manual and poorly organized, exacerbates the situation. The absence of a modern data management system creates difficulties in archiving and tracking ongoing cases. According to reports from the CAC, the lack of transparency and accountability in case recording increases the risk of corruption and data manipulation within the legal system. Therefore, modernizing case recording and digitizing judicial documents are urgent measures to enhance the efficiency and reliability of the judiciary. These infrastructural and resource limitations also affect the implementation of the principle of access to justice, as mandated by Article 26 of the *Constituição da República Democrática de Timor-Leste*, which guarantees that every individual has the right to equal legal protection before the courts. However, in practice, many individuals, particularly in rural areas, face significant challenges in accessing legal services due to the limited availability of legal aid. Although the state has established the Public Defender's Office to provide legal assistance for indigent citizens, the limited number of personnel and the inadequate institutional capacity of this office result in many individuals being deprived of proper legal representation.

To address these challenges, comprehensive and integrated reform measures are necessary. First, the government of Timor-Leste must increase budget allocations for the judicial sector to establish a more equitable distribution of judicial infrastructure across the country. Second, enhancing human resource capacity through legal education and training programs for judges, prosecutors, and local lawyers should be a top priority. Third, the government must urgently implement the digitization of case recording and judicial administration systems to improve efficiency and transparency in court management. These reforms will not only enhance the effectiveness of the judicial system but also reinforce the rule of law, which is a fundamental pillar of democracy in Timor-Leste. A stronger and more

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<sup>16</sup> Joseph Nevins, "Embedded Empire: Structural Violence and the Pursuit of Justice in East Timor," *Annals of the Association of American Geographers* 99, no. 5 (October 30, 2009): 914–21, <https://doi.org/10.1080/00045600903245904>.

efficient judiciary is expected to foster greater public trust in the legal system, ultimately contributing to national stability and development.

## 2. Preference for Customary Legal Mechanisms

Amid the limitations of the formal legal system, customary law remains the primary dispute resolution mechanism for approximately 90% of the population in Timor-Leste, particularly in rural areas.<sup>17</sup> Customary law is perceived as more accessible, faster, and less costly compared to the formal legal system, which is often inefficient. However, from a justice perspective, customary law frequently conflicts with modern legal principles, particularly in terms of human rights protection.

One of the most significant challenges in customary legal mechanisms is the discrimination against women and children. Article 16 of the *Constituição da República Democrática de Timor-Leste* affirms that all citizens are equal before the law; however, in practice, customary law often reinforces gender inequality. Practices such as early marriage, the resolution of gender-based violence cases through mediation mechanisms that do not favor the victims, and unequal inheritance distribution demonstrate that customary law has yet to fully align with the principles of substantive justice. Furthermore, customary legal mechanisms prioritize community-based conflict resolution over the enforcement of individual rights.<sup>18</sup> This has serious implications for the protection of victims, particularly in cases of domestic violence and other serious offenses. Although Article 125 of the *Constituição da República Democrática de Timor-Leste* acknowledges the role of local communities in conflict resolution, the supremacy of formal law must be upheld, especially in cases involving fundamental rights.

The government of Timor-Leste has made efforts to harmonize customary law with the formal legal system. One of the key policies adopted is the recognition of customary mechanisms for resolving certain disputes while maintaining that cases involving serious human rights violations must be handled through formal legal channels. However, this harmonization process continues to face significant challenges, particularly from community groups that resist modern legal intervention in their customary systems. Therefore, a more progressive strategy is required to align customary law with formal law, including legal education for the public and the enhancement of the role of customary leaders in legal reform.

## 3. Protection of Children's Rights in the Judicial System

Timor-Leste, through its Constitution and various legislative instruments, has committed to ensuring the protection of children's rights both within and outside the formal legal system.<sup>19</sup> Article 59(2) of the *Constituição da República Democrática de Timor-Leste* stipulates that the state is obliged to guarantee the protection of children, including those in conflict with the law. This principle aligns with international legal instruments ratified by Timor-Leste, such as the Convention on the Rights of the Child (CRC), which emphasizes that the judicial system

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<sup>17</sup> The Asia Foundation, "Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008."

<sup>18</sup> Grenfell, "Legal Pluralism and the Rule of Law in Timor Leste."

