



DEPARTMENT OF IMMIGRATION AND MULTICULTURAL
AND INDIGENOUS AFFAIRS

Mr Steve Karas
Principal Member
Refugee Review Tribunal
Level 29, Pacific Power Building
201 Elizabeth Street
SYDNEY NSW 2000

Dear Mr Karas

Applications in relation to East Timor - Review by Tribunal

I refer to my previous correspondence of 17 December 1999 and 7 November 2000 concerning the processing of applications for review by East Timorese nationals which are before the Tribunal.

In that correspondence I asked that the Tribunal delay the finalisation of East Timorese review applications, initially pending clarification of nationality issues, and subsequently because of the need to obtain detailed information on the country situation in East Timor.

The Department of Immigration and Multicultural and Indigenous Affairs (DIMIA) has now obtained information which I believe provides a detailed and reliable picture of the country situation in East Timor. Advice from the Department of Foreign Affairs and Trade and a country information report, prepared using a range of independent sources by DIMIA's Protection Decision Support Section, are provided for your information at Attachments A and B.

I consider that the situation in East Timor is now sufficiently clear, and the information sufficiently reliable, for the resumption of decision making on East Timorese primary and review applications. The Minister announced the resumption of decision making by the Department on East Timorese protection visa applications on 25 March 2002. A copy of the media release and a client information sheet outlining the processing arrangements to be followed by DIMIA are at Attachments C and D.

In the next week or so DIMIA will be writing to all East Timorese protection visa applicants and their representatives to explain the arrangements for finalising applications and providing opportunities for applicants to provide any further information in relation to their application.

Existing arrangements will continue for the provision of financial assistance to asylum seekers in financial hardship, through the Asylum Seeker Assistance Scheme. This will include continued access to Asylum Seeker Assistance at review on the usual basis.



I expect that primary decisions will be made on these applications on a sequential basis over the period June to December this year. Officers of the Department will keep the RRT informed of progress in finalising the caseload.

I would be grateful if you could draw the attached information to the attention of Tribunal members.

Yours sincerely

W. J. Farmer

3 April 2002

ATTACHMENT A

Document No.: CX61411
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COUNTRY INFORMATION REPORT

NO 18/02

SOURCE: DFAT

DATE:17/01/02

TITLE: COUNTRY HUMAN RIGHTS UPDATE

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Notes:

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- 1 This Report was prepared by the Country Information Service (CIS) and included in CISNET (the network of CIS country information databases which are available to all refugee/protection visa decision-makers in the Department of Immigration and Multicultural Affairs [DIMA] and the Refugee Review Tribunal [RRT]).
- 2 The information and/or answers in this Report are derived entirely from the source document (s). No interpretation of the information has been made, or comment included, by CIS.
- 3 The information in this Report is cleared for release to applicants and/or their agent as part of the process of "procedural fairness" ("Procedural fairness" includes and requires that applicants have the opportunity to know what information a decision-maker relies upon, and to comment on any adverse inferences that the decision-maker may draw from the information).
- 4 Where a request for this Report has been made under the Freedom of Information Act 1982, it may be released to applicants or their agent, in accordance with the Act, without further reference to CIS.
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WOULD YOU ADVISE ON THE CURRENT HUMAN RIGHTS REALITIES AND TRENDS ADDRESSING PARTICULARLY:

QUESTIONS: [10/01/02]

Q.1 HOW ESTABLISHED ARE ADMINISTRATIVE STRUCTURES WHICH GUARANTEE/PROTECT THE HUMAN RIGHTS OF ANY VULNERABLE GROUPS/MINORITIES IN SOCIETY EG ETHNIC CHINESE, ETHNIC INDONESIAN, MUSLIMS, PROTESTANTS ETC?

Q.2 HOW FORMIDABLE ARE ANY ANARCHIC/DISCORDANT GROUPS IN RESPECT OF THEIR ABILITY TO PERSECUTE PERCEIVED IDEOLOGICAL ENEMIES?

Q.3 HOW DOES CURRENT EAST TIMORESE SOCIETY DEAL WITH THE TEMPTATION/ATTEMPTS BY INDIVIDUALS, GROUPS OR ADMINISTRATIVE AUTHORITIES TO SEEK REVENGE FOR PAST WRONGS?

Q.4 GENERALLY IN RESPECT OF RETURNEES TO EAST TIMOR, HOW WELL ARE THEY ACCEPTED BY THE COMMUNITY AT LARGE EG NOT VIEWED WITH SUSPICION OR AS TRAITORS AND HOW EASY IS IT FOR THEM TO REINTEGRATE IN TERMS OF EMPLOYMENT, EDUCATION AND ACCESS TO SERVICES AND A SUSTAINABLE LIFESTYLE?

Q.5 IN THE EVENT THAT THE LARGE NUMBERS OF EAST TIMORESE CURRENTLY IN WEST TIMOR RETURN, DO YOU SEE THAT THEIR ABSORPTION INTO MAINSTREAM SOCIETY WOULD BE RELATIVELY TROUBLE FREE OR IS THERE A LIKELIHOOD OF INSTABILITY AND SERIOUS HUMAN RIGHTS CONCERNS DEVELOPING IE IN THE FORSEEABLE FUTURE, CAN REASONABLE STABILITY BE ANTICIPATED OF EAST TIMOR SOCIETY?

Q.6 GIVEN THE EXTENT OF STRIFE AND DISLOCATION OF THE PAST, ARE RETURNEES EASILY ABLE TO RECLAIM FAMILY ASSETS, LAND ETC OR ARE THERE SIGNIFICANT PROBLEMS WITH 'SQUATTERS' HAVING TAKEN POSSESSION OF 'ABSENTEED' HOMES, FARMING PLOTS ETC?

Q.7 GIVEN THE INCIDENCE OF RAPE DURING THE TIME OF STRIFE, ARE FEMALE RETURNEES BELIEVED TO HAVE BEEN ABUSED LIKELY TO SUFFER STIGMATISATION/OSTRACISM BY FAMILY OR FRIENDS?

Q.8 HOW ARE THE ILLEGITIMATE OFFSPRING FATHERED BY THE INDONESIAN MILITARY OR THEIR ALLIES TREATED IN EAST TIMORESE SOCIETY?

