



Shadow report from NGOs JSMP, PRADET & ALFeLa

Timor-Leste Government's progress in implementing the
United Nations Convention on the Elimination of All Forms of
Discrimination Against Women (CEDAW)

June 2015

About JSMP

Judicial System Monitoring Program (JSMP) is a Timorese led not-for-profit organisation working to improve the judicial and legislative systems in Timor-Leste. JSMP was first established in 2001 to monitor the process of the Ad Hoc Human Rights Tribunal in Indonesia and the Special Panels for Serious Crimes in Timor-Leste.

JSMP conducts monitoring activities on the trial process in the district courts and the Court of Appeal and reports on developments in the formal justice system. Based on our monitoring activities, JSMP publishes thematic reports, Justice Updates, press releases, case summaries and analysis of draft legislation. JSMP also provides community education as part of efforts to increase community awareness and understanding of the formal justice system, democracy and human rights.

JSMP's vision is a democratic society that guarantees justice and human rights for all. JSMP's mission is to work in a spirit of collaboration to improve and protect democracy, law, justice and human rights through: (i) monitoring; (ii) legal education, and (iii) advocacy.

www.jsmpt.tl

About PRADET

Psychosocial Recovery & Development in East Timor (PRADET) was first established in 2000 to respond to a need for mental health services in post-conflict Timor-Leste. In 2002, it was constituted as a national NGO to provide psycho-social service for people experiencing trauma, mental illness and other psycho-social problems in Timor-Leste.

PRADET currently has a broad vision to alleviate trauma and stress as a detrimental factor in the community life of Timor-Leste. With over 11 years of experience in delivering psycho-social services, PRADET has grown to include programs that respond to mental illness, gender based violence, child abuse, human trafficking and youth imprisonment. As well as client-based services, PRADET also provides information to the public about the issues faced by our clients and how communities and individuals can support vulnerable people. PRADET's community workshops also address issues which impact on mental health and gender based violence, child abuse and imprisonment such as management of emotions and the abuse of alcohol and drugs.

www.pradet.org

About ALFeLa

Asisténsia Legál ba Feto no Labarik (Women and Children's Legal Aid - ALFeLa) is an independent and impartial not-for-profit legal aid organisation established in December 2012. ALFeLa is the only organisation in Timor-Leste providing free legal assistance to women and children in criminal, civil and family law matters. ALFeLa works in all 13 districts of Timor-Leste.

ALFeLa's vision is a formal justice system that is fair, without discrimination and which protects women and children's rights. ALFeLa's mission is to support women and children in Timor-Leste to access a formal justice system which is fair, through: (i) legal aid; (ii) legal education, and (iii) advocacy.

www.alfela.tl

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Executive summary

This shadow report has been jointly produced by three Timorese NGOs who are committed to promoting women's equality in Timor-Leste. The Judicial System Monitoring Program (JSMP) is a human rights NGO working to improve the formal justice system through court monitoring, legal education and advocacy. Psychosocial Recovery & Development in East Timor (PRADET) and *Asisténsia Legál ba Feto no Labarik* (Women and Children's Legal Aid - ALFeLa) both provide essential services to women and girls who have experienced violence and trauma. This shadow report does not represent all progresses made since the last reporting period, nor all challenges facing women and girls in achieving substantive equality in Timor-Leste. The issues raised in this shadow report reflect the experiences of JSMP, PRADET and ALFeLa, particularly in relation to the legal framework and violence against women and girls in Timor-Leste.

During this reporting period, 2009–2013, significant steps have been taken to improve de jure gender equality. We welcome the passage of the Law Against Domestic Violence (Law 7/2010), the Civil Code (Decree Law 10/2011) and the Labour Code (Law 4/2012). However, we continue to see inadequate implementation of these and other laws, meaning the impact on women's rights in practice has been minimal. In the area of Government policy, there have been little gains made for women. Successive State budgets have failed to give priority to addressing gender inequality. For example, the very poor investment in social welfare programs has a disproportionate impact on women. There is similarly little Government investment in services for women with disabilities, and essential front-line services for women and girls who have experienced violence. Such important work is carried out by NGOs who are largely funded by international donors, creating a crisis for the women's sector should donor funding be reduced in the future.

The lack of adequate implementation of laws and Government policies which do not priorities the needs of women and girls continue to impact negatively on the lives of women and girls in Timor-Leste. The negative impacts include:

- Women and girls in Timor-Leste continue to face high rates of violence, including domestic violence and sexual assault, but have poor access to essential support services such as legal aid, medical forensic examinations and treatment, psycho-social support, safe shelters and social welfare. Women and girls in half of all districts have no access to specialised services (see General Recommendation 19).
- Women and girls who come into contact with the formal justice system face discrimination, and inadequate protection and remedies. They face further discrimination and violations if they seek redress through customary justice mechanisms (see Article 15 and General Recommendation 19).
- Lack of comprehensive social welfare support for women, particularly those leaving abusive relationships, force women and children into poverty while perpetrators of the violence are rarely adequately punished (see Article 13 and General Recommendation 19).
- Abortion continues to be criminalised, with no exception even in cases of rape and incest. Women and girls who have experienced sexual violence are re-victimised by this punitive provision (see Article 12).
- There is a lack of reliable data regarding the situation of women and girls in Timor-Leste. The delay of the Demographic and Health Survey will make it not only difficult to measure the situation of women, it makes it impossible to develop good policy and target resources (see Articles 1–3).

The Government must show that it is achieving results, rather than focusing on activities which are poorly directed towards achieving substantive equality. We ask that the Committee closely question the Government and make recommendations which can be implemented and will have real impact in the progressive realisation of women's equality in Timor-Leste.

Recommendations

Articles 1–3: Definition of discrimination against women, obligations to eliminate discrimination against women and advancement of women

1. We call on the Government to adopt a comprehensive definition of discrimination against women that encompasses both direct and indirect discrimination in all areas of life.
2. We call on the Government to legislate adequate sanctions for discrimination and ensure that effective remedies are available to women whose rights have been violated.
3. We call on the Government to publish a full gender impact statement with each State Budget and allocate resources proportionately to benefit vulnerable women and children.
4. We call on the Ministry of Health to immediately conduct a new Demographic and Health Survey using the World Health Organisation methodology, and ensure that it uses international standard questions to collect disaggregated data on disability.
5. We call on the Office of the Prosecutor-General and the Courts to make publicly available annual data on cases of violence against women and girls, disaggregated by district and specific case type.
6. We call on the Government to legislate mandatory continuing legal education for judges, prosecutors, public defenders and private lawyers on the Convention, gender-sensitivity, domestic violence and battered woman syndrome.

Article 12: Women's health

7. We call on the Government to improve access to all existing healthcare facilities and expand the coverage of specialised health services for disabled women and girls in the districts.
8. We call on the government to amend Article 141 of the Penal Code to remove the requirement to obtain approval for an abortion from a panel of three doctors, and withdraw punitive sanctions against women who undergo abortions in cases of rape, incest or harm to the psychological health of the mother.
9. We call on the Government to remove the requirement that providers ask and record marital status of family planning clients, in order to reduce barriers for unmarried youth in accessing services.
10. We call on the Government to enact commitments in the National Strategy on Reproductive, Maternal, Newborn, Child and Adolescent Health to improve access to confidential, youth-friendly and sensitive sexual and reproductive health information and services for all adolescents, regardless of marital status.
11. We call on the Government consider task-sharing of intrauterine devices (IUDs) and implants to allow provision of these methods by nurses, as recommended by the WHO.

Article 13: Social and economic benefits

12. We call on the Government to guarantee adequate social welfare for all women, particularly women who have been deprived of income generating activities and have been dislocated due to domestic violence.

Article 15: Equality before the law

13. We call on the Government to legislate mandatory continuing legal education for judges, prosecutors, public defenders and private lawyers on the Convention, gender-sensitivity, domestic violence and battered woman syndrome.

14. We call on the Superior Council of Magistrates to take appropriate disciplinary actions against justice sector actors who consistently make discriminatory comments and decisions against women.
15. We call on the Ministry of Justice to provide long-term core funding to NGO legal aid providers who provide free legal advice to women in civil, family and gender-based violence cases. This is not dependent on specific legislation and should be introduced as an urgent Temporary Special Measure and funding be allocated in future State Budgets.
16. We call on the Courts to make available all written decisions and transcripts in hardcopy and on a public website, accessible to all.
17. We call on the Government to immediately stop passage of the draft traditional justice law and specifically consult women's NGOs on the impact of the proposed law.

Article 16: Equality in marriage and family law

18. We call on the Government to amend the Civil Code to specifically recognise de facto heterosexual and same-sex unions on an equal basis with marriage, with the same rights and obligations under the Civil Code.
19. We call on the Government to ensure that the draft Civil Registration Code does not require the registration of a biological father on birth certificates.
20. We call on the Government to urgently publish an official Tetum translation of the Civil Code.
21. We call on the Government to amend the Civil Code to remove the requirement to find a 'culpable party' in divorce proceedings.
22. We call on the Government to amend Article 1494 of the Civil Code so that women can re-marry 180 days after dissolution of a previous marriage, irrespective of whether the woman is pregnant or has had a child after the dissolution of the previous marriage.

General Recommendation 19: Violence against women and girls

23. We call on the Government to amend the Penal Code to include use or threatened use of a weapon as a specific aggravating factor in crimes of physical assault.
24. We call on the Office of the Prosecutor-General to issue charging directives to ensure cases of domestic violence are appropriately charged, considering all aggravating factors such as use or threatened use of a weapon, threats against the victim's life, and the risk of serious physical harm to the victim.
25. We call on the judiciary to develop sentencing directives to assist judges in determining the appropriate penalty in domestic violence cases. The directives should clearly outline general sentencing principles, aggravating and mitigating factors using examples, rules for repeat offenders, guidance on alternative penalties and provide for the calculation of civil compensation.
26. We call on the Public Prosecution Service to routinely seek protection orders in cases of domestic violence together with a provisional alimony order, giving priority to removing the perpetrator of the violence from the family home.
27. We call on the Government to review the feasibility of a civil protection order regime in Timor-Leste. e for the calculation of civil compensation.
28. We call on the Government to amend the Penal Code to specifically criminalise rape within intimate partner relationships, including marriage (whether civil, religious or customary) and de facto unions.

29. We call on the Government to provide long-term core funding to NGOs providing essential support services for women and girls affected by violence. This should be introduced as an urgent Temporary Special Measure and funding be allocated in future State Budgets.
30. We call on the Government to ensure that all activities under the new NAP are fully costed and sufficient budget allocated by the Government in future State budgets.
31. We call on the Government to ensure that the roles and responsibilities under the new NAP for all Government agencies and relevant NGOs are clearly defined.
32. We call on the Government to invest in programs and activities that aim to change individual attitudes and behaviours, and transform gender norms.
33. We call on the Government to invest in capacity-building for all organisations and Government agencies undertaking primary prevention of violence against women and girls under the new NAP.

Articles 1–3: Definition of discrimination against women, obligations to eliminate discrimination against women and advancement of women

No comprehensive definition of discrimination against women

Despite the Committee’s recommendation that Timor-Leste include in the Constitution or other appropriate legislation a definition of discrimination against women that encompasses both direct and indirect discrimination,¹ Timor-Leste has still not enacted a comprehensive definition of discrimination against women. As noted in the Committee’s concluding observations, the general references in the Constitution to “equality between men and women”, and “equality of opportunities between women and men” is insufficient to fully implement the Convention obligations. There is no recognition of intersectional discrimination, particularly discrimination against women with disabilities. While Article 9 of the Constitution provides that international law is to be automatically adopted into the domestic legal system, the very poor understanding of international law and lack of gender-sensitivity by judicial actors means that this is not a reliable guarantee for women.

Inadequate sanctions and lack of effective remedies

There are very few laws which prohibit discrimination, and fewer effective remedies available to women who experience discrimination even in legislated areas. For example, the Labour Code (Law 4/2012) does not apply to “domestic work”, which is undefined, and breaches of the Code are to be punished by “fines and other types of penalty” to be determined by separate legislation which has yet to be adopted. Where an employment dispute is lodged with the Government agency responsible for mediation and arbitration, the process can take years and the agency does not have power to compel attendance by the parties. The Ombudsman for Human Rights and Justice (PDHJ) is mandated to receive complaints of violations of fundamental human rights committed by public entities. However, the PDHJ is limited to making recommendations and has no enforcement powers. We are concerned that there are no adequate sanctions in place for discrimination against women, and the remedies available to women are ineffective.

Recommendation:

- **We call on the Government to adopt a comprehensive definition of discrimination against women that encompasses both direct and indirect discrimination in all areas of life.**
- **We call on the Government to legislate adequate sanctions for discrimination and ensure that effective remedies are available to women whose rights have been violated.**

Legislation

Since 2009, there have been a number of positive legislative changes impacting on women’s rights. For example, the passage of the Law Against Domestic Violence (Law 7/2010), the Civil Code (Decree Law 10/2011) and the Labour Code (Law 4/2012). However, we remain concerned that implementation of these laws has been inadequate, meaning the impact on women’s rights in practice has been minimal. (See Article 15, Article 16 and General Recommendation 19 for more information.)

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 18.

Need for gender budgeting and analysis

Other measures taken by the Government have also been inadequate in promoting equality. For example, while the Government expresses its commitment to gender mainstreaming through various gender-working groups and gender-responsive budgeting, successive budgets since 2009 have not included any gender equality impact assessments. Analysis by the World Bank shows that since 2010, there has been an increase in budget allocation towards pensions for veterans, who are predominantly male. In 2012, veteran pensions accounted for 5 percent of the total national budget while *Bolsa da Mãe* ('mother's purse') and child protection payments represented only 0.2 percent of the total national budget.²

In the current 2015 State Budget, US\$130.4 million has been allocated to cash payments to veterans, out of a total US\$176.4 million allocated to the entire social welfare program. Women are marginalised from the veterans' pension scheme and the very low investment in other social welfare programs for the poorest households has a disproportionate impact on women. This is only one example of the cumulative failure to address inequalities between women and men through Government policy.

Recommendation:

- **We call on the Government to publish a full gender impact statement with each State Budget and allocate resources proportionately to benefit vulnerable women and children.**

Data collection and analysis

Timor-Leste has improved efforts in collecting statistical information on the situation of women. The 2009/2010 Demographic and Health Survey (DHS) is valuable baseline data, particularly on the prevalence of violence against women. Another DHS was initially planned for 2014/2015 however has been cancelled because the Ministry of Health decided that it was unnecessary. We believe that this is a major obstacle in measuring the impact of measures taken in the area of women's health and prevention of violence. Lack of reliable data on women with disabilities is also a concern. The 2010 Population and Housing Census provides that only 4.6 percent of the population have a disability, which is far below comparable international averages. Lack of quality and reliable data makes it not only difficult to measure the situation of women, it makes it impossible to develop good policy and target resources.

We are also concerned about the lack of transparent information from institutions of the formal justice sector regarding cases of violence against women and girls. While the National Police Force of Timor-Leste collects statistics on the number of reported incidents of domestic violence and sexual assaults, similar data is not publicly available from the Office of the Prosecutor-General and the Courts. The Courts' statistics are not disaggregated by sex, case type and district. The 2014 Annual Report from the Office of the Prosecutor-General shows that 'domestic violence' represents 22 percent of all crimes registered with the Public Prosecution Service.³ However, it is unclear what specific crimes comprise 'domestic violence'. The experience of court monitoring by the Judicial System Monitoring Programme shows that more than half of all cases in the district courts are cases of violence against women and girls. The lack of reliable and consistently collected data makes it difficult to properly assess key indicators, such as case archival rates and delays in case resolution.

² The World Bank, 'Timor-Leste Social Assistance Public Expenditure and Program Performance Report' (Report No: 73484-TP), 24 June 2013, at 38.

³ Informação Anual de 2014 do Procurador Geral da República ao Parlamento Nacional, March 2015, at 13.

Recommendation:

- **We call on the Ministry of Health to immediately conduct a new Demographic and Health Survey using the World Health Organisation methodology, and ensure that it uses international standard questions to collect disaggregated data on disability.**
- **We call on the Office of the Prosecutor-General and the Courts to make publicly available annual data on cases of violence against women and girls, disaggregated by district and specific case type.**

Awareness of CEDAW among the judiciary

Contrary to the Government report, neither the Legal Training Centre (*Centro de Formação Jurídica de Timor-Leste* - CFJ) nor the Ministry of Justice has been providing regular training to the judiciary on the Convention. It was only in 2013-2014 that UN Women assisted the development of materials on women's human rights for integration into the CFJ curriculum for magistrates and private lawyers. Only one pilot training was run in 2014. Analysis of the judgments of the Courts show little regard for the Convention, and very often extreme lack of gender sensitivity. The Judicial System Monitoring Programme has monitored only two cases since 2009 which referred to the Convention. These two cases were both monitored in 2015 and only perfunctory references were made to Convention obligations in connection with domestic violence. (See Article 15 and General Recommendation 19 for more information.)

Case study: Judicial reference to CEDAW⁴

In February 2015 the Dili District Court made a reference to CEDAW in a domestic violence case in which the husband had assaulted his wife so severely that she lost consciousness and urinated on herself. In a separate incident, the husband struck his wife with a broom, forced her to kneel and prohibited her from using the phone or going to school. While the court referred to the State's obligation to eliminate discriminatory practices against women, it considered that there were mitigating circumstances and handed down a suspended sentence of 3 years. The court failed to hand down a protection order or award civil compensation to the victim.

Recommendation:

- **We call on the Government to legislate mandatory continuing legal education for judges, prosecutors, public defenders and private lawyers on the Convention, gender-sensitivity, domestic violence and battered woman syndrome.**

Awareness of the Convention and women's rights in the community

It is the experience of NGOs that most members of the community have very little awareness of the Convention and women's rights. The majority of community engagement work is undertaken by NGOs who are funded by international donors and have limited resources, and there are still many communities who have yet to receive information about the Convention. It is not sufficient to merely distribute written information about the Convention and relevant domestic laws. We believe that there must be stronger engagement with communities by the Government, and consistent messaging about women's rights. Engagement must also focus on behavioural change, particularly on men's use of violence, and early interventions with both boys and girls. (See General Recommendation 19 for more information.)

⁴ Judicial System Monitoring Program, 'Press release: JSMP congratulates court for applying CEDAW in its decision in a case of domestic violence', 12 February 2015.

Article 12: Women's health

Disabled women's health

Women with disabilities face particular obstacles in the area of health care. Ra'és Hadomi Timor Oan (RHTO), a national disabled person's organisation, reports a number of barriers including poor physical access to healthcare facilities, negative attitudes of health care workers and lack of knowledge among disabled persons about available services. There is also a lack of specific health care, such as physiotherapy and assistive devices, for women with disabilities living outside of the capital Dili. Specialist services for women who have experienced violence, such as shelters, have only recently been provided opportunity to attend training on disabilities and urged to develop a disability action plan. Women with disabilities are particularly vulnerable to abuse, therefore it is important that all service providers are adequately trained, accessible and sensitive to the needs of women and girls with disabilities.

