

Human Rights Handbook

For Journalists in Timor-Leste

Human Rights

Human Rights in Timor-Leste

Reporting on Human Rights



United Nations
Educational, Scientific and
Cultural Organization



UNMIT
United Nations Integrated
Mission in Timor-Leste



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Acronyms

ASEAN:	Association of Southeast Asian Nations
CAT:	Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment
CAVR:	The Commission for Reception, Truth and Reconciliation
CEDAW:	Convention on the Elimination of all forms of Discrimination against Women
CERD:	International Convention on the Elimination of All Forms of Racial Discrimination
Col:	Commission of Inquiry
CPED:	International Convention for the Protection of All Persons from Enforced Disappearance
CRC:	Convention on the Rights of the Child
CRPD:	Convention on the Rights of Persons with Disabilities
CSO:	Civil Society Organization
CTF:	Indonesia - Timor Leste Commission for Truth and Friendship
DNDHC:	Direccao Nacional dos Direitos Humanos e Cidadania
F-FDTL:	Falintil-Forcas de Defesa de Timor-Leste
HR:	Human Rights
HRC:	Human Rights Council
HRTJS:	Human Rights and Transitional Justice Section (UNMIT)
ICCPR:	International Covenant on Civil and Political Rights
ICESCR:	International Covenant on Economic, Social and Cultural Rights
ICRMW:	International Convention on the Protection of All Migrant Workers and Members of their Families

ILO: International Labor Organization
INTERFET: The International Force for East Timor
LADV: Law Against Domestic Violence
MAF: Ministry of Agriculture
MDG: Millennium Development Goals
MTCI: Ministry of Trade, Commerce and Industry
NGO: Non Governmental Organization
NHRI: National Human Rights Institution
NP: National Priorities
OHCHR: Office of the High Commissioner for Human Rights
PDHJ: Provedoria for Human Rights and Justice
PNTL: National Police of Timor-Leste
RTTL: Radio-Televisão Timor-Leste
SCIT: Serious Crimes Investigation Team (UNMIT)
SEFOPE: Secretariat of State for Vocational Training and Employment
SEPI: Secretary of State for the Promotion of Equality
SISCA: Integrated Community Health Services
STAE: Secretariado Técnico de Administração Eleitoral
TLMDC: Timor-Leste Media Development Center
UDHR: Universal Declaration of Human Rights
UN: United Nations
UNESCO: United Nations Educational, Scientific and Cultural Organization
UNMIT: United Nations Integrated Mission in Timor-Leste
UPR: Universal Periodic Review

Foreword

In any democracy, a strong and independent media are indispensable in raising awareness about people's basic rights and strengthening democratic institutions. Media professionals play an important role in collecting, checking, producing and distributing information to the general public. Journalists must therefore have an understanding of legal frameworks, both national and international, knowledge of human rights issues and international standards, and the ability to communicate complex information about these issues to the public in an informed and documented way.



Journalism studies are rather new in Timor-Leste. A communications degree was established at the National University of Timor Leste (UNTL) in 2008 and the first candidate will graduate in 2012. UNTL's Department of Media and Communications lacks lecturers and equipment. In addition, the salaries for media workers in Timor-Leste are very low. This contributes to a high rotation of media professionals and impedes a real professionalization of the sector. The majority of journalists are very young and there is a need to provide appropriate training and building good reporting skills.

In 2011 UNESCO in collaboration with the Timor-Leste Media Development Center (TLMDC) and the United Nations Integrated Mission in Timor-Leste (UNMIT) trained a pool of young journalists on human rights reporting. This endeavour continues with the publication of this handbook. This handbook is designed for a wide audience, from journalism students to media practitioners. It provides not only solid information on human rights principles, tools and mechanisms, but also useful tips on producing consistent news on human rights-related stories.

This handbook assumes that there are two ways to look at human rights reporting. It could be seen as a specialized area of reportage, like political reporting or sports reporting. When seen that way, human rights reporting is an important journalistic area and one that requires specialized skills and knowledge. That is all fine and good – but there is another way of looking at human rights reporting, one that is more universal and broad-based. Human rights touch every area of human existence and affect the way all people live their lives. Good journalism is about every aspect of human life as well. When looked at it this way, understanding human rights and how to report on them effectively becomes a necessary component of basic training for all reporters. In a country like Timor-Leste, where core government and civil society institutions are being rebuilt, consistent reporting on human rights is even more important. At its core, good journalism is about providing people with the information they want and need to live their lives and to be engaged citizens. Good journalism is also about holding those in power to account and acting as a watchdog for the institutions of civil society and good governance.

As such, this handbook will help fill a gap in human rights reporting in Timor-Leste. We hope it is useful to journalists and reporters, human rights practitioners and anyone interested in bringing to the public human rights-related stories and issues.

A handwritten signature in black ink, consisting of a large, sweeping initial 'H' followed by a series of smaller, connected loops and a long horizontal stroke at the bottom.

Prof. Dr. Hubert Gijzen
UNESCO Representative for Timor-Leste

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Introduction

There are a number of excellent human rights reporting handbooks available, some written for specific contexts, such as the Balkans or Vietnam. To date, no handbook has been prepared specifically for journalists in Timor-Leste. In pulling together material for this publication, The Human Rights Handbook for Journalists in Timor-Leste, the editor decided that there was no point in re-drafting material on the history of human rights and its importance for journalists. This handbook is therefore made up mostly of material that has been assembled elsewhere and is used here with permission; and includes some new material on human rights in Timor-Leste. This handbook is designed as a ready reference for working journalists in Timor-Leste.

In a 2003 human rights reporting manual for reporters in south-eastern Europe,¹ Peter McIntyre argues that the interaction between journalists and human rights is threefold:

1. The role of the journalist is to report honestly on society. The media is sometimes described as a 'watchdog', whose job is to give the alarm when people's rights are under threat or abused. The media hold people in power to account and tell the public how that power is used or abused. Human rights standards are the criteria by which people in power should be judged. They are an attempt to set minimum standards as to how states should treat citizens and how citizens treat each other. In focusing on the human rights standards, journalists bring society into focus. This is not because there is something noble about a human rights perspective. It is professionally more complete. Human rights reporting is therefore like having more than one camera angle. It enables the reporter to examine a situation from different points of view, from the perspectives of all those affected. It gives a more complete and more accurate picture.
2. Journalists cannot work if people are not free to express themselves and publishers are not free to publish. Human rights instruments give individuals the rights to freedom of thought and belief, and to freedom of expression. One of the main functions of journalism is to help people to achieve these rights. The rights of media and citizens are mutually supportive. People can only demonstrate their right to freedom of expression when publishers, editors and journalists give the people a broad and pluralistic media. And publishers, editors and journalists only have a right to press and media freedom if they are willing to use this right to promote people's right to freedom of expression. Media freedom is the first right to be constricted when states start to abuse the human rights of their citizens. Journalists resist such restrictions; or if they don't, they become professionally lazy, passively publishing only what the authorities allow them to publish. Journalists who work in this manner contribute to their own imprisonment.

3. Like other people, journalists have a personal interest in the rights that allow them to live in freedom, and to be free from fear or oppression. Journalists have families and belong to communities, and so have a direct personal interest in safety, freedom from fear and freedom from repression. The more journalists are grounded in communities, the more they will be aware of human rights restrictions. Good journalists are curious about society and can see that most communities want the same things: to be valued as individuals and groups, and be able to grow and develop in safety, without fear and with equality of opportunity. One important reason for news organisations to achieve diversity in staffing is that journalists from different backgrounds better understand different communities. A newsroom which includes a different range of journalists is better able to monitor human rights abuses in that society.

With all this in mind, this handbook is designed to take journalists in Timor-Leste through some valuable background on human rights principles and also to provide local context on the human rights situation in Timor-Leste as well as some practical tips on human rights reporting. The purpose of the book is to serve both as a textbook for journalism students at UNTL and as a practical tool that can be used by reporters already working in the media. The first section, based on material published by the Canadian organization Journalists for Human Rights (JHR) and with great contributions from the Human Rights and Transitional Justice section (HRTJS) of UNMIT, will examine the background of human rights and their integration in Timorese institutions. The second section contains the UN Country Team report for Timor-Leste's 2011 Universal Periodic Review, which serves as a snapshot of the current situation of human rights in the country. Finally, the third section of the manual compiles some practical reporting tips that will help journalists write and produce better human rights related news stories.

¹ *Human Rights Reporting: A handbook for journalists in South-eastern Europe*, International Federation of Journalists, September 2003, pages 9-10.



Section 1: Human Rights

1.1 What are Human Rights?

The concept of human rights is not an easy one. Philosophers have been debating questions about human rights for centuries. What are human rights? What is the moral grounding of human rights? Why believe in human rights? What are the limits of human rights?

Human rights affirm that, as human beings, we are all entitled to equal treatment and opportunities, regardless of our origin, gender, economic situation or ethnicity. The term human rights refers to a set of rights that each person is entitled to equally. Rights can be civil, cultural, social, economic or political. For instance, the right to food, the right to shelter, the right to practice any religion and the right to free expression, are all fundamental human rights.

The Office of the High Commissioner for Human Rights (OHCHR), the principal UN office tasked with promoting and protecting human rights, defines human rights as “rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. We are all equally entitled to our human rights without discrimination. These rights are all interrelated, interdependent and indivisible”.

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

Photo Above: Human Rights Council in session, Geneva. UN Photo/Jean-Marc Ferré

What is the value of human rights?

Human rights are an objective benchmark for measuring government action (or inaction), thus holding government accountable.

Human rights are also an objective guide for the development of national and local policies and programmes aimed at developing the country and its people.

Human rights can also contribute to generational changes in the law, and in the behaviour and attitudes of the people.

1.2 Characteristics of Human Rights

Human rights do not have to be bought, earned or inherited – they belong to all people simply because they are humans – this makes human rights inherent to each individual.

Human rights apply to everyone, regardless of race, sex, religion, political opinion, religion, ethnic/national/social origin or economic status – they are universal.

Human rights cannot be taken away from anyone without reason – they are inalienable.

At times however, human rights can be restricted in order to protect other people's rights. For example, the right to liberty may be restricted if a person is found guilty of a crime by a court of law. Or during a state of emergency, certain rights, like the freedom of movement can be restricted. After the 2008 attack on the President and the Prime Minister of Timor-Leste, the interim President issued a resolution limiting people's freedom of movement at night, among other things.

Under certain circumstances, restrictions of human rights are allowed, but need to be imposed by law. These restrictions may include restrictions to protect the rights and freedoms of others, public order, national security, public safety, public health or morals or general welfare. Restrictions should be consistent with a country's obligations under international law.

Human rights are indivisible, inter-related and inter-dependent. The improvement of one right facilitates advancement of the others. Similarly, if there is a violation of a particular right, some other right/s may also be violated. For example, if a person can not go to school (right to education), there is a higher chance that that person will not be able to get a job (right to work). Also, if there is conflict, like the 2006 crisis, and people don't feel safe to go out of their homes (freedom of movement and right to personal integrity), a person who is sick or injured can not go to hospital for treatment (right to health care).