ANSWERS: [17/01/02]

A.1 ADMINISTRATIVE STRUCTURES IN EAST TIMOR PROVIDING PROTECTION OF HUMAN RIGHTS ARE ONLY IN THEIR EARLY STAGES OF DEVELOPMENT. THIS IS UNSURPRISING GIVEN THE HISTORICAL LACK OF FOCUS IN EAST TIMOR ON HUMAN RIGHTS CONCEPTS, PROCEDURES AND INSTITUTIONS AND THE EVENTS OF 1999, WHICH LEFT IT WITHOUT THE MOST BASIC OF INSTITUTIONS. SINCE 1999 A CORE FOCUS OF THE UNITED NATIONS PRESENCE HAS BEEN TO ASSIST THE DEVELOPMENT OF NATIONAL INSTITUTIONS, LAWS AND ADMINISTRATIVE STRUCTURES, INCLUDING IN THE AREA OF HUMAN RIGHTS.

BUT FOR THOSE CURRENTLY INVOLVED IN HUMAN RIGHTS TRAINING AND INSTITUTION-BUILDING, THE TASK AHEAD IS IMMENSE AND IT WILL BE SOME TIME BEFORE THE FRUITS OF THESE ENDEAVOURS ARE FULLY IN EVIDENCE. THE MAIN TARGETS FOR HUMAN RIGHTS DEVELOPMENT ARE THE EAST TIMOR POLICE SERVICE, PRISON SERVICE, JUDICIARY AND CIVIL SOCIETY: THE LATTER OFTEN THROUGH WORKSHOPS AND OTHER ACTIVITIES AT THE SUB-DISTRICT

LEVEL. EAST TIMORESE HAVE ALSO BEEN ABLE TO PARTICIPATE IN OVERSEAS HUMAN RIGHTS WORKSHOPS.

MOST TRAINING AND INSTITUTION-BUILDING IS CONDUCTED BY UN AGENCIES (SUCH AS UNHCR AND UNTAET HUMAN RIGHTS UNIT) AIDED BY DONOR COUNTRY SUPPORT (EG THE US, CANADA, EU). NGOS ARE NOW ALSO INCREASINGLY ACTIVE IN THE FIELD. AUSTRALIA SUPPORTS NGOS INVOLVED IN EAST TIMOR HUMAN RIGHTS MAINLY THROUGH ITS HUMAN RIGHTS SMALL GRANTS SCHEME. MORE BROADLY, AUSTRALIA IS ACTIVE IN SUPPORTING GOOD GOVERNANCE SYSTEMS IN EAST TIMOR.

THE APPOINTMENT OF A NEW POLICE COMMISSIONER (A CANADIAN) IN NOVEMBER 2001 AUGURS WELL FOR THE UN CIVILIAN POLICE (CIVPOL). THE POLICE COMMISSIONER HAS TOLD THE POST HE IS COMMITTED TO IMPROVED MENTORING OF EAST TIMOR POLICE PERSONNEL AND THE DEVELOPMENT OF THE SERVICE'S MIDDLE AND FINANCIAL MANAGEMENT. THIS REFLECTS POLICY GOALS ENUNCIATED BY THE UN SECRETARY GENERAL IN HIS REPORT ON UNTAET TO THE SECURITY COUNCIL IN OCTOBER 2001.

THE DRAFTING OF A CONSTITUTION (EXPECTED TO BE COMPLETED BY 25 JANUARY 2002) HAS ADDED ANOTHER (NASCENT) DIMENSION TO EAST TIMOR'S HUMAN RIGHTS PROTECTION MECHANISMS. THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, MRS MARY ROBINSON, WROTE RECENTLY TO THE PRESIDENT OF THE CONSTITUENT ASSEMBLY NOTING, INTER ALIA, THE PRIMACY GIVEN TO THE PROTECTION OF HUMAN RIGHTS IN THE DRAFT TEXT. ALTHOUGH MRS ROBINSON WAS ABLE TO IDENTIFY SOME WEAKNESSES IN THE HUMAN RIGHTS ASPECTS OF THE CONSTITUTION (SUCH AS THE DISTINCTION BETWEEN ORIGINAL AND ACQUIRED CITIZENSHIP), THE MAIN THRUST OF HER LETTER WAS TO SUGGEST A NUMBER OF POSSIBLE ENHANCEMENTS TO THE CONSTITUTION, INCLUDING PROVISION FOR AN INDEPENDENT HUMAN RIGHTS COMMISSION (OR SUCHLIKE) AND TO OFFER THE SUPPORT OF HER OFFICE IN THIS RESPECT.

A.2 WE ARE AWARE OF NO CURRENT EVIDENCE OR ALLEGATION POINTING TO OR SUGGESTING OF SYSTEMIC PERSECUTION OF ANY GROUP OR INDIVIDUALS ON IDEOLOGICAL (OR ANY OTHER) GROUNDS. FOR EXAMPLE, POLICE INVESTIGATIONS IN NOVEMBER 2001 INTO INCIDENTS IN BAUCAU, BOBONARO AND DILI INVOLVING INDIVIDUALS WITH POLITICAL AFFILIATIONS FOUND NO POLITICAL BASIS TO ANY OF THE INCIDENTS. SIMILARLY, INCIDENTS SUCH AS THE BURNING OF A MOSQUE AT BAUCAU IN MID-2001 HAVE NOT GIVEN RISE TO ETHNIC, IDEOLOGICAL OR RELIGIOUS VIOLENCE. RATHER, THE EVIDENCE IS OF A CONTINUATION OF THE IDEOLOGICAL TOLERANCE WITNESSED DURING THE AUGUST 2001 CONSTITUENT ASSEMBLY ELECTION. IN MICROCOSM, THIS IS PERHAPS BEST REFLECTED IN THE COURTESIES OBSERVED BY MEMBERS OF THE CONSTITUENT ASSEMBLY SINCE IT BEGAN DRAFTING THE CONSTITUTION IN SEPTEMBER 2001, DESPITE ON-GOING AND SIGNIFICANT DIFFERENCES IN MEMBERS' IDEOLOGICAL VIEWPOINTS.