*Case study: Children with disabilities who have experienced violence*⁵

Casa Vida, a shelter for girls who have experienced violence, reports that approximately 20 percent of clients present with mild intellectual disability combined with signs of neglect and abuse, such as sexual abuse, malnutrition and isolation. Some children with disabilities have grown up being permanently detained indoors. These children are often described as 'crazy' by the community and their families, and rarely provided with any healthcare and support.

Recommendation:

- **We call on the Government to improve access to all existing healthcare facilities and expand the coverage of specialised health services for disabled women and girls in the districts.**

Abortion

The Committee in its concluding observations called on Timor-Leste to “review the legislation relating to abortion with a view to removing the punitive provisions imposed on women who undergo abortion”.⁶ However since 2009, Timor-Leste has further restricted women's access to safe and legal abortions. On 15 July 2009, article 141 of the Penal Code (Decree Law 19/2009) was amended to provide that an abortion is only legal where necessary to protect the life of the mother or foetus, and in such cases must be authorised by a panel of three doctors. The amendment also allows other health professionals to lodge an objection to the proposed abortion. A woman who consents to an illegal abortion faces a sentence of up to three years in prison. This amendment means that it is very difficult for women to obtain legal abortions, particularly given the shortage of qualified doctors.⁷

⁵ Wilson, 'Survey of Support to Essential Services for Ending Violence Against Women (SESEVAW) Civil Society Partners on their experience of addressing disability in service provision for women and children experiencing violence', July 2014, at 9.

⁶ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 38.

⁷ National Statistics Directorate, Ministry of Finance, and ICF Macro, 'Timor-Leste Demographic and Health Survey 2009-10', 2010, at 113 states that only 4 percent of women received antenatal care from a doctor.

A 2009 report found that 40 percent of all emergency obstetrics care was managing and treating complications from early pregnancy losses (both abortions and miscarriages).⁸ There are currently no exceptions in cases of rape, incest or harm to the psychological health of the mother. We are deeply concerned with the lack of an exception in such cases given the high rates of sexual assault and incest in Timor-Leste.⁹ The criminalisation of abortion re-victimises women and girls who have suffered sexual assault and incest.

Recommendation:

- **We call on the government to amend Article 141 of the Penal Code to remove the requirement to obtain approval for an abortion from a panel of three doctors, and withdraw punitive sanctions against women who undergo abortions in cases of rape, incest or harm to the psychological health of the mother.**

Access to services for unmarried youth

In Timor-Leste, 31 percent of the population is aged 10–24, and 20 percent of 19 year olds have already begun childbearing. Pregnancy poses a serious health risk to women under 20, it is the second leading cause of death for adolescent girls worldwide.¹⁰ Adolescent health is prioritised in Timor-Leste’s National Strategy on Reproductive, Maternal, Newborn, Child and Adolescent Health 2015-2019. However, access to sexual and reproductive health information and services for young people, in particular unmarried youth, remains a challenge. Less than 9 percent of married young women aged 15–19 have ever used any method of contraception. For unmarried youth of the same age, this figure is less than 1 percent.¹¹ Marie Stopes International Timor-Leste’s national youth hotline ‘*Lina Foin Sae*’ receives 1,000 to 1,500 calls on average per month from young people across all districts of Timor-Leste. Very few callers with a need for family planning or STI services go on to access these services, citing concerns with privacy, anonymity, confidentiality and judgement.¹² For example, medical registers still require providers to ascertain and record the marital status of clients. With the median age of marriage for women at approximately 20 years, and sexual activity outside of marriage being highly stigmatised, unmarried and sexually active adolescent girls are therefore an extremely vulnerable group.

Recommendation:

- **We call on the Government to remove the requirement that providers ask and record marital status of family planning clients, in order to reduce barriers for unmarried youth in accessing services.**

⁸ Belton, Whittaker and Barkley, ‘Maternal Mortality, Unplanned Pregnancy and Unsafe Abortion in Timor-Leste: A Situational Analysis’, 2009, at 13.

⁹ See for example Judicial System Monitoring Program, ‘Incest in Timor-Leste: An unrecognised crime’, 2009, at 13.

¹⁰ World Health Organisation, ‘Fact sheet n. 364’, 2014.

¹¹ National Statistics Directorate, Ministry of Finance, and ICF Macro, ‘Timor-Leste Demographic and Health Survey 2009-10’, 2010 at 63.

¹² Source: Marie Stopes International Timor-Leste, 2015.

- **We call on the Government to enact commitments in the National Strategy on Reproductive, Maternal, Newborn, Child and Adolescent Health to improve access to confidential, youth-friendly and sensitive sexual and reproductive health information and services for all adolescents, regardless of marital status.**

Task-sharing to expand access to reproductive, maternal, newborn, child and adolescent health services

Maternal mortality and infant mortality rates in Timor-Leste are some of the highest in the region. Maternal mortality is estimated at 270 deaths / 100,000 live births.¹³ Infant mortality is estimated to be 38.79 deaths / 1,000 live births.¹⁴ To expand access to reproductive health services, particularly where availability of doctors is limited, WHO recommends delivery at the lowest level cadre of providers that is proven to be clinically safe. The process of moving reproductive health services beyond doctors to clinical officers, nurses, midwives and other paramedics is known as 'task shifting' or 'task sharing'.¹⁵ Currently in Timor-Leste, the provision of long-term methods of contraception does not fully utilise the potential of task-sharing to lower level cadre such as nurses to expand access to these methods. In a country with low physician density (1 doctor per 14,285 people or 0.07 per 1000 population)¹⁶ task-sharing could greatly expand access to and choice of contraceptive methods and help reduce maternal mortality rates in Timor-Leste.

Recommendation:

- **We call on the Government consider task-sharing of intrauterine devices (IUDs) and implants to allow provision of these methods by nurses, as recommended by the WHO.**

¹³ WHO, 'Maternal Mortality in 1990-2013: Timor-Leste', 2013.

¹⁴ CIA World Fact Book, last updated 18 May 2015.

¹⁵ WHO, 'Optimising health workers roles for maternal and newborn health', 2012.

¹⁶ CIA World Fact Book, last updated 18 May 2015.

Article 13: Social and economic benefits

Unequal access to social benefits

As discussed above, women have unequal access to social benefits when compared with men. In 2012, veteran pensions accounted for 5 percent of the total national budget while *Bolsa da Mãe* ('mother's purse') and child protection payments represented only 0.2 percent of the total national budget.¹⁷ In the current 2015 State Budget, US\$130.4 million (74 percent) has been allocated to cash payments to veterans, out of a total US\$176.4 million allocated to the entire social welfare program. Women are marginalised from the veterans' pension scheme and the very low investment in other social welfare programs for the poorest households has a disproportionate impact on women.

In Timor-Leste, women who suffer domestic violence are always the ones who are forced to leave the family home to protect their lives and the lives of their children. There is no civil protection order system which allows women to continue living in the home with their children. Women who are forced to leave their homes due to domestic violence are left with little to no Government support. Some may be eligible for the *Bolsa da Mãe* ('mother's purse') program, which is set at US\$5/month for each dependent child up to a maximum of US\$15/month.¹⁸ This is clearly insufficient to support the day-to-day living costs of women and their children. Most women who decide to separate due to domestic violence are forced to living in shelters for many months, and remain vulnerable due to the loss of their homes and income-generating activities which are often tied to their home and land.

*Case study: Story of a woman who has left a violent relationship*¹⁹

"I do everything, I sell chickens, sell coconuts, borrow from the micro finance organisation, sell peanuts in the market, make 'pisang goreng' [fried food] and katupa [rice wrapped in palm leaves], sell bananas, oranges and pineapples. Sometimes when there are no tangerines I buy from other people and re-sell them (for more). I have a little kiosk where people buy supermi, oil and washing powder and I weave tais when people put in orders."

Recommendation:

- **We call on the Government to guarantee adequate social welfare for all women, particularly women who have been deprived of income generating activities and have been dislocated due to domestic violence.**

¹⁷ The World Bank, 'Timor-Leste Social Assistance Public Expenditure and Program Performance Report' (Report No: 73484-TP), 24 June 2013 at 38.

¹⁸ As of June 2013.

¹⁹ Woman interviewed by The Asia Foundation, 'Economic Dimensions of Domestic Violence', (2015) *awaiting publication in July 2015*.

Article 15: Equality before the law

Gender-stereotyping by the judiciary

More must be done to mandate appropriate and gender-sensitive responses to women by the formal justice sector. Women who come into contact with the justice sector as litigants, victims and defendants, constantly face negative attitudes and gender stereotypes. This has particularly serious consequences for women who are charged with domestic violence in cases of self-defence. Such actions are rarely considered as 'legitimate' self-defence, and women who use weapons to protect themselves from abusive partners are more likely to be charged with a serious offence compared with men who commit serious physical and other abuse over prolonged periods. Where justice sector actors make discriminatory comments and decisions, they are not sanctioned by a disciplinary body.

*Case study: Maria de Lourdes*²⁰

In 2012, the Dili District Court sentenced Maria de Lourdes to 15 years imprisonment for fatally stabbing her husband, a member of the defence force. At trial, Maria gave evidence that she had suffered years of severe domestic violence and had only stabbed her husband in self-defence. Maria was initially illegally detained by the police for 7 days and interrogated without legal representation nor medical treatment. She was also held in preventative detention without cause for eight months, and was represented at various times by four different public defenders who never provided a robust defence. The court perfunctorily dismissed her claim of self-defence and corroborating evidence regarding the history of domestic violence from a female relative, preferring the testimony of a male witness which "removed truthfulness" from Maria's claims. The court never allowed Maria to give a full account of the violence that she had suffered from her husband. In sentencing, the court stated that it was handing down a prison sentence of 15 years because Maria had killed "one of the nation's people", referring to her husband's status as a member of the defence force. On 20 May 2015, after many years of advocacy by women's rights NGOs, Maria was given a partial pardon by the President of Timor-Leste which reduced her sentence by half. She is now eligible for parole.

Recommendation:

- **We call on the Government to legislate mandatory continuing legal education for judges, prosecutors, public defenders and private lawyers on the Convention, gender-sensitivity, domestic violence and battered woman syndrome.**
- **We call on the Superior Council of Magistrates to take appropriate disciplinary actions against justice sector actors who consistently make discriminatory comments and decisions against women.**

Legal aid

The government does not have a legal aid policy nor an effective system of legal aid. A draft law to institute legal aid through private lawyers is still pending. Women seeking free legal advice in civil and family law cases only have recourse to the Public Defender's Office or one NGO legal aid provider.²¹ There are currently only 27 public defenders and trainee public defenders in the country. The government has never

²⁰ Decision of the Dili District Court, Case No. 388/Colectivo/2012, 6 November 2012.

²¹ *Asistência Legál ba Feto no Labarik* - Women and Children's Legal Aid (ALFeLa). Other NGO legal aid providers in Timor-Leste do not focus specifically on women's cases.

provided any meaningful funding for NGOs providing legal advice to women as litigants or victims of a crime. While the lack of legal aid funding also impacts on men, we are concerned that it has a disproportionate impact on women, as women are more likely to pursue family law cases and be a victim of domestic violence. Women who cannot access free, independent and specialist legal advice are likely to be unaware of their rights. In cases of domestic violence, lack of legal aid disempowers women and severely limits their options for leaving violent relationships.

Access to justice also requires access to legal information, including court decisions. We are concerned that it is incredibly difficult to obtain copies of written decisions. Currently, written requests must be made to the trial judge to access copies of written decisions or attempts made to obtain copies from the public prosecutor or public defender involved in the case. This clearly obstructs transparency and accountability in the formal justice system. We urge the Courts to make available all written decisions and transcripts in hardcopy and on a public website.

Recommendation:

- **We call on the Ministry of Justice to provide long-term core funding to NGO legal aid providers who provide free legal advice to women in civil, family and gender-based violence cases. This is not dependent on specific legislation and should be introduced as an urgent Temporary Special Measure and funding be allocated in future State Budgets.**
- **We call on the Courts to make available all written decisions and transcripts in hardcopy and on a public website, accessible to all.**

Customary justice & land rights

While we welcome the promulgation of the Civil Code (Decree Law 10/2011) on 14 September 2011, we recognise that customary justice is widely used in communities to regulate conduct and resolve disputes. For example, the vast majority of land in Timor-Leste is held under customary tenure, where local traditional leaders have authority over land ownership and transactions.²² This prevents women in patrilineal communities, which are overwhelmingly dominant in Timor-Leste, from acquiring and using land in their own name. Women in patrilineal communities are also prohibited from owning and inheriting other types of property. Where disputes are to be resolved through customary processes, women are often excluded from participating.²³ The Government is currently preparing a draft traditional justice law which will formalise agreements made through customary means in relation to civil contracts, minor crimes,²⁴ and certain usage rights regarding land, water and other resources. Under the proposed law, the local community leader, *Xefe Suco*, is to facilitate the agreement-making process. Most *Xefe Sucos* in Timor-Leste are men. Given the entrenched gender inequality in Timor-Leste, such a law is likely to merely formalise inequitable and discriminatory decisions made at the local level, and further deprive women from accessing land and other resources in their own right.

²² USAID, 'Non-Customary Primary Industry Land Survey: Landholdings and Management', June 2005.

²³ Centre of Studies for Peace and Development Timor-Leste, 'Women's Access to Land and Property Rights in the Plural Justice System of Timor-Leste', 2014, at 51-53.

²⁴ These are referred to as 'semi-public crimes' and prosecution depends on the victim filing a case with the police.

Case study: Patrilineal passing of land described by a young woman from Baucau district ²⁵

“The land is ours as [a] family but it is not the woman’s right to own the land. Instead my brother has all the right, because one day when I am married my brother will be the one to stay and have the right to live in this land.”

Recommendation:

- **We call on the Government to immediately stop passage of the draft traditional justice law and specifically consult women’s NGOs on the impact of the proposed law.**

²⁵ Centre of Studies for Peace and Development Timor-Leste, ‘Women’s Access to Land and Property Rights in the Plural Justice System of Timor-Leste’, 2014, at 52.

Article 16: Equality in marriage and family law

Civil Code & draft Civil Registration Code

We welcome the promulgation of the Civil Code (Decree Law 10/2011) on 14 September 2011 which provides for greater de jure gender equality in areas such as legal capacity to enter into contracts, administer property, marriage, divorce, maintenance and inheritance. However, the Civil Code still contains discriminatory provisions which must be amended. Firstly, it specifically recognises as a legitimate marriage Catholic marriages but no other religious marriages. It also does not recognise de facto heterosexual relationships, nor same-sex relationships. Given that the vast majority of women in Timor-Leste are in de facto unions, or have not yet registered their traditional marriage, this has severe consequences in terms of their rights to marital property and spousal alimony. In most cases seen by Women and Children's Legal Aid (*Asisténsia Legál ba Feto no Labarik* - ALFeLa), women can only seek child maintenance from their ex-partners rather than alimony in their own right, because they have not legally married in accordance with the Civil Code.

We are also concerned that the draft Civil Registration Code currently requires the registration of the biological father of the child on birth certificates. There is no exception for cases where the mother has suffered sexual violence or there are other reasons why she cannot name the biological father. Forcing a mother to register a biological father could re-victimise sexual violence survivors, particularly as the Government cannot guarantee confidentiality of the registration process. This requirement also violates the rights of the child to registration and identity.

We also note that the Civil Code has yet to be officially translated from Portuguese to Tetum, which is understood by the majority of the population. The lack of an official Tetum translation severely limits women's capacity to understand and enforce their civil rights.

Recommendation:

- **We call on the Government to amend the Civil Code to specifically recognise de facto heterosexual and same-sex unions on an equal basis with marriage, with the same rights and obligations under the Civil Code.**
- **We call on the Government to ensure that the draft Civil Registration Code does not require the registration of a biological father on birth certificates.**
- **We call on the Government to urgently publish an official Tetum translation of the Civil Code.**

Divorce

Divorce is difficult to obtain under the Civil Code. Where a petition for divorce is contested by one party, the court must find one party culpable, or most culpable, for the divorce.²⁶ A finding of culpability has implications for the separation of assets and spousal maintenance. For example, the culpable party forfeits all benefits received from the other spouse or from a third party as a result of the marriage.²⁷ Many women seeking a divorce in Timor-Leste are also victims of domestic violence. Without proper legal advice, women are unlikely to be able to petition for divorce and enforce their legal rights. As also discussed below in relation to General

²⁶ Article 1663 of the Civil Code.

²⁷ Article 1667 of the Civil Code.

Recommendation 19, the Government must urgently provide long-term funding to NGO legal aid providers who provide free legal advice to women in civil, family and gender-based violence cases. This should be introduced as an urgent Temporary Special Measure and funding be allocated in future State Budgets.

The Civil Code also provides women must wait 300 days after divorce or death of a spouse before entering into another marriage.²⁸ The waiting period for men is only 180 days. The Government recognises in its report to the Committee that this discriminatory provision “may derive from social dogma in terms of widowhood”.²⁹ Having recognised this, we call on the Government to amend this provision to ensure that the same ‘waiting period’ applies to both women and men.

Recommendation:

- **We call on the Government to amend the Civil Code to remove the requirement to find a ‘culpable party’ in divorce proceedings.**
- **We call on the Government to amend Article 1494 of the Civil Code so that women can re-marry 180 days after dissolution of a previous marriage, irrespective of whether the woman is pregnant or has had a child after the dissolution of the previous marriage.**

²⁸ Article 1494 of the Civil Code.

²⁹ Second and third periodic reports of Timor-Leste, 17 September 2013, CEDAW/C/TLS/2-3

General Recommendation 19: Violence against women and girls

Domestic violence is the single largest category of crime committed in Timor-Leste

We are extremely concerned with the high levels of violence against women and girls in Timor-Leste. The 2009/2010 Demographic and Health Survey shows that 38 percent of women have experienced physical violence since the age of 15, and the main form of violence against women is intimate partner violence or domestic violence.³⁰ Between 2009 and 2014, Psychosocial Recovery & Development in East Timor (PRADET) supported 1,761 women and girl survivors of domestic violence, sexual assault and other forms of abuse. Of these clients, PRADET provided medical forensic examination and treatment to 1,539 women and girls, and provided temporary safe shelter to 357 clients. Statistics from other NGO service providers also highlight the very high levels of violence against women and girls in Timor-Leste.