1.3 Categories of rights

There are civil, political, social, economic and cultural rights. But as noted above, they are equally important and interdependent.

1.3.1 Civil and Political Rights

Civil rights are outlined in Articles 3-18 of the Universal Declaration of Human Rights.

Article 3 – the right to life, liberty, and security of person

Article 4 – freedom from slavery

Article 5 – freedom from torture and cruel or inhuman or degrading treatment or punishment

Article 6 – the right to recognition everywhere as a person before the law

Article 7 – the right to be equal before the law and free from legal discrimination

Article 8 – the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law

Article 9 – freedom from arbitrary arrest, detention, or exile

Article 10 – the right to a fair and public hearing by an independent and impartial tribunal

Article 11 – the right to be presumed innocent until proven guilty

Article 12 – the right to freedom of privacy and from attacks upon a person's honour or reputation

Article 13 – freedom of movement within and across the borders of a country

Article 14 – the right to asylum and protection from persecution

Article 15 – right to a nationality

Article 16 – the right to found a family

Article 17 – the right to own property

Article 18 – freedom of thought, conscience, and religion

Political rights guarantee all citizens the right to participate in the democratic process of their governments. Political rights are needed to elect governments and political parties that will facilitate the development and promotion of other forms of human rights (like economic and social rights). Political rights are outlined in articles 18-21 of the Universal Declaration, as well as articles 18-22 and article 25 of the International Covenant on Civil and Political Rights.

These rights are enumerated in Article 18-21 of the Universal Declaration:

Article 18 – freedom of thought, conscience, and religion

Article 19 – freedom of opinion and expression; freedom to impart information and ideas through any media regardless of frontiers

Article 20 – freedom of peaceful assembly and association

Article 21 – the right to take part in the government of their country, directly or through freely chosen representatives; the right to equal access to public service in their country; the right to vote and participate in periodic and genuine elections

Probably one of the most important rights for journalists is laid down in Article 19 of the both the UDHR and the ICCPR:

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.
(art. 19 UDHR)

1. Everyone shall have the right to hold opinions without interference.
2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

1.3.2 Economic, Social and Cultural Rights

These rights are set forth in Articles 22-27 of the Universal Declaration of Human Rights:

Article 22 – the right to social security and the realization of economic, social and cultural rights indispensable to their dignity and the free development of personality

Article 23 – freedom to work and choose employment; the right to equal pay for work; the right to social protection; freedom to join trade unions for the protection of their interests

Article 24 – the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay

Article 25 – the right to a standard of living adequate for their health and well-being (includes food, clothing, housing, medical care, necessary social services; security in the event of unemployment, sickness, widowhood, old age or lack of livelihood in circumstances beyond a person's control)

Article 26 – the right to education

Article 27 – the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancements and its benefits; protection of moral interests

Making social, economic and cultural rights a reality can be costly. It will, for example, require the building of schools, the education of health workers and establishment of a social security scheme for people with a disability. Many states have limited resources to fulfill these obligations at once. In light of this, the ICESCR places an obligation on States to progressively realize these rights. States need to take steps “to the maximum of their available resources” to realize the rights, but the Covenant also says that the ultimate aim is to achieve the full realization of all rights in the Covenant. This does not mean that States are free to decide when to start implementing economic, social and cultural rights. They do need to take steps to improve the realization of these rights, immediately upon ratifying the Convention. In addition, they have to meet certain minimum obligations, like to ensure that everyone can exercise their rights without discrimination, or for that primary education is free and compulsory.

1.3.3 Communal and Group Rights

Although many rights belong to individuals, there are some collective or communal rights, including:

- the right to political, economic, social, and cultural self-determination
- the right to economic and social development
- the right to participate in and benefit from the common heritage of humanity
- the right to peace
- the right to a healthy and sustainable environment
- the right to humanitarian disaster relief.

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- (a) For respect of the rights or reputations of others;
- (b) For the protection of national security or of public order (order public), or of public health or morals (art. 19 ICCPR)

1.4. Human Rights Law

1.4.1 International Human Rights Law

This section focuses on the development of human rights law after the end of World War II, though there were precursors to the many human rights documents that were drawn up in the 20th century.²

At the end of World War II, the UN was established, with the primary goal of promoting international peace and preventing conflict. In 1948, the UN adopted the Universal Declaration of Human Rights.

The UN Universal Declaration of Human Rights states:

"Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people...

The General Assembly, Proclaims this Universal Declaration of Human Rights as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms)"

² For example, the slave trade was banned in the 19th century and the horrors of war were limited. In 1919, the International Labour Organisation (ILO) was established to oversee treaties protecting workers with respect to their rights, including their health and safety

Since the adoption of the UDHR, many more human rights laws have been adopted:

Acronym	Treaty / Convention	Adopted by UN GA
CERD	International Convention on the Elimination of All Forms of Racial Discrimination (CERD)	1965
ICCPR	International Covenant on Civil and Political Rights (ICCPR)	1966
ICESCR	International Covenant on Economic, Social and Cultural Rights (ICESCR)	1966
CEDAW	Convention on the Elimination of all forms of Discrimination against Women (CEDAW)	1979
CAT	Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT)	1979
CRC	Convention on the Rights of the Child (CRC)	1989
ICRMW	International Convention on the Protection of All Migrant Workers and Members of their Families (CMW)	1990
CRPD	Convention on the Rights of Persons with Disabilities (CRPD)	2006
CPED	International Convention for the Protection of All Persons from Enforced Disappearance (CPED)	2006

Some of the conventions have optional protocols, for example the ICCPR has Optional Protocol 2 on the abolition of the death penalty. *(For information on all UN human rights instruments, see <http://www2.ohchr.org/english/law/>)*

Many states have ratified the different covenants and conventions, and some of the optional protocols. As of March 2012, Timor-Leste has ratified all conventions and covenants, except the CRPD and CPED. *(See 3.5 Links and resources, for sites with a complete list of human rights and human rights related international law ratified by Timor-Leste.)*

Once a State has ratified a convention, it has the legal obligation to respect, protect and fulfill. (See 1.5 Human rights and obligations.) The State, most often through the Government, also needs to report to the UN about the implementation of the rights in the conventions. *(See 1.6.3 Mechanisms based on UN human rights conventions.)* As of March 2012, Timor-Leste had reported on the implementation of the CRC (in 2007-2008) and CEDAW (2009). *(See also 1.6.2.3 Human Rights Council: Universal Periodic Review.)*

1.4.2 National Human Rights Law

Timor-Leste is regularly commended, including by the UN human rights system, for the strong legal framework it has established to promote and protect human rights. The legal framework is grounded in the country's Constitution and includes legislation drafted by the President, Parliament and Government.

1.4.2.1 The Timor-Leste Constitution

The Timor-Leste Constitution is often said to be one among the world's best in terms of protecting human rights. Part II is devoted to human rights and includes a long list of rights, which are also found in international human rights law. Section 9.2 of the Constitution sets out that once ratified, international law (including international human rights law) becomes part of Timor-Leste's legal framework; and that all national laws need to comply with international (human rights) law.

Section 9 of the Timor-Leste Constitution (*International law*)

2. Rules provided for in international conventions, treaties and agreements shall apply in the internal legal system of Timor-Leste following their approval, ratification or accession by the respective competent organs and after publication in the official gazette.
3. All rules that are contrary to the provisions of international conventions, treaties and agreements applied in the internal legal system of Timor-Leste shall be invalid.

Section 40 and 41 of the Constitution are the most important articles for journalists.

Section 40, Timor-Leste Constitution

(*Freedom of speech and information*)

1. Every person has the right to freedom of speech and the right to inform and be informed impartially.
2. The exercise of freedom of speech and information shall not be limited by any sort of censorship.
3. The exercise of rights and freedoms referred to in this Section shall be regulated by law based on the imperative of respect for the Constitution and the dignity of the human person.

Section 41 (*Freedom of the press and mass media*)

1. Freedom of the press and other mass media is guaranteed.
2. Freedom of the press shall comprise, namely, the freedom of speech and creativity for journalists, the access to information sources, editorial freedom, protection of independence and professional confidentiality, and the right to create newspapers, publications and other means of broadcasting.
3. The monopoly on the mass media shall be prohibited.
4. The State shall guarantee the freedom and independence of the public mass media from political and economic powers.
5. The State shall guarantee the existence of a public radio and television service that is impartial in order to, inter-alia, protect and disseminate the culture and the traditional values of the Democratic Republic of East Timor and guarantee opportunities for the expression of different lines of opinion.
6. Radio and television stations shall operate only under a license, in accordance with the law

1.4.2.2 Other legislation

The President, the Parliament and Government also adopt legislation that protects human rights. These include Presidential Decrees, Parliamentary laws and resolutions, Government decree laws and resolutions. Following are examples of laws which relate to human rights:

- The Presidential Decree on the State of Exception and State of Siege (2008)
- The Parliamentary Law Against Domestic Violence
- The Parliamentary Law on the Protection of Witnesses
- Parliamentary Election Laws
- The Parliamentary Labor Code
- Parliamentary Resolutions to ratify international human rights conventions
- The Government Decree Law on the Military Code of Discipline
- The Government Decree Law on the Penal Procedure Code
- The Government resolution on assistance to the victims of the crisis (2006)

1.4.2.3 National laws regulating the media

As of July 2012, there were no specific laws on the media. Draft media law has been discussed for several years, but has not yet been adopted. There is no freedom of information law. The only decree law about the media is Decree Law 42/2008 on transforming Radio e Televisão de Timor-Leste (RTTL) into a publicly owned undertaking. *(For all legislation in force in Timor-Leste, see UNMIT website.)*

1.5 Human rights and obligations

Human rights come with obligations. Everyone has rights, but everyone also has the moral obligation to respect other people's rights. Some actions against human rights, like killing someone, beating one's wife or children, stealing someone's property and sexual abuse, are crimes. If someone commits such acts against human rights, these violations may become a case, processed in a court of law.

Human rights law places legal obligations on States, who have accepted or ratified particular laws on human rights. There are three specific obligations on States:

- The obligation to respect – this means that the State should not interfere in the enjoyment of people's rights.
- The obligation to protect – this requires States to protect individuals against abuses by State and non-State actors.
- The obligation to fulfill – this requires the State to take or facilitate positive action, or be pro-active, in the fulfillment of rights.

Examples of state obligations to respect, protect and fulfill

Right to life

- Respect: Police shall not intentionally kill a person suspected of an offence in order to prevent their escape.
- Protect: Attacks by individuals on other people's lives will be crimes with appropriate penalties under domestic criminal law. The police shall investigate these crimes with the aim of bringing the perpetrators to justice.
- Fulfill: Laws and policies must be adopted to reduce, step-by-step, the child mortality rate and similar causes of death.

