

OF COURSE WE CAN

Report on the **Rights of Persons  
with Disabilities  
in Timor-Leste**





Anastasia de Jesus laughs with her older sister at the offices of the local NGO *Assosiasaun Hi'it Ema Ra'es Timor* (ASSERT). ASSERT provides community based rehabilitative services to persons with disabilities.  
» UNMIT Photo/Martine Perret





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## Executive summary

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The rights of persons with disabilities are critical to consider now, as Timor-Leste builds its nation and strives to become a regional leader in human rights. Fulfilling the rights of persons with disabilities can play a key role in ensuring inclusive national development in Timor-Leste and in the Asia-Pacific region.

From 2010 to 2011, UNMIT's Human Rights and Transitional Justice Section (HRTJS) conducted research on the rights of persons with disabilities. The preliminary findings of this research and recommendations are shared below to facilitate discussion on how government, civil society, and international actors can work together to promote and protect the rights of persons with disabilities. As the first public report by a peacekeeping mission on the rights of persons with disabilities, it beckons further reflection and action by the United Nations.

Persons with disabilities from Timor-Leste participated throughout the research and drafting of the report's recommendations. Their voices and vision will lead the way toward a future in which the rights of all persons are fulfilled - in Timor-Leste and beyond.

### Key findings

- Timor-Leste has taken progressive steps to fulfil the rights of persons with disabilities, but greater investments are required to provide equal opportunities and protect groups at high risk from serious human rights violations, especially persons with mental disabilities, women and children.
- Timor-Leste has effectively acted to fulfil the right of persons with disabilities to participate in cultural life.
- The existing national legal framework requires further development to protect persons with disabilities from discrimination and to guarantee their access to public services.
- Persons with disabilities have not been sufficiently provided, nor included in the planning for, access to public buildings, transport and other forms of national infrastructure.
- Government and civil society have taken measures to increase access to education for persons with disabilities, but education is the area identified by persons with disabilities in need of the most improvement.
- Children with disabilities are vulnerable to discrimination in accessing education.
- Access to public information has not been adequately provided to persons with disabilities.
- Although some government actors are making efforts to meet the needs of persons with disabilities, electoral policies and legislation need to better address accessibility and guarantee in all laws the right to vote for all persons with disabilities, including persons with mental disabilities.

- Persons with disabilities are sometimes victims of verbal and physical abuse within their communities. Stigmatizing language is commonly used to refer to persons with disabilities in Timor-Leste.
- Monitoring and implementation of government policies on disability needs to be strengthened to comply with the international standards already adopted in national policies.
- Increased regulation and monitoring of healthcare provision to persons with mental disabilities is crucial to protect them from cruel treatment and deprivation of liberty.
- Women with disabilities are particularly vulnerable to sexual violence, and should be included in nationwide efforts to combat gender-based violence.



Frederico Hornay (left) and Adelino de Carvalho Britis (right) receive medals for their performance in the 2011 Dili Marathon.  
 » UNMIT Photo/Martine Perret

## Priority recommendations

### By the Government:

- Issue public statements and educational materials declaring that persons with disabilities have the same rights as other persons, and these rights must be promoted and fulfilled.
- Supplement the existing legal and policy framework, prioritizing mental health legislation and measures that protect the right to vote, a national disability policy that promotes non-discrimination, and accession to and ratification of the Convention on the Rights of Persons with Disabilities.





- Promote and protect the rights of persons with disabilities at high risk, particularly persons with mental disabilities, women and children.
- Increase the capacity of civil society and government actors to monitor and report on service provision to persons with disabilities in line with the Convention on the Rights of Persons with Disabilities, and other relevant laws and policies.

**By the Ministry of Health:** Ensure adequate healthcare, protection and release of persons being held in permanent restraints. Create public rehabilitation facility options that can fully address the needs and protect the rights of persons with mental disabilities.

**By the Ministry of Justice:** Ensure persons with disabilities receive equal recognition before the law and full access to justice facilities, including provision of legal aid, translation and interpretation, rehabilitation and protection services.

**By the Commission of National Elections (CNE) and the Technical Secretariat for the Administration of Elections (STAE):** Develop plans to fulfil the rights of persons with disabilities for the 2012 elections, including accessibility to voter information, registration and polling stations.

**By the Ministry of Infrastructure:** Ensure the rights of persons with disabilities are protected in future legislation regulating building codes, and progressively implement universal design elements that create better access to public infrastructure.

**By the Ministry of Social Solidarity:** Advocate for increases in budget, staffing and resource allocation, particularly to offices that cover remote areas.

**By the Secretariat of State for the Promotion of Equality (SEPI) and the National Commission on the Rights of the Child:** Include women and children with disabilities in all programmes.

**By the Provedor for Human Rights and Justice and the Directorate for Human Rights and Citizenship in the Ministry of Justice:** Develop monitoring, complaint mechanisms and education programmes on the rights of persons with disabilities.

**By donors:**

- Mainstream rights of persons with disabilities, including insisting on universal design, equal opportunity employment, and budgeting to protect these rights.
- Prioritize support for trainings and in-country mentoring for health care personnel, judicial actors and teachers on rights of persons with disabilities and the provision of services to them.

**By the United Nations:** Take immediate actions to ensure staff awareness of the rights of persons with disabilities, and accessibility of facilities and employment for persons with disabilities, including in peacekeeping operations.



## I Introduction

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From February 2010 to March 2011, UNMIT's Human Rights and Transitional Justice Section (HRTJS) conducted research on the rights of persons with disabilities. This report shares the preliminary findings of this research.

Reflection on these rights is critical to undertake now. Fulfilling the rights of persons with disabilities is part of achieving the objectives in Timor-Leste's National Development Plan and the Millennium Development Goals (MDGs).<sup>1</sup> Understanding and implementing programmes to promote and protect the rights of persons with disabilities will also strengthen the capacities of the justice, health and education sectors to respond to the needs of vulnerable groups.

This report anticipates future debates in Timor-Leste on the proposed national policy on disability and the possibility of signing the Convention on the Rights of Persons with Disabilities (CRPD). To provide background for these debates, discussion is specific to Timor-Leste and covers a range of human rights issues affecting persons with disabilities.

However, this report only introduces and raises awareness on some key concerns. It does not purport to provide a comprehensive analysis of the situation of persons with disabilities.<sup>2</sup> Rather, it advocates for more research and discussion on this topic, so Timor-Leste can implement national and international standards on the rights of persons with disabilities.

Persons with disabilities participated in the research and drafting of recommendations for this report, and their perspectives are featured. Their voices and vision will lead the way toward a future in which the rights of all citizens of Timor-Leste are fulfilled.

## II Methodology

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The findings in this report are based on a variety of research methods and sources. During 2010, HRTJS conducted a mapping exercise to identify national stakeholders and programmes addressing the rights of persons with disabilities and surveyed the Ministry of Health's specialist Mental Health Workers.<sup>3</sup> In 2011, further research was conducted to extend the study to more district-level actors and persons with disabilities.

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<sup>1</sup> See Timor-Leste's National Development Plan (2002), <http://www.pm.gov.tp/ndp.htm> (accessed 11 May 2011).

<sup>2</sup> For example, the right to employment for persons with disabilities is not adequately covered in this report due to research limitations. It is among many areas that need further inquiry and awareness-raising in order to promote and protect the rights of persons with disabilities.

<sup>3</sup> For an explanation of the role of specialist mental health workers, see Timor-Leste's *National Mental Health Strategy*, Ministry of Health, 2010.

Research included interviews with officials from the Ministry of Education (MoE), Ministry of Health (MoH) and Ministry of Social Solidarity (MSS) and the Office of the Provedor for Human Rights and Justice. HRTJS also conducted interviews with judicial and police personnel in every district. A sample of public buildings was surveyed for accessibility. Focus group discussions were conducted in Dili, Bobonaro and Baucau districts with persons with disabilities, and members of the national Disability Working Group (DWG). Various UN entities provided additional information, including the World Health Organization (WHO), United Nations Development Programme (UNDP), United Nations Population Fund (UNFPA), and NGOs PRADET (Psychosocial Recovery & Development in East Timor), the East Timor Blind Union (ETBU) and Agape Foundation for Asia Pacific Ministries. From 1 April 2010 to 31 March 2011, HRTJS also monitored 30 cases involving persons with disabilities reported as suspects in or victims of crimes.

### III Legal and policy framework

#### Legal obligations

Timor-Leste has ratified seven core human rights treaties that encompass the promotion and protection of rights of persons with disabilities.<sup>4</sup> Among those treaties, the Convention on the Rights of the Child (CRC) stipulates specific obligations for States to protect the rights of persons with disabilities that are binding in Timor-Leste.<sup>5</sup> In addition, a number of international standards and guidelines exist, though not all are legally binding, which further explain state duties to promote and protect the rights of persons with disabilities.<sup>6</sup> These laws and standards will be referenced in more detail throughout the report, where pertinent to specific cases and issues.

Timor-Leste's Constitution explicitly provides for non-discrimination and equal treatment for persons with mental or physical disabilities.<sup>7</sup> The Penal Code classifies the mistreatment of a person with a disability by a caretaker as a crime punishable by up to six years' imprisonment.<sup>8</sup> In addition, several organic laws and regulations provide a basis for the realization of the rights of disabled persons in

<sup>4</sup> Convention on the Elimination of All Forms of Racial Discrimination (CERD), 2003; International Covenant on Civil and Political Rights (ICCPR), 2003; International Covenant on Economic, Social and Cultural Rights (ICESCR), 2003; Convention on the Elimination of Discrimination Against Women (CEDAW), 2003; Convention against Torture and other forms of Cruel, Inhuman or Degrading Treatment or Punishment (CAT), 2003; Convention on the Rights of the Child (CRC), 2003; Convention on the Protection of Rights of All Migrant Workers and Members of their Families (CMW), 2004.

<sup>5</sup> CRC, Article 23.

<sup>6</sup> See the UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN General Assembly A/RES/48/96); the World Programme of Action Concerning Disabled Persons; UN Principles of Medical Ethics; General Comment No. 18 (1991) on disabled women by the Committee on the Elimination of Discrimination against Women; General Comment No. 5 (1994) on persons with disabilities by the Committee on Economic, Social and Cultural Rights; the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities (1999); and the Biwako Millennium Framework.

<sup>7</sup> Sections 16 and 21, Constitution of the Democratic Republic of Timor-Leste (2002).

<sup>8</sup> Timor-Leste Penal Code, Article 153. If the perpetrator of the mistreatment is related to the disabled person by blood, or through adoption, the sentence may be increased by 1/3. The Criminal Code contains other provisions related to crimes committed against persons with disabilities in Article 139 (h), Article 173 (c) and Article 179. Article 21 covers the criminal liability of persons with mental disorders, and Chapter VIII, Section One, provides for internment measures of persons who are not found criminally liable due to insanity, but who pose a threat to individuals or communal safety.

access to education, employment and social assistance.<sup>9</sup> Based on Decree Law 19/2008 on Support Allowance for the Aged and the Disabled, persons with severe disabilities can register with the government and receive social assistance.<sup>10</sup> The Statute of the National Liberation Combatants (Law 9/2009) gives special consideration to persons who became either physically or mentally disabled in the national liberation struggle and provides some specific protections to these veterans, including the right to free prosthetic devices.<sup>11</sup> Decree Law 10/2008 (Article 10) designates the Ministry of Social Solidarity (MSS) as the main government entity responsible for designing, executing and coordinating activities in the area of disability.