Table 1. Client statistics, new female clients only, from PRADET, January 2009—December 2014 ³¹

	2009	2010	2011	2012	2013	2014	Total
Domestic violence	131	161	150	168	234	364	1208
Sexual assault	57	69	68	98	97	106	495
Other physical assault	0	0	0	2	14	42	58
Total	188	230	218	268	345	512	1761

Table 2. Client statistics, new female clients only, from Women and Children's Legal Aid (ALFeLa), January 2009—December 2014 ³²

	2009	2010	2011	2012	2013	2014	Total
Domestic violence	70	130	150	111	215	261	937
Sexual assault (adult)	48	40	25	38	51	61	263
Sexual abuse of a minor or adolescent	30	30	31	35	43	61	230
Other physical assault	12	21	18	2	12	26	91
Total	160	221	224	186	321	409	1521

³⁰ National Statistics Directorate, Ministry of Finance, and ICF Macro, 'Timor-Leste Demographic and Health Survey 2009-10', 2010, at 228, 230.

³¹ Source: PRADET client statistics, 2009-2014.

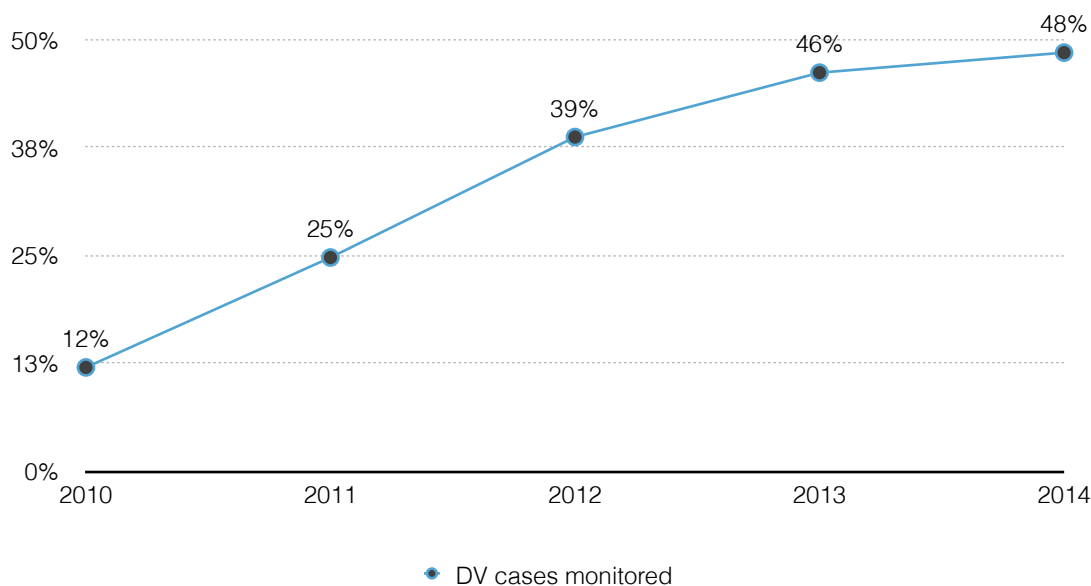
³² Source: ALFeLa client statistics, 2009-2014.

Since the last report, Timor-Leste has enacted the Law Against Domestic Violence (Law 7/2010) which has a broad definition of domestic violence and relationships covered, and makes certain offences in the Penal Code domestic violence offences and therefore ‘public crimes’.³³ We welcome this important step. The Law Against Domestic Violence has had a significant impact in directing cases of domestic violence to prosecution in the courts. Since the passage of the law in July 2010, the percentage of domestic cases monitored by the Judicial System Monitoring Programme had increased to 48 percent of all cases monitored in the courts in 2014. This is a significant change from the situation prior to 2010, where almost all cases of domestic violence were being mediated out of the court or withdrawn by the public prosecutor.³⁴

Table 3. Number of domestic violence cases monitored by JSMP, July 2010—December 2014 ³⁵

	2010	2011	2012	2013	2014	Total
Number of DV cases monitored	6	70	166	222	461	925
Other cases monitored	44	213	263	259	490	1269
Total	50	283	429	481	951	2194

Chart 1. Percentage of domestic violence cases from total cases monitored by JSMP, July 2010—December 2014 ³⁶



³³ ‘Public crimes’ can be prosecuted without a complaint being filed by the victim, and cannot be mediated by the Court.

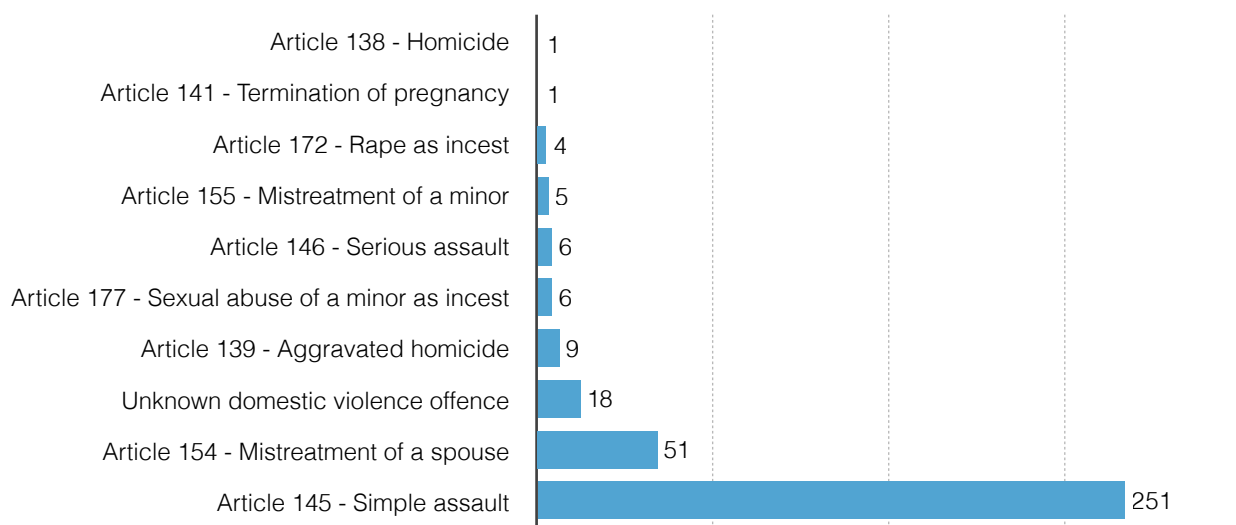
³⁴ Judicial System Monitoring Programme, ‘Women in the formal justice sector, report on the Dili District Court’ (2010) at 12; Judicial System Monitoring Programme, ‘Statistics on cases of domestic violence against women in Timor-Leste’ (2005) at 9.

³⁵ Court monitoring data from Judicial System Monitoring Programme, 2013 - 2014. ‘Domestic violence’ offences included are: article 138 murder, domestic violence; article 139 aggravated murder, domestic violence; article 145 simple assault, domestic violence; article 146 serious assault, domestic violence; article 154 mistreatment of a spouse; attempted domestic violence offences; and any combination of these offences.

³⁶ Court monitoring data from Judicial System Monitoring Programme, 2013 - 2014.

However, we are concerned that the overwhelming majority of domestic violence cases are being charged as a simple assault by the Public Prosecution Service, regardless of the severity of the abuse and aggravating factors such as the use of weapons. Of all domestic violence cases monitored by the Judicial System Monitoring Programme between July 2010 and June 2013, 71 percent of cases were charged as a simple assault. Fifteen percent of domestic violence cases were charged as the more serious offence of mistreatment of a spouse, and only two percent of cases were charged as a serious assault.³⁷ The majority of domestic violence cases are being charged as a simple assault, despite the seriousness of the violence which often involves the use of weapons (such as a machete, tree branches and metal bars), repeated threats against the victim’s life, and the risk of serious physical harm to the victim. We believe that the under-charging reflects a common attitude that domestic violence is a less serious form of violence and ‘easy’ to prosecute.

Chart 2. Charging in domestic violence cases monitored by JSMP, July 2010—June 2013 ³⁸



Case study: Assault of a spouse with a machete ³⁹

A wife returned home after selling meat at the markets. When she returned home, her husband was sleeping in the house. She woke him up to ask whether she should cook rice, because she was hungry. The husband became angry, stood up and kicked her repeatedly until she fell down. He then got some cooking fuel and poured it over her body. The wife tried to run away, but the husband got a fan cable and hit her face and back. The husband then fetched a machete, intending to slash his wife’s throat. The wife called out for someone to call her family, but those watching were too scared to help. In this case, the public prosecutor charged the husband with simple assault under Article 145 of the Penal Code. The court fined the husband \$75, to be paid \$1 a day over 75 days.

³⁷ Judicial System Monitoring Programme, ‘Law Against Domestic Violence: Obstacles to implementation three years on’, (2013) at 15.

³⁸ Judicial System Monitoring Programme, ‘Law Against Domestic Violence: Obstacles to implementation three years on’, (2013) at 14.

³⁹ Judicial System Monitoring Programme and Women and Children’s Legal Aid, ‘Improving the Penal Code to better protect women and children, Submission to the National Parliament of Timor-Leste’ (2015) at 32.

Recommendation:

- **We call on the Government to amend the Penal Code to include use or threatened use of a weapon as a specific aggravating factor in crimes of physical assault.**
- **We call on the Office of the Prosecutor-General to issue charging directives to ensure cases of domestic violence are appropriately charged, considering all aggravating factors such as use or threatened use of a weapon, threats against the victim's life, and the risk of serious physical harm to the victim.**

Weak sentencing in cases of violence against women and girls

Judicial System Monitoring Programme's court monitoring consistently shows that in the majority of domestic violence cases where the defendant is found guilty, the courts are suspending the execution of a prison sentence or awarding a fine. For example, of all domestic violence cases monitored between July 2010 and June 2013, 52 percent of cases resulted in a suspended prison sentence. A further 24 percent resulted in a fine, and only 4 percent resulted in an effective prison sentence.⁴⁰

While we are not advocating for effective prison sentences in all cases, we are concerned that sentences are often incommensurate with the seriousness of the crime and the impact on the victim. Where the perpetrator has used a weapon, or threatened the life of the victim, the court must consider an effective prison sentence in line with legislated sentencing principles. Suspending a prison sentence should also always be ordered with appropriate monitoring and rehabilitation for the perpetrator. Lastly, the courts have the power to order civil compensation to the victim. However, based on court monitoring, civil compensation is very rarely awarded in domestic violence cases. We are concerned that while the courts are readily applying fines, which has the potential to cause financial hardship on the victim, they do not consider civil compensation to victims of domestic violence as an appropriate remedy.

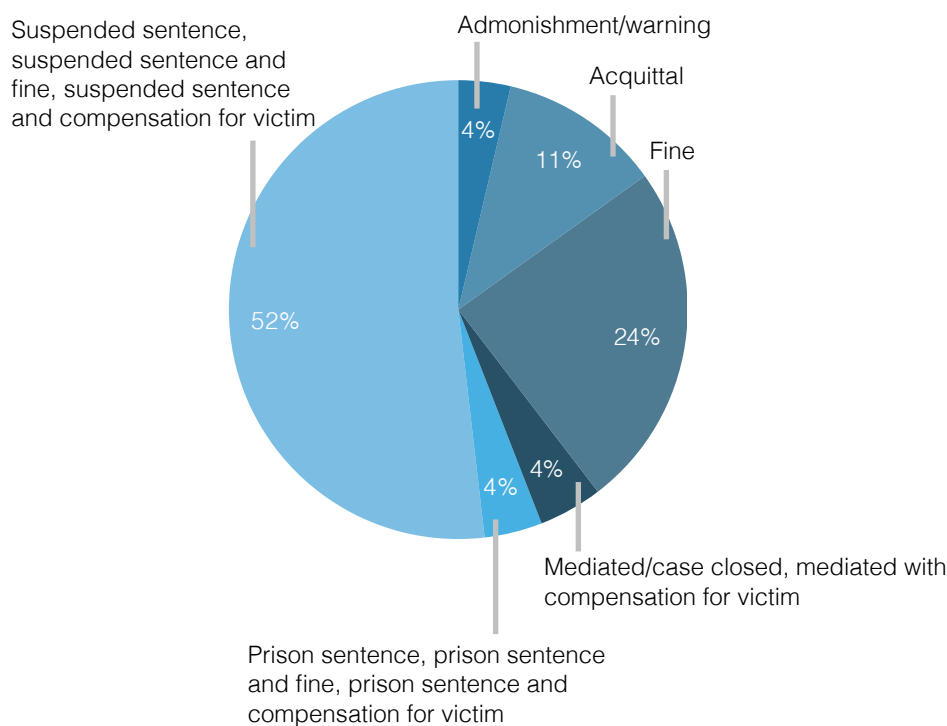
*Case study: Repeated blows to the head and body*⁴¹

The indictment stated that the defendant struck his wife twice on her right ear and punched her once in the mouth, causing her to fall to the ground. When the victim fell to the ground, the defendant grabbed the victim by the head and smashed her head into the fireplace. The defendant kept hold of the victim's arm, dragged her outside and took the lid of a barrel and hit the victim on her body [...]. The victim suffered swelling to her right ear, swelling to her head and injuries to her left leg. The victim was treated at a health centre. The Public Prosecution Service charged the defendant with committing a simple offence against physical integrity characterised as domestic violence in accordance with article 145 of the Penal Code and article 35 of the Law Against Domestic Violence [...] The victim stated that the defendant had regularly beaten her and she could not continue to accept it, and therefore she reported it to the police. The public defender asked for the court to acquit the defendant from the charges because he regretted his actions, is responsible for three children and has pledged not to commit such acts in the future. The court found the defendant guilty [of simple assault] and handed down a fine of \$45 and ordered the defendant to pay court costs of \$10.

⁴⁰ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 17, 32.

⁴¹ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 29.

Chart 3. Decision status of domestic violence cases monitored by JSMP excluding unknown decisions, July 2010—June 2013 ⁴²



Recommendation:

- **We call on the judiciary to develop sentencing directives to assist judges in determining the appropriate penalty in domestic violence cases. The directives should clearly outline general sentencing principles, aggravating and mitigating factors using examples, rules for repeat offenders, guidance on alternative penalties and provide for the calculation of civil compensation.**

Protection orders never applied in domestic violence cases

Timor-Leste does not have a civil protection order regime. Protection orders are available under the Law Against Domestic Violence once a criminal case has been registered,⁴³ however monitoring shows that they have never been applied. Protection orders are intended to provide immediate protection for women by removing the perpetrator from the family home. This is particularly important in Timor-Leste where women’s income generating activities are often tied to the family home and access to land. We are concerned because the court’s failure to award protection orders means that many women are forced to leave the family home and live in shelters for months or years. This punishes women and children for reporting domestic violence, and places them in an extremely vulnerable situation. In addition to protection orders, the court also has the power to award provisional alimony to victims of domestic violence.⁴⁴ Monitoring shows that provisional alimony has never been awarded. This further limits women’s options and places stress on shelters which are already inadequately funded by the Government.

⁴² Judicial System Monitoring Programme, ‘Law Against Domestic Violence: Obstacles to implementation three years on’, (2013) at 17.

⁴³ Article 37 of the Law Against Domestic Violence.

⁴⁴ Article 32 of the Law Against Domestic Violence.

Recommendation:

- **We call on the Public Prosecution Service to routinely seek protection orders in cases of domestic violence together with a provisional alimony order, giving priority to removing the perpetrator of the violence from the family home.**
- **We call on the Government to review the feasibility of a civil protection order regime in Timor-Leste.**

Marital rape is still not specifically criminalised

Despite the Committee's recommendation in 2009, Timor-Leste has yet to specifically criminalise marital rape.⁴⁵ While the Law Against Domestic Violence defines sexual violence as something which can occur within a marriage, this is insufficient to protect women from sexual violence within intimate partner relationships. We note that there has only ever been one monitored case of attempted rape within a marriage which reached the courts, and this case was charged as a simple assault and resulted in a fine. This is clearly unacceptable and shows that marital rape must be specifically criminalised in the Penal Code itself so that the police, public prosecutors and the courts apply the correct charge against the defendant.

*Case study: Marital rape charged as a simple assault*⁴⁶

The indictment stated that the defendant returned home late while drunk, tried to force his wife to have sex but she rejected him because she was menstruating. He then struck his wife in the stomach, and used a saw to cut his wife's right arm. The Public Prosecutor charged the husband with committing a simple assault, and asked for a suspended sentence because this was the first time that the defendant had committed a crime and the problem had been 'resolved' between the two families. The court found the defendant guilty of simple assault and sentenced him to pay a fine of \$45.

Recommendation:

- **We call on the Government to amend the Penal Code to specifically criminalise rape within intimate partner relationships, including marriage (whether civil, religious or customary) and de facto unions.**

Insufficient funding to support services for women and girls

We are extremely concerned by the lack of Government funding support for NGOs providing essential services to women and girls, such as shelters, psycho-social support and legal aid, and those undertaking policy and advocacy work. Most NGOs in Timor-Leste rely exclusively on international donor support, creating a crisis for the women's sector should donor funding be reduced.

For example, the only legal aid organisation for women and children, Women and Children's Legal Aid (*Asisténsia Legál ba Feto no Labarik* - ALFeLa), has never received core funding from the Government and relies completely on international donors.⁴⁷ Since it began its victim support work in 2005, ALFeLa has

⁴⁵ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 30.

⁴⁶ Judicial System Monitoring Programme, 'Press release: Public Prosecutor and Court fails to apply appropriate provision in domestic violence and attempted rape case' (19 May 2015).

⁴⁷ ALFeLa first received a one-off small Government grant in 2014 to implement a paralegal program. This grant was for US \$28,000 and represented less than 10% of ALFeLa's total annual budget.

supported more than 2,200 women and children survivors of crime, as well as provide legal advice to women in civil cases.⁴⁸ The Law Against Domestic Violence specifically guarantees victims' right to independent legal advice.⁴⁹ Despite the importance of ALFeLa's work, there has been no commitment from the Government to provide sustained core funding. Similarly, PRADET, an NGO which provides a range of psycho-social and medical services to women and children victims of crime, only receives a fraction of its funding (less than 10 percent) from the Government.⁵⁰ PRADET is the only organisation providing medical forensic examinations to victims of crime. It also provides accredited training to Government-employed midwives and other health professionals to conduct medical forensic examinations. Given the importance of this service to women and girls, it is unacceptable that PRADET continues to rely on international donors for the majority of its funding.

Access to essential support services for women and girls living in most areas of Timor-Leste, particularly rural and remote areas, is also extremely limited. Some districts have no safe shelters for women, nor specialised psycho-social and medical services facilities. While legal assistance from ALFeLa is available in all districts, ALFeLa operates out of only 4 district offices and struggle to cover the entire country with only 12 legal officers. Policing resources are also stretched, with low priority given to the Vulnerable Persons' Unit of the National Police of Timor-Leste, who are mandated to protect women and children victims of crime. The Government does not have a plan for providing adequate funding services which currently exist, nor for expanding essential support services to all districts.

