UNHCR
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Universal Periodic Review: *Fourth Cycle, 54th Session*

Timor-Leste

I. BACKGROUND INFORMATION

Timor-Leste acceded to the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (the *1951 Refugee Convention*) in 2003. Timor-Leste is not a party to the *1954 Convention relating to the Status of Stateless Persons* nor the *1961 Convention on the Reduction of Statelessness.* In 2003, Timor-Leste also acceded to major international human rights instruments[1].

The *2002 Constitution of the Democratic Republic of East Timor* recognizes fundamental human rights, in particular those foreseen in international legal instruments,[2] and makes a specific reference to the Universal Declaration of Human Rights.[3] Asylum issues in Timor-Leste are governed by the *2017 Immigration and Asylum Act* (the "2017 Act").[4] Since the adoption of the 2017 Act, UNHCR is aware of a small number of individuals who have expressed their intention to seek asylum in Timor-Leste. However, UNHCR is not aware of how many individuals are currently benefitting from international protection provided by the Government under its national legal framework established by the 2017 Act and is not provided information or statistical data concerning the condition of refugees or the implementation of the *1951 Refugee Convention.* Additionally, there are currently no statistics available to UNHCR regarding the number of stateless persons or internally displaced persons residing in Timor-Leste.

II. ACHIEVEMENTS AND POSITIVE DEVELOPMENTS

Linked to the 3rd cycle UPR recommendation no. 116.156[5]:

Through the Ministry of Justice, Timor-Leste has made notable progress in improving access to birth registration services, particularly for children and families living in remote and rural areas. Timor-Leste has expanded efforts to decentralize and modernize the civil registration system. These measures have contributed to making birth registration more accessible, efficient and inclusive. UNHCR commends these measures, while noting the importance of

[1] These include, notably, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and the Convention on the Rights of the Child.

[2] *Constitution of the Democratic Republic of East Timor* [Timor-Leste (East Timor)], 20 May 2002, Section 9, available at http://www.refworld.org/docid/3dd8dd484.html.

[3] *Constitution of the Democratic Republic of East Timor* [Timor-Leste (East Timor)], 20 May 2002, Section 23, available at http://www.refworld.org/docid/3dd8dd484.html.

[4] Law No. 11/2017 on Immigration and Asylum, adopted on 19 May 2017, available at https://migracao.gov.tl/pdf/Lei%2011-2017%20LIA%20com%20Indice.pdf

[5] "Bring birth registration services closer to beneficiaries, especially in rural areas, while making the administrative process more effective and less costly (Serbia)."UN Human Rights Council, Universal Periodic Review, *Report of the Working Group on the Universal Periodic Review: Timor-Leste,* A/HRC/50/12, 4 April 2022, p. 19 para 116.156, available at Document Viewer.

sustained attention to this area, as national data indicates that only a third of children under the age of five years (34.5 per cent) have a birth certificate.[6]

A range of positive initiatives are underway to help resolve gaps in birth registration, particularly for out-of-hospital births and those in rural communities. A key achievement has been the expansion of mobile birth registration campaigns targeting hard-to-reach communities in 2024 and 2026. These initiatives bring registration services directly to villages and sub-villages located far from municipal capitals, helping to overcome geographical and financial barriers that previously prevented many children from obtaining birth certificates. The campaign, initially launched in 2023, has increased demand for birth registration and facilitated the issuance of certificates for children who had previously remained undocumented.

Timor-Leste has also better integrated civil registration services within the health sector by establishing birth registration posts in hospitals and health centres across multiple municipalities. This has facilitated more timely registration of births occurring in health facilities and promoted closer integration between health and civil registration systems.

In parallel, Timor-Leste has advanced the digitalization of civil registration services. The Ministry of Justice is implementing online services for essential civil status documents, including birth certificates and is strengthening the Demography Management Information System (DMIS). Investments in information technology infrastructure, alongside efforts to introduce online appointment systems and enhance public awareness through digital communication channels, are improving the efficiency and accessibility of registration procedures.

While these efforts remain ongoing, UNHCR welcomes the positive steps taken by Timor-Leste to strengthen access to legal identity, enhance the accessibility of birth registration services, and reduce barriers to the enjoyment of fundamental rights for all children, particularly those living in remote areas and those at risk of statelessness.

III. KEY RECOMMENDATIONS FOR FURTHER IMPROVEMENT[7]

Issue 1: <u>Access to asylum</u>

Asylum issues in Timor-Leste are governed by the 2017 Act promulgated on 19 May 2017, which replaced the earlier *2003 Immigration and Asylum Act*. While the law incorporates the principle of non-*refoulement* and provides a legal framework for the examination of asylum claims, several provisions may hinder effective access to asylum procedures and create risks of refoulement for individuals in need of international protection.