THE POST UNDERSTANDS THAT EAST TIMOR AUTHORITIES ARE WORKING ACTIVELY TO RESOLVE ISSUES RELATING TO THE LOSS OF LAND AND

PROPERTY IN SEPTEMBER 1999 BY A GROUP OF INDONESIAN MUSLIMS CURRENTLY LIVING IN A MOSQUE IN THE DILI SUBURB OF KAMPUNG ALOR. (THE EAST TIMOR PRESS REPORTED ON 13 JULY 2001 THAT 201 MEMBERS OF THIS COMMUNITY HAD ELECTED TO BECOME EAST TIMOR CITIZENS.) WE ALSO UNDERSTAND THAT POLICING AUTHORITIES ACTED QUICKLY IN RESPONSE TO COMMUNITY COMPLAINTS ON CHRISTMAS DAY 2001 WHEN IT WAS ALLEGEDLY HARASSED BY YOUTHS THROWING STONES ONTO THE ROOF OF THE MOSQUE. THERE IS ALSO NO EVIDENCE OF ORGANISED HARASSMENT OF THE NUMEROUS CHINESE TRADERS IN EAST TIMOR, WHO CAN BE SEEN ON A DAILY BASIS GOING FREELY ABOUT THEIR BUSINESS.

A.3 REPORTS VARY AS TO THE FREQUENCY OF ACTS OF RETRIBUTION AGAINST RETURNEES. INCIDENTS REPORTED, HOWEVER, ARE CONSISTENTLY DESCRIBED AS LOW-LEVEL, EPHEMERAL AND DIRECTED MAINLY AGAINST FORMER MILITIA RETURNING FROM WEST TIMOR. REPORTS RECEIVED BY POST ALSO INDICATE A SMALL NUMBER OF INSTANCES WHERE POLICE HAVE THOUGHT IT NECESSARY TO TAKE INDIVIDUALS INTO PROTECTIVE CUSTODY. ELSEWHERE, TRADITIONAL RECONCILIATION CEREMONIES (OFTEN FACILITATED BY INTERNATIONAL AGENCIES) HAVE EASED TENSIONS BETWEEN RETURNEES AND COMMUNITIES. IN NOVEMBER 2001 THE FIRST ORGANISED REPATRIATION OF RETURNEES TO OECUSSI DISTRICT, VULNERABLE BECAUSE OF ITS ISOLATION, PROVED UNPROBLEMATIC.

AN AGREEMENT IN EARLY DECEMBER 2001 BETWEEN UNHCR AND UNTAET'S SERIOUS CRIMES UNIT HAS ALSO GIVEN FRESH IMPETUS TO UNHCR'S "GO AND SEE" PROGRAM, UNDER WHICH DISPLACED EAST TIMORESE IN WEST TIMOR CAN TEMPORARILY RETURN TO EAST TIMOR COMMUNITIES FOR RECONCILIATION PURPOSES. THE "GO AND SEE" APPROACH HAS PROVEN AN EFFECTIVE TOOL IN PROMOTING TROUBLE-FREE REINTEGRATION OF RETURNEES INTO THEIR HOME COMMUNITIES.

CONTACTS HAVE ALSO TOLD US THAT THE MAJORITY OF EAST TIMORESE WANT A RECONCILIATION FIRST (IE AHEAD OF JUSTICE) APPROACH TO RETURNEES. CERTAINLY, THIS IS A VIEW HELD BY INFLUENTIAL FIGURES SUCH AS XANANA GUSMAO AND ONE SUPPORTED BY OTHER ORGANISATIONS CLOSE TO THE RECONCILIATION PROCESS.

A.4 THERE IS NO EVIDENCE TO SUGGEST SIGNIFICANT REJECTION BY COMMUNITIES OF RETURNEES (ALTHOUGH AS NOTED, THERE HAVE BEEN SOME CASES OF LOW-LEVEL RETRIBUTION). THERE IS ALSO NO INSTANCE OF WHICH WE ARE AWARE OF RETURNEES BEING DENIED THE RIGHT TO EMPLOYMENT, EDUCATION AND SERVICES. THAT SAID, IT IS IMPORTANT TO RECOGNISE THE LIMITED OPPORTUNITIES IN THESE AREAS AND THE FACT THAT VIRTUALLY ALL EAST TIMORESE SUFFER FROM THIS PAUCITY. RECENT FIGURES PUBLISHED BY UNHCR SHOW POSITIVELY HIGH RATES OF RETURN, WITH OCTOBER 2001 RECORDING THE HIGHEST MONTHLY RETURN SINCE MARCH 2000.

ONCE OPERATIONAL (CURRENTLY SCHEDULED FOR 21 JANUARY 2002), THE COMMISSION FOR RECEPTION, TRUTH AND RECONCILIATION (CRTR) CAN ALSO BE EXPECTED TO BUILD COHESIVENESS AMONG THE EAST TIMOR PEOPLE. THE

CRTR AIMS TO PROMOTE RECONCILIATION AND REINTEGRATION AT THE COMMUNITY LEVEL. IN RESOLVING HUMAN RIGHTS ISSUES OF A LESS SERIOUS NATURE, THE CRTR WILL LIKELY REDUCE THE BURDEN ON EAST TIMOR'S OVER-STRETCHED LEGAL SYSTEM. AUSTRALIA HAS PROVIDED FUNDING OF \$300,000 IN SUPPORT OF THE CRTR.

A.5 THE LARGE-SCALE RETURN OF EAST TIMORESE FROM WEST TIMOR WOULD LIKELY BE RELATIVELY TROUBLE FREE. REFLECTING THIS, A KEY THEME OF XANANA GUSMAO'S HIGH PROFILE 26-28 NOVEMBER 2001 VISIT TO WEST TIMOR WAS TO ENCOURAGE DISPLACED EAST TIMORESE TO COME HOME TO HELP RE-BUILD THE NATION. MORE GENERALLY, REASONABLE STABILITY IN EAST TIMOR CAN BE ANTICIPATED. NOT ONLY IS THERE MUCH WAR-WEARINESS IN THE COUNTRY BUT THOSE MILITIA ELEMENTS CURRENTLY IN WEST TIMOR WHO WERE RESPONSIBLE FOR PAST HUMAN RIGHTS ABUSES ARE LACKING RESOURCE SUPPORT. SOME KEY MILITIA LEADERS ARE ALSO CONSIDERING A RETURN TO EAST TIMOR AND ALL THAT ENTAILS. THE WORK OF THE CRTR WILL ALSO SIGNIFICANTLY ASSIST WITH REINTEGRATION. STABILITY WILL ALSO BE AIDED AS THE EAST TIMOR POLICE SERVICE CONTINUES TO DEVELOP.

