



# Convention on the Rights of the Child

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Committee on the Rights of the Child

## Consideration of reports submitted by States parties under article 44 of the Convention

Combined second and third periodic reports  
of States parties due in 2013

**Timor Leste\***

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Annexes\*\*

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\*\* Annexes can be consulted in the files of the Secretariat.

## Acronyms

AIDS	Acquired Immune Deficiency Syndrome
ARI	Acute Respiratory Infection
CRC	Convention on the Rights of the Child
DNDHC	National Directorate of Human Rights and Citizenship
DPT	Diphtheria, Pertussis and Tetanus Vaccine
F-FDTL	Falintil-For as de Defesa de Timor-Leste/Falintil Defence Forces
GER	Gross Enrolment Ratio
GMPTL	Group of Women Parliamentarians of Timor-Leste
HIV	Human Immunodeficiency Virus
MNE	Ministério dos Negócios Estrangeiros e Cooperação/Ministry of Foreign Affairs and Cooperation
MoE	Ministério da Educacao/Ministry of Education
MoF	Ministério das Financas/Ministry of Finance
MoJ	Ministério da Justica/Ministry of Justice
MP	Ministério Público/Office of the Public Prosecutor
MoH	Ministério da Saude/Ministry of Health
MSS	Ministérioda Solidaridade Social/Ministry of Social Solidarity
NCRC	National Commission for the Rights of the Child
NER	Net Enrolment Ratio
NESP	National Education Strategic Plan
NGO	Non-governmental organisation
NHPF	National Health Policy Framework
NHPS	National Health Promotion Strategy
NRHS	National Reproductive Health Strategy
PNTL	Policia Nacional de Timor-Leste/National Police of Timor-Leste
PNTL (CPU)	Policia Comunidade/Community Police
PNTL (VPU)	Policia Immigrasaun/Immigration Police
PNTL (VPU)	Vulnerable Persons Unit
SEPFOPE	Secretaria de Estado da Formacao Profissional e Emprego/State Secretariat for Professional Training and Employment
SEPI	Secretaria de Estado da Promocao da Ilgualdade/State Secretariat for the Promotion of Equality
SISCA	Servisu Integradu Saude Comunitaria/Integrated Community Health Services

SSYS	Secretaria Estado do Juventude Desporto/State Secretariat for Youth and Sports
TLDHS	Timor-Leste Demographic and Health Survey 2009-2010
TLYP	Timor-Leste Youth Parliament
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNMIT	United Nations Integrated Mission in Timor-Leste
UNPOL	United Nations Police
WHO	World Health Organization

## I. Introduction

1. The Government of Timor-Leste (hereinafter referred to as “the Government”) upholds the rights of the child in all areas in response to its obligations arising out of the Convention on the Rights of the Child and its Optional Protocols (hereinafter, referred to as the CRC), and other Human Rights instruments to which it is party. The Government’s unwavering commitment to this is reflected in the measures it continues to undertake to meet its treaty obligations since the submission of its initial report (CRC/C/TLS/1) to the Committee on the Rights of the Child (hereinafter, referred to as the “Committee”) in 2007.

2. This report represents Timor-Leste’s second and third periodic reports, submitted in one consolidated report as recommended by the Committee in its concluding observations adopted on 14 February 2008. This report outlines the key measures and initiatives adopted by the Government in implementing the Convention covering the period 2007 to 2012, detailing the considerations given by the State Party to the recommendations of the concluding observations of the Committee, which were adopted on 30 January 2004. It also gives attention to identifying priorities for future concerted action in order to strengthen the State party’s implementation of the Convention, while highlighting the limitations it faces in the fulfilment of its treaty obligations.

3. This combined report was prepared with the full support of UNICEF in Timor-Leste. The drafting process was coordinated by the Committee for Coordination appointed by the Ministério da Justiça (Ministry of Justice), which was supported by 14 inter-ministerial focal points from different ministries and agencies involved in the implementation of the Convention in Timor-Leste, and in the administration and delivery of services related to children. Consultations with children were carried out with the support of UNICEF at the national and district levels to ensure children’s participation in the reporting process. The consultations were focused on issues raised in the concluding observations and recommendations provided by the Committee in 2008. The voices of the children who participated in this consultation process are reflected in this report.

### Implementation of the Convention

4. Timor-Leste is a young country, 41.4% of its population is aged 14 or under and 48% is aged 17 and under.<sup>1</sup> It also has a high fertility rate of 5.7 births per woman.<sup>2</sup> This underscores the importance of concerted, long-term investment in Timorese children and to ensure that their developmental needs are fully met, and that they are provided with the right environment and opportunity for them to grow and reach their potential.

5. While the Government recognises that children are at the core of its policies and practices, it also acknowledges that it continues to face limitations and tight constraints to make good on its commitments and obligations to implement the Convention. This is primarily due to limited financial resources, insufficient and overstretched human capacity, logistical difficulties, a nascent culture of monitoring and evaluation, and the lack of statistical data for effective monitoring of progress and development. Furthermore, the severity of the civil strife and humanitarian crisis in 2006-2007 inadvertently challenged the Government’s capacity to implement the Convention during that period.

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<sup>1</sup> Population and Housing Census 2010, National Statistics Directorate (NSD) and United Nations Population Fund (UNFPA).

<sup>2</sup> Timor-Leste Demographic and Health Survey 2009/2010.

6. Timor-Leste has enjoyed peace and stability since 2008 and although the immediate post-parliamentary election period in July 2012 was marred by some violent events, the situation was quickly brought under control by the Timorese security corps. The peace and stability currently enjoyed means that Timor-Leste can now devote its undivided attention to building strong foundations crucial for long-term stability and prosperity. This includes implementing the Convention, in spite of the constraints and limitations mentioned above.

7. The Government is also working towards achieving the Education for All, target of 2015 as well as realising the Millennium Development Goals (MDGs).

8. This report was subjected to review by Timor-Leste's line ministries and agencies involved in the implementation of the Convention, the report was approved by the Council of Ministers of Timor-Leste on 7 October 2013.

## **II. General measures of implementation**

### **A. Domestic legislation and the Convention and its Optional Protocols**

9. Since the previous report a range of legal instruments have been adopted and implemented as part of the on-going reform of the legal framework of Timor-Leste. This has contributed to significant improvement in the protection of children's rights contained in the Convention. On 18 March 2009 the Council of Ministers approved the Penal Code and it came into effect on 7 July 2009. The Penal Code reflects the principles enshrined in the Constitution namely human dignity, respect for individual freedoms of each citizen and the responsibility of the state to intervene only when unsupportable harm to legal interests fundamental to life in society is observed. The principles of humanity, legality and culpability are also reflected in the Penal Code. The Penal Code has incorporated many aspects of the CRC. In article 20 the Code provides that children under the age of 16 are exempt from criminal liability. For children over the age of 16 "the law shall determine specific provisions concerning application and execution of criminal penalties in any and all cases not provided for in specific legislation". In article 47, consent is "effective only if it has been given by a child over the age of 16 and the child has the necessary discernment to judge its meaning and scope at the moment it is given".

10. The Penal Code provides offences against "minors" aged less than 17 years. Article 155 provides a range of offences against minors including physical and mental harm, economic exploitation, recruiting for the purposes of prostitution and trafficking in narcotics. These offences range in penalty from two to six years imprisonment with an increase in the penalties if the victim is a descendent or in the care of the offender. The Penal Code also provides for offences against human trafficking and provides for sentences ranging from eight to twenty years imprisonment. If the victim is a minor under the age of 17 years it is a circumstance of aggravation and an increased sentence of between 12 and 25 years imprisonment is provided for in article 164.

11. The Penal Code uses the age of 17 as the age of a minor (child) in relation to offences so that it is consistent with the provisions contained in the Constitution. The Constitution in Section 47 provides that every citizen over the age of 17 has the right to vote. Therefore the national laws in relation to the age of children are based on the age of majority under the Constitution. The age of majority in the Constitution takes into account the cultural and economic context of Timor-Leste.

12. The Criminal Procedure Code entered into force on 1 December 2005 and regulates the criminal process from the beginning to the end.



13. The Civil Code No. 10/2011 became law on 14 September 2011 and entered into force on 15 March 2012. The Civil Procedure Code was enacted on 3 February 2006. Together these two pieces of legislation provide a legal framework for many areas of day to day life. The Civil Code provides some legal framework for adoption law. However, this covers domestic adoptions only and the courts must rely on the Hague Convention to provide the framework for international adoptions. The drafting of a complete law on domestic and international adoption is provided for in the 2016 work plan of the legislation unit of the Ministry of Justice. The Civil Code also provides some legal framework on custody matters. However, the drafting of a complete family law bill is included in the work plan of the legislation unit of the Ministry of Justice for 2016.

14. The Basic Law on Education was passed in October 2008 Law No. 14/2008. It is a significant step towards the establishment of a comprehensive legal framework for the provision and regulation of education. The law provides for universal, mandatory and free schooling of nine years duration.

15. In May 2010 the National Parliament passed the Law Against Domestic Violence No. 07/2010 which guarantees non-judicial protection and assistance to victims of domestic violence including counselling, temporary protection shelters, medical treatment and social and legal assistance. It became law on 7 July 2010 and categorises domestic violence as a public crime.<sup>3</sup> Therefore, a complaint is not required from the victim in order to prosecute such an offence. The law prescribes an expansive definition of domestic violence which provides protection for all members in a family situation including children and persons in a dependent context such as domestic workers and unrelated children.<sup>4</sup>

16. The Witness Protection Law No. 02/2009 was promulgated on 6 May 2009 and has the objective to protect and guarantee the integrity of witnesses so that they are not obstructed from freely giving their evidence in court. This law also protects the family of witnesses by preventing the disclosure of the identity of a witness.<sup>5</sup>

17. The Labour Code Law No. 4/2012 was passed by Parliament on 21 February 2012. Labour relations involving family members working in small family-run properties, agricultural or industrial, whose output is destined to support family subsistence, are excluded from the Labour Code. Domestic work is regulated separately and does not fall under the Labour Code. The Labour Code provides for the principle of equality and prohibits forced labour. Section II of the Labour Code provides protections for the employment of young person's including the minimum age for work. These are dealt with more fully in paragraphs 238-239 below.

18. Given the extensive amount of legislation that is required to provide Timor-Leste with a harmonised legal system which reflects the socio-cultural and political situation of the country there are many laws that are currently still being drafted or waiting approval. The Children's Code is still going through the final processes and has not yet been passed by the Council of Ministers. The delay in finalising the Children's Code has primarily been as a result of resource and capacity issues together with a significant amount of legislative priorities. The election in August 2012 further delayed the process as some parts of the process had to be repeated due to a new government being in place. At the time of writing further public consultations were being conducted on the Children's Code to ensure that it accurately reflects the cultural context of the nation. It is anticipated that the Children's Code will be considered by the Council of Ministers in early 2013.

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<sup>3</sup> Law Against Domestic Violence, article 36.

<sup>4</sup> *Ibid.*, article 3.

<sup>5</sup> See article 1.2 and article 4 of the Law on Witness Protection.

19. The process developing the Juvenile Justice Regime which is recently has changed the name to Educational Guardianship of children's law (Lei Tutelar Educativo de Menores) is on-going and the draft law has not yet been passed by the Council of Ministers. At the time of writing the draft Educational Guardianship of children's law is currently open for public consultation to further refine the draft law. Again due to resource constraints and competing priorities the Educational Guardianship of children's Regime has progressed relatively slowly.

20. The Law on Human Trafficking is currently in the final stages of development and it is anticipated that it will be presented to the Council of Ministers in 2013.

21. The Ministry of Social Solidarity (MSS) has plans to commence work on drafting laws in relation to child protection, regulating institutions that care for children and laws relating to shelters for child victims. It is anticipated that these laws will be developed in 2013.

22. There are other draft laws currently being developed which will assist in the establishment of a legal regulatory framework which provides protection for children in accordance with the CRC. The legislation unit has been developing a Special Regime for 16 to 21 year olds. There is also work commencing on developing an alternative based sentencing draft law which will provide the legal framework for alternative sentences such as community service and community based supervision. The legislation unit of the Ministry of Justice is currently drafting a complete Drugs Act. The principles of the CRC will be used to guide the drafting of this legislation to ensure that it provides a consistent legislative framework to protect children.

23. It is acknowledged that the legal framework of Timor-Leste is far from being complete and requires further development as well as the development of mechanisms to monitor the implementation of new laws.<sup>6</sup> The Government is continuing to strive for an improved legislative framework that protects children and their rights in accordance with the CRC.

## **B. National strategy and corresponding plan of action for children**

24. To date a national strategy and corresponding plan of action for Children has not yet been developed. The development of a plan is under discussion at Consultative Council level. This comprises government, NGO's and religious organisations to ensure that the plan has ownership by all stakeholders and is based on the cultural context of Timor-Leste.<sup>7</sup>

## **C. Coordination of the implementation of the Convention and its Optional Protocols**

25. Reflecting the Government's commitment to the rights of children and the implementation of the CRC in September 2009 the National Commission for the Rights of the Child (NCRC) was established as the Government agency responsible for promoting and protecting children's rights under the Ministry of Justice. The NCRC has a role to defend and safeguard child rights by lobbying for "child-friendly" mechanisms and promoting children's rights throughout the country. The NCRC works in partnership with government ministries, non-governmental organisations (NGOs), international

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<sup>6</sup> Justice Sector Strategic Plan for Timor-Leste 2011-2030 (Dili), 12 February 2010, p. 26.

<sup>7</sup> Information from NCRC.

organisations and civil society organisations. It operates at the national, regional, district and suco (village) level.

26. The NCRC has the responsibility to review and comment on draft laws affecting children as well as monitoring and evaluating compliance of existing laws, regulations, decrees and policies on their implementation and harmonisation with the CRC. It also has a role in providing advice to the Government with respect to all matters affecting children.

27. The development of the child protection system has seen improved collaboration between all ministries together with the continued development of international agency and NGO relationships. Protocols for inter-ministerial cooperation have been established for the implementation of the child protection system in the districts to ensure a unified systematic approach. In particular the Ministry of Social Solidarity and the NCRC implement joint programmes such as awareness raising, dissemination activities and various technical working groups.

#### **D. Budget allocation for the implementation of the Convention and its Optional Protocols.**

28. There is no separate budget allocation for implementation of the CRC and its Optional Protocols. The NCRC currently does not have its own specific budget. Consequently, it implements its activities with budgetary support from the Government and development partners. The implementation of the CRC and its Optional Protocols span across all sectors and no separate budget is allocated for matters that relate specifically to CRC implementation. However, there have been continued increases of funding allocated to areas of CRC implementation. This can be seen in the budget allocations of the NCRC, Ministry of Education (MoE), Ministry of Health (MoH) and Ministry of Social Solidarity (MSS).<sup>8</sup>

#### **E. International assistance and development aid received for the implementation of the Convention and its Optional Protocols.**

29. The Government continues to work with a large range of development partners and receives various international assistance and development aid in relation to the implementation of the CRC and its Optional Protocols. These partners include, but are not limited to, United Nations Children's Fund (UNICEF), United Nations Integrated Mission in Timor-Leste (UNMIT), Save the Children, Child Fund, PLAN International and Care International.

##### **Data collection**

30. The data collection processes are still under development. Currently there is no national central database on children. The development of such a database has been constrained by resources, capacity and a large number of competing priorities. However, some of the ministries have developed their own internal databases and have commenced collecting and analysing data in relation to children. For example, the Ministry of Education has established the Education Management Information System which collates disaggregated educational data. The Ministry of Social Solidarity (MSS) collects data in respect of children protection issues. It has developed and implemented standard operating procedures in place for the collection of data in respect of child protection issues. Ministries

<sup>8</sup> See statistical annex for budget allocations.

that do have the ability to collate and analyse data are utilising the data in the development of policies and programmes.

31. The National Statistics Office received support from United Nations Population Fund to conduct the 2010 National Census. The census contains a variety of data relevant to children including educational statistics. This data has been used to inform short and long term strategic plans of the Government.