Table 4. Coverage of essential support services for women and girls

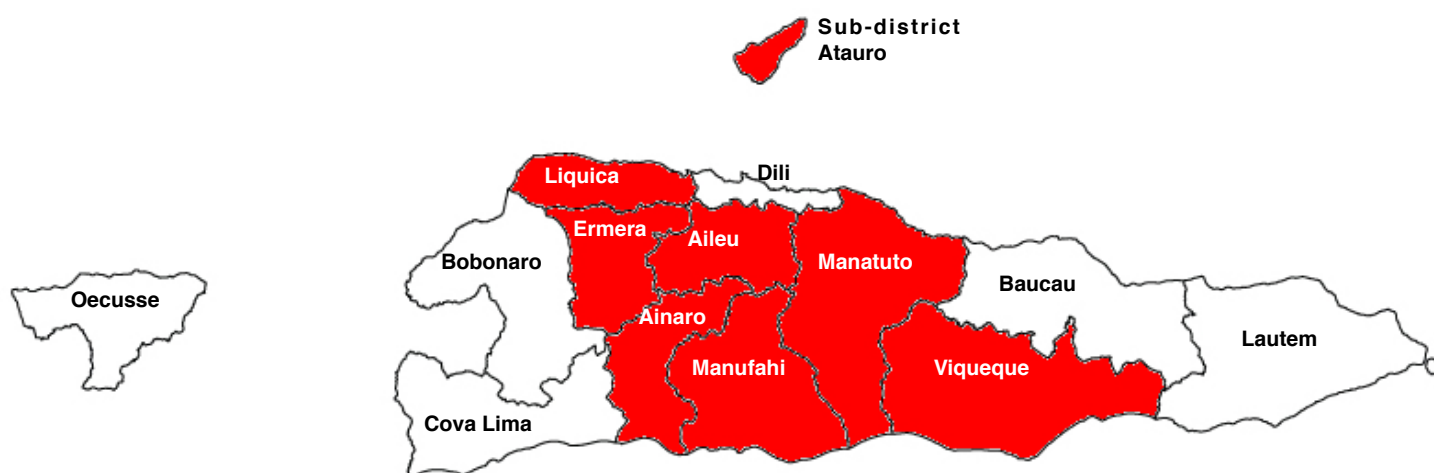
	Safe shelter	Psycho-social /medical services (PRADET)	Legal aid (ALFeLa)
Dili (Capital)	Yes	Yes	Yes
Manatuto	No	No	Yes
Baucau	Yes	Yes	Yes
Lautem	Yes	No	Yes
Viqueque	No	No	Yes
Manufahi	No	No	Yes
Aileu	No	No	Yes
Ainaro	No	No	Yes
Cova Lima	Yes	Yes	Yes
Bobonaro	Yes	Yes	Yes
Oecusse	Yes	Yes	Yes
Ermera	No	No	Yes
Liquica	No	No	Yes

⁴⁸ Source: ALFeLa client statistics, January 2005 - June 2015

⁴⁹ Article 25 of the Law Against Domestic Violence.

⁵⁰ Source: PRADET annual budget forecast, 2015.

Map 1. Coverage of essential support services for women and girls (red areas denote districts with no shelters nor specialised psycho-social/medical services for women and children victims of violence)



*Case study: PRADET*⁵¹

“When a woman is raped in Lautem district, she needs to travel more than 5 hours by car to come to PRADET in Dili to have a medical forensic examination and receive counselling. Often we (PRADET) cannot send a car to pick her up, and the police don’t have enough cars. We try to work with other NGOs to organise transport for victims, but it is very hard for everyone because we all have limited resources. PRADET is now opening a Fatin Hakmatek (safe place) in Baucau so that women from the east can access our services.”

Recommendation:

- **We call on the Government to provide long-term core funding to NGOs providing essential support services for women and girls affected by violence. This should be introduced as an urgent Temporary Special Measure and funding be allocated in future State Budgets.**

New National Action Plan on Gender-Based Violence must be focused, realistic and adequately resourced

The 2012-2014 National Action Plan on Gender-Based Violence (NAP) has already expired and the Government has finally commenced evaluating the NAP, with a view to develop a new NAP by the end of 2015. The previous NAP largely assumed international donor funding would be provided for key activities. This dependence on international donor funding cannot continue. Each Government agency responsible for implementing the NAP must ensure that it allocates sufficient time and resources in their forward work plans and budgets, and the State Budget must reflect the commitments made under the NAP. NGOs who provide the bulk of services to women and girls must also be consulted to ensure that the costing model for the NAP reflects the true cost of services.

⁵¹ Source: PRADET, 10 June 2015.

Recommendation:

- **We call on the Government to ensure that all activities under the new NAP are fully costed and sufficient budget allocated by the Government in future State budgets.**
- **We call on the Government to ensure that the roles and responsibilities under the new NAP for all Government agencies and relevant NGOs are clearly defined.**

Prevention of violence against women and girls

We are concerned that there is poor understanding in Government and civil society of the key principles of primary prevention of violence against women and girls. Currently, the principal approach of both Government and NGOs to prevention is to 'socialise' communities about the Law Against Domestic Violence. While we welcome the passage of the law and efforts made to raise awareness of the legal framework, this is insufficient to stop the violence and make it socially and morally unacceptable. Additionally, given that only a handful of Government agencies and organisations have staff with legal background and solid understanding of the legislation and formal referral pathways, the information that is disseminated is inconsistent. Based on international best practice, we believe that prevention activities must be evidence-based and focus on working with men and boys to change their behaviours and attitudes, and for communities to play an active role in enabling this change and making violence unacceptable. During 2012 to 2014, only one coordination meeting was held for agencies and organisations working under the Prevention Pillar of the NAP, which exacerbated the lack of clarity about how to conduct primary prevention of violence against women and girls.

Recommendation:

- **We call on the Government to invest in programs and activities that aim to change individual attitudes and behaviours, and transform gender norms.**
- **We call on the Government to invest in capacity-building for all organisations and Government agencies undertaking primary prevention of violence against women and girls under the new NAP.**

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Sumáriu ezekutivu

Relatóriu sombre ida ne'e prodús husi ONG Timor-oan tolu ne'ebé iha komitmentu atu promove fetu nia igualdade iha Timor-Leste. Judicial System Monitoring Program (JSMP) hanesan ONG direitus umanus nian ne'ebé servisu atu hadi'a sistema justisa formál liuhusi monitorizasaun iha tribunál, edukasaun legál no advokasia. Psychosocial Recovery & Development in East Timor (PRADET) no *Asisténsia Legál ba Feto no Labarik* (ALFeLa) fornese servisu esensiál ba fetu no labarik fetu sira ne'ebé hetan ona violénsia no trauma. Relatóriu sombre ida ne'e la representa progresu hotu ne'ebé mak atinzi desde periodu relatóriu ikus, ka dezafiu hotu ne'ebé fetu no labarik fetu hasoru hodi bele realiza igualdade réal iha Timor-Leste. Asuntu sira ne'ebé levanta iha relatóriu sombre ne'e refleta esperiénsia husi JSMP, PRADET no ALFeLa, liuliu relasiona ho ekuadrumentu legál ho violénsia hasoru fetu no labarik fetu iha Timor-Leste.

Durante periodu relatóriu ne'e, tinan 2009—2013, iha pasu significante sira ne'ebé bele hadi'a igualdade jéneru *de jure* (igualdade formál tuir lei). Ami apresia promulgasaun Lei Kontra Violénsia Doméstika (Lei 7/2010), Kódigu Sivíl (Dekretu Lei 10/2011) no Kódigu Traballu (Lei 4/2012). Maibé, ami kontinua observa implementasaun lei ne'ebé seiduak adekuaadu, significa katak impaktu ba fetu nia direitu iha prátika sei mínimu nafatin. Iha área polítika governu nian, iha progresu oituan deit ba fetu. Orsamentu Jerál Estadu nian falla atu fó prioridade ba igualdade jéneru. Por ezemplu, la iha investimentu iha programa apoiu sosiál ka bem estar no ida ne'e iha impaktu boot liu ba fetu sira. Nomós, Governu la investe iha apoiu ba fetu ho defisiénsia, no servisu esensiál ba fetu no labarik fetu sira ne'ebé esperiénsia ona violénsia. Agora daudaun, ONG sira halo servisu importante ne'e ho suporta husi doadór internasionál sira. Ida ne'e bele kria situasaun emerjénsia ba setór fetu nian karik fundu husi doadór sira hamenus iha futuru.

Implementasaun lei ne'ebé la adekuaadu no polítika governu nian ne'ebé la fó prioridade ba fetu no labarik fetu sira nia nesesidade kontinua iha impaktu negativu ba iha fetu no labarik fetu sira nia moris iha Timor-Leste. Impaktu negativeu inklui:

- Fetu no labarik fetu iha Timor-Leste kontinua hetan violénsia ne'ebé aas, inklui violénsia doméstika no violénsia seksuál, maibé iha asesu limitadu ba apoiu esensiál hanesan asisténsia legál, ezaminaun médiku forénsiku no tratamentu, apoiu psycho-social, uma mahon no apoiu sosiál. Fetu no labarik fetu iha distritu balun la iha asesu ba servisu espesializadu (haree ba Rekomendasaun Jerál 19).
- Fetu no labarik fetu ne'ebé enfrenta sistema justisa formál hetan diskriminasaun, no protesau no remédiu sira ne'ebé la adekuaadu. Sira hetan tan diskriminasaun no violasaun karik sira koko hetan justisa liuhusi dalan justisa tradisionál (haree ba Artigu 15 no Rekomendasaun Jerál 19).
- La iha programa apoiu sosiál ka bem estar ne'ebé komprensivu ba fetu, liuliu ba fetu sira ne'ebé hakarak sai tiha husi relasaun abuziva. Ida ne'e tau fetu no labarik sira iha situasaun vulneravel no mori-kiak, maibé perpetrador ba violénsia la hetan kastigu ne'ebé natoon (haree ba Artigu 13 no Rekomendasaun Jerál 19).
- Abortu hanesan krime, sein exesaun iha kazu violasaun seksuál no inestu. Fetu no labarik fetu sira ne'ebé esperiénsia ona violénsia seksuál sai vítima fali tanba provizaun kastigu ida ne'e (haree ba Artigu 12).
- La iha dados ne'ebé bele fiár ba kona-ba situasaun fetu no labarik fetu iha Timor-Leste. Tanba adia ona *Demographic and Health Survey*, sei halo difisil liu atu haree ba fetu nia situasaun nomós halo imposivel atu dezenvolve polítika ne'ebé di'ak no aloka rekursu ho di'ak (haree ba Artigu 1—3).

Governu tenke hatudu katak sira atinzi duni rezultadu, la'os foka deit ba atividade sira ne'ebé ladún relevante atu atinzi igualdade jéneru. Ami husu ba Komisaun atu husu perguntas relevante ba Governu no

halo rekomendasaun sira ne'ebé bele implementa no sei iha impaktu duni ba alkansa progresivu ba fetu nia igualdade iha Timor-Leste.

Rekomendasaun sira

Artigu 1—3: Definisaun diskriminasaun hasoru fetu, obrigasaun atu elimina diskriminasaun hasoru fetu no avansa fetu nia situasaun

1. Ami ejize ba Governu atu adopta definisaun komprensivu kona-ba diskriminasaun hasoru fetu ne'ebé inklui diskriminasaun direita no indireita iha área hotu-hotu.
2. Ami ejize ba Governu atu asegura, liuhusi lejislasaun, sansaun sira ne'ebé adekuaudu ba diskriminasaun, no asegura katak fetu sira bele asesu ba remédiu efektivu karik sira hetan violasaun ba sira nia direitus.
3. Ami ejize ba Governu atu pública deklarasaun impaktu ba jéneru (*full gender impact statement*) ho kada Orsamentu Jerál no aloka rekursu ne'ebé proporsionál atu ajuda fetu no labarik vulnerável sira.
4. Ami ejize ba Ministériu Saúde atu halo imediatamente *Demographic and Health Survey* foun ne'ebé uza metodolojia husi *World Health Organization* no asegura peskiza ne'e uza perguntas sira ne'ebé tuir padraun internasionál atu halibur dados kona-bá defisiénsia.
5. Ami ejize ba Prokuradór-Jerál no Tribunál sira atu pública anualmente dados kona-ba violénsia hasoru fetu no labarik fetu, ne'ebé disaggregated ka halo separasaun tuir distritu no tipu kazu spesífiku.
6. Ami ejize ba Governu atu halo lejislasaun hodi halo obrigatóriu edukasaun legál kontinua (continuing legal education) ba majistradu no advogada privada sira kona-ba Konvensaun ne'e, sensitividade jéneru, violénsia doméstika no *battered woman syndrome* (síndroma fetu ne'ebé hetan violénsia doméstika beibeik).

Artigu 12: Fetu nia saúde

7. Ami ejize ba Governu atu hadi'ak asesu ba fasilidade saúde hotu ne'ebé eziste ona no haluan servisu saúde espesializadu ba fetu no labarik ho defisiénsia ne'ebé hela iha distritu sira.
8. Ami ejize ba Governu atu emenda Artigu 141 husi Kódigu Penál hodi hasai rekerimentu atu hetan autorizasaun ba abortu husi painél dotór na'in tolu, no hasai kastigu ba fetu sira ne'ebé hetan abortu tanba kazu violasaun seksuál, inestu no perigu ba inan nia saúde psikolójiku.
9. Ami ejize ba Governu atu hasai rekerimentu ba fornecedor sira atu husu ho rekolla informasaun kona-ba estatutu sivil ba kliente sira ne'ebé buka ba servisu planeamentu família, hodi bele redús bareira sira ba joven klosan ne'ebé presiza asesu ba servisu ne'e.
10. Ami ejize ba Governu atu implement duni komitmentu sira husi Estratejia Nasionál kona-ba Saúde Reprodutivu, Maternu, Foin Moris no Adolesente hodi bele hadi'ak asesu ba informasaun no servisu saúde reprodutivu no seksuál, iha maneira ne'ebé konfidensiál, adolescente mós bele asesu, no sensitivu, la haree ba estatutu sivil.
11. Ami rekomenda ba Governu atu konsidera task-sharing relasiona ho intrauterine devices (IUDs) no implants sira atu enfermeiru bele fó ba kliente sira metódu sira ne'e, hanesan rekomenda husi WHO.

Artigu 13: Benefisiu sosiál (bem-estar) no ekonomia

12. Ami ejize ba Governu atu garantia apoiu sosiál ne'ebé adekuaudu ba fetu hotu, liuliu ba fetu sira ne'ebé lakon sira nia atividade atu hetan rendimentu no tenke sai husi uma tanba violénsia doméstika.

Artigu 15: Igualdade iha lei nia oin

13. Ami ejize ba Governu atu halo lejislasaun hodi halo obrigatóriu edukasaun legál kontinua (*continuing legal education*) ba majistradu no advogada privada sira kona-ba Konvensaun ne'e, sensitividade jéneru, violénsia doméstika no *battered woman syndrome* (síndroma feto ne'ebé hetan violénsia doméstika beibeik).
14. Ami ejize ba Konsellu Supremu Majistradu atu foti asaun dixiplina hasoru autór sira ne'ebé kontinua halo komentáriu ka foti desizaun sira ne'ebé diskrimina hasoru feto.
15. Ami ejize ba Ministériu Públiku atu garantia fundus ba ONG assisténsia legál sira ne'ebé fó konsellu legál ne'ebé gratuita ba feto iha kazu sivíl, família no violénsia bazeia ba jéneru. Ida ne'e la presiza hein ba lejislasaun espesífiku maibé bele introdús hanesan *urgent Temporary Special Measure* no bele aloka fundus iha Orsamentu Jerál Estadu nian iha futuru.
16. Ami ejize ba tribunál atu pública desizaun eskrita hotu no trazladu (*transcript*) hotu iha hardcopy no liuhusi website públiku, ne'ebé ema hotu bele asesu.
17. Ami ejize ba Governu atu hapara imediatamente prosesu ezbosu lei justisa tradisionál no konsulta ONG feto nian kona-ba impaktu husi proposta lei ida ne'e.

Artigu 16: Igualdade iha matrimóniu no lei família

18. Ami ejize ba Governu atu emenda Kódigu Sivíl atu rekoñese relasaun *de facto* no relasaun ba seksu hanesan (*same-sex*) hanesan ho relasaun kaben-na'in, ho direitu no obrigasaun hotu hanesan tuir Kódigu Sivíl.
19. Ami ejize ba Governu atu asegura ezbosu Kódigu Rejistu Sivíl la rekere rejistrasaun ba aman-rasik iha sertidaun.
20. Ami ejize ba Governu atu publika lalais tradusaun ofisiál ba Kódigu Sivíl ba iha lian Tetum.
21. Ami ejize ba Governu atu emenda Kódigu Sivíl atu hasai rekerimentu atu hetan ema ida hanesan 'kulpadu' ba divórsiu.
22. Ami ejize ba Governu atu emenda Artigu 1494 husi Kódigu Sivíl atu feto bele kaben fali loron 180 depois sira halo divórsiu ka sai feto-faluk, la haree ba karik feto ne'e isin rua ona ka fó partus depois de disolusaun kazamentu uluk nian.

Rekomendasaun Jerál 19: Violénsia hasoru feto no labarik feto

23. Ami ajize ba Governu atu emenda Kódigu Penál atu inklui uza kro'at ka ameasa atu uza kro'at hanesan fatór agravante espesífiku iha krime ofensas ba integridade fíziku.
24. Ami ejize ba Prokuradór-Jerál da Repúblika atu fó diretiva kona-ba halo akuzasaun atu asegura kazu violénsia doméstika hetan akuzasaun ne'ebé adekuaadu, haree ba fatór agravante sira hotu hanesan uza ka ameasa atu uza sasán kro'at, ameasa hasoru vítima nia vida, no risku ba violénsia fíziku ne'ebé sériu hasoru vítima.
25. Ami ejize ba judisiáriu atu dezenvolve diretiva kona-ba halo sentensa hodi ajuda juis sira atu determina pena ne'ebé apropriadu iha kazu violénsia doméstika. Diretiva sira ne'e tenke halo klaru prinsípiu halo sentensa, fatór agravante no atenuante sira hotu liuhusi uza ezemplu sira, regras kona-ba ema ne'ebé halo beibeik krime, matadalan kona-ba pena alternativu, no fó orientasaun kona-ba oinsá kalkula indemnizasaun sivíl.