<sup>19</sup> Alexandre Gentil Corte-Real de Araújo, "The Children's Rights Document In The Overview Sign In The Dimension And Perspective Of The Law Namely Crdtl (2024).," *American Journal of Medical and Clinical Research & Reviews* 03, no. 11 (2024): 1-9, <https://doi.org/10.58372/2835-6276.1222>.

must be oriented towards the best interests of the child.<sup>20</sup> However, the judicial system in Timor-Leste still faces significant challenges in safeguarding children's rights, particularly within the juvenile justice system. One of the fundamental issues is the lack of child-friendly facilities within the judicial process. Although some courts have attempted to provide more appropriate courtroom settings for children, these facilities remain extremely limited and are not yet available nationwide. This situation contradicts the principles of child-centered justice, as mandated by the CRC and the provisions of Article 31 of *Lei de Proteção da Criança*, which require special procedures to protect children's rights within the judicial process.

From a procedural perspective, the judicial system of Timor-Leste also faces significant challenges in ensuring legal protection for children in conflict with the law. The lack of transparency in legal proceedings often results in children experiencing confusion and excessive psychological distress. Moreover, the absence of psychosocial support at every stage of the judicial process exacerbates the complexity of this issue. This situation contradicts Article 40 of the CRC, which mandates that State Parties ensure special treatment for children in conflict with the law, including access to legal counsel and a justice system that prioritizes rehabilitation over punishment. In practice, the lack of training for law enforcement officials on juvenile justice presents a major obstacle to guaranteeing children's rights protection. Many legal practitioners, including judges, prosecutors, and police officers, lack a comprehensive understanding of child-centered justice principles, which emphasize rehabilitation and social reintegration. As a result, children in conflict with the law are often treated similarly to adults in legal proceedings, in direct violation of international standards. This inadequate child protection perspective highlights the urgent need for extensive training and awareness programs for all actors within the criminal justice system. Additionally, the absence of specialized rehabilitation centers for juvenile offenders remains a critical issue. Currently, children involved in criminal activities are frequently detained in the same facilities as adult offenders, which is a clear violation of the principles of non-discrimination and the best interests of the child, as stipulated in Articles 37 and 40 of the CRC.<sup>21</sup> The lack of dedicated facilities not only exacerbates the psychological condition of these children but also increases their exposure to more severe criminal influences.

In the policy context, the *Plano Estratégico para o Setor da Justiça* 2010-2030 outlines several initiatives to enhance the protection of children's rights within the judicial system.<sup>22</sup> One of the proposed measures is the establishment of dedicated centers for children and adolescents in conflict with the law. However, to date, the implementation of this plan remains limited. The primary obstacles to the realization of this policy include insufficient funding and a lack of inter-institutional coordination. For comparison, several countries in Southeast Asia have implemented more advanced juvenile justice systems. For example, Indonesia has established Juvenile Courts specifically tasked with handling cases involving children, as stipulated in the

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<sup>20</sup> Banks, "Protecting the Rights of the Child: Regulating Restorative Justice and Indigenous Practices in Southern Sudan and East Timor."

<sup>21</sup> Banks.

<sup>22</sup> The Asia Foundation, "Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008."

Child Criminal Justice System Act.<sup>23</sup> Additionally, the Philippines has adopted a "restorative justice" approach, which focuses on rehabilitation rather than punishment.<sup>24</sup> These progressive steps could serve as models for Timor-Leste in reforming its juvenile justice system.

The state's failure to provide an adequate judicial system for children constitutes a violation of human rights. The principle of justice in law not only entails imposing sanctions on offenders but also ensuring that every individual, including children, receives fair treatment under human rights standards. Therefore, reforming the juvenile justice system in Timor-Leste must be a top priority to ensure that children receive the protection they deserve, in line with both national and international legal principles. As a way forward, the Timor-Leste government must increase the allocation of funds for the development of child-friendly facilities, expedite the establishment of juvenile rehabilitation centers, and enhance the capacity of law enforcement officials through comprehensive training programs. Furthermore, continued efforts are necessary to raise public awareness of the importance of children's rights protection within the judicial system, thereby fostering a more inclusive legal environment focused on the best interests of the child.