Legislation that elaborates on the rights of persons with disabilities is necessary to protect persons with disabilities from discrimination<sup>12</sup> and to guarantee their access to public services on an equal basis. Completing the legal framework ranked among the highest priorities of civil society members, government actors and persons with disabilities that participated in interviews and focus group discussions with HRTJS.

The national Disability Working Group (DWG) advocates for the passage of a national disability law.<sup>13</sup> They deem this legislation essential to guarantee the funding and human resources necessary to implement policies related to persons with disabilities. Some NGO representatives who participated in the focus group discussions also recommended the establishment of a national consultative body on rights of persons with disabilities as part of this legislation. The national Mental Health Strategy, formulated by the Ministry of Health and approved by the Government, specifically states there should be a law to protect and promote the rights of persons with mental disabilities, but no such law exists.<sup>14</sup>

Timor-Leste has not signed the Convention on the Rights of Persons with Disabilities (CRPD). Although it is not a signatory to the treaty, Timor-Leste has already begun to implement measures to address some key aspects of disability rights, while in other areas much greater attention is needed. Some areas of implementation, monitoring and reporting required under the CRPD are already covered by Timor-Leste's commitments under other treaties, such as the CRC, regional frameworks or national policies, discussed below. However, the CRPD, as the foremost international standard in this area, provides concrete guidelines, as well as a clear, periodic and supported mechanism for states to monitor their progress in fulfilling the rights of persons with disabilities. Adopting the CRPD as a framework for the implementation of the rights of persons with disabilities may be particularly advantageous for countries like Timor-Leste that do not already have a well-developed policy or legal framework protecting the rights of persons with disabilities, because it can supplement some

<sup>9</sup> Education System Framework Law 14/2008, Articles 12 (i) 29, 49; Regulation 2002/5 on the Establishment of a Labour Code, Chapter I, Section 2; Decree Law 10/2008 on Organizational Structure of Ministry of Social Solidarity, article 10, Decree Law 19/2008 on Support Allowance for the Aged and the Disabled.

<sup>10</sup> During 2010, under this law every three months MSS reportedly distributed rice to between 200 and 400 persons with disabilities directly or through NGOs. "Governu Apoia Foos Bá Ema Defisientes," *Timor Post*, 29 July 2010, p. 2.

<sup>11</sup> Article 23.1 (i) and Article 23.4.

<sup>12</sup> The CRPD defines discrimination as "any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It includes all forms of discrimination, including denial of reasonable accommodation" (Article 2). The Constitution of Timor-Leste provides some guarantees against discrimination, but no specific anti-discrimination legislation exists.

<sup>13</sup> For further information on the national Disability Working Group and its membership, see p.30.

<sup>14</sup> National Mental Health Strategy 2010, p 23.



of the existing legal gaps. Further, because the CRPD allows for the progressive implementation of measures to promote, protect and fulfil the rights of persons with disabilities, it is adaptable to the needs of developing countries that may not be able to immediately comply with all of the standards contained in the Convention. Although the CRPD has not been adopted by Timor-Leste, it will be cited throughout this report as the most relevant international standard on the rights of persons with disabilities, and to provide guidance to the reader on the range of rights and benefits which the Convention guarantees.

Consultations undertaken in preparation for this report showed widespread support among persons with disabilities and their service providers for Timor-Leste's accession to the CRPD. In 2009, during a formal ceremony on the International Day of Persons with Disabilities, civil society actors presented the Prime Minister with a model "Charter of Rights for Persons with Disabilities" and a formal request for the government to sign and ratify the Convention. However, the CRPD has yet to be signed or ratified.

## Policy framework

To date the most significant policy accomplishment in Timor-Leste regarding persons with disabilities is the Ministry of Social Solidarity's establishment in 2010 of the "National Strategy for Community Based Rehabilitation" (CBR), in line with principles and guidelines set by the World Health Organization, the International Labour Organization, UNESCO and the Convention on the Rights of Persons with Disabilities. The strategy devises principles, priorities and community-based methods to promote and protect the rights of persons with disabilities. It also recognizes the importance of the CBR strategy for the accomplishment of the Millennium Development Goals and fulfilling the Biwako Millennium Framework.<sup>15</sup>

The CBR strategy fills a number of gaps in the existing legal framework. In particular, it establishes a national concept of disability in accordance with the principles contained in the CRPD.<sup>16</sup> It recognizes for the first time the duties of the government to mainstream gender in disability rights programming, and to provide access to all persons to public buildings, transportation, information, political participation, and justice. As a strategy it expresses a preferred approach, a host of possible future actions, and a public commitment to the rights of persons with disabilities. However, it does not create institutions or provide protections. More concrete and binding measures would improve access to these rights for persons with disabilities.

In late 2010, the Ministry of Social Solidarity in collaboration with other actors, including the Ministry of Education, the Ministry of Health, the Secretary of State for Professional Training and Employment and UNMIT's HRTJS, held events in Maliana, Bobonaro District and Same, Manufahi District to explain and promote the CBR strategy. Similar events were planned for 2011, but have not yet occurred.

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<sup>15</sup> The "Biwako Millennium Framework towards an Inclusive, Barrier-free and Rights Based Society for Persons with Disabilities and Development of a Thematic Convention on Disability," is a set of guidelines and targets to be used by Asia-Pacific countries to take regional action on improving rights for persons with disabilities. The framework was adopted in 2002. CBR programs are included in the Biwako Millennium Framework. See the "Biwako Millennium Framework" at United Nations Economic and Social Commission for Asia and the Pacific, [www.unescap.org/esid/psis/disability/bmf/bmf](http://www.unescap.org/esid/psis/disability/bmf/bmf).

<sup>16</sup> See p.12.





Persons with disabilities advocate for their rights in a solidarity march on the International Day of Persons with Disabilities in 2010 in Dili.

» UNMIT Photo/Leonia Pinto Correia

At least three other formalized national policies supplement the CBR strategy. In 2005, Timor-Leste launched its national Mental Health Strategy as the first national government policy response to the rights of persons with disabilities, in particular persons with mental disabilities. While the strategy's concepts are in line with international guidelines, its implementation needs significant improvement to provide even a basic quality of care and protection and to meet international standards. Effective monitoring by the Ministry of Health is needed to fully determine areas that require urgent action.

The Integrated Community Health Services programme, known as SISCa,<sup>17</sup> provides mobile medical services to rural areas on a monthly basis. It is also meant to provide better quality and more accessible healthcare for persons with mental or physical disabilities who cannot easily access regional or national health care centres. In 2010, through this programme health care workers held a campaign to treat persons with impairments to their legs in five districts – Oecussi, Ainaro, Baucau, Bobonaro and Dili. However, the SISCa programme's effectiveness is reportedly hampered because it lacks specific promotion activities and specialist doctors who are well-trained on disabilities.

Two other national policies are awaiting approval. A draft Inclusive Education Policy is expected to be approved during 2011 by the Ministry of Education. This policy establishes a plan of action for marginalized groups, including persons with disabilities, to access all forms of education from the primary to tertiary level, as well as non-formal education. An additional National Disability Policy is under review by a working group established by the Council of Ministers in May 2011.

The CBR policy and these supplemental government policies and programmes all express a national commitment to the rights of persons with disabilities that may prove to be effective in the long-term. However, the full range of resources required to implement these policies is neither in place yet, nor

<sup>17</sup> *Servisu Integradu da Saúde Comunitária (SISCa).*



sufficiently planned. As one participant with disabilities commented during a focus group discussion, “The government doesn’t implement. They need to control; monitor the programmes they say people have...They don’t follow what they promote.”

There are many obstacles to implementation. These obstacles reportedly include limited availability and inconsistent distribution of physical resources across all areas of service provision to persons with disabilities. For example, in the western region of Timor-Leste covering Bobonaro and Covalima districts, two MSS officers have one car to provide services for more than 2,000 registered clients, many of whom live in remote, mountainous areas without sufficient road access. Additionally, although community-based care is internationally the preferred method of service provision for persons with disabilities, the human resources and training needed to implement sufficient quality of care to meet human rights standards at the community level are often not in place. Government workers who are charged with implementing these community-level policies are under-resourced and need further training and experience to properly implement the CBR strategy. This gap between community-level resources and the CBR strategy guidelines merits attention and remedies, so that persons with disabilities have adequate services to enjoy their rights.

Furthermore, to date the government has not created any non-CBR mechanisms or institutions that are able to care for persons who have been mistreated by their families, although there are reports of such cases. For example, there are currently no hospitals - private or public - that will accept mentally ill patients for long-term care, and short-term care is also hard to access in a timely manner.<sup>18</sup> This lack of public facilities directly affects persons with disabilities who are at risk within their communities, as illustrated by one case documented by HRTJS in 2011 in which a person with mental disabilities who was a victim of a crime was denied urgent, short-term treatment and assistance by a government health worker.

*A participant with disabilities commented during a focus group discussion:*

***“The government doesn’t implement. They need to control; monitor the programmes they say people have ... They don’t follow what they promote.”***

As a related consequence of inadequate state facilities, HRTJS received several first-hand reports from police personnel and government health workers that persons with mental disabilities are routinely held in police cells if their behaviour cannot be managed by their families. Persons with mental disabilities were reportedly held in detention cells for extended periods of time without criminal charges, in one instance for two weeks, until police decided to release them. In other cases they were allegedly held in the police cell until they were chemically sedated by NGO workers or Ministry of Health personnel. Although these practices and practitioners may be well-intentioned, there is an identifiable need for capacity building in this area to comply with international human rights norms applicable in Timor-Leste, including ICCPR and CAT.<sup>19</sup>

<sup>18</sup> One private facility opened in January 2011 in Manatuto District. It provides short-term (two to three months), in-patient treatment for persons with mental disabilities. The facility can provide treatment for seven persons from Manatuto District, and up to three persons from other districts. It is the only in-patient facility in the country for persons with mental disabilities.

<sup>19</sup> These practices may violate Article 9 of the ICCPR, which guarantees the right to liberty and security of person, including freedom



There is also no formalized system for civil society organizations, which are envisioned in the CBR strategy as key participants in implementing and monitoring programmes, to receive training on monitoring or channels for them to report their observations. Although NGOs implement some training and awareness programmes for families of persons with disabilities, a more structured response coordinated by the government is needed if communities are to take the responsibility for care and rehabilitation.

Some persons interviewed for this report criticized the CBR strategy for imposing Western-based concepts of treatment and disability, which they argued are meant for countries at a different stage of national development. These critics suggest the CBR strategy was created without a sufficient understanding of the local context and resource challenges of Timor-Leste.