26. Ami husu Ministériu Públiku atu aplika hanesan baibain ba orden protesauñ iha kazu violénsia doméstika hamutuk ho alimentasaun provizóriu, no tau prioriedade atu hasai perpetrador husi uma-família.
27. Ami ejize ba Governu atu revese feabilidade ba implementasaun rejime protesauñ sivíl iha Timor-Leste.
28. Ami ejize ba Governu atu emenda Kódigu Penál atu kriminaliza espesifikamente violasaun seksuál iha relasaun íntimu hotu, inklui relasaun matrimóninu/kazamentu (kazamentu sivíl, relijiozu ho kustume hotu) no uniaun *de facto* (hola malu ona).
29. Ami ejize ba Governu atu fornese fundus core (institusionál) ba tempu-naruk ba ONG sira ne'ebé fó servisu apoiu ne'ebé esensiál ba feto no labarik feto ne'ebé afeitadu husi violénsia. Ida ne'e bele introdús hanesan *urgent Temporary Special Measure* no bele aloka fundus iha Orsamentu Jerál Estadu nian iha futuru.
30. Ami ejize ba Governu atu asegura katak atividade hotu iha PAN uza costing (*fully costed*) no Governu aloka osan suficiente iha Orsamentu Jerál estadu nian ba tinan oin-mai.
31. Ami ejize ba Governu atu asegura katak ajénsia Governu no ONG relevante sira nia responsabilidade no papel tuir PAN foun define ho klaru.
32. Ami ejize ba Governu atu halo investimentu iha programa no atividade sira ne'ebé koko atu muda ema indivídiu nia atitude no hahalok, no muda norma kona-ba jéneru (*transfrom gender norms*).
33. Ami ejize ba Governu atu halo investimentu atu hasai kapasidade iha organizaun sira no ajénsia Governu sira ne'ebé atu halo atividade prevensaun primáriu (*primary prevention*) tuir PAN foun hodi hapara violénsia hasoru feto no labarik feto.

Artigu 1—3: Definisauun diskriminasaun hasoru fetu, obrigasaun atu elimina diskriminasaun hasoru fetu no avansa fetu nia situasaun

La iha definisauun komprensivu kona-ba diskriminasaun hasoru fetu

Mesmu Komisaun rekomenda ona iha tinan 2009 katak Timor-Leste inklui iha Konstituisauun ka liuhusi lejjlasauun apropiadu definisauun ida kona-ba diskriminasaun hasoru fetu, ne'ebé inklui diskriminasaun direita no indireita,¹ Timor-Leste seidak iha definisauun komprensivu kona-ba diskriminasaun hasoru fetu. Hanesan nota ona iha Komisaun nia observasaun finál, referénsia jerál iha Konstituisauun kona-ba “igualdade entre mane no fetu”, no “igualdade iha oportunidade entre fetu no mane” la suficiente atu implementa obrigasaun sira hotu husi Konvensauun ne'e. La iha rekoñesimentu kona-ba diskriminasaun tipu oi-oin, liuliu diskriminasaun hasoru fetu ho defisiénsia. Mezmu Artigu 9 husi Konstituisauun dehan lei internasionál atu adopta automatikamente iha sistema legál nasionál, komprensauun kona-ba lei internasionál ne'ebé menus duni no sensitividade jéneru husi autór judisiáriu ne'ebé sei mínimu signífika provisauun ne'e la fó konfiansa ba fetu.

Sansauun sira ladún adekuaudu no laiha remédiu efetivu

Agora iha lei balu deit ne'ebé bandu diskriminasaun, no menus liu remédiu efetivu ne'ebé disponivel ba fetu sira ne'ebé hetan diskriminasaun, mezmu iha área ne'ebé kobre ona iha lei. Por ezemplu, Kódigu Traballu (Lei Nú. 4/2012) la aplika ba “servisu doméstika”, ne'ebé seidak define, no violasaun sira atu hetan kastigu liuhusi “pena multa no pena tipu seluk” ne'ebé sei define iha lejjlasauun ketak, ne'ebé seidak promulga. Karik disputa kona-ba empregu rejista ho ajénsia Governu nian ne'ebé responsável ba mediasauun no arbitrasauun, prosesu ne'e bele la'o ba tinan barak no ajénsia ne'e la iha podér atu obriga parseiru sira atu tuir prosesu ne'e. Provedoria ba Direitus Umanus no Justisa (PDHJ) iha mandatu atu simu keixa kona-ba violasaun direitus umanus ne'ebé entidade públiku mak halo. Maibé, PDHJ limitadu atu halo rekomendasaun deit no la iha podér atu aseguara kumprimentu. Ami preokupa duni katak la iha sansauun adekuaudu kona-ba diskriminasaun hasoru fetu, no remédiu sira ne'ebé disponivel la efetivu.

Rekomendasaun:

- **Ami ejize ba Governu atu adopta definisauun komprensivu kona-ba diskriminasaun hasoru fetu ne'ebé inklui diskriminasaun direita no indireita iha área hotu-hotu.**
- **Ami ejize ba Governu atu aseguara, liuhusi lejjlasauun, sansauun sira ne'ebé adekuaudu ba diskriminasaun, no aseguara katak fetu sira bele asesu ba remédiu efetivu karik sira hetan violasaun ba sira nia direitus.**

Lejjlasauun

Desde tinan 2009, iha mudansa positivu balun iha lejjlasauun ne'ebé iha impaktu ba fetu nia direitus. Por ezemplu, iha promulgasaun Lei Kontra Violénsia Doméstika (Lei Nú. 7/2010), Kódigu Sivil (Dekretu Lei Nú. 20/2011) no Kódigu Traballu (Lei Nú. 4/2012). Maibé, ami preokupa nafatin ho implementasaun lei sira ne'ebé ladún adekuaudu, signífika katak impaktu ba fetu nia direitus sei mínimu. (Haree mós Artigu 15, Artigu 16 no Rekomendasaun Jerál 19 atu hetan informasaun klean liu.)

¹ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 18.

Presiza analiza orsamentu liuhusi perspetiva jéneru

Medida sira seluk ne'ebé Governu foti sei nafatin la adekuadu atu promove igualdade. Por ezemplu, mezmu Governu hatete iha komitmentu ba *gender mainstreaming* liuhusi *gender working group* sira no *gender-responsive budgeting*, orsamentu estadu nian husi tinan 2009 to'o agora la iha avaliasaun kona-ba impaktu ba igualdade jéneru (*gender equality impact assessments*). Analiza husi Banku Mundial hatudu katak desde tinan 2010, Governu aumenta alokasaun orsamentu ba pensaun veteranus, maioria sira ne'ebé mane. Iha tinan 2012, pensaun veteranus hanesan porsentu 5 husi total orsamentu estadu nian, no iha tempu hanesan Bolsa da Mãe no pagamentu ba protesau labarik nian hanesan porsentu 0.2 deit husi total orsamentu estadu nian.²

Agora daudaun, iha orsamentu jerál ba tinan 2015, US\$130.4 millaun aloka ba pensaun veteranus, husi total US\$176.4 millaun ne'ebé aloka ba programa bem estar (*social welfare*) hotu. Feto hanesan marjinalizadu husi pensaun veteranus no alokasaun ne'ebé mínimu duni ba programa bem estar (*social welfare*) seluk iha impaktu boot liu ba feto kompara ho mane. Ida ne'e hanesan ezemplu ida deit husi fallansiu kumulativu atu hamenus dezigualdade entre feto no mane liuhusi política Governu nian.

Rekomendasaun:

- **Ami ejize ba Governu atu pública deklarasaun impaktu ba jéneru (*full gender impact statement*) ho kada Orsamentu Jerál no aloka rekursu ne'ebé proporsionál atu ajuda feto no labarik vulnerável sira.**

Halibur dados no analiza

Timor-Leste haforsa ona meus atu halibur dados kona-ba situasaun feto nian. *Demographic and Health Survey* (DHS) tinan 2009/2010 hanesan dados *baseline* ne'ebé iha valór boot, liuliu kona-ba prevalénsia violénsia hasoru feto. Iha planu atu halo fali peskiza DHS iha tinan 2014/15, maibé kansella tiha tanba Ministériu Saúde decide katak peskiza ida ne'e la nesesáriu. Ami hanoin desizaun ne'e hanesan obstaklu boot iha esforsu atu hatene impaktu husi medida sira ne'ebé halo ona iha área feto nia saúde no prevensaun violénsia. Ami mós preokupa seidak iha dados kompletu kona-ba feto ho defisiénsia. *Population and Housing Census* tinan 2010 hatudu porsentu 4.6 deit husi populasau tomak iha defisiénsia, maibé ida ne'e menus liu kompara ho dados internasionál. Karik laiha dados ho kualidade di'ak, difisil tebes atu haree ba feto nia situasaun, nomós la bele dezenvolve política ne'ebé forte no uza rekursu ho di'ak.

Ami preokupa mós tanba laiha informasaun transparente husi instituisaun setór justisa formál nian kona-ba kazu violénsia hasoru feto no labarik feto. Mezmu Polísia Nasionál Timor-Leste (PNTL) halibur dados kona-ba número kazu violénsia doméstika no violasaun seksuál ne'ebé rejista iha polísia, laiha dados hanesan husi Ministériu Públiku no Tribunál sira. Estatístiku husi Tribunál la *disaggregated* (ketak-ketak) tuir seksu, tipu kazu no distritu. Prokuradór-Jerál da Repúblika nia Relatóriu Anuál tinan 2014 hatudu 'violénsia doméstika' hanesan porsentu 22 husi kazu hotu ne'ebé rejista ho Ministériu Públiku.³ Maibé, la klaru tipu kazu sira ne'ebé inklui hanesan 'violénsia doméstika'. Esperiéncia monitorizasaun tribunál husi Judicial System Monitoring Programme hatudu katak kazu balun husi kazu hotu-hotu ne'ebé julga iha tribunál distritál hanesan violénsia hasoru feto no labarik feto. Tanba la iha estatístiku ne'ebé loos no konsistente, difisil atu avalia indikadór sira, hanesan número kazu ne'ebé arkiva no adiamentu ba rezolusaun kazu.

² The World Bank, 'Timor-Leste Social Assistance Public Expenditure and Program Performance Report' (Report No: 73484-TP), 24 June 2013, at 38.

³ Informação Anual de 2014 do Procurador Geral da República ao Parlamento Nacional, March 2015, at 13.

Rekomendasaun:

- **Ami ejize ba Ministériu Saúde atu halo imediatamente *Demographic and Health Survey* foun ne'ebé uza metodolojia husi *World Health Organization* no asegura peskiza ne'e uza perguntas sira ne'ebé tuir padraun internasionál atu halibur dadus kona-bá defisiénsia.**
- **Ami ejize ba Prokuradór-Jerál no Tribunál sira atu públika anualmente dadus kona-ba violénsia hasoru feto no labarik feto, ne'ebé *disaggregated* ka halo separasaun tuir distritu no tipu kazu espesífiku.**

Koñesimentu kona-ba CEDAW iha judisiáriu

Kontráriu husi relatóriu Governu nian, Centro de Formação Jurídica de Timor-Leste (CFJ) no Ministériu Justisa nunca fó treinamentu regulár kona-ba Konvensaun ne'e ba membru judisiáriu. Treinamentu foin komesa iha tinan 2013-2014 bainhira *UN Women* apoia dezenvolvimentu materias kona-ba feto nia direitus umanus atu integra ho kurríkulu CFJ nian ba majistradu no advogada privada sira. Treinamentu pilotu akontese dala ida deit iha tinan 2014. Analiza desizaun husi tribunál sira hatudu sira la haree ba Konvensaun, no la sensitivu duni ba asuntu jéneru. Judicial System Monitoring Programme monitoriza kazu rua deit husi tinan 2009 ne'ebé refere ba Konvensaun ne'e. Kazu rua ne'e hotu monitorizadu iha tinan 2015, no sira refere deit ba Konvensaun nia obrigasaun liga ho violénsia doméstika sein analiza. (Haree mós Artigu 15 no Rekomendasaun Jerál 19 atu hetan informasaun klean liu.)

*Estudu kazu: Referénsia judisiál ba CEDAW*⁴

Iha Feveireiru 2015, Tribunál Distritál Dili halo referénsia ba CEDAW iha kazu violénsia doméstika ida, ne'ebé envolve laen ida halo asaltu grave hasoru nia feen no kauza nia atu lakon sentidu no soe bee. Iha akontesimentu seluk, nia ho aisar baku nia feen, haruka nia hakneak iha kuarta laran, bandu nia labele kaer telefone no ba eskola. Mezmu tribunál refere ba Estadu nia obrigasaun atu elimina prátika sira ne'ebé halo diskriminasaun hasoru feto, tribunál konsidera iha sirkunstánsia atenuante sira no fó suspensaun ba pena durante tinan 3. Tribunál falla atu fó orden protesaun ruma ka indemnizasaun sivil ba vítima.

Rekomendasaun:

- **Ami ejize ba Governu atu halo lejjzlasaun hodi halo obrigatóriu edukasaun legál kontinua (*continuing legal education*) ba majistradu no advogada privada sira kona-ba Konvensaun ne'e, sensitividade jéneru, violénsia doméstika no *battered woman syndrome* (síndroma feto ne'ebé hetan violénsia doméstika beibeik).**

Koñesimentu kona-ba CEDAW no feto nia direitu iha comunidade

ONG sira hatene katak maioria membru comunidade sira la koñese di'ak kona-ba Konvensaun ne'e no feto nia direitu. ONG sira ne'ebé hetan fundus husi doador internasionál no ho rekursu limitadu halo maioria sosializasaun ne'ebé akontese iha rai, no iha nafatin comunidade barak ne'ebé seidauk simu informasaun kona-ba Konvensaun no lei relevante sira. Ami fiar katak presiza reforsa ligasaun ho comunidade sira husi parte Governu nian, no mensajen ne'ebé konsistente kona-ba feto nia direitu. Servisu iha comunidade tenke mós foka ba mudansa hahalok, liuliu kona-ba mane nia uza violénsia, no intervensaun sedu ho labarik mane no feto. (Haree mós Rekomendasaun Jerál 19 atu hetan informasaun klean liu.)

⁴ Judicial System Monitoring Program, 'Press release: JSMP congratulates court for applying CEDAW in its decision in a case of domestic violence', 12 February 2015.

Artigu 12: Feto nia saúde

Feto ho defisiénsia nia saúde

Feto ho defisiénsia enfrenta obstaklu partikulár iha área saúde. Ra'es Hadomi Timor Oan (RHTO), organizasaun nasionál ba ema ho defisiénsia, relata bareira oi-oin, inklui asesu fíziku ba fasilidade saúde, atitude negativu husi parte profisionál saúde no koñesimentu mínimu husi parte ema ho defisiénsia kona-ba servisu sira ne'ebé eziste. Aleinde ne'e, la iha tratamentu spesífiku, hanesan *physiotherapy* no *assistive devices*, atu ajuda feto ho defisiénsia ne'ebé la hela iha Dili. Servisu espesialista ba feto ne'ebé esperiénsia violénsia, hanesan uma mahon sira, foin iha oportunidade atu tuir treinamentu kona-ba disabilidade no atu dezenvolve *disability action plan*. Feto ho defisiénsia hanesan vulneravel liu husi abuzu, entaun importante katak rede servisu hetan treinamentu adekua, no sai asesivel no sensitivu ba feto no labarik feto ho defisiénsia nia presiza.

*Estudu kazu: Labarik ho defisiénsia ne'ebé hetan ona violénsia*⁵

Casa Vida, uma mahon ida ba labarik feto ne'ebé esperiénsia violénsia, relata katak maizumenus porsentu 20 husi kliente hotu apresenta-an ho disabilidade intelektuál hamutuk ho trauma husi abuzu no deskuidadu, hanesan abuzu seksuál, deznutrisaun, no izolamentu. Labarik balun ho defisiénsia moris iha uma laran deit durante tempu hotu. Dala barak, comunidade no família rasik temi labarik sira ne'e 'bulak', no la fó suporta ka tratamentu médiku.

Rekomendasaun:

- **Ami ejize ba Governu atu hadi'ak asesu ba fasilidade saúde hotu ne'ebé eziste ona no haluan servisu saúde espesializadu ba feto no labarik ho defisiénsia ne'ebé hela iha distritu sira.**

Abortu

Komisaun iha ninia observaun finál husu Timor-Leste atu "reeve lejizlasaun hotu liga ho abortu hodi bele hasai provizaun sira ne'ebé fó kastigu ba feto sira ne'ebé hetan abortu".⁶ Maibé husi tinan 2009, Timor-Leste limita liu feto nia direitu ba abortu. Iha 15 Jullu 2009, artigu 141 husi Kódigu Penál (Dekretu Lei 19/2009) emenda ona atu dehan abortu hanesan legál deit atu proteje inan ka kaukau nia moris, no iha sirkunstánsia hanesan ne'e, tenke hetan autorizasaun husi painél ho dotór na'in tolu. Emendamentu ne'e mós fó oportunidade ba ema saúde sira atu halo rekursu/halo objesaun kona-ba abortu ne'e. Feto ne'ebé konsente ba abortu ilegál bele hetan tinan 3 iha prizaun. Emendamentu ida ne'e halo difisil tebes ba feto atu hetan abortu legál, liuliu tanba número dotór sira iha Timor seidak natoon.⁷

Relatóriu ida husi tinan 2009 hetan porsentu 40 tratamentu husi obstetra (*obstetrician*) envolve tratamentu atu maneja komplikasaun ne'ebé hamosu husi lakon sedu gravidés (*early pregnancy losses*) (husi abortu

⁵ Wilson, 'Survey of Support to Essential Services for Ending Violence Against Women (SESEVAW) Civil Society Partners on their experience of addressing disability in service provision for women and children experiencing violence', July 2014, at 9.

⁶ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 38.

⁷ National Statistics Directorate, Ministry of Finance, and ICF Macro, 'Timor-Leste Demographic and Health Survey 2009-10', 2010, at 113 states that only 4 percent of women received antenatal care from a doctor.

nomós hamonu-oan).⁸ Agora daudaun, la iha exesaun iha kazu violasaun seksuál, inestu ka perigu ba inan nia saúde psikolójiku. Ami preokupa tebes tanba la iha exesaun iha kazu hanesan ne'e, tanba kazu violasaun seksuál no inesu aas duni iha Timor-Leste.⁹ Atu kriminaliza abortu bele halo vítima fali fetu no labarik fetu ne'ebé sofre violasaun seksuál no inestu.

