

<b>Country</b>	<b>Timor-Leste</b>
SIGI 2019 Category	N/A
SIGI Value 2019	N/A

<b>Discrimination in the family</b>		<b>31%</b>
	Legal framework on child marriage	75%
	Percentage of girls under 18 married	8%
	Legal framework on household responsibilities	25%
	Proportion of the population declaring that children will suffer if mothers are working outside home for a pay	-
	Female to male ratio of time spent on unpaid care work	1.3
	Legal framework on inheritance	25%
	Legal framework on divorce	25%

<b>Restricted physical integrity</b>		<b>34%</b>
	Legal framework on violence against women	50%
	Proportion of the female population justifying domestic violence	86%
	Prevalence of domestic violence against women (lifetime)	59%
	Sex ratio at birth (natural =105)	105
	Legal framework on reproductive rights	75%
	Female population with unmet needs for family planning	25%

<b>Restricted access to productive and financial resources</b>		<b>N/A</b>
	Legal framework on working rights	25%
	Proportion of the population declaring this is not acceptable for a woman in their family to work outside home for a pay	-
	Share of managers (male)	67%
	Legal framework on access to non-land assets	25%
	Share of house owners (male)	57%
	Legal framework on access to land assets	50%
	Share of agricultural land holders (male)	-
	Legal framework on access to financial services	50%
	Share of account holders (male)	-

<b>Restricted civil liberties</b>		<b>N/A</b>
	Legal framework on civil rights	0%
	Legal framework on freedom of movement	0%
	Percentage of women in the total number of persons not feeling safe walking alone at night	-
	Legal framework on political participation	25%
	Share of the population that believes men are better political leaders than women	-
	Percentage of male MP's	68%
	Legal framework on access to justice	75%
	Share of women declaring lack of confidence in the justice system	-

Note: Higher values indicate higher inequality. Percentages range from 0 to 100, while legal variables are categorised as 0%, 25%, 50%, 75% or 100%. See data source [here](#).

Source: OECD (2019), Gender, Institutions and Development Database, <https://oe.cd/ds/GIDDB2019>.

## Timor-Leste

### 1. Discrimination in the family

#### a) Overarching legal framework for marriage

Marriages in Timor-Leste are regulated by the Civil Code (Law No 10/2011), although the government announced on 23 February 2017 its intention to incorporate these provisions into an autonomous law on marriage and family, to increase public awareness and understanding of the law, particularly the provision requiring the registration of all marriages (art. 1538). Indeed, most of the population is not aware of this requirement, resulting in a large number of unregulated de facto relations (USAID Timor-Leste et al., 2013).

Three types of marriages are recognised by the Civil Code (art. 1475): civil, catholic and “bride-price based monogamic marriage” (hereafter referred to as “customary marriage”). Non-Catholic religious marriages are therefore not recognised by law, and all marriages require the publication of ‘*banns*’ (written declaration of intention to marry) (art. 1486 and 1498).

Lack of will resulting from moral or physical coercion constitutes grounds for the annulment of the marriage (art. 1525 para. 1 and art. 1523 para. c). Moral coercion is declared in two situations: when “the harm [that] the betrothed is illegally threatened with is serious and the fear that it might be consummated is warranted”, and when “someone, knowingly and illegally, extorts the declaration of will from the betrothed by promising to set him/her free from harm caused by someone else” (art. 1525 para. 1). Yet the common bride price custom remains and prevalence of forced marriages remain a concern (CEDAW, 2015), as does the forced remarriage of widows with the brother or sister of the deceased spouse (CEDAW, 2014).

Moreover, whilst women and men have equal rights to enter into marriage, they do not have the same rights as men to remarry after divorce or death of their husband, seeing as they must wait longer than men to remarry (300 days compared to 180 days for men), unless they obtain a judicial declaration stating that they are not pregnant or have not given birth in the 180 day period (art. 1494 para. 1-2).

#### b) Child marriage

The legal age for marriage is set at 16 years for both sexes and for all groups of persons (art. 1490 para. a), despite the age of majority being set at 17 years (art. 118). This means that child marriages are not prohibited for minors between 16 and 17 years of age, providing that the parents, guardian, civil registrar or competent priest or community authority consent to the underage union (art. 1486 para. 2-3, art. 1500 para. 1-2).

