

CHILD'S CODE – Draft Bill

PREAMBLE

The drafting of the present Child's Code was inspired in the standards and principles contained in the UN Convention on the Rights of the Child (the Convention), adopted by the United Nations General Assembly on 20 November 1989 and which was ratified by Timor-Leste on 17 September 2003.

The draft does not only incorporate the fundamental principles and rules contained in the Convention, but it also takes into account the jurisprudence and positions taken by the United Nations Committee on the Rights of the Child, which is in charge of monitoring the way in which the Convention is being implemented by all States Parties. This is especially clear in the area of prohibition of all forms of corporal punishment against children. The draft furthermore takes into account recent developments that have taken place in the area of human rights at the international level, namely the adoption of the UN Convention on the Rights of Persons with Disabilities, the recognition of sanitation and water and the adoption of the UN Guidelines for Children in need of Alternative Care, among others.

Moreover, besides being in full harmony with international commitments undertaken by the Government of Timor-Leste in the area of human rights, the draft is also consistent and in agreement with other existing national legislation in force in the country, as is the case of the Constitution and the Criminal Code. Likewise, the draft already takes into account draft laws that are currently under appreciation in Timor-Leste, namely the draft Civil Code, the draft Civil Registry Code and the draft Labour Code.

The Code is divided into four Parts: the first one with introductory provisions, the second one on rights and freedoms of the child, the third one on child protection measures and the fourth on the National Commission on the Rights of the Child.

The first Part contains the basic definitions, namely the age of majority which is set at 17 years. This Part also enunciates the general principles that guide the application and interpretation of the Code, namely the prohibition of discrimination, the principle of the best interest of the child, the principle of the inherent right to life and to the survival and development of the child and the principle of participation.

Part II is composed of a Title I containing general provisions and a Title II that enumerates the different rights of the child: Chapter I foresees a set of civil rights and freedoms, Chapter II consecrates rights to basic health and welfare, Chapter III encompasses the right to education and principles regarding the educational system, Chapter IV is devoted to the right to social security and, finally, Chapter V includes provisions on the right to culture and leisure. Part II takes on board many of the rights consecrated in the United Nations Convention on the Rights of the Child, but since the Convention is already over 20 years old, the Code includes also some innovative provisions that take into account recent developments that have occurred over the two last decades, as for example the prohibition of corporal punishment, the rights to sanitation and to water, the rights of children with disabilities, the rights of pupils and the rights of the hospitalized child.

Part III deals with child protection and is divided into 4 titles, the first one on general provisions, the second on the protection of the family and the right to family relations, the third on the rights of children in need of alternative care and the fourth on Special protection measures. Title I deals with the prohibition of abuse, exploitation, neglect and violence against children, as well as with the protection of the child at risk or having experienced significant harm. Title II establishes that the family – including the parents and the extended family - is primarily responsible for the child's upbringing, and that the State shall give it the necessary assistance in this endeavor. This title also defines what parental responsibilities are and deals with the separation of children from their parents. Title III deals with the rights of children in alternative care, closely follows the United Nations Guidelines for children in need for alternative care in this context and deals with the different types of care – such as kinship, foster care, residential care, guardianship and trusteeship , as well as adoption. Finally Title IV, on special protection measures, is divided into 5 Chapters. The first one on the child with special needs, the second on children in emergencies,

the third on children in conflict with the criminal law, the fourth on children in contact with the law (which deals with the situations of children as parties to civil proceedings, victims or witnesses) and the fifth on the protection of children against exploitation, namely against child labour, sexual exploitation and abuse, as well as other forms of exploitation.

Part IV is fully devoted to the National Commission on the Rights of the Child, namely its creation, role and functions, as well as composition.

PART I
INTRODUCTORY PROVISIONS

Article 1

Scope

1. This Code establishes and regulates the fundamental rights and freedoms of each child within the jurisdiction of Timor-Leste.
2. This Code further establishes a national framework of protection, thus contributing to strengthening an environment, which is enabling, enriching, safe and caring of children.

Article 2

Definition of the child

1. For the purposes of this Code, a child means every human being below the age of 17 years.
2. For the purposes of this Code, in case of doubt about whether a person shall be considered as a child, in particular, due to lack of documentary evidence, such as a birth certificate, the person is presumed to be a child.

Article 3

General principles

The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

- a) The prohibition of discrimination, according to which no child shall be subject to any discrimination, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- b) The principle of the best interests of the child, whereby the physical, emotional, intellectual and psychological well-being of the child is to be a primary consideration in all decisions concerning children.

- c) The principle of the inherent right to life and to the survival and development of the child which shall be provided by the State to the maximum extent possible.
- d) The principle of participation, pursuant to which the State must assure to the child who is capable of forming his or her own views, the right to express those views freely and have them taken into consideration in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

Article 4

Duty to protect and promote the rights of the child

The duty to protect and promote the rights of the child lies primarily with the family and the State.

PART II

RIGHTS AND FREEDOMS OF THE CHILD

TITLE I

General provisions

Article 5

Ownership of rights

Civil, cultural, economic, political and social rights are indivisible and interdependent and the State must respect, protect and fulfill them, within the maximum extent of its available resources and, if necessary, with recourse to international cooperation.

TITLE II

Rights of the child

Chapter I

Civil rights and freedoms

Article 6

Right to Life

1. The child has the inherent right to life, and his/her survival and development must be ensured.
2. To promote respect for the right set out in the preceding paragraph, the State shall take all necessary measures, including measures to reduce infant mortality, to promote an increase in life expectancy, to eliminate malnutrition and prevent epidemics.

Article 7

Right to a name

1. The child has from his or her birth, the right to a name.
2. The name of a child must not subject him or her to ridicule or discrimination or in any other manner prejudice the respect for his or her rights.

Article 8

Right to nationality

The acquisition, loss and reacquisition of Timorese nationality, as well as its registration and proof, are regulated by the Nationality Law.

Article 9

Right to identity

1. The right of the child to preserve his or her identity, including nationality, name, family relations, culture, religion and language shall be respected, according to the law without unlawful interference.
2. Where a child is illegally deprived of some or all of the elements of his or her identity, appropriate assistance and protection is assured, with a view to re-establishing speedily his or her identity.
3. Where the whereabouts of the mother, father or both is unknown, the State must collect all existing information on the mother and father and offer all possible facilities to locate

them, making use, where appropriate, of the assistance of international and local organizations.

Article 10

Right to birth registration

1. Every child born in Timor-Leste must be registered after birth, regardless of his or her parents' marital status or national origins.
2. The State recognizes the importance of birth registration in order to guarantee the right of the child to his or her origins, to a nationality and as a means of access to other rights, such as the right to education, health, social security and protection against exploitation and abuse.
3. Birth registration is free of charge and compulsory.
4. The State shall develop, adopt and implement policies and programs to promote the registration of all children born in Timor-Leste, ensuring to this end the close cooperation between central government and other national institutions, including districts, sub-districts and sucos, non-governmental and international organizations.