Under Article 100 of the 2017 Act, individuals seeking asylum must lodge their application within 72 hours of arrival in Timor-Leste or, for individuals who are resident or entitled to stay in the country, within 72 hours of becoming aware of the facts giving rise to their need for international protection.[8] Applications submitted beyond this period may be deemed inadmissible unless the delay is considered justified. However, the law does not clearly define the circumstances that would justify a late application.[9]

The 72-hour timeframe may constitute a significant obstacle to accessing asylum procedures. Asylum-seekers often face language barriers, lack information regarding available procedures

[6] UNICEF Timor-Leste, *Birth registration: the first step to securing a child's future*, https://www.unicef.org/timorleste/stories/birth-registration-first-step-securing-childs-future
[7] The following is a non-exhaustive list of recommendations which, if supported and implemented by the State, may help to improve the protection of the human rights of forcibly displaced and stateless people.
[8] This is set out in Articles 100(1) and 100(2) of the 2017 Act.
[9] Article 104 (1) d) of the 2017 Act.

or the competent authorities responsible for processing claims, have limited access to legal assistance, or may fear approaching authorities due to their immigration status or previous experiences of persecution. Such obstacles can be particularly acute for persons with specific protection needs[10]. The strict application of the deadline may therefore prevent individuals with valid international protection claims from accessing asylum procedures.

In addition, circumstances giving rise to a need for international protection may arise as a result of changes in the individual's situation or developments in their country of origin overtime. The 72-hour timeframe may prevent these individuals from filing an asylum application, even though they may have valid reasons for being unable to return. Refusal to admit claims on procedural grounds may result in the return of individuals with international protection needs to countries where they face a real risk of persecution, torture, or other serious human rights violations, in potential contravention of *non-refoulement* obligations.

Concerns regarding access to asylum are not limited to the filing deadline under Article 100. Additional concerns arise from the inadmissibility provisions contained in Article 104 and the exclusion provisions contained in Article 93, which may prevent applicants from obtaining a full and fair examination of their international protection needs.

While States may establish mechanisms to identify manifestly unfounded, abusive, or duplicate asylum claims, inadmissibility grounds for this purpose as provided in Article 104(1)(a) of the 2017 Act, must be applied cautiously and accompanied by adequate procedural safeguards to ensure compliance with the principle of non-refoulement. The mere appearance of weakness, inconsistencies, delayed filing, lack of documentation, or use of false documents should not automatically result in summary dismissal, particularly in cases involving trauma, language barriers, or limited access to legal assistance.

Further, Article 104(1)(c), concerning applicants from a "safe country" or "host third country", should not be applied automatically or without an individualized assessment. Even where a country is generally considered safe, particular applicants may nevertheless face persecution or other serious harm due to their personal circumstances. Similarly, transfer to a third country should only occur where effective protection is available, including access to asylum procedures and protection against refoulement.

Third, Article 104(2) contains fraud-related indicators that may be overly broad if treated as automatic grounds for inadmissibility. Refugees frequently flee in circumstances where they are unable to obtain genuine travel or identity documents and may be compelled to resort to irregular means of travel in order to escape persecution. The use of false documents, the absence of identity documents, or difficulties substantiating certain aspects of a claim should not automatically result in inadmissibility, but should instead be assessed in the broader context of the applicant's individual circumstances and the overall merit of the protection claim This is particularly important given the principle of non-penalization under international refugee law, which recognizes that refugees may be forced to enter or remain in a country irregularly as a direct consequence of their flight from persecution. Treating such circumstances as automatic grounds for inadmissibility risks excluding individuals with legitimate international protection needs from access to asylum procedures. Furthermore, Article 104(2)(c), relating to false statements, should be applied with caution. Inconsistencies or omissions may result from trauma, fear, misunderstanding, language difficulties, interpretation errors, age, or psychological distress rather than deliberate deception. Applicants should therefore be afforded a meaningful opportunity to explain discrepancies before adverse conclusions are drawn.

[10] This may include women, unaccompanied and separated children, older persons, survivors of trauma, persons with disabilities, and those with serious medical or mental health conditions, among others.

Additional concerns arise from the relationship between Articles 93 and 104. Article 104 permits an asylum application to be declared inadmissible where it appears at the outset that one of the exclusion grounds under Article 93 may apply. This approach raises concerns as exclusion from refugee status raises complex factual and legal issues that require a careful, detailed and individualized assessment of the applicant's circumstances and the available evidence. Given the gravity of the consequences of exclusion, such determinations may therefore be unsuitable for summary admissibility procedures. Exclusion is not a procedural issue but a substantive determination with significant legal consequences. As a result, exclusion grounds should ordinarily be examined only as part of a full refugee status determination process, and appropriate procedural safeguards.