Rekomendasaun:

- **Ami ejize ba Governu atu emenda Artigu 141 husi Kódigu Penál hodi hasai rekerimentu atu hetan autorizasaun ba abortu husi painél dotór na'in tolu, no hasai kastigu ba fetu sira ne'ebé hetan abortu tanba kazu violasaun seksuál, inestu no perigu ba inan nia saúde psikolójiku.**

Joven klosan nia asesu ba servisu sira

Iha Timor-Leste, porsentu 31 husi populasaun tomak hanesan tinan 10-24, no porsentu 20 husi joven ho idade 19 komesa ona iha oan. Gravidés hanesan risku boot ba fetu menus tinan 20 nia saúde – ida ne'e hanesan kauza boot daruak (*second biggest*) ba mortalidade joven fetu iha mundial hotu.¹⁰ Saúde adolesente hanesan prioridade ida husi Timor-Leste nia Estratejia Nasionál kona-bá Saúde Reprodutivu, Maternu, Foin Moris no Adolesente tinan 2015-2019. Maibé, joven sira nia asesu ba informasaun no servisu kona-ba saúde seksuál no reprodutivu mak limitadu duni, liuliu ba joven klosan sira. Menus porsentu 9 husi joven fetu ne'ebé kaben ona (idade 15-19) uza metódu antikonsepsaun (*contraceptive*) ruma. Husi joven klosan sira, ida ne'e hanesan menus porsentu ida.¹¹ Marie Stopes International Timor-Leste nia liña ba joven – Lina Foin Sae – simu mensajen/telefone 1,000 to'o 1,500 kada fulan husi joven sira iha distritu hotu. Maioria ema ne'ebé bolu Lina Foin Sae tanba presiza ajuda ho planeamentu família ka tratamentu ba STI sei la asesu ba servisu sira ne'e, tanba preokupa ho prividade, konfidensialidade no atitude negativu.¹² Por ezemplu, rejistrasaun médiku nafatin presiza fornecedor sira atu hatene no rekolla kliente sira nia estatutu sivil. Agora média tinan ba fetu atu kaben mak tinan 20, no atidade seksuál ne'ebé la halo iha kazamentu nia laran hetan estigma boot. Tanba ne'e, fetu klosan ne'ebé halo atidade seksuál ruma hanesan grupu vulneravel tebes.

Rekomendasaun:

- **Ami ejize ba Governu atu hasai rekerimentu ba fornecedor sira atu husu ho rekolla informasaun kona-ba estatutu sivil ba kliente sira ne'ebé buka ba servisu planeamentu família, hodi bele redús bareira sira ba joven klosan ne'ebé presiza asesu ba servisu ne'e.**
- **Ami ejize ba Governu atu implement duni komitmentu sira husi Estratejia Nasionál kona-ba Saúde Reprodutivu, Maternu, Foin Moris no Adolesente hodi bele hadi'ak asesu ba informasaun no servisu saúde reprodutivu no seksuál, iha maneira ne'ebé konfidensial, adolesente mós bele asesu, no sensitivu, la haree ba estatutu sivil.**

⁸ Belton, Whittaker and Barkley, 'Maternal Mortality, Unplanned Pregnancy and Unsafe Abortion in Timor-Leste: A Situational Analysis', 2009, at 13.

⁹ See for example Judicial System Monitoring Program, 'Incest in Timor-Leste: An unrecognised crime', 2009, at 13.

¹⁰ World Health Organisation, 'Fact sheet n. 364', 2014.

¹¹ National Statistics Directorate, Ministry of Finance, and ICF Macro, 'Timor-Leste Demographic and Health Survey 2009-10', 2010 at 63.

¹² Source: Marie Stopes International Timor-Leste, 2015.

Task-sharing (fahe servisu) atu haluan asesu ba servisu saúde reproduktivu, maternu, foin-moris no adolescente

Prevalénsia mortalidade maternu no mortalidade labarik iha Timor-Leste hanesan aas duni iha rejiaun ida ne'e. Avalisaun mortalidade maternu hanesan mate 270/husi partus 100,000.¹³ Avaliasaun mortalidade labarik hanesan mate 38.79/husi partus 1,000.¹⁴ Atu haluan asesu ba servisu saúde reproduktivu, liuliu iha área sira ne'ebé número dotór mak limitadu, WHO rekomenda fó servisu iha nível báziku liu, karik ne'e seguru ba ema nia saúde. Prosesu atu muda servisu saúde reproduktivu husi dotór ba to'o profesionál saúde seluk, inklui enfermeiru no parteira sira, temi *task-shifting* ka *task-sharing* (fahe servisu).¹⁵ Agora daudaun iha Timor-Leste, mekanísmu fó antikonsepsaun ba tempu naruk (*long-term methods of contraception*) la uza potenciál hotu ne'ebé eziste atu envolve ema ne'ebé servisu iha nível báziku liu, hanesan enfermeiru no parteira sira, hodi bele haluan asesu ba metódu antikonsepsaun ne'e. Timor-Leste la iha dotór barak – iha deit dotór 1 ba ema 14,285 (porsentu 0.07 husi ema na'in 1,000)¹⁶ – entaun *task-sharing* bele haluan duni asesu ba, no opsaun sira ne'ebé fetu iha, atu hili metódu antikonsepsaun (*contraception*) no ajuda atu hamenus prevalénsia mortalidade maternu iha Timor-Leste.

Rekomendasaun:

- **Ami rekomenda ba Governu atu konsidera *task-sharing* relasiona ho *intrauterine devices (IUDs)* no *implants* sira atu enfermeiru bele fó ba kliente sira metódu sira ne'e, hanesan rekomenda husi WHO.**

¹³ WHO, 'Maternal Mortality in 1990-2013: Timor-Leste', 2013.

¹⁴ CIA World Fact Book, last updated 18 May 2015.

¹⁵ WHO, 'Optimising health workers roles for maternal and newborn health', 2012.

¹⁶ CIA World Fact Book, last updated 18 May 2015.

Artigu 13: Benefísiu sosiál (bem-estar) no ekonomia

Asesu ba benefísiu sosiál la iguál

Hanesan diskute ona iha leten, feto nia asesu ba benefísiu sosiál la igual kompara ho mane. Iha tinan 2012, pensaun veteranus hanesan porsentu 5 husi totál orsamentu estadu nian, no iha tempu hanesan Bolsa da Mãe no pagamentu ba protesaun labarik nian hanesan porsentu 0.2 deit husi totál orsamentu estadu nian.¹⁷ Agora daudaun, iha orsamentu jerál ba tinan 2015, US\$130.4 millaun aloka ba pensaun veteranus, husi totál US\$176.4 millaun ne'ebé aloka ba programa bem estar/*social welfare* hotu. Feto hanesan marjinalizadu husi pensaun veteranus no alokasaun ne'ebé mínimu duni ba programa bem estar/*social welfare* seluk iha impaktu boot liu ba feto kompara ho mane.

Iha Timor-Leste, feto sira ne'ebé hetan violénsia doméstika sempre tenke sai husi sira nia uma hodi salva sira nia-an no sira nia oan. La iha sistema orden protesaun ne'ebé bele fó dalan ba feto atu kontinua hela iha uma ho oan sira. Feto ne'ebé tenke sai husi uma tanba violénsia doméstika la iha suporta husi Governu, ka suporta kiik deit. Balun bele asesu ba programa Bolsa da Mae, ne'ebé fó US\$5/kada fulan ba kada labarik dependente to'o másimu US\$15/kada fulan.¹⁸ Pagamentu ida ne'e la suficiente atu suporta feto no labarik nia nesesidade loron-loron. Maioria feto ne'ebé decide atu separa hela husi sira ne'e laen tanba hetan violénsia doméstika, tenke hela iha uma mahon ba tempu kleur, no maioria nafatin vulneravel tanba lakon sira nia uma no atividade ekonomia ne'ebé liga ba sira nia uma no rai.

Estadu kazu: Istória feto ne'ebé sai husi relasaun violentu ¹⁹

“Ha'u halo buat hotu, ha'u fa'an manu, nuu, empresta husi organizasaun micro finance, fa'an fore-rai iha merkadu, halo pisang goreng no katupa, fa'an hudi, sabraka no ai-nanas. Dala balun karik la iha derok-lotuk, ha'u sosa husi ema seluk depois fa'an fali. Ha'u iha kios kiik ida, ema bele sosa supermi, mina no sabaun-rahun no ha'u halo tais.”

Rekomendasaun:

- **Ami ejize ba Governu atu garantia apoiu sosiál ne'ebé adekuaudu ba feto hotu, liuliu ba feto sira ne'ebé lakon sira nia atividade atu hetan rendimentu no tenke sai husi uma tanba violénsia doméstika.**

¹⁷ The World Bank, 'Timor-Leste Social Assistance Public Expenditure and Program Performance Report' (Report No: 73484-TP), 24 June 2013 at 38.

¹⁸ As of June 2013.

¹⁹ Woman interviewed by The Asia Foundation, 'Economic Dimensions of Domestic Violence', (2015) *awaiting publication in July 2015*.

Artigu 15: Igualdade iha lei nia oin

Judisiáriu halo estereótipu bazeia ba jéneru

Tenke halo esforsu atu setór justisa formál bele resposta ho apropriadu no ho maneira ne'ebé sensitivu ba jéneru. Feto sira ne'ebé iha kontaktu ho setór justisa hanesan reiu, vítima ka arguida, hetan atitude negativu no estereótipu bazeia ba jéneru. Ida ne'e iha impaktu boot ba feto sira ne'ebé mak akuzadu ba violénsia doméstika iha sirkunstánsia lejítimu defeza. Asaun hanesan ne'e maioria la konsidera hanesan defeza 'lejítimu' atu salva-an, no feto sira ne'ebé uza kro'at hodi bele defende sira nia-an husi sira nia kaben ne'ebé halo abuzu hasoru sira, iha risku boot liu katak sira sei hetan akuzasaun ba krime sériu liu, kompara ho mane sira ne'ebé halo abuzu fíziku grave no abuzu seluk durante tempu naruk. Karik autór judisiáriu halo komentáriu ka desizaun ruma ne'ebé diskrimina hasoru feto, sira nunca hetan asaun dixiplina.

*Estudu kazu: Maria de Lourdes*²⁰

Iha tinan 2012, Tribunál Distritál Dili sentensa Maria de Lourdes ba tinan 15 iha prizaun tanba nia oho nia laen ho tudik. Nia laen hanesan membru F-FDTL. Durante julgamentu, Maria fó testamuña katak nia sofre husi violénsia doméstika durante tinan barak ona, no sona nia laen atu proteje nia-aan. Maria hetan detensaun ilegál iha sela polísia durante loron 7, no hetan interrogatóriu sein representasaun husi advogada ka tratamentu médiku. Nia mós hetan prizaun preventiva sein kauza durante fulan 8, no iha defensória públiku na'in 4 ne'ebé troka malu no nunca fó defeza forte. Tribunál la konsidera Maria nia istória kona-ba defeza-an no evidénsia husi família feto kona-ba violénsia doméstika ne'ebé akontese beibeik. Tribunál prefere liu testamuña husi mane ida ne'ebé "hasai lia-loos" husi Maria nia istória. Tribunál la fó oportunidade ba Maria atu relata tomak violénsia ne'ebé nia hetan husi nia laen. Durante halo sentensa, tribunál deklara katak sira atu fó sentensa tinan 15 iha prizaun tanba Maria oho "nasaun nia oan", ne'ebé refere ba laen hanesan membru F-FDTL. Iha 20 Maiu 2015, hanesan rezultadu husi advokasia durante tinan barak, Maria hetan indultu parsial husi Prezidente RDTL ne'ebé hamenus nia sentensa. Agora nia bele aplika ba liberdade kondisionál.

Rekomendasaun:

- **Ami ejize ba Governu atu halo lejjlasaun hodi halo obrigatóriu edukasaun legál kontinua (*continuing legal education*) ba majistradu no advogada privada sira kona-ba Konvensaun ne'e, sensitividade jéneru, violénsia doméstika no *battered woman syndrome* (síndroma feto ne'ebé hetan violénsia doméstika beibeik).**
- **Ami ejize ba Konsellu Supremu Majistradu atu foti asaun dixiplina hasoru autór sira ne'ebé kontinua halo komentáriu ka foti desizaun sira ne'ebé diskrimina hasoru feto.**

Asisténsia legál

Governu seidauk iha polítika kona-ba asisténsia legál (*legal aid*) ka sistema di'ak kona-ba *legal aid*. Ezbosu lei kona-ba asisténsia legál ka asesu ba justisa husi advogada privada sira pendente hela. Feto sira ne'ebé presiza konsellu legál ne'ebé gratis kona-ba kazu sivil no kazu família bele husi deit Defensoria Públiku ka ONG ida ne'ebé oferese servisu ida ne'e.²¹ Agora daudaun, ida defensoria na'in 27 deit iha nasaun tomak. Governu nunca fó fundus adekua ba ONG sira ne'ebé fó asisténsia legál ba feto ne'ebé vítima ba krime

²⁰ Decision of the Dili District Court, Case No. 388/Colectivo/2012, 6 November 2012.

²¹ *Asisténsia Legál ba Feto no Labarik* - Women and Children's Legal Aid (ALFeLa). Other NGO legal aid providers in Timor-Leste do not focus specifically on women's cases.

ka reiu iha kazu sivil. Mezmu Governu nia fallansu iha área *legal aid* iha impaktu mós ba mane, iha impaktu boot liu ba feto, tanba provavel katak feto barak liu presiza lori kazu kona-ba família/asuntu sivil no sai hanesan vítima ba violénsia doméstika. Feto sira ne'ebé la bele asesu ba konsellu legál ne'ebé gratuita no independente, la bele hatene kona-ba sira nia direitu legál. Iha kazu violénsia doméstika, karik la iha assisténsia legál, ida ne'e bele hamenus feto nia podér no limita opsaun sira atu sai husik relasaun violentu.

Asesu ba justisa mós presiza asesu ba informasaun legál, inklui desizaun tribunál nian. Ami preokupa katak agora difisil tebes atu hetan kopia desizaun eskrita, mezmu hanesan parte relevante. Agora daudaun, presiza halo pedidu ba juis atu asesu ba desizaun eskrita, ka husu ba prokuradór ka defensoria ne'ebé kaer kazu ne'e. Ida ne'e hanesan obstaklu ba transparensia no akontabilidade ba ita nia sistema justisa formál. Ami ejize ba tribunál sira atu pública desizaun eskrita hotu, no trazladu (*transcript*) hotu iha *hardcopy* no liuhusi website ne'ebé ema hotu bele asesu.

Rekomendasaun:

- **Ami ejize ba Ministériu Públiku atu garantia fundus ba ONG assisténsia legál sira ne'ebé fó konsellu legál ne'ebé gratuita ba feto iha kazu sivil, família no violénsia bazeia ba jéneru. Ida ne'e la presiza hein ba lejlzasaun spesífiku maibé bele introdús hanesan *urgent Temporary Special Measure* no bele aloka fundus iha Orsamentu Jerál Estadu nian iha futuru.**
- **Ami ejize ba tribunál atu pública desizaun eskrita hotu no trazladu (*transcript*) hotu iha *hardcopy* no liuhusi website públiku, ne'ebé ema hotu bele asesu.**

Justisa tradisionál & direitu ba rai

Mezmu ami suporta promulgasaun Kódigu Sivil (Dekretu Lei 10/2011) iha 14 Setembru 2011, ami rekoñese maioria comunidade sira uza justisa tradisionál atu rezolve disputa sira no kontrola hahalok. Por ezemplu, maioria rai iha Timor-Leste tuir sistema kustume, ne'ebé envolve lideransa tradisionál ho autoridade atu regula rai-na'in no negósiu ruma kona-ba rai.²² Ida ne'e prevene feto iha comunidade *patrilineal* (feto-sai), ne'ebé maioria comunidade iha Timor-Leste, husi hetan rai no uza rai iha sira nia naran. Aleinde ne'e, feto sira iha comunidade *patrilineal* labele hetan no simu liman-rohan ka simu hanesan eransa propriedade tipu seluk. Bainhira atu rezolve disputa ruma liuhusi prosesu kustume, feto mós la bele partisipa.²³ Agora, Governu prepara hela ezbosu lei justisa tradisionál ida ne'ebé sei formalizadu akordu sira ne'ebé halo liuhusi dalan tradisionál relasiona ho kontratu sivil, krime semi-públiku,²⁴ no uza rai, bee no rekursu sira seluk. Tuir proposta lei ida ne'e, lideransa komunitária, Xefe Suku, atu fasilita prosesu halo akordu. Maioria Xefe Suku iha Timor-Leste mak mane. Haree be dezigualdade jéneru ne'ebé eziste ona iha Timor-Leste, lei ida ne'e bele formaliza deit desizaun lokál sira ne'ebé la justu no la iguál, no halakon liu feto husi asesu ba rai no rekursu sira seluk iha sira nia naran.

²² USAID, 'Non-Customary Primary Industry Land Survey: Landholdings and Management', June 2005.

²³ Centre of Studies for Peace and Development Timor-Leste, 'Women's Access to Land and Property Rights in the Plural Justice System of Timor-Leste', 2014, at 51-53.

²⁴ These are referred to as 'semi-public crimes' and prosecution depends on the victim filing a case with the police.

Estudu kazu: Feto ida husi Baucau deskreve eransa-rai tuir sistema patrilineal ²⁵

“Rai ida ne’e ami nian hanesan família ida maibé la’os feto nia direitu atu sai rai-na’in. Envés, ha’u nia maun iha direitu hotu, tanba loron ida ha’u atu kaben no ha’u nia maun atu hela iha ne’e no iha direitu atu hela iha rai ida ne’e.”

Rekomendasaun:

- **Ami ejize ba Governu atu hapara imediatamente prosesu ezbosu lei justisa tradisionál no konsulta ONG feto nian kona-ba impaktu husi proposta lei ida ne’e.**

²⁵ Centre of Studies for Peace and Development Timor-Leste, ‘Women’s Access to Land and Property Rights in the Plural Justice System of Timor-Leste’, 2014, at 52.

Artigu 16: Igualdade iha matrimóniu no lei família

Kódigu Sivil & ezbosu Kódigu Rejistu Sivil

Ami apresia tebes promulgasaun Kódigu Sivil (Dekretu Lei 10/2011) iha 14 Setembru 2011, ne'ebé fó igualdade iha lei nia oin iha área hanesan kapasidade atu halo kontratu, uza propriedade, kazamentu, divórsiu, alimentasaun no eransa. Maibé, Kódigu Sivil nafatin iha provizaun sira ne'ebé halo diskriminasaun hasoru fetu no prezisa emenda. Primeiru, lei ne'e rekoñese hanesan kazamentu lejítimu kazamentu Katóliku maibé la inklui kazamentu ba relijiaun sira seluk. Lei ida ne'e mós la rekoñese relasaun *de facto* (hola malu maibé seidak kaben), no la rekoñese relasaun *same-sex* (mane hola mane, fetu hola fetu). Fetu barak iha Timor-Leste hela iha uniaun *de facto* (seidak kaben tuir lei), ka seidak rejista sira nia kazamentu, entaun ida ne'e bele iha konsekuénsia boot ba iha fetu liga ho sira nia direitu ba propriedade kaben-ni'an (hanesan uma) no alimentasaun. Iha maioria kazu ne'ebé mai to'o ALFeLa, fetu iha direitu deit ba alimentasaun ba sira nia oan, la'os alimentasaun ba sira nia-an deit, tanba sira seidak kaben tuir Kódigu Sivil.

