

LALORAN JUSTISA

Practical Lessons In Human Rights



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Provedoria dos Direitos
Humanos e Justiça



Asia Justice And Rights

FOREWORD

Sometimes people think that human rights exist as some kind of complex legal papers that are too difficult to understand and don't really apply to ordinary people. In fact the truth is the opposite of this. Every human being born on this planet has the same fundamental rights and freedoms until the day that they die.

We hope that this book will be a useful tool for years to come to help the people of Timor-Leste understand their rights and responsibilities, and provide them with inspiration to participate actively in the democratic process in the country. It covers many areas including what happens when you are arrested, the challenges of corruption and nepotism, the right to a clean environment, freedom of speech, domestic violence, sexual violations and citizens rights relating to elections. The book is designed to be used in trainings and discussions involving the partners of the PDHJ and other human rights organizations and also to be read and discussed by Timorese interested in knowing more about human rights.

It is the duty of a government to promote, protect and fulfill the rights of the people. The world would be a wonderful place if all of the rights of people and other living things on the planet were respected. Unfortunately, although we have made great progress we have not yet achieved that aim. Increasing respect for human rights requires collaboration involving all of us. Government agencies must continue to work hard to promote and protect the rights of all Timorese. As citizens we need to help the government agencies that are trying to fulfill our rights, and contribute where we can. We also need to demand that our rights are being fulfilled and respected, to remind those who are responsible of their duties.

We cannot move ahead with this human rights agenda unless all people have a basic understanding of different human rights and how they apply in practice. It has been an honour to be involved in creating the series Laloran Justisa and producing this book. We hope that it helps to remind us all that human rights are not complex legal documents but are part of the daily lives of all people. And human rights can be fun!

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Provedor dos Direitos Humanos e Justiça

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Credits

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PRESUMPTION OF INNOCENCE

In the first episode of **LALORAN JUSTISA** we meet Rosa, a lawyer who says she is a Public Defender who does legal aid work.

WHAT IS LEGAL AID?

Legal aid means the provision of legal services for free to those who can't afford to pay for them. In Timor-Leste the government provides legal aid through the Office of the Public Defenders, who help poor people who have legal problems.

WHAT IS A PUBLIC DEFENDER?

A Public Defender can help someone who has been arrested by the police and can represent them if they are brought to trial in a court. They can also provide advice and other kinds of help to someone who has a different kind of legal problem.

WHO ELSE CAN HELP WITH LEGAL PROBLEMS?

In addition to the Public Defenders government legal aid services, some non-government organizations or NGO's provide help for people who have problems relating to the law, especially if they feel that their human rights have been violated.

The Office of the Provedor for Human Rights and Justice (PDHJ) can also receive complaints from people who feel their human rights have been violated. *(See later in this book for a discussion about the role of the PDHJ.)*



Presumption of innocence ...

Rui and Tomas are friends. One day, they get paid after selling their products, but instead of going home they go to drink beer and bet on a cock-fight.

They both get drunk and argue violently after Rui loses all his money gambling.



*In the second episode of **LALORAN JUSTISA**, a fisherman called Rui is arrested, charged with the murder of his friend, and faces a trial - even though he is innocent!*



WHEN CAN THE POLICE ARREST SOMEONE?

According to the laws of Timor Leste the police can arrest a person only if there is some evidence or reason to suspect that the person has committed a crime.

For example the police may catch someone while they are in the act of committing a crime, or have evidence that indicates that the person has committed a crime.

In this story, Rui's drunken threat to kill his friend, together with the fact Rui's knife was used to murder Tomas, was strong enough evidence for the police to arrest Rui and charge him with murder.

WHAT HAPPENS TO SOMEONE WHO IS ARRESTED?

If a person is suspected of committing a crime the police may only hold them in custody for up to three days (72 hours) before the person is either charged with a criminal offence or released.

If the person is charged with a crime they are brought to a court.

(See next page for more details!)

Later that night Tomas is murdered and his money is stolen. Rui is arrested for the murder but says that he is innocent, even though his knife was used as the murder weapon. After the police investigate they discover that they had arrested the wrong person for the crime and the real culprit was Joker.



PRESUMPTION OF INNOCENCE

What happens to someone who is arrested?

ARREST

If a person is suspected of committing a crime the police may only hold them in custody for up to three days (72 hours) before the person is either charged with a criminal offence or released.



CHARGE

If the person is charged with a crime they are brought to a court.

OR

RELEASE

The person is free to go.

COURT (HEARING)

At the court the person will be brought before an investigating judge who will consider whether they have been arrested in accordance with the law. The judge will also decide whether the accused person should be kept in custody until the trial, or if they should be granted bail.

CUSTODY

If the judge refuses bail, then the person will remain in police custody until the investigation of the crime has been completed and the person is brought to trial.

OR

BAIL

For relatively minor crimes the person is usually allowed to go free on bail, which is called *Teru Identifica Residencia* or TIR. However if you are released on TIR you must remain based at your current place of residence and come back to court on the day of their trial.

COURT (TRIAL)

Because the accused person is presumed to be innocent, at the trial it is the duty of the prosecutor to prove that the accused person has committed a crime. The prosecutor will call witnesses and ask them what they saw or heard and what happened.



“Every person is presumed to be innocent of a crime until a judge has decided, according to the law and after looking at all the evidence, that they are guilty.”



LAWYER

If someone cannot afford to hire a private lawyer a Public Defender, like Rosa in this episode, can be assigned to them.

The accused person should be able to meet their lawyer privately, in the cells before they go to court.

If the accused person wants the Public Defender to represent them then they will need to make that clear by signing a form, called a power of attorney.

After signing the form the Public Defender is officially their lawyer and anything that is said to that lawyer is confidential. Even the court cannot ask a lawyer what was said to him or her by their client.

JUDGEMENT

When all of the evidence has been presented to the court the prosecutor and the accused's lawyer will provide a closing argument and the judge will decide if the person is guilty of the crime or not.

NOT GUILTY

The person is free to go.

OR

GUILTY

If the judge decides someone is guilty then he or she will sentence that person to a punishment. The punishment will depend on how serious the crime is. The judge might not decide the sentence immediately after the trial, but may delay it for a short period.

The accused person's lawyer, in most cases a Public Defender, will also be able to ask those witnesses questions, to make sure the whole truth is revealed. This is called cross-examination. After the Prosecutor has finished calling all their witnesses and other evidence it will be the turn of the accused person's lawyer to do the same.

LOAN SHARK

In this episode, Felipe and Maria borrow money from a local lender - but the money-lender demands their house as security.

WHAT IS SECURITY FOR A LOAN?

When a bank or other money-lender gives out a loan, they need to be sure that they will not lose out if the borrower cannot pay back the money.

Security for a loan means a promise to give the lender something valuable if the borrower cannot pay back the money by the agreed time. For example, a motorcycle or some jewelry.

Some people do not possess valuable items like these, but do own land or a house. If they use their land or house as security and cannot pay back the loan on time, they may lose the house or land.

ARE LOAN SHARKS ILLEGAL?

Anyone can lend money to someone else. However, according to the law only registered money-lenders are allowed to charge interest on these loans.

In this episode the lender that Maria borrowed from was not a registered money-lender. The judge in the court found that he had broken the law because he had lent money and charged interest but was not registered.



Loan shark ... the story ...

Felipe and Maria dream of opening their own restaurant. They ask the bank for a loan, but the bank rejects their application - perhaps because Felipe lives with a disability and depends on a wheelchair. Instead, Felipe and Maria borrow the money they need from a local money-lender.



Felipe lives with a disability and depends on a wheelchair to get around, but he and his friends also show their many abilities.



WHAT ARE SOME OF THE CHALLENGES PEOPLE LIVING WITH DISABILITIES FACE?

In many countries around the world people living with disabilities face prejudice and discrimination that prevents them from participating in society on an equal basis.

For example, many people do not send their children with disabilities to school - and without an education they cannot get a good job.

Many buildings are not designed with wheelchair access in mind, often excluding people who depend on wheelchairs. For example, how can Felipe visit a government office on the second floor if there is no lift?

HOW DO WE OVERCOME THESE CHALLENGES?

We can focus on ability, not just disability. We can recognise the valuable contributions people with disabilities make to society. And we can recognise the legal rights of people with disabilities.

The Timor-Leste national disability policy of 2012 is the basis for a plan that will establish a legal base for the protection of the rights of people with disabilities. The policy will be administered by the Ministry for Social Solidarity, and will require that there is no discrimination against any person because they have a disability. This include access to education, jobs, health care and more; and also to ensure that people with disabilities can physically access important places like schools and hospitals.

With careful planning, all new and existing private or public buildings can and should be built or renovated to provide access for people with disabilities. We can ensure people with disabilities are able to go to school, and are able to attend and participate in village and public consultations and other parts of the democratic process.

However, the money-lender is a crook. He not only demands Maria's house as security on the loan, but then sabotages the restaurant, which Felipe and his other friends with disabilities had renovated with their own hands. When Felipe and Maria cannot make a loan payment, the loan-shark demands Maria's house and threatens them.



LOAN SHARK

More about lending and borrowing money ...

IS IT DANGEROUS TO BORROW MONEY FROM A LOAN SHARK?

Yes. Sometimes people need to borrow money but they should be very careful how they do this, and how much interest they pay.

WHAT IS INTEREST?

Interest is the extra amount that you have to pay in addition to paying back the amount you borrowed. For example if you borrow \$100 from a bank you might expect to pay back the \$100 plus 5% interest, or \$5 extra for every year that you get to use that \$100. So you would have to pay back \$105 if you pay it all back in one year.

If you need the \$100 for two years you would need to pay the \$5 interest every year, so a total of \$110 after two years- the original \$100 borrowed and \$5 additional every year. However, you will also be required to pay back some of the \$100 you borrowed, the capital part of the loan, every year until it is all paid back.

SO WHY IS BORROWING FROM A LOAN SHARK DIFFERENT FROM THE BANK?