A.6 OWNERSHIP OF LAND (AND DWELLINGS) IS ONE OF THE MORE COMPLEX CHALLENGES FACING THE EAST TIMOR GOVERNMENT. AN EARLY RESOLUTION OF THE MATTER IS NOT IN PROSPECT (AND COULD NOT BE EXPECTED UNDER A UN MANDATE). THE COMPLEXITY OF LAND ISSUES IS WELL UNDERSTOOD, HOWEVER, AND AN INDEPENDENT GOVERNMENT WILL LIKELY PRIORITISE THE DEVELOPMENT OF MECHANISMS TO RESOLVE LAND AND PROPERTY ISSUES.

THE PROBLEMS CURRENTLY EXPERIENCED ARE NOT UNIQUE TO EAST TIMORESE LIVING ABROAD. SINCE THE DARK DAYS OF 1999, PORTUGUESE CLAIMANTS, FOR EXAMPLE, HAVE BEEN PRESSING FOR RESTITUTION OF LAND ALLEGEDLY OWNED PRIOR TO PORTUGAL'S ABANDONMENT OF EAST TIMOR IN 1975. INDONESIAN AND AUSTRALIAN INTERESTS ARE ALSO CAUGHT UP IN LAND DISPUTES. AND SOME EAST TIMORESE WHO ABANDONED PROPERTIES IN DILI IN 1999 AND RELOCATED INTERNALLY HAVE FOUND ON RETURN THAT LAND AND DWELLINGS HAVE BEEN TAKEN OVER BY OTHER EAST TIMORESE. FORTUNATELY, MANY DISPOSSESSED EAST TIMORESE HAVE HAD RECOURSE TO THE TRADITIONAL SUPPORT MECHANISMS PROVIDED BY LARGE FAMILY NETWORKS.

A.7 TRADITIONALLY, RAPE VICTIMS IN EAST TIMOR ARE NOT OSTRACISED OR REJECTED BY FAMILY OR FRIENDS. THIS IS REFLECTED BY THE FACT THAT RAPE VICTIMS HAVE NOT RESORTED EN-MASSÉ TO BEGGING OR PROSTITUTION. TRADITIONAL SOCIAL TABOOS, HOWEVER, HAVE HISTORICALLY PRECLUDED ANY DISCUSSION OF RAPE WITHIN FAMILY UNITS AND FAMILY SUPPORT FOR RAPE VICTIMS IS OFTEN QUALIFIED AS A CONSEQUENCE. THIS SITUATION, HOWEVER, IS SLOWLY CHANGING AS NGOS, OFTEN WITH INTERNATIONAL SUPPORT, FUNDING AND TRAINING, ARE BEGINNING TO WORK AMONG COMMUNITIES PROMOTING MORE ENLIGHTENED ATTITUDES TO RAPE.

A.8 OFFSPRING OF RAPE VICTIMS FATHERED BY INDONESIAN MILITARY TEND TO BE TREATED NOT DISSIMILARLY TO THEIR MOTHERS. THAT IS, THEY ARE GENERALLY TOLERATED BY FAMILIES RATHER THAN REJECTED. IT IS NOT UNCOMMON, WE ARE TOLD, FOR ILLEGITIMATE CHILDREN TO BE RAISED BY GRANDPARENTS OR OTHER FAMILY MEMBERS.

END

----- End Of Record -----

ATTACHMENT B

EAST TIMOR

Profile

East Timor, which comprises approximately 5,406 square miles, shares the island of Timor with Indonesia's bordering Nusa Tenggara province. Based on the civil registration carried out by UNTAET from March to June 2001, the population of the territory was 739,652.

Historical Overview

Timor was 'discovered' by Portuguese sailors in the 16th century. Around 1520 Portugal set up trading posts on the island. In 1613 the Dutch established themselves in the south-western part of Timor and in 1859 a treaty between Portugal and the Netherlands divided the island, with Portugal taking what became known as East Timor. The Dutch ceded their part of the island to Indonesia in 1949 when Indonesia was granted independence by the Netherlands.¹

In 1960 East Timor became a non-self governing territory under the administration of Portugal.² In 1975 the armed forces of Indonesia invaded East Timor and in 1976 Indonesia annexed it as an indivisible part of the United Nation of the Republic of Indonesia. By the domestic laws of Indonesia, East Timorese who were living in East Timor at the time of annexation became nationals of Indonesia.³ The subsequent years of Indonesian rule have been described as harsh with a strong military presence used to coerce cooperation from the people and stifle the independence movement.

On 5 May 1999, Indonesia and Portugal entrusted the Secretary-General of the United Nations with conducting a popular consultation of the people of East Timor to determine whether they would accept or reject a proposed constitutional framework for special autonomy within the Republic of Indonesia. Under the agreement it was provided that, should the people of East Timor reject the proposal, Indonesia would take the constitutional steps necessary to terminate its links with East Timor. The Governments of Indonesia and Portugal would thereafter agree with the Secretary-General on arrangements for a transfer of authority in East Timor to the United Nations, which would then initiate a process enabling East Timor to begin the transition towards independence.⁴

The popular consultation was conducted on 30 August 1999 and by a large majority the people of East Timor chose not to accept the framework of special autonomy within the Republic of Indonesia. The ballot result prompted pro-Jakarta militias, with support from the Indonesian army, to go on a rampage in which the United Nations estimates more than 1,000 people were killed⁵ and many East Timorese forcibly relocated to West Timor.