The CBR strategy is likely to be effective if and when it is implemented over time, but in the short-term the government continues to have the responsibility to provide basic services and protection for persons with disabilities. To live up to all that the CBR strategy and other government policies promise, it will require a sustained and increased commitment by all actors - local communities, government, civil society, international institutions and donors.

## IV Summary of the current situation of human rights of persons with disabilities

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Protecting and promoting the rights of persons with disabilities is a global human rights issue. The World Bank estimates more than 1 billion persons, including adults and children, are living with disabilities in the world, or approximately fifteen percent of the world's population.<sup>20</sup> Approximately 400 million persons with disabilities live in the Asia-Pacific region.<sup>21</sup> More than two thirds (426 million) of persons with disabilities are living below the poverty line in developing countries and the proportion of persons with disabilities is higher in conflict and post-conflict settings, such as Timor-Leste.

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from arbitrary arrest and detention and Article 10, on the humane treatment of persons deprived of their liberty. General Comment No. 8 on Article 9, para. 1 states that Article 9 protections extend to all circumstances of deprivation of liberty, including the detention of persons with mental disabilities. General Comment No. 9, para. 1 and General Comment No. 21, para. 2, both on ICCPR, Article 10, also conclude that these human rights norms apply to deprivation of liberty in non-criminal matters. Additionally, Article 10 of the CAT also applies, because it requires the training of law enforcement personnel, civil or military, medical personnel, public officials and other relevant persons to prevent cruel, inhuman and degrading treatment.

<sup>20</sup> World Health Organization, *World Report on Disability*, p. 29.

<sup>21</sup> United Nation Economic and Social Commission for the Asia-Pacific (UNESCAP), Social Policy Development Division, <http://www.unescap.org/esid/psis/disability> (accessed 18 April 2011); Disability Brief: Identifying and Addressing the Needs of Disabled People," Asian Development Bank, 2005, p.3. [www.adb.org/Documents/Reports/Disabled-People-Development/disability-brief.pdf](http://www.adb.org/Documents/Reports/Disabled-People-Development/disability-brief.pdf) (accessed 18 April 2011). This percentage of persons with disabilities corresponds to the geographic distribution of the world's overall population.



## Persons with disabilities in Timor-Leste

In Timor-Leste, it is estimated that there are at least 48,243 persons with disabilities.<sup>22</sup> The Ministry of Health reports 2,064 persons are presently under its treatment for mental disabilities, although the most recent census results indicate there are approximately 13,308 persons with mental disabilities in the country.<sup>23</sup> There are an estimated 29,488 persons with visual impairments and 17,672 persons with hearing impairments. A National Disability Survey conducted by MSS in 2002 estimated there are at least 2,241 persons who are mute in Timor-Leste. According to a 2008 survey by the NGO PLAN, there are an estimated 2,000 children with disabilities, or 1 in 100, who are attending public primary schools in Timor-Leste.<sup>24</sup> Presently 116 veterans with disabilities are approved to receive government assistance.<sup>25</sup>

These statistics demonstrate that persons with disabilities are a significant part of Timor-Leste's population. However, because persons with disabilities face obstacles in accessing public services and registration mechanisms, they are likely to be under-represented by these statistics. Participants in different focus group discussions reported that families in Timor-Leste sometimes conceal the fact that a person has a disability, or deliberately limit the person's exposure to society. One participant explained, "Many people are hidden."

*A participant with disabilities in a focus group discussion said:*

*"Many people [with disabilities] are hidden."*

The CRPD requires states to collect statistics and research on disability, and share the information publicly.<sup>26</sup> Even though it has not ratified the convention yet, Timor-Leste has already begun this process by incorporating data collection on disability during its 2010 census, including data disaggregated by sex, four different categories of disability,<sup>27</sup> and according to geographic location at the district level. Further data collection which determines causes of disability and assesses the full range of disabilities affecting persons with disabilities in Timor-Leste will contribute to a better

<sup>22</sup> Timor-Leste Census 2010, Volume 3, p. 340. This number was derived from a total population sample of 1,053,971 persons estimated to currently be living in Timor-Leste.

<sup>23</sup> Interview with Teofilo Tilman, Ministry of Health, 2 February 2011, Dili, Timor-Leste. HRTJS collected separate data in 2010 at the district level, which determined 3,107 persons are under treatment by Ministry of Health personnel for mental health conditions. These figures include persons with epilepsy, who are classified as persons with mental disabilities in government and civil society programs in Timor-Leste. See also Timor-Leste Census, p. 340.

<sup>24</sup> "Report on the First National Survey of Disability in Timor-Leste's Primary Schools," Plan International (2008), p. iv.

<sup>25</sup> Data provided by Ministry of Social Solidarity, current as of 7 July 2009. Amendments to the Law on National Liberation Combatants in 2009 and 2011, and subsequent application processes, may result in more persons qualifying for assistance during 2011. This number does not necessarily indicate the actual number of veterans suffering from disabilities. Further research is also necessary to determine how the conflict affected the rate of disability among civilians.

<sup>26</sup> CRPD, Article 31. Additionally, under the Convention on the Elimination of all forms of Discrimination Against Women (CEDAW) states are recommended to provide specific information on disabled women in periodic reports (Committee on the Elimination of Discrimination against Women, General Recommendation No. 18). The UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities (UN General Assembly A/RES/48/96)(1993), Rule 13, also encourages research and the collection at regular intervals of gender-specific statistics and the other information concerning the living conditions of persons with disabilities, which may be incorporated into national census or household survey processes.

<sup>27</sup> The census collected information on the numbers of persons who had walking, seeing, hearing and mental disabilities.

understanding of specific needs and gaps, and is therefore an important aspect of ensuring that government actions towards fulfilling the rights of persons with disabilities are appropriate and targeted.

## Language and stigma

A single, universal definition of disability does not exist, but there is international consensus on a human-rights-based approach to disability. The CRPD states in Article One: “Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.”

There is not yet a national legal definition of persons with disabilities in Timor-Leste, but the Community Based Rehabilitation (CBR) strategy utilizes the social model of disability based on the CRPD. The CBR strategy defines disability as a product of environmental and social factors that create impairments, as opposed to using a medical model of disability which characterizes disability only in terms of an individual’s physical or mental impairments.<sup>28</sup>

In Timor-Leste, many different words are used to describe persons with disabilities, and some of them are stigmatizing. *Aleijadu* (crippled) is commonly used to refer to persons with any visible physical disability, while a more recently used word, *disabilidade*, reportedly denotes the physical disability itself. *Deficiente* and *inválidu* are more general expressions that can refer to persons with mental or physical disabilities. Persons with mental disabilities are frequently referred to as *ema bulak* (crazy person), although *ema ho moras mentál* (person with mental illness) is becoming more widespread by health specialists and among communities where awareness training has occurred, such as in Manatuto District.<sup>29</sup> The Indonesian word *cacat*, meaning handicapped or defective, is also widely used. Focus group participants commented that stereotypes about persons with disabilities are common in Timor-Leste, and are reinforced by language.

In focus group discussions, persons with disabilities and relevant civil society organizations reported feelings of discomfort with many of the terms above, as well as when people used language that referred to persons with disabilities as *la normal* (abnormal), or *ema espeśiál* (special person). This language reportedly felt offensive because it contributes to the perception that persons with disabilities should be pitied or perceived in a negative way, rather than focusing on the value and capabilities of persons with disabilities.

When the word *ajuda* (help) was used to describe needs or perceptions about persons with disabilities, focus group participants felt stigmatized. Persons with disabilities expressed a desire for people to not assume that they need help. Instead, they reported feeling respected when they were asked permission before someone provided any kind of assistance.

<sup>28</sup> Ministry of Social Solidarity, *Timor-Leste National Strategy for Community Based Rehabilitation*, 2010, pp. 10-11. The Law on the Support Allowance for the Aged and Disabled (Decree Law 19/2008) defines “disabled,” but only in terms of the persons who will qualify for specific services under the provisions of that particular law.

<sup>29</sup> Interview with Father Victor Leimeras, *Centro de Apoio à Saúde - São João de Deus* (CAS-SJD), Laclubar, Manatuto, Timor-Leste, 23 August 2010; HRTJS field visits, August, October and November 2010.



The term for persons with disabilities preferred by persons who participated in HRTJS' research is *ema ho defisiénsia*.<sup>30</sup> MSS is reportedly engaged in inter-ministerial discussions to standardize the use of this language within the government, but review of national media, including the state-operated radio and television outlets, indicates that the terms *aleijadu*, *inváidu* and *defisiente* remain prevalent.

*A representative of an organization of persons with disabilities called Ra'es Hadomi Timor Oan explained:*

*"When people use these words [ema ho defisiénsia] they look and think of the person first, and the disability is something that comes second."*

During a focus group discussion, a representative of an organization of persons with disabilities called *Ra'es Hadomi Timor Oan*, expressed the reason why he felt the terminology *ema ho defisiénsia* should be promoted in Timor-Leste. He explained, "When people use these words they look and think of the person first, and the disability is something that comes second."<sup>31</sup> This logic is consistent with international standards and the CRPD that are based on the principles of dignity, equality and non-discrimination in fulfilling human rights.<sup>32</sup>

Awareness-raising to combat stereotypes and prejudice is required under the CRPD.<sup>33</sup> Although programmes and mechanisms run by civil society and the Ministry of Social Solidarity, the Ministry of Education and the Ministry of Health exist for awareness-raising, funding and time are reportedly too limited to engage adequately in these activities. If Timor-Leste becomes a state party to the CRPD, further implementation in this area will be required.

## Impacts of cultural beliefs on rights of persons with disabilities

Some traditional beliefs in Timor-Leste support community-based care and healing, which are encouraged by the CRPD.<sup>34</sup> Positive perceptions of persons with disabilities are also encouraged in some traditional beliefs and practices, even though at times these beliefs may reinforce stereotypes of persons with disabilities. For example, some persons with disabilities are assigned sacred roles as healers, musicians, seers, or artists based on their capabilities.

On the other hand, some cultural beliefs in Timor-Leste can stigmatize persons with disabilities. For example, persons with disabilities are reportedly perceived by many adherents to traditional belief systems as being punished by spirits because they have broken a cultural taboo. These traditional beliefs assign blame to an individual with a disability, rather than seeking to understand the ways society creates obstacles to his or her full participation. The practice of traditional medicine to "cure" persons of their disability can prevent persons receiving proper diagnosis, treatment and communal acceptance of their differences. For example, HRTJS monitored one case in 2010, in

<sup>30</sup> *Defisiente* was also considered acceptable by many participants.

<sup>31</sup> Focus group discussion, Dili, 25 February 2011.

<sup>32</sup> See CRPD, Article 3; Universal Declaration on Human Rights, Article 1, International Covenant on Civil and Political Rights, Articles 1-3, International Covenant on Economic, Social and Cultural Rights, Articles 2-3, among others.

<sup>33</sup> Article 8.

