



COUNTRY BASELINE UNDER THE ILO DECLARATION ANNUAL REVIEW (2000-2008)¹: TIMOR-LESTE

FREEDOM OF ASSOCIATION AND THE EFFECTIVE RECOGNITION OF THE RIGHT TO COLLECTIVE BARGAINING (FACB)

REPORTING	Fulfillment of Government's reporting obligations	YES, since the 2006 Annual Review (AR). The Democratic Republic of Timor-Leste joined the ILO in 2003.		
	Involvement of Employers' and Workers' organizations in the reporting process	YES, according to Government: Involvement of the União Nacional de Pequenas Empresas (UNAPE) (National Union of Small Enterprises), the Associação Empresários Timor Loro Sa'e (ASSET LORO SA'E) (Employers' Association of Timor Leste), the Serikat Bekerja Sosialist Timorene (SBST) (Socialist Timorese Trade Union); and the Konfederasaun Sindikatu Timor Leste (KSTL) (Timor-Leste Confederation of Trade Unions) by means of consultation and communication of a copy of Government's reports.		
OBSERVATIONS BY THE SOCIAL PARTNERS	Employers' organizations	NIL		
	Workers' organizations	2008 AR: Observations by the International Trade Union Confederation (ITUC). 2007 AR: Observations by the International Confederation of Free Trade Unions (ICFTU).		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Ratification	Ratification status	The Democratic Republic of Timor-Leste has ratified neither the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) (C.87) nor the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) (C.98).	
		Ratification intention	2008 AR: According to the Government: ILO technical assistance in order to better understand international labour standards (ILS) and the ILO Declaration as well as labour law review are necessary before the process of ratification of C.87 and C.98 can be initiated in Timor-Leste. However, ratification of C.87 has been discussed at tripartite level and will be submitted to Parliament after approval.	
	Recognition of the principle and right (prospect(s), means of action, basic legal provisions)	Constitution	YES , Article 52 of the national Constitution provides for the principle of freedom of association and the effective recognition of the right to collective bargaining (PR).	
		Policy, legislation and/or regulations	<ul style="list-style-type: none"> • Legislation Sections 9.1 and 24 of the Labour Code (Regulation No.2002/25) provide for employers' and workers' rights to freedom of association and collective bargaining. Section 18 of the same text provides for the registration of employers' and workers' organizations.	
		Basic legal provisions	(i) The Constitution (article 52); (ii) the Labour Code (sections 3.4, 9.1, 18 and 24); and (iii) the Timor-Leste Public Service Law No.8/2004.	

¹ Country baselines under the ILO Declaration Annual Review are based on the following elements to the extent they are available: information provided by the Government under the Declaration Annual Review, observations by employers' and workers' organizations, case studies prepared under the auspices of the country and the ILO, and observations/recommendations by the ILO Declaration Expert-Advisers and by the ILO Governing Body. For any further information on the realization of this principle and right in a given country, in relation with a ratified Convention or possible cases that have been submitted to the ILO Committee on Freedom of Association, please see: <http://webfusion.ilo.org/public/db/standards/normes/libsynd>

		Judicial decisions	NIL	
	Exercise of the principle and right	At national level (enterprise, sector/industry, national)	For Employers	2006 AR: No Government authorization is required to establish an employers' organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for all categories of employers.
For Workers			2006 AR: No Government authorization is required to establish a workers' organization, or to conclude collective agreements. The exercise of freedom of association and the right to collective bargaining is recognized at enterprise, sector/industry, national (and international) levels for the following categories of workers: (i) workers in the public service, except public servants (in accordance with section 3.4 (a) of the Labour Code); (ii) medical professionals; (iii) teachers; (iv) agricultural workers; (v) workers in export processing zones (EPZs) or enterprises/industries with EPZ status; (vi) migrant workers; (vi) workers above the age of 15 years; and (viii) workers employed by an employer who has been granted a temporary exemption under section 3.4 (c) of the Labour Code.	
Special attention to particular situations			NIL	
Information/Data collection and dissemination			2006 AR: According to Government: Six workers' organizations and 16 employers' organizations were registered in 2006.	
At international level		According to the Government: The international affiliation of employers' or workers' organizations is recognized.		
EFFORTS AND PROGRESS MADE IN REALIZING THE PRINCIPLE AND RIGHT	Monitoring, enforcement and sanctions mechanisms	2006 AR: According to Government: The Labour Relations Board is not functioning. However, the following measures have been implemented to promote and realize the principle and right (PR): (i) legal reform (labour law and other relevant legislation); and (ii) inspection/monitoring mechanisms. The establishment of special institutional machinery and sanctions is envisaged.		
	Involvement of the social partners	2006 AR: According to Government: There is a tripartite examination of issues. Employers' and workers' organizations have been involved in the development and implementation of government measures through their participation in the National Labour Board, which is the responsible Government institution for, <i>inter alia</i> , policy advice and dispute settlement.		
	Promotional activities	2008 AR: The Government indicated that a government official was trained on International Labour Standards (ILS) and the Declaration Follow-up between May-June 2007 under the sponsorship of the ILO in Geneva and Turin. 2007 AR: The Government indicated that it had organized workshops on labour issues. 2006 AR: According to the Government: The following measures have been implemented to promote and realize the PR in Timor-Leste: (i) capacity building of responsible Government officials; (ii) capacity building of employers' organizations; (iii) capacity building of workers' organizations; (iv) tripartite discussion of issues; and (v) awareness raising/advocacy.		
	Special initiatives/Progress	2006 AR: According to the Government: The establishment of the Office of the Registrar can be regarded as a successful example (section 18 of the Labour Code).		