Whilst the requirement for all marriages to be registered could be seen as a measure to reduce the prevalence of child marriages, 7 202 girls under 16 years of age are reported to have been married in 2015, compared to 0 boys of the same age group (2015 Population and Housing Census). In view of this, the United Nations (UN) has asked the government to raise the legal age of marriage to 18 years

for girls and boys (CEDAW, 2015), and to eliminate the bride price practice, as it is said to pressure women into accepting early marriages (CEDAW, 2014).

### **c) Household responsibilities**

The Civil Code stipulates that “marriage is based on equality of rights and duties between spouses” (art. 1559 para. 1). Parental authority belongs to both parents, whether married or not (art. 1782 para. 1 and art. 1786), and either can be granted the right to be the legal guardian of their children (art. 136). Moreover, married women have the same rights as married men to choose the family home (art. 1561 para. 1), but this right is in reality mitigated by the customary rule according to which women living in patriarchal communities must join the family of their spouse (and vice versa for men living in matriarchal communities) (CEDAW, 2014).

Under the law, women also enjoy the same rights as men to be the head of the household, although in practice this role is reserved for men who are expected to be the main income bearers, as opposed to women who are primarily expected to take care of the family home and to look after their children (CEDAW, 2015). Importantly however, this reality does not prejudice women’s participation in household decision-making nor men’s acceptance of such a role (CEDAW, 2014).

### **d) Divorce**

Although women have equal rights as men to initiate divorce (Civil Code art. 1560), the fact that litigious divorces can only be pronounced after proving a fault caused by the violation of conjugal obligations (art. 1656) means that in practice female victims of domestic violence often refrain from initiating divorce procedures from fear of humiliation and/or insufficient funds for legal services (La’o Hamutuk, 2009). This fault-based divorce system also implies that the spouse at fault must make reparation for non-patrimonial damage caused to the other spouse and forfeit all benefits received through the marriage (art. 1662 and 1667).

Once the divorce is pronounced women have equal rights as men to exercise parental authority individually or jointly (art. 1787-1788). However, according to NGO reports child custody is predominantly awarded to the father (Human Rights Council, 2016).

### **e) Inheritance**

Under the law women and men have equal rights to inherit land and non-land assets (Civil code art. 1896), and the disinheritance of the surviving spouse is prohibited through provisions establishing the division of successions between the surviving spouse and the deceased’s descendants/ascendants (Civil code art. 2006, 2009 and 2011). Women and men also have equal rights to make wills (Civil code art. 2052).

In practice however, women’s right to inheritance is affected by the low rate of registration of customary and catholic marriages (CEDAW, 2015), and by the habitual transmission of property to the eldest surviving male heir in the case of customary marriages, if the surviving spouse is a woman (HRC, 2016). This means that customary marriages discriminate against surviving female spouses and daughters in terms of inheritance. Moreover, the traditional inheritance system regulated by matrilineal and patrilineal lines is still dominant, especially in rural areas, prompting the UN to call

upon the government to ensure that national land laws and policies do not defer to the traditional system (CEDAW, 2015).

It is also worth noting that the surviving spouse loses his/her right to inhabit the marital home if he/she spends one year or more outside the home after the date of the spouse's death (Civil Code art. 1968).

## 2. Restricted Physical integrity

### a) Violence against women

Timor-Leste is not bound by any regional convention addressing violence against women, nor does it have a general law on this issue. However, a law defining and criminalising domestic violence was adopted in 2010 (Law No. 7/2010) to complement the provisions of the Criminal Code of 2009, and the government has adopted successive national actions plans on gender-based violence (GBV) (for the periods 2012-2016 and 2017-2021) which are coordinated by an inter-ministerial working group on gender mainstreaming under the authority of the Secretary of State for the Promotion of Equality (SEPI). Whilst the UN has raised concerns about the resourcing and monitoring of the 2012-2016 plan (CEDAW, 2015), the 2017 state budget contains commitments to finance its implementation, namely 162 000 USD for the implementation of programs for victims of GBV (up from 45 000 USD in 2016), and 2 million USD for social security institutions (which encompass service providers for victims of GBV) (UN Women, 2016).

