

# United Nations Secretary-General's Study on Violence against Children

## Questionnaire to Governments

### Response of the Democratic Republic of Timor-Leste (As per November 2005)

#### I. LEGAL FRAMEWORK

##### International Human Rights Instruments

*1. Describe any developments with respect to violence against children which have resulted from your country's acceptance of international human rights instruments, including for example, the Convention on the Rights of the Child and its optional protocol, the Palermo protocol or regional human rights instruments. Provide information on cases concerning violence against children in which your country's courts or tribunals have referred to international or regional human rights standards.*

Despite the challenges we face as a new nation, progress has been remarkable in many areas, including in the areas of democratic governance, enactment of legislation, rehabilitation of infrastructure, responsible development planning and budgetary discipline, the country's regional integration, and most importantly, commitment to ensure human rights norms and personal freedoms.

On 10 December 2002, the national Parliament of Timor-Leste approved the accession of Timor-Leste to the seven (7) core international human rights treaties, including the Convention on the Rights of the Child (CRC) and its two Optional Protocols.

Several offices and Departments within the Government have been officially tasked to work for the promotion of human rights, including children's rights. These include the offices of the Advisor to the Prime Minister on Human Rights and the Office of the Advisor to the Prime Minister on Promotion of Equality who are active in promoting awareness on the rights of disadvantaged and vulnerable groups, including children and women.

To this point, there are no records of cases concerning violence against children in which courts have referred to International or regional human rights standards in their rulings.

## Legal provisions in violence against children

2. Describe how forms of violence against children are addressed in your country's constitution, legislation and subsidiary legislation, and, where appropriate, customary law.

On 20<sup>th</sup> May 2002, Timor-Leste's Constitution entered into force. Timor-Leste is now in the process of enacting many of its national laws. In the meantime, the laws enacted by the former UN Transitional Administration in East Timor (UNTAET) and other applicable laws continue to be in force. In addition, international treaties ratified by the state and generally accepted principles of international law form part of the source of law.

The applicable laws on protection of children in Timor-Leste, listed in the order of their hierarchy, are:

- A. The Constitution of Timor-Leste
- B. UN Convention on the Rights of the Child and other International Laws on Human Rights and Juvenile Justice.
- C. Republica Democratica de Timor-Leste (RDTL) Laws relating to child protection (currently in the development process)
- D. UNTAET Regulation 2003/30, reve. 2001/25, Rules of Criminal Procedures (insofar as it has not been replaced or superseded by RDTL Laws); and
- E. Indonesian Laws prior to October 1999 (Indonesian Law 3/1997 on Juvenile Justice and Indonesian Penal Code) insofar as the provision are not covered by UNTAET Rules of Criminal Procedures and are not inconsistent with international laws.

3. Provide details of any specific legislative provisions on prevention of all forms of physical, sexual and mental violence, injury or abuse, neglect or negligent treatment and sexual abuse; Protection of children from all forms of violence; Redress, including compensation, for child victims of violence; Penalties for perpetrators of violence against children; Reintegration and rehabilitation of child victims of violence.

The Constitution entered into force on 20<sup>th</sup> May 2002. Section 18 of the Constitution on child protection states that:

1. Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.
2. Children shall enjoy all rights that are universally recognized, as well as all those that are enshrined in international conventions normally ratified or approved by the State.
3. Every child born in or outside wedlock shall enjoy the same rights and social protection.

A draft Children's Code is currently being prepared and in February 2005, the Prime Minister of Timor-Leste, Mr Mari Alkatiri signed a Decree stating that a National Commission of the Rights of the Child should be created within the office of the PM. (Please see question 33 for further details).

A National Penal Code has recently been considered by the Council of Ministers. According to the Constitution, until such time as this and other associated laws are promulgated, articles of the Indonesian Penal Code are still in force (see question 2, point E).

A domestic violence legislation is currently in draft form, which will address violence against children in the home.

*4. Indicate whether any specific legislative provisions address all forms of violence including physical, sexual and psychological violence, injury or abuse, neglect or negligent treatment and sexual exploitation against children which take place in the family/home, schools...*

Legislation which specifically makes mention of violence against children in certain circumstances includes:

**The Family/Home:**

Indonesian Penal Code:

Articles 304 – 308 (abandonment)

Articles 351 – 358 (maltreatment)

Articles 290 -292, 294, 295 (crimes against decency)

Forthcoming domestic violence legislation, currently in draft form.

**Schools and pre-school care and education:**

Indonesian Penal Code:

Articles 294, 295

National Education Policy 2005 – 2009 (draft)

2.4 Fundamental Principles:

4.6.4 Conduct and discipline of teachers.

**Neighbourhood, street and the community, and the workplace:**

UNTAET regulation no. 2002/5 On the Establishment of a Labour Code  
Section 11, 11.1-11.4

Indonesian Penal Code:

Articles 301, 324, 335, 336 (child labour, begging, dangerous labour, slavery, coercion, threat)

*5. Indicate if corporal punishment of children, in any setting, including in the family, is explicitly prohibited in your legal system. Provide details of any legal defences available to those who administer corporal punishment to children, including in the family. Provide information on penalties applicable to those who administer corporal punishment to children including in the family.*

There is no current legislation which explicitly prohibits corporal punishment.

The draft National Education Policy (2005 – 2009) states in its fundamental Principles:

*"Focus on the child and in the learning process, with emphasis on the development of a favourable learning environment, safe and free of any violence". (p15)*

In section 4.6.4 Conduct and Discipline of Teachers, it states:

"Due to the single influence that teachers exert over youth and the fundamental role which they perform to guarantee an education with quality, the Ministry along with the teachers: Codes of conduct and discipline for teachers will be defined, compatible with those required by public servants, with specific focus in the reduction of work absence, negative habits and other negative behaviour. (p.35).

(Ministerio da Educacao, Cultura, Juventude e Desporto, Draft National Education Policy 2005 – 2009, April 2005).