On 25 October 1999, the United Nations Security Council passed resolution 1272 authorising the establishment of a United Nations Transitional Administration in East Timor (UNTAET). The

¹ *Lay Kon Tji v Minister for Immigration & Ethnic Affairs* [1998] 1380 FCA (30 October 1998)

² Resolution 1542 of the General Assembly of the United Nations passed on 15 December 1960

³ *Lay Kon Tji v Minister for Immigration & Ethnic Affairs* [1998] 1380 FCA (30 October 1998)

⁴ "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

⁵ 'Truth commission set for traumatised East Timor' Reuters News, 16 January 2002 (CX61345)

Security Council endowed UNTAET with overall responsibility for the administration of East Timor and empowered it to exercise all legislative and executive authority. East Timor will hold its first presidential election on 14 April 2002 and become formally independent on 20 May 2002.

Citizenship

• *Indonesian*

Once East Timor becomes an independent state, Indonesia intends to enact legislation to compel East Timorese citizens to choose between their Indonesian and any other citizenship.⁶ In relation to East Timorese refugees in West Timor, the Indonesian Government has called on refugees to return home unless they 'choose to become Indonesian citizens'.⁷ Similarly, the Indonesian government is refusing to pay East Timorese pensions arguing that only Indonesian citizens are entitled.⁸ Thus it may be that East Timorese residents do not automatically continue to hold Indonesian citizenship.

Furthermore, under Indonesian law, Indonesian nationality is lost where a person has lived overseas for a period of 5 consecutive years without stating his or her desire to remain an Indonesian national during that period and every two years thereafter. Thus East Timorese residents overseas may have also lost any Indonesian citizenship.

• *Portuguese*

In *Jong*⁹ the Federal Court affirmed that persons born in East Timor before 1975 were generally from birth, Portuguese nationals and that this nationality was not consequently lost as a result of later events. Subsequent cases however, have cast doubt on this proposition, concluding that East Timorese are not automatically regarded as Portuguese nationals and that any application for citizenship will be considered by Portugal on a case by case basis.¹⁰

The courts and tribunals have been more concerned about whether Portuguese nationality (if it does exist) is 'effective nationality' for the purposes of the Refugee Convention. This would need to be assessed in the light of all the circumstances of a particular case. The Court posed several questions needing consideration, for example, 'whether as a matter of fact, an applicant is reasonably able to travel to Portugal to obtain protection there and whether, if he were to travel there, he would be admitted; and whether, having been admitted he would satisfy the Portuguese authorities that he is indeed a Portuguese national entitled to Portuguese protection.'¹¹

⁶ "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

⁷ Findings from USCR site visit, January 11-30, 2000 'East Timorese Refugees in West Timor' at http://www.refugees.org/news/crisis/indonesia/wtimor_find_0224.htm; Yemris Fointuna 'Government Sets Deadline for East Timor Refugees' The Jakarta Post November 8, 2001 at <http://www.etan.org/et2001c/november/04-10/08indon.htm>

⁸ 'Indonesia stands firm on Timorese pensions' 10 July 2000 (CX43135)

⁹ *Jong Kim Koe v Minister for Immigration & Multicultural Affairs* [1997] 306 FCA (2 May 1997)

¹⁰ *Lay Kon Tji v Minister for Immigration & Ethnic Affairs* [1998] 1380 FCA (30 October 1998); "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

¹¹ *Jong Kim Koe v Minister for Immigration & Multicultural Affairs* [1997] 306 FCA (2 May 1997)

It has been concluded that given that one essential element of the concept of 'effective nationality' is the recognition of the existence of nationality by the State in question,¹² in the case of Portugal, 'effective protection' will not necessarily be available.

The question of whether unwillingness to avail one's self of national protection could itself bring an Applicant within the Convention definition of a refugee has arisen in a number of cases. Originally, the RRT was of the view that if the Applicant could avail themselves of their Portuguese nationality and of national protection by taking formal steps to establish their identity and place and date of birth, they could not make themselves a refugee, merely because they do not wish to do so.¹³ However, subsequent cases have concluded that gaining Portuguese nationality might require it to be voluntarily sought.¹⁴

Furthermore, it may be that Portugal has an obligation under international law to withdraw its nationality where the Successor State (East Timor) attributes nationality to the persons concerned.

- **East Timorese**

On 27 November 1999 UNTAET promulgated Regulation No. 1999/1 which was deemed to have entered into force on 25 October 1999. The regulation established the authority of the interim administration according to which all legislative and executive authority is vested in UNTAET and exercisable by the Transitional Administrator. Regulation No. 1999/1 empowers UNTAET to make laws on East Timorese citizenship, but no laws have as yet been made.¹⁵

The draft Constitution provides that an East Timorese citizen is a person born of an East Timorese parent or parents; or born of unknown parents or a foreign mother or father, as long as they declare the desire to become an East Timorese citizen by the age of 17. People born outside East Timor of East Timorese parents can also become citizens.¹⁶

Refugees/Returnees

Since October 1999, 185,519 refugees have returned to East Timor. However an estimated 60,000 to 80,000 remain in the Indonesian territory of West Timor.¹⁷ Indonesia has abolished refugee status for those remaining in camps and set a deadline of 20 June 2002 for the camps to be vacated.¹⁸

Reports vary as to the frequency of acts of retribution against returnees. Incidents reported, however, are consistently described as low-level, ephemeral and directed mainly against former militia returning from West Timor. Those targeted are mainly ex-militia perceived to have

¹² "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

¹³ RRT Reference: N97/14840 (30 September 1998)

¹⁴ "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

¹⁵ "SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

¹⁶ East Timor assembly adopts two more articles of constitution at

<http://www.un.org/peace/etimor/news/01dec04.htm>

¹⁷ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (S/2001/983)' 18 October 2001.

¹⁸ 'Deadline for E. Timor refugees to leave camps extended to June' Reuters Kyodo 16 February 2002 (CX62252)

committed, or suspected of committing, human rights abuses, or who have immediate family members in this category.

Discrimination has also been based upon comparative material wealth and the belief that those returning from the Diaspora after many years absence have 'not suffered enough'. However, it is worth noting that most of the current political leadership have themselves spent significant time abroad.¹⁹ Incidents of violence have continued to be minimal.²⁰ Returnees wishing to move to a location where they have no family links may encounter some suspicion if they come from another ethnic group or region.²¹ Nevertheless, it is expected that the continuing return of East Timorese from West Timor will remain relatively trouble free, with most returnees reintegrated without significant problems.²² Indeed, the first organised repatriation of returnees to the isolated Oecussi district in November 2001, occurred without incident, and in October 2001 the highest monthly return since March 2000 was recorded.