In addition, concerns remain regarding the availability of effective remedies against negative asylum decisions. The law is unclear on the right to appeal in case of an inadmissibility decision and only prescribes that an applicant can challenge the refusal of his/her asylum request before a member of the Government.[11]

These procedural limitations raise concerns regarding compliance with the principle of non-*refoulement*, which is recognized in Article 2 of the 2017 Act and reflected in Timor-Leste's obligations under international human rights law, including Article 3 of the CAT and Articles 6 and 7 of the ICCPR as well as customary international law. Effective access to asylum procedures, independent review mechanisms, and suspensive appeals are essential safeguards to ensure that no person is returned to a country where they may face persecution, torture, or other forms of serious harm.

There are currently no statistics available regarding the number of asylum-seekers and refugees in Timor-Leste. A transparent assessment could aim to collect and publish accurate statistics of the number of asylum-seekers and refugees disaggregated by age, gender, country of origin and other relevant characteristics to demonstrate the effect of the implementation of the national asylum system.

Recommendations:

- Amend the legislative timeframe[12] for individuals to submit an asylum application in Timor-Leste, to require asylum applications to be submitted “within a reasonable time” of their arrival or awareness of need for international protection, which would offer more flexibility.
- Revise Article 104 of the 2017 Act to ensure that inadmissibility procedures do not restrict access to a full and fair examination of asylum claims, including by removing inadmissibility based on late filing, requiring individualized assessments, and providing effective procedural safeguards and appeal rights against inadmissibility decisions.
- Revise Article 104 of the 2017 Act to ensure that exclusion from refugee status is only determined following a full, individualized and fair examination of the asylum claim, and that applicants benefit from appropriate procedural safeguards, including access to legal assistance and an effective remedy.
- Revise Article 107 of the 2017 Act to establish a clear and effective procedure for appealing in case of inadmissibility. This should include the competent authority, applicable timelines, procedural safeguards, and the right of applicants to be informed of and exercise their appeal rights.
- Share with appropriate partners, including UNHCR, accurate statistics on asylum-seekers and refugees, disaggregated by age, gender, country of origin and other relevant characteristics to demonstrate the effect of the implementation of the national asylum system.

[11] Article 107 of the 2017 Act.
[12] Article 100 of the 2017 Act requires lodgement within 72 hours of arrival in Timor-Leste or becoming aware of the facts giving rise to their need for international protection.

Issue 2: Exclusion from refugee protection and national security grounds

Article 93(2) of the 2017 Act provides that asylum may be refused where an individual constitutes a "serious or proven threat to internal or external security or public order". While States have a legitimate interest in protecting national security and public order, such considerations should not expand the exclusion grounds beyond those recognized under international refugee law. The *1951 Refugee Convention* addresses security-related concerns through specific provisions governing the expulsion of refugees and narrowly defined exceptions to the principle of non-*refoulement*. Articles 32 and 33(2) of the *Refugee Convention* provide a framework for addressing such concerns in respect of individuals who otherwise qualify for refugee protection.

Article 93(2) of the 2017 Act may risk conflating distinct legal concepts under the *Convention* and extending the exclusion framework beyond the exhaustively enumerated grounds for exclusion set out in Article 1F of the *1951 Refugee Convention*. Given the possible grave consequences of exclusion and return to country of persecution, the exclusion clauses should always be interpreted in a restrictive manner, and they cannot be unilaterally expanded in domestic law.

Recommendations:

- Revise Article 93(2) of the 2017 Act to ensure that security-related concerns are addressed consistently with Articles 32 and 33 of the *1951 Refugee Convention* and do not permit denial of refugee protection on grounds broader than those recognized under international refugee law, while fully respecting the principle of non-*refoulement*.

Issue 3: Effectiveness of the asylum procedure

Despite the existence of a legal framework governing asylum, challenges have been reported in accessing and navigating the asylum process in Timor-Leste, both at the airport upon arrival and within the territory. Individuals expressing a need for international protection have reportedly faced difficulties in having their asylum claims formally registered, obtaining information in a language they understand, accessing interpretation services, and receiving clear communication regarding the status of their applications. These reported shortcomings raise concerns about the effectiveness of the asylum system in practice and the ability of asylum-seekers to access procedural safeguards and protection against refoulement.

