



**The Global Initiative**  
*for Economic, Social and Cultural Rights*



**Rede ba Rai**

**Parallel Report submitted to the UN Committee on the Elimination of  
Discrimination against Women**

**Timor-Leste, 62<sup>nd</sup> Session**  
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**Submitted by:**

**Rede ba Rai**

*and*

**Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)**



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### **Submitting Organizations:**

#### **Rede ba Rai**

Rede ba Rai called in English [Land Network] represents over 20 NGOs from diverse backgrounds. Rede ba Rai (RBR) is a long standing national advocacy organization concerned with land and housing rights issues, especially for poor people. RBR's members groups are located as throughout the thirteen districts in Timor Leste with extensive links and working relationships at the community level.

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**The Global Initiative for Economic, Social and Cultural Rights (GI-ESCR)** is an international non-governmental human rights organization which seeks to advance the realization of economic, social and cultural rights throughout the world, tackling the endemic problem of global poverty through a human rights lens. The vision of the Global Initiative for Economic, Social and Cultural Rights is of a world where economic, social and cultural rights are fully respected, protected and fulfilled and on equal footing with civil and political rights, so that all people are able to live in dignity.

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## I. Women's Land and Property Rights in Timor-Leste

This report aims to provide information to the CEDAW Committee on the current status of women's land and property rights in Timor-Leste, and to provide some recommendations to the Committee on these issues.

### General Background

Women in Timor-Leste carry heavy workloads and are important contributors to local farming and agriculture. The State party report notes that "Rural women play a crucial role in the economic development of Timor-Leste, predominantly through the agriculture sector."<sup>1</sup> Indeed, Timorese women are very active in the agricultural sector with approximately 88 percent of Timorese women working in agriculture, compared with 82 percent of men.<sup>2</sup> Researchers have noted that in Timor-Leste "Land is the most important asset for rural people and a very special good for rural women, due to women's attachment to, and dependence on, land. In addition to their involvement in agricultural production, fuel wood and water collection are largely conducted by women. The land for women is much more than an economic asset; it is essential for social security and wellbeing and performs several roles."<sup>3</sup>

Timorese women face pervasive structural discrimination and negative gender stereotypes, which dramatically impede their ability to participate and benefit from education and political representation, and which limit their rights over land and other resources.<sup>4</sup> A life of poverty and discrimination is the reality for many women in Timor-Leste, particularly women living in mountainous and highland areas, female heads of household, widows and older women. Although Timor-Leste ratified the Convention on the Elimination of All Forms of Discrimination against Women, in its review of Timor-Leste in 2009 the Committee on the Elimination of Discrimination against Women expressed concern at the prevalence of a patriarchal ideology in Timor-Leste, with firmly entrenched adverse stereotypes and cultural norms (CEDAW/C/TLS/CO/1, para. 27).

While Timor-Leste has incorporated guarantees of gender equality and non-discrimination into its Constitution, men continue to be more likely to be educated than women at all educational levels except primary and have higher rates of literacy. In 2012, the country mission report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona, highlighted that 45 per cent of women aged 15 years and over have not had any education at all.<sup>5</sup> As the Government recognizes, widespread female illiteracy is one of the primary obstacles to achieving substantive gender equality.

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<sup>1</sup> UN Doc. CEDAW/C/TLS/2-3, 22 January 2014, at para. 301.

<sup>2</sup> REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE, PREPARED BY THE OFFICE OF THE SECRETARY OF STATE FOR THE PROMOTION OF EQUALITY (SEPI), 'TIMOR-LESTE BEIJING PLATFORM FOR ACTION NATIONAL REVIEW AND APPRAISAL REPORT,' 2014.

<sup>3</sup> VANDA NARCISO, PEDRO DAMIÃO DE SOUSA HENRIQUES, and MÁRIO TILMAN, 'LAND AND GENDER IN MATRILINEAL TIMOR-LESTE,' paper presented at the 9th annual conference of the HDCA, 5-7 September 2012, Jakarta, Indonesia.

<sup>4</sup> UN Doc. A/HRC/20/25/Add.1, 24 May 2012.

<sup>5</sup> Ibid.

## Gender Discrimination in Land and Property Rights

Women in Timor-Leste face persistent barriers in terms of enjoying equal land and property rights. Indeed, in its previous Concluding Observations on Timor-Leste, the CEDAW Committee expressed concern about “the lack of clarity with respect to women’s ownership and inheritance of land as well as women’s legal capacity”<sup>6</sup> and further urged the State party to take proactive measures to ensure that rural women have access to land and that it specifically take appropriate measures to eliminate all forms of discrimination against women with respect to the ownership and inheritance of land.<sup>7</sup>

Timor-Leste does not yet have a formal system for administering land rights. In terms of the national legal and policy framework, Timor-Leste to date does not have a national land policy, but is in the process of developing a national land law. The State party report acknowledges that the Land Law (officially called the Special Regime for the Definition of Ownership of Immovable Property) has been pending since 2008.