CHALLENGES IN REALIZING THE PRINCIPLE AND RIGHT	According to the social partners	Employers' organizations	NIL
		Workers' organizations	2007 AR: According to the ICFTU: (i) Restrictions on the freedom to assemble publicly and to strike; (ii) the enforcement of the Labour Law is limited; (iii) the Labour Relation Board is implemented but not active; (iv) Article 11 of the Immigration and Asylum Act, 2003, provides that foreigners are forbidden from participating in the «administrative or social organs of a union», and also prohibits foreigners from «organizing or participating in demonstrations, processions, rallies, and meetings of a political nature.» Those who violate the law can be arrested and deported, and excluded from returning to Timor-Leste in the future.
	According to Government	<p>2008 AR: The Government indicated the following challenges: (i) legal provisions are weak; (ii) lack of public awareness; (iii) capacity building is weak and (iv) labour inspection is weak.</p> <p>2007 AR: According to the Government: The main difficulties encountered in realizing the PR are related to the lack of training and capacity building on labour issues.</p> <p>2006 AR: According to the Government: The main difficulties encountered in Timor-Leste in realizing this PR are as follows: (i) lack of public awareness and/or support; (ii) social values, cultural traditions; (iii) social and economical circumstances; (iv) political situation; (v) legal provisions; (vi) prevailing employment practices; (vii) lack of capacity of Government institutions; (viii) lack of capacity of employers' organizations; (ix) lack of capacity of workers' organizations; and (x) lack of social dialogue on this PR.</p>	
TECHNICAL COOPERATION	Request	<p>2008 AR: The Government request ILO assistance to carry out a country assessment to be validated by a national tripartite workshop on the FPRW.</p> <p>2007 AR: According to the Government: ILO technical cooperation is necessary for training on labour issues.</p> <p>2006 AR: According to the Government: There is a need for ILO technical cooperation to facilitate the realization of the principle and right in Timor-Leste, in particular in the following areas, in order of priority: (1) Sharing of experiences across countries/regions; (2) Strengthening data collection and capacity for statistical analysis; (3) Assessment in collaboration with the ILO of the difficulties identified and their implications for realizing the PR; (4) Awareness-raising, legal literacy and advocacy; (5) Capacity building of responsible government institutions; (6) Training of other officials (police, judiciary, social workers, teachers); (7) Strengthening capacity of employers' organizations; (8) Strengthening capacity of workers' organizations; (9) Strengthening social dialogue; and (10) Legal reform (labour law and other relevant legislation).</p>	
	Offer	ILO (including assistance in reporting under the Declaration 2006 Annual Review)	
EXPERT-ADVISERS' OBSERVATIONS/ RECOMMENDATIONS	<p>2008 AR: The ILO Declaration Expert-Advisers (IDEAs) encouraged Timor-Leste to initiate the necessary labour law reform to remove the obstacles to ratification of C.87 and C.98. They acknowledged the high number of promotional activities concerning the PR in the Gulf States (and some other countries), and encouraged the Office to maintain its efforts to support these activities. Finally, the IDEAs noted that restrictions on the right to organize of certain categories of workers in Timor-Leste (and some other countries), such as migrant workers, were not compatible with the realization of this principle and right» (Cf. Paragraphs 32 and 38 of the 2008 Annual Review Introduction – ILO: GB.301/3).</p> <p>2005 AR: The IDEAs looked forward to receiving a first reply from the Timor-Leste and other countries that had never reported under the Declaration Annual Review (Cf. Paragraph 8 of the 2005 Annual Review Introduction – ILO: GB.292/4).</p>		
GOVERNING BODY OBSERVATIONS/ RECOMMENDATIONS	NIL		