6. *Provide information on whether the penal code permits corporal punishment and/or capital punishment as a sentence for crimes committed by under 18 year olds.*

Corporal punishment is unlawful as a sentence for crime and as a disciplinary measure in penal institutions. The Constitution of Timor-Leste states:

Section 29 (3):

"There shall be no death penalty in the Democratic Republic of East Timor".

Section 30 (4):

"No one shall be subjected to torture and cruel, inhuman or degrading treatment".

Section 32 (1):

"There shall be no life imprisonment nor sentences or security measures lasting for unlimited or indefinite period of time".

7. *Provide details on whether bullying/hazing and sexual harassment are explicitly addressed by legislation.*

There is no specific current legislation which addresses bullying or sexual harassment.

8. *Provide information on the way in which harmful or violent traditional practices, including but not limited to female genital mutilation, child marriage or honour crimes are addressed in your country.*

Female genital mutilation is not a concern in Timor-Leste and hence there are no legal provisions addressing this issue.

According to the Judicial Systems Monitoring Programme (JSMP), the majority of the population use local (traditional or customary) justice systems to resolve disputes and address legal transgressions. In most cases where local or traditional justice systems are used, the outcome of a case, is some form of payment to the victim(s), usually of money or animals.

The issue of child marriage is addressed in question 15.

9. *Provide information on the applicability of specific provisions to address all forms of violence against children to non-citizens and stateless children, including asylum seekers and displaced children.*

The National Division of Social Services (DNSS) of the Ministry of Labour and Community Reinsertion, has drafted 'Guidelines for Unaccompanied and Separated Children and Children with One Parent in Emergency Situations'. The guidelines specify steps that should be taken for the care of separated or unaccompanied children during an emergency, and makes note of the particular vulnerability of these children and especially girls, to sexual abuse, violence and exploitation.

Article 87 of the Immigration and Asylum Act states that "The effects of asylum granting are deemed to be extensive to spouses, minors, adopted or disabled children...". There are no specific provisions to address all forms of violence against non citizens and stateless children.

10. *Provide information on any difference in the definition of violence and the applicable legal framework according to: the sex or sexual orientation of the victim and/or perpetrator, the age of the victim and/or perpetrator; the relationship between the victim and the perpetrator.*

Differences in the definition of violence and the applicable legal framework, according to sex or sexual orientation exist in the Indonesian Penal Code, insofar as there is a difference in the punishment stipulated for an adult who commits an obscene act with a minor if they are of the same sex.

There are also differences in the punishment recommended for offenders if the victim is a child or someone in the adult's care. The Indonesian Penal code, in relation to Maltreatment, states, "If committed by a male against his child, punishment is increased by 1/3".

11. *Provide information on any recent comprehensive review of the legal framework to address violence to children.*

The Ministry of Justice has taken the lead in developing a comprehensive legislation for the protection of children – a Children's Code. See Questions 33 & 34 for further information.

12. *Provide information on any studies and surveys which have been undertaken to assess the impact of legal measures to address violence against children.*

**Analysis of Decisions in Cases Involving Women and Children Victims: June 2004 – March 2005, Judicial System Monitoring Programme**

[http://www.jsmp.minihub.org/Reports/jsmpreports/Analysis%20Cases\\_WJU/Analysis%20cases%20\(e\).pdf](http://www.jsmp.minihub.org/Reports/jsmpreports/Analysis%20Cases_WJU/Analysis%20cases%20(e).pdf)

**Traditional Justice and Gender Based Violence, Research Report August 2003, International Rescue Committee, Submitted by Aisling Swaine**

[http://www.jsmp.minihub.org/Traditional%20Justice/Reports/Swaine\\_Gender%20Report/SwaineGenderReport.doc](http://www.jsmp.minihub.org/Traditional%20Justice/Reports/Swaine_Gender%20Report/SwaineGenderReport.doc)

Courts tasked with addressing violence against children

13. *Identify those parts of the court structure in your country tasked with addressing violence against children. Indicate if your family or juvenile courts have specific responsibility for this issue.*

There is no specific court in Timor-Leste which has been tasked with dealing specifically with violence against children. The UNTAET Regulation 200/30 on *Transitional Rules of Criminal Procedures* ensures certain rights for a victim in judicial proceedings, which extend to the child victim, who also has the right to protection by substitute restrictive measures in case of conditional release of the suspect, and by police follow-up on the child's situation and the right not to be forced to testify or incriminate in court where the accused is the child's parent, relative, spouse or partner.

A Vulnerable Persons Unit (VPU) of the police exists in each of the 13 districts, which is tasked with dealing with vulnerable persons such as women and children who have experienced abuse or violence.

Cases of violence or abuse against women and children are often dealt with through traditional customary law mechanisms.

#### Minimum Age for Sexual Activity

14. *Provide information on any legislatively defined minimum age required for valid consent to sexual activity. Is this age different for girls and boys? Is this age different in respect of heterosexual and homosexual activities?*

The age of sexual consent in the Indonesian Penal Code is set at 15 years for girls. There is no stipulated age of sexual consent for boys. Sexual activity – whether consensual or non-consensual – with a girl under 15 is thus prohibited. There is no provision or difference in respect of heterosexual and homosexual activities.

15. *Provide information on the minimum age for marriage for women and men.*

Under Indonesian Law, females may marry when they reach the age of 15 years, while males may marry upon reaching 18 years of age.

#### Sexual Exploitation of Children

16. *Provide information on legislation and other measures to prevent the commercial sexual exploitation of children, including through prostitution and other unlawful sexual activities. Provide details on means to ensure that child victims of such exploitation are not criminalized. Provide information on legislation or other measures to prohibit all forms of sale or trafficking in children, including by their parents.*

An East-Timorese promulgated law on human trafficking is found in the Immigration and Asylum Act, Article 81 "Human Trafficking". (Law 09/2003 effective as of 15 October 2003):

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.