Ami mós preokupa katak ezbosu Kódigu Rejistu Sivil agora daudaun prezisa rejistrasaun ba labarik nia aman-rasik iha sertidaun. La iha exesaun karik inan la bele sai aman nia naran tanba violasaun seksuál akontese ka iha razaun sira seluk tanbasa nia la bele fó sai. Atu obriga inan atu rejista aman nia naran bele halo vítima fali ba fetu ne'ebé hetan ona violasaun seksuál, liuliu tanba Governu la bele garante konfidensialidade ba prosesu rejistrasaun. Rekerimentu ida ne'e viola mós labarik nia direitu ba rejistrasaun moris no identidade.

Ami nota mós katak Kódigu Sivil seidak tradús ofisialmente husi Portugés ba Tetum, ne'ebé maioria ema hatene iha Timor-Leste. La iha versaun Tetum ne'ebé ofisial limita fetu nia abilidade atu komprende no goza sira nia direitu sivil.

Rekomendasaun:

- **Ami ejize ba Governu atu emenda Kódigu Sivil atu rekoñese relasaun *de facto* no relasaun ba seksu hanesan (*same-sex*) hanesan ho relasaun kaben-na'in, ho direitu no obrigasaun hotu hanesan tuir Kódigu Sivil.**
- **Ami ejize ba Governu atu asegura ezbosu Kódigu Rejistu Sivil la rekere rejistrasaun ba aman-rasik iha sertidaun.**
- **Ami ejize ba Governu atu publika lalais tradusaun ofisial ba Kódigu Sivil ba iha lian Tetum.**

Divórsiu

Divórsiu hanesan defisil tebes atu hetan tuir Kódigu Sivil. Karik ema ida lakohi halo divórsiu, tribunál tenke hetan ema ida hanesan kulpadu ka kulpadu liu ba divórsiu ne'e.²⁶ A finding of culpability has implications for the separation of assets and spousal maintenance. Atu hetan ema ida kulpadu ba divórsiu iha impaktu ba fahe propriedade/sasán no alimentasaun. Por ezemplu, ema ne'ebé kulpadu ba divórsiu la iha direitu ba benefísiu ruma ne'ebé nia hetan husi ninia kaben ka husi parte sira seluk hanesan rezultadu husi kazamentu.²⁷ Fetu barak ne'ebé hakarak halo divórsiu iha Timor-Leste mós vítima ba violénsia doméstika. Karik sira la iha konsellu legál adekuadu, fetu la bele husu ba divórsiu no la bele proteje sira nia direitu legál.

²⁶ Article 1663 of the Civil Code.

²⁷ Article 1667 of the Civil Code.

Hanesan diskute liu iha parte okus nian relasiona ho Rekomendasaun Jerál 19, Governu tenke fó fundus ba ONG sira ne'ebé fó assisténsia legál ne'ebé gratis ba feto iha kazu sivil, família no violénsia bazeia ba jéneru. Ida ne'e bele introdús hanesan *Temporary Special Measure* (medida espesiál temporáriu to'o atinzi igualdade jéneru) no aloka fundus husi Orsamentu Jerál Estadu nian.

Kódigu Sivil mós dehan feto tenke hein lora 300 atu kaben fali depois halo divórsiu ka kaben mate.²⁸ Tempu atu hein ba mane lora 180 deit. Governu rekoñese iha sira nia relatóriu ba Komisaun katak provizaun ne'e halo diskriminasaun ho "husi dogma (hanoin-fixu, hanoin kulturál) sosiál kona-ba feto-faluk".²⁹ Sira rekoñes ona, entaun ami ejize Governu atu emenda provizaun ida ne'e atu asegura feto no mane bele kaben fali iha tempu hanesan.

Rekomendasaun:

- **Ami ejize ba Governu atu emenda Kódigu Sivil atu hasai rekerimentu atu hetan ema ida hanesan 'kulpadu' ba divórsiu.**
- **Ami ejize ba Governu atu emenda Artigu 1494 husi Kódigu Sivil atu feto bele kaben fali lora 180 depois sira halo divórsiu ka sai feto-faluk, la haree ba karik feto ne'e isin rua ona ka fó partus depois de disolusaun kazamentu uluk nian.**

²⁸ Article 1494 of the Civil Code.

²⁹ Second and third periodic reports of Timor-Leste, 17 September 2013, CEDAW/C/TLS/2-3

Rekomendasaun Jerál 19: Violénsia hasoru fetu no labarik fetu

Violénsia doméstika hanesan kategoria krime boot liu ne'ebé akontese iha Timor-Leste

Ami preokupa tebes ho nivel violénsia hasoru fetu no labarik fetu iha Timor-Leste ne'ebé aas. *Demographic and Health Survey* tinan 2009/2010 hatudu prosentú 38 husi fetu hotu esperiénsia ona violénsia husi sira sai tinan 15, no maioria tipu violénsia hasoru fetu hanesan violénsia husi sira nia laen ka violénsia doméstika.³⁰ Entre tinan 2009 no tinan 2014, PRADET suporta ona fetu no labarik fetu na'in 1,761 ne'ebé sofre violénsia doméstika, asaltu seksuál no abuzu sira seluk. Husi kliente sira ne'e, PRADET halo ezaminasaun médiku forénsiku no fó tratamentu médiku ba kliente fetu no labarik fetu na'in 1,539, no fó akomadasaun temporáriu ba kliente na'in 357. Estatístiku husi ONG sira seluk mós hatudu nivel violénsia ne'ebé aas duni hasoru fetu no labarik fetu iha Timor-Leste.

Tabela 1. Estatístika kliente, fetu ne'ebé kliente foun, husi PRADET, Janeiru 2009—Dezemburu 2014 ³¹

	2009	2010	2011	2012	2013	2014	Totál
Violénsia doméstika	131	161	150	168	234	364	1208
Asaltu seksuál	57	69	68	98	97	106	495
Asaltu fíziku tipu seluk	0	0	0	2	14	42	58
Totál	188	230	218	268	345	512	1761

Tabela 2. Estatístika kliente, fetu ne'ebé kliente foun, husi ALFeLa, Janeiru 2009—Dezemburu 2014 ³²

	2009	2010	2011	2012	2013	2014	Totál
Violénsia doméstika	70	130	150	111	215	261	937
Asaltu seksuál (adultu)	48	40	25	38	51	61	263
Abuzu seksuál ba labarik ka asolesente	30	30	31	35	43	61	230
Asaltu fíziku tipu seluk	12	21	18	2	12	26	91
Totál	160	221	224	186	321	409	1521

³⁰ National Statistics Directorate, Ministry of Finance, and ICF Macro, 'Timor-Leste Demographic and Health Survey 2009-10', 2010, at 228, 230.

³¹ Source: PRADET client statistics, 2009-2014.

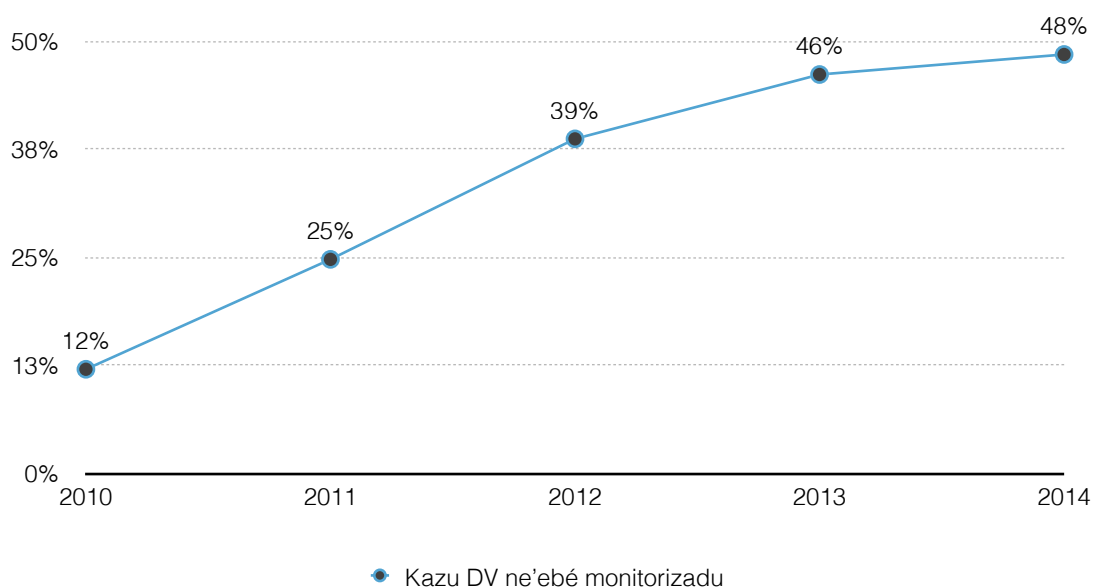
³² Source: ALFeLa client statistics, 2009-2014.

Desde Timor-Leste halo relatóriu ikus nian, promulga ona Lei Kontra Violénsia Doméstika (Lei 7/2010) ne'ebé iha definisaun luan kona-ba saida mak violénsia doméstika no relasaun sira ne'ebé mak kobre, no halo ofensas balun iha Kódigu Penál hanesan krime violénsia doméstika entaun 'krime públiku' mós.³³ Ami apresia tebes pasu importante ida ne'e. Lei Kontra Violénsia Doméstika iha ona impaktu boot tanba dirije kazu violénsia doméstika ba iha tribunál. Depoisde promulgasaun lei ida ne'e iha Jullu tinan 2010, persentajen kazu violénsia doméstika ne'ebé JSMP rasik monitoriza aumenta atu sai porsentu 48 husi kazu hotu ne'ebé monitoriza iha tribunál iha tinan 2014.³⁴

Tabela 3. Númeru kazu violénsia doméstika ne'ebé JSMP monitoriza, Jullu 2010—Dezemburu 2014 ³⁵

	2010	2011	2012	2013	2014	Totál
Númeru kazu VD sira	6	70	166	222	461	925
Kazu sira seluk	44	213	263	259	490	1269
Totál	50	283	429	481	951	2194

Gráfiku1. Persentajen totál kazu violénsia doméstika sira ne'ebé JSMP monitoriza, Jullu 2010—Dezemburu 2014 ³⁶



³³ 'Public crimes' can be prosecuted without a complaint being filed by the victim, and cannot be mediated by the Court.

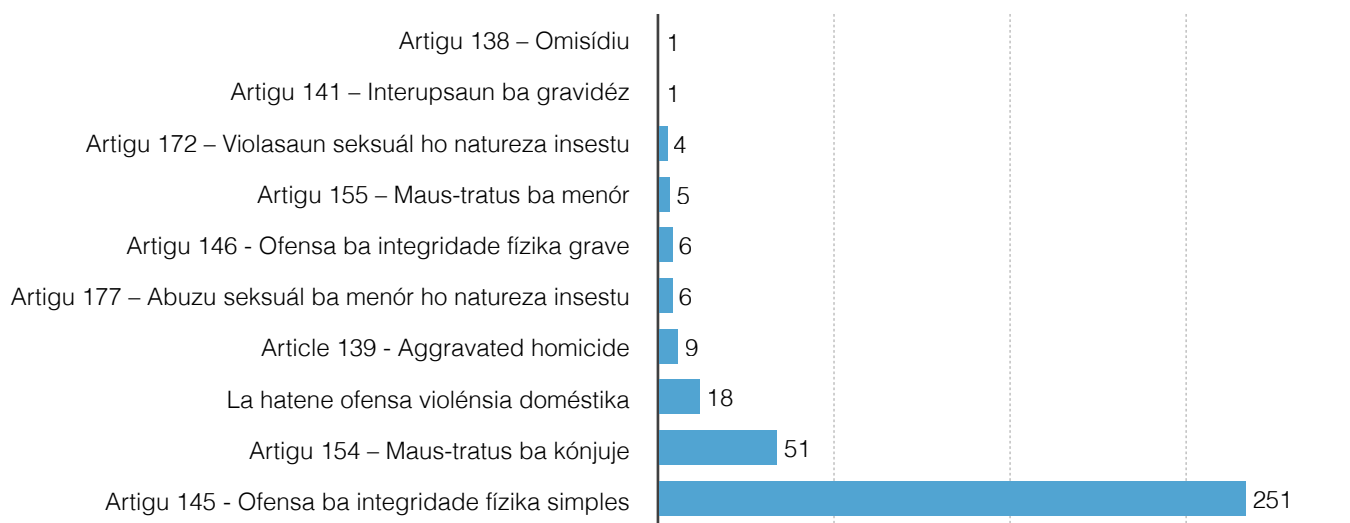
³⁴ Judicial System Monitoring Programme, 'Women in the formal justice sector, report on the Dili District Court' (2010) at 12; Judicial System Monitoring Programme, 'Statistics on cases of domestic violence against women in Timor-Leste' (2005) at 9.

³⁵ Court monitoring data from Judicial System Monitoring Programme, 2013 - 2014. 'Domestic violence' offences included are: article 138 murder, domestic violence; article 139 aggravated murder, domestic violence; article 145 simple assault, domestic violence; article 146 serious assault, domestic violence; article 154 mistreatment of a spouse; attempted domestic violence offences; and any combination of these offences.

³⁶ Court monitoring data from Judicial System Monitoring Programme, 2013 - 2014.

Maibé, ami preokupa tanba maioria kazu violénsia doméstika Ministériu Públiku akuza hanesan ofensas simples deit, la haree ba gravidade abuzu no fatór agravante sira hanesan uza kro'at. Husi kazu violénsia doméstika hotu ne'ebé JSMP monitoriza entre Julu 2010 no Juñu 2014, porsentu 71 hetan akuzasaun hanesan ofensas simples. Porsentu 15 husi kazu violénsia doméstika hotu akuza hanesan maus tratus ba kónjuje, no porsentu rua deit akuza hanesan ofensas grave.³⁷ Maioria kazu violénsia doméstika akuza hanesan ofensas simples, mezmu violénsia ne'e sériu no dala barak envolve uza kro'at (hanesan katana, aisanak no besi-kanu), ameasa beibeik hasoru vítima nia vida, no risku sériu ba vítima nia moras. Ami fiar katak prevalénsia ne'e refléta atitute baibain katak violénsia doméstika hanesan krime ne'ebé ladún sériu no 'fasil' atu julga.

Gráfiku 2. Akuzasaun iha kazu violénsia doméstika ne'ebé JSMP monitoriza, July 2010—Juñu 2013 ³⁸



Estudu kazu: Asaltu hasoru feen ho katana ³⁹

Feen ida fila fali husi fa'an na'an iha merkadu. Bainhira nia fila, nia laen toba hela iha uma. Feen ne'e fanu nia laen atu husu karik nia bele tein etu, tanba nia hamlaha. Laen sai hirus, hamriik no tebe nia to'o nia monu. Depois nia lori mina no fui mina ne'e iha feen nia isin. Feen koko au halai, maibé laen lori kedas kabu husi vintuña no bauk nia oin no kotuk. Depois laen lori katak, atu sakat feen nia kokorok. Feen hakilar ba ema atu bolu nia família, maibé ema ne'ebé haree akontesimentu ne'e ta'uk atu ajuda nia. Iha kazu ida ne'e, prokuradór akuza laen ho artigo 145 husi Kódigu Penál kona-ba ofensas simples. Tribunál fó pena multa \$75, atu seluk \$1 kada lora durante lora 75

Rekomendasaun:

- **Ami ajize ba Governu atu emenda Kódigu Penál atu inklui uza kro'at ka ameasa atu uza kro'at hanesan fatór agravante spesífiku iha krime ofensas ba integridade físiku.**

³⁷ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 15.

³⁸ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 14.

³⁹ Judicial System Monitoring Programme and Women and Children's Legal Aid, 'Improving the Penal Code to better protect women and children, Submission to the National Parliament of Timor-Leste' (2015) at 32.

- **Ami ejize ba Prokuradór-Jerál da Repúblika atu fó diretiva kona-ba halo akuzasaun atu aseguira kazu violénsia doméstika hetan akuzasaun ne'ebé adekuadu, haree ba fatór agravante sira hotu hanesan uza ka ameasa atu uza sasán kro'at, ameasa hasoru vítima nia vida, no risku ba violénsia fíziku ne'ebé sériu hasoru vítima.**

Sentensa ne'ebé fraku iha kazu violénsia hasoru feto no labarik feto

JSMP nia monitorizasaun iha tribunál hatudu ho konsistente katak iha maioria kazu violénsia doméstika iha ne'ebé arguidu mak kulpadu, tribunál suspende deit pena prizaun ka hatún pena multa. Por ezemplu, husi kazu violénsia doméstika hotu ne'ebé JSMP monitoriza entre Jullu 2010 no Juñu 2013, porsentu 52 hetan suspensaun ba pena prizaun. Porsentu 24 husi kazu hotu hetan pena multa, no porsentu 4 deit hetan pena prizaun efetivu. ⁴⁰

Ami la halo advokasia atu kazu hotu hetan pena prizaun, maibé ami preokupa katak sentensa ladún tuir gravidade ba krime no krime ne'e nia impaktu ba vítima. Karik perpetrador uza sasán kro'at, ka ameasa vítima nia moris, tribunál tenke konsidera sentensa prizaun efetiva tuir prinsípiu sentensa iha lejislasaun. Atu suspende sentensa prizaun tenke mós sempre hatún ho monitorizasaun no reabilitasaun ba kondenadu. Ikus liu, tribunál iha podér atu fó indemnizasaun sivíl ba vítima. Maibé, bazeia ba monitorizasaun iha tribunál, baibain indemnizasaun sivíl la aplika iha kazu violénsia doméstika. Ami preokupa katak tribunál pruntu atu fó pena multa, ne'ebé iha potensia atu afeitá mós vítima nia situasaun finanseiru, maibé sira la konsidera indemnizasaun sivíl ba vítima violénsia doméstika hanesan remédiu apropriadu.