#### 4. Challenges in Law Enforcement by the Polícia Nacional de Timor-Leste

The *Polícia Nacional de Timor-Leste* is the institution responsible for law enforcement and maintaining public order in the country, as outlined in Lei no. 9/2009, *Estatuto Orgânico da Polícia Nacional de Timor-Leste*. However, in performing its duties, the *Polícia Nacional de Timor-Leste* faces significant challenges, particularly in the areas of justice and law. One prominent issue is the legal status of the *Unidade de Proteção de Vulneráveis* (VPU), which handles cases involving vulnerable groups, including children and women who are victims of violence.

Despite playing a crucial role in protecting vulnerable groups, the VPU has yet to have a strong legal basis within the organizational structure of the *Polícia Nacional de Timor-Leste*. This lack of legal foundation impacts the accessibility to the necessary resources for its operations, including budget allocations, personnel, and supporting facilities. Normatively, Article 20 of Lei no. 8/2004, *Lei da Polícia Nacional de Timor-Leste*, regulates the units within the *Polícia Nacional de Timor-Leste* structure but does not specifically designate the VPU as a unit with independent authority or autonomy in handling specialized cases. As a result, the

<sup>23</sup> Padlah Riyadi, "Legal Protection for Child Victims of Crimes According to The Child Criminal Justice System in Indonesia," *Protection: Journal of Land and Environmental Law* 2, no. 2 (December 20, 2024): 73–83, <https://doi.org/10.38142/pjlel.v2i2.1207>; Resty Shelya Pujiani, Mutia Azizah Aksan, and Maya Sinta, "Seeking Justice for Indonesian Children: The Juvenile Criminal Justice System in Indonesia in the Context of Criminal Justice Reform," *Indonesian Journal of Advocacy and Legal Services* 4, no. 2 (September 30, 2022): 259–74, <https://doi.org/10.15294/ijals.v4i2.60033>; Widowati Widowati, "Justice for Children: Exploring Juvenile Criminal Law in Indonesia," *West Science Law and Human Rights* 2, no. 04 (October 31, 2024): 367–78, <https://doi.org/10.58812/wslhr.v2i04.1307>.

<sup>24</sup> Sabha Macmanus and Sophie C. Millner, "Reflections on Restorative Justice in the Philippines," [www.philrights.org](http://www.philrights.org), 2010, <https://www.philrights.org/wp-content/uploads/2010/10/Reflections-on-restorative-justice-in-the-Philippines.pdf>; Marietta Molina-Lingvall, Mia Torres-Dela Cruz, and Rosalina P. Segundo, "Restorative Justice for Children in Conflict with the Law: A Community-Based Solution," *International Journal of Research and Innovation in Social Science* VIII, no. VII (2024): 2988–3003, <https://doi.org/10.47772/IJRISS.2024.807233>; Le Thu Dao et al., "Diversion and Restorative Justice in the Context of Juvenile Justice Reforms in Indonesia, Thailand, the Philippines and Vietnam," *The International Journal of Restorative Justice* 5, no. 2 (August 2022): 237–62, <https://doi.org/10.5553/TIJRJ.000104>.

VPU often operates under suboptimal conditions, both in terms of human resources and infrastructure.

Another factor that exacerbates the law enforcement conditions within the *Polícia Nacional de Timor-Leste* is the lack of specialized training for VPU personnel. In several cases, investigators handling crimes against vulnerable groups lack expertise in conducting gender-based and child protection investigations. This leads to unprofessional investigations, which may potentially violate the rights of the victims.<sup>25</sup> For instance, in cases of domestic violence (DV), VPU investigators often fail to apply the legal standards set forth in *Lei Contra a Violência Doméstica*, which mandates a gender-sensitive approach and prioritizes the best interests of the victim. Furthermore, the high turnover rate of personnel also poses a significant challenge. Many VPU investigators who have received specialized training are reassigned to other units before they can effectively apply their skills. This results in a lower quality of investigations and ultimately undermines the effective enforcement of the law against perpetrators of crime.

The weaknesses in the administrative system of the *Polícia Nacional de Timor-Leste* in classifying and recording crimes also pose a significant barrier to effective law enforcement. The inconsistency between the recording of cases at the investigation level and the provisions of the *Código Penal de Timor-Leste* results in imperfections in the criminal justice process. For example, in several cases of sexual violence, perpetrators are not charged under the appropriate provisions due to inaccuracies in the categorization of the criminal acts. According to Articles 172 to 177 of the *Código Penal de Timor-Leste*, various forms of sexual violence are specifically classified, yet in practice, investigators often categorize these crimes under general offenses without considering the elements of violence and exploitation outlined in the *Código Penal de Timor-Leste*. This leads to weak legal arguments during trials, ultimately resulting in verdicts that fail to deliver justice for the victims.