## **F. Independent national human rights institution for monitoring implementation**

32. The Constitution of Timor-Leste provides the legal basis for establishing the institution of the Ombudsman as an independent body in charge of examining and seeking to settle citizens' complaints against public bodies, certifying the conformity of the acts with the law, preventing and initiating the whole process to remedy injustice.<sup>9</sup> In March 2006, the Office of the Provedor de Direitos Humanos e Justica (Ombudsman for Human Rights and Justice) was set up pursuant to the Statute of the Office of the Ombudsman for Human Rights and Justice (Law No. 7/2004), which came into force on 26 May 2004. In 2008, the International Coordinating Committee of National Human Rights Institutions recognised the Office of the Provedor as an "A" status institution.

33. Reflecting the provisions in the Constitution, the Office of the Provedor was established as an independent institution primarily mandated to: (i) promote good governance and rule of law; (ii) protect human rights and monitor violations; and, (iii) fight corruption. The Office has three departments which carry out its mandate: (i) investigation; (ii) advocacy and monitoring; (iii) education and promotion. It has established five regional offices,<sup>10</sup> each of which oversees its work in specific districts, sub-districts and sucos (villages).

34. The Office of the Provedor has been given broad functions to enable it to pursue its mandate and is authorised to receive, review and investigate complaints from members of the public (adults and children) against injustices, and monitor and redress violations.<sup>11</sup> Complaints including those from children are lodged at the Public Assistance Division of the Office of the Provedor. Complaints may also be referred to the Division by the Provedor's regional offices, other line agencies, non-governmental organisations or the National Commission on the Rights of the Child. In addition to its investigative function, the Office of the Provedor also carries out awareness-raising and education programmes on human rights and justice, and advocacy work on the promotion of good practices in government entities. Nevertheless, it does not have the power of decision but forwards recommendations to other competent agencies as deemed necessary.

35. The Office of the Provedor intends to establish a special unit for children with specially-trained staff specialising in children's issues and who are conversant with the Convention. However, this is not feasible at the time of reporting given the lack of expertise and human resource capacity, and the extremely-stretched financial resources. A Strategic Plan (2015-2020) is currently being discussed by senior officials of the Office. This Strategic Plan is expected to make provisions for the establishment of a "children's unit" once it has been developed and approved.

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<sup>9</sup> 2002 Constitution of Timor-Leste, Section 27 (Ombudsman) – English translation.

<sup>10</sup> The five regional offices are Dili, Baucau, Manufahi, Maliana and Oecussi.

<sup>11</sup> See article 24, Statute of the Ombudsman – Timor-Leste.

36. In the interim, the Office of the Provedor endeavours to provide training for its officers to handle issues related to children, as well as other areas of its work and mandate. Recently training was conducted on the Convention on the Rights of the Child and child maltreatment. The courses were organised by international agencies and non-governmental organisations. The Office will continue its collaboration with these agencies including UNICEF with respect to training on children's rights and other related areas in the future. In carrying out its mandate, the Office works closely with various agencies and ministries including the Ministry of Justice, the Ministry of Health, the Ministry of Social Solidarity and the National Police.

37. While the Office of the Provedor is independent in terms of its functions, it is funded by the Government, primarily by the Ministry of Planning and Finance. The Office also receives project funding from United Nations Integrated Mission in Timor-Leste (UNMIT) and United Nations Development Programme (UNDP). In order to substantiate itself as "fully independent", the Office of the Provedor hopes to seek funding (for its operations) from non-government sources in future. This is currently being considered. However, the current funding situation is likely to remain unchanged in the short to medium term.

38. In line with its monitoring mandate, the Office of the Provedor conducts periodic dialogue with, as well as visits to institutions including the police, immigration, and detention facilities, to ensure compliance with international human rights standards and best practices.

39. In collaboration with the Ministry of Education, the Office of the Provedor was involved in a study on violence against children in schools in conjunction with the Ministry of Education's policy of "zero violence in school". The final report of this study is expected to be completed in the near future, and will be distributed to line Ministries as well as the National Commission of the Rights of the Child (NCRC). The Office of the Provedor was also involved in providing input to the draft Educational guardianship of children's law.

## **G. Measures taken to disseminate information regarding the principles and provisions of the Convention and its Optional Protocols**

40. Under the supervision of the Ministry of Justice, the National Directorate of Human Rights and Citizenship (DNDHC) is the body responsible for disseminating information to the population about their rights and duties. It also performs the role of assessing new statutes in the light of human rights, in addition to their dissemination and socialisation. Consultations are regularly conducted with communities, families, village leaders, education officers, health officers and judicial actors to strengthen their knowledge of the CRC.

41. The NCRC is dedicated to implementing children's rights contained in the CRC. It is intended in the future that upon the approval of the Children's Code this body will gain institutional and functional autonomy, making it an independent administrative institution.<sup>12</sup> It has disseminated information to communities through meetings with community members, local authorities, civil society, directly meeting with children, utilising the media and through the celebration of Children's Day and various CRC celebrations and activities. The NCRC has established a children's information network which has approximately 100 members in five regions. Through this information network the NCRC disseminates information regarding the Convention and its Optional Protocols.

<sup>12</sup> See National Report to the Human Rights Council, Universal Periodic Review 2011.

42. In July 2010 a National Reproductive Health Conference was held with the inclusion of the Group of Women Parliamentarians of Timor-Leste (GMPTL), civil society, supported by government institutions, United Nations agencies and Catholic Church representatives. The conference included topics such as the implementation of the CRC.

43. The Government together with partners such as UNMIT and UNESCO has provided training to teachers in all districts on the principles of the CRC and other international human rights treaties ratified by Timor-Leste. Most members of the defence force have received training on the CRC and other human rights instruments.

44. The Ministry of Social Solidarity (MSS) with the support of UNICEF has actively disseminated information relating to the CRC at district, sub-district and suco level. Information has been provided to community leaders, teachers, members of civil society, parents and children in schools. The MSS has also utilised mass media such as community radios to conduct dissemination.

#### **H. Measures taken to disseminate reports and concluding observations to the public at large, civil society organisations, business organisations and labour unions, religious organisations and others as appropriate**

45. The NCRC has a range of materials that it uses during its socialisation activities and to promote the CRC. These materials include simple and complete versions of the CRC and the recommendations and concluding observations. These materials are given directly to community members as well as to stakeholders. The DNDHC also undertakes activities at district level and community level to disseminate reports and concluding observations.

#### **I. Measures taken to make reports and concluding observations widely available to the public at large at the national level**

46. The NCRC regularly conducts socialisation activities relating to the CRC. During these activities the NCRC provides hand-outs, simple and complete versions of the CRC, recommendations and concluding observations and the role and function of the NCRC to community members and stakeholders.

#### **J. Cooperation with civil society organisations, including non-governmental organisations and children's and youth groups for the planning and monitoring of the implementation of the Convention and its Optional Protocols.**

47. The NCRC co-operates with a range of government, NGOs and civil society in the planning and monitoring of the CRC. MSS and the MoE cooperate with a range of partners including NGO's and civil society organisations implementing the CRC.

### **III. Definition of the child**

48. By virtue of section 9 of the Constitution, the CRC is directly incorporated into the domestic legal framework. This results in the definition of a child being under the age of 18 years as provided for in the CRC. However, as referred to earlier the Constitution provides the age of majority at 17. Consequently, to ensure that all laws are consistent and harmonised with the Constitution domestic legislation refers to a child as being under the age of 17 years.

49. The Penal Code refers to minors as being under the age of 16 years. Furthermore, it provides that minors under the age of 16 are exempt from criminal liability. The draft Child's Code provides that a child is every human being under the age of 17 years. The draft Educational guardianship of children's law is designed for children aged between the ages of 12 and 16 and refers to this age group as minors.

50. Article 118 of the Civil Code defines a child as being under the age of 17 years. The minimum age for marriage is 17 for both boys and girls as prescribed by article 1493 of the Civil Code. However, marriage is permitted for boys and girls that are over the age of 16 but under the age of 17 with the authorisation of paternal power or by the tutor.<sup>13</sup> The Labour Code No. 4/2012 defines a young person as a person under the age of 17, pursuant to the provisions of the Civil Code.<sup>14</sup>

51. All laws drafted will be harmonised with the Constitution and consequently define a child as being under the age of 17 years. For the purposes of implementation of programmes and policies affecting children the age of a child is regarded as 17.

## IV. General principles

### A. Non-discrimination

52. The Basic Law of Education provides that education is universal, mandatory and free for all children without exception. It provides that the education system promote the development of a democratic and pluralistic spirit, respecting others, their personalities, ideas and individual life projects and the free exchange of ideas and opinions.

53. The National Education Strategic Plan (NESP) and the Annual Action Plan of the MoE guarantee education for all without discrimination and seek to improve gender balance at school. Priority Programme 6 focuses on a "Social Inclusion Policy". This policy has the objective of education for all and aims to remove barriers to participation and learning for girls and women, the disadvantaged, the disabled and out-of-school children. It will ensure that girls have the same right of access to all levels of education as boys.<sup>15</sup>

54. The Labour Code No. 4/2012 provides for the provision of equality and non-discrimination. In article 6 it provides that "all men and women have the right to equal opportunities and treatment in access to employment, vocational training and professional development, working conditions and remuneration". It also provides that no worker shall be directly or indirectly disadvantaged or discriminated against on the "basis of colour, race, marital status, gender, nationality, ethnic ancestry, social or economic status, political or ideological beliefs, religion, education, age, state of mental or physical health".

55. In article 3 the draft Child's Code provides that:

"The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

(a) The prohibition of discrimination, according to which no child shall be subject to any discrimination, irrespective of the child's or his or her parent's or

<sup>13</sup> See article 1500 of the Civil Code.

<sup>14</sup> See article 5(h) of the Labour Code.

<sup>15</sup> CEDAW Specific Report on the Education and Health Sectors, Office of the State for the Promotion of Equality (SEPI) 2011, p. 16.

legal guardian's race, color, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."

## **B. Best interests of the child**

56. The NCRC actively promotes the principle the "best interests of the child". This is through its participation and overview of working with government ministries in the development of laws, policies and programmes that affect children. The NCRC works towards mainstreaming this principle across all sectors of government.

57. Although the Basic Law of Education does not specifically include the principle of the best interests of the child, the law provides universal, mandatory and free education for 9 years duration. This recognises that education is in the best interests of all children.

58. The draft Child's Code enshrines the principle of the best interests of the child. In article 3 it provides that:

"The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

(b) The principle of the best interests of the child, whereby the physical, emotional, intellectual and psychological well-being of the child is to be a primary consideration in all decisions concerning children."

59. The draft Educational guardianship of children's law does not use the terminology best interests of the child but refers to the superior interests of the child. In article 7 it provides that in determining what tutelary measure to impose the "court shall be guided by the superior interests of the minor."

60. The draft Human Trafficking legislation in article 34 provides that the best interest of the child shall be the primary consideration in all actions involving children.

61. The MSS ensures that it promotes the best interests of the child in all aspects of its work and endeavours to mainstream this principle across all sectors. For example, MSS provides social reports to courts in relation to adoption cases, child victims and children in conflict with the law to assist the courts in making decisions that are in the best interests of the child. The MSS National Strategic Plan 2011-2030 defines in-depth child protection as a priority and consequently mainstreams the principle of the best interests of the child in all programmes and activities.

## **C. The right to life, survival and development**

62. Article 59 of the Penal Code provides that "no death penalty or sentence of deprivation of liberty or security measure of a perpetual nature or unlimited or indefinite duration shall be applied". Article 32 of the Constitution also protects the right to life.

63. The draft Child's Code also provides for the protection of the right to life, survival and development. In article 3 it provides:

"The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

(c) The principle of the inherent right to life and to the survival and development of the child which shall be provided by the State to the maximum extent possible."



64. The Ministry of Health has prioritised a number of programmes which focus on maternal and child health. This includes programmes focussing on safe deliveries to promote good health for babies and mothers and through programmes of essential care for newborn babies provided by health care services in all districts. Extensive programmes supporting exclusive breastfeeding and addressing Vitamin A and iron deficiencies have also been implemented. This has contributed to decreased infant and maternal mortality and a decrease in the mortality rate for children under the age of 5 years. These programmes and data are set out fully below in the chapter on health and health services.

#### **D. Respect for the views of the child**

65. The NCRC has recently completed a range of consultations with children to hear their views. These consultations were conducted nationwide and focused on children aged between 10 and 18 years of age. The consultations were conducted through a range of interaction styles including games, painting and questions and answers. The questions were based on the issues raised in the Committee's concluding observations and recommendations handed down in February 2008. Children were given the opportunity to express their views in relation to all matters affecting their lives and included areas such as health, education, justice and social services. A total of 618 participants were involved in the consultations including children, parents, community members, teachers and community leaders. Of these a total of 260 participants were children. Participants were randomly selected from each district.

66. The consultation highlighted difficulties faced by children in accessing education. Difficulties such as affordability, insufficient school facilities such as desks and chairs, damaged school infrastructure, lack of transportation and distance to educational facilities were consistently highlighted as restricting children's ability to attend schooling. The consultations also demonstrated that domestic violence, violence in schools and violence in the community were issues that were significant to children across the country. A lack of space for sports and a lack of infrastructure such as public and school libraries also continue to restrict children's ability to participate in leisure activities and education.<sup>16</sup>

67. The draft Child's Code provides for the right to participate and respect for views of the child. In article 3 it provides:

“The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

(d) The principle of participation, pursuant to which the State must assure to the child who is capable of forming his or her own views, the right to express those views freely and have them taken into consideration in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.”

68. The draft educational guardianship of children's law also provides for consideration of the views of the child. Article 7(1) provides:

“When choosing the applicable tutelary measure from among those measures deemed appropriate and sufficient, the court shall give preference to a measure that represents the least intervention in the adolescent's autonomy to make decisions and lead his or her life and that is likely to obtain his or her greatest approval and the

<sup>16</sup> Interview with Commissioner of NCRC, 1 March 2013.

approval of his or her parents, legal representative or the person who has the de facto custody of the child.”

69. The draft human trafficking law provides in article 34 that the child’s view must be considered and taken into account in all matters affecting him/her.

70. MSS ensures that the views of the child are represented in social reports to the courts in relation to adoption cases, child victims and children in conflict with the law.

71. The National Youth Council is an independent entity that acts as an umbrella organisation giving support to all youth organisations. It works closely with the Government and represents the nation in international forums. The National Youth Council was established in 2002 and receives USD\$20,000.00 a year from the State Secretariat for Youth and Sports (SSYS) as operational funds. The National Youth Council also receives funds from the Government for the implementation of activities such as “Youth Day” and the “Annual Youth Exchange” which in 2012 involved 400 youth and had a budget of more than USD\$80,000.<sup>17</sup> This provides an avenue for the voices of children to be heard by government at all levels.

72. The Government provides legal and technical advice to youth and sports organisations to enable them to register their organisation with the Ministry of Justice and provide a formal space for them. It also provides opportunities to leaders of these organisations to participate in international events and training opportunities. In 2012 the National Directorate for Youth allocated USD\$405,000.00 in public transfers and concessions to subsidise initiatives of various youth and sporting organisations.

73. Resolution 23/2009 of the National Parliament created the “Parlamento Foinsa’e Nian” Timor-Leste Youth Parliament (hereinafter referred to as TLYP) which is composed of 130 children (68 girls and 62 boys) aged between 12 and 17 years from all the districts of the country. It was developed by the Secretariat of State for Youth and Sport to promote the development and participation of young people as Timor-Leste’s future leaders. The TLYP is a unique, institutionalised youth-participation platform. The TLYP has been undertaken with a vision of building a society where young people can be endowed by the moral values of citizenship. Its objectives, in line with those of the National Youth Policy, are to encourage all young people between the ages of 12 and 17, to exercise their rights and duties as responsible citizens.

74. In 2010 a resolution (No. 28/2010) was passed which states that:

- The TLYP provides a democratic, non-partisan, and politically independent space for the implementation of activities which promote democracy, foster a culture of discussion and debate, and develop the civic participation of young people in public spheres;
- The main objective of the Youth Parliament is to sensitize young people about civic participation and democratic governance so that they can understand their rights and responsibilities as citizens and strengthen their knowledge on issues relating to youth development.<sup>18</sup>

75. The members of the Youth Parliament receive a range of leadership and skills training, undertake courses and comparative studies so that they can develop their leadership skills and utilise these in their own district, sub-district, village and neighbourhood. They will in the future become the Nations’ leaders. The Youth Parliament

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<sup>17</sup> Information from State Secretariat for Youth and Sports in response to questionnaire.

