



## 2008 Human Rights Reports: Timor-Leste

BUREAU OF DEMOCRACY, HUMAN RIGHTS, AND LABOR

[2008 Country Reports on Human Rights Practices](#)

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Timor-Leste is a multiparty parliamentary republic with a population of approximately 1.1 million. President Jose Ramos Horta was head of state. Prime Minister (PM) Kay Rala Xanana Gusmao headed a four-party coalition government formed following free and fair elections in June 2007. In an exchange of gunfire with armed rebels on February 11, President Ramos Horta was wounded seriously and PM Gusmao was unhurt. As provided for in the constitution, the government imposed a state of emergency from February through May. International security forces in the country included the UN Police (UNPOL) within the UN Integrated Mission in Timor-Leste (UNMIT) and the International Stabilization Force (ISF), neither of which was under the direct control of the government. The national security forces are the National Police (PNTL) and Defense Forces (F-FDTL). While the government generally maintained control over these forces, there were problems with discipline and accountability.

Serious problems included: police use of excessive force and abuse of authority; perception of impunity; arbitrary arrest and detention; an inefficient and understaffed judiciary that deprived citizens of due process and an expeditious and fair trial; 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.

### RESPECT FOR HUMAN RIGHTS

#### Section 1 Respect for the Integrity of the Person

##### a. Arbitrary or Unlawful Deprivation of Life

There were no politically motivated killings during the year; however, on February 11, F-FDTL guards shot and killed Major Alfredo Reinado and one of his followers when a band of rebels led by Reinado gained entry to the presidential compound; President Ramos-Horta was severely wounded. A separate group of Reinado's followers attacked the convoy of PM Xanana Gusmao. Gusmao was unhurt. The government formed a joint PNTL/F-FDTL command to apprehend the attackers, and parliament declared a state of siege that imposed a curfew, relaxed legal requirements for searches and arrests, and restricted demonstrations. The application of the state of siege was modified as a state of emergency and extended on several occasions until Reinado's second in command, Lieutenant Gastao Salsinha, and 11 others surrendered to the authorities on April 29.

On April 5, in Bobonaro District, an F-FDTL member shot and killed a civilian who reportedly threatened the F-FDTL member with a machete. The authorities investigated the case and forwarded it to the prosecutor general for further action.

Legal proceedings were ongoing against Luis da Silva, an off duty officer accused of shooting a member of then candidate Xanana Gusmao's security detail at a political rally in Viqueque in June 2007.

There were no developments in the inquiry into the August 2007 case of a PNTL unit firing into a crowd in Viqueque, killing two.

The four F-FDTL soldiers sentenced to 12 years, 11 years, and 10 years for the 2006 killing of eight unarmed PNTL personnel were serving their sentences at the military prison at F-FDTL headquarters in Dili. A local human rights nongovernmental organization (NGO) and government contacts expressed concern that there was no civilian oversight of the prison.

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. Some individuals identified for investigation in the 2006 UN Commission of Inquiry Report were subpoenaed to testify regarding their role in illegal arms distribution.

In May President Ramos-Horta granted pardons to a number of persons including former interior minister Rogerio Lobato sentenced for illegally distributing weapons during the 2006 violence and Joni Marques, a pro-Indonesia militia leader, sentenced for multiple killings in 1999 (see section 1.d.).

#### b. Disappearance

There were no reports of politically motivated disappearances

#### c. 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 of civilians by police and military personnel. Members of Parliament, NGOs, UNMIT, and the Office of the Ombudsman received numerous complaints of use of excessive force by personnel of the Joint Command or regular PNTL during the state of emergency. The Office of the Ombudsman eventually recorded 44 such cases, most involved beatings, mistreatment during detention, threats made at gunpoint, and intimidation. As a result one army officer was removed from the field of operations, 14 soldiers were verbally disciplined, and, at year's end, the remaining cases were under investigation.

UNMIT's human rights unit and NGOs received numerous complaints of excessive force and degrading treatment by the Dili Task Force, a rapid reaction PNTL unit created in December 2007. On May 24, Task Force members severely beat four residents including a woman of Dili's Quintal Boot neighborhood. The case was under investigation by the PNTL's National Investigation Division (NID).

Joint Command forces operating in Ermera during the state of emergency reportedly carried out beatings, intimidation, and unlawful searches and violated villagers' freedom of movement. On March 12, 17 persons complained of mistreatment; and on April 14, 13 persons reportedly were ill treated, two of whom required hospitalization.

F-FDTL personnel deployed in western districts were involved in violent altercations unrelated to their duties. In May a soldier at a wedding party in Letefoho Sub-District, Ermera, opened fire after a woman refused to dance with him. The woman was injured and taken to Dili hospital for treatment. The NID reportedly investigated and sent its findings to the prosecutor general. In a May 11 incident in Lahomea, Bobonaro, F-FDTL soldiers severely beat two merchants. One of the merchants required hospitalization.