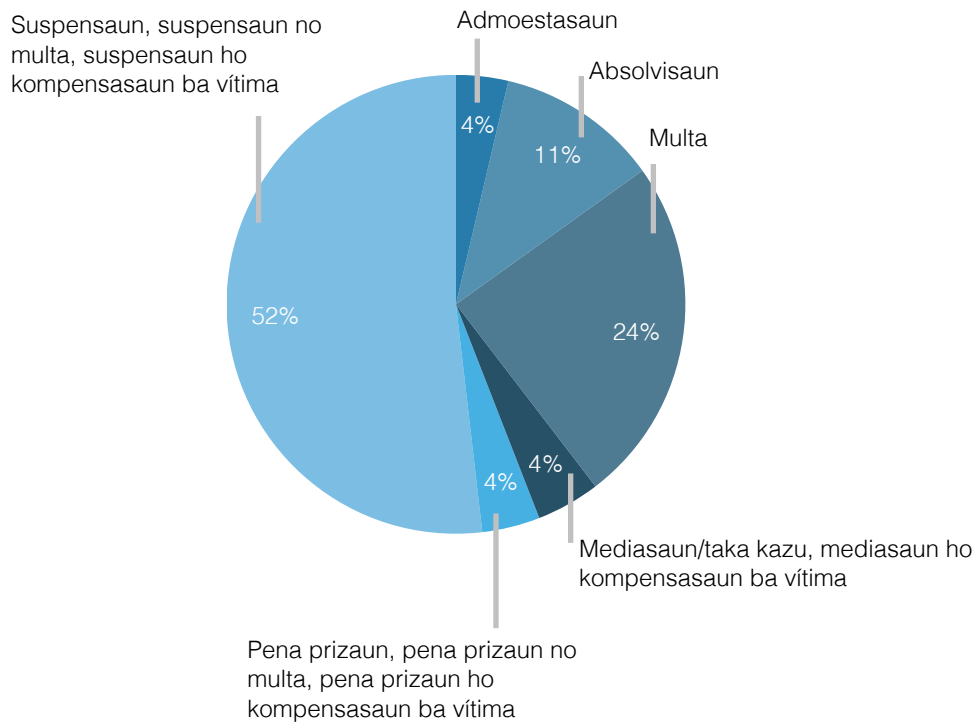
Estudu kazu: Asaltu sériu ho objetu ba iha ulun no isin ⁴¹

Iha akuzasaun dehan katak arguidu baku dala rua iha vítima nian tilun parte liman loos no tuku dala ida iha ninianibun, halo nia monu ba rai. Bainhira vítima monu ba rai, arguidu rasta vítima nia ulun no baku ba ahi-fatin. Arguidu kontinua kaer vítima nia liman, rasta nia ba liur no foti besi kanu ida hodi baku vítima nia isin-lolon [...] Vítima sofre bubu iha ninian tilun loos, bubu iha ulun no kanek iha ain karuk. Vítima hetan tratamentu iha sentru saúde. Ministériu Públiku akuza arguidu ho krime ofensa ba integridade fízika simples ho natureza violénsia doméstika tuir artigu 145 Kódigu Penál no artigu 35 LKVD [...] Vítima hatete katak arguidu baku nia beibeik no nia labele kontinua aseita ho hahalok ida ne'e, tanba ne'e nia hato'o keixa iha polísia. Defensór Públiku husu ba tribunál atu absolve arguidu hosi akuzasaun sira tanba nia arepende ona ninian hahalok, arguidu responsabiliza ba nia oan na'in tolu no promete ona hodi la komete hahalok sira ne'e iha futuru. Tribunál deside katak prova ona arguidu sala duni/komete krime no fó pena multa ho montante \$45 no husu ba arguidu atu selu kustu judisiais \$10.

⁴⁰ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 17, 32.

⁴¹ Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 29.

Gráfiku 3. Estatutu desizaun kazu violénsia doméstika ne'ebé monitoriza hosi JSMP esklui desizaun sira ne'ebé la hatene, Jullu 2010—Juñu 2013 ⁴²



Rekomendasaun:

- **Ami ejize ba judisiáriu atu dezenvolve diretiva kona-ba halo sentensa hodi ajuda juis sira atu determina pena ne'ebé apropiadu iha kazu violénsia doméstika. Diretiva sira ne'e tenke halo klaru prinsípiu halo sentensa, fatór agravante no atenuante sira hotu liuhusi uza ezemplu sira, regras kona-ba ema ne'ebé halo beibeik krime, matadalan kona-ba pena alternativu, no fó orientasaun kona-ba oinsá kalkula indemnizasaun sivil.**

Medidas protesaun nunka aplika iha kazu violénsia doméstika

Timor-Leste la iha sistema protesaun sivil (*civil protection order* – ida ne'e la presiza lori kazu krime, maibé bele husu deit ba tribunál atu hasai arguidu husi uma, ka obriga nia atu la bele hela besik ho vítima). Medidas protesaun disponivel iha Lei Kontra Violénsia Doméstika bainhira kazu krime rejista ona,⁴³ maibé monitorizasaun hatudu katak artigu ne'e nunka aplika to'o agora. Medidas protesaun nia objetivu mak atu fó protesaun imediatamente ba feto, tanba hasai perpetrador husi uma-família nian. Ida ne'e importante liu iha Timor-Leste tanba feto nia atividade atu halo rendimentu baibain liga ho sira nia uma no asesu ba rai. Ami preokupa tanba tribunál nia fallansu atu fó orden protesaun signifika katak feto tenke sai husi uma no hela iha uma mahon ba fulan barak ka tinan barak. Ida ne'e fó kastigu ba feto no labarik sira ne'ebé rejista kazu violénsia doméstika, no tau sira iha situasaun vulneravel duni. Hamutuk ho medidas protesaun, tribunál iha mós poder atu fó alimentasaun provizóriu ba vítima violénsia doméstika.⁴⁴ Monitorizasaun hatudu katak tribunál nunka halo orden kona-ba alimentasaun provizóriu. Ida ne'e limita liu feto nia opsaun sira no tau presau ba uma mahon sira ne'ebé la hetan fundus suficiente husi Governu.

⁴² Judicial System Monitoring Programme, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 17.

⁴³ Article 37 of the Law Against Domestic Violence.

⁴⁴ Article 32 of the Law Against Domestic Violence.

Rekomendasaun:

- **Ami husu Ministériu Públiku atu aplika hanesan baibain ba orden protesaun iha kazu violénsia doméstika hamutuk ho alimentasaun provizóriu, no tau prioriedade atu hasai perpetrador husi uma-família.**
- **Ami ejize ba Governu atu reeve feasibility ba implementasaun rejime protesaun sivil iha Timor-Leste.**

Violénsia seksuál iha matrimóniu/kazamentu la kriminaliza espesifikamente

Mesmu Komisaun halo ona rekomendasaun kona-ba asuntu ne'e iha tinan 2009, Timor-Leste seidauk kriminaliza espesifikamente violasaun seksuál iha relasaun matrimóniu.⁴⁵ Lei Kontra Violénsia Doméstika define violénsia seksuál bele akontese iha matrimóniu, maibé ida ne'e la suficiente atu proteje fetu husi violénsia seksuál iha relasaun íntimu. Ami nota katak to'o agora, monitoriza deit kazu ida ne'ebé envolve tentativa violasaun seksuál iha relasaun matrimóniu ne'ebé to'o ba tribunál, no kazu ida ne'e akuzadu hanesan ofensas simples no hetan pena multa. La bele aseita situasaun ida ne'e, no kazu ne'e hatudu violasaun seksuál iha relasaun matrimóniu/kazamentu tenke kriminaliza iha Kódigu Penál rasik atu polísia, prokurador no tribunál tenke aplika akuzasaun loos hasoru arguidu.

*Estudu kazu: Violasaun seksuál iha relasaun matrimóniu ne'ebé akuzadu hanesan ofensas simples*⁴⁶
Akuzasaun hatete arguidu fila ba uma iha kalen boot, wainhira nia lanu, no nia koko atu obriga nia feen atu halo relasaun seksuál maibé feen lakohi tanba nia iha menstruasaun. Laen baku nia feen iha kabun, no uza kadoo ida atu hakanek feen nia liman-loos. Prokurador akuza laen ne'e ho halo ofensas simples, no husu ba pena suspensaun tanba nia primeira-vez komite krime no problem ne'e 'rezolve' tiha ona entre família rua. Tribunál hetan nia kulpadu ba ofensas simples no obriga nia atu selu pena multa \$45.

Rekomendasaun:

- **Ami ejize ba Governu atu emenda Kódigu Penál atu kriminaliza espesifikamente violasaun seksuál iha relasaun íntimu hotu, inklui relasaun matrimóniu/kazamentu (kazamentu sivil, relijiozu ho kustume hotu) no uniaun *de facto* (hola malu ona).**

La iha fundus suficiente ba fomesador sira ne'ebé suporta fetu no labarik fetu

Ami preokupa tebes ho Governu tanba la fó fundus ba ONG sira ne'ebé fornese servisu esensial ba fetu no labarik fetu, hanesan uma mahon, apoiu psycho-social no assisténsia legál, no sira ne'ebé halo advokasia. Maioria ONG sira iha Timor-Leste depende deit ba doador internasionál sira nia apoiu, ida ne'e bele kria situasaun emerjénsia ba setór fetu nian karik doador sira hamenus sira nia fundus.

Por ezemplu, iha organizasaun assisténsia legál ida deit ba fetu no labarik sira, ALFeLa, no sira nunka simu fundu core (institucional) husi governu no sira depende tomak ba doador internasionál.⁴⁷ Husi inísiu iha tinan

⁴⁵ Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 30.

⁴⁶ Judicial System Monitoring Programme, 'Press release: Public Prosecutor and Court fails to apply appropriate provision in domestic violence and attempted rape case' (19 May 2015).

⁴⁷ ALFeLa first received a one-off small Government grant in 2014 to implement a paralegal program. This grant was for US \$28,000 and represented less than 10% of ALFeLa's total annual budget.

2005, ALFeLa ajuda ona fetos no labarik liu hosi ema na'in 2,200 ne'ebé hanesan vítima husi violénsia, sira mós ajuda kliente sira iha kazu sivil.⁴⁸ Lei Kontra Violénsia Doméstika garantia espesifikamente vítima nia direitu ba assisténsia legál independente.⁴⁹ Mesmu ALFeLa nia servisu importante duni, Governu seidak iha komitmentu atu fó fundus ne'ebé sustentavel. PRADET, hanesan ONG úniku iha Timor ne'ebé oferese ezaminasaun médiku forénsiku ba vítima sira, simu fundus oituan deit husi Governu (menus porsentu 10 husi totál).⁵⁰ PRADET hanesan ONG úniku iha Timor ne'ebé oferese ezaminasaun médiku forénsiku ba vítima sira. PRADET mós oferese formasaun ba ema médiku no parteira sira husi Governu kona-ba oinsá halo ezaminasaun médiku forénsiku. Haree ba importánsia sevisu ida ne'e ba fetos no labarik fetos, la aseitavel katak PRADET tenke kontinua depende ba doador internasionál sira ba maioria fundus.

Fetos no labarik fetos nia asesu ba servisu esensiál hanesan limitadu duni iha Timor-Leste, liuliu karik sira hela iha área rurais. Distritu balun la iha uma mahon ba fetos, ka servisu psycho-social ne'ebé espesializadu ka fasilidade servisu médiku. Mezmu ALFeLa oferese assisténsia legál iha distritu hotu, ALFeLa halo servisu husi edifísiu 4 deit no servisu boot ba sira atu kobre rai tomak ho ofisiál legál na'in 12 deit. Rekursus polísia nian mós limitadu, no la fó prioridade ba sevisu VPU nain (ne'ebé iha mandatu atu proteje fetos no labarik fetos ne'ebé sai vítima ba krime). Governu la iha planu atu fó fundus ba servisu sira ne'ebé eziste ona, ka atu haluan servisu apoiu ne'ebé esensiál ba distritu hotu.

Tabela 4. Asesu ba apoiu esensiál ba fetos no labarik fetos iha distritu sira

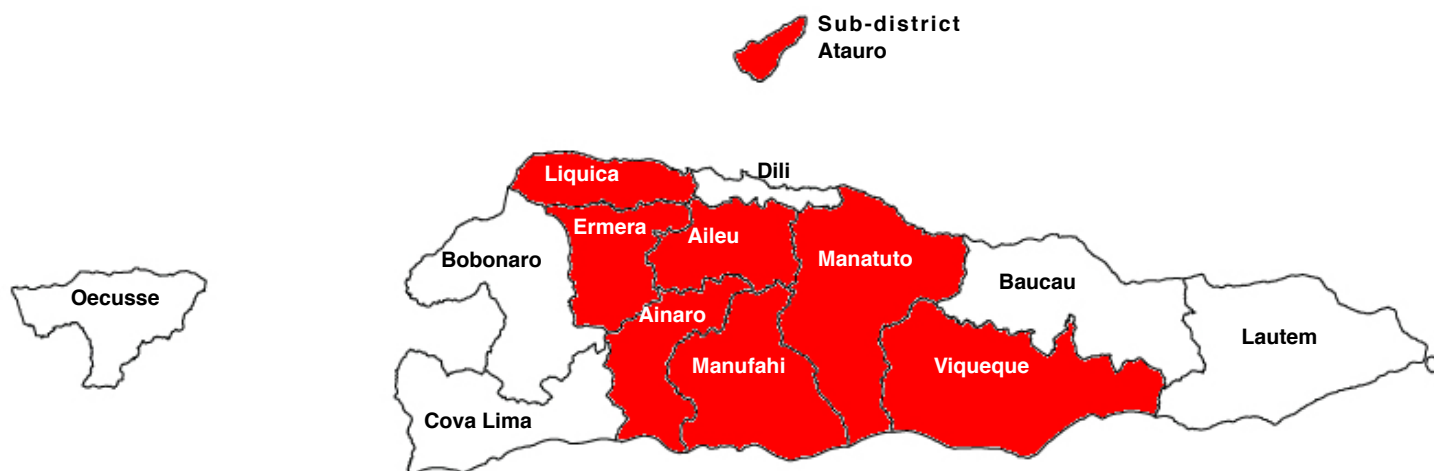
	Uman mahon	Psycho-social /medical services (PRADET)	Assisténsia legál (ALFeLa)
Dili (Capital)	Sin	Sin	Sin
Manatuto	Lae	Lae	Sin
Baucau	Sin	Sin	Sin
Lautem	Sin	Lae	Sin
Viqueque	Lae	Lae	Sin
Manufahi	Lae	Lae	Sin
Aileu	Lae	Lae	Sin
Ainaro	Lae	Lae	Sin
Cova Lima	Sin	Sin	Sin
Bobonaro	Sin	Sin	Sin
Oecusse	Sin	Sin	Sin
Ermera	Lae	Lae	Sin
Liquica	Lae	Lae	Sin

⁴⁸ Source: ALFeLa client statistics, January 2005 - June 2015

⁴⁹ Article 25 of the Law Against Domestic Violence.

⁵⁰ Source: PRADET annual budget forecast, 2015.

Mapa 1. Asesu ba apoiu esensiál ba fetu no labarik fetu iha distritu sira (área iha kór mean indika distritu sira sein uma mahon ka servisu psycho-social/médiku ne'ebé espesializadu ba fetu no labarik ne'ebé vítima husi violénsia)



*Estudu kazu: PRADET*⁵¹

“Bainhira fetu sai vítima ba violasaun seksuál iha distritu Lautem, nia tenke la’o ho kareta liu oras 5 atu mai iha PRADET iha Dili hodi bele hetan ezaminasaun médiku forénsiku no hetan akonsellamentu. Dala barak ami la iha kareta atu tulun vítima, no polísia la iha kareta. Ami koko servisu besik ho ONG sira seluk hodi organiza transporte ba vítima sira, maibé defisil ba ami hotu tanba rekursu limitadu. PRADET atu loke Fatin Hakmatek iha Baucau atu fetu husi lorosa’e bele asesu ba ami nia servisu.”

Rekomendasaun:

- **Ami ejize ba Governu atu fornese fundus core (institusionál) ba tempu-naruk ba ONG sira ne’ebé fó servisu apoiu ne’ebé esensiál ba fetu no labarik fetu ne’ebé afeitadu husi violénsia. Ida ne’e bele introdús hanesan *urgent Temporary Special Measure* no bele aloka fundus iha Orsamentu Jerál Estadu nian iha futuro.**

PAN-VBJ tenke iha tarjetu ne’ebé klaru, tuir realidade no hetan rekursu adekuaudu

PAN-VBJ 2012-2014 remata ona no Governu finalmente komesa halo avaliasaun ba NAP, hodi bele dezenvolve PAN foun antes tinan 2015 nia remata. PAN ne’ebé eziste ona asume katak doador internasionál sei kontinua fó fundus atu implementa atividade xave sira. Dependénsia ne’e ba doador internasionál sira la bele kontinua. Ajénsia Governu ida-idak ho responsabilidade atu implemente PAN tenke aloka fundus no tempu suficiente iha sira nia work plan no budget, no Orsamentu Jerál Estadu nian tenke refleta komitmentu sira ne’ebé Governu halo iha PAN. Tenke konsulta mós ONG sira ne’ebé fó maioria servisu ba fetu no labarik fetu atu asegura modelu halo *costing* ba PAN refleta duni kustus ba servisu ne’ebé atu fornese.

⁵¹ Source: PRADET, 10 June 2015.

Rekomendasaun:

- **Ami ejize ba Governu atu aseguira katak atividade hotu iha PAN uza costing (*fully costed*) no Governu aloka osan suficiente iha Orsamentu Jerál estadu nian ba tinan oin-mai.**
- **Ami ejize ba Governu atu aseguira katak ajénsia Governu no ONG relevante sira nia responsabilidade no papel tuir PAN foun define ho klaru.**

Prevensaun violénsia hasoru fetu no labarik fetu

Ami preokupa tanba seidak iha komprensaun natoon iha Governu no sosiedade sivil kona-ba prinsípiu prevensaun primáriu (*primary prevention*) iha área violénsia hasoru fetu no labarik fetu. Agora daudaun, Governu no ONG sira trata asuntu ida ne'e liuhusi atividade 'sosializasaun' iha comunidade kona-ba Lei Kontra Violénsia Doméstika. Ami apresia tebes promulgasaun lei ida ne'e no esforsu ne'ebé halo ona atu aumentu ema nia koñesimentu kona-ba ekuadrumentu legál, maibé ida ne'e la suficiente atu hapara violénsia no halo violénsia la aseitavel iha sosiedade no tuir padraun morál. Aleinde ne'e, iha ajénsia Governu no ONG balun deit ho staf ne'ebé koñese di'ak kona-ba lei no rede referál. Signifika dala ruma, informasaun ne'ebé distribui ladún konsistente. Bazeia ba prátika internasionál ne'ebé di'ak, ami hanoin katak atividade prevensaun tenke bazeia ba evidénsia no foka ba atividade ho mane no labarik mane hodi bele muda sira nia atitude no hahalok. Durante tinan 2012 to'o tinan 2014, halo enkontru koordinasaun ida deit entre ajénsia no ONG sira ne'ebé servisu iha Pillar Prevensaun iha PAN. Ida ne'e kria konfuzsaun kona-ba oinsá atu halo atividade prevensaun primáriu (*primary prevention*) hodi hapara violénsia hasoru fetu iha rai ida ne'e.

Rekomendasaun:

- **Ami ejize ba Governu atu halo investimentu iha programa no atividade sira ne'ebé koko atu muda ema indivídiu nia atitude no hahalok, no muda norma kona-ba jéneru (*transfrom gender norms*).**
- **Ami ejize ba Governu atu halo investimentu atu hasai kapasidade iha organizasaun sira no ajénsia Governu sira ne'ebé atu halo atividade prevensaun primáriu (*primary prevention*) tuir PAN foun hodi hapara violénsia hasoru fetu no labarik fetu.**

Shadow report from NGOs
JSMP, PRADET & ALFeLa

Timor-Leste Government's progress in implementing the United Nations Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

June 2015