



**REDE FETO TIMOR-LESTE**

**NGO SHADOW REPORT**

**IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION  
OF ALL FORM DISCRIMINATION AGAINST WOMEN  
(CEDAW)  
IN TIMOR-LESTE**

**Prepared by the NGO Working Group of the  
CEDAW Shadow Report**

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## Glossary

AMKV	Assosiasaun Mane Kontra Violencia / Man's Association against
APSC-TL	Asia Pacific Support Collective - Timor Leste
ALFELA	Asistencia Legal Feto no Labarik
CAVR	Comissao Amizade Verdade e Reconciliacao / Commission for Reception, Truth and Reconciliation in East Timor
CSRWG	CEDAW Shadow Report Working Group
CAT	Convention against Torture
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
CEDAW-SEAP	CEDAW - South East Asia Program
CERD	Convention on Elimination of Racial Discrimination
CSOs	Civil Society Organizations
CPLP	Comunidade dos Paizes da Lingua Portuguesa / Community of Portuguese Language Countries
CRC	Convention on the Rights of the Child
CVTL	Cruz Vermelha de Timor Leste / East Timor Red Cross
CEDAW-CO	Cedaw Concluding Observation
CEJ	Centru Estudu Jéneru-UNTL
FOKUPERS	Forum Komunikasi Untuk Perempuan Timor Leste / East Timor Women's Communication Forum
FDTL	Forcas Armadas de Timor Leste / East Timor Defence Force
FTM	Forum Tau Matan
GFFTL	Grupu Feto Foin Sae Timor Leste / East Timor Young Women Organization
GR	General Recommendation
HDI	Human Development Index
HPI	Human Poverty Index
ICCPR	International Covenant on the Civil and Political Rights
ICESCR	International Covenant on the Economic, Social and Cultural Rights
IWRAW	International Women's Rights Action Watch Asia Pacific
IDP	Internally Displace Person
JSMP	Judicial System Monitoring Programme
KSTL	Konfederasaun Sindikatu Timor Leste
MHVF	Mane Ho Vizaun Foun
MOFFE-TL	Movimentu Feto Foin'sa'e Timor Leste
NGO	Non-Governmental Organization
PNTL	Polícia Nacional de Timor Leste / East Timor National Police
RDTL	República Democrática de Timor-Leste/ Democratic Republic of Timor-Leste
RTTL	Radio Televisao de Timor Leste / East Timor Television
SEM	Sekretária Estáu Mulhér

SSB	Suai Suplay Base
TAF	The Asia Foundation
UNW	United Nations of Women
UDHR	Universal Declaration of Human Rights
UNDP	UN Development Programme
UNICEF	UN Children's Fund
UNTL	Universidade Nasional Timor Leste
VSS	Victim Support Service
VPU	Vulneravel Police Unit
WJU	Women Justice Unit
WWCTL	Working Women Center Timor Leste.
ZEESM	Zona Ekonomia Especial Sosial Mercado

## Introduction

This Shadow Report is the second periodic report to examine human rights, particularly women's human rights to prevent further discrimination, disparity, inequality and acts of violence against women.

The Shadow Report focuses particularly on the real situations that women face in their everyday lives; it will discuss the impact and progress made by the government and the State in relation to the implementation of the CEDAW, violations of women's human rights, barriers to implementation of its provisions and public policies to deal serve and assist the community (women and men), particularly in relation to women's socio-economic, cultural and political rights, as well as obstacles to achieving women's human rights. Provision of recommendations for government action for proper implementation of the CEDAW Convention.

This report provides constructive criticism from Civil Society Organizations' as to whether work on matters relating to the government's annual action plans and five year strategic plan were implemented under the democratic rule of law in accordance with the principles of the CEDAW Convention, particularly regarding the initial recommendations of the CEDAW Committee Members, effectively, efficiently and with efficacy or not.

The aim is to review and report on the progress included in the government's report and also other matters that may have been ignored by the government and not reported in the report to the CEDAW Committee. In other words it can be said that this is a report independent from the government's report. This Shadow Report is the second report lead by Rede Feto Timor-Leste and produced jointly with other NGOs that form part of Civil Society Organisations.

The provision of critical analysis of information from government reports is incomplete from the viewpoint of civil society organisations particularly in relation to the use of data regarding priority issues for women's human rights.