Article 11

Freedom of expression

1. The child shall have the right to freedom of expression at home, at school, within other institutions and society; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.
2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by the applicable law and are necessary:
 - a) For respect of the rights or reputations of others;
 - b) For the protection of national security or of public order, or of public health or morals.
3. The schools, as well as other official bodies, shall establish permanent consultation mechanisms that involve children whenever they take decisions that affect the latter, including at the district, sub-district and *suco* levels.

Article 12

Freedom of thought, conscience and religion

1. The child enjoys freedom of thought, conscience and religion.
2. Parents and, when applicable, legal guardians have the rights and duties to provide direction to the child in the exercise of his or her right in a manner consistent with the age and maturity of the child.

Article 13

Freedom of association and assembly

1. The child enjoys freedom of association and freedom of pacific assembly without prior authorization, particularly for the promotion, protection and exercise of the rights of the child.
2. Freedom of association includes the opportunity for children to constitute not-for-profit associations and to join political parties and trade unions in accordance with the law.
3. No child shall be compelled to belong to an association or to remain in it against his or her will.
4. The State shall guarantee and promote the exercise of this right, particularly as concerns the creation of alumni associations and cultural, sporting, labor and community associations.
5. There shall be no restriction to these rights except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Article 14

Right to privacy

1. Every child has the right to privacy and no child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home, correspondence or communication.

2. Children, in particular adolescents, shall have access to confidential legal advice and medical advice, including family planning services, without the need to be accompanied by their parents or legal guardian.

Article 15

Protection of honour and reputation

1. Every child has the right to his or her honour, good name and reputation, and the defense of his or her image.
2. The following are prohibited:
 - a) The advertising, display or dissemination of news, reports or stories containing an image or name that enables the identification of children who have been victims of mistreatment or abuse or are suspected or authors of a criminal offence;
 - b) The advertising, display or dissemination of news, reports or stories containing an image or name of a child, thus causing his or her social or moral condemnation.

Article 16

Right to information

1. The child has a right to have access to information that is appropriate, impartial and pluralist, and to use different means of communication subject to the limits established by the Law.
2. The function performed by the mass media shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health.
3. The State shall prepare guidelines aimed at protecting the child against information and documents that might harm the child's well-being, the mass media having to be encouraged to disseminate information socially and culturally useful for the child, as well as the production and dissemination of children's books.
4. Texts, images, messages and programs that incite violence, exploit fear or take advantage of a child's immaturity to instill behavior that will or may harm the child's health and

personal safety or that offend against public morals are considered unsuitable for a child's development and are, therefore, prohibited by law.

5. The television programs which are inappropriate for children, namely those that are violent or of sexual nature, may only be broadcasted from 22.00, the Television of Timor-Leste having a duty to identify such programs through the use of appropriate signage.

Chapter II

Rights to basic health and welfare

Article 17

Right to an adequate standard of living

1. Every child has the right to an adequate standard of living including access to basic human needs such as food, housing, clothing, water and sanitation.
2. The State and those responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the necessary conditions for an adequate standard of living.
3. The State, in accordance with national conditions and to the maximum extent of its available resources, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall, in case of need, provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing, safe drinking water and sanitation.

Article 18

Right to health and health services

1. The child has the right to the enjoyment of the highest attainable standard of health and to facilities for the prevention and treatment of illness and rehabilitation of health.
2. No child shall be deprived of his or her right of access to health care services, including by way of the creation of a national health service that is universal and, in so far as possible, free.

3. For the full realization of this right, the State shall adopt appropriate measures, such as:
- a) To reduce infant and child mortality and ensure the registration of all child deaths and their cause of death;
 - b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
 - c) To ensure the provision of healthcare to mothers before and after delivery;
 - d) To guarantee paid maternity and paternity leave, both in cases of biological children and adoption, which shall be set by a separate law;
 - e) To ensure that all population groups, including parents and children, have access to information relating to child health and nutrition, the advantages of breastfeeding, hygiene and healthy environment, sanitation, family planning, as well as the prevention of accidents and infection with HIV / AIDS;
 - f) To develop preventive health care, guidance and information to parents and family planning education, as well as promoting these services.

Article 19

Measures to combat disease and malnutrition of children

The State shall adopt measures to combat disease and malnutrition of children, namely through:

- a) The protection and promotion of exclusive breastfeeding during the first 6 months of life and the promotion of continued breastfeeding up to three years of age, and for employers to provide appropriate conditions for mothers to breastfeed their children;
- b) The adoption of the Code of Marketing of Breast-milk Substitutes, and hence regulation of the marketing and promotion of breast-milk substitutes, as well as their use within the health system;
- c) Contributing to universal access and use of safe drinking water, promoting greater hygiene and health within communities, through a coordination with the departments of water supply and sanitation and in collaboration with the local community structures;

- d) Promoting health education to improve the use of water supply and sanitation, as well as the development of hygienic practices;
- e) Combating the immediate causes of malnutrition during the most critical stages of life, including pregnant and nursing women and children under five years of age.

Article 20

Duties of parents regarding the right to health

Parents and others responsible for caring for the child shall provide them with the available health care and, in all circumstances, ensure compliance with the requirements, controls and other provisions relating to medical hygiene.

Article 21

Duties of health facilities

1. Health facilities, public or private, have the duty to:

- a) Provide emergency medical care to all children who need it, without requiring any advance payment or undertaking, this assistance not being denied under the pretext of the absence of a legal guardian or representative, lack of economic resources, the cause or origin of the emergency or other similar circumstances;
- b) Inform the parents or guardians about the health of their children and inform their children about their condition and treatment in accordance with their age and maturity;
- c) Keep individual records stating the guaranteed monitoring activities in cases of pregnancy and childbirth, as well as other personal updated details, permanent address and the mother's family references;
- d) Identify the newborn child immediately after birth, by putting a bracelet around the child's waist, containing, at least, the name of his or her mother and by registering his or her fingerprint, names, surnames and date of birth, as well as the fingerprint of the mother, and thereby issue the birth certificate;
- e) Promptly inform the child's parents about the requirements and legal procedures for the registration of the child in the Civil Register;

- f) Ensure the safe stay of the newborn with his or her mother until both are sufficiently healthy so as to enable them to survive in safety outside the hospital;
 - g) Diagnose and provide medical follow-up for children born with pathological problems or any type of disability or with a chronic illness;
 - h) Promptly inform parents about the health care, standard and specific, which they must provide to a child who has been diagnosed with a disability;
 - i) Encourage breastfeeding of the child;
 - j) Promptly inform the authorities and competent bodies in cases of children whose parent's identity or residence is unknown;
 - k) Collect and preserve evidence of mistreatment or sexual abuse of children.
2. The directors and staff involved in health centres which provide healthcare to children, whether public or private, must notify the State Prosecutor or Social Services of any reasonable suspicion of cruelty or abuse committed against them.