Right to vote

- Respect: PNTL or F-FDTL should not threaten anyone or force anyone to vote in a certain way.
- Protect: STAE should organise voting by secret ballot in a way that avoids threats by powerful state or non-state actors (such as politicians, law enforcement officers, chiefs, political party supporters or powerful companies).
- Fulfill: Organise elections in a way that ensures as many people as possible can vote in free and fair elections, including, in the future, voting overseas.

Right to health

- Respect: Doctors should not forcibly sterilize women and thus interfere with the right to reproductive health.
- Protect: The Government should adopt laws that prohibit female genital mutilation (FGM).
- Fulfill: The Government should establish a sufficient number of hospitals and public health care facilities and train its staff.

Right to education

- Respect: The Government should not interfere with the freedom to establish private schools.
- Protect: The Government should ensure compulsory primary education as one way of also protecting children against child labour.
- Fulfill: The Government should establish a sufficient number of schools, with well-trained teachers.

If there are conflicting human rights, courts and government have to mediate. For example, if a thief enters a house and the owner shoots him with a gun, both of these persons' rights are conflicting. One has the right to life, while the other has the right to protection. It is therefore the responsibility of courts and governments to enforce human rights and to oversee that everyone's rights are respected.

Obligations of journalists – and specific limitations on the freedom of expression

As also noted above, the right to freedom of expression is arguably one of the most essential rights for journalists. Rights however come with obligations and can be limited indeed. As stated in paragraph 3 of art. 19 of the ICCPR or UDHR:

3. The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:
 - (a) For respect of the rights or reputations of others;
 - (b) For the protection of national security or of public order or of public health or morals (art. 19 ICCPR)

1.6 How are human rights protected?

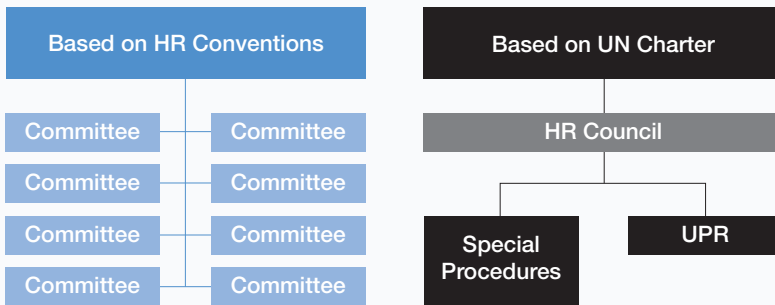
Human rights are protected at three different levels: international, regional and national.

1.6.1 International mechanisms protecting human rights³

Within the UN system, States report on various human rights situations around the world, through the UN's many committees and assemblies. It's confusing, even to experienced observers. Reporting frequently overlaps, with few people able to follow all at the elements at once.

There are two types of mechanisms that protect human rights. The first is based on the UN Charter – the Constitution of the UN – and the other is based on different human rights conventions.

UN mechanisms protecting human rights



1.6.2 UN Charter: Human Rights Council

The Human Rights Council (HRC) is the main body in the UN that deals with human rights. It was established in 2006 and replaced the Commission on Human Rights. The Human Rights Council is composed of 47 UN member states and is responsible for strengthening the promotion and protection of human rights around the globe. It also discusses and addresses situations of human rights violations and makes recommendations on them. It meets at the UN Office in Geneva.

³ Most of the information in this section on international protection of human rights comes from Human Rights and Transitional Justice section of UNMIT, from the manual *Reporting Human Rights and Humanitarian Stories: A Journalists Handbook*, Jo-Anne Velin and Human Rights Internet and The International Centre for Humanitarian Reporting: 1997.

1.6.2.1 Special Procedures

The HRC has established Special Procedures on different themes and for a few specific countries. Special Procedures are either one independent, HRC appointed expert on human rights, or a group of experts. Most of them are called Special Rapporteurs, for example, on the right to education or on violence against women. Groups of experts form 'Working Groups' on arbitrary detention for example, or on people of African descent. As of March 2012, there are over 30 Special Procedures on different themes. There is a Special Rapporteur on the promotion and the protection of the right to freedom of opinion and expression.

The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression visits countries, receives complaints from victims of violations of the freedom of opinion and expression and he can ask Governments in case of violations to give information and address violations.

Journalists in Timor-Leste may write to the Special Rapporteur to seek assistance in case their rights of freedom of expression are violated.

(For more information on the Special Rapporteur and how to submit a complaint, see: <http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>)

Journalists who report on human rights and who face danger can also seek the assistance of the Special Rapporteur on the situation on Human Rights Defenders. In March 2012, the Special Rapporteur, Margaret Sekaggya, told the Human Rights Council:

“Journalists, environmental, student and youth rights defenders and those working on land issues are in significant need of protection,” Ms. Sekaggya said at the UN Human Rights Council during the presentation of her report on the situation of rights defenders who are at high risk due to their work. (...)⁴*

“Human rights defenders have the right to protection, and it is the State’s responsibility to ensure this protection, so that defenders can carry out their important and legitimate (...)”

⁴ For the full report, see http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session19/A-HRC-19-55_en.pdf

1.6.2.2 Recent visits by Special Procedures to Timor-Leste

In February 2011, the Working Group on Enforced and Involuntary Disappearances visited Timor-Leste, while the Special Rapporteur on Extreme Poverty and Human Rights visited Timor-Leste in November 2011. For their reports, and their recommendations to Timor-Leste, please visit the pages on their mandate on the website of the Office of the High Commissioner for Human Rights (OHCHR).

1.6.2.3 Human Rights Council: Universal Periodic Review

The Human Rights Council reviews the human rights situation in each UN Member State once every four years. This process is called the Universal Periodic Review (UPR). Timor-Leste's human rights situation was reviewed in October 2011. The review was based on a report prepared by the Timor-Leste Government, UN reports (including the UN Country Team Report in part 2 of this Manual), and reports from the Provedor for Human Rights and Justice (Provedoria Direitus Humanus e Justisa) and civil society.

During the UPR on Timor-Leste, UN Member States made several recommendations to the Timorese Government. Timor-Leste accepted most of these recommendations. The Government agreed to ratify the Convention on the Rights of Persons with Disabilities and ensure equal participation of women in decision-making.

Journalists can report on the UPR process, its outcome and whether recommendations accepted by Timor-Leste will be implemented. Journalists can also be involved in submitting information for the UPR, through working with civil society and the Provedoria. For the review that was conducted in 2011, Timor-Lest media was not actively involved, but can be during the next review of Timor-Leste which will take place in 2016. (*The UN Country Team report for Timor-Leste's UPR in 2011 can be found in section 2 of this handbook.*)

1.6.3 Mechanisms based on UN human rights conventions

Under each convention, a committee of experts is set up to review if States who ratify the convention do what is laid down in the convention. The Committee receives reports from the State that has ratified conventions, as well as reports from civil society (these are called “shadow reports”), the national human rights institution (in Timor-Leste, the Provedor for Human Rights and Justice) and the UN. The different reports describe if the rights in the convention are being respected, protected and fulfilled. The Committee discusses the report with all the actors involved, and will ask questions and request clarifications. It will make recommendations, especially for the Government, since the Government has primary responsibility for human rights, on how to improve the realization of specific rights.

As the Committee’s members are experts in their areas, they also issue opinions and General Comments, explaining in detail the rights in the convention they monitor. As of March 2012, there was no specific General Comment on art.19 of the ICCPR (freedom of opinion, expression, seek and impart information).

1.6.4 The media and UN human rights mechanisms

The media can work with the UN human rights mechanisms in different ways. The following is a list of possible actions that media that take:

- File a complaint about a violation of the right of a member of the media – for example to the Special Rapporteur on the freedom of expression and opinion
- Provide information on the human rights situation in Timor-Leste, in particular on freedom of expression and the situation of members of the media, for example for the UPR, as part of the reporting under the International Covenant on Civil and Political Rights, or to the Special Rapporteur
- Give media coverage of the work of the UN mechanisms, for example the visit of a Special Rapporteur to Timor-Leste
- Learn about the findings and opinions of the UN human rights mechanisms in relation to the media; and use these opinions for advocacy to improve the situation in Timor-Leste.

Timor-Leste media using UN human rights mechanisms in advocacy to change the Criminal Code

In 2005, the Government of Timor-Leste drafted a new Criminal Code. Defamation was included in the draft Criminal Code. Several media professionals were opposed to criminalizing defamation and wanted defamation to be dealt with through a civil law process. As part of their advocacy, the Timor-Leste Journalists Associations and several NGOs, used the opinion of the Special Rapporteur on the Freedom of Opinion and Expression, and the Committee on Human Rights (which oversees the implementation of the ICCPR) to call for the de-criminalization of defamation:

The Special Rapporteur of UN on freedom of opinion and expression said in 1999 that imprisonment of someone who committed defamation was not a legitimate sanction... The Human Rights Committee which monitors the implementation of the International Covenant on Civil and Political Rights also presented its concerns on criminalization of defamation.

The Government decided to take defamation out of the draft Criminal Code. In a case of defamation now, a victim can file a civil suit.

(For information on Timor-Leste cooperation with the UN human rights mechanisms including reports on visits by UN mechanisms to Timor-Leste, see: www.ohchr.org/EN/countries/AsiaRegion/Pages/TLIndex.aspx)

1.6.5 Other UN bodies that promote and protect human rights

In addition to specific UN human rights mechanisms described above, there are many other UN organs that protect human rights. Human rights are one of the main pillars of the UN, alongside peace, security and development. Thus, the entire UN system has a responsibility to promote and protect human rights. Some of the more specific organs that protect human rights are:

- the Secretary-General
- the General Assembly
- the Security Council
- the International Court of Justice
- the International Criminal Court
- the Economic and Social Council
- UN Peace Mission
- UN Agencies
- the Office of the High Commissioner for Human Rights

1.6.6 UN bodies protecting human rights in Timor-Leste

The General Assembly adopts international human rights law, and many of these laws have been ratified by Timor-Leste. During Timor-Leste's 2006 crisis, the Secretary-General decided to establish a Commission of Inquiry. The Security Council sent INTERFET to Timor-Leste in 1999; and established the Special Panels for Serious Crimes for Timor-Leste.

UNMIT has a Human Rights and Transitional Justice Section (HRTJS) that works closely with the Office of the High Commissioner for Human Rights. Media professionals can contact the HRTJS if they have questions on human rights, and the mandate of the UN in the area of human rights.

1.7 Regional mechanisms

Unlike other regions in the world, there is no functioning regional mechanism to promote and protect human rights in Asia.

In October 2009, ASEAN established the Intergovernmental Commission on Human Rights but this body does not currently have the power to investigate allegations of human rights violations. In April 2010, the ASEAN Commission on the Promotion and Protection of the Rights of Women and Children was established.

1.8 National mechanisms protecting human rights

1.8.1 The Constitution and other legislation

At the national level, politicians and policy-makers promote human rights through constitutions. In general, constitutions dictate the rules that “establish the duties, powers, and functions of various institutions of government”. Constitutions are most effective at upholding human rights when they define the rights in concrete terms and where there is a separation of power within the government.