Country Conditions

• **Race**

UNTAET prohibits all forms of discrimination. There are however conflicting reports of some harassment against ethnic Chinese residents. While DFAT reports suggest there is no evidence of organised harassment,²³ the US State Department has observed a low intensity antagonism, mostly among unemployed youths, against businessmen or displays of wealth. Some ethnic Chinese do not speak Tetum and originate from other parts of Indonesia (mostly Kupang, Atambua and Surabaya). Thus it is also possible that some Chinese are perceived as being Indonesians and having economic links to the Indonesian military.²⁴ There is no official discrimination against ethnic Chinese in East Timor and on the whole they are being encouraged to return and re-invest.²⁵ There is no evidence of organised harassment of the numerous Chinese traders in East Timor, who can be seen on a daily basis going freely about their business.

There have been some reports of local gangs harassing Muslims who are ethnic Malay. In addition there have been tensions between the Makasai-speaking group of East Timorese origin located in the eastern part of the island and Tetum-speaking and other ethnic groups around Dili.²⁶

• **Religion**

More than 90 percent of East Timor's population is Roman Catholic. UNTAET regulations provide for freedom of religion, however attitudes toward the small Protestant and Muslim communities vary, given the previous association of these groups with the occupying Indonesian

¹⁹ DFAT, CIR No.540/00, 'East Timor update', 17 October 2000, (CX45826)

²⁰ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

²¹ DFAT, CIR No. 92/00, 'Security and human rights in East Timor', 28 February 2000, (CX40457)

²² DFAT, CIR No. 18/02 'Country Human Rights Update' 17 Jan 2002 (CX61411)

²³ DFAT, CIR No. 18/02 'Country Human Rights Update' 17 Jan 2002 (CX61411)

²⁴ DFAT, CIR No. 92/00, 'Security and human rights in East Timor', 28 February 2000, (CX40457)

²⁵ DFAT, CIR No. 540/00, 'East Timor update', 17 October 2000, (CX45826)

²⁶ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor 4 March 2002.

military forces.²⁷ For example, accusations that Protestant clergymen were linked to pro-Indonesia East Timorese militias, have at times led to violent incidents.²⁸ East Timor's small Muslim community consists of ethnic East Timorese as well as ethnic Malay migrants from other parts of Indonesia. The latter group has also experienced some harassment. However, partly as a result of insufficient resources, there have been no arrests in cases related to attacks on churches or mosques. The number of Protestants, Muslims, and Hindus has declined markedly since September 1999 with many East Timorese Protestants remaining in West Timor.

There have been no reports of religious prisoners or detainees, nor forced conversions.²⁹

- **Nationality**

There have been no reports in East Timor of discrimination based on nationality.

- **Political Opinion**

There is no evidence of persecution of any group or individuals on the grounds of political opinion. For example, police investigations in November 2001 into incidents in Baucau, Bobonaro and Dili involving individuals with political affiliations found no political basis to any of the incidents.³⁰ While there is resentment directed towards those with pro-integration views, on the whole an attitude of ideological tolerance has been observed.

- **Humanitarian Conditions**

- **Economy and Employment**

East Timor is a poor territory, with two-thirds to three-fourths of the population engaged in subsistence agriculture. The Asian Development Bank estimated the per capita gross domestic product (GDP) to be approximately \$452. An estimated 70 to 80 percent of East Timor's infrastructure has been severely damaged.³¹

Unemployment within the territory remains very high. Indeed frustration over East Timor's poor employment opportunities has led to violence on a number of occasions.³² Dissatisfaction has also been voiced at the requirement of Portuguese language skills in the political and civil service despite the fact that only a small minority of the population speaks it. Nevertheless, by mid September 2001, UNTAET had recruited some 9,500 East Timorese civil servants, about 90 per cent of the revised target of 10,500. However, the professional bureaucratic skills capacity

²⁷ '2001 Annual Report on International Religious Freedom: East Timor' October 2001 (CX60396)

²⁸ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor 4 March 2002.

²⁹ 2001 Annual Report on International Religious Freedom: East Timor, Released by the Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, October, 2001 (CX60396)

³⁰ DFAT, CIR No. 18/02 'Country Human Rights Update' 17 January 2002 (CX61411)

³¹ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor March 4 2002.

³² Mark Dodd 'Jobs anger turns to violence' 6 December 1999 (CX44052)

of many civil servants remains limited, particularly in the areas of senior management and in the highly technical and professional areas of government administration.³³

There is no minimum wage. Indonesian laws still in effect provide for minimum standards of worker health and safety, days off, and other standard benefits. There are no restrictions on the rights of workers to file complaints and seek redress.

Rural recovery has been slower than urban, and is constrained by poor transport networks and loss of rural market and credit systems.³⁴ Coffee remained the territory's only significant export. Negotiations have begun with Australia over the revenue from the Timor Gap oil and gas region. However, the Timor Gap is not expected to be economically productive for 5 to 10 years. Property ownership disputes and the lack of a comprehensive commercial code hinder investment and related long-term development. Urban unemployment and wage and price inflation remain significant problems.

- Health Care

UNTAET reports that health sector progress continues under a sector-wide approach to restoring access to basic services and establishing the policies, systems and human resources needed for a sustainable health system. A total of 719 East Timorese health staff have taken up positions at national and district levels and 630 more are being prepared.³⁵ UNICEF has organised mobile health teams that have been trained to treat contagious diseases and to lead mass vaccinations campaigns dealing with measles and polio, and treating malaria and water born diseases like diarrhoeal dehydration.³⁶

- Education

Primary education is compulsory and free and under the emergency school readiness project, about 2,370 classrooms have been rehabilitated.³⁷ However, while the majority of children have returned to school, there remains a shortage of educational materials and school staff. Education problems are also complicated by the need to change the syllabus and the reintroduction of Portuguese as the national language.³⁸

- Law and order

³³ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

³⁴ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

³⁵ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

³⁶ United States Fund for UNICEF 'East Timor' <http://www.unicefusa.org/alert/emergency/etimor/etimor.html>

³⁷ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

³⁸ James Dunn 'Timor six months of UNTAET: an assessment.' 3 July 2000 (CX43015).