The effectiveness of the *Polícia Nacional de Timor-Leste* in enforcing the law is also influenced by the weak coordination with other judicial bodies, such as the *Ministério Público* and the courts. In several cases, *Polícia Nacional de Timor-Leste* investigators do not receive adequate guidance from public prosecutors during investigations, resulting in incomplete case files or files that do not meet the applicable legal standards. This weakness is exacerbated by the backlog of cases, which leads to prolonged judicial processes.<sup>26</sup> For example, in cases of gender-based violence, many cases experience delays at the prosecution stage due to a lack of communication between the *Polícia Nacional de Timor-Leste* and the *Ministério Público*. Although the *Lei Contra a Violência Doméstica* (Article 37) stipulates that domestic violence cases should be handled through expedited mechanisms, in practice, many victims experience revictimization due to the prolonged legal processes.

##### 5. Barriers in the Judicial Process and the Right to Legal Assistance

Article 13 of the *Constituição da República Democrática de Timor-Leste* establishes Portuguese and Tetum as the official languages of the country. However, in judicial practice, the use of Portuguese still predominates in various legal documents, court proceedings, and judicial decisions. This presents a significant barrier for the population who are only proficient

<sup>25</sup> Nicolas Lemay-Hébert, "UNPOL and Police Reform in Timor-Leste: Accomplishments and Setbacks," *International Peacekeeping* 16, no. 3 (June 2009): 393–406, <https://doi.org/10.1080/13533310903036442>.

<sup>26</sup> Lemay-Hébert.

in local languages such as Tetum, Fataluku, Baikeno, or Makasae. The absence of competent interpreters in court proceedings means that many citizens do not fully understand the ongoing legal processes, thus losing their right to effectively defend themselves. This language barrier is further exacerbated by the lack of legal professionals who are truly fluent in Tetum or other local languages. Many judges, prosecutors, and lawyers come from legal education backgrounds in Portuguese, which often results in communication difficulties with the local population. Although Article 28 of the *Constituição da República Democrática de Timor-Leste* affirms that everyone has the right to legal defense and a fair trial, the reality on the ground shows that access to justice remains highly limited for those who do not adequately command the official languages.

In Timor-Leste, the right to legal assistance is governed by the *Lei da Assistência Jurídica*, which stipulates that every individual is entitled to free legal aid if they are unable to afford a lawyer. However, the implementation of this regulation still faces various challenges. One of the main obstacles is the lack of lawyers who are willing or able to provide pro bono legal services. Many lawyers prefer to work in the private sector, which offers higher compensation compared to working in the field of legal aid. Additionally, the distribution of legal assistance services remains uneven. Most legal aid services are concentrated in Dili, while remote areas such as Oecusse, Covalima, and Viqueque still face limited access to lawyers and paralegals who can provide adequate legal assistance. This situation results in many citizens, particularly the poor and vulnerable groups, being unable to defend their rights in court.

Another weakness in the legal aid system is the lack of public awareness regarding their right to access legal assistance. Many people are unaware that they can request free legal services from available legal aid organizations. This highlights the need for broader socialization programs to ensure that the public understands their legal rights, as mandated by the Constitution.

Delays in the judicial process pose a serious issue that hinders access to justice in Timor-Leste. According to data from the *Conselho Superior da Magistratura Judicial*, many civil and criminal cases face delays in resolution due to various factors, including the limited number of judges, suboptimal investigations by the police and prosecution, and a lack of coordination between law enforcement agencies.

Weaknesses in investigations often lead to delays in trial proceedings. In many cases, the evidence collected is insufficient to support the charges, causing judges to delay trials or even acquit defendants due to a lack of valid evidence. This contradicts the principles of swift and effective justice as outlined in Article 26 of the *Constituição da República Democrática de Timor-Leste*, which guarantees every individual the right to be tried within a reasonable time. Furthermore, the pre-trial detention system (*pré-julgamento*) remains a significant concern. Many defendants are detained for months or even years without legal certainty. Although Article 30 of the *Constituição da República Democrática de Timor-Leste* emphasizes the respect for individual freedom, the reality is that this practice still occurs frequently due to the slow judicial process.