As noted above, international human rights law, ratified by Timor-Leste, places legal obligations on the State to protect human rights. In line with these obligations, Timor-Leste has established several bodies that protect human rights.

1.8.2 The National Parliament

The National Parliament protects human rights by adopting laws. The Parliament also debate issues of concerns, including those raised by citizens, which can include human rights issues. Within Parliament, there are different Committees. Committee A on Constitutional Issues, Justice, Public Administration, Local Power and Government Legislation, focuses on human rights. For example, it analyses draft legislation from a human rights perspective.

1.8.3 The Government of Timor-Leste

The Government also adopts legislation (decree-laws, decrees, diplomas etc) that protect human rights. For example, the Government adopted the Penal Code by decree law (in 2009) that protect the rights of citizens from crime; and the Penal Procedure Code (in 2005) that protects the rights of victims and suspects of crimes. The Government adopts policies and programmes, for example, the National Policy on Persons with Disabilities (2012) or the Strategic Development Plan (2011).

Within the Government, the work of most Ministries and Secretaries of States relates to the protection of human rights. For example, the Secretary of State for the Promotion of Equality (SEPI) works towards better protection of the rights of women. The PNTL protects citizens from becoming victims of crimes. Within the Ministry of Justice, there is a National Directorate for Human Rights and Citizenship that is focused on the promotion and protection of human rights.

Two important bodies within the Government that protect human rights are the PNTL's Justice Department and the F-FDTL's Justice Department. Citizens who believe that their rights have been violated by members of the PNTL or the F-FDTL can file complaints to these departments, which will investigate the complaint and make recommendations to their superiors.

1.8.4 The judiciary and justice-sector institutions

The judiciary in Timor-Leste consists of the courts (the Court of Appeal and four district courts). An Audit Court is also in the process of being established. The Public Ministry, or Office of the Prosecutor General, directs investigations into criminal matters; and prosecutes crimes. The Office of the Public Defender, which sits within the Ministry of Justice, provides free legal access for any citizen who cannot afford to pay for a lawyer. There are also private lawyers, who charge their clients for their services. Some private lawyers also provide free legal advice. A citizen whose rights are violated has the right to a remedy. Depending on the violation, this remedy could be processed through the courts.

1.8.5 The Provedor for Human Rights and Justice

The Provedor for Human Rights and Justice receives complaints from citizens about human rights violations, conducts investigations and provides recommendations to the relevant authorities. It also promotes human rights, including through training for PNTL, F-FDTL and for school teachers. In 2012, the PDHJ has offices in Dili, Same, Maliana, Baucau and Oecusse

1.9 The role of civil society in protecting human rights

Civil society is an important actor in the promotion and protection of human rights in Timor-Leste. Civil society includes the media, religious groups, including the Catholic Church, NGOs and community-based organisations. Civil society organizations (CSO) are involved in human right works through observing and reporting on human rights issues; advocating for change; commenting on Government programmes, policies and laws; conducting community outreach; providing citizens with services; and human rights capacity building with PNTL and F-FDTL. Some of the human rights NGOs in Timor-Leste are HAK, FOKUPERS, the Aloia Foundation, the Judicial System Monitoring Programme and the Justice and Peace Commission.

Often, a country's constitution will not provide absolute protection against human rights abuses. In this instance, citizens can collectively call upon the government to explain and account for their actions. Civil society is a term used to describe this function. Civil society emerges when citizens organize to challenge the government. Here is one definition of civil society:

The set of institutions, organizations, and behaviour situated between the state, the business world, and the family. This includes voluntary and non-profit organisations of many different kinds, philanthropic institutions, social and political movements, other forms of social participation and engagement and the values and cultural patterns associated with them. (*Centre for civil society www.lse.ac.uk/collections/CCS/*)

The UN views civil society as necessary to maintain peace, security, and prosperity around the world. Kofi Annan, the former UN Secretary-General, has stated:

The UN once dealt only with Governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today's world, we depend on each other.

The media is often considered a part of civil society. In eighteenth century Britain and France, there was a struggle for press freedom. Today, the same struggle is occurring throughout the developing world. The media's role is linked to civil society because it:

- holds governments accountable
- informs citizens about their rights
- informs citizens truthfully about what is going on in their societies
- educates citizens on democratic participation
- creates a culture of space for debate

There are over 26,000 non-governmental organizations (NGOs) that have become important channels for delivering and implementing social services and other development programs around the world. Of these organizations, several are concerned with the development and promotion of human rights. The most recognized of these is Amnesty International, which was formed in 1961. Amnesty International also tries to secure fair and prompt trials for political prisoners; lobbies to abolish the death penalty, torture, and other harsh treatment of all prisoners; investigates secret executions and “disappearances” of political activists; and opposes abuses by anti-government groups, such as taking hostages and killing prisoners. Amnesty International won the Nobel Peace Prize in 1977.

1.10 Challenges of enforcement

There is no single way to ensure respect for human rights and other societal values. Although the UN, individual country constitutions, governments and civil society play a role in preventing gross human rights violations, abuses can still occur. A major obstacle to international protection of human rights is that most nations will not accept any interference with their internal affairs, including questions of discrimination against its own citizens.

In addition, there are certain clauses within international treaties that allow states to find reasons for non-compliance with human rights protection.

The Universal Declaration contains a ‘clawback clause’ (Article 29 [2]):

In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and general welfare in a democratic society.

Similarly, the International Covenant on Civil and Political Rights includes four articles that allow a state to limit a person’s right: public emergency (art.4); national security (art.12); criminal charges (art.14) and public order, health, morals (art.18).

Since 2000, however, the movement to create international institutions of justice took several steps forward. Most significant was the establishment of the International Criminal Court (ICC), the first tribunal for genocide, war crimes and crimes against humanity. The Rome Statute on the ICC entered into force on July 1, 2002, after sixty states acceded to the statute. It has since conducted hearings in a number of cases of gross violations of human rights and arrest warrants have been filed.

As of July 2012, 121 countries are States Parties to the Rome Statute of the International Criminal Court, including Timor-Leste.



Section 2: Human Rights in Timor-Leste

In this section you can find the United Nations Report for the Universal Periodic Review of Timor-Leste that took place in October 2011. Even though this report was submitted by the United Nations Country Team in March of 2011, many of the issues reported on remain valid today, as such, this report serves as the perfect summary on the current situation of Human Rights in Timor Leste.⁵

2.1 UN Country Team / UN Integrated Mission in Timor-Leste Report for the Universal Periodic Review of Timor-Leste – 12th Session - October 2011

2.1.1 Introduction

- This report contains information from members of the UN Country Team in Timor-Leste⁶ and the UN Integrated Mission in Timor-Leste (UNMIT) through its Human Rights and Transitional Justice Section (HRTJS). The Chief HRTJS represents the High Commissioner for Human Rights in Timor-Leste.

Above photo: Timorese woman and child standing in front of heir traditional Timorese home in Oecussi. UN Photo (2011)

⁵ For more information on the Human Rights situation in Timor Leste, please, see the UPR report by the Government or check the OHCHR website for the report of the Provedoria and Civil Society (<http://www.ohchr.org/EN/HRBodies/UPR/Pages/TLSession12.aspx> under summary of stakeholders information, and click on the number 3).

⁶ UNHCR, UNDP, UNESCO, UNICEF, UNFPA, WHO, IOM, WFP, FAO and ILO.

2.1.2 Background and framework

Constitutional and legislative background

- The 2002 Constitution of the Democratic Republic of Timor-Leste upholds the full range of human rights. International conventions, treaties and agreements ratified by Timor-Leste are part of domestic law, and any laws and rules contrary to the provisions of such international treaties are deemed invalid by the Constitution.⁷ Article 23 provides for the interpretation of fundamental rights in accordance with the Universal Declaration of Human Rights.
- Timor-Leste is a State Party to the main international human rights treaties.⁸ It is party to the Second Optional Protocol to the International Covenant on Civil and Political Rights (ICCPR) and the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). It has signed but not ratified the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (ICESCR). It has not ratified the Convention on the Rights of Persons with Disabilities or the International Convention for the Protection of All Persons from Enforced Disappearances. Timor-Leste has not accepted the competence of the Committee against Torture, the Committee on the Elimination of Racial Discrimination and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families to receive individual complaints.⁹
- Timor-Leste is party to the 1949 Geneva Conventions and the two 1977 Additional Protocols. It has ratified the Convention relating to the Status of Refugees and the 1967 Protocol, but has made reservations in relation to access to courts and welfare of refugees and asylum seekers.¹⁰ It has ratified the Rome Statute of the International Criminal Court.

⁷ Art. 9, Constitution of the Democratic Republic of Timor-Leste.

⁸ The International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), the Convention on the Elimination of Racial Discrimination (CERD), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Convention on the Rights of the Child (CRC) and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICRMW).

⁹ Under art. 22 CAT, art. 14 CERD and art. 76 ICRMW.

¹⁰ Art. 16.2 and 20-24, Convention relation to the Status of Refugees.

- Timor-Leste has ratified the UN Convention against Corruption as well as the UN Convention against Organized and Transnational Crime, its Additional Protocol to Prevent, Suppress and Punish Trafficking of Persons, especially Women and Children, and its Additional Protocol against the Smuggling of Migrants by Land, Sea and Air.
- Timor-Leste has made progress in adopting key legislation protecting human rights including the Law Against Domestic Violence, the Law on the Protection of Witnesses and a Criminal Procedure Code, a Penal Code, and it has adopted an overall framework for coordination within the national security forces, as well as legislation aimed at enhancing democratic governance, including on the establishment of anti-corruption and civil service commissions.

Institutional and human rights structure

- The National Human Rights Institution (NHRI) in Timor Leste – the Provedoria dos Direitos Humanos e Justiça (PDHJ) – is an independent body provided for in the Constitution. It started operating in early 2006. It examines citizens' complaints against public entities, makes recommendations to competent bodies to remedy injustices, acts preventively including through education and promotion, and ascertains if acts by public entities conform to the law. Recognized as being established in line with the Paris Principles, in 2008, the International Coordinating Committee (ICC) of NHRIs accredited the PDHJ with A status.
- The National Commission for the Rights of the Child was established in 2009, with a mandate to promote, defend and monitor children's enjoyment of their rights and well-being.
- Within the Ministry of Justice, the Direção Nacional dos Direitos Humanos e Cidadania (DNDHC) is responsible for enhancing public awareness on rights and duties of citizens, analysis of draft legislation from a human rights perspective and disseminating new legislation. It has taken the lead in the preparation for the Universal Periodic Review, and initiated a process resulting in the appointment by the Council of Ministers of 25 human rights focal points at the ministerial, secretariat of state and district levels.
- The Secretariat of State for the Promotion of Equality focuses on gender, while the Ministry of Social Solidarity leads the protection and promotion of the rights of the most disadvantaged groups, including children, persons with disabilities, elderly and widows.
- Civil society is active in Timor-Leste, including in the area of human rights, and is free to carry out its activities without intimidation.

