Timor-Leste

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Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. The country conducted two rounds of presidential voting in April and May and parliamentary elections in June. Voter participation was high, and the elections were considered generally free and fair. Former prime minister Jose Ramos-Horta was elected president; former president Xanana Gusmao, as head of a four-party coalition, became prime minister. The security forces included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which were under the direct control of the government. While the civilian authorities generally maintained effective control of the national police (PNTL) and the armed forces (F-FDTL), there were some instances in which elements of the security forces acted independently of government authority.

The government generally respected the human rights of its citizens; however, some human rights abuses persisted. Serious problems included: politically motivated and extrajudicial killings; police use of excessive force and abuse of authority; arbitrary arrest and detention; inefficient and understaffed courts that deprived citizens of due process and an expeditious and fair trial; and conditions in camps for internally displaced persons (IDPs) that endangered health, security, education, and women's and children's rights. Domestic violence, rape, and sexual abuse were also problems. Societal divisions based on political affiliation and regional origin continued to cause widespread discrimination, segregation, and violence, particularly in the capital.

Section 1 Respect for the Integrity of the Person, Including Freedom From:

Arbitrary or Unlawful Deprivation of Life

During the year security forces and other actors committed approximately nine killings, a decrease from 29 in 2006. Many of these killings were politically motivated.

On March 22, during a gang fight in Dili two off-duty PNTL officers fired into the air and into the crowd, killing one person and wounding another. The PNTL officers were detained but subsequently released by a judge who concluded that they acted in self-defense.

On June 3, an off-duty PNTL officer, Luis da Silva, shot and killed a civilian, Afonso Kudalai, involved in providing security for former president Gusmao who was campaigning in Viqueque, a stronghold of the longtime ruling party FRETILIN. Later that day a PNTL unit fired on a crowd agitated by Kudalai's death and killed two persons and wounded a third. The authorities suspended the PNTL Viqueque commander and opened a disciplinary investigation in relation to the violence. On August 17, the Baucau District Court sentenced da Silva to four and one-half years' imprisonment. Citing procedural issues, the Appeals Court overturned the decision, and at year's end da Silva was in detention awaiting a new trial.

On November 29, a court found four F-FDTL soldiers guilty in the May 2006 killing of eight unarmed PNTL personnel who were under a flag of truce and UN escort. One of the four was sentenced to 12 years, one to 11 years, and two others to 10 years. At year's end the four were free pending the outcome of their appeals. The courts acquitted eight other F-FDTL personnel due to insufficient evidence.

In January the Dili District Court granted conditional release to the former independence fighter who killed a man at a roadblock in May 2006. By year's end there were no further developments in this case.
There were no developments in the following 2006 cases: the January killing of three men by Border Patrol Unit personnel; the May mob-killing of a police officer in Ermera District; and the May killing of six persons in a house set on fire by a mob. Investigations into other cases stemming from the April-May 2006 violence continued, notably the Major Alfredo Reinado case.

There were no developments in the case of the Colimau 2000 member killed in Bobonaro District in 2005.

Disappearance

There were no reports of politically motivated disappearances

Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police and armed forces personnel, abuses against civilians during internal conflict; and abuses by vigilante and other societal groups.

During the year the majority of human rights abuse complaints submitted to the Office of the Provedor (ombudsman) involved the police, and the most common complaint was of use of violence or excessive force. During the year the ombudsman's office received 97 allegations of human rights violations. Of these, 23 were closed for reasons such as lack of jurisdiction; 28 were transferred to other organizations for further investigation; 15 were investigated and recommendations were submitted to the appropriate authorities; and investigations continued in 31 cases.

Human rights monitoring organizations and members of parliament noted some cases of excessive use of force by international forces and police, and referred several such cases to the ombudsman. No charges had been substantiated by year's end.

Delay or refusal by police to investigate allegations of rape or domestic violence was a common problem.

On March 11, an armed group wearing F-FDTL uniforms attacked the houses of six families in Dili, fired warning shots, and burned the homes, according to an UNPOL report. By year's end investigators had not determined whether the attack was carried out by civilians wearing F-FDTL uniforms to discredit the force, or by F-FDTL personnel.

On March 13, six to 10 F-FDTL uniformed persons attacked several homes near the national hospital. Again it was not determined whether the attack was carried out by civilians wearing F-FDTL uniforms or by military personnel.