Despite these measures women are reportedly widely pressured to resort to traditional means to resolve cases of GBV, from fear of social stigma, and thus do not benefit from the above legal provisions. Moreover, impunity remains for acts of sexual violence committed during the 1999 conflict with Indonesia (CEDAW, 2015). The 2010 Law on domestic violence is the legal framework for domestic violence, rape and sexual harassment, in conjunction with the Criminal Code. Accordingly, all these forms of GBV are criminalized (art. 36) with imprisonment penalties of up to 25 years, depending on the form of the act and aggravating circumstances. Domestic violence

The 2010 Law on domestic violence criminalises domestic violence (art. 35-36) which it defines as physical, sexual, psychological and economic abuse perpetrated in the context of a family (art. 2). An important innovation of this law is the criminalisation of such acts within a marriage, through the broad definition of 'family' encompassing former partners and informal relationships (art. 2 and 3). In addition, the law refers to the articles of the Criminal Code on rape, sexual harassment and other forms of violence. All these forms of domestic violence are sanctioned by jail sentences of up to 25 years, depending on the form of the act and any aggravating circumstances.

The Public Prosecution Service is responsible for investigating and prosecuting offenders, and the law provides for integrated services for victims of domestic violence, including reception centres, emergency shelters, legal and police assistance, medical treatment, and a free hotline (art. 20-26). The text stresses the need for education and awareness-raising to prevent domestic violence, through provisions to support domestic violence offenders (art. 27), to inform the public, community chiefs and professionals with resources, trainings and media campaigns (art. 9-10), to educate the population (art. 11) and to promote research on the underlying causes of domestic violence (art. 12).

Despite these measures the UN has raised concerns about the inadequate number of shelters, which were only accessible in 6 out of 13 districts in 2014 (CEDAW, 2014), as well as concerns about the prevalence of the informal justice system and of the fault-based divorce system which hinder the reporting of domestic violence by female victims (CEDAW, 2015).

### **b) Rape**

Rape is defined as exerting a serious threat or other forms of coercion to undertake vaginal, anal or oral coitus with another person, or to force someone to introduce objects into the anus or the vagina (Criminal Code art. 172), and it is sanctioned by up to 20 years of imprisonment. Whilst marital rape is criminalised through the law on domestic violence (art. 35-36) and cases of forced marriage between victims and rapists have not been reported (CEDAW, 2014), the UN has asked the government to review the Criminal Code to specifically criminalise marital rape in civil, religious and customary marriages, and in informal unions, and to qualify rape as a serious crime with adequate sanctions (CEDAW, 2015). It has also raised concerns about the low number of investigations, prosecutions and convictions (CEDAW, 2015).

### **c) Sexual harassment**

Sexual harassment is referred to in the Law on domestic violence (art. 2 para. 1) and defined in the Labour Code as “unwanted conduct affecting the dignity of women and men or that is considered offensive, as verbal, non-verbal, or physical, and of creating an intimidating, hostile, humiliating, and destabilizing working environment to the harassed person” (art 7 para. 3). Certain acts of sexual harassment in public is criminalised under article 181 of the Penal Code on sexual exhibitionism. The government has adopted a ‘zero violence policy’ in schools to prevent sexual harassment in educational establishments, but the UN has raised concerns about the lenient sanctions, including the transferal of teachers to other schools when found guilty of sexual harassment (CEDAW, 2015).

### **d) Female genital mutilation**

Female genital mutilation is not mentioned in any national legislation and has not been reported.

### **e) Abortion**

Through an amendment to article 141 of the Criminal Code introduced on 15 July 2009, abortion constitutes a crime unless it is the only means to save the life of the pregnant woman, so long as the procedure is authorised by a medical panel or by a professional physician or health professional in a public health institution, through a medical certificate written and signed by three doctors, and providing the pregnant woman and/or her spouse consents (CEDAW, 2015). The new text restricts the right to abortion, cancelling prior additional justifications such as the preservation of the psychological health of the woman, the unviability of the fetus and the medical evidence that the unborn child would suffer from an incurable illness or congenital malformation (SEPI, 2011). The law does not contain any provisions on the timing or age of the pregnant women to be authorised to undergo a legal abortion. According to the most recent data available, 972 cases of legal abortion were reported in 2012 (CEDAW, 2014).