In January three PNTL officers were arrested in Suai for having participated in gang-related violence that resulted in

15 persons injured and 20 houses burned.

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

At year's end there were no developments in the March 2007 case in which an armed group wearing F-FDTL uniforms attacked and burned the homes of six families in Dili.

At year's end there were no developments in the March 2007 case when six to 10 F-FDTL uniformed persons attacked several homes near the national hospital.

At year's end there were no developments in the March 2007 case when F-FDTL members detained and allegedly beat approximately 10 persons for disorderly conduct.

At year's end there were no developments in the April 2007 case when PNTL officers in Covalima District shot and beat a civilian.

Other abuses included intimidation of IDP camp residents by groups operating both in and outside of the camps and attacks and intimidation of communities or individuals.

#### Prison and Detention Center Conditions

There were four government-run prisons, located in Dili, Baucau, and Gleno. Prisoners from the Baucau prison were transferred to Dili's Becora prison pending renovation. Government and local NGO figures listed the number of prisoners in the country as 179. Prison conditions generally met international standards. The F FDTL opened a military prison facility at its headquarters in Dili. A local human rights NGO and government contacts expressed concern that there was no civilian oversight of the military prison.

UNMIT personnel noted allegations of mistreatment of detainees by prison guards during the first 72 hours of imprisonment and a lack of special facilities for the mentally ill who consequently were detained along with other prisoners. Despite some improvements with regard to access to food and water, police station detention cells generally did not comply with international standards and lacked sanitation facilities and bedding.

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.

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention; however, there were many instances in which these provisions were violated, often because magistrates or judges were unavailable.

#### Role of the Police and Security Apparatus

The president is commander-in-chief of the armed forces, but the chief of defense, the F-FDTL's senior military officer, exercised effective day-to-day command. Civilian secretaries of state for public security and defense oversaw the PNTL and F FDTL, respectively. With the formation of the Joint Command, the F-FDTL assumed a role in maintaining public order.

UNMIT continued efforts to reform, restructure, and rebuild the PNTL in the wake of its collapse during the political

crisis of 2006. A central element was a "screening" to ensure that each of the approximately 3,000 PNTL officers was checked for integrity and past crimes or misbehavior. Following screening, officers were to go through renewed training and a six-month UNPOL mentoring program. By year's end approximately 2,700 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 undertrained, subject to numerous credible allegations of abuse of authority, mishandling of firearms, and corruption.

Some police officers did not pass the vetting process and were on suspension pending further investigation. UNMIT conducted human rights training sessions for senior PNTL personnel, and the PNTL received training from bilateral partners.

The PNTL established a Professional Ethics Office (PEO) to enforce discipline and accountability. The F-FDTL Military Discipline Regulations relied on a disciplinary process for alleged human rights violations. However, there was no formal accountability mechanism in place to address misconduct in the military, and lack of capacity hindered the progress of investigations within the police. Government contacts and NGOs reported that cooperation from the police with civilian authorities in serious disciplinary cases was limited.

More than 1,100 ISF personnel from Australia and New Zealand supported the police and security forces.

During the state of emergency, the Joint Command 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. The extreme shortage of prosecutors and judges outside of the capital 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. The countrywide shortage of magistrates meant that police often made decisions without legal authority as to whether persons arrested should be released or detained after 72 hours in custody. This contributed to an atmosphere of lawlessness and impunity. Judges may set terms for conditional release, usually requiring the suspect to report regularly to police.

During the state of emergency, there were at least 11 cases of arrests by the Joint Command or regular PNTL that were not in compliance with legal procedures. There were numerous reports of F-FDTL detaining civilians contrary to rules of engagement, and in at least three cases the F-FDTL removed detainees from PNTL custody. In one case soldiers removed a suspect from UNMIT police custody.

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.

#### Amnesty

In May the president commuted the sentences of and pardoned 94 persons. The pardons and commutations were granted without any formal evaluation of the beneficiaries' conduct in prison or ability to reintegrate into society. Some politicians and NGOs challenged the legality of the president's actions.

#### e. 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 were written and the courts operated. Access to justice was notably constrained.

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.

Progress in establishing justice sector institutions and recruiting and training qualified judges, prosecutors, and defense attorneys was slow. By year's end, 13 judges, 13 prosecutors, and 11 public defenders of Timorese nationality were assigned to the country's judicial institutions. However, the system remained heavily dependent on international judges, prosecutors, and public defenders. Private lawyers continued to represent the majority of defendants in the district courts.