On March 16, F-FDTL members detained approximately 10 persons for disorderly conduct. When they were turned over to UNPOL, five appeared to have been beaten. At year's end there were no further developments in this case.

On April 7, PNTL officers in Covalima District shot and beat a civilian.

On May 25, UNMIT personnel in Bacau found a severely beaten and unconscious person in police detention. The victim was transported to a hospital.

In August approximately 200 homes were burned in Baucau and Viqueque. Nongovernmental organizations (NGOs) and international observers alleged that the violence appeared to be directed at opponents of FRETILIN.

Other abuses included illegal checkpoints set up to target persons based on geographic origin or membership in specific groups; intimidation of IDP camp residents by groups operating both in and outside of the camps; and attacks and intimidation of communities or individuals.

There were no known judicial or administrative actions in the following 2005 cases: the border police beating of an Indonesian citizen for illegally crossing the border; the police beating of two men and one woman arrested without warrant in Cailaco; the police beating and threatening of a man accused of assaulting the wife of a PNTL officer; the allegations of police abuse during an operation against the Comite Popular de Defesa-Republica Democratica; or the case of an F-FDTL captain and members of the military police detaining and beating a man involved in an alleged assault on the captain.

Prison and Detention Center Conditions

There were three government-run prisons, located in Dili, Baucau, and Gleno. During the year international forces maintained additional detention facilities in Dili. Prison conditions generally met international standards; however, government-run prison facilities were not well maintained.
UNMIT personnel noted allegations of mistreatment of detainees by prison guards during the first 72 hours of imprisonment, a lack of special facilities for the mentally ill who consequently were detained along with other prisoners, and police station detention cells not in compliance with international standards, which lacked access to water, sanitation facilities, bedding, and food.

The government and international forces permitted prison visits by the International Committee of the Red Cross and independent human rights observers. The ombudsman was able to conduct almost daily detainee monitoring in Dili and observed that “international forces are cooperating extremely well...allowing confidential access to detainees and providing regular information.”

Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated. A number of persons were arrested and detained but ultimately not charged with crimes. In many cases this was explained by misunderstandings because an investigation exculpated the suspect or because no judge was available to conduct the required detention review. However, the circumstances of other cases suggested that law enforcement officers may have held detainees as punishment.

Role of the Police and Security Apparatus

The Dili-based police, which made up more than one-third of PNTL’s total complement, disintegrated during the 2006 crisis. UNMIT and the government undertook to reform, restructure, and rebuild the PNTL. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and any past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end 1,250 officers had completed the UNPOL program.

Each of the country's 13 districts has a district PNTL commander who normally reports to the PNTL general commander. In spite of improvements due to the UNPOL training, the PNTL as an institution remained poorly equipped and under-trained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption.

A number of police officers did not pass the vetting process and were on suspension pending further investigation. Outside Dili, 1,804 of 1,949 PNTL officers registered for and were undergoing screening. On April 22, UNMIT facilitated a human rights training session for senior PNTL commanders focused on strengthening accountability within the PNTL. The PNTL remained fragile and in need of UNMIT mentorship.

More than 1,000 ISF personnel from Australia and New Zealand supported the police and security forces.

The F-FDTL helped provide security at key Dili installations and escorted humanitarian convoys. On some occasions, in violation of clear rules of engagement requiring that the police (international or domestic) be called first in the event of any security threat, the F-FDTL resorted to firing warning shots as an initial response.

Arrest and Detention

The law requires judicial warrants prior to arrests or searches, except in exceptional circumstances; however, this provision was often violated. A chronic and extreme shortage of prosecutors and judges outside of the capital, further exacerbated by the crisis, contributed to police inability to obtain required warrants.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of an arrest or detention and also to provide the right to a trial without undue delay. During these hearings, the judge may also determine whether the suspect should be released because evidence is lacking or the suspect is not considered a flight risk. Because of a shortage of magistrates, exacerbated during the year as many international judges departed before replacements arrived, some suspects were forced to wait longer than 72 hours for a hearing. However, according to human rights observers, police often simply released suspects after 72 hours in the absence of a judge to review the detention. In areas that did not have a local magistrate or where authorities lacked means to transport suspects to a hearing, this situation was particularly acute and contributed to an atmosphere of lawlessness and impunity.