### 3. Restricted Access to productive and financial resources

#### a) Secure access to land and assets

Whilst the Constitution proclaims equal rights for all Timorese citizens to own land (art. 54), land tenure is in reality very complex due to the history of the young nation (changes in land tenure during the Indonesian and Portuguese occupations, forced population displacement in 1999, destruction of the existing land registry etc.) and the absence of a law regulating land ownership rights and registration. For this reason, the government is preparing a package of laws on land and property rights that includes a text entitled “Special Regime for Determination of Ownership of Immovable Property”. Moreover, the government has begun a process of land titling and registration.

Whilst this package of laws is pending since 2014 (CEDAW, 2015), it is important to note that extensive public consultations took place in 2013, namely to secure female participation in cadastral processes and to encourage land titling in the name of both spouses (International Finance Corporation (IFC), 2010). Moreover, further drafting work has been undertaken since 2014, with a recent draft in 2016 proclaiming equal rights for women and men towards land property in all its forms (art. 4).

In the absence of a law governing land ownership in Timor-Leste, land rights are governed by customary and informal systems that strongly discriminate against women. For instance, it is reported that land is generally registered in the name of the head of the household (typically a male), that women do not have a voice or voting rights in meetings on land (re)allocation and are typically given smaller plots of land than men, and that most land disputes are resolved in patriarchal family settings in which women are afraid to speak up (IFC, 2010).

These findings were corroborated by a 2016 survey undertaken in the districts of Ermera, Ainaro and Dili, which found that men have greater access to and ownership of land and housing. Interestingly however, the survey identified several cases where houses built on land individually owned by males were recognised as the joint property of the couple (Almeida B. and Wassel T., 2016). Importantly, this survey also highlights the very different interpretation of the concept of ‘ownership’ in Timor-Leste compared to the ‘western-like’ definition in which the owner can freely transfer and avail of his/her property. By contrast, Timorese people consider that even if they own land, they cannot rent it or conclude other transactions on it.

Conscious of the barriers women face in accessing land and gaining incomes, particularly in rural settings, the government is providing financial and technical support to increase female participation in cooperatives and rural communities. For instance, the Institute for the Support of Business Development (IADE) is running a “Get Ahead” program aimed at teaching women in rural areas with low literacy how to overcome obstacles to owning businesses (IADE website). The IADE has also provided funding to women’s groups while the ILO has been working with the government to train female contractors (CEDAW, 2014).

Regarding rights to property and other non-land assets, the provisions of the Civil Code apply. For married women and men, non-land assets can be regulated through two regimes – community or separation of property. No gender references are included in the relevant provisions on ownership, use and decision-making (art. 1615, 1626 and 1628), and married women have equal rights as married

men to administer marital property as well as their own assets (art. 1570 and 1574). However, there are no provisions on the use of such assets as collateral, nor on spouses' rights over these assets after divorce or separation. For unmarried women and men, general provisions on ownership apply (art. 1225, 1237 and 1062-1071) and do not distinguish between both sexes.

### **b) Secure access to formal financial resources**

Married women have equal rights as men to open bank accounts at formal institutions and do not require the signature of their husband to do so (Civil Code art. 1572). Whilst there is no disaggregated data comparing access to bank services for married and unmarried women, it is worth noting that women represented nearly half (48%) of banking institution clients in 2016, and that 50% of all accounts belonged to women that year (Banco Central de Timore Leste, 2016), indicating no gender discrepancies in that regard.

As for access to credit, in the absence of legal provisions the government has initiated the drafting of a law on lending and borrowing and a discussion paper on that matter was produced in 2014 (Banco Central de Timore Leste, 2015). National data indicates that while bank loans are mostly issued to men, women benefit from a higher proportion of micro funding – especially through Moris Rasik, a micro-finance institution almost exclusively issuing group loans for women –, although these come with higher interest rates than bank loans (Banco Central de Timore Leste (BNCTL), 2015).