Article 22

The hospitalised child

1. The hospitalised child is entitled, provided that this does not conflict with the child's best interests, to have his or her parents or other legal guardian present.
2. The stay of the child's parents or legal guardian in the hospital should not entail for them any financial burden.
3. Parents must be informed about the rules and routines of the healthcare service to enable them to play an active part in their child's care.
4. Children and their parents or legal guardians have the right to be informed about their condition and treatment, according to their age and maturity.
5. Children shall remain separated from adults, preferably grouped by age, in order to be able to enjoy recreational activities appropriate to their age.
6. The hospitalized child shall not be denied any of the rights consecrated in the present Code, such as the right to education, insofar as the exercise of the rights is compatible with the hospitalization and the child's medical condition.

Article 23

**Prohibition of sale and consumption of tobacco, alcoholic beverages,
drugs and other toxic substances**

1. Children shall be protected, by all appropriate measures, including legislative, administrative, social and educational, from the use of narcotic drugs and psychotropic substances.
2. The following practices are prohibited:
 - a) The offer, sale or inducement to consumption of tobacco or alcohol to children under the age of 16 years, which shall be considered as an administrative offence;
 - b) The offer, sale or inducement to consumption of drugs and other toxic substances or substances causing physical or psychological dependence to children, which shall be punished under the criminal law.
3. The State shall adopt and implement prevention programs for the consumption by children of the substances listed in paragraphs 1 and 2 of this article.
4. The State shall adopt and implement programs aiming at the recovery and rehabilitation of children who are addicted to the substances listed in paragraphs 1 and 2 of this article.

Article 24

The rights to sanitation and water

The State shall recognize and adopt all necessary measures with a view to the progressive realization, for all children, of the rights to sanitation and water, which shall be sufficient, safe, acceptable, physically and economically accessible, in every sphere of their lives, including at home and at school.

Chapter III

The right to education and principles regarding the educational system

Article 25

The right to education

1. The child is entitled to a good education, respecting the principle of equal opportunities.

2. Children shall benefit from teachers, teaching materials, premises, facilities and resources and enjoy an environment that is conducive to learning.
3. The curriculum shall be flexible in order to meet the specific needs of all children, with priority for those who have special needs, working or living in a particularly vulnerable situation.
4. Information and educational and vocational guidance shall be available and accessible to all children.
5. Measures shall be adopted to encourage regular school attendance and reduce dropout rates.
6. Children exceeding the age limit for attending the different levels of education shall not be deprived from their right to education, being the State responsible for creating special programmes for them.

Article 26

Special forms of education

1. Special forms of education for children shall be ensured, in particular, special needs education, artistic education, recurrent education and distance learning.
2. Special forms of education shall be fully regulated by its own legislation.
3. Special needs education, through specialized support services, shall have as its aim to promote the access and integration of children with special needs into the educational system in accordance with the Constitution.
4. Pupils with special needs shall be progressively provided with:
 - a) Curriculum, methods, techniques, educational resources and organization to meet their specific needs;
 - b) Teachers trained to provide specialised tuition, as well as regular teachers trained to integrate these students into ordinary classes;
 - c) Programs aimed at their integration into the labour force, where possible using partnerships with other institutions.

Article 27

Educational support and welfare

1. In the context of education services, educational support and complementary support shall be developed, in particular through the creation of monitoring activities and complementary psycho-pedagogical services, school health and school social support.
2. A specific study regime shall be provided for young working students, taking into account their situation, to enable them to acquire knowledge, progress in the education system and for the creation of training opportunities that are appropriate to their own personal development.

Article 28

Rights and duties of pupils

1. Children, as pupils, are subject, *inter alia*, to the following general rights and duties, without limiting the rights provided for under the present law:
 - a) To treat and to be treated with respect and civility by all members of the school community, namely, by teachers, staff and colleagues;
 - b) To have their safety protected when attending school and respect for their emotional, psychological and physical integrity;
 - c) To be properly and promptly assisted in case of accident or sudden illness occurring in the context of school activities;
 - d) To have preserved the confidentiality of the information contained in his or her file of a personal nature or relating to the student's family;
 - e) To be able to participate and submit comments and suggestions regarding the operation of the school;
 - f) Be heard in all matters relating to the student, whether by the teachers, class principals, school board of directors and management of the school;
 - g) To elect and be elected to bodies, offices and other representation in the school, under the legislation in force;
 - h) The student has the duties of attendance and punctuality.

1. The status of and disciplinary measures against pupils shall be set out in an autonomous regulation.

Article 29

Rights and duties of parents or legal guardians

Parents or legal guardians have, *inter alia*, the following rights and duties regarding the education of their children, namely to:

- a) Ensure and require them to comply with the obligation to attend classes and obligatory school activities;
- b) Participate actively in school life and in the educational process as well as improving the quality of education;
- c) Enroll them in a school, or renew their registration;

Article 30

Prohibited disciplinary action

1. The following are prohibited in schools:
 - a) corporal punishment;
 - b) psychological punishment undermining of the dignity of the child;
 - c) collective punishment;
 - d) measures involving the discrimination or exclusion of a child due to the child's personal circumstances or those of his or her parents;
 - e) disciplinary sanctions which are of a pecuniary nature;
2. Also prohibited in schools are punishments or other disciplinary measures for students on the grounds of pregnancy, being the State obliged to ensure that there is a system for attendance, continuation and completion of scholastic studies by pregnant students and mothers.
3. Every school must provide a formal confidential complaints system that may be applied if the students' rights have been violated.

Article 31

Disciplinary measures

1. School discipline is administered in a manner consistent with the child's human dignity and in conformity with the rights of the child without recourse to any type of abuse, mistreatment, cruel, inhuman or degrading treatment.
2. Disciplinary action has an educational purpose, aimed at correcting the disruptive behavior and strengthening the civic and democratic development of students, conducive

to a balanced development of the student's personality and the ability to relate to others and his or her full integration into the educational community.

3. Disciplinary action must be consistent with the objectives of the student's education and determined after considering the seriousness of the offending behaviour, the circumstances under which this took place, the intent accompanying the student's conduct, his or her maturity and other personal, family and social considerations.