The law provides for access to legal representation at all stages of the proceedings, and provisions exist for providing public defenders to indigent defendants. However, there was an extreme shortage of qualified public defenders, and many indigent defendants relied on lawyers provided by legal aid organizations. A number of defendants who were assigned public defenders reported that they had never seen their lawyer, and there were concerns that some low priority cases were being delayed indefinitely while suspects remained in pretrial detention.

In 2003 the Court of Appeals ruled that the pretrial detention limit of six months and the requirement that such detentions be reviewed every 30 days need not apply in cases involving certain serious crimes; however, the 30-day review deadline...
was missed in a large number of cases involving less serious crimes, and a majority of the prison population consisted of pretrial detainees.

Denial of Fair Public Trial

The law provides that judges shall perform their duties "independently and impartially" without "improper influence" and requires public prosecutors to discharge their duties impartially. However, the country's judicial system faced a wide array of challenges including concerns about the impartiality of some judicial organs, a severe shortage of qualified personnel, a complex and multi-sourced legal regime, and the fact that the majority of the population does not speak Portuguese, the language in which the laws are written and the courts operate. Access to justice was notably constrained.

In 2006 two separate UN commissions concluded that the prosecutor general was insufficiently independent and viewed his constitutional accountability to the president as requiring that he "follow the policy of the latter in relation to prosecutions." During the year political and other extraneous considerations appeared to influence the proceedings and decisions of both the public prosecutor and the Court of Appeals.

The court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and a national Court of Appeals in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and also provides defense representation. The prosecutor general--independent of the Ministry of Justice--is responsible for initiating indictments and prosecutions. Until a supreme court is established, the Court of Appeals remains the country's highest tribunal.

Establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys proved difficult, and the judicial system remained heavily dependent on international personnel. Although 11 or 12 probationary judge positions were filled by nationals during the year, international judges continued to serve as the primary judges in all cases involving potential sentences of five or more years. The public defender's office was staffed by seven national probationary defenders and six international public defenders. Private lawyers continued to represent the majority of defendants in the district courts.

In July, 27 national judges, prosecutors, and public defenders graduated from 18 months' training at the Legal Training Center supported by the UN Development Program (UNDP) and were sworn in. They will continue to work with 14 UNDP advisers. Another group of 15 professionals entered the Legal Training Center in January for one year of training. UNDP plans to provide advanced training for judges, updates on new legislation for magistrates, and training for court clerks.

Personnel shortages and administrative issues disproportionately affected operations of the Oecussi and Suai district courts, which operated at irregular intervals throughout the year. The trial process often was hindered by nonattendance of witnesses due to lack of proper notification or lack of transportation.

Proceedings in the Baucau District Court were suspended in September after a mob burned one of the court buildings.

The shortage of qualified prosecutors and technical staff in the office of the prosecutor general hampered its work and resulted in a large case backlog. International prosecutors continued to handle sensitive cases related to the 2006 crisis. There were three international prosecutors and nine national prosecutors, including the prosecutor general. At year's end there was a nationwide backlog of 4,000 cases. The Bacau and Dili district courts made progress in reducing their backlogs during the year; Oecussi and Suai did not. The length of time for cases to come to trial varied significantly, with some delayed for years and others tried within months of accusations.

Trial Procedures

The law provides for the right to a fair trial; however, the severe shortages of qualified personnel throughout the system led to some trials that did not fulfill prescribed legal procedures. Trials are before judges. Except in sensitive cases, such as crimes involving sexual assault, trials are public; however, this principle was inconsistently applied. Defendants have the right to be present at trials and to consult with an attorney in a timely manner. Attorneys are provided to indigent defendants. Defendants can confront hostile witnesses and present other witnesses and evidence. Defendants and their attorneys have access to government-held evidence. Defendants enjoy a presumption of innocence and have a right of appeal to higher courts.

The legal regime is complex and was inconsistently applied. Pending development of a complete set of national laws, Indonesian laws and the UN's transitional regulations remained in effect. The constitution stipulates that UN regulations supersede Indonesian laws; however, this was inconsistently applied. For example, in a 2004 decision the Court of Appeals declared that a UN executive order decriminalizing defamation did not effectively overrule an Indonesian law under which defamation is criminalized. There was concern that this decision could undermine the precedence of laws stipulated within the constitution. Also of concern was confusion regarding how to apply different sources of law, particularly in criminal cases where the Indonesian penal code remained in effect, but procedure was governed by a national criminal procedure code.

http://www.state.gov/g/drl/rls/hrrpt/2007/100519.htm
The Court of Appeals operated primarily in Portuguese. The UN regulations, many of which remained in force, were available in English, Portuguese, Indonesian, and Tetum (the language most widely spoken in the country). Laws enacted by parliament, intended to supplant Indonesian laws and UN regulations, were published in Portuguese but were seldom available in Tetum. Litigants, witnesses, and criminal defendants often were unable to read the new laws. Trials are required to be conducted in Portuguese and Tetum. However, the quality of translation provided in court varied widely, and translations to Tetum were often incomplete summaries.