A court operating five days a week was established in Baucau. However, judges, prosecutors, and public defenders assigned to other districts outside Dili did not reside in these areas. Their intermittent presence continued to severely hamper the functioning of the judiciary outside the capital.

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. 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. At year's end there was a nationwide backlog of approximately 5,400 cases. 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. 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.

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 into Tetum were often incomplete summaries. The prevalence of other local languages compounded this problem in the districts, particularly in Oecussi.

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. Court personnel also reported increased concern regarding their own safety.

The 2006 UN Commission of Inquiry (COI) report recommended prosecution of more than 60 individuals for criminal culpability in the April and May 2006 crisis and investigation of more than 60 others for possible involvement in these crimes.

Despite COI recommendations, the government had not brought charges against the F-FDTL commander or the former minister of defense.

#### 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. The ombudsman can sue government agencies/agents for alleged human rights abuses; however, its approach has been to refer findings of abuse to the prosecutor general or the leadership of the PNTL or F-FDTL.

#### f. 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 reports of arbitrary interference with privacy and home. During the state of emergency, there were at least three instances in which the PNTL or Joint Command carried out searches without warrants.

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

Many 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:

##### a. 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 decriminalizes defamation. However, an Indonesian penal code provision that criminalizes defamation also remains in place. At year's end the Ministry of Justice was pressing charges against a journalist under this defamation law.

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

Television and radio broadcasts were the primary sources for news. However, there was often no reception outside Dili and district capitals, and broadcasts were often irregular due to technical or resource problems. Many persons did not have access to television or radio.

On January 18, PM Gusmao threatened to arrest journalists who publish "erroneous" information.

On February 22, PNTL officers arrested and beat a journalist who was reportedly in violation of curfew; after 11 hours he was released. The state secretary for security publicly apologized for the use of "unjustified force."

##### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Internet access was extremely limited.

##### Academic Freedom and Cultural Events

The government generally did not restrict academic freedom or cultural events. A 2004 law requires that academic research on Tetum and other indigenous languages be approved by the National Language Institute.

##### b. Freedom of Peaceful Assembly and Association

###### Freedom of Assembly

The government suspended freedom of assembly and the right to demonstrate during the state of emergency. These rights subsequently were restored in full.

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. However, in August PNTL officers cited the rule in arresting over 50 students during a demonstration at the national university (within 100 yards of the parliament). The detainees were released after six to 72 hours of detention, and there were no reports of mistreatment.

#### Freedom of Association

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

#### c. 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. 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 were reports that Catholics who converted to other religions were subjected to harassment and abuse by community members.

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

For a more detailed discussion, see the 2008 International Religious Freedom Report at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. During the state of emergency, in addition to curfews and roadblocks that interfered with freedom of movement, persons in the Emera District, where the remnants of Reinado's followers were believed to be, were obstructed from going to their coffee farms. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Travel to the western enclave of Oecussi required visas and 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 30,000 residents remained displaced from their homes as a result of the 2006 crisis. Between February and April, international donors and the government ceased monthly food distributions in the camps. The Ministries of Social Solidarity and of Health, with the support of international donors, set up mobile clinics to provide basic health care to residents and provided transportation and logistical support to assist with relocation efforts. In addition the PNTL established security posts in neighborhoods where residents resettled. Around Dili, large IDP camps at the Nicolau Lobato Airport, National Hospital, Dom Bosco, and Dili Port were successfully disbanded. Over 40,000 IDPs left the IDP camps beginning in April and returned to their homes under a government subsidy program which granted families up to \$4,500 (the U.S. dollar is the local currency) to leave the camps voluntarily and rebuild their homes. The absence of laws safeguarding land and property ownership

remained a serious long term concern for some IDPs.

#### 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 contravened 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 the expulsion or return of refugees to countries where their lives or freedom would be threatened.

#### 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

The president and parliament were elected in generally free and fair national elections in 2007. The government headed by PM Gusmao is a four-party coalition controlling 37 seats in the 65 seat parliament.

There were 19 women in the parliament. Women held 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

PM Gusmao and other national leaders publicly acknowledged the extent of official corruption. The law provides for criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices. 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 referred 16 cases of government corruption to the Prosecutor General's Office. In August senior officials in the Ministries of Infrastructure and Health were dismissed for their involvement in corrupt practices. Also in August, eight PNTL officials were suspended for having embezzled funds. At year's end this investigation was continuing.

The country does not have financial disclosure laws. PM Gusmao required that all cabinet officials in his government 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. NGOs also 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 government generally cooperated with these organizations, but during the year there were instances of security authorities preventing or resisting efforts to monitor human rights compliance.

There were credible reports that, following the February 11 attacks, members of the Joint Command explicitly warned villagers in Ermera against making human rights complaints. In October a human rights monitor investigating a case in Maliana was assaulted by the local PNTL commander. The commander was subsequently replaced and his successor apologized for the incident.