Article 32

Reporting obligation and duty to inform

1. The directors, teachers and educators in education establishments, whether public or private, must:
 - a) Report to a State Prosecutor, Ministry of Social Solidarity and National Police any reasonable suspicion of child cruelty or abuse within or outside the school;
 - b) Report to the Ministry of Education any cases of drug dependency;
 - c) Inform the Ministry of Education in cases of repeated and unjustified absences and drop-outs where the resources available to prevent and avoid dropout have been exhausted.
 - d) Report to the Ministry of Education levels of school failure and to establish a diagnosis with their possible causes.
2. The education system shall itself establish proper mechanisms to respond in a timely and efficient manner on the causes of the problems identified in the preceding paragraph.
3. The education system shall adopt an independent complaints mechanism for children to report on school environment, namely, its conditions or abuses perpetrated on them.

Article 33

Forming of associations

1. In all schools, a parents' association may be formed, according to the law, to facilitate the resolution of students' individual and collective problems and to provide actions capable of improving students' overall formation; participation in activities to improve the development of children and improve the educational process.

2. Students may also form associations, according to the law.

Chapter IV

The right to social security

Article 34

The right to benefit from social security

1. The right to social security encompasses the right to access and maintain benefits without discrimination in order to secure protection, *inter alia*, from
 - a) lack of work-related income caused by sickness, disability, maternity, employment injury, unemployment, old age, or death of a family member;
 - b) unaffordable access to health care;
 - c) insufficient family support, particularly for children and adult dependents.
2. The State, namely through the Ministry of Social Solidarity, guarantees every child the right to benefit from social security and shall take all necessary measures, to the maximum extent of its available resources, to ensure the full realisation of this right.
3. The benefits shall, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child.

Chapter V

The right to culture and leisure

Article 35

Cultural and leisure activities

1. The child has the right to rest and leisure, the right to play and engage in play and recreational activities appropriate to the child's age and to participate freely in cultural and artistic life.
2. The State, namely through the Ministries of Social Solidarity and Education, as well as the Secretary of State for Youth and Sports and the Secretary of State for Culture, shall respect and promote, in cooperation with the authorities at district and sub district level,

the child's right to participate fully in cultural and artistic life, it shall encourage the organization, for the child's benefit, of appropriate forms of leisure and recreational sporting, artistic and cultural activities, in conditions of equality, and shall further encourage the practice of traditional games.

3. In exercising this right, the child may have access to any public spectacle that has been qualified as suitable for the child's age by a competent authority.

Article 36

Right to cultural activities for children belonging to minorities

Children belonging to ethnic, religious or linguistic minorities shall be entitled, together with members of their group, to enjoy their own culture, to profess and practice their own religion and to use their own language or dialect.

Article 37

Production and distribution of materials

1. The State, namely through the Ministries of Social Solidarity and Education, as well as the Secretary of State for Culture, shall promote the creation, production and distribution of books, publications, artistic works, audiovisual productions, radio and multimedia for children.
2. The State shall guarantee children's access to public documentation, libraries and similar institutions through the implementation of specific projects and the installation of appropriate infrastructure, including a national network of libraries.

PART III

CHILD PROTECTION

TITLE I

General dispositions

Chapter I

System of protection and prohibition of abuse, exploitation, neglect and violence

Article 38

Integrated system of protection

The State shall adopt all necessary measures to build an integrated system of protection based on preventive and responsive measures involving, where required, behavioural changes in society, a system of laws and regulation as well as the implementation of a system of social welfare.

Article 39

Prohibition of abuse, exploitation, neglect and violence

1. No child shall be subjected to abuse, exploitation for any purpose, neglect or violent, oppressive or cruel acts, the contravention of these prohibitions being punishable under the criminal law.
2. No child shall be subjected to any form of physical or psychological violence, including corporal punishment or humiliating disciplinary measures.
3. No child shall participate in programs, advertisements or other productions of a pornographic nature or in shows whose content is inappropriate for their age.

Chapter II

Protection of the child at risk of or having experienced significant harm

Article 40

State's obligation to protect children at risk of or having experienced significant harm

1. The State, namely through the Ministry of Social Solidarity, the National Commission on the Rights of the Child and through the Courts, when applicable, shall protect and promote the rights of children at risk of or having experienced significant harm, in order to ensure their well-being and integral development.
2. The State shall protect children at risk, through direct action and in partnership with private actors.
3. A child is considered to be at risk of or having experienced significant harm when:

- a) his or her parents, legal guardians or those who are responsible for the child put at risk his or her security, health, training, education or development;
- b) the risk is a result of an action or an omission by a third person or by the child him/herself, and when those referred to in the previous paragraph do not take the necessary measures to remove or stop it.

Article 41

Situations of risk

The child is considered to be at risk, *inter alia*, when he/ she:

- a) has been abandoned or lives by him/herself;
- b) is or has been the victim of physical or psychological violence or sexual abuse;
- c) does not receive the care and affection adequate to his/her age and personal situation;
- d) is obliged to perform activities or work which are excessive or inappropriate for his/her age, dignity or personal situation, or which are detrimental to his/her education or development;
- e) is subject to behaviours which, directly or indirectly, seriously affect his/her security or emotional well being.
- f) behaves or performs activities which seriously affect his/her health.

Article 42

Guiding principles for State's intervention

Any intervention for the promotion of the rights and protection of a child at risk shall be guided by the principles referred to in article 3 of the present Code, as well as by the following principles:

- a) *Privacy* – the promotion of the rights and the protection of the a child at risk of or having experienced significant harm shall be undertaken in the respect for the intimacy, right to image and private life of the child;
- b) *Early intervention* – the intervention shall occur as soon as the situation of risk is known;

- c) *Minimum intervention* - the intervention shall be limited to what is proven to be indispensable for the effective promotion of the rights and protection of the child at risk;
- d) *Proportionality* – the intervention shall be deemed necessary and adequate to the situation of risk faced by the child at the moment the decision is taken; the intervention can only interfere in the child’s life within the limits of what is strictly necessary.
- e) *Parental responsibility* – the intervention shall be undertaken in such a way as to promote the exercise of the parents’ duties towards the child, while ensuring respect for the principles of the best interest of the child;
- f) *Prevalence of the family* - priority shall be given to measures that integrate the child within his/her family.
- g) *Information* - the child, the parents, legal guardians or the person who is responsible for the child have the right to be informed of their rights, the reasons that lead to the intervention and the way in which this will be processed;
- h) *Right to be heard* - the child has the right to be heard and to participate in all matters which affect him or her, including in the definition of the measures to be applied to the child.

Article 43

Competence

1. The Ministry of Social Solidarity is competent for implementing policies and measures of protection of children at risk of or having experienced significant harm, namely, shelters.
2. Prosecutors and Public Defenders are competent to defend the rights and best interests of the child at risk of or having experienced significant harm, with priority and for free.
3. The National Commission on the Rights of the Child shall alert competent authorities in case of detection of a child at risk of or having experienced significant harm.
4. The Courts shall intervene, namely when it is not possible to obtain the required authorisation of parents or legal representatives.