<sup>34</sup> Article 19.



which a person with a disability was reportedly denied access to medicine by his family which could have significantly improved his condition, because they preferred the use of traditional treatments. Traditional practices that rely on hierarchies based on kinship, gender or age can also act as an obstacle to fulfilling the right to consent of persons with disabilities, and make women and children with disabilities especially vulnerable.

Under the CRPD, among other human rights treaties and international guidelines, persons with disabilities have the right to the highest attainable standard of health.<sup>35</sup> Free and informed consent is also required, and is not forfeited because a person has a disability.<sup>36</sup> Women and children are granted special consideration to ensure equality and protection.<sup>37</sup> Preferences by families of persons with disabilities for traditional cultural practices do not negate the right of persons with disabilities to decide their course of treatment, and is not a legitimate justification for denying the highest attainable standard of health.

Awareness-raising campaigns may promote the benefits of modern medical treatment, while also addressing some of the negative impacts of culturally-based assumptions about persons with disabilities and building on positive ones. Further research is required to identify cultural understandings of disability in Timor-Leste and the ways that rights may be promoted and protected effectively within this context.

## Abuse of persons with disabilities

HRTJS has received reports from eight out of 13 districts of targeted verbal or physical abuse of persons with disabilities.

One case monitored by HRTJS during 2010 involved a group of youths who verbally abused a man because he is known to have a mental disability. The man with a mental disability reportedly yelled back at the youths and tried to chase them away. Later the same day, the youths continued to yell and tease the man with a mental disability, and allegedly threw stones at him. An off-duty, reportedly intoxicated policeman came to the house of a village chief who was holding a meeting to try to resolve the problem. Multiple persons reported that the policeman waved his gun in the air and made unspecified threats towards the man with a disability. Community members reported the policeman to the Justice Department of the National Police of Timor-Leste (PNTL), and a disciplinary process is reportedly underway. Youths taunting and throwing rocks at persons with disabilities was reported to HRTJS in other districts as well.

A prominent murder case of a person with a disability in Dili District was featured in the media in 2008 and went to trial.<sup>38</sup> The court decision established that on 29 April 2008, a young man who had epilepsy and was not able to speak became lost outside of his neighbourhood at night. He approached a man's house in a visibly disoriented manner, and stumbled into the entrance. The man

<sup>35</sup> CRPD, Article 25; Article 12, ICESCR; UN Standard Rules on the Equalization of Opportunities for Persons with Disabilities, Rule 2.

<sup>36</sup> CRPD, Article 25 (d) .

<sup>37</sup> CRPD, Articles 6 and 7. CEDAW and CRC also guarantee these rights.

<sup>38</sup> See "*Guterres tewas samurai ninja*," *Suara Timor Lorosae*, 14 May 2008. See also Decision of the Dili District Court, Case No. 197/C.ord/2008TDD and Decision of the Court of Appeal, Case No. 17/CO/2009/TR.

living in the house stabbed him when the man could not speak to respond to his questions. After stabbing him once, the man called youths in the neighbourhood to help him attack the man with the disability, who died from the attack. When his body was found, the hands were reportedly tied behind his back, and there was evidence that he had been tortured. In relation to this crime, the Court convicted six men of murder and concealment of a corpse. All are currently serving prison sentences ranging from seven to eight years. Efficient prosecution of crimes committed against persons with disabilities, as in this case, is commendable. Another case involving the murder of a mentally ill man in Liquica District in 2011 is under police investigation.

Timor-Leste's Constitution and its obligations under the International Covenant on Civil and Political Rights guarantee the right to life, liberty and security of person, as well as access to justice.<sup>39</sup> Reporting and robust prosecution of cases of murder, abuse, ill-treatment and any other form of exploitation, degrading treatment or discrimination against persons with disabilities is essential to protecting these rights. The CRPD offers additional provisions to ensure persons with disabilities are free from exploitation, violence and abuse, and that their life and security are guaranteed.<sup>40</sup> Ratification of the CRPD to safeguard the rights of this particularly vulnerable group is recommended.

## Poverty, disability and development

Although the nation is taking positive strides towards economic recovery, poverty is endemic. Timor-Leste ranks 120 out of 169 countries in the Human Development Index.<sup>41</sup> According to the most recent UNDP Human Development Report on Timor-Leste, the World Bank predicts 41 percent of the population is estimated to live below the poverty line based on derivations from data collected in a 2007 demographic and health survey.<sup>42</sup> Some indicators of the degree of poverty and vulnerability include: 45 percent of children are underweight and the growth of 33 percent of children under five is severely stunted.<sup>43</sup> In this environment, the number and intensity of competing needs for development are high, and susceptibility to disability is increased. Poverty is both a cause and an effect of disability.



Presently, no data exists that indicates the percentage of persons with disabilities living in poverty in Timor-Leste. However, persons with disabilities in Timor-Leste reported in focus group discussions that they face fierce competition for resources, particularly for medicine, healthcare, transportation, and education. Comparative research suggests that rates of poverty are usually higher amongst

<sup>39</sup> See Constitution of Timor-Leste, Section 21 (rights of persons with disabilities), Section 26 (right to access justice), Section 29 (right to life) and Section 30 (right to personal freedom, security and integrity). See also ICCPR, Articles 6 (right to life) and 9 (right to liberty and security of person).

<sup>40</sup> Articles 10, 14, 15, 16.

<sup>41</sup> This ranking is current as of 2010. See UNDP, International Human Development Indicators, Country Profiles: Timor-Leste, <http://hdrstats.undp.org/en/countries/profiles/TLS.html> (accessed 28 April 2011).

<sup>42</sup> United Nations Development Programme (UNDP), Timor-Leste Human Development Report 2011: *Managing Natural Resources for Human Development; Developing the Non-Oil Economy to Achieve the MDGs*, p. 19.

<sup>43</sup> National Statistics Directorate, *Timor-Leste Demographic and Health Survey, 2009-2010, Preliminary Report*, p. 22.



persons with disabilities due to multiple related factors including lack of accessibility to public services and social exclusion.

The Ministry of Social Solidarity provides some social assistance to combat poverty among persons with disabilities in the form of a monthly disability allowance for persons determined by government assessment to be unable to work due to a severe disability. However, these payments reportedly are not always distributed or received on a monthly basis, and the paperwork and documentation required to register prevents many persons with disabilities from accessing this form of social assistance.

In 2010, the Ministry of Social Solidarity also launched a programme that provides social assistance housing to vulnerable groups. Five persons with disabilities receive this housing assistance. The CRPD requires states parties to ensure access to public housing for persons with disabilities to fulfil the right to an adequate standard of living.<sup>44</sup> In accordance with these international standards, persons with disabilities should continue to be a target group to benefit from the multiple, on-going public housing programmes in Timor-Leste.

Employment is also an important means for persons with disabilities to escape from poverty and social exclusion. From 2009 to 2010, the Ministry of Social Solidarity (MSS) and NGO *Ra'es Hadomi Timor Oan* worked together to coordinate and organize 22 people with disabilities to receive vocational training for three months. MSS has continued to support the group with carpentry materials, workshop space, and funding in 2010. The group produces coffins that MSS buys to provide to families as part of its social assistance programme that helps impoverished families afford burial services. Programmes such as this one facilitate the right to work of persons with disabilities, in line with provisions included in the CRPD.<sup>45</sup> Employment schemes are a key strategy to address the structural barriers that prevent persons with disabilities from actively participating in the workforce.

The inter-relationship between poverty and disability means that investment in disability services may have a positive impact on a large portion of the population, across multiple sectors including education, healthcare and economic development. Inclusive development programmes that combat poverty are recognized under the CRPD as playing a necessary role in fulfilling the rights of persons with disabilities.<sup>46</sup> The CRPD also urges international cooperation across the range of activities that facilitate the exercise of the rights of persons with disabilities, including development aid and programming.<sup>47</sup> Investment by international and national actors in services that fulfil rights of persons with disabilities may help break the poverty and disability cycle.

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<sup>44</sup> Article 28 (d).

<sup>45</sup> Article 27 (d).

<sup>46</sup> Preamble to the CRPD, sections g, l, m, and t.

<sup>47</sup> Article 32.

## Infrastructure and accessibility

The CRPD requires states parties to take action to ensure accessibility for persons with disabilities.<sup>48</sup> Under the CRPD, governments have a general obligation to provide its citizens, including persons with disabilities, access to public buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces. The CRPD also obligates states that ratify the Convention to take measures to ensure private entities offer facilities and services which are open to the public, and take into account all aspects of accessibility for persons with disabilities.<sup>49</sup>

The World Bank estimates that approximately 70 percent of Timor-Leste's infrastructure, including public buildings, housing and schools, was destroyed in the referendum-period violence in 1999.<sup>50</sup> Since 1999 and following further violence in 2006, repairing this destruction and building an independent nation has been a complex and absorbing process, still in progress. Providing basic public infrastructure, such as electricity, potable water, sanitation, healthcare facilities, schools, roads and transport remains a challenge for Timor-Leste. However, development is booming in some areas of infrastructure, such as the construction and rehabilitation of government offices that were destroyed in 1999. The presence of the United Nations is also accompanied by the construction and rehabilitation of facilities for its staff.

Persons with disabilities are more vulnerable to exclusion from these public services.<sup>51</sup> From February to March 2011, HRTJS performed basic assessments of a sample of 45 government and UN facilities to determine their level of accessibility for all Timorese citizens, including persons with disabilities.<sup>52</sup>

The survey of facilities determined that among key ministries and national government offices most commonly accessed by citizens, only the President's Office and the Ministry of Foreign Affairs were fully accessible. Dili and Baucau District Courts were also fully accessible. Eighteen police stations across the country (at least one per district) were checked, but none of them were fully accessible. With regard to private businesses, HRTJS noted there are no banks that are fully accessible to persons with disabilities. International organizations, which should adhere to basic international standards in this respect, also fall short. For example, UNMIT's offices in Dili, Covalima, Baucau and Maliana failed to meet basic accessibility standards.

<sup>48</sup> Article 9.

<sup>49</sup> Article 9.2 (b).

<sup>50</sup> The World Bank, "Timor-Leste Country Brief," <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/EASTASIAPACIFICEXT/TIMORLESTEEEXTN/0,,contentMDK:20174826~pagePK:141137~piPK:217854~theSitePK:294022,00.html> (accessed 29 April 2011).

<sup>51</sup> A recent report by BESIK, a NGO supported in part by the Ministry of Health, *Ra'es Hadomi Timor Oan* and the Leprosy Mission, highlights the ways the lack of infrastructure in the areas of water and sanitation disproportionately affects the fulfilment of rights of persons with disabilities in Timor-Leste. See *Disability and Rural Water, Sanitation and Hygiene in Timor-Leste*, BESIK: *Bee, Saneamentu no Igene iha Komunitade*, February 2010.

<sup>52</sup> Researchers checked to see if any person a) could reasonably enter a particular public building either through a main or alternative entryway, b) find persons to assist them with their inquires through a reception desk or person on the ground floor, c) enter and use bathroom facilities. The assessment was basic, and did not address the full range of accessibility standards. For an example of UN standards on accessibility, see the UN Enable website at <http://www.un.org/esa/socdev/enable/designm/> (accessed 29 April 2011).