The Office of the Ombudsman for Human Rights and Justice is responsible for the promotion of human rights, anticorruption, and good governance, and the ombudsman has the power to investigate and monitor human rights abuses, corruption, and governance standards and make recommendations to the relevant authorities. The Ombudsman's Office was located in Dili and had limited ability to conduct outreach or other activities in the districts. However, in December it opened its first district field office in Oecussi. The Human Rights Monitoring Network, made up of 10 NGOs, closely cooperated with the ombudsman.

On July 15, President Ramos-Horta and Indonesian President Yudhoyono publicly accepted the bilateral Commission on Truth and Friendship's finding that gross human rights violations had been committed during and after the 1999 independence referendum. The report assigned "institutional responsibility" for such violations to the Indonesian Armed Forces. Presidents Yudhoyono and Ramos-Horta also accepted the report's other findings, conclusions, and recommendations.

Of the 94 beneficiaries of the May 20 Presidential Decree extending pardons or partial commutations of sentences, nine had been convicted of crimes against humanity committed in 1999.

#### 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

Gender-based violence remained a serious concern. Although rape is a crime, failures to investigate or prosecute cases of alleged rape and sexual abuse were common as were long delays. Authorities reported that the backlog of court cases led some communities to address rape accusations through traditional law, which does not always provide justice to victims. 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.

Key legislation that would address legal gaps or establish clear guidelines to handle gender-based violent crimes had not been adopted by year's end.

Domestic violence against women was a significant problem often exacerbated by the reluctance of authorities to respond aggressively. Cases of domestic violence and sexual crimes generally were handled by the PNTL's Vulnerable Persons Units (VPUs). Women's organizations assessed VPU performance as variable, with some officials actively pursuing cases and others preferring to handle them through mediation or as private family matters. VPU operations were severely constrained by lack of support and resources. UNMIT reported that women increasingly reported abuses to the police in contrast to previous years. 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.

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. Traditional cultural practices such as payment of a bride price and occasionally polyandry also occurred.

The secretary of state for gender issues in the prime minister's office is responsible for the promotion of gender equality. UNMIT's Gender Affairs Unit also monitored 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 camp managers to identify and pursue such cases.

#### Children

Although constrained by weak capacity and limited resources, the government was committed to children's rights and welfare, and fully engaged with international organizations and NGOs working in this area. The constitution stipulates that primary education shall be compulsory and free; however, no legislation had been adopted establishing the minimum level of education to be provided, nor had 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.

In rural areas heavily indebted parents sometimes provided their children as indentured servants as a way to settle the debt. If the child was a girl, the receiving family may also demand any dowry payment normally owed to the girl's parents.

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 remained at risk due to their continued displacement. The capacity of the state, communities, and families to protect children was seriously challenged. Incidents of child abuse, including sexual abuse, were reported both inside and outside the IDP camps. Underreporting of child abuse was a problem.

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

#### Trafficking in Persons

The Immigration and Asylum Act prohibits trafficking of adults 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.

A local NGO estimated that more than 100 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. 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.

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.

The government cooperated with various international and NGO programs. The Aloia Foundation, an NGO, provided assistance to female victims of trafficking and advised the government on trafficking-related issues.

During the year the Prosecutor General's Office expanded its antitrafficking education campaign and financially supported other antitrafficking programs with assistance from local and international NGOs. The government held two workshops for police, military, civil servants, NGOs, and government officials to raise human trafficking awareness and combat widespread ignorance about the trafficking issue. High-level officials served as keynote speakers at the workshops, and antitrafficking and gender-based violence posters containing emergency contacts for victims were distributed throughout the districts to assist potential victims.

#### 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 were denied needed psychiatric care. An office in the Ministry of Social Solidarity is responsible for protecting the rights of persons with

disabilities.

#### National/Racial/Ethnic Minorities

Some tensions between persons from the eastern districts (Lorosae) and persons from the western districts (Loromonu) continued, although this was greatly diminished from 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 including ethnic Chinese (who constitute less than 1 percent of the population) and ethnic-Malay Muslims.

#### Other Societal Abuses and Discrimination

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 reported instances of discrimination.

There were no reported cases of discrimination against persons with HIV/AIDS.

#### Section 6 Worker Rights

##### a. 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 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 was not used in this way.

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

##### b. 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.

There are no export processing zones.

##### c. Prohibition of Forced or Compulsory Labor

Government regulations prohibit forced and compulsory labor, including by children, and such practices were not known to occur.

##### d. Prohibition of Child Labor and Minimum Age for Employment

The labor code generally 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 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.

e. Acceptable Conditions of Work

The labor code does not stipulate a minimum wage; however, employers generally used and employees expected a wage of \$85 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, 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.