<sup>18</sup> See Youth Parliament website at <http://www.youthparliament.info/>.

organises cultural and intellectual activities including debates, seminars and travel abroad to promote the exchange of thoughts of Timorese children and foreigners, giving them the opportunity to sample new cultures and ideas. It gives children a platform to raise their issues to government and ensure that their views are heard and respected.

## **V. Civil rights and freedoms**

### **A. Birth registration, name and nationality**

76. The Civil Registry Code has been developed and is currently awaiting approval by Parliament. This is expected to occur sometime in 2013. The Civil Registry Code will make it compulsory to register a child within 30 days of birth and provides that registration is free. The Ministry of Justice in conjunction with national and international partners has been making significant efforts to facilitate the process of registering births. This has been through providing civil registration services in the 13 districts, implementing registration outposts in hospitals and launching periodic campaigns for the registration of births. However, despite these efforts most children are not registered or are registered late, when they reach school age or adulthood. A national campaign for the registration of children was launched in 2011 with the aim of achieving 100% registration of children under the age of 5 years. The campaign resulted in approximately 63,300 birth registrations of children under the age of 5 years which is equivalent of approximately 31% of the population of children under the age of 5. An additional 216,000 birth certificates for adults and children were issued in 2011. The process is still very time consuming and slow as the registration is done manually as there is currently not the infrastructure to support a database for registration.

77. In 2011 a change in the registration process made it possible for people to register births through the village chief, at a hospital or church. Previously, people could only register at district offices or in the capital Dili. To facilitate increased birth registration 13 civil registry offices have been established, expansion of birth registration offices in four districts and agreements have been entered into with chefe do suco (village chief) in 13 districts to perform the role of birth registration. Civil registry offices have also conducted mobile registrations at village level across the country. Training has been provided to Registry staff, hospital staff, the church and chefe do suco's in relation to the completion of birth registration forms. A simple formatted birth registration form is utilised for the registration process.

78. The draft Child's Code provides a right to a name. Article 7 provides that from birth a child has a right to a name and the name should not subject the child to ridicule or discrimination. The draft Child's Code also provides the requirement of birth registration. Article 10 provides:

“1. Every child born in Timor-Leste must be registered after birth, regardless of his or her parents' marital status or national origins.

2. The State recognizes the importance of birth registration in order to guarantee the right of the child to his or her origins, to a nationality and as a means of access to other rights, such as the right to education, health, social security and protection against exploitation and abuse.

3. Birth registration is free of charge and compulsory.

4. The State shall develop, adopt and implement policies and programs to promote the registration of all children born in Timor-Leste, ensuring to this end the close cooperation between central government and other national institutions,

including districts, sub districts and sucos, non-governmental and international organisations.”

## **B. Preservation of identity**

79. The draft Child’s Code provides for the preservation of a child’s identity. It is anticipated that the Child’s Code will be submitted to the Council of Ministers for approval during 2013. Article 9 provides:

“1. The right of the child to preserve his or her identity, including nationality, name, family relations, culture, religion and language shall be respected, according to the law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, appropriate assistance and protection is assured, with a view to re-establishing speedily his or her identity.

3. Where the whereabouts of the mother, father or both is unknown, the State must collect all existing information on the mother and father and offer all possible facilities to locate them, making use, where appropriate, of the assistance of international and local organisations.”

## **C. Freedom of expression and the right to seek, receive and impart information**

80. A national policy on the media was adopted in 2010. One of its objectives is the strengthening of the media in order to guarantee its freedom, independence and pluralism. There is no censorship of the media. The Government guarantees the existence of a public radio and television service with the establishment of Radio de Timor-Leste and Televisao de Timor-Leste. Both of these entities broadcast programmes produced by civil society and are free of charge. Each has programmes that are specifically targeted at children.

81. Article 3 of the Basic Law of Education ensures freedom to learn and to teach and access to information.

## **D. Freedom of thought, conscience and religion**

82. There have been no significant changes to these rights since the previous report. These freedoms are protected by the Constitution.

## **E. Freedom of association and of peaceful assembly**

83. There have been no significant changes to these rights since the previous report. These freedoms are protected by the Constitution. There are currently over 200 civil society organisations that have been established and many of these assist children.

## **F. Protection of privacy and protection of the image**

84. As discussed in paragraph 16 the Witness Protection Law has been introduced and provides protection of privacy and image of child witnesses and child victims. Court proceedings involving children are usually conducted in closed court sittings.

## **G. Access to information**

85. The Basic Law of Education provides the freedom to learn and to access information. As referred to above in paragraph 80 there are free to air mass media services provided. In addition there is extensive telephone and Internet coverage with free Wi-Fi Internet access provided in some public spaces in the capital Dili. The internet and media are not censored.

86. The draft Child's Code provides protection of the right to access information. It provides:

“1. The child has a right to have access to information that is appropriate, impartial and pluralist, and to use different means of communication subject to the limits established by the Law.

2. The function performed by the mass media shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.

3. The State shall prepare guidelines aimed at protecting the child against information and documents that might harm the child's well-being, the mass media having to be encouraged to disseminate information socially and culturally useful for the child, as well as the production and dissemination of children's books.

4. Texts, images, messages and programs that incite violence, exploit fear or take advantage of a child's immaturity to instil behaviour that will or may harm the child's health and personal safety or that offend against public morals are considered unsuitable for a child's development and are, therefore, prohibited by law.

5. The television programs which are inappropriate for children, namely those that are violent or of sexual nature, may only be broadcasted from 22:00hrs, the Television of Timor-Leste having a duty to identify such programs through the use of appropriate signage.”

87. The MSS has utilised a range of methods to provide access to appropriate information. This has included community radios and public awareness information events.

## **H. Right not to be tortured or other cruel, inhuman or degrading treatment or punishment.**

88. The arbitrary use of lethal force by security and defence forces is prohibited and represents a criminal act punishable by law. Torture is specifically prohibited under article 167 of the Penal Code which provides a penalty in the range of two to eight years imprisonment depending on the circumstances. Article 168 provides a range of various circumstances of aggravation which increase the range of sentence to between five and fifteen years imprisonment.

89. The Code of Criminal Procedure has been adopted and establishes specific time limits for remand in custody. A child can only be detained by police for a maximum of

72 hours.<sup>19</sup> The police may detain a child for 12 hours for the purpose of identification of suspects.<sup>20</sup>

90. Greater awareness of individual rights and the strengthening of institutional mechanisms have resulted in an increase in the number of reports of alleged ill treatment at the hands of police, prison authorities and the Falintil Defence Forces (F-FDTL). A range of disciplinary measures have been implemented depending on the individual circumstances and include suspension from duties, dismissal from duties, payment of fines and in some cases criminal investigation.<sup>21</sup>

91. Limited preparation and training have been identified as contributing factors to the inappropriate behaviour of some members of the security and defence forces. Together with partners the Government has made considerable effort to redress the contributing factors. Preparation and training has been conducted by the United Nations Police (UNPOL) in addition to the establishment of co-operation programmes with Australia and Portugal. These co-operation programmes are designed to enhance the capacities of the national police and are in relation to a range of areas including human rights.<sup>22</sup>

92. It is recognised that ill treatment occurs in schools in the form of corporal punishment and verbal abuse. The nationwide consultations conducted by the NCRC in late 2012 demonstrated that children continue to experience violence at school despite considerable efforts by the Government to eradicate such behaviour. The Ministry of Education has developed a policy of “zero tolerance” for teachers who display this type of behaviour. A co-ordinated multi-agency approach has been taken by the Ministry of Education, the Ministry of Social Solidarity and the Timor-Leste National Police (PNTL) Vulnerable Persons Unit to increase teacher awareness and implement the policy.<sup>23</sup> The MoE and the MSS have collaborated and disseminated information to children in schools regarding child protection in the school environment. This approach also aims to assist and support students so that they may report potential situations of ill treatment in schools. There have been instances where teachers have been prosecuted for corporal punishment of their students.

93. In 2008 MSS developed a child protection policy and a child protection system whereby child protection officers are located in each district. The policy and inter-agency system enables the MSS team at district and suco level to take urgent measures to ensure the safety of any children at risk.<sup>24</sup> This is discussed more fully below in paragraphs 111-113.

94. Parents are subject to prosecution for excessive discipline. There have previously been prosecutions for parental abused based on excessive corporal punishment.

## **I. Measures to promote physical and psychological recovery and social reintegration of child victims.**

95. The MSS has continued to increase its budget allocation to the case management and reintegration of child victims. In 2009 USD\$3,500 was allocated. In 2010 this increased to

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<sup>19</sup> Code of Criminal Procedure, articles 217-220.

<sup>20</sup> Information from Ministerio Publico.

<sup>21</sup> Above n. 12. p. 5.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

<sup>24</sup> Response by Ministry of Social Solidarity to questionnaire.

USD\$57,905; in 2011 USD\$52,510 and in 2012 USD\$52,820.<sup>25</sup> A range of services are provided to assist in the recovery and reintegration of child victims. These include child protection system implementation, mediation and communication, and training service providers in these areas.

## **VI. Family environment and alternative care**

### **A. Family environment and parental guidance**

96. The Ministry of Social Solidarity (MSS) has continued to provide assistance to families to ensure children are provided with a safe and loving family environment and has established a child protection system for children at risk. In particular the MSS has provided assistance to vulnerable families through the establishment of the Department of Vulnerable Family Aid and the Department of Protection and Social Assistance for Vulnerable Children. Through these departments the MSS provides assistance to strengthen and support families. Programmes such as “Bolsa da Mãe” (Mother’s Purse) discussed below in paragraph 201 provide support by way of scholarships to vulnerable families including single parent families and widows. It also provides assistance through the provision of conditional cash transfers to single parent families to facilitate access to educational and health services.

97. MSS is currently working on the development of a National Policy for Child and Family Welfare. It is anticipated that this policy will be finalised towards the end of 2013.

### **B. Parent’s common responsibilities and assistance to parents and the provision of childcare services.**

98. The MSS continues to provide information and assistance to families to reinforce parent’s common responsibilities towards their children particularly in cases of marital divorce.

### **C. Separation from parents**

99. The law in relation to the regulation of alternative care arrangements and providers is currently being developed as part of the laws on child protection. It is anticipated that these laws will be completed in 2013. Currently there are no guidelines, policies or strategies that have been established in relation to the separation of children from their families. Currently there is no law or policy in respect of limiting the number of alternative care institutions established.<sup>26</sup> The MSS provides a range of services to assist children who are separated from their families. This assistance includes services aimed at reintegrating children with their families wherever possible, humanitarian assistance to families and conditional cash transfers to families. The development of the child protection system including the laws regulating alternative care arrangements is regarded as a priority.

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<sup>25</sup> Response by MSS to questionnaire.

<sup>26</sup> Ibid.

#### **D. Family reunification**

100. The MSS through its child protection system aims to reintegrate children into their families where it is appropriate to do so. As referred to previously the MSS is currently developing a legal framework for child protection which will include family reunification.

101. Following the conflict in 1999 many children were separated from their families. An intensive reunification process was conducted between 2000 and 2005 with at least 200 children reunified with their families. This process was conducted with the assistance of partners such as UNICEF, UNHCR and CVTL. The reunification process ceased in 2006 when conflict commenced again. It did not recommence as many of the children would have reached the age of adulthood by this time.<sup>27</sup>

#### **E. Recovery of maintenance for the child**

102. Currently there is no legal provision which establishes the compulsory payment of maintenance or a regime to recover the payment of maintenance. As previously mentioned a complete family law bill is scheduled to be drafted by the Ministry of Justice in 2016. It is anticipated that the recovery of child maintenance will be included in the future family law bill.

#### **F. Children deprived of a family environment**

103. In 2005 the Ministry of Social Solidarity (MSS) developed a policy and procedures for the reception of children into orphanages and boarding schools. The MSS is currently working on laws relating to child protection, laws regulating institutions that care for children and laws relating to shelters for child victims. It is anticipated that these laws will be completed in 2013.

104. There are a range of alternative care providers. Orphanages are usually utilised when either both or one parent is deceased and the living parent or family do not have capacity to take care of the child. In these circumstances children are placed into the care of orphanages by their families. Orphanages are free and accessible to all citizens. Boarding schools also provide alternative care. These are provided on a fee basis and are utilised by families to enable their children to continue with their educational studies. Shelters are provided for child victims of violence and are provided free of charge. Most shelters only offer support to female children. Recreation centres are also utilised as an alternative care providers. They are utilised to enable children and young people to access services to develop their capacity. The MSS has guidelines and a referral policy to ensure the best interests of the child are considered when a placement occurs.<sup>28</sup>

105. Most orphanages and protective homes are conducted by NGOs and religious organisations. The Government provides varying levels of support to these institutions including financial support, the provision of materials, equipment and training. It also plays a supervisory role to ensure that these institutions meet the necessary conditions to guarantee real protection to the children. There are currently 22 orphanages and five child victim care centres or shelters.

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<sup>27</sup> Response by MSS to questionnaire.

<sup>28</sup> Ibid.



106. Resources allocated to the reintegration of children from orphanages have continued to increase. In 2010 USD\$3,500 was allocated which was increased to USD\$8,750 in 2011 and USD\$17,182 in 2012.<sup>29</sup>

### **G. Periodic review of placement**

107. There are currently no guidelines, policies or legislation which govern children separated from their families and review of this separation. However, the MSS continues to conduct regular reviews of children that have been separated from their families and are in institutional care. These are case managed on an individual basis.

### **H. Adoption, national and intercountry**

108. The Civil Code is currently used to cover domestic adoptions. International adoptions are covered by The Hague Convention 1993 No. 33 on Protection of Children and Cooperation in Respect of Inter-country Adoption. This was ratified on 14 July 2009. There are plans to develop a separate legal regime to regulate national and international adoption. It is in the work plan of the legislation division of the Ministry of Justice to draft a specific Adoption Act in 2016. Adoption is already subject to a system of strict control, including judicial supervision however the legal regime will provide a legal framework that is suitable to the Timor-Leste context. The Ministry of Social Solidarity (MSS) also plays an important role in the adoption process. It is responsible for conducting assessments to determine the suitability of the adopting family in order to guarantee the child's protection and full development. These assessments are done with the overriding principle being what is in the best interests of the child. The assessments are relied upon by the courts when considering applications for adoptions. In 2012 MSS completed 18 assessments for formal adoption applications. There is no data available which demonstrates the extent of adoption at national or inter-country level. The majority of adoptions continue to occur informally through families and extended families according to custom and culture. Such adoptions are not currently subject to any law or policies. There is no data available which demonstrates the extent of informal adoption.

### **I. Illicit transfer and non-return**

109. The illicit transfer and non-return of children is governed by offences in the Penal Code. These offences prohibit human trafficking. A human trafficking draft bill is currently being developed. The human trafficking offences and the draft bill are dealt with more fully in paragraphs 263-266 below. There is currently no data available on the occurrence of illicit transfers and non-return of children.

### **J. Abuse and neglect**

110. After eight years of development a Law against Domestic Violence was passed in 2010. All family members are covered by the definition of domestic violence including children and persons in a dependent context, for example unrelated children being looked after by the household and domestic workers. The law covers physical, sexual, psychological and economic domestic violence. As previously mentioned the nationwide

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<sup>29</sup> Ibid.

consultations conducted by the NCRC in late 2012 demonstrate that children are subjected to violence in the home, community and schools. It also demonstrated that children regard it as an issue that affects all aspects of their lives.<sup>30</sup>

111. In 2007 the Ministry of Social Solidarity (MSS) developed the Policy for Child Protection which was approved by the Council of Ministers in 2008. This policy established a child protection network in all 13 districts and includes a case management policy of child abuse and neglect cases. The National Department of Social Reinsertion has the role to establish and implement the child protection system. There is a child protection officer based in every district to coordinate the inter-agency child protection system in that district. The child protection system establishes policies and procedures for the monitoring of children at risk, conducting evaluations and implementing service coordination with key partners at district level including village authorities. As referred to above in paragraph 21 MSS is currently working on the development of laws relating to child protection. It is anticipated that these laws will be completed in 2013. The development of the child protection system continues to be a priority.