In 2003, an Inter-ministerial Trafficking Working Group was established in 2003. The objective of the working group is:

- (a) To prevent and combat trafficking in persons, paying particular attention to women and children;
- (b) To protect and assist the victims of such trafficking, with full respect for their human rights; and
- (c) To promote cooperation among the involved governmental or non governmental agencies in order to meet those objectives.

Rules of Organisation and Procedure on Human Trafficking are being developed and are currently in draft form.

Articles 296 and 297 of the Indonesian Penal Code also refer to sexual exploitation:

296: "Any person who makes an occupation or a habit of intentionally causing or facilitating any obscene act by others with third parties, shall be punished by a maximum imprisonment of one year and four months or a maximum fine of one thousand rupiahs".

297: "Trade in women and minors of the male sex shall be punished by a maximum imprisonment of 6 years".

#### Pornography and Harmful Information

*17. Provide information on legislation and other measures to prohibit the production, possession and dissemination of child pornography. In particular, please provide information on any controls on pornography produced and/or disseminated via the internet.*

The Government of Timor-Leste has signed the optional protocol to the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography.

Article 283 of the Indonesian Penal Code refers to the punishment of a person who:

“Permanently or temporarily, hands to or shows a minor of whom he knows or reasonably must suspect that it has not yet reached the age of seventeen years, either a writing or a portrait or an article offensive against decency...”

Awareness raising of pornography and its impact on children is being conducted by UNICEF in collaboration with the National Police, and an awareness raising campaign targeted at children is currently being carried out in schools across the country.

18. *Provide information on any legislation or guidelines to protect children from injurious information and material transmitted through the media, Internet, videos, electronic games etc.*

Please refer to the above Article of the Indonesian Penal code.

#### Reporting Obligations relating to violence against children

19. *Provide information on legislation, regulations or administrative directives requiring reporting of all forms of violence against and abuse of children in all settings to appropriate bodies.*

The National Division of Social Services (DNSS) of the Ministry of Labour and Community Reinsertion is the Government agency with the mandate for Child Protection. DSS is working towards building an inter-agency approach to child abuse prevention, early intervention and mandated services through working in partnership with other government and non-government agencies and communities at all levels of society.

The following Policies and Procedures have been finalized:

#### ***Policy and Procedures for Child Care Centres and Boarding Houses***

Ministry of Labour and Community Reinsertion  
National Division of Social Services

#### ***Case Management Policy and Procedures***

Ministry of Labour and Community Reinsertion  
National Division of Social Services

National Case Management Policy and Procedures have been developed and endorsed and apply to all service provision within the Ministry of Labour and Community Reinsertion. It includes a code of conduct for all DNSS staff and their partner organizations who are working with children and vulnerable people. This covers the range of tasks including intake, assessment, development of a case management plan, monitoring, review and closing of cases. The Procedures for DNSS intervention in Child Abuse Cases have also been prepared. Case Management procedures for the Court and Prisons Section of DNSS are now in Draft form.

#### Complaints Procedures



20. *Provide information on any complaints procedures relating to all forms of violence against children perpetrated in the family/ home; schools and pre-school care and education;*

Legislative provisions on child abuse exists within the:

- Timor-Leste Constitution (general mandate on child protection)
- UN Convention on the Rights of the Child (on State obligations)
- Indonesian Penal Code (on definitions of crimes) and
- UNTAET regulation 2000/30 (rev.2001/25) Rules on criminal procedure (on the rights of victims)

The established procedure is for any complaints of child abuse to be reported to the Vulnerable Persons Unit (VPU) of the Police (PNTL – Policia Nacional de Timor Leste). Currently, a draft version of the Rules of Organisation and Procedure for Investigating Child Abuse and Children at Risk of Abuse exists. Its policy states:

*The State has a duty to ensure the constitutional right of every child to special protection against all forms of crime, physical violence, injury or abuse, maltreatment, neglect or negligent treatment, abandonment, discrimination, oppression, sexual abuse and exploitation.*

*The PNTL has a primary role in the protection of children and the investigation of child abuse crime. The PNTL shall respect the primary role of parents or legal guardians in caring for and protecting their children; and accordingly, shall support, assist and protect the family in implementing this right. A child shall not be separated from his/her family or legal guardian against the child's will, except when there is a serious risk of harm to the child.*

*In dealing with a child victim of any form of violence, neglect, exploitation, or abuse, the PNTL shall seek primary support from Government Departments, such as the DNSS and non Government Agencies that ensure appropriate measures are taken to promote the physical and psychological recovery and social reintegration of the child.*

*All actions concerning a victim of criminal child abuse and an at-risk child shall be appropriate to the child's age and evolving capacities, and the best interests of the child shall be the paramount consideration of the police. The State shall ensure the child's right to participate in all procedures concerning his/her case, by ascertaining the child's views during all stages and giving due weight to those views in accordance with the child's age and maturity.*

The National Division of Social Services' Case Management Police and Procedures aim to strengthen the inter-disciplinary handling of child abuse cases and/or neglect cases in a teamwork approach with VPU and other relevant agencies. It sets out a code of conduct for staff of DNSS and their partner organizations.

The National Division of Social Services (DNSS) has also produced an administrative directive, ***Policy and Procedures for Child Care Centres and Boarding Houses.***

It states:

“Any allegations of child abuse should be taken seriously and the institution’s child protection policy followed. After initial enquiries by the institution, if there are grounds for concern, the abuse should be reported to the police or the National Division of Social Services (DNSS), for further investigation”.