Despite sporadic militia incursions, the security situation in most of East Timor has remained stable over the last 12 months,³⁹ with the amount of militia activity on the West Timor side of the Tactical Coordination Line⁴⁰ continuing to decline. However, it is assessed that a core of hard-line militia in West Timor will continue to pose a potential threat to East Timor after independence.⁴¹ Furthermore, recent reports from the Indonesian military suggest there is a separatist movement in East Nusa Tenggara province, Indonesia, aspiring to establish a 'Greater Timor' state. Depending on whether further action is taken by the group, this may pose a point of instability on the east/west Timor border.⁴²

Under UNTAET regulations, Indonesian law applies throughout East Timor except in areas in which UNTAET has specifically repealed laws or superseded them with its own regulations.⁴³ UNTAET regulations provide for the establishment of an independent judiciary in East Timor, however the justice system is still in a nascent state. There are only 25 East Timorese judges and 13 prosecutors, the majority of whom have had only secondary education and less than two years of training and experience.⁴⁴ The independent judiciary regulations have generally been respected, however there have been a number of instances where inappropriate sentences have been handed down or where arrest warrants were improperly issued.⁴⁵

The UN civilian police (CIVPOL) with a presence of some 1,485 officers are charged with maintaining law and order and training the East Timor Police service. A Canadian police commissioner was appointed in November 2001.⁴⁶ The reported crime rate remains low.⁴⁷

- Human Rights

UNTAET Regulation no. 1999/1 establishes the overall legal structure that protects human rights in the territory. Section Two of this regulation stipulates that all persons undertaking public duties or holding public office in East Timor shall observe internationally recognised human rights standards and adds that: "they shall not discriminate against any person on any ground such as sex, race, colour, language, religion, political or other opinion, national, ethnic or social origin, association with a national community, property, birth or all other status." The provision specifically references the human rights standards reflected in a number of international conventions, including the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR).

³⁹ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor 4 March 2002.

⁴⁰ The informal boundary agreed to by UNTAET and the Indonesian armed forces, pending formal demarcation of the border.

⁴¹ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

⁴² 'Separatist movement detected in Indonesia's East Nusa Tenggara' Reuters Xinhua 15 December 2001 (CX60624).

⁴³ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor, 4 March 2002.

⁴⁴ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

⁴⁵ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor, 4 March 2002.

⁴⁶ DFAT, CIR No. 18/02 'Country Human Rights Update' 17 January 2002 (CX61411)

⁴⁷ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

Administrative structures providing protection of human rights are in early stages of development, with most training provided by UN agencies and NGOs.⁴⁸ The draft Constitution adds a further dimension to East Timor's human rights protection mechanisms. A Commission for Reception, Truth and Reconciliation has been established to promote reconciliation and reintegration at the community level and resolve human rights issues of a less serious nature. The Commission will operate for two years, with a possible six-month extension of operations.

- Women

UNTAET regulations implement the U.N. Convention on the Elimination of All Forms of Discrimination Against Women. UNTAET and the CNRT have made significant efforts to include women in appointed political bodies. Twenty-four women were elected to the new 88 seat constituent assembly⁴⁹ and 25 percent of East Timorese civil servants are women.⁵⁰ However, women continue to be unrepresented at top leadership levels.

Violence against women is another serious problem in East Timor. Rape is a punishable offence, as specified by Indonesian law, however women's groups are concerned that the CNRT is encouraging women to resolve rape and domestic violence cases through traditional rules, which usually provide only for compensation to be paid to the victim.

⁴⁸ DFAT, CIR No. 18/02 'Country Human Rights Update' 17 Jan 2002 (CX61411)

⁴⁹ 'East Timor' Country Reports on Human Rights Practices - 2001 Released by the Bureau of Democracy, Human Rights and Labor March 4 2002.

⁵⁰ Security Council 'Report of the Secretary-General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

Sources:

Cases

"SRPP" and Minister for Immigration and Multicultural Affairs [2000] AATA 878 (5 October 2000)

Lay Kon Tji v Minister for Immigration & Ethnic Affairs [1998] 1380 FCA (30 October 1998)

RRT Reference: N97/14840 (30 September 1998)

Jong Kim Koe v Minister for Immigration & Multicultural Affairs [1997] 306 FCA (2 May 1997)

UN and Governmental Documents

'East Timor' Country Reports on Human Rights Practices – 2001 Released by the Bureau of Democracy, Human Rights and Labor, 4 March 2002.

DFAT, CIR No. 18/02 'Country Human Rights Update' 17 January 2002 (CX61411)

Security Council 'Report of the Secretary –General on the United Nations Transitional Administration in East Timor (s/2001/983)' 18 October 2001.

'2001 Annual Report on International Religious Freedom: East Timor' Released by the Bureau of Democracy, Human Rights, and Labor U.S. Department of State, October 2001 (CX60396).

DFAT, CIR No.540/00, "East Timor update", 17 October 2000, (CX45826)

DFAT, CIR No. 92/00, "Security and human rights in East Timor", 28 February 2000, (CX40457)

Articles

East Timor assembly adopts two more articles of constitution at <http://www.un.org/peace/etimor/news/01dec04.htm>

'Deadline for E. Timor refugees to leave camps extended to June' Reuters Kyodo, 16 February 2002 (CX62252)

'Truth commission set for traumatised East Timor' Reuters News, 16 January 2002 (CX61345)

'Separatist movement detected in Indonesia's East Nusa Tenggara' Reuters Xinhua, 15 December 2001 (CX60624).

Yemris Fointuna 'Government Sets Deadline for East Timor Refugees' The Jakarta Post
November 8, 2001 at <http://www.etan.org/et2001c/november/04-10/08indon.htm>

'Indonesia stands firm on Timorese pensions' 10 July 2000 (CX43135)

James Dunn 'Timor six months of UNTAET: an assessment.' 3 July 2000 (CX43015).