Public facility	Accessible entry	Accessible bathrooms
Office of the President	Yes	Yes
National Parliament	No alternative to steps, no rails	Partial – stairs prevent accessibility
Ministry of Education	Partial – 1 building only	Partial – 1 building only
Ministry of Social Solidarity	Partial – 1 building only	Partial – 1 building only
Ministry of Health	No alternative to steps	Yes
Ministry of Justice (main office, including passports and registration facilities)	No alternative to high steps, no rails	Yes
Office of Secretary of State for Professional Training and Employment	No alternative to steps	1 accessible bathroom
Ministry of Infrastructure	No alternative to steps	No
Ministry of Foreign Affairs	Yes	Yes
Office of the Prosecutor General	No alternative to steps	Yes
Office of the <i>Provedor</i> for Human Rights and Justice	No alternative to steps	Yes
Dili District Court	Yes	Yes
Court of Appeal	No alternative to steps	Yes
Suai District Court	No alternative to steps	Yes
Baucau District Court	Yes	Yes
UNMIT compounds (Dili, Baucau, Suai, Maliana)	No alternative to steps for most offices	No <sup>53</sup>

The lack of rails, ramps or alternative entrances were common obstacles to accessibility. Irrigation moats built around the perimeter of buildings frequently prevented access. Raised entrances to control flooding, navigated by high steps, were particularly unmanageable for persons with disabilities. Stairs and narrow doorways were obstacles to entering toilets, and no stalls had grab bars to facilitate use. The majority of the buildings surveyed only needed minor adjustments to make them more accessible, such as the addition of a ramp, a modification to a single ground-floor bathroom, or signs.

To date, there is no national building code that stipulates accessibility requirements. A law on national building regulations is reportedly being drafted by the Ministry of Infrastructure, but has not been made available yet for public consultation. The Asian Development Bank's technical advisors to the Ministry of Infrastructure received training from the NGO ASSERT on disability awareness and are making resources available on universal design, but accessibility measures have not been implemented in a systematic and sustainable manner throughout the Ministry's projects.<sup>54</sup>

<sup>53</sup> After this report was researched and drafted, in Obrigado Barracks, Dili, UNMIT built an accessible bathroom and added ramps and rails for access to conference rooms and medical facilities for persons with disabilities.

<sup>54</sup> Under Article 2 of the CRPD, universal design is defined as, "the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design. 'Universal Design' shall not exclude assistive devices for particular groups of persons with disabilities where this is needed."



Legal standards are required to ensure implementation of universal design for accessibility in public works.

Transport is another key area that requires improvement for equal accessibility. In the absence of an operational public transport system in Timor-Leste, focus group participants reported having difficulty using privately owned *microlets* and taxis, because there were no accessibility measures, such as reserved seats or obligatory yielding or assistance for persons with disabilities to enter. Persons with disabilities caused by leprosy are reportedly discriminated against in accessing transport, when bus and taxi drivers refuse them service based on their disability.<sup>55</sup> Persons who cannot see reported having difficulty crossing the road, even when police or security personnel were present, because no efforts were made to stop traffic, and cars and motorbikes would not yield.<sup>56</sup> Although operators of transport are private in Timor-Leste, the Government plays a role in regulating the industry and setting standards for registration and licensing. Police also play a role in enforcing standards and regulating traffic, both to prevent disabilities caused by traffic accidents, and to protect persons with disabilities. The rights of persons with disabilities have yet to be recognized in Timor-Leste's transport standards or traffic enforcement.

## Right to education

The right to education of all persons is guaranteed under a number of human rights instruments, including the ICESCR and CRC, to which Timor-Leste is a state party.<sup>57</sup> These rights are reinforced and specified for persons with disabilities in Article 24 of the CRPD. Timor-Leste has taken active measures, particularly in the past two years, to increase access to education for persons with disabilities. However, in focus group discussions, persons with disabilities and civil society consistently ranked access to education as the area where Timor-Leste needs the most improvement. While no quantitative data is available, there are indications from persons with disabilities themselves and from the Ministry of Education that persons with disabilities frequently do not have equal access to education, despite recent initiatives to address this problem.<sup>58</sup>

### ***Working independently in his community***

*Gaspar, 29 years old and a resident of Dili District, is blind. He lives with his family, but can function independently. He helps his family get water and cooks for himself. In 2011, he attended a course at a special school in Dili where he learned writing, reading and computer skills. He uses MS Word, MS Publisher and enjoys searching the internet. He is now employed as a trainer for other persons with visual impairment, and coordinates a music programme at the school.*

<sup>55</sup> Interview with staff at CIJ Leprosy Clinic in Baucau, Timor-Leste, 25 March 2011.

<sup>56</sup> Focus group discussion, 25 February 2011, Dili, Timor-Leste.

<sup>57</sup> ICESCR, Article 13; CRC, Article 23(3) and 23(4). See also General Comment No. 5 on the ICESCR, which interprets states' obligation to fulfil the right to education for persons with disabilities.

<sup>58</sup> Interview with Ministry of Education, Inclusive Education section, 7 March 2011, Dili, Timor-Leste



During May 2010, Timor-Leste hosted its first Inclusive Education Conference, inviting speakers from ASEAN countries, to develop an integrated inclusive education programme that would incorporate the needs of students with disabilities, among others, and help achieve the national development goal of universal education. Also during 2010, an Inclusive Education Policy was drafted, while an access to education component of the national Community Based Rehabilitation (CBR) strategy was adopted.<sup>59</sup>

During 2010, US\$10,000 was spent for planning and programming for inclusive education.<sup>60</sup> While this is a positive step, more funding is required for inclusive education, which is not limited to addressing the needs of persons with disabilities. Research indicates that there are at least 2,000 primary school students in Timor-Leste with disabilities, and few of them receive focused attention to their educational needs.<sup>61</sup> There are reportedly less than ten teachers in the country who have specialized training on teaching persons with disabilities.<sup>62</sup>

As only one specialized public school for children with disabilities in Timor-Leste exists, persons with disabilities have generally not been segregated into separate schools. The Ministry of Education's strategy on inclusive education seeks to provide access to persons with disabilities to schools across the country, as opposed to excluding them from attending school or separating them into specialized schools. To implement this strategy, in 2011 the Ministry of Education and the NGO ASSERT trained a group of teachers to become disability focal points in each primary school. They will conduct a school entry survey with parents to identify children with disabilities and their needs. The survey is expected to assist in generating more accurate data on the number of children with disabilities in school, raise awareness, and identify teacher training needs for mainstreaming persons with disabilities in all public primary schools.

The only specialized school for persons with disabilities, located in Taibessi, Dili, accepts persons with a range of disabilities from all over Timor-Leste and does not exclude persons based on age. Its aim is to equip students with basic competencies in reading, writing and mathematics, so that students can then be mainstreamed into public schools and move on to higher levels of education. Presently, the school serves 32 children with disabilities. Housing is not provided for students coming from outside of Dili. HRTJS also noted during a recent visit that there were students standing in a classroom throughout instruction, because the standard-issue furniture provided by the Ministry of Education for the school appeared to be sized for small children in primary school, and could not fit the older or taller children or the children who need accommodation for their disability. Additionally, the school needs more teaching resources, staff and transport to support the learning needs of its students.

The Ministry of Education has begun to transform this school into a national education resource centre for persons with disabilities with the support of the World Bank. Teacher training is envisioned as one of its core functions in the future to implement a nationwide inclusive education strategy that

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<sup>59</sup> See also p.7.

<sup>60</sup> Interview with the Ministry of Education, Inclusive Education section, 17 January 2011, Dili, Timor-Leste.

<sup>61</sup> *Supra* n. 24, Plan (2008), p. iv.

<sup>62</sup> Interview with Director, Inclusive Education Resource Center, Dili, 30 June 2011.

does not segregate children with disabilities.<sup>63</sup> However, the resource centre plan has not yet been fully implemented due to the need for greater funding and specialist training personnel.

Teacher training was also identified by focus groups as an urgent need. One activist from the NGO KATILOSA explained, “I can get children into schools by talking to parents and communities, and making schools accessible. But there is not awareness of how to look after children once they get to school. Teachers need socialization about the rights of children with disabilities.”

Civil society actively provides non-formal education to persons with disabilities in Timor-Leste. The NGO Agape focuses on educating persons with hearing impairments. Since 2004, they have educated 50 persons with hearing impairments in Dili to use sign language, communication techniques, computers and music. Three of their students became teachers who continue to teach in their programme. Since 2004, the East Timor Blind Union has trained approximately 150 persons in Braille, mobility techniques, computer skills, massage, and music. However, there is limited knowledge of these services by persons with disabilities, particularly in rural areas. Many more persons are in need of non-formal education, and more persons could benefit if these programmes were also mainstreamed within formal education.

All of these actions taken by government and civil society actors to increase access to education are in compliance with the progressive realization of provisions in the CRPD. However, the right to education is not fulfilled. Improvements to schools to increase access and quality of education, as well as community based awareness-raising about the rights of persons with disabilities to attend relevant education or training, are critical to offering education on an equal basis to persons with disabilities in Timor-Leste.

## Right to information

There is currently no budget, or government requirements, for public information to be made available in alternative formats for persons with disabilities. Until 2010, the national television and radio channel (RTTL) had no plans or budget for programming about disability, or to make television and radio accessible for persons with disabilities. A UN radio programme ran from 2001 to 2002 to raise awareness in local communities about disability with the local NGO KATILOSA. The programme was revived in May 2011, and broadcasts a weekly show on Baucau Community Radio with the support of funding from OHCHR.

The Ministry of Social Solidarity has given financial support to the East Timor Blind Union to assist with their programmes that teach and translate documents into braille for its clients. The reach of these services is very limited, with less than 150 persons’ information needs served by the NGO in contrast to the thousands of persons with visual impairments in Timor-Leste.<sup>64</sup> Further, there is a lack of persons who know how to operate the machinery to produce braille documents, and translations in Braille often have to be imported from partner organizations in Indonesia.

<sup>63</sup> Under Article 24 of the CRPD, segregated education is considered exclusionary. The CRPD promotes an inclusive education approach.

<sup>64</sup> For statistics on the number of persons who are blind in Timor-Leste, see p.11.



Article 21 of the CRPD requires states parties to provide access to information for persons with disabilities in a timely manner free of charge.<sup>65</sup> Timor-Leste should take action in this area, based on assessments of information needs and create a plan to comply with international standards.