21. *Indicate whether children or persons acting on their behalf can access these procedures. Indicate whether legal aid is available to facilitate submission of complaints, and the circumstances in which legal aid will be available.*

Children are able to access these procedures and make complaints themselves directly to the Police VPU. Generally, legal aid has not been available to child victims or child perpetrators as for most other victims and perpetrators. However, the National Division of Social Services has a court and Prison unit which provides assistance to children in conflict with the law. In addition, there are several Non-Government Organisations (NGOs) who provide legal assistance and support for child victims of abuse. A legal aid system for children who are in conflict with the Law is being established by a National NGO. The Judicial Systems Monitoring Programme (JSMP) have a new program to support women who are victims of violence, entitled the Victims Support Service (VSS). FOKUPERS, a National NGO, established in 1997, in addition to providing counselling for victims, also provides mediation, legal counselling and support before, during and after any judicial processes.

22. *Describe steps which have been taken to raise awareness of possibilities to submit complaints about violence against children.*

A number of steps have been taken to raise awareness of the possibilities to submit complaints. One of the most significant has been the training of social workers, police, NGO workers and members of the community in the processes involved in submitting complaints of violence against children.

Other steps which have been taken include:

- Child Protection Networks (see Q. 36)
- Socialisation of the Policy and Procedures on Child Care Centres and Boarding Houses
- A range of programs implemented by government and NGOs on child rights, human rights, non-violence advocacy and awareness raising.

23. *Provide information on any special procedural or evidentiary rules which may apply in proceedings with respect to violence against children.*

Until such time as the Children’s Code is finalised and implemented, the UNTAET Regulation 2000/30 (rev.2001/25), Rules of Criminal Procedures (Section 12: Rights of the Victim) applies.

24. *Provide information on the usual outcome of complaints of violence against children (eg. Compensation, punishment of perpetrators, perpetrators rehabilitation, family therapy)*

Many cases of violence or abuse against children are referred to and dealt with through traditional law. Often the outcome of these cases is that compensation is paid by the offender to the victim’s family. Few cases of violence and abuse against children are reported, a small

proportion ever make it to trial and an even smaller proportion ever reach a final decision. (Analysis of Decisions in cases involving women and children victims June 2004 – March 2005, JSMP 2005)

25. *Provide information on the usual outcome of legal proceedings in which children and juveniles are found guilty of perpetrating violence (eg. Imprisonment, corporal punishment, community service, perpetrator rehab, family therapy)*

*UNTAET Rules of Criminal Procedure 2000/30* sets the age of criminal responsibility at 12 years old. The regulation provides that:

“under 12 years of age shall be deemed incapable of committing a crime and shall not be subjected to criminal proceedings. A minor between 12 and 16 years of age may be prosecuted for criminal offences only in accordance with such rules as may be established in subsequent UNTAET regulations on juvenile justice; provided, however, that minors between 12 and 16 years of age may be prosecuted under the provisions of the present regulation for any offence which under applicable law constitutes murder, rape, or a crime of violence in which serious injury is inflicted upon a victim” (S. 45.1)

The regulation also states that:

“the court in which any minor is tried shall safeguard the rights of the minor, in accord with the United Nations Convention on the Rights of the Child, and shall consider his or her juvenile condition in every decision made in the case” (S. 45.4)

In cases where imprisonment is a possible sentence, the regulation gives the provision for other sentencing options to be considered, including supervision orders, counselling, probation, foster care and training programs. UNICEF has carried out training with legal practitioners, police and judges on possible diversionary mechanisms, as an alternative to imprisonment for juveniles.

The National Division of Social Services (DNSS) Courts and Prisons Unit, monitors cases of children in conflict with the law who are referred to their office as part of their social case work and case management function. They work with the suspect and their family, in pursuit of effective intervention, attention to rehabilitation efforts and family/community reunification and community reintegration.

In the year from June 2004 to June 2005, there were 22 cases brought by the police against juveniles: 17 involving serious crimes and five for lesser offences. Generally, the lesser offences are dealt with by the police without resort to a court hearing: normally via local discussions, including with the victim (which may include having the choice as to whether a prosecution should proceed to court). Of the 17 juvenile cases brought to court in the past year, four were sentenced to a period of detention (varying between three and eight years), eight were released (two unconditionally due to lack of evidence concerning separate sexual harassment cases, six on conditional release), and five cases are still underway.

Customary practices are another form of diversionary and complementary response, especially in dealing with civil disputes and lesser offences. The role of customary practices is well

understood and includes "social sanctions" that include particular attention to justice for the victim.<sup>1</sup>

## II. INSTITUTIONAL FRAMEWORK AND RESOURCES TO ADDRESS VIOLENCE AGAINST CHILDREN

26. *Are there any Governmental authorities, structures and mechanisms, including at federal, state/provincial, municipal and local level which are currently responsible for addressing violence against children?*

Section 8 of the Government of Timor-Leste's Labour Code (Regulation no. 2002/5) establishes a National Division of Social Services (DNSS), which includes a Children's Unit, which is assigned broad functions concerned with the work and welfare of children.

The Vision statement of the Children's Unit is:

*"To help children who are vulnerable or suffer from social problems to live a healthy and productive life".*

It's goals are:

To assist children who are neglected, abused or otherwise vulnerable. To build the capacity of the family and the community to care for their children. To get children off the street, out of prison, back in families, and into school. To prevent violence in the home and in the community. To advocate for the rights of all children in programming and funding, and To protect children through the development of legislation, application of laws and professional practice.

The focus of this policy is upon children and young people under 18 years of age who are in need of **protection from violence, abuse and exploitation** and may include but is not limited to:

child victims of any form of violence, abuse and exploitation or abandonment, victims of child labour; child trafficking victims; separated children<sup>2</sup>

27. *Is there a lead Government Authority tasked with responsibility for addressing violence against children?*

As discussed in the previous question, the National Division of Social Services is working towards building an inter-agency approach to child abuse prevention, early intervention and managed services through working in partnership with other government and non-government agencies and communities at all levels of society. The non-government sector is also a major force in providing services for children and their families and in the establishing and managing of Residential Care Institutions through Timor-Leste. In February 2005, the Prime Minister of Timor-Leste, Dr Marie Alkatiri decreed that a National Commission on the Rights of the Child would be created. See Q. 32 for further information.

