



REPÚBLICA DEMOCRÁTICA DE TIMOR LESTE
PROVEDORIA DE DIREITOS HUMANOS E JUSTIÇA
GABINETE DO PROVEDOR



Rua de Caicoli Dili, Timor Leste No.Tlf: +670 3331030, 3331070, 3331071

Guiding Questions for Focus Area:

Right to Work and Access to the Labour Market

National Legal and Policy Framework

1. What are the legal provisions and policy frameworks in your country that recognize the right to work and access to the labor market by older persons?

Article 20 of the Constitution of Timor-Leste (CDRTL) is the base for the legal provisions and policy framework that regulates the rights of older citizen in Timor-Leste. Article 50 of CDRTL is the base for the legal provisions framework and policy framework on the right to work.

Article 20 (Senior Citizens)

1. *Every senior citizen has the right to special protection by the State.*
2. *The old age policy entails measures of economic, social and cultural nature designed to provide the elderly with opportunities for personal achievement through active and dignified participation in the community.*

Article 50 (Right to work)

1. *Every citizen, regardless of gender, has the right and the duty to work and to choose freely his or her profession.*
2. *The worker has the right to labor safety and hygiene, remuneration, rest and vacation.*
3. *Dismissal without just cause or on political, religious and ideological grounds is prohibited.*
4. *Compulsory work, without prejudice to the cases provided for under penal legislation, is prohibited.*
5. *The State shall promote the establishment of co-operatives of production and shall lend support to household businesses as sources of employment.*

Labor Law 4/2012:

- Article 6 (2) states that no worker can be discriminated due to age.
- Article 45(d) prohibits firing based on age.
- Article 47(c) employment contract ends when person retires.

The article 8 statute of CFP Law 5/2009, no discrimination should be made by for the hiring of civil servants.

2. What are the challenges faced by older persons for the realization of their right to work and access to the labor market in your country?

There is no specific policy of the GoTL for employing older persons. As established in Art 37 DL 17/2017 which states that a person cannot accumulate pension with wages, this ends up leading older persons to simply retire, abandoning the labour market all together.

3. What data, statistics and research are available regarding older persons engaged in informal work, particularly older women, including conditions of their work and economic value?



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The majority of older persons are usually engaged in informal work, mostly in rural areas, in order to assist the income of the family, however, there is little data on this specific issue. As the 2015 Census indicated that about 96.942 people at 60 ages above. In 2015 census data showed that participation tax from work force from 15 to 64 ages about 55.5 %.

Availability, Accessibility, Acceptability and Quality

4. What steps have been taken to ensure the access of older persons to the labor market including through physical accessibility, access to information about employment opportunities, training and the provision of appropriate workplace accommodations?

None at present. The Government should create a policy on this issue to encourage integration of older persons in the labor market and should regularly monitor the implementation of that policy. Once this policy is formulated, it should be disseminated, to enable them to have information on access to labor market.

5. What steps have been taken to ensure the availability of specialized services to assist and support older persons to identify and find employment?

None at present. The Government should set up research or assessment to identify which assistance or support would be best suited to assist older persons in this task.

6. What good practices are available in terms of ensuring the older persons' enjoyment of their right to work and their access to the labor market?

One example currently happened in PDHJ. This institution has one employee who is taking part already of pension age period, but he is still active working by reducing the volume of work. However, the responsibility of the service is continued while he is over 60, in the meantime this office is still in need of his knowledge and ability to support this institution.

7. What protections are available to ensure older persons enjoy just and favourable conditions of work, including fair wages and equal remuneration for work of equal value, safe working conditions, both in the formal and informal sector?

Formal sector regulated by labor law (article ref point 1 above), where no discrimination due to age is aloud. No any regulation for informal sector.

Equality and non-discrimination

8. In your country, is age one of the prohibited grounds for discrimination in relation to work and access to the labour market, including in older age?