Policy measures

- Since 2008, the Government has set annual National Priorities (NP) and developed sectoral plans. For 2011, the priorities were infrastructure; rural development; accelerated human resources development; access to justice; services delivery to the public; good governance; and public safety & security. The gender equality aspect has been progressively included in the formulation of NP targets. In 2011, the Government finalized the National Strategic Development Plan (2011- 2030) after consultations in all sub-districts.
- The Council of Coordination for Justice adopted the Justice Sector Strategic Plan for 2011-2030 in early 2010.

2.1.3. Promotion and protection of human rights on the ground

Cooperation with human rights mechanisms

- To date, Timor-Leste has submitted two treaty reports - under the CRC and CEDAW.¹¹ The Government, assisted by civil society and the UN, has disseminated both Committees' concluding observations and recommendations to the population. Other treaty reports are long overdue, mainly due to the fact that, being a newly independent State, systems as well as capacities in a wide range of areas are in the process of being developed, including in treaty reporting. Timor-Leste plans to report on the implementation of the ICCPR in 2012.
- Since late 2008, Timor-Leste has hosted two visits of Special Procedures of the Human Rights Council. In December 2008, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons conducted a visit to the country, while the Working Group on Enforced or Involuntary Disappearances visited Timor-Leste in February 2011. The Independent Expert on the Question of Human Rights and Extreme Poverty is scheduled to visit the country in the second half of 2011.
- At the invitation of the Government, the UN Independent Special Commission of Inquiry (CoI) looked into the facts and circumstances relevant to incidents that took place in April and May 2006 and related events that contributed to the 2006 crisis.
- The Government of Timor-Leste and other State Institutions work closely with the UNMIT Human Rights and Transitional Justice Section. UN human rights officers can carry out their work freely throughout the country and have unhindered access to places of detention. In September 2009, the High Commissioner expressed her deep concern to the President of the Republic in relation to the alleged unlawful release by the authorities from pre-trial detention of a person accused of crimes against humanity committed in 1999. No official response was received.

¹¹ In 2007 and 2008 respectively. Both reports were submitted with Timor-Leste's Common Core Document.

Implementation of international human rights obligations

A. Equality and non-discrimination

- Violence against women, in particular domestic violence, is widespread. Authorities do not always respond appropriately to complaints by victims. In some instances, for example, police do not open investigations and instead refer victims to traditional justice mechanisms which may not adequately protect women's rights. The Law Against Domestic Violence (LADV), adopted in 2010, makes domestic violence a public crime. Together with the Penal Code, this law is expected to increase the protection of women, partially through its provisions for the establishment of a referral network of medical, legal and psycho-social support and emergency assistance for victims. Efforts to sensitize law enforcement and local community leaders on the LADV are under way. Services for victims, including legal assistance and shelters, are insufficient and are largely confined to urban areas. The ability of the national police to investigate cases of violence against women effectively and protect victims is inadequate.
- The Constitution of Timor-Leste provides for the protection and promotion of the rights of persons with disabilities. The Government has adopted a National Mental Health Policy and a Community Based Rehabilitation Strategy, provides monthly subsidies to persons with disabilities, and promotes their participation in arts and sports.
- Persons with disabilities still face challenges and discrimination in exercising their rights to health, education, information, political participation, and justice, among others. Of particular concern are documented cases of persons with mental illness held in permanent or long-term restraints in inhumane conditions by families or members of the community. No government facility exists for long-term care of persons with mental illness who are abandoned or ostracized by their families and communities. There are no separate prison facilities either.

B. Right to life, liberty and security of the person

- Reports of ill-treatment and excessive use of force by members of the National Police of Timor-Leste (PNTL) and, to a lesser extent, the military, Falintil-Forças de Defesa de Timor-Leste (F-FDTL) have been received regularly, and have resulted in five civilian deaths. However, the security situation has improved significantly since the political crisis of 2006. The internal disciplinary systems of the PNTL and the F-FDTL still need to be strengthened and greater transparency is required as regards disciplinary and military policing operational standards. The role of the F-FDTL – notably the military police – in internal security needs further clarification, in particular at the operational level.

- Some progress was made in terms of accountability for human rights violations committed between 1974 and 1999. Since February 2008, the UNMIT Serious Crimes Investigation Team (SCIT) concluded 184 investigations into 1999 cases and submitted a number of these cases to the Office of the Public Prosecutor. By early March 2011 one new indictment had been filed. One trial in a 1999 case was held in 2010 resulting in one conviction for murder. In 2009, a person suspected of crimes against humanity (see also para. 18) was allegedly unlawfully released from pre-trial detention by government authorities and returned to Indonesia, with the Government pointing at the need for good relations between the two neighbours.
- As concerns the criminal cases related to the 2006 crisis recommended for prosecution by the UN Commission of Inquiry (Col), as of February 2011, final judgments had been rendered in seven cases, resulting in nine convictions and 43 acquittals, while four cases had been archived. One new indictment was filed in November 2010.
- Some of the progress achieved in ensuring justice for past human rights violations was weakened by clemency measures. As a result, in 2011, except for one person, none of the individuals convicted for 1999 serious crimes, including crimes against humanity, was serving a prison sentence. Regarding the 2006 cases, six out of nine convicted individuals benefitted from clemency and were released, while the remaining three received suspended sentences or were released on parole.
- There has been limited follow up to the work of two truth commissions (the Commission for Reception, Truth and Reconciliation (CAVR) and the Indonesia-Timor-Leste Commission for Truth and Friendship (CTF)). As of 21 March 2011, the National Parliament had not adopted legislation that would establish an institution to follow up on the recommendations of both Commissions and an accompanying reparations program.
- The Government is active in protecting trafficked persons and has made steps to prosecute offenders. While the majority of trafficked persons receive assistance from international and local NGOs, this is provided in consultation with the Government. The Ministry of Foreign Affairs chairs the Inter-Agency Trafficking Working Group and has taken the lead to draft anti-trafficking legislation and a national plan of action to combat trafficking. Prevention activities are limited to awareness raising activities and primarily carried out by international NGOs; the Government has not taken steps to address the root causes of trafficking. Understanding of the issue of human trafficking amongst government and judicial officials is limited and point at the need for greater education.

C. Administration of justice and the rule of law

- Progress was made in strengthening justice mechanisms, including through training programmes for judicial actors, increasing the numbers of judicial personnel and raising standards of justice facilities in rural areas. Significant progress has also been made to establish an integrated case management system linking all justice institutions. Despite more criminal cases pending, the increase in the number of cases prosecuted suggests growing confidence in the formal justice system. However, significant reforms and the completion of the legal framework are still required to raise the quality of and access to the formal justice system, in particular for those living in rural areas. Legal awareness amongst the population remains low, including as a result of laws and regulations being written in Portuguese, which the vast majority of Timorese do not understand, and with a limited number of laws translated into Tetum. In addition, some judicial actors and Members of Parliament have expressed concern about political interference in the judicial process.
- Due to the formal justice system's limitations and to cultural practices, the use of traditional justice mechanisms remains prevalent, which at times fall short of meeting international human rights standards, particularly those of women and children. In order to enhance access to formal justice and improve the protection of vulnerable groups, there is a need for continued development of personnel and resources in the judicial sector to implement the Law Against Domestic Violence and the Penal Code.
- There are concerns that the Law on the Juridical Regime Governing the Private Legal Profession and Lawyers Training¹² could negatively impact on access to justice by drastically reducing the number of private lawyers licensed to provide legal services. The law requires all legal practitioners to successfully complete a 15-month full-time training course at the Legal Training Centre followed by nine months of practice. Lawyers who are currently practicing must complete this course by July 2012 or lose their license to practice law. The first course enrolled 14 private lawyers and commenced in mid-2010. Another 66 persons are expected to enrol in mid-2011. While there appears to be consensus among all stakeholders that further capacity development is required to ensure quality of services, there is concern that by July 2012, only 14 private lawyers will have completed the course, and that this group, together with the current number of 16 public defenders, will not be sufficient to meet the needs of citizens for legal assistance.

¹² Law 11/2008, 30 July 2008 (hereafter referred to as the Law on the Private Legal Profession and Lawyers Training).

D. Freedom of religion or belief, expression, association and peaceful assembly, and the right to participate in public and political life

- Since 2008, several incidents of violence by Catholic community members, who comprise the religious majority, have been reported against members of some Evangelical church groups and their places of worship. A weak government response to protect members of minority religious groups has been observed, despite some efforts towards mediation and increased police patrols. In many instances, government authorities, including police, have demonstrated open disapproval of the Evangelicals continuing their religious activities. In some cases, communities or local authorities have been reported as perceiving that the groups are engaged in proselytizing to Catholics. In some cases, the authorities have facilitated or ordered the cessation of these activities.
- Freedom of expression enjoys full respect in Timor-Leste, although there are structural weaknesses in the regulatory framework. There is no freedom of information law and, in practice, access to information from public authorities depends largely on personal contacts. Draft media laws were discussed by Parliament, but appeared on hold by early 2011.
- The State broadcaster, RTTL lacks the independence that is required of such bodies. Legislation introduced in 2008 to corporatize these bodies, which would also have enhanced their independence, has not been fully implemented. The Government is providing significant support for the media, including support for rural distribution of newspapers and fuel for community broadcasters. If systems are not put in place which insulates this support from potential political interference, this could affect the independent nature of the media.
- The Youth Parliament, inaugurated in August 2010, held its first session in December 2010.

E. Right to social security and to an adequate standard of living

- Forty-one percent of the Timorese population lives below the basic needs poverty line. Sixty-four percent of the population has sustainable access to an improved water source, while 43% has access to improved sanitation.¹³ Food insecurity remains a major concern particularly in rural areas. Since 2008, the Government has provided food assistance to the country's most food insecure and vulnerable persons, including through maternal and child health and nutrition, school feeding and food for work programmes. The Ministry of Trade, Commerce and Industry (MTCI)'s programme of subsidising rice faced serious challenges and was stopped, while MTCI's programme for local purchase has been largely unsuccessful at promoting production through market stimulation due to limited coordination between the Ministry of Agriculture (MAF) and MTCI.
36. The Comoro Declaration against Hunger and Malnutrition was signed by seven ministries and development partner agencies in 2010. It provides an opportunity to move forward the Food Security Information System, which is an inter-ministerial mechanism to monitor and address hunger and malnutrition. Food security does not feature prominently in the Government's National Priorities for 2011, which is unfortunate as data from the Demographic and Health Survey show very serious nutrition problems, particularly for children.
- Local NGO network research on housing rights conducted in 2009-2010 concluded that housing conditions for the majority of Timorese are inadequate including due to an increase in the number of habitants per home, deteriorating physical conditions of the homes and the impact of natural disasters. The Government's plan to build five houses in each sub-village of the country for the most vulnerable persons was approved by Parliament in early 2011, but by mid-March 2011 no clear criteria had been set for selecting beneficiaries. There are concerns that the programme could raise tensions at the local level where many people are in need.