While we appreciate and recognize the efforts of the RDTL State in conducting policies and programs to accelerate progress for women's human rights, this Shadow Report identifies priority issues that need attention form the RDTL State in order to be able to ensure Women's Human Rights and implementation of Laws and the Provisions of CEDAW:

### Part 1. Ensure women's right to life - Article 12 CEDAW

- a. Right to Health (Maternal and Infant Mortality – Mother's in labour do not receive assistance from health personnel, Unsafe Abortion, Anaemia)
- b. Health Facilities (Transport facilities, Management of Medications and services provided by health staff, Equipment).
- c. Nutrition (Pregnant women have malnutrition, Children with malnutrition, School Meals)
- d. Sexual identity and sexual orientation (LGBT)
- e. HIV/AIDS (Information and Training, Access to health facilities by those affected)

Part 2. Ensure Women's Physical Integrity - Article 6, 15, General Recommendation 19

- a. Legal Framework (Penal Code, Law Against Domestic Violence, Human Trafficking Law, Sexual Slavery and Past Crimes)
- b. Access to Justice (Legal Education and Access to Information)

Part 3. Empowering Women - Article 7, 10, 11, 13, CEDAW, General Recommendation

- a. Women's Participation in Political Life (Suco and National levels)
- b. Back to School Policy (School Drop Outs, Early Pregnancy)
- c. Scholarship (Women's Participation, Access to Scholarships and specific areas)
- d. Women's Economic Empowerment
- e. Women and Employment
- f. Case Study (Mega Project)

We note that many women and girls in Timor-Leste face and experience various discriminations and inequalities, acts of violence and social injustices in their daily public and private lives. The crucial problems referred to above are of great concern to civil society organisations such that we urge the Timor-Leste State to take immediate action in their annual and five-year action plans to eliminate forms of discrimination against women in accordance with the demands and principles of the CEDAW.

We ask with all due respect and open hearts that the CEDAW Committee Members provide this information and continue to counsel the Timor-Leste State regarding the concerns and crucial problems referred to here.

We hope that the Timor-Leste State will have total obligation and comply with its commitments to the United Nations with all availability to provide effective and immediate solutions to the problems and difficulties that the women of Timor-Leste face as phased solutions in concrete actions based on annual and five-year action plans.

We civil society organisations reaffirm our continuing commitment to work and provide services for powerless and vulnerable people thirsty for social justice with dignity and fairness in order to recommend to the Timor-Leste State to comply with its obligations and properly implement CEDAW and its special temporary measure to be able to reduce and minimise the prevalence of domestic violence and differential treatment against women and girls in Timor-Leste.

## Executive Summary

This NGO report was prepared by the CEDAW Shadow Working group (CSWG) comprised of 15 organizations. Data and information for the report were contributed by 25 Organization including women from rural area, media & academicians. The report is the result of an almost one year & 3 month Process.

### **Part 1: Guarantee Women's Right to Life (article 12 CEDAW)**

Based on Article 12.1 of CEDAW and the concluding observations of the CEDAW Committee, the government of Timor-Leste must ensure women's right to life, particularly in relation to their right to health. Part 1 of this report examines the issues relating to health problems in Timor-Leste including:

#### **a. Right to Health (Maternal and Infant Mortality – Women in labour not receiving assistance from health personnel, Unsafe Abortion, Anaemia):**

The number of maternal and infant deaths is considered very high based on the *Demographic Health Survey* (DHS 2009-2010), the overall fertility rate has fallen from 7.8 children per women in 2003 to 5.7 in the year 2009-2010. Women in urban areas have a high probability to give birth in a health facility compared with women in rural areas. Just 3 in 10 women giving birth receive assistance from health personnel or trained providers (doctors, nurses, and midwives), most often a nurse or midwife (26%). Others 18% receive assistance from staff or traditional birth attendants and 49% from untrained family or friends. The 2009-2010 Health and Demographic Survey showed that just four per cent (4%) of women received pre-natal treatment from a doctor. Considering the small number of professionally qualified doctors in the districts, it is not realistic for a woman to receive approval for an abortion from a panel of three doctors. Without the means for safe and legal abortion, women in Timor-Leste will continue to have abortions in secret and without proper medical supervision. Anaemia is a very common problem, and 28% of pregnant women were anaemic in the year 2009-2010. This rate of prevalence is very high for women in rural areas and also for poor people. The Timor-Leste Demographic Health Research 2009-2010 also includes an examination of haemoglobin for women aged 15-49 and children 6-59 months. 38% of women in Timor-Leste, showed some indications of anaemia.