112. The MSS has established a Working Group for Child Protection which involves government, NGO's and civil society organisations. A referral network for gender based violence has also been established to coordinate and implement activities and referrals at district level.

113. The MSS has continued to expand its operational budget and resources to ensure effective implementation of the child protection system. There are nine staff at national level, 13 at district level and 65 at sub-district level working in child protection. This ensures that the child protection network is operating nationwide at all levels. The MSS assists child victims of abuse and neglect through case management. The services provided are determined on a case by case basis and may include arranging medical treatment, liaising with law enforcement authorities, arranging alternative care for the child and the reintegration of the child when it is considered appropriate.

114. There are currently five shelters which provide assistance to victims of domestic violence, including a Children's Centre which has a girl's residential facility. The MSS works closely with the organisations that are responsible for the operation of these facilities to ensure that child victims receive appropriate care and assistance and provides funding.

115. Drafting of a National Plan of Action on Gender Based Violence has been completed. This has established a gender based violence referral network at national and district level. The MSS has developed a Standard Operating Procedures Manual for the referral network. A gender based violence case management system and a social reintegration policy for victims of violence have also been developed by the MSS. The MSS has established the Shady House of Maria Tapó in Maliana district as a pilot for assistance to women and children who are victims of domestic violence. The MSS has also commenced developing methods of data collection in relation to gender based violence and is piloting these methods in the Shady House of Maria Tapó.

116. There have been significant increases in the budget allocated to case management and reintegration of child victims. In 2009 USD\$3,500 was allocated for these purposes. This increased to USD\$52,510 in 2011 and USD\$52,820 in 2012.<sup>31</sup>

117. A number of studies have recently been completed with respect to domestic violence however; these have primarily focused on violence against women and not violence against

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<sup>30</sup> Interview with Commissioner of NCRC 1 March 2013.

<sup>31</sup> Response by MSS to questionnaire.

children.<sup>32</sup> However, the TLDHS integrated some aspects of violence against children although most of the survey related to women. It found that 30.3% of girls aged between 15 to 19 year old girls have already experienced physical violence. It also found that among women aged between 15 and 49 that have experienced physical violence 34.2% of them experienced it from their father/stepfather; 41.9% from their mother/stepmother and 13% experienced it from their teacher.<sup>33</sup>

118. Between July 2011 and June 2012 the Vulnerable Persons Unit of the PNTL provided training to 121 PNTL police members (79 of which were female) in relation to child abuse and neglect, profile of female victims and their particular needs and sensitive management of cases in relation to domestic violence and violence against women. Considerable work has been completed in relation to the development of toolkits for use by VPU officers in respect of child abuse and neglect.

119. The MSS provides training to partners at national and district level in respect of violence and abuse against children. Members of the child protection network in each district have received training in relation to child protection from the MSS. In 2012 approximately 640 professionals that work in the education sector received child protection training from the MSS.

120. Under the Penal Code a sexual offence committed against a child is regarded as a public crime. This means that the child victim him/herself may report the crime, their parent or any citizen who is aware of the crime may make a complaint to police. The privacy of child victims is protected by the Law on Witness Protection No. 2/2009 and proceedings are usually conducted as a closed court (that is in camera). As referred to above in paragraph 16, the object of the law is to protect the identity of witnesses and ensure privacy.

121. Various modes of media are utilised to disseminate information in relation to children and children's rights. The MSS utilises mass media to conduct campaigns and discussions on child protection issues. The media does report cases relating to the neglect and abuse of children however the capacity of media resources is still very limited.

122. The MSS has worked closely with UNICEF, UN Women and UNFPA to develop the frameworks for child protection and gender based violence. This assistance is ongoing with the continuation of the development of the legal frameworks and in relation to programme implementation.

## **VII. Disability, basic health and welfare**

### **A. Survival and development**

123. The Ministry of Health (MoH) initiated the first National Health Policy Framework (NHPF) for 2002-2012 which prioritised the health needs of the people with an emphasis on the importance of understanding the social determinants of health within the local cultural context. The NHPF served as the basis of formulating the National Health Promotion Strategy (NHPS) and the National Reproductive Health Strategy (NRHS).

<sup>32</sup> Cited in SEPI report, For example, the "Bride Price and Domestic Violence – A comparative study of married-in and married out cultures in four districts" conducted in 2012 by Fokupers and supported by UNFPA and NZ Aid Programme.

<sup>33</sup> Demographic Health Survey Timor-Leste 2009/2010, pp. 229-231.

124. The MoH is yet to develop a comprehensive and specific national policy on disability. However, the MoH has been working with development partners to develop specific activities which support and assist people with disabilities. In collaboration with the NGO Assert the MoH has developed a training guide in order to train health workers on how to identify problems and provide care to children with disabilities. The MoH is collaborating with partners to formulate a comprehensive policy focussed on improving the quality of life for children with disabilities across the country. A lack of human resources and funding constraints has delayed the formulation of such a policy to date.

125. Since 2008 subsidies have been available to citizens with disabilities. The initial amount of the subsidy was USD\$20 which has subsequently been increased to USD\$30. These payments are made directly to parents or guardians of children with disabilities. In addition to the subsidies further assistance is provided to people with disabilities in the form of the provision of food and sporting equipment. The Government also provides financial support to ten NGOs that provide a range of assistance to individuals with disabilities including the provision of equipment, physical therapy, schools for hearing impaired children, social housing and training for various professions.

126. In 2009 the Mental Health Unit of the MOH became the Department of Mental Health under the National Directorate of Community Health. The Department of Mental Health is responsible for coordinating the management of comprehensive care of patients with mental health issues at all levels of the health system. It has adopted a National Mental Health Strategy and a National Epilepsy Protocol. The National Mental Health Strategy aims to include mental health in the basic health package and permanently employ specialist mental health workers in each district.

127. The Youth Policy, formulated with the support of UNICEF and approved by the Council of Ministers in 2009 provides the requirement for the Government to provide disabled youths with all necessary resources in order to prevent discrimination.

128. Key objectives of the National Strategic Plan 2011-2030 are to prioritise the development of the public health system, enlarge and improve the facilities and enhance human resource development. These measures will contribute significantly to improve the standard of living and to increase access to services for people living with a disability.

129. In 2010 the Ministry of Social Solidarity established the “National Strategy for Community Based Rehabilitation”. The strategy devises principles, priorities and community-based methods to promote and protect the rights of persons with disabilities. It recognises the duties of government to mainstream gender in disability rights programming and to provide access to all persons to public buildings, transportation, information, political participation and justice.<sup>34</sup>

130. In 2011 a Multi-Disciplinary Working Group was established through Government Resolution 15/2011. The working group consists of MSS, MoE, MoH, SEPFOPE, SEPI, SEJD, Ministry of Infrastructure and Members of the Disability Working Group. The Multi-Disciplinary Working Group developed a National Policy on Disabled People which is based on the inclusion and promotion of the rights of disabled people.

131. In many districts children with disabilities are unable to attend school due to accessibility issues. The Ministry of Education has developed the “Social Inclusion Policy” to ensure access to education for all children. The objective of this policy is to provide education for all children and remove barriers to participation and learning for disabled and

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<sup>34</sup> “Report on the Rights of Persons with Disabilities in Timor-Leste” (2011) UNMIT Human Rights and Transitional Justice Section (HRTJS), p. 7.

out-of-school children. This policy aims to include children with disabilities in all schools rather than segregating them into specialised schools. Since 2009 there has been awareness raising and socialisation of the policy across all 13 districts. In a step to implementing this strategy in 2011 the MoE with the assistance of 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.<sup>35</sup> The MSS has assisted disabled children to attend school through its “Bolsa da Mãe” programme implemented by the National Department of Social Reinsertion. A total of 166 disabled children have received assistance through this programme, being 68 girls and 98 boys.<sup>36</sup>

132. There is one specialised school for persons with disabilities located in the capital Dili. It accepts persons with a range of disabilities from all over the country and does not exclude persons based on age. The aim of the school 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. In 2011 it was reported that there were 32 children attending the school.<sup>37</sup> With the assistance of the World Bank the MoE has begun to transform this school into a national education resource centre for persons with disabilities. The future intention is to use the school to provide teacher training to ensure that schooling for children with disabilities is inclusionary and not exclusionary.

133. Some non-formal education is provided to persons with disabilities by civil society and NGOs. The NGO Agape educates people with hearing impairments to use sign language, communication techniques, computers and music. Since 2004 they have educated around 50 people through this programme.<sup>38</sup> East Timor Blind Union provides training in Braille, mobility techniques, computer skills, massage and music. Since 2004 it has trained approximately 150 people.

134. The Ministry of Social Solidarity sponsors a national Disability Working Group (DWG). There are 11 NGOs that are voting members of the group and non voting members include government representatives from the Ministry of Social Solidarity, the Ministry of Health and the Ministry of Justice. Through the working group the members share information on a monthly basis and advocate for the rights of people with disabilities and equal opportunities. Since 2007 the Disabilities Working Group has coordinated national celebrations of the International Day of Persons with Disabilities. In 2010 events to celebrate this day were held in three districts.

135. The MSS works with institutions and service providers that provide care and assistance to children with disabilities to ensure that professionals are adequately trained and children’s rights are protected. The MSS conducts regular visits to institutions to assess the care and protection provided to children with disabilities. Further support is given by way of funding to ensure appropriate resources are allocated to children in these institutions.

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<sup>35</sup> “Report on the Rights of Persons with Disabilities in Timor-Leste” (2011) UNMIT’s Human Rights and Transitional Justice Section, p. 20.

<sup>36</sup> Response by MSS to questionnaire.

<sup>37</sup> “Report on the Rights of Persons with Disabilities in Timor-Leste” (2011) UNMIT’s Human Rights and Transitional Justice Section, p. 20.

<sup>38</sup> *Ibid.*, p. 21.

136. In 2010 the Ministry of Social Solidarity published and disseminated a referral mechanism booklet that describes all the civil society organisations that provide community based rehabilitation services. The MoH has also developed and disseminated booklets in relation to the availability of mental health services.

137. The Convention on the Rights of Persons with Disabilities and its Optional Protocol has not yet been ratified. The Constitution requires that domestic laws comply with international treaties that have been ratified. Prior to ratification of this treaty further development of legislative and institutional frameworks needs to occur to ensure compliance with the principles and objectives of the treaty. The development of these frameworks is resource intensive and takes considerable time.

## **B. Health and health services**

138. The MOH facilities comprise a national hospital based in Dili and five referral hospitals covering secondary health care needs spread over regional health centres throughout the nation. There are 192 health posts and 67 community health centres.<sup>39</sup> In 2008 a monthly integrated outreach session was added to the system structure to offer every community through to the suco (village) level access to integrated health services.

139. The health system is currently not advanced enough to enable specialised treatment for all types of illnesses. Consequently, the Government has entered into agreements with hospitals in Australia, Indonesia and Singapore establishing a system of patient referral. This referral system is available to all citizens and the entirety of the cost is borne by the Government.

140. The MoH has developed a strategic plan for the period 2011-2030. This plan establishes all the strategies and areas of priority for the implementation of health services throughout the country. The plan includes objectives such as:

- Strengthening routine immunisation through the Expanded Programme on Immunisation (EPI);
- Providing training for health care workers on essential care for newborn babies as well as breastfeeding;
- Increasing the uptake of Vitamin A supplementation and parasitic medicines for children;
- Revising the National Nutrition Strategy;
- Improving the skills of health workers to enable improved malaria case management, promoting anti-malarial activities, increasing the distribution of mosquito nets and strengthening vector control;
- Establishing the Policy for SISCA (Integrated Services for Community Health) in all Districts and villages across Timor-Leste with an objective of delivering primary health care in the community;
- Ensuring availability of all essential drugs at all health facilities at all times;
- The development of a National Strategy for Reproductive Health.

141. The Basic Services Package for Primary Health Care and Hospitals strategy entails the provision to each village a designated team of health professionals including one doctor,

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<sup>39</sup> From Ministry of Health feedback.

two midwives, two nurses, one pharmacist and one analyst. The package is delivered through preventive, promotive, curative and rehabilitative interventions. The services are provided through fixed health facilities such as health posts and community health centres in communities assisted by SISCA in order to reach rural and remote areas.<sup>40</sup>

142. To provide integrated health services to the community SISCA includes health care provision and treatment, immunisation, nutrition, family planning and community development activities to improve access to health information and other health services. In addition the MoH through the Health Promotion Programme focuses on behaviour change through SISCA targeting pregnant women to seek ante-natal care on time and to give birth in a health facility with a skilled birth attendant present. The MoH provides in-service and on the job training to midwives and nurses on family planning counselling, family planning services and contraception for males and females in health facilities and SISCA.<sup>41</sup>

143. The Ministry of Health has been focusing on health research in order to achieve better health outcomes. In January 2010 the MoH opened the Cabinet of Health Research and Development which has the objective to organise, promote, facilitate and conduct health research in Timor-Leste. The MoH intends to use evidence-based practices to formulate health policies and guide decision-making outcomes.

144. Since the previous reporting period the MoH has completed three considerable research projects with the assistance of partners.<sup>42</sup> These include the “Health Care Seeking Behaviour Study in Timor-Leste”, “Maternal Mortality, Unplanned Pregnancy and Unsafe Abortion in Timor-Leste” and “Per-natal Mortality in Timor-Leste”. These reports have focussed on the root causes of maternal and child mortality and have assisted in the development of strategies and policies for the MoH. The MoH has continued to work collaboratively with organisations such as WHO, UNICEF and UNFPA in order to implement and develop the work plans and strategies for the Ministry.

145. The improved delivery of health services across the country has resulted in the infant mortality rate and the under-five mortality rate continuing to decrease since the previous reporting period. In 2004 the infant mortality rate was 83 infants under the age of 1 for every 1,000 live births.<sup>43</sup> At the end of 2010 the infant mortality rate had significantly improved and was recorded as 45 deaths for every 1,000 live births.<sup>44</sup> The mortality rate for children under the age of 5 has also seen significant improvement. The rate in 2001 was 115 deaths for every 1,000 births.<sup>45</sup> By the end of 2010 this figure had fallen considerably to 64 deaths per 1,000 births.<sup>46</sup> This rate equates to roughly one in sixteen children dies before their fifth birthday. Seventy per cent of deaths among children under the age of 4 occur during the first year of life.<sup>47</sup> The reduction in these mortality rates reflects the considerable efforts made to improve the delivery of health services together with the increased number of health professionals. There has also been significant co-operation between the Government and civil society organisations in awareness raising of health issues.

<sup>40</sup> CEDAW Specific Report on the Education and Health Sectors, Office of the State for the Promotion of Equality (SEPI) 2011, paras. 8-9.

<sup>41</sup> Above n.15, para. 10.

<sup>42</sup> CEDAW Specific Report on the Education and Health Sectors, Office of the State for the Promotion of Equality (SEPI) 2011.

<sup>43</sup> TLDHS 2009/2010 Summary of Findings, p. xxvi.

<sup>44</sup> Ibid.

<sup>45</sup> Ibid.

<sup>46</sup> Ibid.

<sup>47</sup> Ibid.

146. The Expanded Programme on Immunisation (EPI) has made significant progress in increasing the number of children vaccinated although issues pertaining to both immunisation coverage and quality persist. The TLDHS demonstrated that 53% of children aged 12 months to 23 months are fully immunized and 23% received no vaccinations. It demonstrated that 47% of children aged 12 months to 23 months are fully vaccinated by 12 months of age. The percentage of children fully vaccinated increased significantly from 18% in 2003. In 2010 the national immunisation cover for measles was 66.2%, for tuberculosis it was 72.4% and the triple vaccine against diphtheria, tetanus and whooping cough was 73.2%. Immunisation against Polio vaccine was reported at 72.3%. The drop-out rates from subsequent doses of vaccines has also continued to decrease. In 2003 the dropout rate for subsequent doses of Polio was 62% compared with 25% in 2010. The 2003 dropout rate for DPT was 45% compared with a reduced rate of 12% in 2010.<sup>48</sup> These figures represent considerable increases in coverage. Immunisation against tetanus was provided to 32.5% of pregnant women in 2010.