Part of the current difficulty for women in terms of land rights stems from the fact that most people use the traditional system of justice, known as *adat* or *lisan*, and other informal processes for dealing with a range of issues, including those related to land.<sup>8</sup> Researchers have found that “In most cases, the traditional system is not favorable to women; For example, in Lospalos district the local community adopted the patrilineal system which does not give women the right to own inherited land from parents. Women only have rights to access the land depending on their husband, for example, women do not inherit land and do not participate in traditional decision-making institutions such as the council of Katuas (older and wiser men).”<sup>9</sup>

This finding is also confirmed by a recent report by CEPAD (Centre of Studies for Peace and Development) and UN-Women Timor-Leste on ‘Women’s Access to Land and Property Rights in the Plural Justice System of Timor-Leste’ (2014). That study highlights a major problem in terms of conflicting systems of law operating at the national level. It notes: “The research has found that a plural justice system exists in Timor-Leste and intersection, overlapping and clashing between these two systems often occurs. This situation leaves women with a choice between claiming rights to ownership and control of land or property on one hand and maintaining good relations with their families in order to be able to continue to access land, use and manage land and participate in the life of the family and community on the other hand.”<sup>10</sup> As the report highlights State laws may determine formal ‘rights’ but the customary justice system determines ownership in practice.

CEPAD and UN-Women also note that “In most aspects [customary justice] is a male-oriented practice which ensures that men have control over productive resources, in particular, the use of land.”<sup>11</sup> Similarly, the Japan International Cooperation Agency (JICA) has also highlighted that, at least when it comes to matters of land inheritance, “A

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<sup>6</sup> UN Doc. CEDAW/C/TLS/CO/1, 7 August 2009, at para. 45.

<sup>7</sup> Ibid, at para. 42.

<sup>8</sup> VANDA NARCISO and PEDRO HENRIQUES, ‘Women and Land in Timor-Leste: Issues in Gender and Development,’ *Indian Journal of Gender Studies*, 17:1 (2010): 49–72.

<sup>9</sup> Ibid.

<sup>10</sup> Centre of Studies for Peace and Development (CEPAD) and UN Women Timor-Leste, ‘Women’s Access to Land and Property Rights in the Plural Justice System of Timor-Leste: Research Report,’ November 2014.

<sup>11</sup> Ibid.

paternal system is in place, and the ownership of land is inherited by men (grandfather to father and then to son) in most areas.”<sup>12</sup> Even in those districts which have adopted a matrilineal system (such as Manatuto District), where it is said that women have rights to access and use the land, in reality these rights can also be lost or modified in a range of ways. For example, land agreements with outsiders tend to favour men, and gender biases still exist. This situation reflects the fact women are limited in terms of access to information and are also limited due to having less formal education.

### **Women’s Lack of Participation in Land Laws and Policies**

In Timor-Leste, women’s participation in the development process of the policies and laws related to the land is very limited. Women participation is limited generally because of lower education, strong patrilineal systems and lack of encouragement to ensure maximum participation from women. While the Government has realized some consultations at the district level (and some at the sub-district level) on the draft Land Law, people in the rural areas have not participated meaningfully, particularly women, because of the distance and the short consultation times (2-4 hours/day/district).

In 2011 and 2013 the Government began the implementation of the two mega projects: Suai Supply Base in Suai, and Special Social Market Economy Zone (ZEESM) in Oé-Cusse district. For the Suai Supply Base, in Camanasa Village, Suai-Covalima District, the Government will take 1,113 hectares of land to build facilities of the Supply Base. In April 2013, when the local authority made a public declaration to offer the community land to the Government, only 15 persons signed the declaration, none of them women.

On the 23rd of July, 2015, TimorGAP and the Ministry of Petroleum and Mineral Resources held a consultation in Selihasan aldeia, Betano suku to discuss taking over community land for the purposes of building an oil refinery, another part of the Tasi Mane Project. During the discussion, twelve people were given to opportunity to ask questions, but this did not include any women. When La’o Hamutuk asked for women’s opinions on the impacts of this project, they did not know what they would be, and they said they just followed the rest of the community’s opinion, particularly that of the men. The communities are unhappy with the consultation process because it did not give adequate time for the affected groups to ask questions about their right to land, housing and crops.

In March 2015, La’o Hamutuk held interviews with the community at Holbelis airport and Lohorai-Suai, in which we learned that these projects have resulted in discrimination against the poor and women’s rights to access land and housing, as is outlined in the example below.