#### **b. Health Facilities (Transport facilities, Medication Management and health staff service provision, Equipment);**

In Manufahi 2% said that they walked to access facilities, in Ainaro 24% walked to health facilities for their last birth. Use of private vehicles is lower, and there is no report about this in 5 sub-districts from 8 sub-districts. One possibility that is a barrier to giving birth in a health facility is the travel time and also the lack of private and public transport available in rural areas. A total of 41% said they were able to get to a facility within 30

minutes. Three quarters of women in Manufahi and one quarter of women in Ainaro said that they needed 30-60 minutes to get to a facility. Ambulances and multi-functional vehicles can carry mothers and children that need urgent treatment from sucos to health facilities. Example, maternal mortality in Timor-Leste is the highest in the region, sometimes because women-mothers do not seek treatment for birthing quickly. The problems that have been occurring in the 13 districts are no medication, no oxygen, no nurses, no midwives, no doctors, no medical specialists, no toilets, no potable water in the hospital and health posts, poor attendance to patients, no electricity at the hospital, medical students not receiving subsidies, no housing for doctors. Poor families sometimes travel a long way to access health facilities and expend (waste?) their limited resources for transport and accommodation to receive treatment because there is no health service provider and no medication available.

**c. Nutrition (Pregnant women with malnutrition, Children with malnutrition, School Meals);**

The *National Nutritional Strategy 2012-2017* research says that the Timor-Leste Ministry of Health has no clear consensus regarding the causes of malnutrition and variation between districts. The various reasons are civil war, disruptions to subsistence and public services, poverty, low agricultural productivity, weak health services, lack of potable water, inadequate sanitation and hygiene, low levels of public investment and poor knowledge of nutrition issues. A woman with poor nutritional status, as indicated by her body mass index (BMI), short stature, anaemia, or other micronutrients deficiencies, will have a greater risk during labour of death because of haemorrhaging, post-partum and mothers' with low weight and babies with low birth weight, imply that mother and child will become ill. Malnutrition amongst children is extremely high, with 58% of children suffering from chronic malnutrition in the year 2009-2010, compared with 54% in the year 2007. Timor-Leste in the year 2013 conducted preliminary research *Finding of the National Nutrition Survey in Timor-Leste* regarding nutrition, the results show that the prevalence of short stature (stunting) is already low at 51.92%, too thin (wasting) at 11%, and underweight reduced to 38%. Based on the Public School Health Plan for 2012 will try to improve what was not effective in the year 2011 in the public education sector particularly for students in primary education such as the school meals program and school public health.

**d. Sexual identity and sexual orientation (LGBT);**

The word LGBT will become a unique word in the general community in Timor-Leste. In relation to the issues in question, the LGBT community already exists, but language and their existence is considered taboo for the community.

**e. HIV/AIDS (Information and Training, Access to health facilities is affected);**

The first case registered from the years 2003-2012 with a cumulative total of 281 people confirmed as positive of HIV/AIDS (Women are 53% of the affected of HIV/AIDS positive, 36 have died (women 33%). And 84 people are currently receiving anti-retroviral treatment, 40% women. Cases of HIV/AIDS registered from the year 2003 to the second quarter of the year 2014, were a total of 447 and 41 people have died already and in the month of March 2015 people positive for the illness HIV/AIDS increased to 509, and those that have died already a total of 56. In Timor-Leste many have mistaken ideas about the virus, there are just 1/3 (33%) of women and 46% of men, that understand that apparently healthy people also have HIV, and only a few know that HIV will not be transmitted from mosquito bites (women 25% and men 42%). Knowledge of the role of condoms to prevent transmission of AIDS is very low between men (45%) and women (30%), there just 35% of men and 17% of women aged 15-49 that know places to go for HIV testing.

**Recommendation:**

1. The government must increase the general budget allocation to implement the new revised strategy for Maternal, Neonatal, Infant and Adolescent Reproductive Health with adequate facilities and capacity building for qualified health personnel.
2. Request the Government to quickly amend article 141 of the Penal Code which is very restrictive for women's reproductive health;
3. Request the Government to intensify civic education regarding the importance of consuming balanced nutritious foods and also maintain the SISCa program (Integrated Community Health Services).
4. Request the Government of Timor-Leste, particularly the Ministry of Health must improve the work mechanism and have good management for transport (Ambulance, Management of Medications and Equipment) for Health Centres throughout the entire territory of Timor-Leste.
5. How will the Government of Timor-Leste, particularly the Ministry of Health ensure implementation of the national nutrition strategy 2013-2018?
6. The Government of Timor-Leste needs to ensure multi-sectoral action and support from health, education, agriculture, water and sanitation to improve maternal and infant nutrition in Timor-Leste.
7. Request the Government to increase the population's knowledge through socialization, campaigns about nutrient composition.
8. Urge the Government of Timor-Leste, particularly the Ministry of Education to improve policies and mechanisms for budget transfer from the Ministry of Education to each school.
9. Urge the Government of Timor-Leste, particularly interministerial between the Ministry of Education and the Ministry of Health to examine nutrition provided by the school meals program.