Moreover, the government is taking measures to provide nation-wide access to finance through the transformation of the National Micro-Finance Institute into a National Commercial Bank (BNCTL), with a particular focus on addressing the financial exclusion of women. This new institute is for instance developing mobile bank services to reach rural communities and has prepared a draft guideline on a finance facility for women. However, the low level of literacy among adult women remains a key barrier to financial inclusion. Indeed, 2016 figures indicate that only 47.5% of women aged 15 and above were able to write in any of Timor-Leste's official languages (BNCTL, 2016).

### **c) Workplace rights**

Timor-Leste is a party to ILO conventions 100 and 111 on Equal Remuneration and Discrimination respectively. The country also recently adopted a Labour Code (Law No. 4/2012) proclaiming non-discrimination in employment on the basis of sex. Accordingly, women are entitled to equal access to recruitment, hiring, terms and conditions, and training (art. 6 para. 1). The principle of non-discrimination also applies to job advertisements and selection criteria (art. 6 para. 2), and to contract termination (art. 45 para. 1). Female employees are also entitled to equal remuneration as men for work of equal value (art. 38 para. 1), to work the same night hours as men (art. 28), to full remuneration during maternity leave of up to 12 weeks (art. 60), and to employment security during maternity leave (art. 65). Men are also entitled to paid paternity leave of up to 5 working days (art. 60) and unpaid parental leave of the same length is institutionalised for parents with children under the age of 10 (art. 64). It is the responsibility of the employer to pay maternity and paternity leave until a social security system is put in place in the country (art. 61).

Practice shows however that most women (78% in 2015) work in the informal economy and thus do not benefit from workplace rights (CEDAW, 2014). Moreover, it is reported that women need higher

qualifications than men in recruitment and promotion. For instance, according to 2014 data, 75% women needed to have completed secondary, technical or vocational school to become managers, compared to 42% of men. In addition, 72% of women of working age were inactive in 2014, compared to 42% of men, with family duties listed as a major cause (CEDAW, 2014). However, there are no reports of discriminatory practice in relation to women's rights to choose a profession (Civil Code art. 1569) and register a business (2006 Code of Business Registration).

Penalties apply to institutions that discriminate against women in employment and promotion (Labour Code art. 99 para. 1) and several institutions are mandated to investigate cases of discrimination and to promote workers' rights: the Labour Arbitration Board (to settle labour disputes – Labour Code art. 101 para. 4), the Public Service Commission (PSC) (to deal with cases of discrimination in the public service), the Labour National Council (to promote consultation among social partners, advise on policy and legislation, and propose the national minimum salary – Labour Code art. 100), and the Inspectorate General of Labour (to regulate the labour market, promote employee rights and improve the working conditions and the enforcement of the law).

## 4. Restricted Civil liberties

### a) Citizenship rights

Women in Timor-Leste enjoy equal rights as men to acquire, retain and change nationality, to confer it to their children, and to register the birth of their children, regardless of their marital status (Law No. 9/2002 on citizenship and Decree-Law No. 1/2004 regulating the Law on Citizenship). However, whilst married women have equal rights as married men to confer their nationality to their spouse, there are no such provisions for informal relationships (Law No. 9/2002 on citizenship). The National Directorate for Human Rights and Citizenship (DNDHC) is the government body tasked with raising awareness of and protecting citizenship rights.

Women also enjoy equal rights as men to apply for identity cards and passports for themselves and for their children, and to travel outside of the country, regardless of their marital status (Decree-Law No. 2/2004 on Civil Identification, Decree Law No. 44/2008 on the Juridical regime for passports). Provisions regulating the identification of foreigners are included in the Immigration and Asylum Act and in the aforementioned Decree Law No. 44/2008, and these do not discriminate against women. According to the law, proof from the applicant's village chief ('jefe de suco') may be needed to corroborate the documents required to obtain an ID card (passport photographs, application form, birth certificate) (Decree-Law No. 2/2004 on Civil Identification).

