



Save the Children



**Joint Submission of Save the Children Timor-Leste and Plan Timor-Leste
Universal Periodic Review of Timor-Leste
12th Session, Geneva, 3-4 October 2011**

INTRODUCTION

1. Save the Children is a global child rights and development organisation working in over 120 countries towards a world in which every child attains the right to survival, protection, development and participation. Plan is an international humanitarian, child-centred community development organisation without religious, political or governmental affiliation working in 48 developing countries. This submission is based on the child rights situational analysis (CRSA) conducted by Save the Children from 2009-2010 and Plan in 2010.
2. This submission focuses on the background and institutional framework and the promotion and protection of human rights on the ground in Timor Leste including:
 - a. The Right to Health: access to quality child, newborn and maternal health care; and access to clean water, sanitation and hygiene;
 - b. The Right to Education: primary school education; and early childhood education; and
 - c. The Right to Protection: corporal punishment; children with disabilities; and child protection systems.

BACKGROUND AND INSTITUTIONAL FRAMEWORK

3. The Constitution incorporates international human rights law including the Convention on the Rights of the Child (CRC) and optional protocols which the Government ratified in April 2003. The Government has also ratified the International Labour Organization's Convention No. 182, the elimination of the worst forms of child labour.
4. The Civil Code, the Civil Procedure Code, the Penal Code, the Criminal Procedure Code, the Law on the Protection of Witnesses, the Education System Framework Law, the Law on Domestic Violence and the forthcoming Children's Code are all part of the Government's legislative agenda to implement the CRC. The Ministry of Justice is responsible for drafting the Children's Code which seeks to safeguard children's rights in the context of legal reform and enhance justice for children in contact with the law including child victims, witnesses and offenders.

5. A **National Commission for the Rights of the Child (KNDL)** was established in late 2009 within the Ministry of Justice to ensure the State fulfils its obligations towards children. However, KNDL's legal status and low position within the Ministry of Justice, does not currently allow it to perform its role effectively.
6. The **Office of the Ombudsman for Human Rights and Justice (the Office of the Provedor)** is responsible for investigating and responding to human rights violations including those related to children.
7. **Recommendations:**
 - a. The Government should ensure greater coordination in child policy by creating an inter-ministerial committee in 2012 that reports to the Prime Minister's office and has the authority to take decisions, in the best interests of the child, on issues affecting children. The first tasks of the committee should include:
 - i. The review and clarification of the legal status of the National Commission for the Rights of the Child (KNDL) as an independent Commission; and
 - ii. The finalisation and approval of a code of conduct for all persons working with children in Timor Leste to ensure the highest standards of child protection.
 - b. The Government should undertake a comprehensive budget review during 2012 and ensure that a child rights perspective is taken into account in budget allocations.
 - c. The Ministry of Justice should complete the draft of the Children's Code by the end of 2012, with the expectation that the Government will pass the legislation by the end of 2013.
 - d. In drafting the Children's Code, the Ministry of Justice should:
 - i. Harmonize existing legislation, procedures, laws and frameworks that relate to or impact children and incorporate any pending or draft legislation, procedures, laws and frameworks that relate to or impact children;
 - ii. Ensure the Children's Code states that it supersedes any prior or inconsistent legislation or provisions that relate to or impact children;
 - iii. Ensure that there are practical child rights oriented arrangements in cases where the state takes temporary custody of children for their protection; and

- iv. Ensure that there are consultations with children and youth in Tetum and Portuguese. The draft Children's Code should be translated into child-friendly language prior to any consultations.
8. **A Secretary of State for Youth and Sport** is designated under the Office of the Prime Minister as responsible for physical education, including health and hygiene, as part of the formal school curriculum and in collaboration with the Ministry of Education. Under the auspices of the Secretary of State a **National Youth Policy** was approved in 2007 that recognises the role of young people in nation building, and a **Youth Parliament** was established in January 2010 to promote civic participation among youth in the country.
9. In 2004, the Government established the structure of the **Suco Council** which includes the membership of two youth representatives. The Government has established a mechanism to encourage communities to prepare their own **Suco Development Plans** (as part of the process associated with the pending **Decentralisation Law**), however, the role of youth representatives in preparing these plans has generally been limited and their views and priorities for community development have not been taken into account.
10. **Recommendation:** The Secretary of State for Youth and Sport and the Ministry of State and Territorial Administration should develop a long term program that builds youth leadership and confidence as community development actors in the design, implementation and monitoring of Development Plans of each suco.
11. There is currently no law that provides a practical framework for the registration of non-government organisations (NGOs). NGOs, through their representative body, FONGTIL, the East Timor National NGO Forum, are working with the Ministry of Justice to develop amendments to Decree Law No. 5/2005, the Law of Foundations and Associations to address the current situation.
12. **Recommendation:** In consultation with NGOs and CSOs, the Government should amend Decree Law No. 5/2005 before the 2012 General Election to ensure that the status and roles of NGOs and CSOs are legitimized.
13. The Civil Society Advisor to the Prime Minister is charged with the management of the Government's Civil Society Fund and provides advice to Government Ministries on interactions with Civil Society. The Advisor's office has prepared a draft policy on Government Partnership with Civil Society.
14. **Recommendation:** The Government, through the Civil Society Adviser, should ensure that the draft policy on Government Partnership with Civil Society addresses conflicts of interest raised by civil society's receipt of Government funding in order to ensure civil society's independence is maintained. This policy should be approved by the current government.

PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

15. In general, the specific concerns and the rights of children and youth have been overshadowed by the broader nation-building agenda, leaving significant gaps between human rights standards and their implementation for children and youth.

RIGHT TO HEALTH

ACCESS TO QUALITY CHILD, NEWBORN AND MATERNAL HEALTH CARE

16. Although there have been improvements in primary health services, high levels of child malnutrition, infant, child and maternal mortality and preventable diseases continue in Timor-Leste. Nationally, the percentage of children under five years old who are wasted (25%), stunted (54%) and underweight (49%) is increasing.
17. The demand for health services is a challenge, particularly for remote communities. This is partly due to the unpredictability of services, poor information about health centres and their services, and the distances required to access health posts. There is also a lack of trust in available services due to the limited technical capacity, lack of community engagement and poor attitudes of health staff. The attitudes of health staff are largely due to a lack of training, motivation and transportation as a result of a lack of government funding. The Government depends on external financial resources in order to provide primary health care services.
18. Overall planning, budgeting, logistics, provision of human resources, monitoring, supervision and information management of health services remains weak. In particular, there is a lack of disaggregated data on the situation of children's health due to limited health management information systems.
19. **Recommendations:**
 - a. The Government, through the Ministry of Health and Ministry of Finance, should prioritise the allocation of state budget resources for routine primary health care service operations, including family health promoters (PSFs), beginning in 2013, to ensure that existing health services are consistently staffed and resourced.
 - b. The Government, through the Ministry of Health and Ministry of Finance, should provide an annual factsheet in Tetum breaking down State budget allocations for health, by district, gender, age and suco starting in 2012.
 - c. The Government, through the Ministry of Health and Ministry of State Administration and Territorial Management, should clarify the roles and responsibilities of Suco Council leadership in promoting health seeking behaviours, and in the community management and ownership of health outcomes by 2013.

ACCESS TO CLEAN WATER, SANITATION AND HYGIENE

20. There is poor access to clean water and sanitation facilities (WASH) in Timor-Leste. Approximately 40 percent of rural households and 14 percent of urban households do not have access to clean water year-round while 65 percent of rural households and 21 percent of urban households do not have access to improved sanitation. The lack of access to clean water and sanitation facilities contributes to illnesses among children including diarrhea which is among the top three causes of death among children under five years old. With regards to girls and boys latrines at several schools, it has been noted that even in newer schools, latrines are often locked due to a lack of water. In addition, girls may be hesitant to use school latrines due to concerns about privacy and security.
21. Communities lack access to clean water and sanitation due to a lack of investment in developing community water supplies, limited funding, and a lack of planning by the Government in terms of the budget, ownership, coordination, management and maintenance of facilities. There is a shortage of skilled personnel and weak community management of facilities including low-levels of awareness by communities to maintain facilities once constructed. There is also insufficient effort and funding focused on behavioural changes in relation to WASH.
22. **Recommendations:**
 - a. The Government, through the Council of Ministers, should pass the National Sanitation and Hygiene Policy by the end of 2012. This policy should articulate the role that local government should take in creating an enabling environment for communities and households to be responsible for the provision of their own sanitation.
 - b. The Government, through the Ministry of Health, should undertake a annual national awareness raising campaign beginning in 2013 to promote the importance of sanitation and hygiene.
 - c. The Government should ensure equal access to clean water and sanitation facilities in schools for all children, by ensuring that all latrines in schools are segregated to allow privacy by the end of 2013.

RIGHT TO EDUCATION

PRIMARY EDUCATION

23. Despite the Government's commitment to free basic education for grades 1-9, enrolment and retention rates in primary schools in Timor-Leste are very low. Approximately 23 percent of children never enroll in school while 50 percent of those enrolled drop out by grade three. Repetition is common, with children in

Grades 1-3 representing more than half of all students enrolled in school. Only half of all school-aged children currently complete primary school. Children in remote areas, girls, children with disabilities and non-Tetum speakers are less likely to complete primary school.