Some asylum-seekers have reportedly been advised by the authorities to leave Timor-Leste before their asylum claims could be formally registered or substantively examined. In some instances, individuals have reportedly been deported despite having expressed fears of return or an intention to seek asylum. Such reported incidents raise concerns regarding effective access to asylum and the implementation of safeguards necessary to uphold the principle of non-refoulement.

Recommendations:

- Ensure that asylum-seekers are registered immediately and undertake a fair and efficient assessment of all asylum claims.
- Provide sustained capacity-building for immigration officers and awareness-raising and sensitization of other relevant stakeholders to ensure effective implementation of the 2017 Act.
- Guarantee access to qualified interpretation services throughout the asylum procedure, including at the point of arrival and during all interviews.

- Facilitate access to legal assistance to individuals seeking asylum, as provided for by Art 102 of the *2017* Act, to promote the fair and efficient examination of asylum claims.
- Establish clear standard operating procedures for asylum registration, status determination, referral, and appeal processes.
- Ensure that no individual expressing a fear of persecution is deported, removed, or pressured to leave the country before their claim has been registered and fairly assessed through appropriate procedures, and all available appeals have been exhausted in accordance with applicable international and national legal standards.

UNHCR stands ready to provide all necessary support to the Government of Timor-Leste to facilitate the implementation of these recommendations.

Issue 3: <u>Accession to the statelessness conventions and prevention of statelessness</u>

Nationality in Timor-Leste is governed by the provisions of the *Constitution of the Democratic Republic of East Timor* (Section 3) and *Law No. 9/2002 on Citizenship,* which incorporate some of the key safeguards outlined in the *1961 Statelessness Convention*. In particular, the Citizenship Law prohibits arbitrary deprivation of citizenship; ensures citizenship cannot be lost solely as a result of residence abroad; and provides safeguards to ensure that Timor-Leste citizenship cannot be renounced without the acquisition of another nationality. In addition, the Constitution further reinforces the principle that no one may be arbitrarily deprived of nationality, which is also set forth in Section 2 of the Law on Citizenship.

Children born to at least one Timor-Leste citizen parent, regardless of birthplace, will be considered a citizen of Timor-Leste. Although children of "incognito parents, stateless parents or parents with undetermined nationality" [13] born in Timor-Leste, in principle, acquire citizenship automatically, it is unclear if foundlings can gain citizenship through Timor-Leste's citizenship laws, which may present continued risks of statelessness. Regulations or instructions clarifying the operation of these important provisions would be helpful in strengthening their full and effective implementation in practice.

Furthermore, children born in Timor-Leste to parents who are not stateless but are otherwise unable to confer their nationality to their children, such as migrant parents, may be at risk of statelessness since they do not acquire Timor-Leste citizenship.

There are currently no statistics available to UNHCR regarding the number of stateless persons in Timor-Leste. The collection of accurate, disaggregated data[14] would support a comprehensive understanding of the scope, nature, and trends associated with the issue and serve to inform appropriate responses.

Accession to the *1961 Statelessness Convention* and the implementation of its provisions in Timor-Leste's nationality legislation would ensure the right of every person to a nationality, thus closing the remaining gaps. In addition, the definition of "stateless persons"[15] defined in the Law on Citizenship (2002) is not aligned with the definition provided in the *1954 Statelessness Convention*. Thus, acceding to the *1954 Statelessness Convention* and establishing a statelessness determination procedure would help determine the status of stateless persons and support efforts to ensure that stateless persons are guaranteed minimum rights, standards of treatment and legal status in Timor-Leste.[16] Importantly, the

[13] *Law No. 9/2002 on Citizenship, 9/2002*, 5 November 2002, Section 8.1.b) https://www.refworld.org/legal/legislation/natlegbod/2002/14539
[14] Disaggregation should be by age, gender, country of origin, and other relevant characteristics.
[15] *Law No. 9/2002 on Citizenship, 9/2002*, 5 November 2002, Section 2.2. c) https://www.refworld.org/legal/legislation/natlegbod/2002/14539
[16] These rights include, *inter alia*, freedom of movement, education, employment, housing, and public relief.

1954 Statelessness Convention also guarantees stateless persons identity and travel documents and to administrative assistance.

Recommendations:

- Accede to the 1954 Statelessness Convention and the 1961 Statelessness Convention and incorporate their provisions into domestic law and policy;
- Establish a statelessness determination procedure to ensure that all persons, including children, are protected and prevented from statelessness.
- Regularly collect and share with appropriate partners, including UNHCR, accurate statistics on statelessness, disaggregated by age and gender, to examine the effect of statelessness on the enjoyment of rights and to identify legal and policy solutions to further prevent and reduce statelessness.

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