## 6. Birth Registration and Its Implications for Access to Justice

Birth registration is a fundamental right that must be regulated by law, affirming that every child born in Timor-Leste must be registered in order to obtain official recognition of

their identity. A birth certificate serves as the foundation of an individual's legal identity and is essential for access to various rights, including education, healthcare, and, importantly, the right to legal protection. Without a valid birth certificate, an individual will encounter significant challenges in accessing the judicial system or other legal protections. However, field practices indicate that the implementation of birth registration still faces numerous obstacles, particularly in remote areas outside Dili. According to data from the *Direcção Nacional de Registos e Notariado*, approximately 40% of children born in rural areas remain unregistered, putting them at risk of being unable to access their rights, including the right to justice, in the future.

One of the main issues hindering the implementation of birth registration is the limited infrastructure and trained personnel in remote areas. Although the government has made efforts to raise awareness about the importance of birth registration, many families living far from the capital do not have access to birth registration offices or are unable to afford the administrative costs involved. In many areas, communities still rely on traditional practices to manage childbirth, which often go unrecorded in the official administrative system. For example, in some mountainous regions and small islands, the inability to access registration facilities results in many children going unregistered. Although birth registration must occur within 30 days of birth, geographical and economic barriers frequently prevent this requirement from being met, leading to children not receiving a birth certificate. Moreover, there should be regulations mandating free birth registration, but another challenge is the lack of public understanding of the procedures required to obtain a birth certificate. The lack of information and social education leads to citizens' inability to exercise the rights guaranteed by law.

Birth registration is not merely an administrative matter, but also a question of the right to justice. Access to the judicial system is heavily reliant on the existence of a valid identity. Without a registered birth certificate, an individual cannot prove their nationality or legal status in the eyes of the law. This situation can hinder a person from filing a lawsuit or seeking legal protection, such as in cases of inheritance disputes, child custody, or marriage. Therefore, the inability to obtain a birth certificate becomes a significant barrier to accessing equal legal protection in Timor-Leste. This contradicts the fundamental human rights principle guaranteed by the *Constituição da República Democrática de Timor-Leste*, which stipulates that every citizen has the right to be recognized as an individual with legal rights.

To improve birth registration rates and ensure that every child is lawfully registered, several steps must be taken by the government. First, there needs to be an enhancement of the birth registration infrastructure in remote areas. One potential solution is to establish mobile birth registration units that can reach villages that are difficult to access by government centers. Additionally, the government must ensure that personnel responsible for birth registration are adequately trained to handle the various issues that arise in the field. Second, the birth registration fee should be abolished for citizens of Timor-Leste. There needs to be more robust policies to ensure accessibility, especially for families in economically disadvantaged situations. Reducing transportation costs, providing clearer information through media campaigns, and conducting broader outreach regarding the importance of birth registration should be part of the government's strategy. Ultimately, birth registration

must be viewed as an integral part of the fundamental rights of citizens in Timor-Leste. The state has an obligation to ensure that every child, regardless of their social or geographical background, is able to obtain a valid birth certificate and access their rights fairly, including the right to equal legal protection under the law. This is a crucial step toward achieving social justice for all the people of Timor-Leste.

### 3.3. Prospects for Legal and Justice Reform in Timor-Leste

The prospects for legal and justice reform in Timor-Leste must be framed within the broader context of national policy<sup>27</sup>, with particular attention to the implementation of the *Plano Estratégico para o Setor da Justiça* 2010-2030 as the primary reference for legal system renewal.<sup>28</sup> This policy is designed to strengthen judicial institutions, enhance access to justice, and ensure a legal system that is responsive to the needs of society, while maintaining respect for both national and international legal norms. However, the implementation of this policy faces various structural, institutional, and sociocultural challenges that require critical examination.