147. Antenatal and post-natal care is included in the National Strategic Development Plan. It provides:

“To further improve maternal health in Timor-Leste, we will increase access to high quality pre-natal, delivery, post-natal and family planning health services so that by 2015, 70% of pregnant women will receive antenatal care at least four times and 65% of women will have an assisted delivery. We will improve obstetric care through the recognition, early detection and management of obstetric complications at the community and referral level. We will strengthen adolescent reproductive health services and we will empower individuals, families and the community to contribute to the improvement of maternal care and reproductive health services. We will also improve data collection and analysis in relation to maternal health services.”<sup>49</sup>

148. Antenatal care has continued to improve with 86% of women receiving antenatal care in 2010 compared with 61% in 2003. In rural areas 84% of women received antenatal care compared with 93% of women in urban areas.<sup>50</sup> There has been a substantial increase in the number of births assisted by health care professionals, with the majority of women (80%) receiving care from a nurse or midwife. In 2003 18% of births were assisted by professionals compared with 30% in 2010 with the most common skilled professional provider being a nurse or midwife. There is some difference between the availability of antenatal care in rural and urban areas. Antenatal care is lowest in the rural area of Ermera (71%) and highest in the urban area of Dili (96%). The majority of births (78%) are delivered at home with a greater likelihood of delivery in a health centre in the urban area of Dili.<sup>51</sup> The increases in antenatal care together with increased deliveries by health professionals and increased human resource capacity have contributed to the reduction in the maternal mortality and neo-natal mortality.

149. In order to provide increased access to deliveries supported by health professionals the MoH has increased the availability of health facilities with equipment and personnel that support child birth. Maternity Health Clinics have been established in 32 Community Health Centres with the objective of increasing access to these facilities. The provision of skilled birth attendants enable families to remain close to home during labour. Home visits

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<sup>48</sup> Ibid.

<sup>49</sup> Government of Timor-Leste, Strategic Development Plan, p. 39.

<sup>50</sup> Timor-Leste Demographic and Health Survey, Summary of Findings, p. xxv.

<sup>51</sup> Ibid.



are also performed by government, NGOs and family health promoters to pregnant women to conduct antenatal care.<sup>52</sup>

150. The MoH through the Maternal and Child Health Department has been implementing Basic Emergency Obstetric Care training through its Safe Motherhood Programme since 2005. The training is provided to doctors and midwives and the MoH aims to place at least two midwives trained in basic emergency obstetric care in all health facilities. Eighteen community health centres have been equipped with equipment, supplies and medication for basic emergency obstetric care. As of 2011 there were six comprehensive emergency obstetric care centres, 18 basic emergency obstetric care centres completely equipped, 134 midwives and 23 general practitioner doctors who have completed the basic emergency obstetric care training.<sup>53</sup>

151. Since 2005 the MoH has been implementing a National Family Planning Policy, the guiding principle being planning a family within the context of responsible parenthood.<sup>54</sup> The implementation of this policy has had significant impact with a significant decrease in the fertility rate. The 2009-2010 Timor-Leste Demographic and Health Survey (TLDHS) demonstrates that although the fertility rate remains high at 5.7 in 2010, it has fallen from the rate of 7.8 in 2003.<sup>55</sup> Fertility is considerably higher in rural areas than in urban areas with rural women having 6 births compared with 4.9 births per urban woman. There are considerable differentials in fertility among districts, with fertility rates ranging from a low of 4.4 births per woman in Covalima to a high of 7.2 births per woman in Ainaro.<sup>56</sup> To address the disparity the MoH is working on awareness raising and the integrated delivery of health services through the SISCA. The TLDHS also demonstrated that the level of fertility is inversely related to women's educational attainment, decreasing rapidly from 6.1 births among women with no education to 2.9 births among women with more than secondary education.<sup>57</sup>

152. The rate of teenage pregnancy remains high although there has been significant improvement in the rate since the last reporting period. The TLDHS demonstrates that the age-specific fertility rate per 1000 women in the age group of 15 to 19 years has decreased from 78 in 2003 to 51 in 2009. The MoH has been developing a range of behaviour change materials, using radio and television and other forms of media to increase awareness of the issues surrounding teenage pregnancy.

153. The significant improvements in the infant and under-5 mortality rate together with generally improved maternal health is a result of improvements in the delivery of health care services, increased access to health care, increased information about sexual and reproductive health and greater access to family planning services. The Government together with its development partners is continuing to work for improved health services.

154. The TLDHS reported that among children under 5 years of age, 2% had symptoms of acute respiratory infection (ARI) in the two weeks preceding the survey. Seven in ten children with symptoms of ARI (71%) were taken to a health facility or provider and 45% were prescribed antibiotics. It was reported that 16% of all children under the age of 5 had diarrheal in the two weeks prior to the survey. Of these 72% of children were taken to a health provider for treatment. Oral rehydration salts (71%) or recommended home fluids

<sup>52</sup> Above n.15, para. 5.

<sup>53</sup> *Ibid.*, paras. 20-21.

<sup>54</sup> Ministry of Health, National Family Planning Policy, February 2005, Dili, Timor-Leste, Forward.

<sup>55</sup> Timor-Leste Demographic and Health Survey, 2009/2010, p. 52.

<sup>56</sup> Timor-Leste Demographic and Health Survey, 2009/2010 Summary of Findings, p xxiii.

<sup>57</sup> Timor-Leste Demographic and Health Survey, 2009/2010, p. 50.

were the primary treatment courses.<sup>58</sup> These statistics demonstrate the improved access to health services across the nation.

155. Since 2008 the Government has provided food assistance to the country's most food insecure and vulnerable persons through maternal and child health and nutrition and school feeding and food for work programmes. However, food vulnerability has a significant impact on the nutritional status of Timorese children. The Timor-Leste Demographic and Health Survey conducted in 2010 reports that the weight-for-age indicator demonstrates that 45% of children under the age of 5 are underweight and 15% are severely underweight. Of children under the age of 5, 19% are wasted and 7% are severely wasted. In addition 5% of children under the age of 5 are overweight.

156. A total of 58% of children under the age of 5 are reported in the TLDHS as stunted and 33% severely stunted. There has been a slight rise in the level of stunting, wasting and underweight in the past six years. Stunting increased from 49% to 53%, wasting increased from 12% to 17% and underweight increased from 46% to 52%.<sup>59</sup> Despite significant efforts by the Ministry of Health to address the issue of malnutrition it remains a considerable issue for children. There are many factors which contribute to the malnutrition of children including lack of family knowledge about a balanced diet, economic factors, food security factors and cultural factors.

157. Breastfeeding is nearly universal in Timor-Leste, with 97% of children born in the five years preceding the TLDHS having been breastfed at some time. On average four in five children are breastfed within the first hour of birth (82%) and 96% are breastfed within one day of birth.<sup>60</sup> These figures represent significant increases in the percentage of children who are breastfed early. The 2003 TLDHS reported 47% of children breastfed within the first hour of birth compared with 82% in the 2009-2010 TLDHS. Fifty-two per cent of children aged less than 6 months are exclusively breastfed. The proportion of children receiving complementary foods in a timely fashion is encouraging with 78% of children aged between 6 and 8 months receiving complementary foods.

158. The intake of vitamin A has continued to improve over the last five years. One in two children aged between 6 months and under the age of 5 years received vitamin A supplement in the six months prior to the 2009-2010 TLDHS. Approximately 79% of last-born children aged between 6 and 35 months consumed vitamin A rich foods and 52% of young children consumed foods rich in iron in the 24 hour period prior to the survey.<sup>61</sup> In the six months preceding the survey 35% of children aged between 6 and under the age of 5 years, received deforming tablets. Iron-deficiency anaemia continues to be a health issue for children. More than one in three (38%) children aged between 6 months and under the age of 5 years are anaemic with 25% mildly anaemic, 13% moderately anaemic and less than 1% severely anaemic. The rate of anaemia varies considerably according to district. Children in the rural district of Manatuto have the highest prevalence of anaemia being 68% whilst children in the rural district of Ermera have the lowest prevalence of anaemia being 15%.<sup>62</sup>

159. Iron supplementation has been a key health initiative since 2003. The proportion of women who took iron supplements during pregnancy has risen from 43% in 2003 to 61% in 2009-2010. However, 37% of women did not take any iron supplements during their most

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<sup>58</sup> Timor-Leste, Demographic and Health Survey 2009/2010 Summary of Findings, p. xxvi.

<sup>59</sup> *Ibid.*, p. xxvii.

<sup>60</sup> *Ibid.*

<sup>61</sup> *Ibid.*

<sup>62</sup> *Ibid.*

recent pregnancy. Further, only 16% of women took the recommended dose of iron supplements for 90 days or more during their pregnancy.<sup>63</sup>

### **C. Efforts to deal with communicable and non-communicable diseases**

160. The MoH has made considerable effort to establish strategies aimed at reducing the infection rates of communicable diseases such as dengue, malaria and measles. Efforts taken by MoH include conducting training to improve the capacity of health workers to provide adequate treatments for these diseases, the continual promotion of health activities in all health facilities and at all SISCA posts, distribution of insect nets, mosquito spraying and a programme to eradicate mosquito larvae. The MoH has also been working collaboratively with other ministries in an effort to implement its strategies.

161. In 2011 the MoH conducted a nationwide campaign against measles outbreak which resulted in a significant reduction in infection rates of children. The campaign consisted of dissemination of information regarding measles to communities and the repressive action of the distribution of Vitamin A to children aged 6 to 14 years.

#### **Malaria**

162. Malaria remains a significant public health issue and the MoH has been working diligently to implement strategies to reduce the rate of malaria mortalities. The MoH has developed a comprehensive National Strategy against Malaria which has contributed to significant improvements in the malaria infection rate. In 2006 there were 223,002 reported clinical and confirmed cases compared with 119,072 in 2010. Deaths attributed to malaria have also decreased substantially. In 2006 58 deaths were recorded as attributable to malaria compared with 16 in 2011. The incidence of malaria amongst children under the age of 5 has also decreased. It represents 33% of the total cases reported in 2010 at 195 cases per 1000 population compared with 457 cases per 1000 population in 2006.

163. The TLDHS showed that 41% of children under the age of 5 sleeps under insecticide treated nets (ITN). Among children under the age of 5, those less than 1 year of age are more likely to have slept under any net (47%), an ever treated net (46%) or an ITN (44%). The use of ITNs is higher in urban areas with 60% of children under the age of 5 sleeping under a night the night before the survey compared with 40.4% of rural children. It reported that 5.7% of children under 5 suffering from fever were treated with appropriate anti-malarial drugs. These figures demonstrate that although there is room for improvement, the dissemination of information regarding malaria and its treatment has resulted in the reduction of infection rates.

164. In order to continue reducing the rate of malaria infection the MoH and partners will increase distribution of mosquito nets, expand spraying activities and reinforce surveillance systems for programme implementation.

#### **HIV/AIDS**

165. The first reported case of human immunodeficiency virus (HIV) was in 2003. Between 2003 and December 2009 there have been 151 cases of HIV reported. Of the cases reported in 2009 48% were reported among males and 52% were reported as among

<sup>63</sup> Ibid., p. xxviii.

females. Approximately 8% of HIV-positive cases were among children under the age of 5.<sup>64</sup>

166. The sources of infection that have been identified by epidemiological studies include sexual intercourse, intravenous injections, blood transfusions and foetal transmission from infected mothers.<sup>65</sup> To address the risk of further infections a National HIV/AIDS/STI Strategic Plan for 2006-2010 was developed. This plan was then revised and a new strategic plan for the period 2011-2016 was developed. This strategic plan includes activities such as increased screening of blood samples, producing and disseminating more information and education materials, promoting the use of condoms and more training for health professionals.

167. Knowledge of AIDS/HIV is inversely related to age. Younger men and women know more about it than those in the older age brackets. The Demographic and Health Survey conducted in 2009/2010 demonstrated that 53% of women in the age bracket 15-24 have knowledge of AIDS/HIV compared with 27% of women in the 40-49 year age bracket. In the male age bracket of 15-24 years of age 63% have knowledge compared with 49% in the 40-49 year age bracket.<sup>66</sup> This demonstrates that education materials aimed at young adolescents are increasing their knowledge about HIV/AIDS although it is acknowledged that there is room for improvement.

168. Knowledge of HIV prevention methods is consistently higher in urban than in rural areas among both men and women. Education has a direct positive impact on a person's knowledge of HIV and prevention methods. A total of 62% of women with more than secondary education are aware that using a condom and limiting sexual intercourse to one uninfected partner can reduce the risk of infection compared with only 8% of women with no education.<sup>67</sup>

169. In June 2008 the Ministry of Health led a campaign urging young people to find out more about HIV/AIDS and take preventative measures. The "It's time to talk" campaign was implemented in all 13 districts for three months with the support of UNICEF. The campaign included HIV trainings, parades and outreach provided information. As part of the campaign 80 Master Trainers were trained to conduct HIV training for 1,525 campaign volunteers who in turn passed on the information to approximately 40,000 youths in communities.<sup>68</sup> The MoH is continuing its efforts to raise awareness of HIV/AIDS amongst adolescent youths.

#### **D. Reproductive health rights of adolescents**

170. The National Reproductive Health Strategy (NRHS)<sup>69</sup> ensures the integration of all reproductive health services. It promotes a rights-based approach to sexual and reproductive health with objectives including increasing the knowledge of the general population on issues related to sexuality and reproductive health, promote family planning, reduce the burden of sexually transmitted infections and HIV and decrease the level of prenatal and neonatal mortality.

<sup>64</sup> Demographic and Health Survey Timor-Leste 2009/2010, p. 181.

<sup>65</sup> Ibid.

<sup>66</sup> Ibid., p. 183.

<sup>67</sup> Ibid.

<sup>68</sup> "Timor-Leste Now and the Future" (2008) UNICEF, p. 21.

<sup>69</sup> Ministry of Health and United Nations Development Fund (UNDP), "National Reproductive Health Strategy" (2004) Dili, Timor-Leste.

171. The NRHS focuses on four priority areas in order to achieve these objectives. These areas are:

- Adolescent reproductive health;
- Reproductive choice (family planning);
- Safe motherhood; and
- General reproductive health.

172. Family planning services have become an integral part of government health services in all 13 districts. Currently, modern family planning methods (male condoms, contraceptive pills and injectables) are provided by peripheral health workers and volunteers on a regular basis through national, regional, zonal and district hospitals; primary health care centres, health posts and sub-posts. Services such as implants and IUD insertions are available only at a limited number of hospitals, health centres and selected health posts where trained personnel are available. Mobile outreach services are provided to the districts for more specialised procedures such as sterilisations.

173. A number of local and international NGOs are also currently involved in the delivery of family planning services at community level. Government agencies are working with faith based organisations in order to ensure programmes and information reaches those children and youth that are out-of-school.

174. The MoH has had some success in reducing early pregnancy. As discussed above in paragraph 4 the age-specific fertility rate has reduced considerably between 2003 and 2009 to 51 per 1000 women in the 15 to 19 year age group. The MoH is continuing with its efforts to reduce this rate further with the assistance of development partners by implementing the Life Skills Based Education in schools and youth resource centres, radio and television public service announcements, brochures and billboards.

175. An Adolescent Reproductive Health Working Group was established in 2009. A task force was formed in June 2010 to finalise the Youth Friendly Health Services National Guidelines and Health Standards. Consultations on the development of the guidelines occurred with young people in late 2010. These guidelines and standards have significantly improved the accessibility of reproductive health information to adolescents across the country. The MoH in collaboration with the MoE has developed this programme which is implemented in all 13 districts.

176. A Youth Friendly Resource Centre and Health Service are being piloted by the Ministry of Health in partnership with Marie Stopes International Australia, UNFPA, and Alola Foundation. As part of the Adolescent Sexual Reproductive Health project 40 reproductive health counsellors and service providers promote sexual reproductive health to adolescents throughout the country. The project includes the creation of an Info line, the drafting of a counselling manual, revision of an existing education manual and training.