5. Any person aware of a child at risk of or having experienced significant harm may alert any competent authority, including the Ministry of Social Solidarity, the police and the judiciary services.
6. In case of emergency and when it is not possible to obtain neither the parents or legal representative's authorisation nor the substitutive Court's judicial authorisation, the child at risk of or having experienced significant harm may be removed from that situation by the Ministry of Social Solidarity, as long as the situation is present to the Court, in a maximum of seventy two hours.

Article 44

Intervention of State entities with responsibilities in the area of child rights

1. The intervention by entities with responsibilities in the area of child rights shall be undertaken after obtaining the necessary authorisation by the parents, legal guardians or those responsible for the child, in accordance with the guiding principles consecrated in the present Code.
2. In case of impossibility or refusal of authorisation, the Court may replace it by a judicial decision.

Article 45

Non-opposition by the child

1. The intervention by the entities referred to in number 1 of the previous article depends equally on the non-opposition by a child who is at least 12 years old.
2. The opposition by a child less than 12 years of age shall be considered relevant and taken into consideration when the nature of the intervention is determined.

Article 46

Intervention by the Court

The Court shall intervene as a measure of last resort, by its own initiative, or upon request of any Prosecutor, Public Defender or the Ministry of Social Solidarity, in those cases where:

- a) the consent referred to in article 44 above is not given or is withdrawn;
- b) the child opposes him or herself to the intervention, as foreseen in article 45 above;

- c) three months after a situation of risk is known, no measure has yet been applied by the responsible authorities.

Article 47

Aim of the measures

The measures for the promotion of the rights and protection of children at risk of or having experienced significant harm are aimed at:

- a) removing the danger in which the child finds him/herself;
- b) ensuring the child conditions that enable to protect and promote his or her security, health, education, well-being and full development;
- c) ensuring the physical and psychological recovery of the child who has been victim of exploitation or abuse.

Article 48

Types of measures

1. The measures of promotion and protection are:

- a) Support, namely by the Ministry of Social Solidarity, for the child to be able to stay with the parents;
- b) Support, namely by the Ministry of Social Solidarity and the Courts, for the child to be able to stay with another member of the family;
- c) Entrusting of the child to a trusted person, with a judicial authorisation by the Court;
- d) Foster care, with the authorisation of the child's legal representatives or, as an alternative, a judicial authorisation by the Court;
- d) Placement of the child in residential care, including in group homes;
- e) Adoption, under the terms enshrined in the Civil Code

2. In case the child's situation can be qualified as domestic violence, the protection measures enshrined in the Domestic Violence Law, may be applicable.

TITLE II

Protection of the family and the right to family relations

Article 49

Establishment of family relations

Family law, namely family relations as well as the establishment of filiation and its effects, are set up according to the dispositions enshrined in the Civil Code.

Article 50

Primary duty of care

1. The family shall be afforded the necessary assistance, namely by the Ministry of Social Solidarity, so that it can fully assume its responsibilities to the child.
2. In case the child is at significant risk of or having experienced significant harm, within his/her family, the Court may order his/her relocation, according to the measures enlisted in article 48.

Article 51

Responsibilities of parents and extended family

The parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, have the responsibility to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Code.

Article 52

Right to grow in a family

1. The child, for the full and harmonious development of his or her personality, has the right to grow up in a family environment, in an atmosphere of happiness, love and understanding.
2. The child shall, where possible, have the right to know his or her parents, to know the truth about his or her origins, to be educated by them and maintain permanent emotional relationships, personal and regular contact with both parents and relatives, especially

when they are separated for any reason, unless this is contrary to the best interests of the child.

3. The child's right to contact with his or her parents can be denied by a court order should such contact be contrary to the child's best interests, particularly where the denial of contact is necessary to protect the child from harm.
4. The child, whether born within or outside wedlock, or adopted, enjoys the same rights, being prohibited all related discriminatory designations related with filiation.

Article 53

Parental responsibility

1. Both parents have a shared responsibility in the education and development of the child, and either parent may, in case of disagreement, have recourse to the judicial authorities for the settlement of the dispute in accordance with the law.
2. Parents or, as the case may be, legal guardians, have the primary responsibility of ensuring, according to their financial capacity, the life conditions for the upbringing and development of the child, being guided by the principle of the best interests of the child.
3. Adequate measures shall be adopted to assist parents and legal representatives when exercising their responsibilities for the child's education.

Article 54

Definition of parental responsibilities

1. Parental responsibilities are the rights and duties of parents or legal guardians to provide the child with support and maintenance, care, guidance and education, while respecting the dignity of the child, and to represent the child in matters affecting their interests, in a manner consistent with the evolving capacities of the child.
2. Parents or legal guardians must protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual violence.
3. Parents or legal guardians must also protect the child against any traditional harmful practices.

4. In carrying out their responsibilities, parents or legal guardians, must refrain from using violence and focus on positive methods of discipline.
5. In accordance with the maturity of the child, parents must take into account his or her opinion in important family matters.

3. Article 55

4. Provision of maintenance to children

1. Without prejudice to the rules governing the obligation to pay child maintenance to be fixed by law, parents must always maintain their underage children as far as the children are unable to subsist of their own means.
2. The concept of maintenance includes everything that is essential to livelihood, housing and clothing the child, including their instruction and education.
3. If, when the child reaches adulthood, he or she has not yet completed their vocational training, the parents' duty of maintenance will persist in so far as it is reasonable to require this for the duration normally required for the training to be completed.

Article 56

Separation from parents

1. The child shall not be separated from his or her parents against his or her will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child.
2. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.
3. The child who is separated from one or both parents has the right to maintain personal relations and direct contact with both parents, as well as with siblings, on a regular basis, except if it is contrary to the child's best interests.
4. Where such separation results from any action initiated by the State, such as the detention, imprisonment, exile, deportation or death of one or both parents or of the child, the State shall, upon request, provide the parents, the child or, if appropriate, another

member of the family with the essential information concerning the whereabouts of the absent member(s) of the family, unless the provision of the information would be detrimental to the well-being and the best interest of the child.

5. In situations referred to in the preceding paragraph, the State shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.
6. The lack or shortage of material resources does not constitute sufficient grounds for the separation of a child from his or her parents.

Article 57

Travelling of children abroad

The travel of any child abroad is prohibited unless accompanied by both parents or a legal guardian, or otherwise in possession of a written authorization by the non-accompanying parent or by the legal guardian, witnessed by a notary.