¹³ Timor-Leste Demographic and Health Survey 2009-10, National Statistics Directorate, Ministry of Finance, Democratic Republic of Timor-Leste, Dili, Timor-Leste, page. xxxi (hereafter called DHS report).

- In January 2011, the Government carried out a forced eviction in Dili and is expected to continue such evictions of community members who occupied alleged state property after the large-scale destruction of infrastructure in 1999 and 2006. While most of the affected families received compensation from the Government based on humanitarian grounds, there was concern that the eviction did not comply fully with international standards, as it lacked some elements of due process and procedural protection, people were reportedly intimidated by police into accepting compensation and excessive force was used. According to the authorities, members of the group intimidated others to refuse accepting compensation. A temporary site for relocation was insufficient as it lacked infrastructure, including access to water and sanitation. In March 2011, the Ministry of Justice agreed to consider recommendations from the PDHJ and UNMIT to ensure that future evictions conform fully to international standards.

F. Right to education and to participate in the cultural life of the community

- Public primary and secondary education is free, and compulsory from grade 1 to 9. The net enrolment rate in primary school is 82%, with less than 50% of children at the age of six enrolling in grade 1.¹⁴ Drop-out rates are high with approximately 27% of children who enter grade 1 continuing their education to enroll in grade 9.¹⁵ While progress has been made, many schools are in poor physical condition, and the quality of teaching remains low.¹⁶ There is a circular from the Minister of Education on zero-tolerance towards corporal punishment, but violence by teachers remains common.
- The literacy rate of persons of 15 years and above in Timor-Leste is 58%¹⁷, indicating that about 42% of the adult population is unable to read and write in any of the two working languages in the country. This has the potential to lead to future socio-economic exclusion and marginalization of students belonging to ethnic and linguistic minorities. A key step to addressing this situation is the 2011 draft policy on Mother Tongue-Based Multilingual Education, developed by the National Education Commission of Timor-Leste, and initiatives to promote literacy programmes on a district-by-district basis. One district was declared free of illiteracy in 2010.

¹⁴ Education Statistical Yearbook 2008/2009. Timor-Leste Ministry of Education, tables 13 & 14.

¹⁵ National Education Strategic Plan 2011-2030, Ministry of Education, 2010, page 19.

¹⁶ Millennium Development Goals, Timor-Leste, National Report by the Government of the Democratic Republic of Timor-Leste and the UN System, 2009 page 9.

¹⁷ Idem, page 28

G. Right to the highest attainable standard of health care

- Public health care is provided free of charge. The Government implements the Integrated Community Health Services (SISCA) programme at the local level, but has faced challenges in reaching those in remote areas. A health financing system is aimed at promoting equitable access to priority services and guaranteeing availability of quality health services across the nation, though there is a need for further capacity building of health providers to ensure quality of services. Progress has been made, though, since 2003, with reductions in the fertility rate from 7.8 to 5.7 births per woman. The under-five mortality rate decreased from 83 to 64 deaths per 1,000 live births. However, maternal mortality remains high, at 557 deaths per 100,000 live births, and it is of great concern that 45% of children under five are underweight and the growth of 58% of this group is stunted.¹⁸ This is one of the highest rates of chronic child under-nutrition in the world, and is an inter-generational problem due to poor feeding behaviors and lack of access to and utilization of essential nutrition services.

H. Right to work

- Timor-Leste has ratified four of the core conventions of the International Labour Organization concerning forced labour, freedom of association and protection of the right to organize, collective bargaining and the elimination of the worst forms of child labour.¹⁹ The Secretariat of State for Vocational Training and Employment (SEFOPE) submitted a five-year ratification plan to the National Parliament that will lead Timor-Leste to the ratification of the remaining four core conventions and other priority conventions.
- The draft Labour Code was developed through tripartite dialogue involving the Government and its social partners. The new Labour Code includes the fundamental principles of rights at work and it is supported by the Timor-Leste Trade Unions Confederation and the Chamber of Commerce and Industry of Timor-Leste. The draft Labour Code was approved by the Council of Ministers in early 2010 and is expected to be discussed in Parliament in the first half of 2011. In September 2010, the Council of Ministers approved the General Labour Inspection Statutes, providing a concrete tool for the monitoring and labour law enforcement.

¹⁸ DHS report, page xxxvii, 150, 152. These figures are based on the new WHO Child Growth Standards.

¹⁹ Conventions nr. 29, 87, 98 and 182.

I. Internally Displaced Persons

- Almost all of the more than 100,000 persons internally displaced by the 2006 crisis as well as in the 2007 election aftermath, had returned to communities by March 2010 through a concerted effort by the Government with support of the international community. The process of providing cash grants to those returning was completed by December 2010. Some individuals approached the Government for additional support and were referred to legal channels at the end of 2010.

2.1.4. Achievements, best practices, challenges and constraints

- Timor-Leste is committed to promoting and furthering human rights. As a nation which only gained independence nine years ago, it can be proud of having established several institutions and having adopted legislation and numerous policies that promote and protect human rights. There is good cooperation with the UN system, including in the area of human rights, and with other stakeholders. However, many challenges remain.
- There has been limited accountability for alleged human rights violations and misconduct by members of the security forces and there is a need to strengthen or effectively implement the internal disciplinary mechanisms for both security forces. The effectiveness of the process of vetting of members of the PNTL, conducted after the 2006 crisis, was limited as, at the end of 2010, the Government certified the 199 PNTL officers with pending disciplinary and criminal charges, including 52 facing serious charges. However, the Government has given assurances that it will pursue disciplinary and/or criminal proceedings against the 199 officers.
- The capacity of the Provedoria for Human Rights and Justice (PDHJ) is increasing, and authorities generally cooperate with investigations carried out by the institution. The Government does however not provide timely responses to the recommendations of the institution as required by law, and few recommendations have been implemented. The bureaucratic procedure to access its own budget through the Ministry of Finance highly limits the PDHJ's independence and hampers its operational effectiveness and capacity to respond to unexpected situations.
- While much progress has been made to increase the protection of children's rights, including though enhanced birth registration, there is no National Plan of Action for children. Insufficient resources are allocated for child rights monitoring bodies such as the National Commission for the Rights of the Child to independently perform its role.



Section 3: Reporting on Human Rights

3.1 Why reporting on human rights is important

Including reports on human rights in the news is very important to ensure that the public receives comprehensive coverage of what is occurring around them. Human rights are more than just legal issues. Human rights directly impact on the progress and development of a country. This type of growth is essential for the national development of many countries, including Timor Leste.

Improving awareness and knowledge about human rights also increases the public's sense of security. If they know that violations will not be ignored, and that they can rely on their local media to report accurately and without bias on what is going on then they will be more confident in their news media sources. By expanding media coverage to include reports on human rights, people will be better informed about their rights and the rights of others.²⁰ Better human rights coverage will also affect:

- Human security – fewer gross human rights abuses and more social cohesiveness will occur. Lives will be saved.
- Good governance – democracy rests on respecting others rights and viewpoints. Democracy will be further entrenched and stabilized.
- Economic development – human rights are increasingly recognized as a pre- condition for economic development. Economic rights will be fortified. Development will be assisted, economies allowed to grow.

Above Photo: two Timorese journalists covering the commemoration of the independence referendum in 1999. By Mikel Aguirre Idiaquez, UNESCO (2011)

²⁰ Extract from the manual for *Vietnam Human Rights Based Approach to Journalism*, 2009, UNESCO-UNDP, <http://unesdoc.unesco.org/images/0017/001791/179185e.pdf>

As a person in the media, you will assist your country to reach these objectives if you choose to write about human rights issues. Further, you will also increase your reputation as a journalist by writing about human rights. People will notice that you are writing about topical issues that address the difficulties of your country's people. You will be more likely to uncover harmful practices and to gain a wider audience.

3.2 Tools for reporting human rights abuses

When reporting human rights abuses, make sure to keep these following in mind:

- Your audience will often be unaware about human rights and what it means. When reporting about a story related to human rights, explain which right is at stake is and how people can protect themselves from abuses.
- If the government takes actions that contravene Constitutional protections of human rights, the government is acting against the Constitution—which is unacceptable. Remind your audience of the government's Constitutional responsibilities.
- Human rights are part of the law. Anyone abusing others' rights is acting against the law. Such action should be exposed in the press.
- To make unsubstantiated claims that someone is committing human rights violations is an action that is against the spirit of human rights. When reporting on human rights issues make sure that you have collected hard, indisputable facts before reporting on any abuses.
- Compare actions taken by individuals, organizations and the government to the Constitution, international human rights treaties ratified by Timor-Leste, government laws and decrees. When you see a conflict, investigate the story.
- Remember that journalists are the watchdogs of society; and respect for human rights are a central component to that society. If abuses are being committed and ignored, or the authorities are not dealing with human rights abuses properly, it is your professional duty to investigate.
- Always report human rights stories with the concept of human rights at the forefront of the story—people must learn about their rights and the rights of others from you.

3.3 Human Rights issues for journalists²¹

When journalists are reporting on social issues, many factors impact on the rights of people in the area being reported on. These issues include the international and national legal frameworks for rights; the cultural context in which the journalist is reporting; the socio-economic situation of the country or area; the environment and the political situation. All of these issues will have an impact on whether individuals are able to realize their rights. There are also a number of key human rights issues that need to be considered when reporting. While this list is not exhaustive nor complete, the issues discussed below have a particular relevance to Asia and are worth considering when adopting a human rights based approach to reporting on social issues.

3.3.1 Gender

The term gender means the socially-constructed roles of men and women. They can be determined by social, political, economic and cultural beliefs and contexts. In several parts of the world, women are tied to female roles and are limited to opportunities and responsibilities for the home and household—missing out on educational opportunities, and other basic rights such as freedom of speech. In these cases women’s voices may be stifled in public and in other areas of their lives. These ideas of the “female role” in society can result in significant violations of their rights including simple and basic human rights such as health, non-discrimination, participation and equality of opportunity. When women are denied their voice, they are immediately limited and have lower status within social power structures. This loss of power directly affects their overall right to a livelihood, to education and to freedom from violence, significantly increasing their chances of living at or below the poverty level.

All the rights addressed in international law are the same for men and women. However, the rights of women are explicitly addressed in the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)²², which was adopted by the UN General Assembly in 1979. Through this Convention, States agree to commit towards eradicating discrimination against women.

²¹ Extract from the manual for *Vietnam Human Rights Based Approach to Journalism*, 2009, UNESCO-UNDP, <http://unesdoc.unesco.org/images/0017/001791/179185e.pdf>

²² Convention on the Elimination of All Forms of Discrimination against Women, Division for the Advancement of Women: Department of Economic and Social Affairs

Within this Convention, States shall ensure that women receive:

- employment opportunities which are equal to those of men
- free choice of profession and employment
- equal pay for equal work
- ability to freely choose a spouse and marry only with their free and full consent
- equal rights and responsibilities during marriage and if it breaks up
- equal rights to decide on the number and spacing of children
- equal rights, whether married or single, to choose a profession and occupation.