Loan sharks know that poor people sometimes need money in a hurry and often do not really understand what interest means.

Loan sharks often charge both a high interest rate, and charge per *month* - not per year. For example 15% interest per month.

This means if you borrow \$100 you will have to pay \$15 every month in interest, before you even start to pay the loan back. So in one year the interest will be \$15 times 12 months or \$180 just in interest. And that is not even paying back what you borrowed. So if you pay the whole amount back in one year you will pay the \$100 borrowed plus the \$180 interest or \$280!

WHAT SHOULD I NOT BORROW MONEY FOR?

Many people find themselves with money troubles because they want something, like a motorcycle, and they borrow money to pay for it but don't have a steady job or a way to pay the loan back.

Remember, because of the interest you will need to pay back more than the price of the motorcycle if you buy it directly, and if you borrow from a loan shark the interest will be much higher.

FROM A LOAN SHARK

If a loan shark lends \$100 at 15% interest per MONTH....

After one year, the borrower must pay back:

- \$100 (the loan)
- + \$15 (the interest, January)
- + \$15 (the interest, February)
- + \$15 (the interest, March)
- + \$15 (the interest, April)
- + \$15 (the interest, May)
- + \$15 (the interest, June)
- + \$15 (the interest, July)
- + \$15 (the interest, August)
- + \$15 (the interest, Sept)
- + \$15 (the interest, Oct)
- + \$15 (the interest, Nov)
- + \$15 (the interest, Dec)

Total = \$280 !!



"You should only borrow money if it is very clear that you are going to be able to pay back the loan."



FROM THE BANK

If a bank lends \$100 at 5% interest per YEAR...

After one year the borrower pays back:

\$100 (the loan)
+ \$ 5 (the interest, 1 year)

Total = \$105

CONTRACTS

Never sign any contract unless you are very clear about what it means. This is important.

If you are going to sign a contract you should get advice from someone who is an expert in those things and the contract should only be signed in the presence of a notary.

If a notary is present then he or she can make sure that the contract is fair and legal.

DID MARIA MAKE A MISTAKE BY SIGNING THE WRITTEN CONTRACT?

Yes! Maria signed a contract without really understanding what was in it. She didn't really understand that she was promising to lose her house if they could not pay back the loan.

WHAT IS A REASONABLE REASON TO BORROW MONEY?

You should only borrow money if it is very clear that you are going to be able to pay back the loan.

If someone has a good idea for a small business that is likely to make money, or their small business needs money temporarily it might be a good idea to borrow money-because you are quite certain you will be able to pay the money back. In these circumstances it is OK to borrow.

But be very clear about how much interest you need to pay! Don't borrow money if the interest rate is high.

DIRTY WATER

In this episode, a local mechanic workshop is poisoning the ground water and causing people to get sick.

DO WE HAVE THE RIGHT TO A CLEAN ENVIRONMENT?

Yes. Every person on the earth has the right to a clean and healthy environment. This right must be respected and protected by governments, private companies and individuals, and it is recognized by the United Nations.

CAN PUTTING WASTE INTO THE GROUND POISON OTHER PEOPLE'S WATER?

Yes. The chemicals in waste produced by machines and other things, like the black oil thrown away when cars and trucks change their oil, and the acid in batteries can be poisonous. When that waste is put into the ground it can move through the earth and poison the water of other people's wells.

IS THAT THE SAME AS WHEN A TOILET IS NEAR A WELL?

It is very similar. This is why it's important not to put toilets close to a well. The bacteria from the toilet, which causes people to get sick, can move through the ground and into the water that people use to drink and cook. If the toilet is far enough away from the well the bacteria can't get to the water. Washing hands after using the toilet also helps to make sure the bacteria on our hands don't travel.



Dirty water ... the story ...

In this episode, Rui and other villagers are worried because their children and animals are getting sick, and they suspect the water in their wells is contaminated. Rui gets angry about the workshop and sneaks in at night to investigate, however he is caught and handed over to the police who arrest him.



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“Every person on the earth has the right to a clean and healthy environment.”



IS IT AGAINST THE LAW TO POISON THE VILLAGE WATER WELLS?

It is against the law to poison the environment in any way. That can include pouring poisonous chemicals or other things into the earth, rivers and streams and also pouring waste or chemicals into the ocean. This can cause many fish to die as well as damage to the coast, reefs and the environment fish need to breed. It is also forbidden to put poisonous smoke into the air. Pollution can also be by noise! This means it is forbidden to make too much noise as it disturbs others.

WHAT IS MORE IMPORTANT? A CLEAN ENVIRONMENT OR PROFITS FOR PEOPLE'S BUSINESSES?

Both business and a clean environment are important. We need businesses as they bring jobs and money for people. But they need to operate responsibly. That means every business must make sure that they protect their workers, do not damage the environment and do not violate the rights of people living nearby. Businesses do not have the right to poison the environment and if they do they will be breaking the law.

Rosa and Eduardo investigate further, and find out that the truck driver and the workshop night guards have been pouring waste into the ground instead of disposing of it safely. But Rosa and Eduardo also get captured, and they need Vitor to save them.



DIRTY WATER

More about rights and responsibilities of people and business...

IS A BOSS OR BUSINESS OWNER RESPONSIBLE FOR WHAT THEIR STAFF DO?

In this case if Helio is the owner of the company and his employees are polluting the environment he is also responsible and could be arrested for breaking the law. It is the duty of the owner and the boss to take care that their business does not in any way harm somebody else or the environment.

WHY WAS RUI ARRESTED? WHAT IS TRESSPAS?

It is against the law for anybody to enter another person's house or property without their permission. This is called "trespass." Even though Rui had a good reason to be angry he did not have the permission of the workshop owner or staff to enter the property. That is why the police arrested him.

RUI WAS GUILTY OF TRESPASS, SO WHY DID THE COURT NOT GIVE OUT A PUNISHMENT?

It is the courts job to seek justice and to be fair. Even though Rui had committed the crime of trespass the judge was interested to learn that Rui had only been trying to protect his children. The court has the power to take all the circumstances into account. This can include whether you have been in trouble with the law before or if you are a "first offender." The court will also consider what was the motivation for the crime and whether the person admits what they did and shows that they are sorry.

I DIDN'T KNOW?

Helio is the owner of the company, but says he did not know the driver and guards had been pouring the toxic waste into the ground, and therefore he is not responsible.

Is this correct?

No! It is the duty of the owner and the boss to take care that their business does not harm somebody else or the environment in any way.



All that glitters is not gold... why is life in Dili so difficult for youth?

Tinho and Paula's story ...

In episodes 3 and 4 we see that Paula and Tinho's dreams of Dili from growing up in Ainaro do not match the reality. Paula's aunt wants her to work too much without going to school. Tinho's cousin's house is very basic, and his football boots are stolen the first night he stays there.

"You need money to live in Dili, and there are many crocodiles ready to take a bite out of naive young people!"



ARE PAULA AND TINHO'S DIFFICULTIES IN DILI ALL THEIR OWN FAULT?

Like many young people Tinho and Paula dreamed that going to the big city of Dili will solve all their problems. But they did not prepare what they were going to do or have a good plan.

Going to Dili can be good for young people who have already been accepted to study in a university or school, or who have a good prospect of a job.

But many young people don't have a plan and are shocked when they arrive and discover that life can be hard and there are many others trying to get the same jobs they want.

You need money to live in Dili, and there are many crocodiles in the water ready to take a bite out of naïve young persons!



CORRUPTION IS ROBBERY

In this story, a corrupt headteacher sacks one of the school's best teachers, but ultimately must face justice for his actions.

WHAT IS CORRUPTION?

Corruption means dishonest or illegal behavior by someone who has a position of power. This includes actions by government officials who do something with the purpose of gaining money or some other benefit for themselves.

WHY IS CORRUPTION SO BAD FOR TIMOR-LESTE?

The communal riches of the country of Timor-Leste are not owned by the government, or by any official or leaders. The riches of the country are owned by the people. The government is entrusted by the people to use that money to fulfill their rights to education, health care, to protect them, build roads etc.

When a government official takes money for themselves that should be spent to provide hospitals, schools and other things for the people then this directly causes great suffering to poor people.

Corruption is theft and corruptors are thieves.



This Corruption is Robbery...

Ines is a wonderful teacher who is upset that there are no schoolbooks for her class. She discovers that the headteacher is stealing the money for the books, but when she complains, he sacks her.

Cisco, one of the pupil's in Ines' class is sad to lose his favourite teacher. Together with Tinho, he introduces Ines to Rosa and Eduardo and the work they do to help people.



“Highly corrupt countries are usually poor, and countries that have low levels of corruption are wealthier.”



With their help, Ines then reports her unfair dismissal case to the Provedor for Human Rights and Justice (PDHJ.) After a thorough investigation the Provedor finds that the headmaster has betrayed his duty, and has been stealing money from more than just the schoolbooks.

WHAT SHOULD I DO IF I AM ASKED TO PAY A CORRUPT OFFICIAL?

No public official such as an administrator in an office, a village chief or a policeman should ever ask you to give them any money unless it is in accordance with a legal procedure and you receive an official receipt for the payment. If there is no receipt it is very likely that it is corruption. You can report any case that you suspect of corruption to the Anti-Corruption Commission or the PDHJ.

IS CORRUPTION OK IF YOU ARE A SENIOR OFFICIAL OR LEADER?

Corruption is always wrong, no matter what is the position of the corrupt person. When senior leaders are corrupt it is even worse. This is because it creates a situation in which others think it is OK for them to be corrupt too. This will eat away at the government and the society like a disease. Highly corrupt countries are usually poor and countries that have low levels of corruption are wealthier. Timor-Leste should be a low corruption country, and then it will be more likely to be prosperous.



CORRUPTION IS ROBBERY

More about PDHJ and human rights ...

WHAT IS THE OFFICE OF THE PROVIDOR?