Article 58

Family reunification

1. All applications by a child or his or her parents to enter or leave Timor-Leste for the purpose of family reunification shall be dealt with by the State in a positive, humane and expeditious manner.
2. The submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.
3. The child whose parents reside in different States, one of which is Timor-Leste, has the right to maintain on a regular basis, save in exceptional circumstances, personal relations and direct contacts with both parents.

TITLE III

Rights of children in need of alternative care

Article 59

General provisions

1. A child temporarily or permanently deprived of his or her family or who cannot be left in such an environment, for his or her own best interests, has the right to be specially protected and assisted by the State, namely, by the Ministry of Social Solidarity.
2. In the situations described in the preceding paragraph, the State shall provide alternative protection whilst respecting the responsibilities, rights and duties of the extended family.
3. The alternative care shall in all cases properly address the need for continuity in the child's education, as well as their ethnic, religious, cultural and linguistic origins and shall provide the child an environment of love and understanding to ensure compliance with the child's fundamental rights and to promote his or her full development.
4. The child's opinion must always be heard before such a measure is implemented, in accordance with his or her age and maturity.
5. In the situations identified in paragraph 1 of this article, the child has the right to maintain contact with his or her family, including siblings, community and affective environment, with the views and best interests of the child having to be taken into account.

Article 60

Types of alternative care

1. The alternative care may consist of kinship, foster care and residential care.
2. The persons or entities, public or private, where the child is reallocated, may be entitled with his or her guardianship, in accordance with article 64 and the Civil Code.
3. In this process, the Court may request from the Ministry of Social Solidarity a report with information regarding the child's situation.
4. In this process, the Prosecution represents the child, who must be heard in accordance with his or her maturity.
5. As a last resort, adoption may also be an alternative care measure.

Article 61

Kinship

1. Kinship refers to the placement of the child within his or her extended family or close friends to the family, whom he or she knows, and encompasses, namely, the situations described in b) and c) of article 48.
2. The placement in kinship is subject to a Court decision.
3. In case of emergency, number 6 of article 43 may be applicable.

Article 62

Foster care

1. Foster care refers to the reallocation of the child within a family different from the child's own family.
2. The placement in foster care is subject to a Court decision.
3. In case of emergency, number 6 of article 43 may be applicable.

Article 63

Residential care

1. Residential care refers to the reallocation of the child within a non-family type premise, such as shelters or group homes.
2. The placement in residential care is subject to a Court decision.
3. In case of emergency, number 6 of article 43° may be applicable.

Article 64

Guardianship and trusteeship

1. The child is subject to guardianship and trusteeship if the identity of the child's parents is unknown or if the parents are found not exercising their parental responsibility.
2. The court has a duty to promote the establishment of guardianship or trusteeship in accordance with the provisions set out in the Civil Code.
3. All administrative or judicial authorities, as well as the staff of the civil register, must inform the court of any such situation which they are aware of.
4. The guardian and trustees may be elected by the child's parents or the Court, being its regime prescribed in the Civil Code.

5. Both the guardianship and trusteeship are carried out under the supervision of the court, which may avail itself of information obtained by social services.

Article 65

Adoption

1. The main aim of adoption is to give a child an alternative permanent family, when he or she cannot be cared for by his or her biological parents.
2. Adequate counseling and time for decision shall be given to the biological parents, to the potential adoptive parents and to the child, as appropriate, so that all the parties have a clear perception of the facts and future consequences.
3. Adoption professionals shall guarantee that the biological parents consent is an informed one, being the biological parents aware of its future implications and consequences.
4. Adoption professionals shall select the most adequate adoptive placement, considering the child's age and personality as well as the preferences and conditions presented by the prospective adoptive family.
5. The bond of adoption is to be sanctioned by a judicial decision.
6. The process is to be initiated by an investigation that is to focus, namely, the suitability of the adoptive parent to raise and educate the child, the adoptive parent's family and economic circumstances and the reasons for the adoption request.
7. Adoption will only be sanctioned when it presents real advantages for the child, based on legitimate grounds, does not involve an unfair sacrifice by the adoptive parent's other children and it can be reasonably assumed that a bond will be established between the adoptive parent and child akin to that of filiation.
8. The adoptive child must have been cared for by the adoptive parent for sufficient time for an assessment to be made of the prospects of a bond being established.
9. The adoption cannot be revoked even if by agreement between the adoptive parent and child.

TITLE IV
Special protection measures

Chapter I
The child with special needs

Article 66
Protection of children with special needs

1. The child with special needs has the right to a full and decent life in conditions which ensure his or her dignity, promote independent living and facilitate his or her active participation in community life.
2. The child with special needs has the right to special care and it shall, within the resources available, be encouraged and assured the provision of an assistance adapted to the situation of the child and the circumstances of the child's parents or those who are in charge.
3. Meeting the particular needs of a child who has special needs, and providing the assistance required in accordance with paragraph 2, shall be free of charge whenever possible, taking into account the financial resources of parents or others caring for the child.

Chapter II
Children in emergencies

Article 67
Protection of refugee children

1. The child who is seeking refugee status or who is considered a refugee, in accordance with the applicable norms, whether unaccompanied or accompanied by his or her parents or any other person, shall receive appropriate protection and humanitarian assistance, and shall enjoy the rights recognized by the national law of Timor-Leste and the international conventions on human rights and humanitarian law ratified by Timor-Leste.

2. The State shall cooperate with the appropriate international agencies working in the field of protection to assist and protect children who are in such a situation, and in the search for parents or other family members of refugee children, in order to obtain the information necessary for family reunification.
3. If the parents or other family members of the child are not found, the child shall enjoy, in light of the principles set out in this Code, the same protection as any child who, for whatever reason, is permanently or temporarily deprived of his or her family environment.

Article 68

Protection of children affected by armed conflict

1. The State undertakes to respect and enforce the rules of international humanitarian law applicable to armed conflicts which are relevant to the child.
2. The State shall ensure that no one under 18 years old is engaged in hostilities.
3. The State shall refrain from recruiting or accepting into its armed forces any one under 18 years old.
4. The State shall adopt all possible measures to prevent the recruitment and use of children under the age of 18 years by armed non-State actors.
5. The State shall take all feasible measures to ensure the protection and assistance to children affected by armed conflict.

Chapter III

Children in conflict with the criminal law

Article 69

Juvenile justice

1. The juvenile justice system is regulated by law.
2. Children under 16 years cannot be held criminally liable.
3. A regime shall be established in separate legislation for the correctional education of juveniles aged between 12 and 16 years old.

4. A regime shall be established in separate legislation applicable to juveniles in conflict with the criminal law aged between 16 and 21 years old.
5. Those regimes shall include measures that address the child's or juvenile's education for respecting the law and for the child's integration, in a dignified and responsible community life.
6. The child or juvenile who is in conflict with the criminal law shall be accompanied by a multidisciplinary technical team to guide and support the child in his or her various dimensions.