24. In 2010, the Ministry of Education published its Strategic Plan 2011-30 which outlines a commendable programme of educational reform including a target of 88% enrolment in basic education by 2015. Many of the challenges to providing quality education for all children, are analysed and plans are articulated to address these challenges including the key role of parents in supporting their children's education.
25. The Strategic Plan also outlines a Social Inclusion Policy that targets gender equality, enrolment of children with disabilities and access to quality education for socially marginalised children.
26. **Recommendations:**
 - a. The Government, through the Ministry of Education, should ensure that every school establishes parents associations with clear Terms of Reference outlining its role, regular meeting schedule and funding by 2015.
 - b. The Government, through the Ministry of Education, Inclusive Education Office, should ensure that consistent messages are developed and promoted to explain the right to high quality, accessible education for all children in 2013.
 - c. The Government, through the Ministry of Education, should ensure that all schools are assessed as safe learner-friendly places. Clear procedures for assessments should be developed and assessments conducted by the end of 2013.
 - d. The Government, through the Ministry of Education should develop and approve procedures by 2014 to deter gender-based violence in educational institutions.

PRE-PRIMARY EDUCATION

27. The creation of a Directorate for Pre-Primary Education in the Ministry of Education's Organic Law (20/2010) is welcomed.
28. While the National Education Strategic Plan 2011–2030 prioritises pre-primary school education as part of the Education Reform agenda, pre-primary education is still not compulsory or a part of formal education. Access remains low with less than five percent of children accessing pre-primary school learning.
29. One of the challenges to the expansion of pre-primary education in Timor-Leste is the shortage of qualified caregivers or teachers. The perceived low importance and lack of benefits of pre-primary education by the Government and parents are also barriers to the expansion of pre-primary education in Timor Leste.

30. Children learn best in a language they know and understand and we welcome the development of the Mother Tongue–Based Multilingual Education for Timor-Leste National Policy.
31. **Recommendations:**
- a. The Government should focus on reaching its strategic plan target for pre-primary access for 50% of children by 2015 including at least 30% of children in rural sucos. Where possible, pre-primary schools should have their own building located near to primary schools to support school readiness.
 - b. The Government, through the Ministry of Education, should clarify its commitment to pre-primary educators, their careers structure and training by the end of 2013.
 - c. The Government should provide for the coordinated implementation of Mother Tongue–Based Multilingual Education for Timor-Leste National Policy in 2013.

RIGHT TO PROTECTION

CORPORAL PUNISHMENT

32. Corporal punishment is common at home. It is also frequently used to discipline children in schools as teachers do not have other strategies for enforcing discipline. Corporal punishment is considered to be socially acceptable within Timor-Leste and not something that is harmful to children.
33. The Ministry of Education has made verbal commitments to ‘zero tolerance’ of corporal punishment but such commitments have not been clearly identified in its strategic plan or in law. It is also unclear how reporting mechanisms for complaints of corporal punishment are managed or how confidentiality is maintained for victims of violence.
34. **Recommendation:** The Government should formally prohibit corporal punishment in all settings, including through awareness-raising campaigns aimed at families, the school system and other educational settings and clarify safe, efficient and child-friendly reporting mechanisms for victims of violence.

CHILDREN WITH DISABILITIES

35. Many disabled children are excluded from both school and community life. Parents lack the resources, knowledge and appropriate support to adequately care for disabled children in a family setting. Discrimination against children with disabilities is common partly due to a lack of national programs and awareness campaigns targeting discriminatory attitudes.

36. **Recommendation:** The Government should ratify the Convention on the Rights of Persons with Disabilities and its Optional Protocol by the end of 2012.

CHILD PROTECTION SYSTEMS

37. In Timor Leste there are emerging but weak integrated multidisciplinary systems to respond to child protection cases. Local membership in Child Protection networks report limited understanding of their respective roles and responsibilities including adherence to a Code of Conduct for those working directly with children. There is limited reach of district child protection systems at the village level and a lack of clarity as to how formal and informal systems might interact.
38. While significant efforts have been made at the national level to revise legislation and policy related to child protection, this has not been done in a manner which provides a clear legal mandate to all relevant ministries, especially the Ministry of Social Solidarity. Local stakeholders report minimal understanding of existing and expected changes outside of a select cadre of senior national level staff.
39. All children have the right to an identity. Many children born in Timor Leste are still not registered by the Government.

40. **Recommendations:**

- a. The Government should amend the national regulatory framework to provide a clear legal mandate to Child Protection Officers and clarify how traditional systems will coordinate with the state child protection system by 2012.
- b. The roles and responsibilities of stakeholders should be clarified by developing Terms of Reference for district Child Protection networks and annual action plans which emphasize documentation, connection to village level life, and service delivery. These Terms of Reference and action plans should be in place before the 2012 General Election.
- c. The Government, through the Ministry of Justice, should complete its campaign for Child Registration by the end of 2012, with a goal to achieving a status of 100% Universal Birth Registration across Timor Leste by the end of 2013.