The Ombudsman for Human Rights and Justice (PDHJ) is an independent body created by the Constitution of Timor Leste. PDHJ has a mandate to promote and protect human rights and good governance in Timor-Leste. "Independent" means that no government official in any Department can order the Provider to do something or to stop an investigation into a human rights, governance or corruption issue. The Provider only reports to the National Parliament.

WHAT ARE THE POWERS OF THE OFFICE OF THE PROVIDOR?

The PDHJ can investigate whether a government official or body has done something or failed to do something that caused a violation of human rights or is poor practice by the government or corrupt. The Provider can investigate all public authorities including the police, military, schools, hospitals, local government. It can also review new laws and can ask the court to decide if a new law is in accordance with the Constitution. It can also educate and promote human rights and good governance.

HOW DOES THE PDHJ WORK?

Any person can make a complaint about a violation of human rights or good governance to an office of the PDHJ. The offices in Dili and districts also monitor the activities and performance of public authorities to make sure they are not violating rights. If new laws are proposed the PDHJ will provide advice on the drafts and whether those laws are in accordance with the Timor Leste Constitution. PDHJ regularly issues reports so that people know what it has been doing.

DOES THE MANDATE OF THE PDHJ INCLUDE CORRUPTION?

Article 5.3 of the law that created the PDHJ states:

"The purpose of the Office of the Ombudsman for Human Rights and Justice, is to combat corruption and influence peddling, prevent maladministration and protect and promote human rights and fundamental freedoms..."



Human Rights

Every human being that is born on the planet earth has the same basic rights, and that is why we call them human rights.

These rights include the right to live, to have food, water and shelter and basic education and health care. Human rights also include the right not to be beaten, tortured, sexually assaulted etc.

There are many other human rights as well, such as the right to a clean and healthy environment.

“Every human being that is born on the planet earth has the same basic rights, and that is why we call them human rights.”



Human rights violations

It is the duty of every government to protect and promote the human rights of its citizens.

When a government fails to protect those rights, or when an agent of the government such as an official, or a member of the police or military violates someone's right it is called a human rights violation.

IS THE PDHJ INVOLVED IN EDUCATION?

Yes. The PDHJ is involved in a wide range of educational activities to increase the awareness of human rights and how public authorities should operate. For example the PDHJ is a partner with Asia Justice and Rights (AJAR) in producing Laloran Justisa, which helps people to understand their rights. It regularly publishes reports on its work, ensuring that the public is informed of its activities

DOES THE PDHJ HAVE STRONG POWERS?

Yes. When it undertakes an investigation the PDHJ may issue subpoenas, which are legal orders requiring people to come to their office to answer questions. If necessary, the PDHJ may also require people to provide documents, and can enter public offices and buildings.

CAN THE PDHJ ARREST PEOPLE OR PUT THEM IN PRISON?

No. Those powers are reserved for the police and the judicial system.

However, PDHJ can make recommendations to government authorities based on the complaints it receives and its monitoring and investigation functions.

For example in this episode of Laloran Justisa the PDHJ made a recommendation that the Ministry of Education should reinstate Ines to her job because she had been unfairly dismissed, and that there be disciplinary proceedings against the Headteacher.

PREDATOR

In this episode, a friend of Dulce's brother comes back to Dili, but he abuses the trust of Dulce and her family to rape her.

WHAT IS RAPE?

It is an offence in Timor-Leste to use threat or force with the purposes of having any kind of sexual act with another person. (Penal Code s 171.)

According to the Penal Code (s 172), rape is committed when a person is coerced to participate in sexual acts involving penetration of the victim's vagina, anus or mouth by force, threats or making them unable to resist. The penalty for rape is between five and 15 years in prison.

WHAT SHOULD SOMEONE WHO IS RAPED DO?

The first thing to do is to tell someone they trust as soon as possible after the event, and together decide what to do next.

Rape and other forms of sexual assault are very serious crimes. A victim of these crimes should:

- report it to the police, or to a non-government organization whose staff work with victims of rape and sexual assault
- seek medical assistance, including an examination and emergency medical treatment if needed.

(See next page for more information.)



Predator... the story ...

Bling is a friend of Dulce's brother, and works abroad. On one of his trips back to Dili he befriends Dulce and makes her believe that he likes her romantically. He respectfully asks Dulce's father if he may take her walking in the park day, to which her father agrees.

However, Bling abuses this trust and rapes Dulce on the way back from their walk.



What is domestic violence?

Timor-Leste Law no 7/2010 states that domestic violence includes acts committed within the family that resulted (or may result) in physical, sexual, or psychological suffering or economic abuse.

Dulce's family are furious and threaten violence against Bling, but Bling's father steps in and proposes resolving the matter between the families without violence or involving the police.

Also in this episode, Duarte keeps making unwanted advances towards Paula. And someone identifies Vitor as a former militia member.

IS IT OK FOR DUARTE TO MAKE ADVANCES ON PAULA?

No it is not OK. It is not acceptable for any person to touch the body of another without their permission.

It is also not acceptable for someone to make sexual comments and advances to someone who does not want that to happen. Speaking words that have a sexual meaning to someone can be very frightening and disturbing for that person and can hurt them and make them afraid. This is not acceptable.

IS BEING PART OF A MILITIA A CRIME?

No. To be guilty of a crime someone must commit an act which is a crime. In 1999 many young men were forced to join militia groups. Some of the militia committed crimes and some did not. Some were forced to go with others who committed crimes. Many of those who were part of the militia have asked for forgiveness from their communities and been accepted back. However if someone did commit a serious crime, such as murder, in 1999 then they would still be arrested and brought to trial.



PREDATOR

What to do if somebody you know is raped ...

FIRST TELL SOMEONE YOU TRUST

The first thing a victim of rape or sexual assault should do is tell someone whom they trust what has happened as soon after the event as possible. Then they can decide together what to do next.

It is very important that they approach someone that will support them, and who can accompany them if possible. This might be a family member, a friend, a community member, or a religious representative.

The victim should be careful when they seek this help to be sure the person they approach is on their side, and demonstrates that they will help to defend their rights.

REPORTING TO POLICE OR OTHER ORGANISATION

Rape and any other form of sexual assault are very serious crimes. A victim of any of these crimes should report it to the police. It is often easier to go to the police station with someone that the victim trusts to support them.

At each of the district police stations in Timor there is a victim support unit (VPU). This section of the police are experienced in dealing with victims of sexual assault and domestic violence. They have been trained on how to deal sensitively with victims and to keep the details of the crime confidential. A victim of sexual violence can also report it to a non-government organization whose staff work every day with victims. One of the main organizations that does this work in Timor is called FOKUPERS which has an office in Farol, in Dili.

SEEK MEDICAL ASSISTANCE

Victims should also seek medical assistance. For example, 'Fatin Hakmatek' (see box) will ensure that victims receive a forensic medical examination and emergency medical treatment from trained staff at the hospital. They also provide emergency counseling, and accommodation for several nights.

Fatin Hakmatek

24h Emergency Number

+670-725-4579

PRADET is a non government organization that operates a 24 hours helpline, and emergency shelters for victims of domestic and sexual violence. This includes "Fatin Hakmatek" (Safe Places) at the Dili National Hospital and the district referral hospitals in Baucau, Suai, Maliana and Oecusse.



"Rape and other forms of sexual assault are very serious crimes."

What happens when someone reports rape to the police?

- At the police station a woman police officer should be the one to speak to the victim.
- The police officer will ask the victim to tell the whole story of what happened. They will write down this story and ask the victim to sign it.
- Then the police will investigate the case and if the evidence indicates that someone has committed the crime that person will be arrested and put into the prison to await their trial.
- At the trial in court the victim and others will be asked to give evidence, which means to tell the story of what happened to them.
- At the trial the victim should be accompanied by someone that they trust who can support them, and also request that the courtroom be arranged so that they cannot be identified. The victims name should not be allowed to be reported in the press or other places.
- At the end of the case the judge will decide if the person accused of the crime is guilty or not.
- If the person is found guilty of rape it is likely that they will serve a sentence of years in prison.

Many victims say that it helps them to feel better and to gain some degree of healing to know that the perpetrator of the crime against them has been punished.

WHERE CAN A VICTIM GO FOR LEGAL ADVICE?

It is the duty of the Office of the Public Defenders to provide legal advice to victims, from their offices in Dili Baucau, Suai, and Pante Makassar.

The Office of the Prosecutor General will be responsible for investigating and bringing a perpetrator of sexual violence to court. This will mean that this Office will have substantial contact with victims. A special unit to deal with crimes of domestic violence has been established in the Office of the Prosecutor General.

Asistencia Legal ba Feto no Labarik (ALFeLa) is a non government organization that provides legal information and accompaniment to women and children victims of sexual and domestic violence. It assists victims to understand and participate in court processes, and accompanies victims in their dealings with the police and court actors. ALFeLa has offices in all districts with a court: Dili, Oecusse, Suai and Baucau.

FOKUPERS is a non government organization that helps women victims and has experienced counselors and other staff that can help victims and may connect them to other services that can help.



PREDATOR

More about responding to sexual violence ...

IF A VICTIM HAS BEEN VIOLATED BY SOMEONE IN THEIR HOUSE AND ARE AFRAID TO STAY THERE WHAT SHOULD THEY DO?

There are shelters called “Uma Mahon” or “Casas de Abrigo” that provide emergency accommodation for women and children who are under threat for a period of a few days to up to six months. These exist in many districts including Dili, Suai, Maliana, Oecusse, Baucau, Los Palos (see details below.)

They will be allowed to sleep at the shelter and be supported with food and other necessities while the staff and the victim try to find a solution to their problem. The centres are run by experienced professionals and they provide counseling and advice for all women and children who stay there. They are funded by the Ministry of Social Services.

IN THIS EPISODE, DULCE’S FATHER DECIDES TO DEAL WITH THE ISSUE BETWEEN THE FAMILIES. IS THIS A BETTER SOLUTION?