As in previous years, concerns arose over the lack of witness-protection arrangements. In many violent crimes, witnesses were unwilling to testify because of the high potential for retribution against themselves or their families. Reports of witness intimidation and nonappearance of witnesses were widespread. Court personnel also reported increased concern regarding their own safety. This contributed to a widespread public perception that crimes could be committed with impunity, and that vigilantism or personal revenge were the only avenues available to address criminal accountability.

The 2006 UN Commission of Inquiry (COI) report recommended prosecution of over 60 individuals for criminal culpability in the April and May 2006 crisis, including: police officers who allegedly took part in deadly incidents; the former minister of interior, Rogerio Lobato; six F-FDTL officers; and one PNTL officer alleged to have been involved in the shooting of unarmed police in Dili; the top leadership of the F-FDTL; and the former minister of defense. In addition, it recommended investigation of more than 60 others for possible involvement in these crimes. The COI recommended prosecution of several civilians alleged to have received illegal weapons transfers or to have been involved in deadly incidents. The commission also recommended that dissident military police commander Major Alfredo Reinado be prosecuted for initiating deadly clashes with the F-FDTL. The COI recommended further investigation of several persons, including former prime minister, Mari Alkatiri, for alleged complicity in illegal arms transfers.

On March 7, a court convicted Lobato on charges including conspiracy, murder, misappropriation of public property, and the unauthorized importation or use of firearms. It sentenced him to seven and one-half years in prison. In August, however, he was allowed to leave the country to obtain medical treatment in Malaysia, and, at year's end, he remained in Malaysia.

Despite COI recommendations, the government had not brought charges against the F-FDTL commander or the former minister of defense. An investigation found that there was insufficient evidence to bring charges against Mari Alkatiri.

The Dili District Court tried three individuals alleged to have been involved in illegal weapons transfers. The court cleared one person of all charges, and released the two others conditionally.

The Serious Crimes Unit (SCU)--part of the Prosecutor General's Office--is responsible for investigations and indictments concerning crimes that occurred in 1999, particularly genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture. In 2004 the SCU virtually ceased all operations. In 2000 the Special Panels on Serious Crimes were established to try those charged with the mass killings and other gross human rights violations committed in 1999. The Special Panels were adjourned in 2005; however, the government can reconstitute them whenever needed. Several serious crimes suspects arrested in 2005 remained in pretrial detention.

The SCU worked closely with the Truth and Reconciliation Commission of Timor-Leste (CAVR), which presented its final report in 2005. The CAVR investigated less egregious human rights violations that occurred between April 1974 and October 1999. The CAVR also facilitated reconciliation between victims and perpetrators of these violations.

In 2004 the governments of Indonesia and Timor-Leste agreed to form a bilateral Truth and Friendship Commission to address human rights violations committed in Timor-Leste in 1999. Although the commissioners continued to meet throughout the year, little evident progress was made.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Civil judicial procedures were beset by the same problems encountered by the judicial system as a whole, including huge backlogs, a complex and inconsistently applied legal regime, and concerns about the impartiality of some judicial organs. Political influence has been brought to bear on civil cases involving business or property disputes. Court orders in some of these latter cases were not enforced. Alleged human rights abuses have been presented to the ombudsman. The ombudsman can sue government agencies/agents for alleged human rights abuses, however, there were no reports of such litigation.

Arbitrary Interference with Privacy, Family, Home, or Correspondence
The law prohibits such actions, and the government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy and home.

There were cases of authorities entering homes without judicial authorization. For example, during an intensive effort by the international forces to recover illegal weapons, there were several reports that international military officers entered homes without securing warrants. Officers maintained that in some of these cases, warrants could not be obtained because the courts were not operating and in others they had to act expeditiously.

A 2003 land law broadly defines what property belongs to the government and has been criticized as disregarding many private claims.