177. In recognition of the need to address family planning and the needs of young people the Group of Women Parliamentarians of Timor-Leste (GMPTL) and civil society, supported by government institutions, United Nations agencies and Catholic Church representatives organised seven regional Reproductive Health Consultations from March to June 2010, culminating in a National Reproductive Health Conference between 11 and 13 July 2010. Topics canvassed during the conference included sex education and teenage pregnancy, family planning and the Convention on the Rights of the Child (CRC). The regional conferences served as a forum to collect information, identify existing problems

and inform communities on the Government's efforts in improving family planning and teenage pregnancy and sex education.<sup>70</sup>

178. During the National Conference for Reproductive Health a Declaration for Affirmative Action to Reduce Maternal and Child Death, Birth Rate and Teenage Pregnancy was adopted.<sup>71</sup> The declaration pledged:

- No Timorese young woman will lose her place in school because of unplanned pregnancy;
- No Timorese baby will die needlessly before, during and after birth;
- No Timorese baby mother will die needlessly from pregnancy and child birth; and
- All Timorese people – men, women and young people – shall have access to correct and complete information and quality services to ensure their full sexual, maternal and reproductive health rights.<sup>72</sup>

179. In 2010-2011 the Mother and Child Health Department of the MoH developed a guide for the implementation of the adolescent youth reproductive health programme nationwide. The programme includes activities such as advocacy and socialisation for teenagers and adolescents at all schools, high level advocacy and awareness, the development of promotional materials concerning adolescent health and the establishment of a counselling room for the youth at the Becora Health Centre. Further activities are planned which involve the dissemination of information and promoting the importance of reproductive health to youths.

180. Education on reproductive health is provided in schools. The Lei de Bases de Educação (The Law on Basic Education) No. 14/2008 provides for the introduction of basic teachings on the human body. A comprehensive curriculum on Adolescent Sexual Reproductive Health has been developed by the Ministry of Education, which has been integrated in the pre-secondary and secondary school curriculum. Training has been provided to teachers on the implementation of the new curriculum to ensure adequate knowledge, attitude and skills to teach students the new syllabus.

181. There is a strong multi-agency approach to the reproductive health of young people. In 2010 the MoH, MoE and the State Secretariat for Youth and Sports (SSYS) developed a work plan on reproductive health for young people. These agencies focus on the provision of sexual reproductive health services and information to young people, in and out of school.

## **E. Elimination of harmful traditional practices**

182. The Civil Code enacted on 14 September 2011 prohibits marriage under the age of 16 for boys and girls. The age of 16 was chosen as it reflects the cultural context of Timor-Leste. However, marriage between the age of 16 and 17 is permitted with paternal power or by the tutor and the marriage can occur without paternal power at the age of 17.<sup>73</sup> Currently there is no separate Marriage Act however drafting of more specific marriage laws is in the work plan of the legislation unit of the Ministry of Justice for 2017.

<sup>70</sup> Above n.15, p. 2.

<sup>71</sup> *Ibid.*, p. 3.

<sup>72</sup> Group of Women Parliamentarians of Timor-Leste (GMPTL)/UNMIT/UNDP, Report of the Regional Conferences on Reproductive Health, Family Planning and Sex Education "Voices from the Regions" Executive Summary, (2010) Dili, Timor-Leste, pp. 1-2.

<sup>73</sup> Civil Code, articles 1490, 1493 and 1500.

183. The Timor-Leste Strategic Development Plan 2011-2030 specifically includes reference to “Continuing to educate communities about the need to eradicate practices such as child marriages, using children for domestic chores, child labour, neglect, domestic violence, sexual abuse and trafficking.” The MSS disseminates information to communities regarding the impact of early marriage on children. Research has been conducted by the MoE and the MSS in relation to the impact of early marriage. This demonstrated that access to education, access to health services and child protection are all issues related to early marriage.

## **F. Measures to protect from substance abuse**

184. There are currently no laws in respect of the possession and sale of narcotics or substances such as alcohol. Consequently, there is no minimum age for the consumption of alcohol or cigarettes. It is recognised that the absence of such restrictions weakens efforts of child protection. The Ministry of Justice has recently commenced drafting laws relating to the use of drugs and other harmful substances. This project is in its infancy and it is anticipated will establish restrictions on the use of harmful substances. The Penal Code does not provide for offences regarding drug possession, sale or use. However, the Penal Code does provide an offence of using minors in the production and/or trafficking in narcotics. This is dealt with more fully in paragraphs 248 and 249.

185. The Ministry of Health together with the national NGOs such as PRADET Timor-Leste and BELUN disseminate information to children and youth through various means in relation to the harmful effects of substances such as drugs and alcohol. It provides training, distributes brochures and stickers and provides information through media such as the television. The PNTL conduct substance abuse awareness training programmes in schools throughout the country. The MSS currently do not offer any rehabilitation or counselling programmes in relation to substance abuse.

## **G. Measures to ensure protection of children with incarcerated parents.**

186. The Ministry of Social Solidarity (MSS) provides some measures of support to children whose parents are incarcerated. However, there are no specific policies or regulations that regulate how this support is provided. Consequently, it is provided on a case by case basis after consideration of what is in the best interests of the child and their immediate needs. For example, MSS has supported two children for a period of approximately ten years because their mother was incarcerated. This support has been in the form of financial assistance.<sup>74</sup>

### **Social security and childcare facilities and services**

187. As discussed above in paragraphs 96 and 131 the MSS provides a range of conditional cash transfers to families requiring assistance. These cash transfers are made to poor single parent families, disabled citizens (or their carers), veterans and aged citizens. Childcare is often provided by family members and extended family until children reach school age and are able to access free schooling.

<sup>74</sup> Response by MSS to questionnaire.

### **Standard of living measures**

188. In order to guarantee enjoyment of the right to adequate housing, the Government has commenced implementation of programmes for the construction of social and community housing. The National Housing Plan includes the construction of community houses as a medium term action for implementation between 2010 and 2020. These houses will support the creation of a system of purchasing and renting in order to facilitate access to adequate housing for those families who do not possess sufficient economic capacity. In 2010 450 social housing units were given to some of the most vulnerable families in rural areas.

189. The MSS implements a range of programmes to reduce the level of poverty. These programmes include the Bolsa da Mae which focuses on support to poor families to enable children to access education and health services. There are subsidies for the elderly and disabled and support for former veterans and their families.

190. Most of the population still depends on access to water from wells or boreholes, with or without the aid of a manual pump or water from streams to meet their domestic needs. This is despite significant improvements in the availability of piped water. In 2004 29% of the population living in urban areas and 30% of the population living in rural areas had access to drinking water via water piped into houses or public taps. In 2007 this figure rose to 43% and 41% respectively. The 2009-2010 TLDHS reported that 88.2% of the urban population had sustainable access to improved water source compared with only 56.6% of the rural population. It also demonstrated that 65.9% of the urban population had access to improved sanitation compared with only 35.8% of the rural population.

191. It is acknowledged that there are still significant improvements required. The Government is very committed to improving access to clean water for all citizens. In 2010 USD\$8.1 million was allocated for water supply programmes. In 2011 this amount was further increased. Development partners and NGOs have also greatly contributed to improving access to clean water for the rural population.

## **VIII. Education, leisure and cultural activities**

### **A. The right to education**

192. The Law for Basic Education, “Lei de Bases de Educação” (Law No. 14/2008) was promulgated in October 2008. The preamble guarantees all citizens the right and equal access to school. It provides the first step toward the establishment of a comprehensive legal framework for the regulation and development of the education system.

193. Basic education is universal, compulsory and free of charge. The Government provides school fees and emoluments related to the enrolment, attendance and certification of students and in addition the free use of school books and mate rails. Students are responsible for the payment of fees associated with school uniforms, exercise books and other daily school needs. The education system is comprised of three learning cycles with a total of nine years of compulsory education. The first cycle is four years, the second is two years and the third is three years. Pre-school education is provided free for all children aged between the ages of 3 and 5.

194. Since the previous reporting period a new national strategic plan has been developed. The National Education Strategic Plan (NESP) 2011-2030 has gender equality in education by 2015 as one of its primary goals.



195. In 2008/2009 the total Gross Enrolment Ratio (GER) was 92% in basic education (114% in primary education and 69% in pre-secondary education). Higher GER in primary education is due to high GER in cycle 1 being 129%. The ratio becomes lower in cycle 2 with a GER of 80%.<sup>75</sup> During the same period the GER in secondary education was 38% of all children while the total Net Enrolment Ratio (NER) of students who are at the formal age for a specific educational level was 11.7%. The girl to boy ratio in public schools during this period was 91%.<sup>76</sup>

196. The NESP and the Annual Action Plan of the Ministry of Education (MoE) guarantee education for all without discrimination and seeks to improve the gender balance at school. As outlined above in paragraph 131, this includes a social inclusion policy to remove barriers to education.

197. There have been considerable improvements to the enrolment rates of children particularly in the first and second cycles of education. In 2001 the real rates of school enrolments in the first and second cycles of basic education were a total of 17% with approximately 212,000 students and 3,925 teachers. In 2010 this figure had increased significantly to 90% with 289,455 students and 9,995 teachers. Despite the increase in school enrolment there are still a large number of children who do not go to school or who are forced to abandon their studies before they complete the nine years of compulsory basic education in order to assist in supporting their family.

198. The 2009-2010 Timor-Leste Demographic and Health Survey demonstrated that the net attendance ratio in primary school is 71.1%. The ratio of school attendance of orphans to school attendance of non-orphans aged between 10 and 14 years is 0.75%.

199. Secondary education comprises three years and is divided into general secondary education and technical-vocational secondary education. In 2010 there were 40,780 students and 2,070 teachers in the secondary level of education.

200. Higher education includes university education and higher technical education. Prior to 2006 there were 17 unaccredited higher education institutions, including the only state university. In 2008 steps commenced to improve the quality of education and reduce the number of unaccredited higher education institutions. In 2010 there were 11 higher education institutions registered, nine of which had academic accreditation. It has been recognised that for higher education Timor-Leste requires support and co-operation from internationally accredited educational institutions. To this end a number of initiatives have been implemented to improve the qualifications and quality of Timorese university lecturers through training and academic exchange programmes. In order to provide opportunities to Timorese higher education students to study at internationally recognised academic institutions an extensive scholarships programme has been promoted by the Ministry of Education. In 2009-2010 196 scholarships were allocated to students for tertiary level studies overseas. The majority of these scholarships were provided to males (65%).<sup>77</sup>

201. Since 2008 the Ministry of Social Solidarity (MSS) has implemented a scholarship programme called "Bolsa da Mãe" (Mother's Purse). This programme provides support by way of scholarships to vulnerable families including single parent families and widows. The scholarships are provided to students in primary through to higher education. In 2008

<sup>75</sup> Ministry of Education, Education Statistical Year book 2008/2009, April 2010, Dili, Timor-Leste, p. 23.

<sup>76</sup> Ministry of Education, National Education Strategic Plan (NESP) 2011-2030 (2011) Dili, Timor-Leste, p. 42.

<sup>77</sup> Statistics of the Cabinet for Scholarships, National Directorate of Technical and Superior Education, Ministry of Education, 2009-2010.

and 2009 a total of 16,634 subsidies were provided by MSS and 45% of these were given to female beneficiaries.<sup>78</sup> The budget allocated for the implementation has continued to increase. In 2010 the budget was USD \$1,021,760 for 13,458 beneficiaries. In 2012 this increased to USD \$2,228,520 for 13,931 beneficiaries.<sup>79</sup>

202. In 2011 the MoE developed a comprehensive “Plan for Gender Equality in Education”. The plan comprises a two-pronged attack to raise gender equality in education. Firstly, orientations defined to promote and ensure girls’ participation in secondary, higher education and in postgraduate studies abroad. Secondly, research has demonstrated a strong correlation between the number of women teachers and the enrolment of girls.<sup>80</sup> Therefore, there will be considerable efforts to employ more women as well as retain those who are already employed.<sup>81</sup> Since 2009 scholarships have been provided for female students from pre-secondary school to higher education to improve the gender balance of female students particularly at the higher end of education. Between 300 and 400 scholarships are provided annually dedicated only to female students.<sup>82</sup>

203. There are a number of programmes that have been developed by the Ministry of Education to increase enrolment and retention rates. These include the School Feeding Programme, public concessions such as providing transport and uniforms and the School Subsidy Programme. The School Feeding Programme has been implemented since 2005/2006 in all 13 districts. It was initially implemented by the Government in co-operation with the World Food Programme. Initially all foodstuffs were provided under the programme. However, since 2012 the Government directly provides rice and then provides a budget for schools to buy local products to accompany the rice. The School Subsidy Programme provides a budget for schools to administer for the costs of minor repairs, the provision of extra-curricular activities for students, student associations and school materials and stationary supplies. The transport and uniform programmes are currently still being finalised and are yet to be implemented. Resource constraints and logistical difficulties have restricted the implementation of these programmes.

204. Enrolment rates by grade demonstrate a clear progressive drop-out from grade 1 to grade 12. Enrolment in grade 1 demonstrates that a large number of children who commence grade 1 do not complete grade 6. A high number of students repeat grades. The number of children enrolling in grade 3 is already almost one half of the original intake of the number of children that enrolled in grade 1. The number of children that enrol in secondary education (grade 10) is approximately 16% of the number of children entering grade 1 (10,481 out of 63,690).<sup>83</sup> Girls drop-out rates show slightly better retention rates in the early stages of school but higher drop-out rates during secondary education.<sup>84</sup>

205. Factors that contribute to drop-out have been identified as (i) difficulties in access to school, that is the distance to schools from villages; (ii) low level of appreciation of the importance of education, particularly by parents who themselves have little or no education; (iii) financial difficulties in relation to the hidden costs of education such as materials,

<sup>78</sup> MoF/UNDP “Timor-Leste MDG Booklet 2010” (2010) Dili, Timor-Leste, p. 13 and quoted in CEDAW specific Report on education and Health Sectors by Secretary of State for the Promotion of Equality (SEPI), para. 68.

<sup>79</sup> Response by MSS to questionnaire.

<sup>80</sup> Above n. 16, p. 16.

<sup>81</sup> Ministry of Education, National Education Strategic Plan (NESP) 2011-2030 (2011) Dili, Timor-Leste, p. 131.

<sup>82</sup> Above n.15, p. 16

<sup>83</sup> Above n.15, p. 19.

<sup>84</sup> MoE, NESP 2011-2030, pp. 18-19.

uniforms, transport; (iv) inadequacy of school buildings in particular the lack of infrastructure such as adequate water and sanitation; and (v) violence in schools.<sup>85</sup>

206. In order to increase the knowledge and awareness amongst the population about the importance of education the MoE established in 2008 the “Promotion of Teaching Quality and the Importance of Education for Students, Teachers and the Community in General” programme. This programme utilised television, radio and advisory services to disseminate information about the importance of education. In addition to this programme the MoE has established Parents’ Associations from primary to secondary school. These associations have been established to raise awareness of the importance of school with students as well as their parents and provide equal opportunities for boys and girls.<sup>86</sup>

207. Another factor which affects the drop-out rate of girls is teenage pregnancy. The rates of teenage pregnancy are reasonably low at 7% of girls between the ages of 15 and 19 have had their first child or are pregnant. In 2010, the MoE together with the Secretary of State for the Promotion of Equality (SEPI) with the support of the MoH, MSS, UNTL, UNFPA and Care International finalised research on teenage pregnancy. This study focused on how early pregnancies affect the drop-out rates of girls, the views of students, parents, teachers and the communities in order to assist in the development of policy recommendations for their re-entry into the education system. Results of the study demonstrated that almost half of pregnant teens are in the junior high school level; that is grades 7, 8 and 9. The majority of these were in rural areas being 72%. In relation to attitudes the survey revealed that 75% of families and 92% of teachers supported the return of the student after the birth.<sup>87</sup> The MoE has implemented a policy that provides access to schooling after delivery and provides an option of school transfer should that be more suitable.

208. The draft Child’s Code in article 30, paragraph 2, provides an explicit prohibition of punishment or disciplinary measures due to pregnancy. Currently in its draft form it provides:

“Also prohibited in schools are punishments or other disciplinary measures for students on the grounds of pregnancy, being the State obliged to ensure that there is a system for attendance, continuation and completion of scholastic studies by pregnant students and mothers.”