We can see from the episode what can happen if rape is not reported to the police. The perpetrator, in this case Bling, has not been punished so he feels he has power and then commits the same kind of crime against another girl.

Also Dulce feels very unhappy that Bling has not been punished. Rape is a very serious crime. Perpetrators should be found out, brought to court and punished.

But it takes brave victims to go through this process. That is why it can help to have the support of someone you trust and also to get help from a non-government organization who can support you through the legal process.

“There are shelters that provide emergency accommodation for women and children who are under threat for a period of a few days to up to six months.”

Emergency Accommodation for victims.

Dili

- Uma Mahon operated by FOKUPERS with a capacity of 35 beds.
- Casa Vida, a refuge for girls who are victims of sexual violence.
- Fatin Hakmatek at the Dili hospital for stays of up to 3 nights.

Suai

- Uma Mahon Holy Spirit Salele managed by the Salesian Nuns with a capacity of 35 beds.
- Uma Transitoriu Suai managed by FOKUPERS. This is a small facility in Suai Vila with five beds for stays of one to three days. It is intended for domestic violence victims who need to seek medical treatment or attend court in Suai.
- Fatin Hakmatek at the Suai referral hospital for stays of up to 3 nights.

Maliana

- Uma Mahon Maria Tapo, managed by FOKUPERS and with a staff of eight, the shelter has a capacity of 35 beds.
 - Fatin Hakmatek at the Maliana referral hospital for stays of up to 3 nights

Oecusse

- Uma Mahon Oecusse managed by Forum Peduli Wanita.
- Fatin Hakmatek at the Oecusse hospital for stays of up to 3 nights.

Baucau

- Uma Mahon Paz Baucau, established and managed with support from Caritas. It has capacity to host 25 victims.
- Fatin Hakmatek at the Baucau hospital for stays of up to 3 nights.

Los Palos

- Uma Mahon Luzeiro established by Mana Albina – a member of the victims' association and now parliamentarian.

NEPOTISM

In this episode, Ana studies hard and does well in an exam, but Revlon's uncle changes the test results to get Revlon promoted.

IS NEPOTISM A CRIME?

Nepotism may be a crime, depending on the circumstances. According to Section 297 of the Timor Leste Criminal Code, nepotism is a crime if a government official abuses the power or duties of their position to gain a benefit for themselves or for someone else. The punishment is from one to four years imprisonment.

WHY IS NEPOTISM IN THE GOVERNMENT BAD?

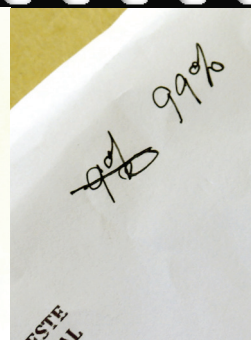
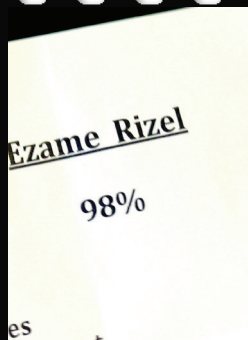
The government uses the money that is owned by the people of Timor-Leste to provide services to the people. Government Ministries and agencies carry out this work by employing staff and managers.

Those who have higher positions in management need to have higher levels of qualifications, skills and experience in order to do their job well. It is therefore very important that the best possible person for each job is chosen for that job. When someone is given a job who is not the best person for that job, the results they can achieve will be less than if the best person were chosen. If nepotism is allowed in the government it means that all the services will be delivered in an ineffective way, by people who are not the best qualified for those jobs.



Nepotism ... the story ...

In this episode Ana is a government worker who is honest and hard working. But Revlon, one of her co-workers, is lazy and corrupt - and has an uncle who is a senior government official. Ana and Revlon both sit the same civil service test in order to be considered for a promotion. Ana does very well, and Revlon just fills in answers at random.



What is nepotism?

Nepotism is when a person who has power or influence uses that power to benefit someone in their family, especially by giving them a job when other people might be better qualified. This can take place in the government or in business, politics, sport or other fields.

However, Revlon's uncle changes the test results so that it looks like Revlon achieved a better exam result than Ana. As a result, Revlon is given the promotion ahead of Ana: a clear case of nepotism.

Fortunately, Ana goes to seek the assistance of Eduardo and Rosa to investigate, and someone shares key information with Zeca the journalist.

CAN GOVERNMENT CONTRACTS GO TO FAMILY MEMBERS?

All of the money used by the government to provide services belongs to the people of Timor-Leste. That is why the procedures for spending this money need to be legal, fair and transparent.

The reasons why a person or company is chosen to do work for the government must be because they are the best qualified and most experienced at providing that service.

Choosing a person or company to do work for the government must not be influenced in any way by family relationships and friendships, or other business interests or relationships involving the decision makers.

In some countries the system of government contracting has become corrupted, resulting in roads, buildings, ports and other projects being of poor quality and more expensive than they should be. One way this happens is when a contractor makes a secret payment to the person who decides who will be selected in order to get the contract. Another is when the contract is given to someone because they are family. When the systems of tendering and contracting are open and transparent and conflicts of interest are declared these practices will not be possible.



NEPOTISM

How do we prevent nepotism and conflicts of interest?

BY MANAGING CONFLICTS OF INTEREST APPROPRIATELY

In a small country like Timor-Leste where so many people are related, it can feel difficult to avoid conflicts of interest. Fortunately, there are accepted procedures for dealing with conflicts of interest.

This process involves:

1) Declaring the conflict of interest.

As soon as a staff member, manager or contractor becomes aware of any possible conflict of interest they should make this known to their manager or supervisor. This information should not be kept secret.

2) Withdrawing from decision making process

When it seems that there is a possibility that someone involved in a decision has a “conflict of interest” they should not continue to be involved in that decision making process.

For example, someone who works in a procurement department might realise that a relative’s business is likely to bid for a contract they are managing. After informing their supervisor, they should withdraw from all relevant meetings, not access relevant documents, and not discuss the contract with colleagues.

In this way, they can avoid influencing the decision and enable colleagues with no conflict of interest to take the best decision for the contract.

3) Writing down the decisions and actions taken

Details of the conflict of interest and the actions taken to avoid it should all be written down so that everybody can know what has happened and why.

In this way staff and supervisors are protected from allegations of corruption, and citizens know they are responsible and ethical, and that their money is being spent in the most effective way.

What is a “conflict of interest?”

If one of the persons responsible for a decision might also benefit, directly or indirectly, from that decision, or if it looks like they might benefit, this is called a “conflict of interest.”

It is a conflict because the decision maker has two interests - one is to make the best decision for all of the people of Timor-Leste, and the other interest is to help themselves, a business they are involved in, or a member of their family. Those two interests act against each other, so we say they are “in conflict.”

All conflicts of interest need to be managed appropriately to avoid corruption.



Is nepotism a crime in a business or private company?

The money and assets of a private company or business do not belong to the people of Timor-Leste in the same way as the government. They belong to private shareholders.

So although nepotism can be harmful in business, it is not a crime if it takes place in a private company or organization. Some businesses, for example are 'family businesses.'

If companies allow nepotism, and jobs are given to family members instead of other hard working employees, then the other employees may lose morale and incentive to try hard. They could also lose respect for the management who allow these practices to take place. All this is likely to have a negative impact on the success of the business.



BY USING GOOD RECRUITMENT PRACTICES

Every time a government job is available the selection process of the candidate should be transparent, which means that anyone can see how it takes place. There needs to be a clear description of the duties of the position and the qualifications and experience that are required for the person to be selected. Its best if a panel of people, not one person alone, decide which candidate for the job is selected. The panel should base their decision on the scores that each applicant got on a range of criteria that are relevant to the job.

BY REPORTING WRONGDOING

In this episode a "whistleblower" gave information about what the corrupt uncle had done to a journalist in order to reveal this wrongdoing. Is it wrong to be a 'whistleblower?'

No. The term whistleblower refers to someone who knows something is wrong and blows a whistle to let people know what is going on. Many countries now have laws that protect people who are inside government offices or businesses that learn about a crime or something unethical and report it to others.

Sharing information about corruption, nepotism or crimes with the police, the PDHJ or others can be a service to the public . But a person needs to be careful that they are sure that the information is true before sharing it with others.

What should I do if I become aware of nepotism or corruption?

If you see strong evidence of nepotism or corruption you can report it to the Anti Corruption Commission which can receive your complaint confidentially and then investigate it.

The PDHJ also has a mandate to receive complaints relating to poor or corrupt practices of government agencies, and can also receive your complaint on a confidential basis.

RESPECT ONE ANOTHER

In this episode, Ricardo continues drinking too much, and he physically assaults his wife Sofia, and their daughter.

IS IT A CRIME TO HIT SOMEONE INSIDE YOUR OWN HOUSE?

Yes it is. No person may beat anyone else in any place, no matter whether it is inside or outside your house.

IS DOMESTIC VIOLENCE A BIG PROBLEM IN TIMOR LESTE?

Yes. Research shows that domestic violence is a very big problem in Timor Leste and that more than one-third of adult women have been the victims of violence at home. The likelihood of a woman being the victim of domestic violence is higher in Timor Leste than in many other countries.

CAN A VICTIM BE RESPONSIBLE FOR THE VIOLENCE?

No. Victims are not responsible for the crimes committed against them.

Sometimes a perpetrator will try to blame a victim for the crime or act that they have committed. But it is the responsibility of every person to manage their own anger so that it does not become out of control.

Using physical violence to solve a problem is never acceptable. Spoken arguments can be met with spoken responses. They may not be met with physical abuse.



Respect one another ...

In this episode Ricardo, who has lost his job as a local administrator and is struggling to adjust to his new lower-ranking job, continues to drink excessively and mistreat his family.

On several occasions he verbally abuses and assaults his wife, Sofia, injuring her arm. But when Sofia tries to reports this to the police, Ramon does not take it seriously at first.



Is domestic violence against the law in Timor-Leste?