As a journalist, it is important to observe how gender-based inequality may be affected by other factors. Inequality experienced by women can often be more severe depending on the age, economic status, health and ethnicity of a woman or women. Sourcing data that is disaggregated by variables such as sex, age, ethnicity and socio-economic status can help to highlight inequities and provide a valuable tool to advocate for women's rights. Further, providing the opportunities for women to talk about these issues to the media (if undertaken in a sensitive manner that does not compromise their physical safety and is cognizant of cultural mores), can also significantly contribute to furthering women's human rights.

3.3.2 Children

In international law, children's rights are given particular importance. The Convention on the Rights of the Child (1989) (CRC) highlights the civil, political, economic, social and cultural rights of children. This convention, in addition to the convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO No. 182)—2000²³, the Optional Protocol on the involvement of children in armed conflicts—2000²⁴ and the Optional Protocol II on sexual exploitation, the sale of children, child prostitution and child pornography 2000²⁵ were introduced to reinforce the inherent human rights of children and their need for special protection. Under the CRC, a child means every human being below the age of eighteen years, unless under national law, adulthood is attained earlier.

²³ Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO No. 182), 38 I.L.M. 1207 (1999), entered into force Nov. 19, 2000.

²⁴ Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflicts, G.A. Res. 54/263, Annex I, 54 U.N. GAOR Supp. (No. 49) at 7, U.N. Doc. A/54/49, Vol. III (2000), entered into force February 12, 2002.

²⁵ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, G.A. Res. 54/263, Annex II, 54 U.N. GAOR Supp. (No. 49) at 6, U.N. Doc. A/54/49, Vol. III (2000), entered into force January 18, 2002.

The Convention on the Rights of the Child states;

That the rights of children should be respected and protected irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status (Article 2).

In all actions concerning children...the best interests of the child shall be a primary consideration (Article 3).

Other rights listed included in the CRC include the right to:

- protection and care (Article 3)
- life (Article 6)
- preserve his or her identity, including nationality, name and family relations (Article 8)
- not be separated from his or her parents against their will (Article 9)
- freedom of expression (Article 13)
- access to information and material (Article 17)
- protection from all forms of physical or mental violence (Article 19)
- for refugee children, to receive appropriate protection and humanitarian assistance in the enjoyment of rights (Article 22)
- for mentally or physically disabled children, to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community (Article 23)
- highest attainable standard of health (Article 24)
- a standard of living adequate for the child's physical, mental, spiritual, moral and social development (Article 27)
- education (Article 28)
- enjoy his or her own culture, to profess and practice his or her own religion, or to use his or her own language (Article 30)
- rest, leisure and recreation (Article 31).

In addition the CRC notes that children should be free from: economic exploitation, hazardous work and work that interferes with their education (Article 32); drugs (Article 33); sexual exploitation (Article 34); trafficking (Article 35) and torture (Article 37).

These conventions highlight the particular vulnerability of children; and when reporting on relevant social issues, the need to use data that specifically examines the situation and its impacts on children. Further investigation should also be undertaken to specifically examine the impact of social issues and concerns on the rights of the most vulnerable children, including those with disabilities, those from ethnic and religious minorities, refugee children and those living in poverty.

Finally, the CRC highlights that when reporting on children's issues, the right of children to be heard is critical; and the best interest of the child must always be taken into consideration. This could include their right to have a guardian present, their right to be protected from harm (ensuring anonymity when dealing with potentially sensitive issues) and their right to freedom of expression free from intimidation and influence.

3.3.3 Disabled persons

The Convention on the Rights of Persons with Disabilities (CPD-OP)²⁶ was adopted in 2006 and realized in 2008. It was one of the most rapidly negotiated treaties in the history of the UN. The treaty promotes equality of all human beings, including those with disabilities, with a specific purpose to “promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity”.

The CPD states that people with disability must have access to:

- justice (Article 13);
- information and communication services (Article 21);
- education (Article 24);
- health (Article 25);
- habilitation and rehabilitation (Article 26);
- work and employment (Article 27), human resource policies and practices;
- adequate standard of living and social protection (Article 28).

People with disability must be able to:

- live independently and be included in the community (Article 19);
- participate in political and social life (Article 29);
- participate in cultural life, recreation, leisure and sport (Article 30).

²⁶ Convention on the Rights of Persons with Disabilities, Department of Economic and Social Affairs © UN 2008, UN Enable: Rights and Dignity of Persons with Disabilities, <http://www.un.org/disabilities/>

This convention helps to reinforce the fact that individuals with disabilities have equal status with all other human beings and equal rights. It is important to regard individuals with disabilities as equals; and to grant them equal access especially to public institutions such as schools and to create inclusive, all engaging, communities. Journalists can play a role in giving individuals with disabilities a voice; increasing media coverage and awareness of any injustice faced by people with disabilities.

3.3.4 HIV/AIDS

HIV/AIDS is now a global pandemic (disease) affecting an estimated 33.2 million people including 330,000 children worldwide. HIV/AIDS is more than a public health issue since it impacts on the enjoyment of rights of individuals that are affected. HIV/AIDS can impact on the right to work, the right to go to school, the right to protection from abuse or violence, as well as the right not to suffer discrimination.

A journalist addressing HIV/AIDS needs to promote awareness and advocate for the rights of people affected by HIV/AIDS. Increasing public knowledge about HIV/AIDS and providing information on issues such as contraction, symptoms, preventative measures as well as support services can contribute to behavioural change. Exploring the issues facing those affected by HIV/AIDS and giving them a voice can influence policy and help reduce the social stigma they experience.

Tackling discrimination is fundamental to rights-based approaches to HIV/AIDS. The stigma attached to HIV/AIDS can stifle public discussion resulting in poor education and knowledge of the issue. This causes the virus, and panic, to spread faster.

Large numbers of deaths caused by HIV/AIDS have heavily reduced labour, skills and knowledge. Balanced and sensitive reporting on HIV however has the potential to mobilize strong political and community support for a multi-sectoral approach to addressing the issue.

3.3.5 Education

Education is a fundamental human right, and goes hand-in-hand with many other human rights, especially the right to full human development. According to international human rights law, governments are obliged to “take all appropriate legislative, administrative, and other measures” to respect, protect and fulfil an individual’s right to education.

The right to education is also declared in the UN Millennium Development Goals (MDG), which includes the goal of providing universal primary education by the year 2015.²⁷

The right to education is addressed in Article 26 of the Universal Declaration of Human Rights, which not only states that education must be free, but that it should also promote understanding, help maintain peace, and strengthen human rights.²⁸

Article 26:

- (1) Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the UN for the maintenance of peace.
- (3) Parents have a prior right to choose the kind of education that shall be given to their children.

Reporting on rights and education requires journalists to examine school attendance and access to education; and other factors determining a child’s ability to learn such as health, nutrition, wellbeing, safety and protection from abuse and violence, since a quality education is dependent on these factors.

Reporting on human rights issues in education requires an understanding of the following:

- the quality of educational infrastructure
- the quality of the curriculum – for example, does it promote human rights and personal development?

²⁷ International Covenant on Economic Social and Cultural Rights, Article 4

²⁸ UN Millennium Development Goals, UN Web Services Section, Department of Public Information, UN © 2008 <http://www.un.org/millenniumgoals/>

- access to school – for example, are children safe at school? Are schools physically accessible to all the children in the areas that they service? Are the books and the equipment children need affordable? Are children of different ethnic groups welcome? Do schools provide for children without the relevant language skills?
- the quality of teaching and the ratio of teachers per student – for example, are teachers all appropriately qualified? Are teachers responsible for too many children per class and are teachers aware of human rights issues?

Data on school attendance, school drop-outs and truancy, which disaggregated by sex, socio-economic and refugee status and ethnicity can help journalists identify whether the rights of all children to a quality education are being met. Importantly the opinions of children and their perceptions on education should also be considered when examining whether the right to a quality education is being met.²⁹

3.3.6 Health

The right to health is directly related to all other human rights. Without the right to health, the right to life is compromised. The right to health means that governments must implement policies and plans in order to provide accessible health care for all in the shortest possible time. The UN Universal Declaration of Human Rights states that “everyone has the right to a standard of living adequate for the health and well-being of himself [oneself] and of his family, including food, clothing, housing and medical care and necessary social services”. According to Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), states recognize the right of everyone to enjoy “the highest attainable standard of physical and mental health”. A rights-based approach to health implies that governments are obliged to protect and respect the right to health by being proactive and setting standards for health care provision.

A journalist identifying how often and how severely certain communities suffer illness may show that health care is not being provided equitably. Using data that is disaggregated by ethnicity, sex and age can help to highlight disparities in health resulting from social disadvantage; and can help raise awareness about basic health care issues; and provide a valuable tool to advocate for human rights.

²⁹ Child based NGOs like Save the Children often undertake surveys and report on child perspectives on issues such as education.

3.3.7 The environment

The Asia-Pacific region has witnessed growing environmental problems caused by urbanization, industrialization and poverty. The costs of environmental degradation include reduced output in production-based sectors, a loss in biodiversity and mounting health costs and mortality due to lack of clean water and increased pollution. Sustainable development requires a long-term strategy that addresses issues such as pollution and wasteful use of natural resources.

The poor are affected the most by the effects of unsustainable development. Mismanagement of the environment can cause soil degradation, a lack of fresh water, pollutants, inefficient use of land and insufficient access to technological resources, all of which contribute to decreasing the quality of life for the poor. It is also the poor who most often live on marginal lands, making those ecosystems fragile and scarce in resources.

The mismanagement of natural resources and the environment not only affects the poor of the current generation, but those in the next generation as well.

Journalists reporting on human rights and the environment need to investigate environmental issues and their impact on sustainability and equity. Reporting should adhere to the principles that emerged out of the Rio Conference, ensuring that the participation and voice of those most affected are heard; and that inter-generational equity issues are explored – for example, if destructive farming practices are occurring now, what will this mean for the ability of future generations to farm the land? For example, a report on the right to food could explore issues such as access to food and any discrimination in access to food. It could also examine whether the right to a safe and clean environment was being violated in the process of producing food.

Environmental degradation leads not only to a lack of clean water and unsanitary (dirty) living conditions, but it also negatively impacts upon agricultural productivity. This in turn can lead to food insecurity for the poor. From a human rights perspective, journalists reporting on the environment should also examine the impact of these issues on sustainable livelihoods.

Laws, as well as economic incentives, are required to protect a country's natural resources from illegal tapping and over use. National legislation and national action groups that advocate and protect a country's natural resource base, and ensure its sustainable use and management, can be a good source of information for journalists.

3.4 Practical tips for human rights reporting³⁰

3.4.1 Overall approach

In general, your normal journalism skills simply need to be at their best when reporting on human rights:

- good human rights reporting is simply good reporting.