Yes, foreseen in Constitution RDTL Art 16 prohibits discrimination due to any physical condition, and the labour code prohibits discrimination due to age.

Remedies and Redress



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9. What mechanisms are necessary, or already in place, for older persons to lodge complaints and seek redress for denial of their right to work and access to the labour market?

There is no specific mechanism for older persons. Will needed to follow normal process for all workers and take the case to court if issue cannot be resolved by SEFOPE (Government labor authority). Can lodge complaint with PDHJ when the rights violated by public entity.

Guiding Questions for Focus Area: Access to Justice

National legal framework

1. How is the access to justice by older persons guaranteed under the national legal and policy framework? What judicial and non-judicial mechanism are in place for all older persons to complain and seek redress for denial of their rights?

Currently, in Timor-Leste there is no specific regulation that regulates access to justice for older persons. Also all citizen are equal before the law as stated in Article 16 of CDRTL.

Judicial: consider that all citizens are equal before law. Article 26 CDRTL: access to courts. Non – Judicial: PDHJ Article 27 of CDRTL, main purpose is to assist vulnerable groups, of which elder persons are included against violations committed by the state.

2. What steps have been taken to ensure the availability of judicial and non-judicial mechanisms for older persons in urban, rural and remote areas in your country? Are there alternative dispute settlement mechanisms available?

Timor-Leste created a mobile court system to reach citizens in the most rural areas, given the low number of Tribunal in Timor-Leste, currently 4. The purpose of this mobile court activity is to bring the court closer to the community in order to diminish time and money while improving access to justice.

In term of accessibility, Timor-Leste also has as an alternative resolution dispute mechanism through mediation, which follows customary law, recognized under Art 2 of the CDRTL. Government provided authorization to local authorities and their structure to solve the problem through mediation (Law No. 9 / 2016 Law of Suco).

3. What steps have been taken to ensure that all justice systems (judicial and non-judicial) are secure, affordable and physically accessible for older persons and adapted to their needs?

Art 26 of CDRTL (Access to courts)

1. Access to courts is guaranteed to all for the defence of their legally protected rights and interests.
2. Justice shall not be denied for insufficient economic means.



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Timor-Leste has the mobile court system mentioned above. The purpose of this mobile court activity is to bring court close to the community in order to diminish time and money while improving access to justice.

The Public Defenders' role is to makes the judicial system secure and free of charge services for people with insufficient economic means.

Non-Judicial: PDHJ provides a secure and free of charge complaint mechanism which older persons can utilize.

There are no steps taken so far regarding physical accessibility for older persons or people with disabilities. This is something the Government needs to work on.

4. What are the existing provisions to guarantee legal assistance for older persons?

Public defender responsibility to providing free assistance (pro bono) for every citizen such as suspects when they required assistance based on decree law no. 10 / 2017. The Public Prosecutor office has also the obligation to support victim during criminal process. In non-judicial structure of village will facilitate free mediation based on the Law No. 9/2016.

5. What are the specific challenges encountered by older persons in accessing justice and remedy in your country?

They have no special regime to assist them and fast track their process through the courts. Accessibility is also another main challenge as stated above.

6. What good practices are available in terms of ensuring equal and effective access to justice and remedy for older persons?

No best practices established presently to provide a differentiated assistance to older persons.

7. What are the provisions adopted to ensure effective access to justice for older persons on an equal basis with others, including age-appropriate procedures in all administrative and legal proceedings?

None. Timor-Leste should create regulation to separate access for vulnerable people in judicial process and non-judicial.

8. Please specify existing public policies and awareness-raising and capacity building programmes established for all justice system personnel to address the negative impacts of age is mand age discrimination in justice system.

None.

Accountability.

9. How do you ensure justice systems function in accordance with the principles of independence and impartiality? Please specify if there is any oversight mechanism in place to address any discrimination against older persons committed by justice system professionals.

No specific mechanism at present exists.



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