209. The draft Child’s Code also provides explicit prohibition on the use of corporal punishment in schools:

“The following are prohibited in schools:

- (a) corporal punishment;
- (b) psychological punishment undermining of the dignity of the child;
- (c) collective punishment;
- (d) measures involving the discrimination or exclusion of a child due to the child’s personal circumstances or those of his or her parents;
- (e) disciplinary sanctions which are of a pecuniary nature;”

<sup>85</sup> MoE, NESP 2011-2030, p. 20.

<sup>86</sup> Above n.15, p. 20.

<sup>87</sup> MoE/SEPI/UNFPA, “Draft research on Teenage Pregnancy” (Feb. 2011) Dili, Timor-Leste.

210. It also provides mandatory reporting obligations and a duty to inform for all directors, teachers and educators to report to a State Prosecutor, MSS or the National Police any reasonable suspicion of child cruelty or abuse within or outside the school.<sup>88</sup>

211. In 2005 the MoE issued an official circular to all schools prohibiting the use of any type of violence against children and using violence as a method to make children learn. A body has been established which has the power to receive and investigate any complaint in respect of staff members of the education system. The “Organica da Inspeccao-Geral da Educaçao”, the Office of the Inspector General for Education has the role to prepare cases for judgment and disciplinary action against staff members of the education system.<sup>89</sup> During 2010 and 2011 46 cases of violence in schools were reported to the Inspector General. Of these 36 were corporal violence and 10 were sexual violence.<sup>90</sup> Of these only three cases were reported to, and resolved by the police and five cases were resolved by the Public Service Commission.<sup>91</sup>

212. There are a range of sanctions which may be imposed on staff members of the education system depending on the seriousness and the circumstances of the breach of conduct. The Public Service Commission which was established by Law No. 7/2009 has the ability to punish by way of (i) written reprimand; (ii) fine; (iii) suspension; (iv) inactivity; (v) compulsory retirement; and (vi) dismissal. Transfers are also often used as a sanction.<sup>92</sup>

213. Despite sanctions being available in the formal system, the majority of cases are solved through traditional conflict resolution in the community between the perpetrator and the family of the victim. The parties reconcile and make peace with each other.<sup>93</sup> Despite significant efforts to eradicate violence from schools it is apparent from the consultations conducted by the NCRC in late 2012 that children regard violence in schools as a significant issue and that it is still present. It is acknowledged that efforts need to be continued to eradicate all violence in schools.

214. In order to meet the future employment demands of the country in relation to technical expertise the foundations have been established for the development of Public Polytechnic Institutions. These are divided into three centres specialising in different technical skills being tourism and the hospitality industry, engineering and agriculture. The design of these institutions has recently been completed and construction will begin in the districts of Lautem and Covalima in 2013.

215. Since 2003 the Government has implemented a recurrent education programme. This includes literacy programmes for young people (those over the age of 15 years) and adults and specific programmes for awarding degrees corresponding to basic and secondary education. In 2007 the Government entered into a partnership with the Government of Cuba for the production and implementation of a national literacy programme. As of 2010 over 116,000 people have completed this programme. The Government aims to eliminate illiteracy in Timor-Leste by the end of 2015 and so far has been successful eradicating

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<sup>88</sup> Draft Child’s Code, article 32.

<sup>89</sup> *Orgânica da Inspeccao-Geral da Educaçao*, No. 14/2008.

<sup>90</sup> Summary of cases of violence found in the schools in the territory of Timor-Leste, 2010-2011, Cabinet of the Inspector General, Ministry of Education, December 2011, Dili, Timor-Leste as reported in CEDAW Specific Report on the Education and Health Sectors, Office of the State for the Promotion of Equality (SEPI) 2011, p. 22.

<sup>91</sup> As above, and referred to in CEDAW Specific Report on the Education and Health Sectors, Office of the State for the Promotion of Equality (SEPI) 2011, p. 23.

<sup>92</sup> Article 79.

<sup>93</sup> Above n.15, p. 23.

illiteracy in the districts of Lautém, Manufahi, Manatuto, OeCusse and the sub-district of Ataúro. Disaggregated data of participants is not available.

216. The Census conducted in 2010 reported on the literacy rate of persons 15 years of age and over who can speak, read and write in Tetun, Portuguese, Bahasa Indonesia and English languages. The literacy rate for Tetun was 56.1%, for Portuguese was 25.2%, for Bahasa Indonesia was 45.3% and for English was 14.6%. Children who can read, write and speak in Tetun aged between 5 and 9 years old was 29.88%, aged between 10 and 14 years old was 67.76% and aged between 15 and 19 years old was 79.10%.

217. Annual monitoring and evaluation is conducted in relation to the comprehension of the Portuguese language in schools. Regular training has been provided to teachers which includes the re-introduction of the Portuguese language. Training also includes pedagogic and curricular training including the use of democratic participatory methodology for the first and second cycles of basic education. The training has been provided periodically in both urban and rural areas. The National Education Strategic Plan 2011 is used as a guideline to ensure the delivery of standardised quality education to all children.

218. Article 8 of the Fundamental Law for Education provides that the languages for instruction in the education system are Tetun and Portuguese. In April 2008 an International Conference on Bilingual Education in Timor-Leste was held by the MoE and supported by UNICEF, UNESCO and Care International. The theme of the conference was “Helping Children Learn” and the aim was to design and implement a language policy and teaching methodology that best serves the needs of the children ensuring that they achieve good development outcomes as well as fluency in both official languages of Timor-Leste.<sup>94</sup>

219. Following the conference an inter-ministerial working group dedicated to the issue of local languages was formed to draft a policy on “Mother Tongue-based Multilingual Education for Timor-Leste” which aims to ensure that everyone, especially rural/disadvantaged populations will understand and benefit from literacy and education programmes. It also aims to facilitate access to education, participation and attainment and enhance cultural identity together with citizenship rights. In 2011 a mother tongue pilot project commenced in three districts, Lautem, Oecusse and Manatuto, at the pre-primary level, through the National Education Commission under the MoE with the support of the Timor-Leste National Commission for UNESCO.<sup>95</sup>

220. The National Education Strategic Plan provides as a priority the provision of pre-school. It provides that by 2015 each village will have an established pre-school for children aged 3 to 5. Pre-school is free to access. Training for kindergarten teachers is provided in partnership with a range of development partners. The training focuses on areas such as creative art, music and developing children’s cognitive skills with a concentration on social and physical characteristics.

221. Despite significant investment in the construction and rehabilitation of school buildings, a number of schools are still located in temporary premises and consequently are constrained in the number of students that they can take. At the conclusion of 2010 576 school buildings had been constructed or rehabilitated. It is estimated that a total of 1,523 school buildings are necessary to guarantee access to every child of school age. The Government is committed to the construction and rehabilitation of more school buildings however is constrained by resources.

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<sup>94</sup> Above n.15, p. 19.

<sup>95</sup> Ibid.

## B. Aims of education

222. The MoE has a holistic approach to education through a new concept called “Basic School”. It provides an integral vision to achieve the Basic Education outcomes by introducing changes in the concept of what a school should be and how it should work. Basic School seeks to:

- Place the child’s physical, psychological, social and academic wellbeing at the centre of all school decision-making and operations to ensure the provision of a quality and relevant education;
- Ensure that every child regardless of their gender, social status, ethnicity, race, physical or mental disability has a right to and receives quality education;
- Embrace the rights of each child and those who facilitate their rights, to have a say in the form and substance of their education;
- Educate and provide quality education for all children from grades 1 to 9, and
- Be seen by the community as a school whose educational practices are model practices.<sup>96</sup>

223. A new management and governance structure has also been introduced organised on the basis of “Four Quality School Standards”. One of these standards is to create a “Positive School Environment” which ensures the physical and psychological wellbeing of all people within the school.<sup>97</sup>

224. In 2006 implementation began of the restructured national curriculum for the first and second cycles of basic education. In 2010 the process of designing the curriculum for the third cycle was concluded and full implementation commenced in January 2012 in respect of grade 7. In 2013 the new curriculum will be implemented for grade 8 and grade 9 in 2014. The new basic education curriculum complies with international scientific and pedagogical requirements and was developed taking into account the context of Timor-Leste. The new curriculum has been introduced in phases to allow time for the development of appropriate teaching and learning materials.

225. In an attempt to address the quality of teaching the Government established the National Institute for the Training of Teachers and Education Professionals (INFORDOPE) in February 2011. The institute is currently developing a range of bachelors and masters programmes and initial and continuing training programmes and to date has provided training to approximately 11,122 teachers. In addition to this the University of Timor-Leste provides university courses for teachers, namely undergraduate, graduate and post-graduate degrees.

226. The Ministry of Education aims to eliminate illiteracy by 2015. Despite efforts to address teacher training and school resourcing there continues to be quality issues in school education. These are reflected in an Early Grade Reading Assessment survey conducted in 2009 which indicated that only 30% of students in Grade 3 can read 60 words or more per minute. In an attempt to address the quality of teaching in 2010 the MoE implemented intensive training for teachers for a period of four months. In 2010 a programme was also implemented aimed at distributing reading materials and providing specialised training for reading acquisition.<sup>98</sup>

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<sup>96</sup> MoE “NESP” 2011-2030, p. 79.

<sup>97</sup> Above n.15, p. 24.

<sup>98</sup> Ibid., p. 17.

227. The Law on Basic Education enables the introduction of basic teachings in relation to reproductive health and the human anatomy. This commences in grade 3 with “Learning About Myself” and continues through grades 7 to 9 via Natural Physical Sciences, Social Sciences and Civic Education. At the secondary level, the curriculum considers psycho-social elements, the process of anatomy and construction of adult identity.

### **C. Cultural rights of children belonging to indigenous and minority groups**

228. The Basic Law of Education and the National Education Strategic Plan both promote full protection for cultural and language development as an identity that shall be valued as a national priority. Children’s cultural rights are protected and encouraged through the education system.

### **D. Education on human rights and civic education**

229. As part of the National Curriculum for the third cycle of the mandatory basic education, that is grades seven to nine, the subject “Civic Education, Citizenship and Human Rights” is completed. This subject includes teachings on human rights including the rights of the child.

### **E. Rest, play, leisure, recreation and cultural and artistic activities**

230. In partnership with agencies such as Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ) and UNICEF the Government has established a network of Youth Centres. Peace building and conflict prevention programmes are also implemented through youth and sport related activities. The Government also provides permanent support to cultural activities in all fields, particularly in music and plastic arts which are often proposed by Youth Organisations. The number of Youth Organisations has grown considerably over recent years. As discussed above in paragraphs 71 and 72 the Government provides assistance to youth and sport organisations by providing legal and technical advice on registration and subsidising activities.

231. As referred to earlier the national consultations conducted by the NCRC in late 2012 demonstrated that children regarded the lack of space for sports and the lack of public and school libraries as affecting their ability to participate in leisure activities.

## **IX. Special protection measures**

### **A. Internally displaced children, migrant children and children affected by migration**

232. The MSS provides assistance to displaced children, migrant children and children affected by migration through its child protection policy. There have been no specific developments with respect to children affected by migration since the previous reporting period.

## **B. Children in armed conflicts, including social reintegration**

233. There is a commitment by the Government to provide support to victims of past human rights violations suffered during the struggle for independence. A law is currently being debated in National Parliament in relation to the payment of compensation to victims and the establishment of an institution to preserve the memory of the historical events.<sup>99</sup>

234. The Penal Code provides that the recruitment of minors under the age of 17 to serve in an armed conflict is a war crime and punishable with up to 25 years imprisonment. In order to ensure minors under the age of 17 are not enlisted in the armed forces a range of identification processes are implemented by Department of Defence. Candidates are required to submit identification documents such as birth certificate, electoral identification, education certificates and other documents which can assist in verifying their identification and age. They are then required to undergo comprehensive physical and intellectual examinations which also can be used as a method to confirm an applicant's age. In February 2007 a Law on Military Service was passed, which provided for conscription for those aged between 18 and 30 years of age.

235. In 2008 the National Parliament adopted the Martial Arts Law (Law 10/2008). In further efforts to regulate martial arts the Government has established the Martial Arts Commission (CRAM). By the approval of the Government's Decree 2/2011 CRAM is regulated. Publication of the Martial Arts Disciplinary Regime and other Directives and Decisions of the CRAM aim to establish a sound regulated Martial Arts Regime.

## **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

236. In 2008 the MSS deployed one child protection officer for each of the 13 districts to monitor and manage cases of vulnerable children.<sup>100</sup> In addition to a case management role the child protection officers disseminate information to communities regarding child protection issues and children's rights. Paragraphs 111-113 above outline the child protection network.

### **(i) Economic Exploitation**

237. On June 16 2009 Timor-Leste ratified the ILO Convention on the Worst Forms of Child Labour (Convention 182). Ratification of the ILO Convention on the Minimum Age of Employment (Convention 138) is still being considered. As previously mentioned legislative and institutional frameworks need to be in place prior to ratification to ensure compliance. This process takes considerable time and resources.

238. The new Labour Code No. 4/2012 was gazetted in February 2012. Articles 66 to 70 specifically relate to child labour. The Labour Code does not apply to labour relations involving family members working in small family-run properties, agricultural or industrial, whose output is destined to support family subsistence. The Labour Code contains provisions that specifically prohibit the employment of young people (under the age of 17 years) in the worst forms of child labour and establish the minimum working age for certain types of work to 15. Light work is permitted in certain circumstances by children aged between 13 and 15.

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<sup>99</sup> See UPR.

<sup>100</sup> Above n.15, p. 24.



239. Pursuant to article 68 the Labour Code generally prohibits children under the age of 15 from working except for light work. Light work under article 69 is defined as “an activity that comprises simple defined tasks calling for basic skills, not requiring any physical or mental effort that would put the young person’s health and development at risk and not jeopardising their schooling or participation in Government approved vocational training programmes.” The article also provides specific examples of what is not considered light work. The Labour Code requires a young person pass a medical examination as to their physical and mental fitness to perform the respective tasks. This is required to be repeated annually to ensure that the work is causing no harm to the young person’s health and physical and mental development.<sup>101</sup>

240. The Penal Code provides for offences of economic exploitation of children. Article 155 provides the offence of mistreatment of a minor. It provides:

“1. Any person who provides guardianship or custody, or is responsible for the upbringing of a minor aged less than 17 years, or does so under employment, and:

a) Causes harm to the minor’s body or health, or inflict physical or mental mistreatment or cruel treatment;

b) Subjects the minor to economic exploitation, hazardous work or work capable of compromising his or her education or physical, mental, spiritual, moral or social development;

c) Subjects the minor to any form of slavery or analogous practice;

2. Any person who, under similar circumstances, uses a minor for begging is punishable with up to 3 years imprisonment, if no heavier penalty is applicable by force of another legal provision.

3. If the victim is a descendant, collateral kin, relative or similar to the second degree, has been adopted by the perpetrator or a person cohabiting with the perpetrator under similar conditions, the limits to the penalties referred to in the preceding sub articles shall be increased by one third.”

241. Decree Law 19/2010 establishes the General Labour Inspectorate that has the mandate to monitor and enforce the application of the Labour Law. The National Division of Social Services within the Ministry of Social Solidarity (MSS) in cooperation with the National Police of Timor-Leste enforces child labour laws. There are currently 20 labour inspectors although none are totally dedicated to child labour.

242. Within the Secretary of State Policy for Vocational Training and Employment (SEPFOPE) the General Inspection of Labour (IDT) has been established. Its activities include focussing on the prevention of child labour in the private sector. The division completes inspections and conducts activities to obtain data and collect information as to the causes of child labour. Some staff from SEFOPE has received specific training on the CRC and the implementation of the ILO Convention on the Worst Forms of Child Labour.

243. SEPFOPE conduct regular socialisation of the Labour Code and the ILO Convention on the Worst Forms of Child Labour. This socialisation process includes working with the private sector and providing information on the CRC and the ILO Convention on the Worst Forms of Child Labour.

244. In partnership with the International Labour Organisation and the Government of Brazil, the Government has implemented the Programme to Eliminate the Worst Forms of

<sup>101</sup> See article 70 of the Labour Code.