Strengthening the capacity of judicial and law enforcement institutions is one of the fundamental aspects of legal reform in Timor-Leste.<sup>29</sup> The lack of qualified human resources within the judicial system has led to stagnation in the resolution of cases, particularly in remote areas. Articles 3 and 125 of the *Constituição da República Democrática de Timor-Leste* emphasize the principle of judicial independence and the role of the Supreme Court as the guardian of constitutional legality. However, in practice, the limited number of competent judges and prosecutors has slowed down the judicial process, resulting in delayed resolutions of both criminal and civil cases. Furthermore, reforms in customary law are necessary to better align with human rights principles. Customary law, which still serves as the primary mechanism for dispute resolution in communities, often contradicts international standards, especially in the protection of women's and children's rights.<sup>30</sup> This imbalance is evident in practices such as fines or compensations in cases of violence against women, which frequently overlook the victims' right to substantive justice. Article 16 of the *Constituição da República Democrática de Timor-Leste*, which guarantees equality before the law, provides a basis for revisiting discriminatory customary law mechanisms. The government needs to develop policies to harmonize customary law with formal law, while preserving cultural values that do not conflict with human rights principles.

In terms of access to legal aid and interpreters, the situation in Timor-Leste remains far from optimal. Although Article 26 of the *Constituição da República Democrática de Timor-Leste* guarantees every individual the right to competent legal defense, the reality on the ground shows that access to legal aid for the impoverished population is still highly limited. The primary causes of this issue include the scarcity of pro bono lawyers and the insufficient

<sup>27</sup> de Araújo, "Constitution Aguarantee of Democracy."

<sup>28</sup> The Asia Foundation, "Law and Justice in Timor-Leste: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008."

<sup>29</sup> Alexandre Gentil Corte-Real de Araújo, "The Jurisdiction of the Court of Appeal (Supreme Court of Justice) in the Timor-Leste Legal System (2023).," *American Journal of Medical and Clinical Research & Reviews* 2, no. 12 (2023): 1-11, <https://doi.org/10.58372/2835-6276.1107>.

<sup>30</sup> Grenfell, "Legal Pluralism and the Rule of Law in Timor Leste"; Swaine, "Traditional Justice and Gender Based Violence in Timor-Leste."

provision of legal interpreter services for individuals who do not master the official language in judicial proceedings. This directly impacts the effectiveness of legal protection for vulnerable groups, particularly those living in remote areas, who face significant barriers to accessing formal legal services.

Strengthening the National Commission for the Rights of the Child (NCRC) as an independent institution is also a crucial aspect of legal reform in Timor-Leste. As the body responsible for the protection of children's rights, the NCRC faces various challenges, including limited funding and authority to follow up on cases of child rights violations. Article 18 of the *Constituição da República Democrática de Timor-Leste* emphasizes the importance of protecting children's rights as part of the state's commitment to international human rights instruments that have been ratified. Therefore, strengthening the institutional capacity of the NCRC should be prioritized in the legal reform agenda, by granting it greater authority in advocacy and oversight of the implementation of policies related to children's rights.

The prospects for legal and justice reform in Timor-Leste are heavily dependent on the government's commitment to implementing the policies outlined in the *Plano Estratégico para o Setor da Justiça* 2010-2030. Concrete measures that need to be taken include the enhancement of human resource capacity within the judiciary, the harmonization of customary law with human rights principles, the expansion of legal aid and translation services, and the strengthening of independent institutions such as the NCRC. Without comprehensive and sustained reforms, the legal system in Timor-Leste will continue to face challenges in ensuring access to justice for all segments of society.

#### 4. Conclusions

The legal and justice system in Timor-Leste continues to face various structural and substantive challenges that affect access to justice for the population. Limitations in judicial infrastructure, a shortage of competent human resources in law enforcement, and the imbalance between formal law and customary justice mechanisms are key factors hindering the effectiveness of the judicial system. Additionally, challenges in child protection, limited legal aid for vulnerable groups, and weaknesses in the birth registration process further complicate the situation of access to justice. To enhance the effectiveness of the legal system, sustained investment is needed to strengthen the capacity of judicial institutions and law enforcement officials. The further implementation of the *Plano Estratégico para o Setor da Justiça* 2010-2030 must be prioritized to improve the quality of justice, ensure transparency in legal processes, and safeguard individual rights within the judicial system. The government must also increase the availability of legal aid services for the poor and strengthen the role of independent institutions, such as the NCRC, in protecting vulnerable groups. Furthermore, reforms in customary law are necessary to align more closely with human rights principles, especially in the protection of women and children. A synergy between the formal legal system and customary justice mechanisms must be developed through an inclusive approach, where customary law can continue to play a role without conflicting with universal justice values. Through these strategic measures, it is hoped that access to justice in Timor-Leste can be expanded more fairly and effectively for all segments of society.

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