Yes. There is a national law on domestic violence, and sections of the criminal code also deal with domestic violence. (See next page for more details!)

Fortunately, Vitor steps in and encourages her to make a statement, and he introduces her to Rosa and her NGO.

After Ricardo hears about this, he gets angry and also assaults their daughter. Although he did not mean to hurt her, Sofia takes shelter in a safe house with their daughter and agrees to testify against Ricardo in court.

WHERE SHOULD A VICTIM OF DOMESTIC VIOLENCE GO TO SEEK HELP?

A victim will often feel very isolated and powerless so it is very important that they approach someone that will support them who can accompany them, if possible. This might be a family member, a friend, a community member, or a religious representative. The victim should be careful when they seek this help that the person they approach is 'on their side,' and demonstrates that they will help to defend their rights. Sometimes this will not be the case and the person who is approached for help may actually want to help the perpetrator or try to cover up what has happened. If this happens the victim should look somewhere else for help, or go directly by themselves to report to the police.

Each police station has trained officers to deal with domestic violence cases. A woman victim should ask to speak to a woman police officer who deals with domestic violence cases. (See following pages for more details.)

A list of places that a victim can go if they need emergency accommodation is included in this book, see page 25.



RESPECT ONE ANOTHER

More on domestic violence and the law in Timor-Leste...

DOMESTIC VIOLENCE IS AGAINST THE LAW IN TIMOR-LESTE

Law No 7/2010, the national law on domestic violence, deals with behavior in a family context. The law forbids a range of acts which cause harm to a member of a family by another member of that family. That includes physical violence, sexual violence, psychological violence and economic violence.

Psychological violence includes acts aimed at degrading a person, humiliating them or ridiculing them. Economic violence includes destroying someone's personal belongings, personal documents or things that are needed to work.

The following sections of the criminal law also deal with domestic violence:

Criminal Code: Article 154: Mistreatment of a spouse:
"Any person who inflicts physical or mental mistreatment or cruel treatment upon a spouse or person cohabiting with the perpetrator in a situation analogous to that of spouse is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision."

Criminal Code: Article 155 Mistreatment of a minor

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

a) Causes harm to the minor's body or health, or inflicts physical or mental mistreatment or cruel treatment; is punishable with 2 to 6 years imprisonment "

*"Domestic violence is
against the law in
Timor-Leste"*

IF SOMEONE IS CONVICTED OF DOMESTIC VIOLENCE DOES THAT MEAN THAT THEY WILL GO TO PRISON?

This depends on the circumstances of the case. If the violence did not cause serious harm and the perpetrator can demonstrate that he is very sorry for what he has done, and is taking steps to be able to control anger so that he does not become violent the judge may be able to take a 'restorative justice' approach. This means that the law is trying to help rebuild or restore the rights of the victim and others who have been involved.

According to Article 38 of the Domestic Violence Law, the court can replace the penalty of imprisonment with a fine if the victim will be safe, if the perpetrator agrees to take part in a treatment program and be subject to follow up by the victim support services, and if it is in the interests of maintaining family unity.



Ricardo's story...

In this episode the judge sentenced Ricardo to a prison sentence of 18 months, but also found that it would be better if Ricardo did not stay in prison but was allowed to go home to his family.

The judge used the law to allow Ricardo to go free on condition that he did not commit any other crimes during the length of his sentence.

IS PRISON ALWAYS THE BEST SOLUTION?

It may be true that if a person who is arrested for domestic violence is put into prison his wife and children may also suffer. (For example, if he is the main source of income for the family.)

That is why courts will often seek a way to punish the perpetrator without sending them to prison, but make sure that they do not commit any further crimes, as with Ricardo in this episode. In this case the judge was able to allow Ricardo to go free because it was the first time he had a problem with the law and promised not to do it again. But if he repeats his crimes then there will be no alternative to imprisonment.



That means that if Ricardo remained peaceful for the next 18 months there would be no problem. However, if he beat his wife again he would immediately be arrested and be required to serve the 18-month sentence in the prison.

WHAT ABOUT THE TRADITIONAL WAYS THAT TIMORESE DEAL WITH DOMESTIC PROBLEMS?

Customary approaches to try to solve problems can also be used in relation to domestic violence, but they do not replace the formal legal system. The laws that prohibit violence, including the domestic violence law, apply in all cases.

Traditional beliefs in Timor respect the loving relationship in a marriage and the value of a peaceful household and a peaceful community. Sometimes a customary approach might be able to help to stop violence, provided this approach recognizes that the victim is in no way responsible for what has happened to her, and that nobody has the right to hit their spouse or any other person.

The story and the feelings of the victim must take a central role in dealing with domestic violence. If mediation or other approaches are used to try to stop domestic violence it is very important that the voice and feelings of the victim are a central part of that process.

IF THE PROBLEM HAS BEEN DEALT WITH BY CUSTOMARY METHODS CAN IT STILL GO TO COURT?

Yes. The laws that prohibit violence, including the domestic violence law, apply in all cases.

According to the domestic violence law, all cases of domestic violence reported to the police must be investigated and referred to the Prosecutor within 15 days. When a case is reported to the police they should record evidence of physical injuries and take photographs of them, get copies of records of medical treatment from a hospital or doctor and write down the story of the victim and other witnesses. These will be used if the case proceeds to court.

RESPECT ONE ANOTHER

How to get help or support for domestic violence or abuse...

WHAT SHOULD A FAMILY DO WHEN A VICTIM REPORTS ABUSE?

Families should try to understand the suffering of the victim, including the fact that the victim is not responsible for being beaten and that there is no excuse for violence. The right not to be beaten by someone under any circumstances is a basic human right.

As a nation Timor Leste needs all families to join in the effort to stop domestic violence. When a husband or somebody else has beaten a woman they have violated this basic human right to be safe and protected. They have also broken the national law and may be punished, including being sent to prison.

A victim needs the support of family members to seek a solution to their suffering. It is the right of every person to report a crime that has been committed to the police, and in many cases this will help to stop violence.

“The laws that prohibit violence, including domestic violence, apply in all cases.”



What about sexual abuse of children?

Sexual violations against children can cause great damage to a child, and is a very serious crime against the laws of Timor Leste. When an adult has sexual relations with a child in their family this is known as incest and is also a very serious crime. Any information about these crimes being committed should be immediately reported to the police. The courts in Timor have been dealing with perpetrators of sexual violations against children by sending them to prison for many years.



Assistance from the Ministry of Social Solidarity

Help for vulnerable persons can also be sought through the government offices in the districts.

Currently there are two MSS District Service Centres in Dili and Manatutu. There are five Regional Centres, with the eventual goal being to have one service centre per municipality:

- i. Gleno covering Aileu, Liquisa and Ermera
- ii. Baucau for Viqueque, Baucau and Lautem
- iii. Same covering Manufahi and Maubisse
- iv. Maliana for Bobonaro and Cova Lima, and
- v. Oecusse.



WHO CAN PROVIDE LEGAL ADVICE TO ADULT AND CHILDREN VICTIMS OF DOMESTIC VIOLENCE?

It is the duty of the Office of the Public Defenders to provide legal advice to victims, from their offices in Dili, Baucau, Suai, and Pante Makassar. Victims can also seek advice from non-profit organizations or private lawyers.

The Office of the Prosecutor General will be responsible for investigating and bringing a perpetrator of domestic violence to court. This will mean that this Office will have substantial contact with victims. A special unit to deal with crimes of domestic violence has been established in the Office of the Prosecutor General.



Asistencia Legal ba Feto no Labarik (ALFeLa) is a NGO that provides legal information and accompaniment to women and children victims of sexual and domestic violence. It assists victims to understand and participate in court processes, and accompanies victims in their dealings with the police and court actors. ALFeLa has offices in all districts with a court: Dili, Oecusse, Suai and Baucau. They have five lawyers on staff who were trained at the Centro do Formação Judiciário, meaning that they are fully qualified to practice as lawyers in Timor-Leste. In 2014, ALFeLa had around 500 clients.

LAND DISPUTE

A foreign investor tries to buy land to build a resort, but the landowners fight over the border between their properties. And Siti decides to give up looking for her family.

IS THIS KIND OF DISPUTE A COMMON PROBLEM?

Conflicts arise around land ownership in every country. Conflict occurs when there are different understandings of who owns the land and what they can do with it. Taking steps to make the rights to land and property clear can help, but this can also create conflict in the short term.

For example, if the value of land increases then people may begin to argue and fight about who owns the land, where are the borders, and who can sell it. Some communities in Timor-Leste have shared land and lived in harmony for generations without arguing about who has the ownership rights of land. But new developments that seek to purchase this land put a price on the land - and suddenly everyone wants a share of that money, leading to disputes.

WHAT CAN BE DONE TO REDUCE THE POTENTIAL FOR CONFLICT?

Understanding land rights and ownership, including customary practices, and having a process for managing disputes can help reduce conflict. This is the approach of the Timor-Leste land law passed in 2017. (See following pages for more details!)



Land Dispute ... the story ...

In this episode a foreign businessman wants to buy land from two people so that he can build a resort. But the two landowners fight because they do not know where the borders between their land is, and each one claims a higher portion of the offered price.

The foreign investor also works with a local businessman to prepare a map of the planned resort but the map is false. It shows that the



Who are the 'labarik lakon'?

In these episodes Rosa bumps into Siti and Yani at the hospital without realising it is her sister and niece. Siti was taken from her mother as a child many years ago. And Rosa and her mother have wondered about her for many years. Siti is one of the thousands of 'lost children' who were taken away during the Indonesian occupation.

So far about 75 of the 'labarik lakon' have been re-united with their families in Timor-Leste..

local people and fishermen will still be able to get to the beach as they have done for hundreds of years. The real map of his resort plan closes off all the coastland of his resort with a wall blocking access to local people.

Also in these episodes, Siti, a woman from Indonesia, and her daughter, Yani, are preparing to return to Indonesia after failing to find Siti's birth family.

WHAT HAPPENED TO THESE LABARIK LAKON?