## Right to political participation

Access to information affects other rights, including political participation. In previous elections, electoral information has not been provided specifically for persons with disabilities, although some radio formats may appeal to broad audiences. There were also no provisions in legislation that addressed accessibility of information, or polling stations for persons with disabilities, but a 2007 government regulation specifically grants persons with disabilities and sickness priority in queue for polling.<sup>66</sup> The same electoral regulation allowed persons with disabilities who were unable to physically cast their vote to be accompanied by another voter who could cast their vote for them during the 2007 elections.<sup>67</sup>

However, electoral laws and policies need further amendments to meet international standards that guarantee the right of persons with disabilities to vote.<sup>68</sup> There is an urgent need to guarantee the right to vote for persons with mental disabilities for the presidential elections. Despite the amendment of election laws in both 2007 and 2011, there still is an applicable provision from the 2006 presidential election law that denies persons with mental disabilities the right to vote.<sup>69</sup> This provision violates Timor-Leste's treaty obligations under the ICCPR, which provides that all persons are entitled to legal recognition before the law and guarantees all persons the right to vote.<sup>70</sup> The CRPD also stipulates these rights, and confirms the right to vote for all persons with disabilities, as well as the need to enshrine these rights in legislation that is formulated in consultation with persons with disabilities.<sup>71</sup>

A problem commonly reported to HRTJS was that persons with disabilities do not have electoral cards, because they cannot physically go to registration centres. Some mobile registration campaigns have been conducted by the Government, but persons with disabilities whose mobility is affected could not always go to the mobile sites. Proxy registration is not allowed, and neither itinerant voting nor absentee ballots exists for persons with disabilities. An additional impact of the lack of access to voter registration is that persons with disabilities cannot apply for government social assistance programmes without an electoral card.

<sup>65</sup> These rights are also stipulated in Article 9, b, g and h.

<sup>66</sup> Technical Secretariat for Electoral Administration (STAE), "Regulation on the Polling and Result Tabulation Procedures for the Election of the President of the Republic," STAE/II/07, Article 31. The same provision is repeated in the electoral laws for Parliamentary Elections.

<sup>67</sup> *Ibid.*, Article 33. The same provision is repeated in the electoral laws for Parliamentary Elections.

<sup>68</sup> ICCPR, Article 25 (b); CRPD, Article 29.

<sup>69</sup> Law No. 7/2006, "Law on the Election of the President of the Republic," Section II, "Voting Capacity," Article 5 (b). The provision states: "The following are not granted active electoral capacity: [...] (b) Individuals clearly and publicly known as mentally ill even where they are not judicially disabled."

<sup>70</sup> ICCPR, Article 25 (b) and Article 26.

<sup>71</sup> See Article 4 regarding the necessity to adopt legislation that guarantees rights, in consultation with persons with disabilities; Article 12 regarding persons with disabilities' equal recognition before the law; and Article 29 regarding the need to protect voting rights of all persons with disabilities.



During 2011, the National Commission on Elections (CNE), the Ministry of Social Solidarity and HRTJS conducted several joint missions to assist persons with disabilities to register to vote. A CNE representative in Liquica also conducted a campaign specifically to register persons with disabilities in consultation with the Ministry of Social Solidarity and the Ministry of Health. While urgent reforms are needed to policy and legislation, HRTJS notes that some dedicated government actors are already making efforts to address the registration and voting needs of persons with disabilities.

## Right to access justice

The justice sector in Timor-Leste is still developing, and access to justice for all citizens is limited. The weakness of the justice sector makes it difficult to determine accurately whether access to justice has been denied to persons based specifically on their disability. Of the criminal cases monitored by HRTJS in 2010 that involved a victim who had disabilities, all have been taken up for investigation, but no indictments have been filed. Further discussion of rape cases is provided below.<sup>72</sup>

Police are generally aware of basic healthcare referral mechanisms for persons with disabilities, such as how to contact a mental health worker from an NGO or from the government. If a mental health care worker is not available, police reported they refer persons to a district hospital, in line with the Ministry of Health's referral network plan. However, the majority of police interviewed by HRTJS also reported the need for more knowledge and training in this area. Beyond immediate referral to a mental health worker, few had knowledge of other services that could or should be provided to persons with disabilities, including communication facilitation.

Two different cases were reported to HRTJS in which police required assistance in investigating cases involving victims who could not speak, and another case involving a person who cannot see, but they did not know how to access referral pathways for assistance. In contrast, in another case monitored by HRTJS during 2010, police tried to assist a victim of a crime who was a person with mental disabilities, but they did not receive cooperation from the relevant state actors. The police contacted the appropriate health worker at night, shortly after the crime was reported, but the government health worker reportedly refused to assist because it was outside of normal working hours. In this case and others, police did not have adequate access to alternative referral pathways to provide timely responses to victims. With the exception of one Vulnerable Persons Unit (VPU) officer, all police, prosecutors, public defenders and court personnel interviewed by HRTJS, expressed a desire to receive training on the rights of persons with disabilities. Police specifically indicated a need for training for non-VPU officers, on methods to work with victims or suspects who have mental or physical disabilities.

Adequately training judicial and police personnel on the rights of persons with disabilities and referral mechanisms would be a crucial step towards facilitating access to justice, along with policy development. The CRPD specifically requires administration of justice personnel receive appropriate training to fulfil these rights.<sup>73</sup>

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<sup>72</sup> See p.27.

<sup>73</sup> Article 13 (2).

## Right to participate in cultural life

The International Covenant on Economic, Social and Cultural Rights, which Timor-Leste has ratified, provides for the right of all persons to participate in cultural life.<sup>74</sup> Article 30 of the CRPD further guarantees this right. To date, Timor-Leste has taken the most noticeable action on this right.

Civil society actors and the government have made significant efforts to develop a Special Olympics programme in Timor-Leste. In 2008, Timor-Leste sent a delegation of athletes to the Summer Paralympics in Beijing, China. Persons with disabilities played an ambassadorial role in 2008 by coordinating and participating in a Special Olympics "Peace Games" between Timor-Leste and West Timor, the neighbouring Indonesian province. The games were repeated in 2009, with West Timor acting as host.

In 2009, Timor-Leste again sent a delegation of Special Olympics athletes to compete in the Asia Pacific Special Olympics. Athletes were supported with funding from the United Nations Peacebuilding Fund coordinated by UNDP and MSS. From 26 to 30 October 2010, Timor-Leste hosted the regional, intercity Special Olympics games. Athletes competed in boxing, five-a-side football and athletic modalities. Within Timor-Leste, athletes from 13 districts competed to qualify for the final competitions. From the region, athletes represented Indonesia, Australia, New Zealand, Malaysia, Thailand, Bangladesh, Philippines, Brunei Darussalam and Singapore. Persons with disabilities have competed in Timor-Leste's annual international bike race, *Tour de Timor*, and marathon.

Persons with disabilities are also supported by the government and civil society to participate in music and theatre, including a musical group trained by the East Timor Blind Union who placed second in the national "Timor-Leste Youth Superstar" music contest in 2009.

## IV Violations against high risk groups

### Persons with mental disabilities

During 2010, HRTJS confirmed at least nine cases of persons with mental disabilities being held in permanent or long-term restraints by their families or local communities in different parts of the country. Other cases were reported, but have not yet been verified. Interviews with PRADET, a national NGO that provides psycho-social counselling and health services for persons with mental disabilities, indicate that when they began their programme in 2000 they located and released multiple persons in permanent restraints.

Forms of restraint documented and verified by HRTJS included locking persons' hands permanently in chains, tying persons to beds or trees, locking them in wooden stocks, and confining them permanently to a cage or an outdoor bed. Government workers were aware of many of these cases.

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<sup>74</sup> Article 15.



In some instances, officials including police, MSS and Ministry of Health mental health workers, continued to treat some of the patients in these forms of restraint. In one case that occurred in 2010, a family described how an UNPOL officer helped them place a family member with mental disabilities in restraints, after the person with mental disabilities had been arrested and released for an alleged assault.<sup>75</sup>

In a case of particular concern that occurred in 2008, a police sub-district commander arrested and detained a man with mental disabilities for three days, without charges. The man with mental disabilities had allegedly broken shop windows. He was restrained in handcuffs behind his back for the duration of his detention. When he was released, the handcuffs were not removed. The PNTL Sub-district Commander had knowledge of the man being held in handcuffs during detention and after release.<sup>76</sup> There was no detention hearing before a court, and he received no medical care during detention. UNPOL officers found the man in handcuffs weeks later, and released him. He was handcuffed for a total of 25 consecutive days. His wrists were injured from the protracted period in handcuffs. This act violates a number of core human rights and policing standards on detention and use of force, in addition to prohibitions from keeping persons with mental disabilities in permanent restraints. UNPOL reported the case to the district-level police authorities for further action, but the national and district offices of the police disciplinary mechanisms have no records of the case or any action being taken against the commander.

In another case, in 2010 a woman with mental disabilities was reportedly tied up in her home, and because of the restraints could not escape quickly when the house caught on fire. She died from severe burns from the fire. She was the mother of two children.

There are multiple factors leading to the use of permanent restraints of persons with mental disabilities in Timor-Leste, but the lack of government facilities and regulations for treatment are key factors. There are no specific laws regulating the treatment and protection of persons with mental disabilities. Further, no public institution formally accepts for rehabilitation and treatment persons with mentally disabilities who have a criminal history.

The district-based network of specialized Mental Health Workers is the system currently addressing the healthcare needs of the mentally ill, but these healthcare workers reported lack of basic facilities such as transport, communication equipment and regular access to the one trained psychiatrist in the country designated to diagnose patients. The healthcare worker to patient ratio is also imbalanced, with each healthcare worker usually managing hundreds of patients with extremely limited resources and access to these patients. None of the mental health workers reported receiving training on human rights, or the rights of persons with mental disabilities. The result of this lack of resources is persons with mental disabilities often do not receive sufficient healthcare, and families do not receive training to support the health needs of the person with the mental disability. Healthcare workers in all districts also reported shortages of the medicines approved to treat mental disabilities.

<sup>75</sup> HRTJS verified this information with the community and family members of the person restrained, but was not able to obtain further verification from district-level UNPOL officers. The relevant officer had reportedly left the country, and no further information was available.

<sup>76</sup> HRTJS verified this information with community members and police personnel.



During 2010, HRTJS in collaboration with MSS and specialist Mental Health Workers, succeeded in the release of two of these persons held in permanent restraints. HRTJS continues to monitor to ensure these persons with mental disabilities are receiving adequate healthcare services and remain free. HRTJS also continues to engage with relevant state actors and families to negotiate other releases.



A mental health specialist worker from the Ministry of Health (left), a human rights officer from UNMIT (centre) and a district representative from the Ministry of Social Solidarity (right) provide information to a person with mental disabilities (foreground) to support him in making independent decisions about his healthcare and social assistance options.  
» UNMIT Photo/Bernadino Soares.

In another case, a man with mental disabilities was reportedly permanently tied to a tree in Manatuto District, but has now been released. When HRTJS went to verify the case, the person with mental disabilities had been released after receiving regular treatment from a specialist Mental Health Worker. Now he receives consistent treatment from a nearby government clinic, where a nurse can administer medicine to him between the specialist's visits. He lives with his family, and his income from farming supports them. His case demonstrates the difference the provision of government health services can make.

In contrast, HRTJS received another report from a village chief about a man who had been restrained since the beginning of the conflict with Indonesia in 1975, but was recently released. He was released by the community but the permanent restraints have disabled his legs and he can no longer walk.