<sup>1</sup> Convention on the Rights of the Child, Initial Report 2005, Timor-Leste Draft.

<sup>2</sup> Division of Social Services' Case Management Policy and Procedures, 2005.

28. *Are specific financial and/or human resources allocated by your country to address violence generally?*

The Government of Timor-Leste allocates specific financial and human resources to the development of legislation which addresses violence generally, including a Domestic Violence Legislation.

29. *Does your country allocate specific financial and/or human resources to activities to address violence against children?*

The Government of Timor-Leste allocates specific financial and human resources to the Division of Social Services which delivers programs and administers the Government's response to issues of violence against children.

30. *Do International or bilateral donors provide resources to your country for activities to address violence against children?*

Being in the early stages of independence, the Government of Timor-Leste still receives much assistance from international and bilateral donors to address the issue of violence against children. UNICEF provides funding and technical assistance to the DNSS and the Government to assist in policy development related to children's issues. Other UN Agencies, International and local non-governmental organisations provide resources to work on children's issues and in collaboration with the government to address violence against children.

31. *Does your country provide any assistance to other countries' efforts to respond to the problem of violence against children?*

While no financial assistance is provided to other countries' efforts, the Government of Timor-Leste is willing to cooperate with and provide any assistance possible, to other countries in responding to the problem of violence against children.

32. *If your country has a national human rights institution, such as a human rights commission or ombudsman, or a child-specific human rights institution, does it have any role or competence in the area of violence against children, including receiving complaints?*

In March 2005, the Parliament of Timor-Leste elected a Provedor ("ombudsperson") for Human Rights and Justice and established an Office of the Provedor. As an independent Institution, it will aim to effectively safeguard human rights by monitoring the government ministries and other departments, as well as by examining any complaints received by the Office. It will also look into issues of Governance and anti-corruption.

Point (a) of the Definitions and Interpretation in the legislation states that the:

"Office of the Provedor de Direitos Humanos e Justica" means an Independent public body that combines the functions of a National Human Rights Institution in the areas of human rights and justice, those of an ombudsman in the area of good governance and administration, and the functions of an anti-corruption agency".

In February 2005, the Prime Minister of Timor-Leste, Mr Mari Alkatiri decreed:

“A National Commission of the Rights of the Child (CNDC) shall be created, operating under my direct dependency.”

The Advisory Board of the National Commission is composed of the Ministers of Foreign Affairs and Cooperation; Planning and Finance; Education and Culture; Health; Justice; Labour and Community Reinsertion; the Human Rights Adviser of the Cabinet; the Prosecutor General; a representative of a Religious Faith, a representative of a nongovernmental organisation and a child representative.

The Advisory Board, at its first meeting, shall decide on the make-up of the Secretariat of the National Commission, which shall include representatives of government agencies and civil society, as well as children.

The Advisory Board, at its first meeting, shall also select the National Commissioner of the Rights of the Child, based upon a competitive selection process which ensures that the National Commissioner possess sufficient experience and skills to coordinate the activities of the CNDC, proven integrity and a solid knowledge of the principles of human rights in general and of the rights of the child in particular. He/she must also be known for his or her standing in the community and high level of independence and impartiality.

The National Commission of the Rights of the Child shall have the express mission of:

- a) Supporting the process of implementation of the Code of the Rights of the Child;
- b) Advising the Government and the various authorities of the State on the application of the Code of the Rights of the Child and other legislation or measures related to the rights of the child;
- c) Promoting the application of the Code of the Rights of the Child and other legislation or measures related to the rights of the child;
- d) Alerting the Government to situations affecting children or their rights and requiring urgent or special attention;
- e) Ensuring that all government action, and the actions of all public authorities, have the higher interest of the child as a fundamental concern;
- f) Coordinating the action of the various governmental departments, and of the public authorities on the various district, sub-district and *SUCO* levels, in matters affecting children;
- g) Monitoring trends in the realities of the country insofar as they affect children and their rights;
- h) Promoting the public interest and sensitising civil society to children and their rights;
- i) Coordinating international cooperation in this field.

33: *Are there any particular parliamentary structures to address violence against children?*

*And;*

34: *Have there been any recent parliamentary initiatives to address violence against children?*

While there are no specific parliamentary structures to address violence against children, the Code of the Rights of the Child is required to be approved by the National Parliament. The structure of the National Parliament is such that Permanent Specialised Commissions have been established. Those related to children, and that would address violence against children are:

The Commission of Education, Culture, Youth and Sport; and

The Commission of Health, Social Affairs, Labour and Solidarity.

### III. ROLE OF CIVIL SOCIETY IN ADDRESSING VIOLENCE AGAINST CHILDREN

35. *Describe significant civil society initiatives addressing violence against children in your country, including the types of institutions involved (such as academic institutions, professional associations, women's associations, student associations, community-based groups, faith-based groups, child and youth-led groups, trade unions, employer's organizations, national non-governmental organizations, international non-governmental organizations) and the major activities engaged in (including advocacy, awareness raising, research, prevention, rehabilitation and treatment of children harmed by violence, provision of services, provision of resources).*

A great number of civil society initiatives addressing violence against children are carried out, with support from government. Some examples of significant initiatives include:

- The Division of Social Service (DSS) has signed a Memorandum of Understanding with UNICEF and the following organisations committing to work together effectively on issues of protecting children from violence:
  - Knua Buka Hatene, an organization providing training in community theatre to communicate child protection messages.
  - Fokupers, an organization providing shelter, counselling and other support services to women and children who have been victims of violence and abuse
  - Centro Juventude Maliana, an organization using community theatre to generate discussions on issues of child protection.
  - Forum Comunicações Juventude, an organization providing shelter and services to children on the street and children at risk.
  - Plan International, who are working collaboratively with Youth Centres to promote children's rights and protection to students, teachers, parents and communities in general, as well as being the National Focal Agency, carrying out follow up activities to the Regional Consultation on Violence against Children.
  - World Vision, carrying out vocational training workshops for young people released from prison.
- The Office of the Promotion of Equality (OPE) works closely with civil society to coordinate the response to Domestic Violence victims, many of who are under 18 years of age, and promote activities between civil society and government concerning violence against children.
- Promotion of the Convention on the Rights of the Child (CRC) through community based organization and church groups, children's organizations and families, is being undertaken, and is an important initiative in addressing the problem of violence against

children. This is part of a broader campaign of awareness raising and advocacy of sexual and gender based violence through collaboration between civil society organizations and Government.