The Indonesian military invaded Timor in 1975 and tried for 24 years to defeat the Timorese who were seeking independence. During this time thousands of Timorese children were taken from their families and put on ships to Indonesia. When they arrived the children were put into boarding schools, or kept with families, and some were abandoned to try to survive on the streets. Some were treated well but many were not. Life was very hard for many of these children but somehow many of them survived.

In many cases the families of the children thought that they must have died because they did not hear from them after they were taken away - even for over 35 years. During the past three years Asia Justice and Rights (AJAR) and the PDHJ have been working together to bring some of those people home to Timor to reconnect with their families.

The AJAR teams in Indonesia search for the Timorese and if they want to reconnect with their families help them to get passports and air tickets to fly back to Timor. The teams in Timor trace the families which is sometimes difficult.

The reunification program is supported by PDHJ, the Timor-Leste government and also the Indonesian government.



LAND DISPUTE

How can we reduce the potential for conflict over land disputes?

UNDERSTAND THE DIFFERENT KINDS OF OWNERSHIP OF LAND AND PROPERTY

Not only individuals have land rights, but also groups, families and communities.

Some land has been traditionally used by communities for a long period of time and its ownership and right of usage is shared between families or larger groups. Some rights to land existed as custom, some rights were given by the Portuguese colonial power, and some were given during the Indonesian time. The violence and displacement after 1998 also led to people occupying and using land and property, sometimes through force.

The new Land Law recognizes different kinds of rights to land, including customary rights and community rights and provides a system for solving disputes when individuals or groups cannot agree about ownership, borders etc. *(Turn the page for a brief summary of some of the points in the new Land Law.)*

INVOLVE COMMUNITIES IN DEVELOPMENT

When a plan for a new development is made the communities and individuals that are affected should be consulted. These communities should be able to receive full information about the plans.

The government representatives responsible for approving the development plans have a duty to consult with those affected. They also have a duty to get an objective report that provides information about the social and environmental impact of the project.

It is far more difficult to try to undo the damage done by a development that is not carried out legally than it is to change the plans beforehand. It is therefore important for communities not to wait until the project is finished before becoming involved.

MEDIATION

Mediation and calm discussion can help to find a solution that is acceptable to everybody. Everybody involved needs to try to understand not only their own position, but also what others might believe and why they believe that.

Usually a solution to a conflict requires all of the parties involved to 'give and take.' Nobody will get everything that they want, but hopefully they can reach an agreement that is acceptable to all.

The new land law, passed in June 2017, establishes a system for clarifying land titles. Where people cannot agree on land ownership this new system will assist.



LEARN FROM OTHER COUNTRIES

In this story the local fishermen could lose access to the beach because of a beachfront hotel. The rights of the people to access the beach and the coast is a big challenge in many places where there are beaches, ocean and coastlines. For example in Bali many disputes have arisen over access to beaches and the ocean. It is a matter of balancing the rights of the people and the benefits of investments. Hotels and resorts, for example, will want to have access to the beach. If there is a hotel or resort on the beach there should at least be access for the local people nearby.

“Providencia cautelar”

In order to carry out a project the developers must apply to the Department of Trade and Industry and get a report on the social and environmental impact of the project.

If this has not been done a person affected by the development or an NGO representative can apply to the court for a “providencia cautelar.” This is an order to stop the project going ahead until the social and environmental impact study is completed.

BALANCE COMMUNITY NEEDS AND BUSINESS INTERESTS

In this story a foreign businessman wants to invest in Timor but he wants to close off access of the fishing community to the beach. Which is more important-bringing money and jobs by the investor or the local community’s rights?

Investment and development are very important for Timor Leste. Respecting the rights of the people to use their communal resources such as land, beaches and the ocean are also important. There needs to be a balance between these two important goals. Solutions should be sought that balance them so that there is responsible investment and development and also the rights of the community are respected.

All planning and development should be done according to the law and in a transparent and responsible way. It is very important that legal rules are not bypassed through corruption involving government officials to gain approval. This has happened in many other countries. It leads to uncontrolled and damaging development, destruction of environmental resources and conflict with communities. This can be avoided if the planning and development is done responsibly and transparently.

Transparency means that all the plans and steps in the process including the maps, the budget and the payments made are able to be seen by everybody who may be affected by it. All stakeholders can then voice their opinions before decisions on the plans are made. This also protects the officials involved in the process and ensures that the communities continue to strongly support the representatives of the government.



LAND DISPUTE

More about land law, ownership and customary practices...

THE TIMOR-LESTE NATIONAL LAND LAW

The national Land Law was passed by the parliament in June 2017. This law establishes a process whereby the rights to land and property of individuals and communities will be recognized and recorded. The Law recognizes the legal right of ownership and use of land by individuals, groups and communities.

It establishes a body called the Cadastral Commission, under the Ministry of Justice, which will be responsible for establishing a map of land ownership and use across Timor.

People and communities will be asked to register their claim to land and property. So it is important for everyone who owns land or property to be aware that this process will take place. The government will keep people and communities informed about what they need to do to apply to have their ownership legally recognized.

The rights to property given during the Portuguese and Indonesian periods are recognized under the new law. The law also recognizes the rights of communities to own and use land, such as village areas, agricultural areas, rivers etc.

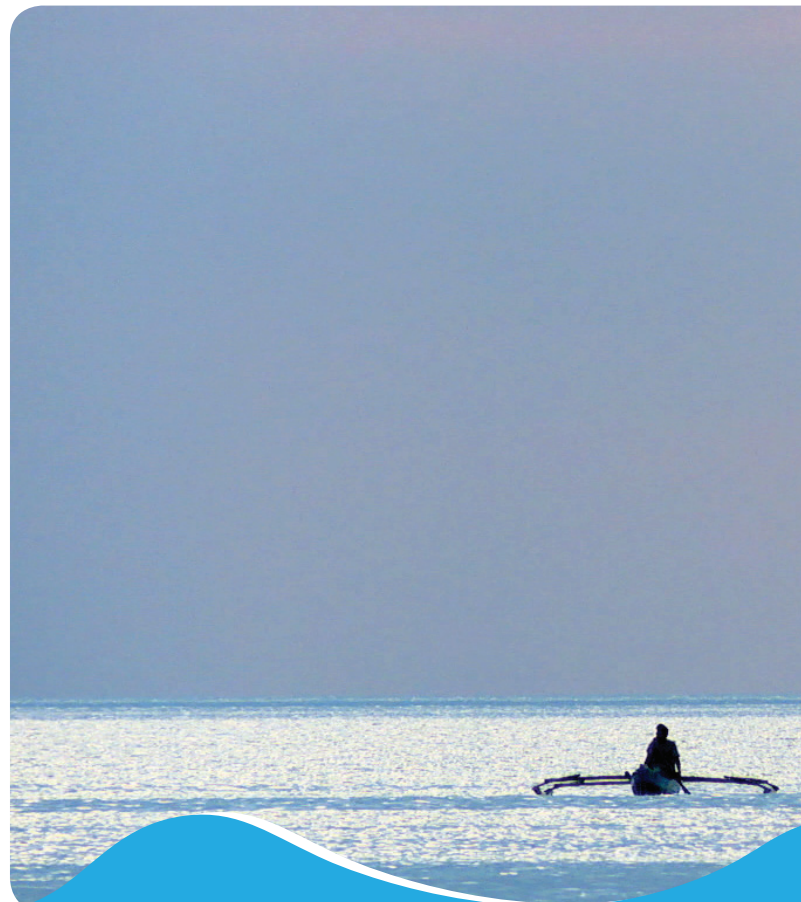
The land law recognizes that some land and property ownership has never been registered under any previous legal process.

Property rights are equal between men and women and discrimination is prohibited

The also establishes Community Protection Zones where real estate speculation is forbidden. And the law recognizes and protects Community Property which is considered to be owned communally by a group of people or families and regulated by local customary practices.

Cadastral Commission

The Commission is made up of nine people who must have a good reputation for ethics and morality. Six of them are respected lawyers and three technical experts. They are responsible for establishing a map of land ownership and use.



Community Protection Zones

Community Protection Zones are areas that the State recognizes, to guard the interests of the local communities. They include areas that are shared by the population and necessary for its subsistence, such as: residential areas, agricultural land, forests, water springs etc. Customary practices will guide the management of these areas..

Community Property

The law also recognizes and protects Community Property which is considered to be owned communally by a group of people or families and regulated by local customary practices..

HOW IS OWNERSHIP DECIDED?

People who can prove they had a previously existing right to the land or property, and who are the only owners of that land or property, will have that right recognized according to the law.

If there are more than one person or group that claim to be the owners, an inquiry will be conducted to decide how the ownership should be registered.

Factors that will help establish legal ownership include the history of occupation of the land, whether that occupation was gained peacefully or through violence or threat, relevant documents, buildings that have been constructed, planting of crops, trees, fences etc. (Article 9.)

In some cases ownership may be awarded to a person or group but they may have to pay some compensation to others, in order for it to be fair.



FAIR ELECTIONS

In this episode, Ines the school-teacher becomes a candidate in the village election, Zeca exposes the corruption of the current village chief, and Holly is assaulted by three young men.

WHY IS VOTING IMPORTANT?

Timor Leste is a democracy. That means that every person has an equal right and power to vote for those who represent them in making important decisions.

Timor-Leste has three different kinds of elections. In each of these elections every person over the age of 18 has one vote each.

The three kinds of elections choose:

- the President, who is the head of the state.
- the Members of Parliament, who make the laws that everybody in the country must obey
- The Village Chief, who has a lot of power to affect the issues that are important for everyone that lives in that village.



Istoria - Eleisaun Justu

Ines, the honest school-teacher, decides to be a candidate for the village chief election even though people think she won't win because she is a woman.

The current village chief, who is corrupt and charges extra fees for himself, gives out money, rice and other bribes to try and get people to vote for him. But in the end, the community elects Ines.