A large number of Dili residents arrived as internal migrants after 1999 and occupied empty houses or built houses on empty lots. The majority of properties in Dili are deemed state property, and in previous years the government evicted persons from land identified as state property at times with little notice and with no due process.

Section 2 Respect for Civil Liberties, Including:

Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. Individuals generally could criticize the government without reprisal, and a UN executive order decriminalized defamation. Unlike in past years, there were no reported violations of these rights.

There were three daily newspapers, three weeklies, and several newspapers that appeared sporadically. All frequently criticized the government and other political entities editorially.

Broadcast news, especially radio, was the most widely accessible news medium in the country, but its reach was limited. Few people outside of the capital regularly had access to any form of news. The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available in all 13 districts but on a fluctuating and uncertain basis. The PBS television broadcast was available only in Dili and district capitals. In addition to the PBS radio station, there were 18 community radio stations, including at least one in each district. However, only a few operated dependably (in Los Palos, Baucau, and Dili), while many were frequently inoperative due to technical or resource problems, and most operated only a few hours a day. Few community radio stations provided any news content.

An UNMIT report noted that with regard to the elections, "media coverage, although generally limited in its outreach, was balanced."

Internet Freedom

Although Internet access in the country was limited, there were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in peaceful expression of views via the Internet, including by e-mail.

Academic Freedom and Cultural Events

The government generally did not restrict academic freedom; however, a 2004 law requires that academic research on Tetum and other indigenous languages be approved by the National Language Institute. There were no reports during the year that this law had been applied to prevent academic research or to punish researchers. Nor were there any reports of interference with cultural events.

Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law on assembly and demonstrations establishes guidelines to obtain permits to hold demonstrations and requires police be notified four days in advance of any demonstration or strike. The law also stipulates that demonstrations cannot take place within 100 yards of government buildings or facilities, diplomatic facilities, or political party headquarters. In practice demonstrations were allowed to take place without the requisite advance notification, and the 100-yard regulation was rarely observed.

During the campaign periods, there were reports of parties being prevented from conducting election rallies or raising their party flag in opponents’ strongholds. Such incidents sometimes took place with the involvement of local government
officials or police.

Freedom of Association

The constitution provides for freedom of association, and the government generally respected this right in practice.

Freedom of Religion

The constitution provides for freedom of religion, and the government generally respected this right in practice. An overwhelming majority of the population was Roman Catholic, and the Catholic Church was the dominant religious institution. There were small Protestant and Muslim minorities who were generally well integrated into society.

Societal Abuses and Discrimination

Outside of the capital, non-Catholic religious groups were at times regarded with suspicion.

There was no indigenous Jewish population, and there were no reports of anti-Semitic acts.

For a more detailed discussion, see the 2007 International Religious Freedom Report.

Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice.

Throughout the year, but especially during the February-March ISF search for the dissident former military police commander, Major Alfredo Reinado, and during the April-June presidential and parliamentarian elections period, there were numerous incidents of dissident groups, gangs, and other groups preventing freedom of movement. As a result of the 2006 crisis, many Dili neighborhoods became associated with persons from eastern Timor-Leste or western Timor-Leste, with members of one group feeling threatened in the other group's areas.

Travel to the western enclave of Oecussi required not only visas but lengthy stops at various Indonesian military, police, immigration, and customs checkpoints.

The law prohibits forced exile, and the government did not employ it.

Internally Displaced Persons (IDPs)

At year's end approximately 70,000 residents remained displaced from their homes as a result of the 2006 crisis. International donors worked with the government to make monthly food distributions in the camps. The Ministry of Health, with the support of international donors, set up mobile clinics to provide basic health care. In preparation for the rainy season, the International Organization for Migration provided 1,500 new tents to the camps, while the government distributed 2,000 new tents and 4,500 tarpaulins. By year's end the government's efforts to induce IDPs to leave the camps had extremely limited success.

Returning the IDPs to their homes and ensuring their health, education, and welfare remained one of the country's greatest challenges. Lack of land laws that safeguard property ownership, the absence of effective policing and security in many neighborhoods, and the large number of homes (more than 2,000) that were destroyed and remain abandoned were among the obstacles to resettling the IDP population.

