

# **Timor-Leste**

## **Penal Code of Timor Leste**

English translation from United Nations Integrated Mission in Timor-Leste

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### **Article 8**

#### **Crimes committed outside national territory**

Except as otherwise provided in treaties and conventions, Timorese criminal law is applicable to acts committed outside of the national territory of Timor-Leste in the following cases:

- a) They constitute crimes provided for in articles 196 to 206, 229 to 242 and 307 to 313;
- b) They constitute crimes described in articles 123 to 135, 161 to 169 and 175 to 178, as long as the perpetrator is found in Timor-Leste and cannot be extradited or a decision has been made not to do so;
- c) They are committed against Timorese nationals, so long as the perpetrator normally lives and is found in Timor-Leste;
- d) They are committed by Timorese or foreigners against Timorese nationals, so long as the perpetrator is found in Timor-Leste, the acts are equally punishable by the legislation of the place in which the acts were committed and they constitute a crime which allows for extradition and it cannot, in the particular case, be granted;
- e) They refer to crimes that the Timorese State has an obligation to try pursuant to any international convention or treaty.

### **Article 162**

#### **Enslavement**

1. Any person who, by any means, places a fellow human being in a situation of enslavement or makes use of a person in such a condition is punishable with 8 to 20 years imprisonment.
2. The consent of the victim is irrelevant if any of the means referred to in the following article were used.
3. For purposes of application of provisions in this article, a person is considered to be in a condition of enslavement whenever, even if only de facto, said person is under submission to powers corresponding to those of property rights, or to any concrete right, or is bound to the disposal of anything.

### **Article 163**

#### **Human trafficking**

1. Any person who recruits, assigns, purchases, transports, transfers, houses or receives persons, through use of threats, force or other forms of coercion, kidnapping, fraud, trickery, abuse of power or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, to obtain the consent of a person with authority over another, for purposes of exploitation, shall be punishable with 8 to 20 years imprisonment.

2. The penalty referred to in the sub-article above shall apply to any person who recruits, transports, transfers, houses or receives a minor under the age of 17 for the purpose of exploiting the same, even if none of the means referred to in the sub-article above are involved.

3. For the purpose of applying the provisions of this article, exploitation shall include but is not limited to exploitation through prostitution of another person or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or extraction of organs.

4. Consent of the victim is irrelevant, if any of the means referred to in sub-article 1 were employed.

## **Article 164**

### **Aggravation**

If the acts described in articles 162 and 163 are committed:

- a) As a means to facilitate sexual exploitation or use of the victim, by the perpetrator or a third party;
- b) The victim is a minor under the age of 17;
- c) The victim is in a foreign country or travelling to a foreign country;
- d) The victim is used, against his/her will, in the commission of crimes; or
- e) The perpetrator is engaged in an activity that grants the same public or religious authority before a group, region or entire country;

Said perpetrator shall be punishable with 12 to 25 years imprisonment.

## **Article 165**

### **Trafficking in human organs**

1. Any person who obtains, sells, assigns, purchases, transports or transfers tissues, organs, substances or parts of the human body of third parties without consent or through use of threats, force or other forms of coercion, kidnapping, fraud, deceit, abuse of authority or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, or assists in the collection, transaction, transport or storage of the above shall be punishable with 3 to 10 years imprisonment.

2. If commission of any of the acts mentioned in the sub-article above results in any of the effects provided for in article 146 or the death of the victim, the perpetrator shall be punishable with 4 to 12 years imprisonment and 5 to 20 years imprisonment, respectively.

3. Consent of the victim is criminally irrelevant, if any of the means referred to in sub-article 1 were used.

## **Article 166**

### **Sale of persons**

1. Any person who, apart from the cases provided in article 163, by any act or other means of transaction, transfers a person, or group of persons, to another person or group of persons against payment of any sum or any other exchange, reward or advantage, is punishable with 2 to 8 years imprisonment.

2. If the acts referred to in the previous sub-article are committed:

a) Against a minor aged less than 17 years;

b) Through abuse of authority arising from a family relationship, ward or guardianship, or hierarchical, economic or labor-related dependence;

c) Through taking advantage of any office or authority held, in any capacity, in a prison, educational or correctional establishment, hospital, mental institution, rest home, clinic or other health establishment or establishment intended to provide assistance or treatment; or

d) Upon an unconscious or incapable person who is particularly vulnerable by virtue of disease, physical or mental deficiency;

Said perpetrator is punishable with 4 to 12 years imprisonment.

3. Consent of the victim or third party who exerts any form of power over the victim is criminally irrelevant.

## **Article 174**

### **Sexual exploitation of a third party**

1. Any person who, with intent to derive profit or any person who makes a livelihood from, promotes, facilitates, or by any other means, contributes toward engaging another person in prostitution or other sexual acts, is punishable with 3 to 10 years imprisonment.

2. The perpetrator is punishable with 4 to 12 years imprisonment, if any of the following circumstances arises:

a) Exploitation of the situation of abandonment or economic necessity of the victim;

b) Use of violence, serious threat or coercion over the victim;

c) Displacing the victim to a country different from where the victim was born or was resident;

d) Withholding any identification document belonging to the victim.

## **Article 175**

### **Child prostitution**

1. Any person who, even with consent of the victim, practices any of the acts of sexual exploitation referred to in the preceding article against a minor aged less than 17 years, is punishable with 4 to 12 years imprisonment in the case of sub-article 1 and 5 to 15 years imprisonment in cases where any of the circumstances described in sub-article 2 occur.
2. Any person who offers, obtains, seeks or delivers a minor aged less than 17 years for purposes of child prostitution is punishable with 4 to 12 years imprisonment if no heavier penalty is applicable by force of another legal provision.

## **Article 176**

### **Child pornography**

1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;
2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of communication, instrument, document or record for the purposes referred to in the previous sub-article or with the aim of disseminating such acts.

# **Timor-Leste**

## **Immigration and Asylum Act**

Law 9/2003 of October 15, 2003

### **Article 81**

#### **Human Trafficking**

1. All persons who under threat of force or any other form of coercion, fraud, deceit, abuse of power or by taking advantage of the victim's vulnerability, recruit, transfer, lodge or keep persons with the purpose of exploiting them or placing them in sexual exploitation, forced labour, slavery or human organ trafficking networks, shall be punished by imprisonment of not more than 8 years or fewer than 3 years.
2. The same penalties shall apply to those who, through payment either in cash or in kind, buy consent from a third party in control of the victim, to perform the activities provided for in item 1 of the present Article.
3. If the victim of the activities provided for in items 1 and 2 of the present Article is a minor under 18 years of age, the mere transportation, recruitment, transfer, lodging or keeping of these persons for the purposes described in item 1, constitutes a crime that shall be punishable by imprisonment of not more than 12 years or fewer than 5.