In Timor-Leste there are three kinds of elections:

- *for President*
- *for Members of Parliament,*
- *for the Village Chief.*

Meantime, the corrupt village chief and the property developer take journalist Zeca Mosquito to court claiming he must pay them because he published a report that negatively affected their reputation.

And Holly, who is transgender, is beaten by three young men for no reason and taken to the hospital.

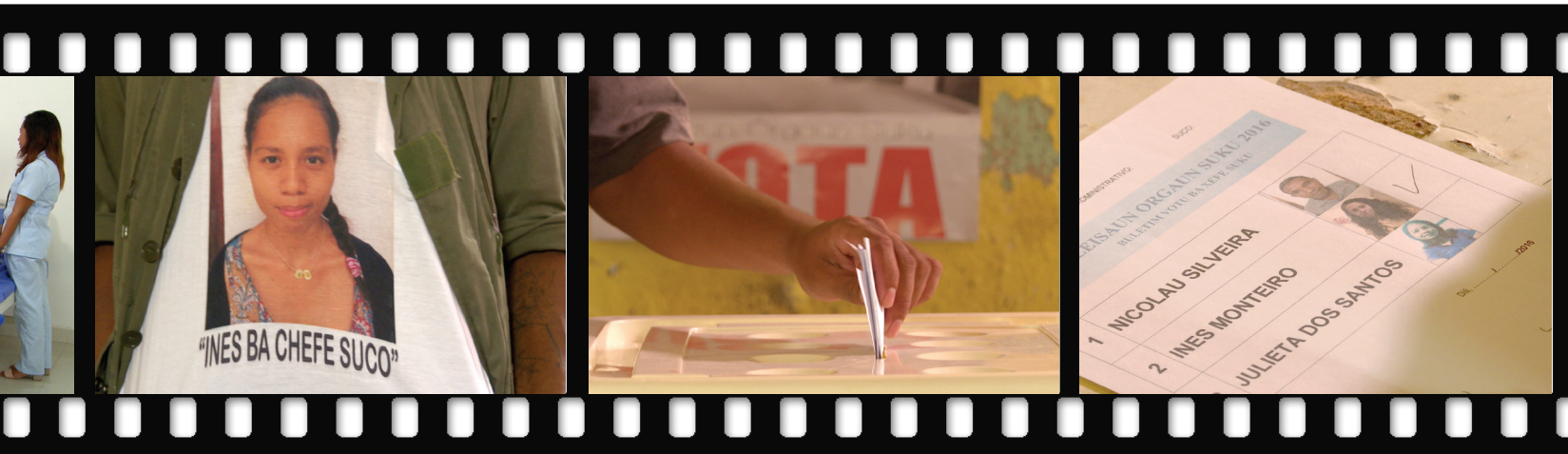
WHY SHOULD I VOTE?

It is very important that every person in a democracy tries to learn as much as possible about the different candidates in an election and votes to choose their leaders.

There is no point complaining about something a leader or government has done if we did not even vote in the election that chose them.

The elections are an opportunity to participate in our country's democracy and to make things better for ourselves and our community.

Every man and woman over the age of 18 years has the same right to vote in all elections.



FAIR ELECTIONS

How do free and fair elections work?

SECRET BALLOTS

Each person has the right to choose who they believe is the best candidate or party in an election. This is a private right and nobody else has the right to know who you voted for.

In order to make sure that each person feels free to make his or her own choice the voting is kept secret.

The officials in charge of the voting will arrange the place that you vote so that nobody can see who you choose on the voting paper and then you fold that paper and put it into a box so that nobody can see. Your name will not be written on the voting form that you fill in. Nobody can know who you voted for and this is very important.

Everybody should feel free to choose who they think will do the best job if they are elected.

IS GIVING OUT RICE AND MONEY FOR VOTES ALLOWED?

No! It is forbidden and against the law to try to 'buy' votes. Despite this, some corrupt candidates will try to give things to people or ask them to promise to vote for them.

If someone tries to buy your vote this is a good reason not to vote for them because it means they may also be unethical or break the law if they get elected.

Remember that the right to vote is very valuable and your vote should never be influenced by someone giving you something, nor by threatening or trying to force you to vote in a particular way.



“Everybody should feel free to choose who they think will do the best job if they are elected.”



WHAT IS AN ELECTION CAMPAIGN?

Election campaigns are a period of time where candidates for different kinds of elections try to persuade people to vote for them. For example, candidates may tell people what they plan to do when elected, or highlight their history of honesty and listening to people, in order to persuade voters they are the best person or party for the job.

Candidates in an election should tell the truth when they are campaigning, but voters also need to carefully consider what they are saying and assess whether it is likely to be true.

For example, in this story the old village chief told people that he was honest, but this was a lie. He also said that Ines was inexperienced and that she would not be able to do the job as well as him.

However, the community knew he had been corrupt, and they trusted Ines because they knew she was a wonderful schoolteacher. Even if Ines had no experience in politics, the community felt she she would do a good job for them so they chose her in the election.



FAIR ELECTIONS

Also in this episode, Holly, who is transgender, gets attacked by three young men she does not know and ends up in hospital.

Holly's story...

In Episode 10 Holly tells Yani that when she was young she looked like a boy, but now she is a woman.

In other words, when Holly was born the doctors, her parents and wider society gave her a male identity. They believed that because the child's body was male, this child must be a boy and will grow up to become a man.

However, as Holly grows up Holly realises that she feels more like a woman than a man. She is transgender. To express her gender Holly chooses to wear dresses, have long hair and wear makeup just like other women.

There is nothing wrong with this and it is a natural part of the different ways that human beings are.

Holly is a lovely person, she is very kind and generous and goes about her life without hurting anyone else. She is the most helpful to Siti who is looking for the family from which she has been separated for many years.

Despite Holly's kindness, people are often rude to her. They laugh and make jokes, just because she looks different.

Holly is very courageous and continues to live her life openly. In Episode 17, three boys attack her, just because she looks different. Later one of the boys can't sleep. He feels deeply that he has done a terrible thing - hurt someone who was peaceful and not harming anyone. He asks if he can at least apologize and tell Holly that he is sorry for what he has done.

Holly's family has also had difficulty in accepting who she is. Her father became angry with her. He didn't understand that being transgender is something which is part of who Holly is. Holly's father had pushed her out of the household so she had to go out and look after herself.

But after she was beaten by the three boys Holly's father came running to her side in the hospital. He realized that he loved his child very much and it makes no difference what gender identity she has and expresses. He has found his child again and is very happy.



Sex characteristics

A person's sex relates to their physical body. At birth we usually recognise a person as female or male based on their body (including hormones and chromosomes). Some people's bodies at birth are 'intersex', which means their body does not match traditional definitions of either male or female bodies.

Gender Identity

Gender identity relates both to a person's own sense of whether they are male or female or neither, and also to society's expectations about the roles people perform in society based on their sex at birth. For example, how people should dress, talk, and behave based on whether they are a girl, boy, woman or man.

Gender Expression

Gender expression refers to the way a person communicates their gender identity to others through behavior, clothing, hairstyles, voice or body characteristics.

Sexual orientation

Sexual orientation refers to a person's emotional, romantic or sexual attraction towards another person. Many people feel this attraction to people of a different sex or gender, and some people feel this attraction to people of the same sex or gender.

IS THE ASSAULT ON HOLLY A SERIOUS CRIME?

Yes. It is a serious crime to assault any person, and this is forbidden by the criminal law of Timor-Leste. The law states that it is even more serious and the punishment will be greater if the violence is committed for reasons of sexual orientation or gender identity.

In our story Holly did not threaten the boys, she did not even speak to them. She was just trying to go home alone in peace when she was attacked just because of who she is.

The police have a duty to arrest the attackers and the judge is likely to sentence them to a period in prison, as this is a very serious crime.

WHAT DOES IT MEAN TO BE TRANSGENDER?

Most people never question their sex or gender identity; they feel quite normal and comfortable with the labels of girl, boy, man or woman that are given to them based on their body at birth.

For most people, their sex characteristics and gender identity are aligned. Many people with male bodies feel comfortable with the gender identity of 'boys and men', and many people with female bodies feel natural as 'girls and women'.

This is not true for everyone, however. Some people feel that these sex and gender labels do not match their instinctive sense of who they are. They may feel that they are either in between man and women, or that they are the opposite of the gender they were given at birth.

"Transgender" is a general term for all people who do not feel the sex or gender they were given at birth accurately reflects their identity as they grow up and/or as adults. Transgender people may, or may not, express their gender in terms of how they dress, talk and behave, or by adapting their bodies (also known as 'transitioning').

FAIR ELECTIONS

LGBT rights in Timor-Leste...

WHAT IS LGBT?

LGBT stands for Lesbian, Gay, Bi-sexual, Trans-gender. These English words are also used in many other languages.

Lesbian, Gay and Bi-sexual are words which relate to sexual orientation:

- 'Lesbian' - is a word used to describe women who are attracted to other women
- 'Gay' - is a word used to describe men who are attracted to other men.
- 'Bi-sexual' - is a term which describes people who attracted to people of more than one gender.

'Transgender' - relates to both gender identity and gender expression, and sometimes to sex characteristics. It is a general term for all people who do not feel the sex or gender they were given at birth accurately reflects who they are.

WHAT DOES TRANSITION MEAN?

Some transgender people go through a process of changing their appearance in order to express their gender. For example, Holly looked like a boy when she was younger, but now wears dresses and and makeup like other women. Some transgender people also modify their body through modern medicine.

"The Timorese law explicitly prohibits discrimination on the grounds of sexual orientation and gender identity. All the citizens are equal before the law and have the same rights, and public authorities must not discriminate citizens on any ground, included on the basis of sexual orientation and gender identity."

(<http://undocs.org/A/HRC/34/11/Add.1>)



Celebrating Diversity

Many different kinds of people live in the world.