Protection of Refugees

The laws provide for the granting of asylum or refugee status to persons in accordance with the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, and the government established a system for providing protection to refugees. The government granted refugee status or asylum in the past, however, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status. For example, persons who wish to apply for asylum have only 72 hours to do so after entry into the country. Foreign nationals already present in the country have only 72 hours to initiate the process after the situation in their home country becomes too dangerous for them to return safely. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 convention. These advocates also expressed concern that no written explanation is required when an asylum application is denied. In practice the government provided protection against refoulement, the return of persons to a country where there is reason to believe they feared persecution.
According to Office of the UN High Commissioner for Refugees (UNHCR), at year's end there were four pending asylum cases (one from Congo, one from Nigeria, and two from Vietnam). After promulgation of the 2003 Immigration and Asylum Act, the government assumed responsibility from the UNHCR for adjudicating asylum claims. Throughout the year UNHCR continued to mentor immigration officials to ensure that asylum applications were processed according to treaty guidelines. The government instituted a process whereby all asylum applications must be approved by the minister of the interior, which led to delays.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The law provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

There were two rounds of presidential voting and a parliamentary election in April, May, and June respectively. Former prime minister Jose Ramos-Horta, who finished second in the first round of voting, was elected president with approximately 69 percent of the vote in the second round. The June parliamentary elections resulted in a government formed by the Alliance with a Parliamentary Majority (AMP), a coalition of four parties headed by former president Xanana Gusmao as prime minister, that collectively holds 37 seats in the 65-seat legislature. UNMIT and other international observers concluded that the elections enjoyed broad participation and were fair, and largely free from violence and intimidation.

FRETILIN emerged from the elections as the largest party in the legislature with 21 seats and maintained that it should therefore be permitted to form a government. When the president instead invited a coalition of smaller parties to form a government in early August, FRETILIN denounced the move as unconstitutional. Violence then erupted in Dili and other districts. By the following month, the political situation had stabilized, and FRETILIN returned to full participation as the opposition in parliament after a nearly month-long boycott.

There are 19 women in the 65-seat assembly. Women hold three senior ministerial positions--finance, justice, and social solidarity--one vice minister position, and one secretary of state position.

The country's small ethnic minority groups were well integrated into society. The number of members of these groups in parliament and other government positions was uncertain.

Government Corruption and Transparency

During the year there were credible reports of corruption in government institutions. The World Bank's 2006 worldwide governance indicators reflect that corruption was a serious problem. The law provides for criminal penalties in cases of official corruption. The ombudsman's office by law is the institution charged with leading national anticorruption activities and has the authority to refer cases for prosecution. During the year the ombudsman investigated the government procurement process. Most of the allegations of corruption investigated by the anticorruption division of the ombudsman's office involved mid-level officials but some were directed against senior officials. There continued to be credible reports of petty corruption at the nation's port. In addition customs and border officials were suspected of facilitating the smuggling of gasoline, tobacco, and alcohol across the border from Indonesia.

In 2006 the Office of the Inspector General, the government's internal oversight office, carried out investigations into eight cases of alleged maladministration or corruption and conducted two audits. At year's end these cases were still pending.

The country does not have financial disclosure laws. Prime Minister Gusmao promised that all cabinet officials in his government would complete financial disclosure documents, but by year's end none had done so.

The law stipulates that all legislation, supreme court decisions (when the court is established), and decisions made by government bodies must be published in the official gazette. If not published they are null and void. Regulations also provide for public access to court proceedings and decisions and the national budget and accounts. In practice there were concerns that public access to information was constrained. For example, the official gazette was published only in Portuguese, although by law it is to be published in Tetum as well. Moreover, its irregular publishing schedule and varying cost meant that few journalists, public servants, or others had regular access to it or knew how to access it.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. In past years there were frictions between the government and human rights NGOs, but during the year government officials often were cooperative and responsive to
NGOs played an active role in assisting and advising in the development of the country. National and international NGOs, in coordination with the ombudsman, monitored human rights issues in IDP camps.

The controversial 2003 Immigration and Asylum Act, which prohibits foreigners from taking part in political activities, could be interpreted to preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society, and it also could allow the government to restrict noncitizens' monitoring of the criminal or judicial systems. However, to date the act's provisions have not been applied this way.

In March 2006 the Office of the Ombudsman for Human Rights and Justice officially began its work. The ombudsman is responsible for the promotion of human rights, anticorruption, and good governance, and he has the power to investigate cases, monitor the observance of human rights, anticorruption, and good governance standards and make recommendations to the relevant authorities. The ombudsman's offices were located in Dili and had limited ability to conduct outreach or other activities in the districts. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.


Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

Women

Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common as were long delays. For example, in July 2006 police in Suai relayed an investigation report to prosecutors for a sexual assault that had occurred earlier that month; there were no developments in this case since that initial report. An UNMIT report noted that the definition of rape may be too narrow to protect women's rights to personal integrity; spousal rape, for example, under applicable Indonesian law is not a crime.

Domestic violence against women was a significant problem and often was exacerbated by the reluctance of authorities to respond aggressively. Many authorities regarded it as a family issue rather than a criminal matter, and victims, under pressure to resolve cases within the family, were frequently reluctant to report abuse. In many cases a lack of resources was an element affecting official inaction and failure to investigate or prosecute cases involving violence against women. The police were particularly slow to pursue cases where the accused occupied a position of power. Police also at times came under pressure from community members to ignore cases of domestic violence or sexual abuse.

Cases of domestic violence and sexual crimes were generally handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases while others preferred to handle them through mediation or as private family matters. During the year the Dili VPU resumed operations as a part of the Criminal Investigation Unit. Other districts' VPUs continued to operate but were severely constrained by lack of support and resources. UNMIT reported that women increasingly reported abuses to the police. In an August report the NGO Fokupers assessed 114 cases of domestic violence and 48 cases of sexual violence and noted that the formal justice system did not deal effectively with many of these cases.

Government regulations prohibit persons from organizing prostitution; however, under the Court of Appeals' interpretation of Indonesian laws, prostitution is not illegal. Nonetheless, in past years there were reports of women being arrested for prostitution.

There was no law prohibiting sexual harassment, and sexual harassment was reportedly widespread, particularly within some government ministries and the police.

There were no reports of gender-based employment discrimination; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.
In August the government created the position of secretary of state for gender issues in the prime minister's office to assume the responsibilities of the Office for the Promotion of Equality. A woman was appointed the first secretary of state. UNMIT's Gender Affairs Unit also monitors discrimination against women.

Women's organizations offered some assistance to female victims of violence, including: shelters for victims of domestic violence and incest; a safe room at the national hospital for victims of domestic violence and sexual assault; and escorts to judicial proceedings. Women's and human rights monitoring organizations formed a committee to monitor violence against women in the IDP camps and to train the camp managers to identify and pursue such cases.

Children

The constitution stipulates that primary education shall be compulsory and free; however, no legislation has been adopted establishing the minimum level of education to be provided, nor has a system been established to ensure provision of free education. According to UN statistics, approximately 20 percent of primary school-age children nationwide were not enrolled in school; the figures for rural areas were substantially worse than those for urban areas. Boys and girls had equal educational opportunity.

Many students living in IDP camps enrolled in schools near their camp. However, camp-based education was not provided at several IDP camps.

Boys and girls were afforded equal access to health care.

Violence against children and child sexual assault was a significant problem. Some commercial sexual exploitation of minors occurred. The Indonesian penal code, which remains in effect pending the promulgation of a national penal code, is ambiguous regarding statutory rape, specifying only that it is a crime to have intercourse with someone who has not reached the age of consent for marriage. This age is specified as 15 in the Indonesian civil code.

Thousands of children were exposed to risks as a result of their continued displacement. The capacity of the state, communities, and families to protect children was seriously challenged. According to the UN Children's Fund, many children showed signs of stress, including increased aggressive behavior, withdrawal, and difficulty sleeping.

Incidents of child abuse, including sexual abuse, were reported both inside and outside the IDP camps. The absence of the Dili police VPU during part of the year contributed to this problem. Underreporting of child abuse was a problem prior to the crisis, and with the breakdown in referral and reporting systems it is likely that the actual number of cases was far greater than those reported. Since the 2006 crisis there has been a significant drop in the number of reported cases.

Trafficking in Persons

The Immigration and Asylum Act prohibits trafficking in women and children, whether for prostitution or for forced labor; however, in recent years there were reports of women and girls trafficked into the country for prostitution. In addition, during the year there was increased concern that growing poverty created conditions conducive to domestic trafficking.

In 2004 a local NGO estimated that as many as 115 foreign prostitutes in the capital might be victims of trafficking. Several establishments in the capital were known commercial sex operations and were suspected of being involved in trafficking. Although there was no recent study, reliable sources estimated that the number of foreign trafficking victims remained approximately the same. Trafficking victims in the country were almost exclusively forced to work in the sex industry. Reports of trafficking for forced labor have not been verified.