Article 70

Minimum guarantees for children and juvenile offenders

1. The State recognises that a child or a juvenile who is a suspect, accused, or convicted of having infringed the penal law has the right to a treatment that may favour the child's/juvenile's sense of dignity and self-worth and reinforces his or her respect for the human rights and fundamental freedoms of others and which takes into account the child's/juvenile's age and the need to facilitate his or her social reintegration and assuming of a constructive role in society.
2. To this end the State guarantees *inter alia* that:
 - a) No child/juvenile is to be suspected, accused or convicted of having committed a criminal offence by act or omission which, at the time of the offence, was not prohibited by national or international law;
 - b) Every child/juvenile suspected or accused of having committed a criminal offence is at the very least entitled to the following guarantees:
 - c) To be presumed innocent until proven guilty in accordance with the law;
 - d) ii) To be informed promptly and directly of the charges against him or her or, if necessary, through the child's/juvenile's parents or legal guardians, and to have legal and other appropriate assistance in the preparation and presentation of his or her defense;
 - e) iii) To have the matter determined without delay by a competent, independent and impartial tribunal or other competent authority, in terms of equality before the law, in the presence of legal defender or other appropriate assistance and in the presence of

- his or her parents or legal guardians, unless prejudicial to the best interests of the child/juvenile and in accordance with his or her age and circumstances;
- f) iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the attendance and examination of witnesses on his or her behalf under conditions of equality;
 - g) v) If considered to have committed an offence, to have this decision and any measures imposed in consequence thereof reviewed by a higher, competent, independent and impartial authority or judicial body, under the law;
 - h) vi) To have the free assistance of an interpreter if the child/juvenile cannot understand or speak the language being used;
 - i) vii) To have his or her right to privacy fully respected at all times during the process.

Article 71

Right not to be subjected to torture or other cruel, inhuman and degrading treatments

1. Torture or other cruel, inhuman or degrading treatments against children are prohibited under the Criminal Code.
2. The State shall ensure that no child shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Chapter IV

Children in contact with the law

Article 72

Children as parties in a civil proceeding

1. A child acting as a party within a civil proceeding is entitled to be supported by the Prosecution.
2. In all the proceedings the child shall be treated in a manner consistent with her age, maturity and respectful of her privacy and right of participation.
3. Proceedings involving children shall have priority.
4. The principles enshrined in article 73 are also applicable for civil procedures.

Article 73

Children as witnesses or as victims

1. A child victim or witness of a crime shall be treated in a caring and sensitive manner that is respectful of his or her dignity throughout the legal proceedings, taking into account his or her personal situation and immediate and special needs, age, gender, disabilities if any and level of maturity.
2. Interference in the child's private life shall be limited to the minimum necessary as defined by law in order to ensure high standards of evidence and a fair and equitable outcome of the proceedings.
3. The privacy of a child victim or witness shall be protected.
4. Information that would tend to identify a child as a witness or victim shall not be published without the express permission of the court.
5. A child victim or witness shall have the right to express his or her views, opinions and beliefs freely, in his or her own words, and shall have the right to contribute to decisions affecting his or her life, including those taken in the course of the justice process.
6. Victims and witnesses are entitled to the right to compensation for the harms suffered.
7. A National Fund shall be created in order to guarantee the right to compensation for the victims and witnesses, whenever the convicted ones do not have the financial resources to comply with their obligation to compensate victims and witnesses.

Article 74

Duty to report offences involving a child victim or witness

1. Teachers, doctors, social workers, police officers and other professional categories, as deemed appropriate, shall have a duty to notify the Prosecution if they have reasonable cause to suspect that a child is a victim of or a witness to a crime.
2. The persons referred to in paragraph 1 of this article shall assist the child to the best of their abilities until the child is provided with appropriate professional assistance.
3. The duty to report established in paragraph 1 of this article supersedes any obligation of confidentiality, except in the case of lawyer-client confidentiality.

Article 75

Protection of children from contact with offenders

1. Any person who has been convicted in a final verdict of a qualifying criminal offence against a child shall not be eligible to work in a service, institution or association providing services to children.
2. Services, institutions or associations providing services to children shall take appropriate measures to ensure that persons who have been charged with a qualifying criminal offence against a child shall not come into contact with children.

Article 76

Office for the protection of children in contact with the law as victims and as witnesses

1. An office for the protection of child victims and witnesses (the “Office”) shall be established within the Ministry for Social Solidarity.
2. The Office shall comprise:
 - a) One judge;
 - b) One representative of the prosecutor’s office, specialized in cases involving children;
 - c) One representative of law enforcement entities;
 - d) One representative of the child protection services or of any other relevant service within the ministry responsible for social affairs;
 - e) One representative of the ministry responsible for health;
 - f) One representative of the ministry responsible for education;
 - g) One representative of the public defence if possible, specialized in cases involving children;
 - h) One representative of each recognized victim support organization providing services to children;

Article 77

Functions of the Office for the protection of children in contact with the law as victims and as witnesses

- 1) The Office for the protection of children shall have competence, namely, to:

- a) adopt general national policies related to child victims and witnesses:
 - (i) develop recommendations on relevant prevention and protection programmes and submit them to the relevant public authorities
 - (ii) promote and ensure national-level coordination of services and institutions that provide assistance or treatment to child victims and witnesses by monitoring the implementation of existing procedures related to the reporting of criminal acts and to providing assistance to child victims and witnesses, including legal representation and placement, and establishing such procedures where they do not exist;
 - (iii) Making recommendations to the competent ministry or ministries on the issuance of regulations and protocols;
- b) define guidelines for the establishment of mechanisms such as hotlines for child protection, to be regulated by the National Commission on the Rights of the Child;
- c) establish guidelines for the training of professionals working with child victims and witnesses;
- d) initiate research on matters relating to child victims and witnesses;
- e) disseminate information concerning assistance to child victims and witnesses among persons and institutions responsible for children, including schools, public organizations, institutions and centres accessible to children;
- f) It shall publish annual reports on its own activities.

Chapter V

Protection against exploitation

Article 78

Protection of children against exploitation

1. The State shall protect children subject to exploitation, through direct action and in partnership with private actors.
2. The Court may request the Ministry of Social Solidarity for information regarding a specific situation of a child suspected of being under exploitation.

3. The Ministry of Social Solidarity is responsible for the elaboration of an assessment and risk analysis report on the situation of a child at significant risk of or having experienced exploitation.
4. In case a child is under exploitation the measures enshrined in article 48 may be taken, when applicable.