The government has adopted numerous measures to promote birth registration, such as a national campaign in 2011 which resulted in 63 000 new registrations, the establishment of an online birth registration system for newborn babies in the country's 12 municipalities and Special Administrative Region of Oecusse, totalling 807 817 between 2012–2014, and the preparation of a memorandum of understanding with hospitals and clinics to register children aged 0–5 across the entire territory (HRC, 2016; CRC, 2015). Moreover, with the support of UNICEF all civil registry officers have received trainings in birth registration, together with 95% of village chiefs and approximately 20% of midwives

(UNICEF, 2014). In addition, the new Code on Child Rights proclaims compulsory and free birth registration.

Despite these measures the UN has asked the government to do more to address gaps in birth registration and barriers to registration, particularly in rural areas, through mobile units and outreach programs in remote areas, the adoption of the Draft Civil Registry Code, and further awareness-raising efforts (Committee on the Rights of the Child (CRC), 2015).

### **b) Voting**

The Timorese Constitution confers equal voting rights to women and men, regardless of their marital status (s. 47), and the government has committed to protecting this right (SEPI action plan for 2012-2017).

### **c) Political voice**

Recent legislative reforms have established quotas for female participation in political life, both at national and sub-national (village and hamlet) level. Through the amendment of the Law on the election of the national parliament (Law No. 7/2011), each party is now required to present at least one female candidate for each three candidates it puts forward, and any seat vacated by a female must be replaced by the next woman on the list. At the community level, the new Suco Law (Law No. 09/2016) requires each village ('suco') and hamlet ('aldeia') to present at least one female candidate for the election of the village and hamlet chief, and grants the power to the relevant local women's organisation to suspend the election if no female candidate is found. Moreover, the law protects gender parity in village councils and hamlet assemblies.

These changes led to an unprecedented high number of seats (38%) being attributed to women in the 2012 national parliamentary election – the highest in Asia (CEDAW, 2014) –, and to the election of 21 female village chiefs in 2016, up from 11 in 2009 (UN Women, 2016), but work remains to be done as these figures represent only 5% of village chiefs, and women continue to be unrepresented (20%) in the government (HRC, 2016).

Other measures taken to increase female participation in political life include the establishment of the Timor-Leste Group of Women Parliamentarians, the launch of a National Action Plan for Women, Peace and Security in October 2016 (which contains a pillar on female participation in peace and state-building efforts), the allocation of a state budget of 24 000 USD in 2017 for training on gender mainstreaming at municipal level (UN Women, 2016), community-level women in leadership trainings and capacity building programs, the establishment of a 2012-2017 action plan for the Political Platform of Women to address 7 priority areas for women (including politics), and the target to train 40% of women to implement the National Village Development Programme (CEDAW, 2014).

It is hoped that these measures will help address the traditional barriers women face in political life, such as lower levels of literacy, education and self-esteem compared to men, low civic awareness, and lower support from their families to stand for elections, linked to the stereotype that women must stay at home (CEDAW, 2014).

#### d) Access to justice

Women enjoy equal rights as men to sue or be sued, and their testimonies carry equal weight, regardless of their marital status (Civil Code art. 586 and 1656, Civil Procedure Code art. 547 and 552, Criminal Procedure Code art. 122 and 131).

Moreover, several government measures have been taken to increase access to justice for women, for instance by criminalising domestic violence and establishing a right to legal assistance for victims, as well as assistance in filing reports and witness protection (Law against domestic violence No. 7/2010), by setting out the responsibility of SEPI to monitor gender equality and the compliance of national laws and policies with international human rights standards, to promote education on gender equality, and to produce gender-disaggregated data (Decree Law No. 8/2016 on SEPI), and by establishing mobile courts in 2010 to bring justice to those whose mobility is hampered by poor road conditions and lack of money for transportation (CEDAW, 2014). These mobile courts are reported to have handled close to 200 cases between 2010 and 2014, providing more than 2 000 people with access to justice and outreach sessions (UNDP, 2014).

Despite the criminalisation of domestic violence and hence the competence of criminal tribunals, women still tend to prefer going through the informal justice system, often from fear of shame or economic insecurity resulting from formal justice procedures (CEDAW, 2014). The government is currently addressing the discriminatory norms perpetuated by the informal justice system through the drafting of a law harmonising the traditional and formal justice systems (CEDAW, 2014). Latest reports from March 2017 indicate that the informal justice system is undergoing a second phase of legal review (government website 2017).

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