There was widespread ignorance about the trafficking issue. Trafficking victims did not understand their rights or know who to contact for assistance. Police were uninformed about the nature of trafficking, how to recognize it, and how to handle cases. Potential trafficking victims in country were unaware of the risks of accepting overseas employment.

Although the country was not previously a source for trafficking victims, there was evidence during the year that it was being targeted. In January a Syrian and a Nigerian were arrested at the Indonesian border for attempting to traffic several Timorese women believed to be destined for Syria. It was generally thought that this scheme was intended to force the women into prostitution overseas. The suspects were released shortly after their arrest, but the victims were able to return to their villages.

While the police conducted raids on brothels and massage parlors in Dili during the year, credible reports indicated that some police and customs officials colluded with such establishments or with those who trafficked foreign women into the country to work in them.

During the year the prosecutor general's office began an antitrafficking education campaign, and the government
financially supported other antitrafficking programs with assistance from local NGOs. The government cooperated with various international and NGO programs. The Alola Foundation, an NGO headed by the prime minister’s wife, Kirsty Sword Gusmao, provided assistance to female victims of trafficking and advised the government on trafficking-related issues.

Persons with Disabilities

Although the constitution protects the rights of persons with disabilities, the government had not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. There were no reports of discrimination against persons with disabilities in employment, education, or the provision of other state services; however, in many districts children with disabilities were unable to attend school due to accessibility problems. Training and vocational initiatives did not address the needs of persons with disabilities. During the year some persons with mental disabilities faced discriminatory or degrading treatment due in part to a lack of appropriate treatment resources or lack of referral to existing resources. Mentally ill persons were imprisoned with the general prison population and denied needed psychiatric care. UNMIT noted that hospital patients were unable to participate in the two rounds of presidential voting, but the electoral administration provided mobile polling stations so that they could vote in the parliamentary elections. An office in the Ministry of Social Solidarity is responsible for protecting the rights of persons with disabilities.

National/Racial/Ethnic Minorities

Tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) continued, although not at the heightened levels witnessed during the April and May 2006 national crisis.

Relations were generally good between the ethnic majority and members of several small ethnic minority groups; however, there were occasional reports of discrimination against ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

Other Societal Abuses and Discrimination

There were no reported cases of discrimination against persons with HIV/AIDS. The law makes no reference to homosexual activity. Gays and lesbians were not highly visible in the country, which was predominantly rural, traditional, and religious. There were no reports or documented instances of discrimination.

Section 6 Worker Rights

The Right of Association

The country has a labor code based on the International Labor Organization’s standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally were slowed by inexperience, a lack of organizational skills, and the fact that more than 80 percent of the workforce was in the informal sector. In 2004 the government established official registration procedures for trade unions and employer organizations.

The Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

The Right to Organize and Bargain Collectively

While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year. The law on assembly and demonstrations could be used to inhibit strikes but has not been used in this way.

The government began a dialogue with dissident former military police commander Major Alfredo Reinado and the 600 F-FDTL personnel who went on strike from early February until March 2006 over working conditions and alleged discrimination. In March 2006 they were discharged from the F-FDTL for being chronically absent without leave after they refused orders to end the strike and return to their barracks. The underlying grievances and the subsequent activities of this group were important elements of the 2006 crisis.

There are no export processing zones.

Prohibition of Forced or Compulsory Labor
Government regulations prohibit forced and compulsory labor, including by children, and such practices were not known to occur.

Prohibition of Child Labor and Minimum Age for Employment

The labor code largely prohibits children under 18 from working; however, there are circumstances under which children between the ages of 15 and 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children worked in the agricultural sector. Child labor in the informal sector was a major problem. In practice enforcement of the labor code outside of Dili was limited.

Acceptable Conditions of Work

The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of $85 (the U.S. dollar is the country's official currency) per month as a minimum standard. This amount provided a basic standard of living for a worker and family. The labor code provides for a standard workweek of 40 hours, and standard benefits such as overtime and leave, and minimum standards of worker health and safety. A National Labor Board and a Labor Relations Board exist, and there are no restrictions on the rights of workers to file complaints and seek redress. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice.

RESPECT FOR HUMAN RIGHTS