Pay extra attention to details (you may often only have one chance to ask):

- ask everything several times, ask everyone to repeat
- be methodical
- document with video
- be careful not to disturb physical evidence.

Don't look at an issue as a national grievance:

- not one ethnic group complaining about another
- it is a human issue

Remember: just by calling a report a "human rights" investigation, you have taken sides in the eyes of many:

- yes, you are connecting yourself to international conventions
- but many oppositions use human rights as a tool.

Ethical issue in publishing a story of human rights abuse:

- you may fuel the conflict if you get it wrong, or even if you get the story right
- there are no easy answers.

3.4.2 Story selection

This is often determined for you by events and others.

Do you need to be careful of people who come to you with stories of alleged abuses?

- culturally dependent, every location different
- the more serious the allegation, the more careful you should be.

What is realistic in your culture?

- who can interview whom?
- are there issues that people won't or can't talk about?
- gender issues – can you work in a mixed team of journalists?

³⁰ Institute for War and Peace Reporting, see <http://iwpr.net/build-journalism/modules-and-exercises-journalism-training>

Give extra attention to your own safety in sensitive situations:

- always tell colleagues where you are going and when you expect to return
- work in a team.

Is your compassion for a victim affecting your professionalism as a journalist?

- am I compromising my own independence as a journalist to “help” victims?

3.4.3 Interviewing victims and witnesses

Interview each person alone:

- too many voices or too much noise can make an interview difficult to record
- group pressure easily changes or escalates a story.

The need for anonymity

Traditional bargaining with sources before the interview:

- get as much as you can get (“a 30-year-old mother from Village X” is better than “a woman”)
- be extra sensitive with people not used to dealing with the media.

Clearly identify yourself as media:

- say exactly who you are working for and why
- don’t encourage unrealistic expectations of what you or a report can achieve
- be sure your interviewee understands you are a journalist and not with a human rights organisation
- explain the importance of making things known
- the goal is to tell the world (but this may not be what victim wants – if this is the case, the journalist must respect the victims wishes)
- agree on the use of the person’s name and how to refer to them; or agree on their anonymity.

Confirm basic details first (in case you are forced to stop the interview mid-way):

- name and age of interviewee
- be extra careful as people move around, and get moved around a lot in conflict situations
- assume this is the only time you will ever see this person; you have one chance only.

Confirm supporting details:

- clear descriptions of places
- names of all present at event, their positions and ranks
- recognizable uniforms or insignia on perpetrators
- weapons seen or used.

Ask repeatedly about timing, sequence of events:

- have interviewee repeat the sequence of events several times
- “I know this is difficult for you, but could you describe the whole incident again?”
- compare the victim’s stories (when they retold their story, were the stories too similar? too dissimilar?)

Understand the stress in the interview (for the source/victim):

- take breaks if possible
- provide water, tea
- interview may be traumatic for the interviewees
- may also be traumatic for journalist.

3.4.4 Interviewing the accused or alleged violator of human rights

Be open and honest:

- say you want to hear their side of story
- DO NOT pretend you are asking about something else, this is unethical and too dangerous if found out
- you are giving the alleged violator a chance to speak
- confront person with allegation directly
- you may not be the first person to raise the allegation.

3.4.5 Contacting appropriate human rights organizations

You may have a mix of information from your interviews, some you’ve agreed to pass on, some not. Keep close track of what you agreed:

- only do what you agreed to do with your interviewees
- remember their right to anonymity.

3.5 Links and resources

Other Handbooks on Human Rights reporting:

The Torture Reporting Handbook

by Camille Giffard

How to document and respond to allegations of torture within the international system for the protection of human rights (in several languages and good advice for investigating human rights abuses in general, including standard reporting forms and instructions for reporting violations to international bodies).

<http://www.essex.ac.uk/torturehandbook/index.htm>

Practical Guide for Journalists

UNESCO & Reporters sans frontières, 2006

<http://www.rsf.fr/uk/html/guidep/gpuk98.pdf>

The Human Rights Based-Approach to Journalism Training Manual Vietnam

UNESCO Bangkok, 2008

http://apfeiu.unescoapceiu.org/pdf/rud_12.pdf

Reporting Human Rights in the Philippines

Red Batario, 2009

http://reliefweb.int/sites/reliefweb.int/files/resources/C762CA7241F367DE4925760A001B095C-Full_Report.pdf

Institute for War and Peace Reporting

Journalism online courses divided in thematic modules

<http://iwpr.net/build-journalism/modules-and-exercises-journalism-training>

Children's Rights and Media:

Guidelines and Principles for Reporting on Issues Involving Children
Summary by the International Federation of Journalists

<http://www.ifj.org/working/issues/children/guidelines.html>

Journalists for Human Rights

<http://www.jhr.ca/en/>

IFEX, The Global Network for Free Expression

Network of free expression groups that monitors violations worldwide

<http://www.ifex.org/>

International Federation of Journalists

Organization that aims to push governments to promote social justice and rights for journalists.

www.ifj.org

World Press Freedom Committee

WPFC is 37 organizations on five continents, defending the freedom of the press and assisting independent news media organizations around the world.

www.wpfc.org

Pen International

Worldwide association of writers that promotes freedom of expression

www.pen-international.org

Human Rights in Timor-Leste Resource list

For all legislation in force in Timor-Leste

www.unmit.org

For information on all UN human rights instruments

<http://www2.ohchr.org/english/law/>

UNMIT Report on the Rights of Persons with disabilities in Timor-Leste (2011)

http://unmit.unmissions.org/Portals/UNMIT/Human%20Rights/Final%20UNHR%20Report%202011%20Eng%20for%20web_.pdf

Information on the Special Rapporteur for the promotion and protection of the right to freedom of opinion and expression and how to submit a complaint

<http://www.ohchr.org/EN/Issues/FreedomOpinion/Pages/OpinionIndex.aspx>

For information on Timor-Leste cooperation with the UN human rights mechanisms including reports on visits by UN mechanisms to Timor-Leste

HRTJS is based in Oribigado Barracks, in Dili, and can be contacted on +670 7230714 or 7311862

www.ohchr.org/EN/countries/AsiaRegion/Pages/TLIndex.aspx

Amnesty International

Country reports online, covering the major issues for 149 countries and territories; links to individual country sites around the world.

<http://www.amnesty.org/>

Human Rights Watch

Independent, non-governmental organization which works to protect the human rights of people around the world

<http://www.hrw.org/>

Organizations for journalists covering human rights, humanitarian affairs and violations of press freedom

Committee to Protect Journalists

Non-partisan, non-profit organization founded in 1981 to monitor abuses against the press and promote press freedom around the world.

<http://www.cpj.org>

The Dart Center for Journalism and Trauma

Resource center for students, educators, journalists and news organizations interested in journalism and trauma issues.

<http://www.dartcenter.org/>

Reporters without Borders

<http://www.rsf.fr/>

Other Human Rights Resources Online

Carr Center for Human Rights Policy

Research, teaching and training program that critically examines the policies and actions of governments, international organizations and independent actors affecting the realization of human rights around the world

<http://www.ksg.harvard.edu/cchrp/>

International Criminal Court

<http://www.icc-cpi.int>

Council of Europe: Human Rights Web

Introductory 32-page brochure is available in many languages and has a good overview of the Council's work, member countries and the European Convention on Human Rights; search human rights case law; links to other European human rights resources.

<http://www.humanrights.coe.int/>

Crimes of War Project

Collaboration between journalists, lawyers and academics to raise awareness of the laws of war and of the consequences of entrenched armed conflict.

<http://www.crimesofwar.org/>

Human Rights Centre at the University of Essex

Links to publications online and good contacts for experts.

http://www2.essex.ac.uk/human_rights_centre/default.htm

Human Rights Education Associates (HREA)

A-political, non-profit organization which seeks to introduce human rights concepts and values into curricula and teaching practices.

<http://www.hrea.org/>

<http://erc.hrea.org/Library/journalists.html>

International Committee of the Red Cross

Impartial, neutral and independent organization with a humanitarian mission to protect the lives and dignity of victims of war and internal violence; and to provide them with assistance.

<http://www.icrc.org/>

International Helsinki Federation for Human Rights

Group of non-governmental, not-for-profit organizations that act to protect human rights throughout Europe, North America and Central Asia. A specific goal is to monitor compliance with the human rights provisions of the Helsinki Final Act and its follow-up documents.

<http://www.ihf-hr.org/index.htm>

Media Action International

Aims to promote a more effective use of the media to help local populations in crises; and to strengthen the role of information in humanitarian and development initiatives.

<http://www.mediaaction.org/>

ReliefWeb

A project of the UN Office for the Coordination of Humanitarian Affairs (OCHA).
<http://www.reliefweb.int/>

US Committee for Refugees

Since it was founded in 1958 to coordinate the United States' participation in the UN International Refugee Year (1959), the USCR has worked for refugee protection and assistance in all regions of the world. Site has good information about refugee situations and IDPs in various countries around the world

<http://www.refugees.org/>

UN Office of the High Commissioner for Human Rights (OHCHR)

All the technical details of treaties, declarations and committees are online. The site is also an excellent source of documentation online, including document database searches.

<http://www.unhchr.ch/>

International Criminal Court

<http://www.icc-cpi.int>

European Convention on Human Rights

<http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>

UNHCR: Human Rights Education and Human Rights Treaties

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/65666bae67a3c591802567580038f2bf?Opendocument>

**The Universal Declaration of Human Rights in over 300 languages
(1948)**

<http://www.unhchr.ch/udhr/index.htm>

**International Covenant on Economic, Social, and Cultural Rights
(ICESCR, 1966)**

http://www.unhchr.ch/html/menu3/b/a_cescr.htm

**International Covenant on Civil and Political Rights
(ICCPR, 1966)**

http://www.unhchr.ch/html/menu3/b/a_ccpr.htm

Red Cross links to documents covering humanitarian law

<http://www.icrc.org/icrceng.nsf/5845147e46836989c12561740044a4f7/64d7317ffce7a4f5412561fc003c7249?OpenDocument>

**Conference on Security and Co-Operation in Europe Final Act
(Helsinki, 1 August 1975)**

<http://www.ihf-hr.org/doc/helsinki75.htm>

The Human Rights Handbook for Journalists in Timor-Leste

The Human Rights Handbook for Journalists in Timor-Leste is designed to take the reader through some valuable background on human rights principles, provide local context on the human rights situation in Timor-Leste as well as practical tips on human rights reporting. The purpose of the book is to serve both as a textbook for journalism students and practical tool that can be used by reporters already working in the media.

This publication is born with the firm belief that media is indispensable in raising awareness about people's basic rights and strengthening democratic institutions. Journalists must therefore have an understanding of legal frameworks, both national and international, knowledge of human rights issues and international standards, and the ability to communicate complex information about these issues to the public in an informed and documented way.

This publication is part of an ongoing joint initiative of Timor-Leste Media Development Center, United Nations Educational, Scientific and Cultural Organization and United Nations Integrated Mission in Timor-Leste to strengthen the capacity of the media in Timor-Leste.



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