In 2008, the Special Rapporteur on Torture determined that “there can be no therapeutic justification for the prolonged use of restraints, which may amount to torture or ill-treatment.”<sup>77</sup> Timor-Leste is a state party to the Convention against Torture and other forms of Cruel, Inhuman and Degrading

<sup>77</sup> “Interim report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment” (UN General Assembly A/63/175) 28 July 2008, para. 55.





Treatment or Punishment. The CRPD also prohibits the deprivation of liberty and all forms of torture, cruel and degrading treatment against persons with disabilities.<sup>78</sup>

Misuse of sedation can also be considered a form of permanent restraint. If medication is used in an improper manner to restrain a person with mental disabilities without sound medical and therapeutic reasons by government workers, it can be considered a human rights violation. Negligent conduct by government health workers that leads to severe pain and suffering, which can be interpreted to apply to the misuse of medication and restraints, can amount to ill-treatment under the Convention against Torture.<sup>79</sup>

While HRTJS has not yet documented a case of improper use of chemical restraints, it noted reports, including from government healthcare workers themselves, of medicines causing sedation being administered to persons with mental disabilities without prior diagnosis or review of the patient's medical history by a doctor or psychiatrist. Although mental health care workers are authorized to administer treatments, when they play a role they are not authorized or qualified to perform, such as diagnosis and prescription, they act in contravention of international standards. As mentioned above, there is presently only one psychiatrist authorized to make psychiatric diagnoses for all the patients treated by the government's mental health workers. He is in Dili and only occasionally travels to visit patients in the other districts. Government health specialists rely on him to give diagnoses over the phone.

Increased regulation and monitoring of healthcare provision to persons with mental disabilities is crucial to protect and promote their rights. Urgent action is required to free persons held in permanent restraints, within an environment that provides for their healthcare and protection. Training and support for the families of persons with mental disabilities, and community leaders, is also required to ensure a sustainable environment for persons with mental disabilities to live and exercise their rights within their home communities, while ensuring the safety of those around them.

## Sexual violence against women with disabilities

Persons with disabilities, men and women alike, are up to three times more likely than persons without disabilities to be victims of physical and sexual abuse and rape.<sup>80</sup> Women with disabilities can suffer double discrimination, based on their gender and disability. From April 2010 to March 2011, HRTJS monitored nine cases of alleged rape against women with disabilities. The majority of these cases were reported to police, and the perpetrators appear to have targeted the victims based on their vulnerability resulting from physical or mental disabilities.

In at least three instances, caregivers of the victim of sexual violence did not wish to resolve the cases through the formal justice system, and were hesitant to report to the police. In one case, a mother allegedly threatened her daughter if she reported the rape. This victim has been removed from the home for her protection. Caregivers or family members are suspected of perpetrating

<sup>78</sup> Articles 14 and 15. See also UN Principles of Medical Ethics, Resolution 37/194, Principle 2 and Principle 5.

<sup>79</sup> *Supra* n. 77, Report of the Special Rapporteur on Torture, para. 49.

<sup>80</sup> World Bank/Yale University, *HIV/AIDS & Disability: Capturing Hidden Voices*. Report of the Global Survey on HIV/AIDS and Disability (Washington, D.C.: World Bank, 2004), p. 11.

these rapes. All cases have since been referred to the relevant police and protection authorities and investigations are reportedly underway.

In two cases, the victims became pregnant as a result of the rape. In one of the cases, after she delivered the baby the victim was sterilized without being asked for consent because she cannot speak or move her limbs. The family gave consent, following the doctor's advice. The CRPD guarantees persons with disabilities the right to decide on the number and spacing of their children and other reproductive rights.<sup>81</sup>

Rape, in all cases, is a public crime that must be resolved through the formal justice system, and does not require a victim's complaint to open an investigation. Families and police authorities do not have the option of deciding the case on behalf of a person with a disability through traditional mechanisms. Doing so violates Timor-Leste's Penal Code as well as international standards that guarantee the right of access to justice and require the integrity and consent of persons with disabilities and protection measures, particularly for women and children. Additionally, mistreatment of persons with disabilities by care-givers is also a crime under the Timor-Leste Penal Code.<sup>82</sup> Sterilization without the proper consent of the person with disability, or a caretaker recognized by law, is also prohibited under international law.<sup>83</sup>

To date, no indictments have been filed in any of the rape cases against women with disabilities monitored by HRTJS.

## Children with disabilities

In February 2008 in its concluding observations on Timor-Leste's report on the Convention on the Rights of the Child, the Committee on the Rights of the Child highlighted their human rights concerns about children with disabilities.<sup>84</sup> They noted problems affecting the rights of children with disabilities include inadequate access to healthcare, social services and exclusion from education. The Committee urged Timor-Leste to take all necessary measures to address these problems.

Among civil society actors and persons with disabilities in Timor-Leste, the denial of access to education is widely perceived as the greatest violation of human rights for children with disabilities. Focus group participants in three districts reported personally being discouraged by their communities and families from attending school or completing a university education. An incident was also reported to HRTJS of a child being denied entry to a private school in 2008 by a school director because the child had a disability.

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<sup>81</sup> Article 23.

<sup>82</sup> See p.5.

<sup>83</sup> The Human Rights Committee has referred to the sterilization of women without their consent as a breach of Article 7 of the International Covenant on Civil and Political Rights. See Human Rights Committee, General Comment No. 28 (HRI/GEN/1/Rev.8, sect. II) (2000) on equality of rights between men and women, para. 11. See also Committee against Torture, concluding observations on the third periodic report of the Czech Republic (CAT/C/CR/32/2), paras. 5 (k) and 6 (n), and on the fourth periodic report of Peru (CAT/C/PER/CO/4), para. 23; Human Rights Committee, concluding observations on the fourth periodic report of Peru (CCPR/CO/70/PER), para. 21; on the second periodic report of the Czech Republic (CCPR/C/CZE/CO/2), para. 10; on the second periodic report of Slovakia (CCPR/CO78/SVK), paras. 12 and 21; and on the fourth periodic report of Japan (CCPR/C/79/Add.102), para. 31.

<sup>84</sup> CRC/C/TLS/CO/1, paras. 56-57.



In December 2010, the Ministry of Education's Inclusive Education section began internal data collection to try to determine the total number of children out of school, including but not limited to children with disabilities. However, their data collection is not yet complete. Data will be collected in 13 districts by using a form distributed to village chiefs. UNICEF is also engaged in on-going data collection on the population of out-of-school children worldwide, including Timor-Leste, but there is no data collection specific to children with disabilities. From 2008 to 2009, the East Timor Blind Union conducted a survey that documented at least 300 school-age children in districts outside of Dili with visual impairments who are not going to school.<sup>85</sup> Participants in nationwide consultations held in 2010 with the National Commission on the Rights of the Child reported children with disabilities were not being allowed to go to school, and the commission made a finding that children with disabilities in Timor-Leste are disadvantaged.<sup>86</sup> More research is needed to understand the dimensions and underlying causes of children with disabilities being withheld, or forced to withdraw, from school.

Increasing enrolment of children with disabilities in primary and secondary schools has been the focus of many NGO and government advocacy efforts. The NGO KATILOSA, based in Baucau District, has conducted awareness campaigns to encourage families and communities to send children with disabilities to school, as well as disability prevention campaigns. NGO *Klibur Domin* assists in building sanitation facilities in schools to create better conditions for children with disabilities to attend. The Epilepsy Association of Timor-Leste recently began a programme to work with teachers to ensure children with epilepsy enter and stay in school, reportedly because drop-out rates are high for children with epilepsy. With the NGO ASSERT, the Ministry of Education recently rehabilitated the buildings at 10 December Secondary School in Dili District, so a student who uses a wheelchair could attend. The Ministry of Education also reported that five children in Oecusse District, who were previously withheld from school by their families because of their disabilities, have successfully entered primary school. Five other students with disabilities have recently entered a primary and pre-secondary school in Bebonuk, Dili District. The Ministry of Education also facilitated accessibility for one student to attend a private university in Dili, and assisted others with disabilities to go abroad for specialized secondary and tertiary education in Indonesia. As long as children with disabilities are excluded from education, they remain at risk – physically, psychologically and economically.

### ***Communicating independently with her community***

*Juliana [not real name], 11 years old, lost her ability to move her left hand, legs and vocal cords at three months old, after she suffered from a high malarial fever.*

*She received traditional medicine and later hospital treatments, but her condition has not changed.*

*She has never attended school, but learned the alphabet on her own. She reads, writes, and enjoys chatting with neighbours on her front porch. She communicates using her hands, eyes and head.*

<sup>85</sup> Interview with Pedro Manuel Soares, Director of East Timor Blind Union, 7 July 2011, Dili, Timor-Leste.

<sup>86</sup> Presentation of the *Report on the Public Consultation on the Situation of Children in Timor-Leste*, National Commission on the Rights of the Child of Timor-Leste, 30 June 2011, Dili, Timor-Leste.

## VI Coordination, complaint and referral mechanisms

*In a focus group discussion with members of the Disability Working Group, the representative from NGO Klibur Domin explained the group members' role:*

*“We give people courage, so they can say ‘I can’. The work is to create the conditions for self-reliance.”*

NGOs working on the rights of persons with disabilities share information with one another and government ministries through the national Disability Working Group (DWG). In addition to 11 NGOs, which are voting members, government representatives from the Ministry of Social Solidarity, the Ministry of Justice and the Ministry of Health act as non-voting participants. The group is sponsored by the Ministry of Social Solidarity and meets on a monthly basis.

In a focus group discussion with members of the DWG, the representative from NGO *Klibur Domin* explained the group members' role: “We give people courage, so they can say ‘I can’. The work is to create the conditions for self-reliance. We cannot solve all the problems, but we can look at the priorities. Our job is to empower, not to help.”

There is presently no formal mechanism designated to accept complaints of violations of rights of persons with disabilities. The Office of the *Provedor* for Human Rights and Justice (PDHJ) can consider complaints, but to date has not received or investigated any cases specifically involving the rights of persons with disabilities, and has no focal point on this issue.<sup>87</sup> NGOs from the DWG are included in its civil society advisory body, although this body meets rarely. Through the PDHJ and the DWG members, persons with disabilities were able to give inputs to Timor-Leste's Universal Periodic Review process in 2011.<sup>88</sup>

In 2010, the Ministry of Social Solidarity published and disseminated a referral mechanism booklet that describes all the civil society organizations that provide community based rehabilitation services. The Ministry of Health created brochures that describe mental health services. The NGOs, Leprosy Mission and *Ra'es Hadomi Timor Oan*, made a booklet that explains the basic rights of persons with disabilities and provides contacts for referrals. In 2011, HRTJS distributed these booklets to 40 different public officials as part of its assessment of judicial actors' awareness of rights of persons with disability.

<sup>87</sup> Interview with Valerio Ximenes, Director of Human Rights, PDHJ, 12 April 2011, Dili, Timor-Leste.