Mrs. Y lives with her husband and four children. They are a very poor family, because Mrs. Y’s husband has suffered from illness since 1999. In 2002, they moved from Beko suku and came to live in Holbelis suku so that they could have easier access to the hospital to get treatment for her husband. This house was offered to them by her uncle, although the house has remained in very poor condition since Mrs is economically unable to have it rehabilitated. When in 2014 the Government held consultations and

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<sup>12</sup> JAPAN INTERNATIONAL COOPERATION AGENCY (JICA), ‘Country Gender Profile: Timor-Leste, Final Report,’ January 2011.

collected data about how many families would be displaced or impacted by the Suai airport projects, they ignored Mrs. Y. Up to now, this woman does not know where she can go to live or if / when the Government will remove them from Holbelis. She cannot go back to live in their original home in Beko because it is far from the hospital and there is already another family living there.

When the Government collected data regarding compensation to the community, it did not properly recognize the community which has lost homes, land and crops in order to build this airport. The Government has also ignored this particular woman's situation, and has not included her in their data, even though Mrs. Y has continuously brought her issue to the Ministry. Unfortunately, until now she has still not received a sufficient response from the Government.

In 2013, the ZEESM team conducted consultations to implement the ZEESM project in Oe-Cusse, which will use approximately 107-300 hectares of land to build the supporting infrastructure (i.e. road, electricity, port, airport and water system). The ZEESM team realized about 25 group discussions, but only 126 of those interviews -- from the total 570 -- were woman. In 19 December 2014, La'o Hamutuk and Haburas Foundation met and discussed with the population in rural area of Oé-Cusse who will be affected by the ZEESM project and they raised their concern about the consultation process that they claimed did not involve many people, particularly women. They also questioned the implication of this project after the Government took their land. In this discussion only 5 participants were woman, from the total of 40 participants.

In April and June 2015, La'o Hamutuk went to Oecusse and conducted interviews with community particularly women in Tono, Cunha and Nipani suku. During these interviews, we learned that women often do not know about the ZEESM Project, or about its benefits or impacts, since they were unable to participate in the discussion because they were working on farms or in their homes.

### **Specific Issues Pertaining to the Draft Land Law**

The draft Land Law gives more rights and power to the State, and those who have money to purchase land. For this reason, in March 2012, former President Jose Ramos Horta vetoed three previous draft laws regarding access to land, sending them back to Parliament for revision. The Ministry of Justice undertook extensive revision during the months of Feb-Apr 2013, with the establishment of a Gender and Land Law Sub-working Group. Although the establishment of this working group is to ensure that the Land Law protects women's rights, and the draft Law mentions that women's and men have equal rights to access the land, there are controversial articles.

One example is an article about Community Protection Zones which says that "...*this land considering belongs to the community, they use [it] together and organize through the traditional system.*" Because the majority of Timorese women live under patrilineal systems, reliance on these traditional systems very much affects their rights to access and use land, and in practice women must access land through a relationship with a male relative (father, husband, etc). CEPAD research found that in Baucau district, only men have rights to access and use the land by heritage from their parents. Women have right through their husband, and rarely independently.

Although the Government and international agencies try to ensure women's land rights are in the Land Law and land registration systems (such as with Ita Nia Rai (INR), a project which focuses on ensuring women's participation during cadastral consultations and encouraging land titling in the names of both spouses), the reality is very different. In 2013, Rede ba Rai conducted research which found that in 2011 the Ita Nia Rai land registration project created disincentives for data collectors to register multiple claimants such as joint husband-wife claims. Analysis on INR reduction in the portion of joint couple claims indicates fewer women were making claims, 33% in 2009 and down to 15% in 2011. CEPAD research also found that wives seeking to claim jointly may be mistreated by her husband family because of the strong patrilineal system.

## **II. Recommendations**

In light of this situation, Rede ba Rai and GI-ESCR respectfully urge the CEDAW Committee to include the following in its Concluding Observations on Timor-Leste:

This conflict in laws demonstrates the need for the Steps must also be taken to ensure that new legislation, including the new Land Law, provides for the amendment and/or removal of provisions contained in other areas of law that contradict the legislation adopted, so as to ensure a consistent legal framework that promotes women's human rights and gender equality.

1. Adopt a consistent legal framework that protects women's rights to land and property, with the aim of furthering gender equality. It should ensure that laws, policies and programmes are effectively consolidated and harmonized so that there are consistent and coherent legal and policy frameworks protecting women's rights to land.
2. Ensure that women are able to meaningfully participate in all consultations around all land related policies and laws, including the draft Land Law, and that they are able to do so on the basis of equality with men.
3. Ensure that whatever national land laws/policies are adopted effectively protect women's equal, independent and secure rights to land (both de jure and de facto) in all cases, and do not defer to traditional systems for the practical administration of land.
4. Ensure that women have access to justice for all land and property related disputes, and that justice mechanisms uphold women's rights in practice.
5. Ensure that women's rights to land are also upheld within the context of private land deals and agreements, and that women have the opportunity to meaningfully participate in the shaping of such agreements and to benefit from them on an equal basis with men.
6. Implement effective and wide ranging measures to raise awareness of women's rights to land and property among key constituencies, including traditional leaders, law and policy makers, judges and lawyers, as well as among women themselves.