Findings from USCR site visit, January 11-30, 2000 'East Timorese Refugees in West Timor' at
http://www.refugees.org/news/crisis/indonesia/wtimor_find_0224.htm

Mark Dodd 'Jobs anger turns to violence' 6 December 1999 (CX44052)

United States Fund for UNICEF 'East Timor'
<http://www.unicefusa.org/alert/emergency/etimor/etimor.html>

ATTACHMENT C

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MPS 019/2002

- **DECISION MAKING TO PROCEED ON EAST TIMORESE ASYLUM CLAIMS**

The Minister for Immigration and Multicultural and Indigenous Affairs, Philip Ruddock, said today that East Timorese asylum seekers in Australia would be invited to provide additional information in support of their claims, so that decision making could proceed.

“Decision making on protection visa applications lodged by East Timorese asylum seekers had been delayed for several years because of litigation,” Mr Ruddock said.

“More recently, there was a need to ensure that the situation in East Timor was clear enough and our information sufficiently sound to enable us to finalise these cases reliably.

“Deciding these applications will allow these people to move on with their lives,” Mr Ruddock said.

There are several hundred applications from East Timorese asylum seekers before the Department, covering approximately 1,700 people.

These applications will be considered on a case by case basis in accordance with standard protection visa processing arrangements.

"In view of the passage of time and the changed conditions in East Timor, all applicants will have the opportunity to provide further information in support of their applications before any decision is made," Mr Ruddock said.

“Anyone found to be owed refugee protection will, of course, receive it.

“However, it is reasonable to expect people who are found not be refugees and so do not have a well-founded fear of persecution, to return home when their country is safe and secure,” Mr Ruddock said.

East Timorese people who have applications under consideration will be able to remain in Australia until their applications are finally determined.

The Department will be writing to all East Timorese applicants and their representatives to provide advice on how their applications will be handled and to advise that existing arrangements for provision of Asylum Seeker Assistance to those in need will continue.

25 March 2002

MEDIA CONTACT: Steve Ingram 0419 278 715

Information for East Timorese asylum seekers



The Minister for Immigration and Multicultural and Indigenous Affairs announced on 25 March 2002 that decision making on protection visa applications lodged by East Timorese asylum seekers will resume.

Finalisation of these applications had been delayed for several years because of litigation. More recently, the Government was concerned to ensure that the situation in East Timor was clear enough to enable DIMIA to finalise the applications and sought detailed information on this issue. This has now been obtained.

In the next few weeks DIMIA will be writing to all East Timorese asylum seekers waiting for a decision on their applications.

This first letter will explain how DIMIA will process applications. The letter will be sent to the last notified address. Protection visa applicants should ensure that DIMIA has their current address and that they can rely on obtaining correspondence delivered to that address.

Failure to respond to DIMIA correspondence could result in applications being decided on the material previously provided to DIMIA.

All applicants will have the opportunity to provide further information in support of their applications before any decision is made.

Applicants can lodge further material now if they wish.

Every applicant and their representative will receive a second letter when DIMIA officers start working on their particular case. The second letter will confirm that their application is under consideration and will provide applicants with a formal opportunity to provide any further information in support of their application. The letters will not be sent out to all East Timorese asylum seekers at the same time. It is expected that the processing of East Timorese asylum applications will be undertaken over a period of several months.

Applicants will need to make sure that they have informed the Department about any changes to their family composition.

East Timorese who have applications under consideration will be able to remain in Australia until their applications are finally determined.

Applicants will be assessed in accordance with standard protection visa criteria. Any person found to be owed refugee protection will receive it. People who are found not to be refugees are expected to return home.

The recommencement of decision making on the East Timorese cases has not changed the types of visa available to East Timorese people found to need protection:

- Those who arrived lawfully and who are found to meet the criteria for a protection visa will be eligible for a permanent protection visa.
- Any who arrived unlawfully and lodged their protection visa application before 20 October 1999 and who are found to meet the criteria for a protection visa will also be eligible for permanent protection visas.
- Those who arrived unlawfully and lodged their protection visa application after 20 October 1999 and meet protection visa criteria will be eligible for a temporary protection visa.

Existing arrangements for providing Asylum Seeker Assistance (ASA) will continue. People eligible for this assistance now will continue to be eligible while they wait for their primary decision. If that decision is unfavourable and they seek a review, they can request an exemption to continue access to ASA while the Refugee Review Tribunal (RRT) considers their case.

Where applicants are granted a protection visa, ASA will cease as the visa holders will be eligible for support through mainstream Centrelink arrangements. This includes Medicare access. ASA ceases where an asylum seeker receives a RRT decision that they are not refugees.

If applicants currently have Medicare access or work rights – these will continue while their application is processed and during any further period of RRT review, if they are found not to be a refugee.

Of course, if applicants are found to be owed refugee protection and are granted a protection visa they will immediately have access to Centrelink benefits support, Medicare and work rights

What do applicants need to do?

Applicants should make sure that they have their current address notified to DIMIA and that they will obtain any correspondence delivered to that address from DIMIA quickly.

They need to decide whether to provide additional information or claims to DIMIA to support their application for protection. This can be provided now if applicants wish, but applicants will be sent a letter when consideration of their particular application gets under way, offering a formal opportunity to provide further material.

Applicants may want to consult a migration agent over the issue of providing extra material in support of their application or may wish to deal with the Department direct. This choice is up to them.

If applicants are receiving Asylum Seeker Assistance (ASA), they need to keep in touch with the Red Cross as they usually do. Applicants remain eligible for ASA under the normal arrangements for that scheme. If applicants receive a primary refusal from DIMIA on their protection visa application and seek a review by the RRT,

They can seek an exemption to continue accessing ASA at review.

What DIMIA will be doing

DIMIA will send all East Timorese protection visa applicants awaiting a decision from the Department, and their representatives, a letter outlining the arrangements for processing.

When DIMIA starts considering a particular application the Department will write a second letter giving a formal opportunity for the applicant to provide any further material in support of his or her application.

Note –applicants do not need to wait for that second letter to provide DIMIA with information in support of their application. If that information is provided now, they will still receive the second letter, giving an opportunity to provide any further information when DIMIA starts considering their particular application.

Successful applicants will receive a protection visa.

Applicants who are not successful will have the standard rights to seek a review of that decision by the RRT.

25 March 2002