- One of the civil society organisations promoting child rights, is an NGO called “Men against Violence against Women” (AMKA), who particularly promote the rights of girls to be protected from violence.
- A partnership agreement has recently been signed between the National Scouts Movement in Timor-Leste and UNICEF.
- The Judicial System Monitoring Programme (JSMP) is an independent NGO set up to contribute to the ongoing evaluation and building of the Judicial System in Timor-Leste. They have a Women’s Justice Unit, which aims to assist women and children who are victims of violence.

36. *Describe the support provided by your Government for these activities and the efforts made to coordinate civil society and government initiatives.*

The Government of Timor-Leste is increasing its collaboration with civil society, and is improving the coordination between the two. However, there still needs to be greater collaboration among government and civil society organizations in planning programmes on violence against children. Joint planning and implementation of community based projects and monitoring violence within households and at work places, and within systems and processes is recognized as being of paramount importance.

37. *Describe the role played by media in addressing violence against children?*

Awareness raising activities have been facilitated through the use of media to disseminate child protection messages. Media outlets including television and radio have been used to broadcast and promote child rights, and inform the community of services that are available to vulnerable children. Please see Q.55 for further details on the use of media to disseminate information and campaigns on violence against children.

#### **IV. CHILDREN AS ACTORS IN ADDRESSING VIOLENCE**

38. *Provide information on the involvement and consultation of children in designing activities, and in implementation and monitoring of programmes and policies to address violence against them. Provide details, including ages and other details of the children involved.*

The Government of Timor-Leste has taken many measures to strengthen the capacity of children to formulate and express their views. This is critical to ensuring recognition of the value of the child’s views in shaping public policy and practice. The Office of the Human Rights Advisors to the Prime Minister has been especially active in this regard, as has Government in promoting children’s input to and participation in such recent events as the National Conference for Developing Children’s Legislation in Timor-Leste (Children’s Forum, Dili, August 2004), the



Seventh East Asia and the Pacific Ministerial Consultation on Children (Siem Reap, March 2005) and the Regional Conference on Violence Against Children (Bangkok, June 2005).<sup>3</sup>

Other activities have included the National Student Parliament – arising from the Global Movement for Children promoted by UNICEF. The first Student Parliament was held in May 2002 at the National Parliament Assembly with the participation of 28 young people representing 13 districts, in the presence of the Senior Minister of Foreign Affairs and Cooperation, Mr Jose Ramos Horta, the Minister of Education, Mr Armindo Maia, and Deputy President of the Parliament, Mr Arlindo Marcal. The third National Student Parliament was organised on the 6 November 2003 in which the President of the National Parliament presided. The National Student Parliament will be held annually to promote the participation of children and young people in the development of this new country.

There are many other initiatives which include and support children's participation in development; including CRC promotion through community based organisations and church groups, children's organisation, and families. Increasingly, children are taking more active roles in designing and implementing activities and programmes. For example, children were actively involved in recent activities including the National Consultation of children for the Regional Consultation on Violence against children. A seminar was organized by the San Jose school as part of the June 1<sup>st</sup> Children's Day activities in 2005. This was facilitated through the Office of the Human Rights Advisor, and supported by UNICEF.

Follow up activities to the Regional Consultation on Violence against Children have focused on children's own action plans to promote children's rights, and prevent violence against children in the home and school. Children have instigated workshops in schools to develop classroom ground rules, and been active in developing radio 'talk shows' to discuss recommendations and outcomes from the Regional Consultation.

Community radios across six districts have started programmes with children as editorial team members. These programmes discuss a wide range of issues that children feel are important and need focus by adults. Violence, discrimination and school drop out feature prominently in many of these programmes

*39. Describe the involvement, if any, of children in designing special procedural or evidentiary rules applying in court proceedings with respect to hearings concerning violence against children.*

As mentioned above, children participated in the national conference on "Developing Children's Legislation" in August 2004 and presented their recommendations to the Prime Minister and the President of Timor-Leste at the final session of the conference.

*40. Describe the amount and type of resources made available to support children's participation in activities to address violence against children.*

The Government of Timor-Leste, has taken significant measure to support children's participation. The Government has worked in conjunction with agencies including UNICEF,

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<sup>3</sup> Convention on the Rights of the Child, Initial Report 2005, Timor-Leste Draft.

Plan International and CARE International to promote children's participation. Together, financial and technical support has been provided for children's participation in events such as the National Conference for Developing Children's Legislation in Timor-Leste (Children's Forum, Dili, August 2004), the Seventh East Asia and the Pacific Ministerial Consultation on Children (Siem Reap, March 2005) and the Regional Conference on Violence Against Children (Bangkok, June 2005).

## V. POLICIES AND PROGRAMMES TO ADDRESS VIOLENCE AGAINST CHILDREN

41. *Does your Government have a comprehensive policy concerning violence against children?*

There is currently no comprehensive government policy for dealing with violence against children, however there are a range of initiatives within the different Government agencies, which are working to address violence against children. Refer to the below question for further details.

The establishment of the National Commission of the Rights of the Child, and subsequent Code of the Rights of the Child, will outline more specifically the Government's policy concerning violence against children.