Some people are short and some are tall, some have straight hair and some have curly hair, some have light skin and some have dark skin. People may be of different races, religions, nationalities and ethnic groups, they may be attracted to people of the same gender or a different gender, they may be married or never marry.

Each person has the same fundamental human rights simply because they have been born on this planet, no matter who they are, what they look like or where they come from.

Just because someone looks different from us is no reason to be afraid of them, or to want to hurt them. People who look different can make equally positive contributions to the world as anyone else. Diversity is something to celebrate, not to fear.

SEXUAL ORIENTATION AND GENDER IDENTITY IN TIMOR-LESTE

Although the constitution of Timor-Leste does not specifically mention discrimination on the basis of sexual orientation and gender identity, there is increasing recognition of the human rights of people of diverse sexual orientation and gender identity (LGBT people) in Timor-Leste.

At the United Nations, Timor-Leste has signed statements affirming that human rights apply to all people and calling for an end to acts of violence and other human rights violations based on sexual orientation and gender identity. The government of Timor-Leste has also affirmed that Timorese law prohibits discrimination on the grounds of sexual orientation and gender identity.

Sexual conduct between members of the same sex is not illegal in Timor Leste, as long as both participants consent and are over the age of consent. This means that both partners to any sexual act must be over 14 years old and both must freely consent to the sexual act.



REUNION

Siti is reunited with her family, Rosa and Eduardo both find love, and the village chief and the property developer take Zeca to court in a civil case.

WHAT IS A CIVIL CASE?

The 'civil law' is an area of law that deals with disputes between people, groups, or organizations. It covers things like arguments over contracts, land and property disputes, or damage to someone's reputation (defamation).

The purpose of the civil law is to find a fair solution. This is different to the criminal law in which the purpose is to find whether someone has committed a crime and if so to provide a suitable punishment.

When people or groups have a civil dispute they should first try to discuss and resolve it, or get someone to help mediate it. If that is not possible they may go to the court. This will be a civil case, not criminal, and the police will not usually be involved.

Each of the sides in a civil dispute have a chance to bring witnesses and evidence that supports their argument to the court. The judge, after considering all the evidence, will decide what is fair and can make orders that both sides must obey.

For example, the judge may order one side to pay compensation to the other side if they have defamed the other person by publishing something that is not true. (See next page.)



Reunion ... the story ...

In the final episodes, Zeca the journalist makes a public report that states the village chief is corrupt. The village chief and the developer bring a civil case against Zeca in the court. They claim that Zeca must pay them a lot of money because he has damaged their reputation. However, after hearing all the evidence the judge rejects their claim.





Eduardo, the young lawyer who has been afraid to tell his girlfriend that his father was an Indonesian soldier who forced his mother to be with him, finally shares the truth with Ana.

Rosa and Vitor share their feelings about each other at the CAVR exhibition.

And when the young men who assaulted Holly appear in court, one of them is full of remorse.

WHAT IS THE DIFFERENCE BETWEEN CIVIL LAW AND CRIMINAL LAW?

Civil law disputes are different to the criminal cases because they are between different people or companies who disagree with each other, and the objective is to find a fair solution.

The criminal law sets out the things that the parliament has decided people are forbidden from doing. These include crimes, such as murder or stealing.

If anyone, no matter who they are, commits one of those crimes they should be arrested, brought to trial and punished.

A court case involving the criminal law is not between different people or companies that may disagree with each other. It is between the state, represented by the police and prosecutor, and an individual.

If a person is charged with a crime the prosecutor must prove that they committed that crime. The defendant in all criminal cases has the right to be represented by a lawyer. The judge has the role to decide if they are guilty and what is an appropriate punishment.



REUNION

Civil law, criminal law, defamation and freedom of speech...

WHAT IS DEFAMATION?

In general defamation is when somebody communicates something that is not true to others that damages the other person's reputation.

If that happens the person whose reputation has suffered has the right to claim money in compensation from the person who has caused the damage to their reputation.

In Timor-Leste, like most democracies, defamation is a civil case to be dealt with between the parties and does not involve the police or the criminal law. However, it is still an offence in Timor-Leste to say or write false things about somebody with the purpose of having that person prosecuted for a crime.

WHAT IS THE PUBLIC INTEREST?

In deciding Zeca's case the judge said that an important thing to consider is whether publishing the report about corruption was in the public interest.

In other words, did it help the public to know this information?

In this case, the judge found that it did help the public to know this information, as the public must know who is corrupt and who may be involved in poor governance..

Civil law

Civil law relates to disputes between people and companies who disagree with each other. - such as over a contract, or a land boundary, or unpaid wages.

Criminal law

Criminal law relates to things the parliament has decided are always wrong, whatever the context. This includes violence, assault, murder, stealing and more. Court cases involving criminal law are always brought by the state.



The defamation case ...

In this episode, Zeca made a report on the television that stated publicly that the old village chief was corrupt.

The village chief said this was not true and therefore Zeca must pay him a lot of money to make up for the damage to his reputation.

At the court many villagers came and provided evidence to the judge that the village chief had been corrupt, because he

Freedom of speech

Zeca claims that he has the right to report the truth because in Timor there is legal protection for freedom of speech. What does this mean?

Article 40 of the Constitution of Timor Leste states the following:

“Every person has the right to freedom of speech and the right to inform and be informed impartially. The exercise of freedom of speech and information shall not be limited by any sort of censorship.”

Section 41.1 of the Constitution is titled ‘Freedom of the press and mass media’ it provides the following

“Freedom of the press and other mass media is guaranteed. Freedom of the press shall comprise, namely, the freedom of speech and creativity for journalists...”

However this right is also balanced with the duty to use the power of free speech responsibly and not to damage the reputation of another person unless the criticism of another is true and for the benefit of the public.

had asked them to pay him extra money for different things.

The judge decided that even though Zeca had negatively affected the village chief’s reputation by reporting that he was corrupt, his report had been true.

Because the report was true, it was not defamation.

PROTECTING FREEDOM OF SPEECH

Governments and courts in all countries face the challenge of protecting the very important right of freedom of speech (*see box*).

The contribution of the press in providing accurate information to the public, with the duty to publish responsibly, benefits all nations.

Sometimes, in other countries, however, governments who have been fairly criticized have reacted by limiting the freedom of the press to report about them.

And in authoritarian systems of government, journalists are often put into prison for reporting the truth about the elites, including business cronies.

If the press are not free to investigate and report on corruption, mismanagement and poor governance how will the people know the truth?

But this power to report and affect the reputation of individuals and organizations must also be used responsibly.

TIMOR-LESTE MEDIA CODE

The Timor Leste Media Code regulates the behavior of journalists and who is qualified to be a journalist.

The law established a national Press Council which is composed of two journalists, two members who represent the public that are chosen by the national Parliament, and one representative of the owners of media outlets.

This law provides for a code of ethics that must be followed by all Timorese journalists.

“Because the report was true and in the public interest, it was not defamation.”

REUNION

Lessons from love! Can we learn about human rights from the love stories of Eduardo and Ana, and Rosa and Vitor?

WHY DID EDUARDO LIE ABOUT HIS FAMILY?

In the final episodes, the young lawyer Eduardo tries to hide his family history from his girlfriend Ana before eventually telling her the truth: that his father was a member of the Indonesian military who had forced his mother to be with him.

In the story, Eduardo told his girlfriend that since the time he was young other children and adults had made fun of him because of who his father had been.

But in real life, a recent study on the situation of children born of rape from the conflict has found that children continue to suffer discrimination. The study found that many of these children were raised by single mothers. They face difficulty in getting citizenship papers, are living in poverty, with very few opportunities for education.

A child cannot be responsible for where they are born and who their parents are. Children who have been born as a result of rape should never be discriminated against.

Children should also never be discriminated against because of what their parents may have done. For example, a parent may have been a militia member, or been to prison or done something else bad. That is not the fault of the child and nobody should blame or discriminate against the child.

It is against the laws and Constitution of Timor Leste to discriminate against someone.

There are many different kinds of people in the world, and in Timor-Leste, and the diversity of people is a source of strength. Nobody should ever suffer or be discriminated against because they are different, or because of who a family member may have been, or what they have done.

Discrimination and the Constitution

The Constitution of Timor Leste states that discrimination on many grounds is illegal:

Section 16

1. All citizens are equal before the law, shall exercise the same rights and shall be subject to the same duties.

2. No one shall be discriminated against on grounds of colour, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.

Section 17

Women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life.



Centro Nasional Chega

In 2017 a new government body, the Centro Nasional Chega (CNC) was established with a mandate to help the government and others to implement the recommendations of the Chega! Report of the CAVR.

The office of the CNC is at the Comarca, a former Portuguese and Indonesian prison, which also holds the CAVR archive. The Comarca is also a museum focusing on the experience of Timor Leste during the Indonesian occupation and is open to the public.



ROSA AND VITOR MEET AT THE CAVR EXHIBITION

The Comissão de Acolhimento, Verdade e Reconciliação de Timor Leste (CAVR) was an independent Commission that spent three years from 2002-2005 conducting a detailed inquiry into human rights violations that had taken place in Timor-Leste from the time of the civil war in April 1974 until October 1999 when international peace keepers arrived to stop the violence that had arisen after the ballot for independence.

During the period of its work the CAVR interviewed and wrote down the statements of approximately 8,000 victims, witnesses and experts. The commissions wrote a 2,000-page report titled *Chega!* that describes the history of the civil war and Indonesian military occupation, and the many crimes and violations that took place during this time.

The information gathered by the CAVR can help us to understand what happened and why it took place, and hopefully help us to prevent future recurrence of violations.

For example, one of the major lessons of the CAVR is that a society needs to be accountable and there should not be impunity when a crime is committed. If someone commits a crime they should be investigated and prosecuted, no matter if they are rich, poor, powerful, weak, a member of the government or military or an ordinary villager. There should be one set of fair laws and rules that applies to all people. This is called the rule of law.

The Chega! Report included a set of recommendations that should be followed in order to deal with the history of past violations and prevent human rights violations from taking place in the future.