<sup>88</sup> The Universal Periodic Review (UPR) is a human rights evaluation process led by States, but conducted under the auspices of the Human Rights Council. The process allows States to declare actions they have taken to fulfil their human rights obligations, and the Human Rights Council makes recommendations for improvements.

## VII Special initiatives to promote and protect rights

In addition to the other positive initiatives taken by Timor-Leste on the rights of persons with disabilities noted above, the DWG has coordinated national celebrations of the International Day of Persons with Disabilities since 2007. In 2010, a number of events were held for the celebrations in Dili, Baucau and Oecusse districts with financial support from the Ministry of Social Solidarity and a grant from OHCHR. Events included marches from and to government offices, music performances and the submission of a petition requesting the government to ratify the UN Convention on the Rights of Persons with Disabilities. Government representatives, UN representatives, the PDHJ, NGOs, police, students and the media participated in the festivities.

### Recent initiatives by the United Nations

The United Nations' primary role in Timor-Leste has been to support initiatives led by the national government and civil society. In addition to monitoring, reporting and advocacy, HRTJS participates in the DWG as an observer and provides technical support and funding for the celebrations of International Disability Day. In 2008, UNMIT's Military Liaison Group conducted a project on persons with disabilities and continues to identify and refer potential violations of rights of persons with disabilities to HRTJS.

Additionally, in 2010, HRTJS and UNMIT's Public Information Office produced a short film about Joazito dos Santos, a human rights defender from a national disabled persons organization, *Ra'es Hadomi Timor Oan*, to be shown for International Human Rights Day. The film was shown on national television as part of UNMIT's *Ba Pas* (For Peace) media programme. Footage was shared with OHCHR for a video of human rights defenders worldwide, which was launched on OHCHR's website on International Human Rights Day. Additionally, HRTJS has translated, published and disseminated copies of the CRPD in Tetum.

In January 2011, UNDP and the NGO *Ra'es Hadomi Timor Oan* began an initiative on equalizing employment opportunities within UNDP. UNDP agreed to include a paragraph in its vacancy announcements encouraging persons with disabilities to apply, although this has yet to be implemented. The NGO is also creating a network of disability focal points at the district level, to increase participation by persons with disabilities in UNDP events and procurement processes.

The World Health Organization (WHO) provides on-going technical support and advice to the Ministry of Health, including on international standards for the treatment of persons with disabilities, and support for prevention of disability programmes. The United Nations Population Fund (UNFPA) provided technical assistance for the 2010 national census, which incorporated the collection of data on the rights of persons with disabilities.

## VIII Key findings

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- Timor-Leste has taken progressive steps to fulfil the rights of persons with disabilities, but greater investments are required to provide equal opportunities and protect groups at high risk from serious human rights violations, especially persons with mental disabilities, women and children.
- Timor-Leste has effectively acted to fulfil the right of persons with disabilities to participate in cultural life.
- The existing national legal framework requires further development to protect persons with disabilities from discrimination and to guarantee their access to public services.
- Persons with disabilities have not been sufficiently provided, nor included in the planning for, access to public buildings, transport and other forms of national infrastructure.
- Government and civil society have taken measures to increase access to education for persons with disabilities, but education is the area identified by persons with disabilities in need of the most improvement.
- Children with disabilities are vulnerable to discrimination in accessing education.
- Access to public information has not been adequately provided to persons with disabilities.
- Although some government actors are making efforts to meet the needs of persons with disabilities, electoral policies and legislation need to better address accessibility and guarantee in all laws the right to vote for all persons with disabilities, including persons with mental disabilities.
- Persons with disabilities are sometimes victims of verbal and physical abuse within their communities. Stigmatizing language is commonly used to refer to persons with disabilities in Timor-Leste.
- Monitoring and implementation of government policies on disability needs to be strengthened to comply with the international standards already adopted in national policies.
- Increased regulation and monitoring of healthcare provision to persons with mental disabilities is crucial to protect them from cruel treatment and deprivation of liberty.
- Women with disabilities are particularly vulnerable to sexual violence, and should be included in nationwide efforts to combat gender-based violence.



## IX Recommendations


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### To the Government of Timor-Leste:

- Issue public statements and educational materials that declare that persons with disabilities have the same rights as other persons, and that these rights are required by law to be promoted, protected and fulfilled.
- Supplement the existing legal and policy framework, prioritizing mental health legislation and guaranteeing the right to vote to all persons with disabilities, a National Disability Policy that promotes non-discrimination, and the accession to and ratification of the Convention on the Rights of Persons with Disabilities. Seek the participation and partnership of persons with disabilities and civil society in drafting new legislation and policy deliberations.
- Take urgent action to promote and protect the rights of the most vulnerable among persons with disabilities, particularly persons with mental disabilities, women and children.
- Mainstream the rights of persons with disabilities in programmes and budgets of all ministries, including requiring physical accessibility of ministries. Require all ministries to report annually on their efforts to promote and protect the rights of persons with disabilities.
- Recruit persons with disabilities for civil service employment, and ensure accessibility of all public workplaces.
- Provide basic training to civil servants on the rights of persons with disabilities.
- Continue to support organizations for persons with disabilities (DPOs) and create opportunities for their participation in decisions that affect them, including the development of legislation, policies, development strategies and programming.
- Encourage private businesses to make their premises and services available to persons with disabilities.

### To the Ministry of Social Solidarity

- Continue to implement the Community Based Rehabilitation (CBR) strategy, while particularly advocating for services that ensure the rights of persons with disabilities are promoted, protected and fulfilled in situations where local communities do not have the skills or resources.
- Conduct additional research to determine the needs of persons with disabilities.
- Increase budget, staffing and resource allocation to offices covering remote areas.
- Continue to support civil society organizations, while considering allocating funding on a 3-to-5 year basis, to improve planning and project implementation by civil society.
- Create a national plan of action in coordination with the *Provedor* for Human Rights, for the monitoring of rights of persons with disabilities, in accordance with the CBR strategy. Provide training on monitoring and reporting techniques to staff and sponsored organizations.

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- Consider allowing other forms of identification other than an electoral card to register persons with disability for social assistance.
  - Launch a nationwide awareness campaign in cooperation with civil society organizations.

### **To the Ministry of Education**

- Create an action plan specific to persons with disabilities that facilitates their access to education, including establishing and implementing basic standards for school accessibility. Continue to develop the national resource centre on inclusive education with donor support, and through the centre provide general and specialized teacher training on rights and education for persons with disabilities.
- Cooperate with the National University of Timor-Leste, and other higher learning institutions, to ensure persons with disability have access to higher education. Establish a national scholarship programme for persons with disabilities to attend university. Support development of technical and higher education courses in the areas of physical rehabilitation, healthcare and disability studies that will create a new corps of experts and workers to implement CBR programmes.
- Provide adequate teaching materials and resources to ensure teachers have the necessary tools to promote an inclusive learning environment.

### **To the Ministry of Health**

- Take urgent action on cases of persons being held in permanent restraints, to ensure their adequate healthcare, protection and release.
- Increase the number of qualified medical personnel and devote them to monitoring and implementing the highest standards of care for persons with disabilities.
- Monitor and ensure adequate human resources, equipment and medicine distribution to the districts outside of Dili.
- Designate and adequately support public facilities that will accept patients who are mentally ill for treatment and protection, for those persons whose rights are immediately jeopardized by the only available community treatment options.
- In collaboration with SEPI, develop gender-specific health care strategies for women with disabilities, which also take into consideration the potential needs of women with mental disabilities in prison.

### **To the Secretary of State for the Council of Ministers/ Radio and Television Timor-Leste (RTTL)**

- Mainstream rights of persons with disabilities in national radio and television.
- Assess national needs for public information in alternative formats, and work with civil society groups to create and implement a plan of action.



## To the Ministry of Justice

- In cooperation with the Secretariat of State for the Promotion of Equality (SEPI), ensure that sexual violence against women with disabilities is included and addressed in the drafts and final version of the national Gender Justice Policy.
- Ensure persons with disabilities receive equal recognition before the law and full access to justice facilities, including provision of legal aid, translation and interpretation, rehabilitation and protection services.
- Develop comprehensive policies and strategies for risk assessments, monitoring and management of prisoners and detainees with mental disabilities to ensure they receive adequate protection and healthcare, and when applied, alternative security measures are executed in full accordance with the law and human rights. Advocate for the inclusion of the needs of prisoners in public health policies, and provide adequate funding to prison services to meet their needs.
- Provide training to judicial actors, including judges, prosecutors and public defenders, on the rights of persons with disabilities.

## To the Ministry of Infrastructure

- Create and implement a plan for rehabilitation of key government offices for universal access.
- Universal design for public procurement of new buildings.
- Ensure rights of persons with disabilities, specifically universal design principles, are incorporated in national building codes.

## To the National Commission on Elections (CNE) and the Technical Secretariat for the Administration of Elections (STAE)

- Cooperate with the Ministry of Social Solidarity, Ministry of Health and the national Disability Working Group to create a registration campaign for the 2012 elections for persons with disabilities.
- In cooperation with relevant civil society groups, develop and disseminate voter information and ballots in alternative formats for the 2012 elections.
- Assess voting stations for accessibility, and implement voting accessibility measures for 2012 elections.
- Review electoral policies to ensure full protection and promotion of the rights of persons with disabilities.

## To SEPI and the National Commission on the Rights of the Child

- Ensure women and children with disabilities are included in programmes and activities.
- Ensure the National Action Plan on Gender-Based Violence addresses the needs of women and girls with disabilities.



## To the PNTL

- Ensure the fulfilment of the human rights of suspects who are persons with disabilities, specifically monitoring detention practices of suspects who are mentally ill.
- Provide basic training on the rights of persons with disabilities and referral services to all police personnel, as well as specific investigative techniques for relevant personnel.

## To the *Provedor* for Human Rights and Justice

- Designate a focal point on the rights of persons with disabilities.
- Mainstream rights of persons with disabilities in on-going monitoring, investigation and education programmes and report annually on activities and cases relevant to the rights of persons with disabilities.

## To Civil Society

- Increase capacity to monitor and report on service provision to persons with disabilities in line with the Convention on the Rights of Persons with Disabilities, and other relevant laws and policies.
- Disseminate information to relevant actors on the referral pathways for persons with disabilities.
- Advocate for strengthening of the legal framework on the rights of persons with disabilities.
- Coordinate with and support the government in implementing urgent measures to promote and protect the rights of persons with disabilities at high risk of abuse and discrimination.
- Strategize the role of the Disability Working Group, including ways to develop and share resources.

## To the International Donor Community

- Provide further training and technical support to the Government and civil society to implement the actions urged above. Engage persons with disabilities in these programmes.
- Prioritize support for trainings and in-country, professional mentoring for health care personnel, judicial actors and teachers on rights of persons with disabilities, as well as specific standards and implementation relevant to their professional duties.
- Require mainstreaming rights of persons with disabilities in all programmes awarded funding, including proof of universal design, and equal employment practices.

## To the United Nations

- Take immediate actions to ensure staff awareness of the rights of persons with disabilities, and accessibility of facilities and employment for persons with disabilities, including in peacekeeping operations.