42. *Does your Government deliver, or provide direct support for delivery by other agencies, of specific programmes aimed at preventing and responding to violence against children?*

There are a range of initiatives within the different government or non-government agencies, which are working to address violence against children in the following settings:

	Physical	Sexual	Psychological	Neglect	HTPs	Other
<b>Family/Home</b>	✓	✓	✓	✓		
<b>Schools</b>	✓		✓			
<b>Institutions</b>	✓	✓	✓	✓		
<b>Neighbourhood/ Community</b>	✓	✓	✓	✓		
<b>Workplace</b>	✓	✓	✓	✓		
<b>Law enforcement</b>	✓	✓		✓		
<b>Other</b>						

Various Government Ministries including the Ministry of Labour and Community Reinsertion, the Ministry of Education and Culture, the Ministry of Interior and the Ministry of Justice, continues to deliver and support agencies delivering the following programmes aimed at preventing and responding to violence against children:

Please note that more information about these programmes can be found throughout the questionnaire.

**Family/ home:**

- Study on Managing Children's Behaviour<sup>4</sup> and follow up activities
- Support of and collaboration with the NGO FOKUPERS, which provides support, counselling, awareness raising, mediation and legal counselling and support to children who have been victims of sexual or physical violence.
- Educational and awareness raising activities as outlined in Q.55

**School:**

- Managing Children's Behaviour study and follow up activities
- Supporting Children's action plans as part of follow up from national and regional consultations on violence against children.
- Educational and awareness raising activities as outlined in Q.55

**Institutions:**

- Socialising the policy and Procedures on Child Care Centres and Boarding Houses, which includes discussion on child abuse and referral protocols.

**Neighbourhood/Community/Workplace:**

- Collaboration with Forum Comunicações Juventude (FCJ), an NGO providing shelter and support to children living and working on the street.

**Law Enforcement:**

- Training of police officers and judicial workers in children's rights and child abuse, as outlined in Q. 56.

43. *Does your Government monitor the impact of these policies and programmes directed towards violence against children?*

While there is no formal Government monitoring system currently in place, many of these policies and programmes are monitored by implementing partners or by donor agencies, as well as by Government ministries. Continuing funding for certain programmes is dependent on continued monitoring and delivery of progress and narrative reports, and as funding for many of these programmes comes from International or bilateral donors, monitoring is usually a core aspect of program implementation.

44. *Does your Government participate in any internationally coordinated activities concerning violence against children?*

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<sup>4</sup> The "Speak Nicely to Me – A Study on Practices and Attitudes about Discipline of Children", is a joint initiative between UNICEF Timor-Leste, the Ministry of Education; the Ministry of Labour and Community Reintegration and PLAN International in Timor-Leste. The Study explores the way parents and teachers discipline children and highlights the fact that violent methods are often used, but that many positive and constructive methods of discipline are also used.

The Government of Timor-Leste has been actively involved in several internationally coordinated activities concerning violence against children. In May 2005, it was recently involved in coordinating a National Consultation on Violence against Children, during which, two children were selected to attend the East Asia Pacific Regional Consultation on violence against children in Thailand. Representatives from the Government attended and participated in the Regional Consultation.

Government delegates have also attended the 6<sup>th</sup> and 7<sup>th</sup> Ministerial Conferences on Children in Bali and Cambodia respectively, and the Regional Conference of National Bodies and Lead Government Agencies for Children in East Asia and Pacific.

## **VI. DATA COLLECTION, ANALYSIS AND RESEARCH**

*45. Over the past five years, has there been any victimization, epidemiological or other population-based surveys of any forms of violence against children in your country?*

The following studies have recently been conducted to document violence against children in Timor-Leste:

**Preliminary Assessment: An Investigation on Child Abuse, Violence and Commercial Sexual Exploitation of Children in East Timor** (April 2002), Pradet TL/ UNICEF

**Abuse, Violence and Exploitation: Children in Timor-Leste** (2003), K. Tang, Pradet TL / UNICEF

**Speak Nicely to Me – a study on practices and attitudes about discipline of children in Timor-Leste** (forthcoming), Ministry of Education, Culture, Ministry of Labour and Community Reinsertion, UNICEF and Plan International.

**Juvenile Justice in East Timor, A Country Case Study**, 2001, UNICEF

**Assessment of the Situation of Separated Children and Orphans in East Timor (2001)**, The International Rescue Committee in collaboration with UNICEF.

*46. Have there been any small-scale or representative interview studies with parents and children on violent victimisation of children?*

Many of the above studies, including particularly, the forthcoming study “Speak Nicely to Me..” (see above) involved interview studies with parents, children and teachers on violent disciplinary practices.

*47. Over the past five years, has your Government conducted or commissioned any scientific research projects on the problem of violence against children?*

The forthcoming study “Speak Nicely to Me” (see above) involved a number of analytical techniques designed to establish measures and sources of reliability on the constructs that were developed. The Statistical Package for the Social Sciences (SPSS) and Quest (Rasch analysis) were used to analyse the data.

48. *Have studies or surveys been undertaken into the impact of legal measures to address violence against children?*

See Question 12.

49. *Does your government have a system for formal inquiries into all child deaths in which it is known or suspected that violence may have played any part?*

There is no current system for formal inquiries into child deaths.

50. *Are regular (eg annual) reports published describing the statistical profile of the known or suspected violent deaths investigated by the system?*

There are no regular reports published on violent deaths of children.

51. N/A

52. *Provide the total number of reported cases of violence against children in 2000, 2001, 2002 and 2003; and*

53. *Provide the total number of convictions and reported cases for the various categories of crimes of violence recorded against children in 2000, 2001, 2002 and 2003.*

There is no current systematic National data collection on reported cases of violence against children or on convictions, hence the Government of Timor-Leste is unable to provide the total number of cases on violence against children and case convictions.

As outlined in Q. 19, National Case Management Policy and Procedures are in place, and procedures for reporting of child abuse cases are being socialized. Several NGOs who work with vulnerable children have or are in the process of developing their own case management databases, and are working more closely with the Division of Social Services on child abuse referral mechanisms. As the capacity of these agencies grows, together with the capacity of the formal legal system, so too will systematic reporting systems, resulting in a more accurate picture of the incidence of reported child abuse cases and related court proceedings.