Article 79

Protection against child labour

1. The State shall recognise for every child the right to be protected against economic exploitation or work which is hazardous or which may compromise the child's education, harm his or her health or physical, mental, spiritual, moral or social development.
2. To this end, taking into account the relevant provisions of national provisions and international instruments binding upon Timor-Leste,
 - a) The employment or work of children aged between 15 and 17 in activities which, either by their nature or due to specific circumstances, can endanger the children's health, safety or morals is prohibited.
 - b) The work or employment of children under the age of 15 years is prohibited.
 - c) Children aged over 13 years may carry out some light work in accordance with the provisions of the Labour Code.

Article 80

Protection against sexual exploitation and sexual abuse

The child shall be protected from all forms of sexual exploitation and abuse, these practices being crimes punished under the Criminal Code.

Article 81

Protection against other forms of exploitation

The State, namely through the Ministry of Social Solidarity, the Police and the Prosecution, protects the child against all forms of exploitation prejudicial to any aspect of his or her well-being.

Article 82

Protection against the sale, trafficking and abduction of children

The abduction, sale or trafficking of children for any purpose or in any way are prohibited, these practices being crimes punishable under the Criminal Code.

Part IV

National Commission on the Rights of the Child

Article 83

General provisions

1. The National Commission on the Rights of the Child (hereinafter referred as Commission) shall be created as an independent and self-regulated entity.
2. The Commission shall have financial autonomy and its own budget.
3. The Commission's funding comes directly from the national budget, being the Commission empowered to solicit and receive funds from other independent sources.
4. The Commission shall have autonomy to recruit, select, appoint and engage consultants, Non-Governmental Organisations, commercial enterprises and advisers, as well as to determine their conditions of engagement.
5. The Commission shall report annually to the Parliament and to the Prime Minister Office.
6. The Commission shall publish that annual report.

Article 84

Role and functions

1. The Commission's role is to promote, defend and safeguard the rights of the child.
2. The Commission holds as its main tasks to:
 - a) Contribute to ensure that all Government action and that of other public authorities are carried out with the best interests of children as a fundamental concern;
 - b) Alert the Government to situations affecting the children or their rights and requiring particular or urgent attention;
 - c) Supervise the implementation of the Code on the Rights of the Child as well as other legislation, policies and measures adopted by the Government, concerning child issues;

- d) Advise the Government and different State authorities in drafting and enforcing laws, policies or measures related with the rights of the child;
- e) Advise the Government on the compliance and conformity of its legislation, policies and measures with the United Nations Convention on the Rights of the Child and other international legal instruments concerning child's issues;
- f) To act in cooperation with the Coordination Centre for the Juvenile Justice System;
- g) Elaborate the Report for the United Nations Committee on the Rights of the Child;
- h) Follow the policies affecting children carried out by different governmental departments as well as public authorities at the level of districts, sub-districts, and *sucos*;
- i) Observe the evolution of the national situation on the ground regarding children and their rights and prepare reports and disseminate these;
- j) Promote the public interest, sensitize government and civil society to the rights of the child;
- k) Support international cooperation in this field.

Article 85

Composition

1. The Commission is comprised of the National Commissioner for the Rights of the Child, the Consultative Council, the Secretariat, as well as other organs, units or *ad-hoc* groups to be created.
2. The Commission shall have the autonomy to create, when necessary, additional organs, namely a Children's Consultative Council and a Treaty Reporting Unit, as well as sub-committees and *ad-hoc* working groups.

Article 86

The National Commissioner

1. The National Commissioner for the Rights of the Child is appointed by the Parliament and his/her main competencies are to:
 - a) Lead, direct and represent the Commission;

- b) Promote and coordinate the work to be performed by the Commission in pursuance of its tasks enshrined in article 84;
 - c) Organise and manage the resources of the Commission;
 - d) Direct the Secretariat;
 - e) Chair the Consultative Council.
2. The Commissioner shall act with impartiality, integrity, competence, commitment and responsibility.
 3. The Commissioner shall have a minimum mandate of three years, renewable once, for an equal period of time.
 4. The mandate of the Commissioner shall be a fulltime position, incompatible with other remunerated activity.
 5. The mandate of the Commissioner terminates due to the expiration of the mandate, death, resignation or removal.
 6. The Commissioner may be removed from office, by the Parliament, on the grounds of proved incompetence, disrespectful behaviour, performance of an incompatible activity, permanent physical or mental incapacity preventing him or her from developing his or her functions, attested by a medical panel, and a final criminal conviction implying a prison sentence exceeding one year.
 7. The salary and allowances payable to the Commissioner shall be such as may be prescribed by the Government's budget.

Article 87

The Consultative Council

1. The Consultative Council's main duty is to provide support and technical advice to the Commission in the development of its tasks, including:
 - a) recommending policies and priorities or activities to be undertaken by the Commission;
 - b) advising the Commissioner on any matters that may affect the full realisation of the rights of the child in Timor-Leste;
 - b) facilitating and supporting the implementation of the activities of the Commission.

2. The Consultative Council is comprised, namely, of the National Commissioner, presiding it, and the following members:
 - a) A representative of the Office of the Prime Minister;
 - b) A representative of the Ministry of Finance;
 - c) A representative of the Ministry of Justice;
 - d) A representative of Ministry of Health;
 - e) A representative of the Ministry of Education;
 - f) A representative of the Ministry of Social Solidarity;
 - g) A representative of the Secretary of State for Youth and Sports;
 - h) A representative of the Secretary of State for Social Security;
 - i) A representative of the General-Prosecutor of the Republic;
 - j) Representatives of civil society, namely non-governmental organisations, children and youth organisations, religious faiths, National University of Timor-Leste and media.
3. The Consultative Council's members are appointed by their respective Ministers and Secretaries of State and by the respective civil society's governing bodies and for a period of three years, upon request of the Commission.
4. The Consultative Council ordinarily meets once per trimester, although the presiding member may convene extraordinary meetings whenever required whether of his own initiative or following the proposal of the remaining members.
5. The Consultative Council has a quorum if a majority of its members is present and deliberates by a majority vote of those present, the Commissioner having a casting vote if necessary.
6. The Consultative Council shall have autonomy to determine its own operational procedures.
7. The decisions of the Consultative Council shall take the form of a recommendation, having no legally binding character.
7. Appointment to the Consultative Council of the Commission is not remunerated, although sitting fees shall be part of the Government Budget.

Article 88

The Secretariat

1. The Secretariat is to provide logistical, administrative and technical support to the Commission.
2. The Commission has autonomy to recruit its own staff, both national and international.

Article 89

Participation of children

1. The Commission shall ensure the possibility for children to express their views and concerns and to have them reflected on the Commission's work.
2. The direct participation of children shall be guaranteed through the implementation of the Children's Consultative Council, composed, namely, of youth organizations and students' associations and representatives from all districts, which shall meet every three months.
3. Consultative actions, namely, the organization of workshops, 'child-led' research and round tables shall be encouraged.