Child Labour. The programme establishes a National Tripartite Commission Against Child Labour. It consists of 15 members including government, employers and workers organisations and civil society organisations. The objectives of the Commission are policy development, information dissemination; promote mobilisation and awareness and the development of a National Action Plan Against Child Labour. The Commission is coordinated by the SEFOPE and is linked with the Cabinet of the Prime Minister.

245. In late 2011 a delegation of the SEFOPE Commission travelled to Brazil for a study tour and sharing experiences in the elimination of child labour. The delegation identified mechanisms and processes that would be suitable to adapt to the Timor-Leste context. The Commission has developed a list of Hazardous employment. The list has been submitted to the Council of Ministers and is waiting for approval. SEFOPE has continued to disseminate information at community level and enterprise level in regards to child labour.

246. In 2010 a Labour Force Survey was conducted by SEFOPE and the National Statistic Directorate. It reported that overall 7% of children aged between 10 and 19 were in the labour force at that time. Children are found working in agriculture, fishing, street and market vending, construction, domestic work and prostitution. Work is believed to be part of the socialisation process and 80% of children who work begin when they are under 12 years of age. Most children combine school with work.<sup>102</sup>

**(ii) Use of children in illicit production and trafficking of drugs and substances**

247. There is no data to suggest that children are utilised in the illicit production and trafficking of drugs and substances. There is currently no law which stipulates the minimum age for the consumption of alcohol or cigarettes. As discussed earlier the Ministry of Health conducts various awareness campaigns and disseminates information regarding the dangers of substance abuse.

248. The Penal Code provides a specific offence against the use of children in drug manufacturing and trafficking. Article 155 provides an offence against the mistreatment of minors, being people under the age of 17 years. In article 155(1)(e) it provides:

“Uses, recruits or offers the minor for practicing unlawful acts or activities, namely production and trafficking in narcotics as defined by international conventions, is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.”

249. The Penal Code does not provide for an exhaustive list of offences concerning the illicit production, possession and trafficking of drugs and other dangerous substances. The legislation unit of the Ministry of Justice is currently developing a draft Drugs Act. This project has only recently commenced and is in its infancy. When implemented, this act will provide a specific detailed regime for the treatment of offences involving drugs and other harmful substances.

250. The Labour Code No. 4/2012 in article 67 prohibits the “use, procurement or offer of children for illicit activities, in particular for the production and trafficking of drugs, as defined in the relevant international treaties”. The Labour Code provides that violations of the rights of the child and the infliction of forced labour shall be reported to the Office of the Public Prosecutor so that legal proceedings may be commenced to determine civil and criminal responsibilities of those involved.

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<sup>102</sup> Observations by SEFOPE.

**(iii) Sexual exploitation and sexual abuse**

251. The Penal Code provides an exhaustive range of offences concerning sexual exploitation and sexual abuse of children. This includes a prohibition of mistreatment of a minor, being a person under the age of 17 years and provides increased penalties for offences whereby the child is a descendant of the offender or the offender resides with the child. Article 155(1)(c) and (d) provides the offence of mistreatment of a child by:

“(c) Subjects the minor to any form of slavery or analogous practice;

(d) Uses, recruits or offers the minor for purposes of prostitution, production of pornographic material or pornographic shows;

Is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.”

252. Section III of the Penal Code provides for offences against sexual exploitation. Article 174 provides the offence of Sexual Exploitation of a Third Party as follows:

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

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

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

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

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

(d) Withholding any identification document belonging to the victim.”

253. Child prostitution is prescribed as an offence by article 175 of the Penal Code. It provides:

“1. Any person who, even with consent of the victim, practices any of the acts of sexual exploitation referred to in the preceding article against a minor aged less than 17 years, is punishable with 4 to 12 years imprisonment in the case of sub article 1 and 5 to 15 years imprisonment in cases where any of the circumstances described in sub article 2 occur.

2. Any person who offers, obtains, seeks or delivers a minor aged less than 17 years for purposes of child prostitution is punishable with 4 to 12 years imprisonment if no heavier penalty is applicable by force of another legal provision.”

254. Article 176 of the Penal Code provides the offence of Child pornography. It provides:

“1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;

2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of

communication, instrument, document or record for the purposes referred to in the previous sub article or with the aim of disseminating such acts.”

255. Section IV of the Penal Code provides offences of sexual abuse. Article 177 provides an offence of sexual abuse of a minor. It provides:

“1. Any person who practices vaginal, anal or oral coitus with a minor aged less than 14 years is punishable with 5 to 20 years imprisonment.

2. Any person who practices any act of sexual relief with a minor aged less than 14 years is punishable with 5 to 15 years imprisonment”.

256. Article 178 provides an offence of sexual acts with an adolescent. It provides:

“Any person who, being an adult and apart from situations provided in this section, practices any relevant sexual act with a minor aged between 14 and 16 years, taking advantage of the inexperience of the same, is punishable with up to 5 years imprisonment.”

257. The Penal Code provides that the age of a victim can be a circumstance of aggravation thereby warranting an increased penalty. Section 182 provides:

“1. The penalties prescribed from Section II to Section IV of this chapter shall have their minimum and maximum limits increased by one third if:

(a) The victim is less than 12 years of age at the time the act was committed;

(b) The perpetrator has transmitted to the victim any venereal disease, syphilis or AIDS;

(c) Due to the act, the victim attempts or commits suicide or the same results in death.

(d) The victim is a descendent, collateral, relative or similar to the second degree, a person adopted by or who has adopted the perpetrator or a person cohabiting with the perpetrator under similar conditions or there is a hierarchical, economical or work-related dependence.

2. Whenever more than one of the circumstances described in the preceding Sub article are present, only one may be evoked as a modifying circumstance and those remaining shall be weighed in determining a specific penalty.”

258. The Labour Code No. 4/2012 in article 63 prohibits the “use, procuring or offering of children for prostitution, production of pornography or for pornographic performances.”

259. Several initiatives have been implemented to enhance the protection of children involving a multi-sectorial approach including public entities and civil society. Child protection networks have been established which benefit from the participation of community leaders, NGOs, the MSS, the MoJ, the MoE and the police represented by the Vulnerable Persons Unit. These networks ensure the implementation of concerted multi-disciplinary protective actions, including support for the provision of social assistance in specific cases.

260. The MSS provides assistance and support to victims of violence and other abuse. It has developed a manual on the mechanisms for referral of these cases to relevant services. Guidelines have been developed on how to deal relate and interact with child victims of

violence, including sexual violence. Between 2008 and 2012 the MSS assisted 155 cases of physical abuse of children.<sup>103</sup>

**(iv) Sale, trafficking and abduction**

261. An inter-agency Trafficking Working Group was established in 2003. It is made up of representatives from government, international organisations and NGOs. Its members include the Ministry of Foreign Affairs (chair), IOM, the Ombudsman for Human Rights, District Attorney's Office, the Ministry of Justice, the Ministry for Social Solidarity, the Secretary of State for the Promotion of Equality, the Alola Foundation, Pradet, Fokupers and a number of others.

262. On 5 November 2009 the Convention against Transnational Organized Crime; the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air were acceded to.

263. A Law to Combat Trafficking in People has been drafted. The Ministry of Foreign Affairs and Cooperation is the lead agency in respect of the development of the legislation and the draft law is in its final stages pending submission to the Council of Ministers for approval. The draft bill specifically addresses child victims and witnesses in draft articles 34 and 42. The bill provides that the best interest of the child shall be the primary consideration and the child's view must be taken into account in all matters affecting him/her. It also provides that child witnesses shall never be required to give evidence in open court and interviews and examinations shall be conducted in a suitable environment.

264. The Penal Code in article 163 provides the offence of human trafficking. If the victim of the human trafficking is a minor under the age of 17 years, article 164 provides that it is a circumstance of aggravation and the penalty ranges from 12 to 25 years imprisonment depending on the individual circumstances of the case.

265. The Penal Code also provides an offence against the sale of human persons and human organs. The sale of a minor under the age of 17 years may result in a penalty of four to twelve years imprisonment depending on the individual circumstances.

266. In 2008 there were a total of six cases prosecuted which related to human trafficking. In 2009 there were two cases prosecuted and one case in 2010. In 2011 three convictions in respect of human trafficking were obtained and all convicted received sentences of imprisonment. There is no data on the number of child victims of human trafficking.

267. There have been increased law enforcement efforts to eliminate human trafficking. There has been an increase in maritime patrols and continual police operations including police raids on suspected brothel premises. A public awareness campaign was conducted in 2012 about the need to increase efforts to combat human trafficking and government officials participated in foreign donor-funded radio and television campaigns about trafficking on government-sponsored television stations. An inter-ministerial trafficking working group was established in 2011 which has been drafting a national plan of action to combat trafficking. However, the plan is currently awaiting approval from the Council of Ministers.

268. The Ministry of Social Solidarity (MSS) and the Ministry of Health provide assistance to victims of these types of offences with the provision of medical assistance, psychological support and counselling. Partnerships with a range of non-governmental

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<sup>103</sup> Response from MSS to questionnaire.

organisations (NGO's) have also been established in order to provide temporary shelter and support for victims of these offences. In circumstances where it is appropriate repatriation has been the usual resolution to these cases however there have been circumstances in which permission has been granted to enable the victim to remain in Timor-Leste.

269. The Law on Witness Protection No. 2/2009 provides an extensive regime for the protection of child victims and witnesses at all stages of the criminal justice process. Court proceedings are usually conducted in a closed court (i.e. in camera) in order to ensure the protection of the privacy and identity of the victim.

#### **D. Children in street situations**

270. The MoH has collaborated with other ministries such as the MSS, the MoE and the SEPFOPE in an effort to devise cross-cutting activities that address the issue of street children. Through the Youth Health Programme the MoH has provided and disseminated information on adolescent health as well as providing treatment and counselling according to established guidelines.

271. To date a comprehensive study has not been conducted to assess the scope and nature of street children. However, government and NGO organisations work together to provide assistance and support to street children. Since 2008 the MSS has supported the national NGO "Fórum de Comunicação do Juventude (FCJ) through budgetary support to provide activities that relate to the situation of street children and shelters. Despite the absence of an official family reunification policy the MSS continues to cooperate with FCJ, community leaders and families in an effort to reintegrate street children with their families. This process also enables the MSS to identify poor vulnerable families that require assistance from the "Bolsa da Mãe" programme. The current child protection policy is used for guidance for cases of street children and reintegration forms part of the individual case management system.

272. The MSS is currently in the process of developing its legal framework for child protection. This framework will incorporate protections for street children and is anticipated to be finalised in 2013. Currently, there is no data available on the prevalence of street children.

#### **E. Children in conflict with the law, victims and witnesses**

##### **(i) The administration of juvenile justice**

273. The juvenile justice regime is currently undergoing significant review and reform with a number of draft laws currently the subject of consultation prior to being presented to the Council of Ministers. As referred to earlier in this report a Child's Code which incorporates the principles and values of the CRC has been drafted. An educational guardianship of children's law which applies to children between the ages of 12 and 16 is also in draft form. The draft Educational guardianship of children's law exempts children aged between 12 and 16 from criminal liability pursuant to article 20 of the Penal Code. In article 20 the Code provides that children under the age of 16 are exempt from criminal liability. For children over the age of 16 "the law shall determine specific provisions concerning application and execution of criminal penalties in any and all cases not provided for in specific legislation".

274. The draft Educational guardianship of children's law is intended to "secure the rights, freedoms and guarantees of minors and youth, with the purpose of protecting minors and youth in danger, as well as the education, training and correction of minors with

deviant behaviour and their education for their rights by way of a specific procedure which shall include the participation of a multidisciplinary network which shall rely on the structures of the state, family, community, international organisations and agencies, civil society and religious confessions which, being integrated with other related systems, shall secure the respect of the fundamental rights of the minor.”

275. A further draft law currently being finalised for consultation which relates to children is the draft Special Penal Regime for Young Adults between the ages of 16 and 21. This provides a different approach to dealing with children and youths in this age bracket accused of a criminal offence.

276. These draft laws are a significant step towards the separation of children and youthful offenders from adults during all the stages of the criminal law process.

277. The current law does not specifically provide that detention is a sentence of last resort; however, in practice children under the age of 16 are not usually detained. The draft Educational guardianship of children’s law provides for confinement in an educational centre which is regarded as an institutional measure. Article 7 provides that in choosing tutelary measures “the court shall give preference to a measure that represents the least intervention in the adolescent’s autonomy to make decisions and lead his or her life and that is likely to obtain his or her greatest approval and the approval of his or her parents, legal representative or the person who has the de facto custody of the child.” The draft law also requires the court to take into account the superior interests of the child when decision-making.

278. In 2010 the Ministry of Justice conducted community consultation with respect to the Draft Law on Legal Aid. The law is intended to facilitate and provide legal aid to each citizen who does not have financial capacity to access justice. After the completion of the consultation an amended Draft Law was released on 15 July 2011. The draft law includes measures to provide free legal representation for all cases, including the payment of court costs and transport support, accommodation and food for citizens who are attending a legal process in court. This will include children. The draft law has not yet been finalised.

279. The Justice Sector Strategic Plan for Timor-Leste 2011-2030 outlines a number of objectives relevant to juvenile justice. These include the creation of a youth detention centre and special facilities for women and their children, implementing alternatives to imprisonment for children and young people and providing training to judicial actors on children’s rights.

280. The lawyers working within the Office of the Public Prosecutor have not yet had the benefit of detailed training in relation to the Convention on the Rights of the Child or in relation to the principles of juvenile justice.

**(ii) Children deprived of their liberty**

281. Becora prison has a separate accommodation block for juveniles in detention. However, in common areas juveniles are frequently with adult prisoners. There are currently plans for the development of a juvenile justice facility which will accommodate only juvenile prisoners. However, these plans have only just commenced to be developed and significant consultation and assessments are required before any concrete plans can be finalised. In addition to a juvenile detention centre plans have commenced in relation to the development of education centres for juveniles which will be used as a sentencing option under the draft Educational guardianship of children’s law.

282. Any complaints of maltreatment of child prisoners by prison authorities are monitored by the Provedor, NCRC and a range of NGOs. There are no recorded cases of maltreatment by children who are incarcerated.

283. The MSS ensures that the immediate needs of child prisoners are met by providing equipment (such as sports equipment, music); ensuring basic necessities are provided, providing counselling and facilitating family visits. The MSS also works with juvenile offenders to achieve rehabilitation and reintegration. Support is also provided to the families post reintegration to ensure a positive outcome.

**(iii) Sentencing of children**

284. The sentencing of children is currently under review and reform as part of the juvenile justice system. The design of any sentencing provisions relating to children will incorporate the obligations under the CRC and will take into account what is in the best interests of the child. Currently, the sentencing of children is considered on a case by case basis.

**(iv) Physical and psychological recovery and social reintegration**

285. The Ministry of Social Solidarity has continued to provide services and assistance for reintegration of children in conflict with the law. In 2009 the budget for reintegration was USD\$10,500. In 2011 this was USD\$7,640 and in 2012 USD\$8,641 was allocated for reintegration.<sup>104</sup> Children that are serving sentences of detention or imprisonment are provided with a variety of training to equip them with skills prior to their reintegration into the community. The training programmes include vocational training such as carpentry.

286. In 2012 MSS established the Shady House of Maria Tapó in Maliana to provide accommodation and assistance to women and children who are the victims of domestic violence. MSS has plans to establish like centres in Dili and Lospalos in 2013. There have been significant increases in the budget allocated to case management and reintegration of child victims. In 2009 USD\$3,500 was allocated for these purposes. This increased to USD\$52,510 in 2011 and USD\$52,820 in 2012.<sup>105</sup>

**(v) Training of professionals involved in juvenile justice**

287. The legal and social aspects of child protection are part of the training course for candidates for the positions of judges, public prosecutors and public defenders. Prison officers have received general training in relation to dealing with children but have not yet received any specific juvenile justice training or training on the CRC. This is an area where the Government is working with UNICEF to provide training in the future.

**F. Children belonging to a minority or indigenous group**

288. The Constitution continues to protect children belonging to a minority or indigenous groups. There have been no changes relevant to such protection since the previous reporting period.

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<sup>104</sup> Response by MSS to questionnaire.

<sup>105</sup> Ibid.