## **VII. AWARENESS, ADVOCACY AND TRAINING**

54. *Over the last 5 years has your government conducted or commissioned any campaigns for raising awareness of and preventing violence against children?*

Since Independence in 2002, the Government of Timor-Leste has conducted and commissioned many campaigns to raise awareness of children's rights and to promote prevention of violence against children. Most of these campaigns have been conducted in collaboration with UN agencies and International and National NGOs.

These initiatives have included:

- Student Parliaments

- Police training
- Establishment of Child Protection Networks
- CRC training for District based human rights officers, child protection network members and Government staff
- International and National Children's Rights Days
- Radio and television programmes on children's issues, including violence against children
- Printed materials, including a children's magazine and journal, and translation into local languages of a "pocket copy" of the CRC.
- Community theatre performances on child protection issues
- National Consultation on violence against children
- Summer Camps for children, raising issues of violence against children
- Training of trainers to youth centres on child rights and children's participation

55. *How were the campaign messages and information disseminated?*

*Print media, radio, television, theatre, schools, others*

A great number of different methods have been used to disseminate campaign messages and information about violence against children. The Government has worked extensively and closely with International and National NGOs and Community Based Organisations (CBOs), often with support from UNICEF, to disseminate information.

Some of these methods are outlined below:

- **Radio**

Community radio stations have broadcast messages on child protection, including a "Radio Melodrama" and a project entitled "Labarik Nia Lian" (Voices of Children) to broadcast local issues affecting children, including violence.

- **Television**

The National Television station TVTL, offered a regular weekly format program "Timor Nia Otas Foun" (Timor's New Generation), planned and implemented by a children's editorial team. TVTL have also recorded community theatre performances on Child protection issues, including domestic and school violence.

- **Community theatre**

Community theatre is seen as an excellent tool for getting messages across to communities, and encouraging children's participation in activities addressing issues which affect them directly. Several local community theatre groups, involving young people, have been given training in children's rights and child protection, and are producing performances on child protection issues in local communities both in Dili and in the districts. Following performances, group discussions are held on the issues raised, including violence against children by parents and teachers.

- **Magazines**

A monthly magazine for children entitled, "Majalah Lafaek", is published by CARE International. It is widely distributed and includes regular messages on children's rights. A monthly journal entitled, "Jornal Labarik: Reprezenta Labarik" contains information and messages on a range of children's rights issues.

- **Print materials**

A range of other print materials has been produced and disseminated including Tetun translations of a CRC booklet, a 12-page supplement on children's rights in the print media, leaflets, calendars, notebooks, banners and posters.

- **As part of International and national celebration days**

Messages on children's rights and in particular, violence against children, have been incorporated into Timor-Leste's National and International Celebration days. Messages by and discussions with the Prime Minister and community leaders have been held as part of celebrations, as well as rallies, marches and dissemination of printed materials.

- **Through existing networks and organisations, eg. Child Protection Networks, scouts, church groups**

Church groups, Child Protection Networks and community groups such as the Scout Movement and youth groups, have been conduits for communicating child protection messages to communities.

- **Training manuals**

Training manuals on Child Rights have been developed and used in Training of Trainers (TOTs) so that large numbers of Government and NGO staff and community members could be trained in children's rights issues.

- **School activities**

Through initiatives such as the '100 Friendly Schools' project, student parliaments, essay writing competitions, schools have been used to promote and disseminate information on children's rights and violence against children.

56. *Over the last 5 years, has your government provided, commissioned or sponsored training programmes in the area of violence against children?*

The Government of Timor-Leste has provided, commissioned or sponsored, in collaboration with UN Agencies, training programmes in the following areas of violence against children:

	<b>Prevention</b>	<b>Protection</b>	<b>Redress</b>	<b>Rehabilitation</b>	<b>Penalties</b>
<b>Medical Professionals (including paediatricians, nurses, psychiatrists and dentists)</b>		✓	✓	✓	
<b>Public health practitioners</b>					

		✓	✓	✓	
<b>Social workers and Psychologists</b>		✓	✓	✓	
<b>Teachers and other educators</b>		✓			
<b>Court officials (including judges)</b>			✓		✓
<b>Police</b>		✓	✓	✓	✓
<b>Prison officers</b>	✓	✓			
<b>Juvenile offenders personnel</b>	✓	✓		✓	
<b>Institution personnel</b>					
<b>Parents/guardians</b>					
<b>Other (please specify)</b>					

**Please give details:**

Since 2002, The Government of Timor-Leste has provided, commissioned or sponsored the following training programmes on violence against children:

- During 2002, 320 Police were trained on juvenile justice and child rights, 'training of trainers' for Police instructors and Police cadets on juvenile justice and child rights.
- In 2003- 2005, Training of trainers on child rights, juvenile justice, Child abuse and Children at risk for police instructors and VPU Officers.
- Juvenile Justice & Child rights training for 32 Police Station Commanders.
- Training with court Judges on the Convention on the Rights of the Child.
- In 2003, 'training of trainers' in child rights was conducted which led to regional workshops on child rights and child protection for 50 persons from district-based government agencies, church-based groups and NGOs, leading to the establishment of three regionally based Child Protection Networks.
- UNMISSET's Human Rights Unit has conducted training on the CRC for District-based Human Rights Officers.
- The issue of child rights has also been incorporated into the '100 Friendly Schools' project implemented by (what was formerly known as) Ministry of Education, Culture, Youth and Sports, and supported by UNICEF, which has particularly involved District Superintendents and primary school teachers via nearly all primary schools placed within 'clusters' of 7-10 schools.
- Training and socialization by the Division of Social Services on the Policy and Procedures for Child Care Centres and Boarding Houses to Centre staff.
- Training by the Division of Social Services to social workers and Child Protection Network members on referral pathways for child abuse cases.