10. Request (that) the Government must invest in human resources in the areas of training, facilities, health staff with quality for HIV/AIDS, to combat HIV/AIDS in Timor-Leste because (with a) small population, therefor the number of people affected by HIV/AIDS cannot rise each year, do a lot of prevention and before rather than do curative late.
11. Request the Government, particularly the Ministry of Health to provide training for health personnel to provide good services, without discrimination, professional, show a gentle character to those people affected by HIV/AIDS, treat them with dignity as human beings, in accordance with their rights the same as unaffected people.
12. Request the Government to strengthen coordination between ministerial and organisations working in this area need to examine successes and challenges that they face when implementing policies to conduct follow-up for mechanisms and strategies in the future.

## **Part 2: Ensure Women's Physical Integrity (article 6, 15 CEDAW, General Recommendation 19)**

### **Article 16: Equality in marriage and family law**

#### **a. Civil Code & Draft Civil Registry Code**

There is already a Civil Code (Decree Law 10/2011) on the 14th September 2011 which provides equality for Women in before the Law particularly linked to property, inheritance, marriage, divorce and food, but there is still discrimination for women in marriage for those other religions. This law does not recognize *de facto* relationships (taking each other but not yet married), and also does not recognize same sex marriages (men marrying men, women marrying women). Many women in Timor-Leste live in *de facto* unions (not yet married in accordance with the law), or have not yet registered their marriage, this can have major consequences for women linked to their rights for spousal property (like homes) and food. In the majority of cases that come before ALFeLa, women only have the right for food for their children and not to food for themselves, because they are not yet married in accordance with the Civil Code.

It is very worrying that at present the Civil Registry Code requires the father's (name) to be registered on the child's birth certificate. There is no exception if the mother cannot reveal the father's name because of rape or other reasons for not being able to reveal it. Obliging the mother to register the father's name may re-victimise a woman who was raped, particularly because the Government cannot guarantee the confidentiality of the registration process. The requirement also violates the child's right to birth registration and identity.

There is not yet a Tetun version of the Civil Code, this limits women's ability to understand and enjoy their civil rights.

### **Recommendation:**

1. We urge the Government to amend the Civil Code to recognize *de facto* relationships and same sex relationships as being the same as marriage relationships, with the same rights and obligations under the Civil Code.
2. We urge the Government to ensure the draft Civil Registry Code does not require registration of the father on the birth certificate.
3. We urge the Government to immediately translate the Civil Code into Tetun.

### **b. Divorce**

It is very difficult to obtain a divorce under the Civil Code. For example, a person guilty of divorce has no rights to any benefits from their spouse or other parties as a result of marriage. Many women wish to divorce in Timor-Leste because they have been victims of domestic violence. They do not receive adequate legal advice, they cannot request divorce and are not able to protect their legal rights. In relation to General Recommendation 19, the Government must provide funds to NGOs providing free legal aid for women in civil cases, for family and gender based violence. This can be introduced (as a) Temporary Special Measure (a temporary special measure to achieve gender equality) and allocate funds from the General State Budget.

The Civil Code states that women must wait 300 days to re-marry following divorce or the death of their husbands, but men only 180 days. The Government recognized in their report to the Commission that this provision is discriminatory and (comes from) “social dogma (fixed thinking, cultural notions) about widows”. They have already recognized (this), therefore we urge the Government to amend this provision to ensure that women and men can re-marry after the same time period of 180 days.

### **Recommendation:**

We urge the Government to amend Article 1494 of the Penal Code so that women can re-marry 180 days after they have divorced or been widowed, without considering whether the woman is pregnant or gives birth after the dissolution of the previous marriage.

### **c. General Recommendation 19: Violence against women and girls**

DOMESTIC VIOLENCE IS THE MAIN CATEGORY OF CRIME OCCURRING IN Timor-Leste. The Demographic Health Survey 2009/2010 stated that the prevalence is very high. However from 2009 to 2014, PRADET has supported 1,761 women and girls who have suffered domestic violence, sexual assault and other abuses. Of these clients, PRADET conducted forensic medical examinations of and medical treatment for 1,539 women and girls, and provided temporary accommodation to 357 clients. Statistics from other NGOs also show very high levels of violence against women and girls in Timor-Leste.

Timor-Leste enacted the Law against Domestic Violence in July 2010. Its definition is wide regarding what constitutes domestic violence and the relationships that are covered and defines several offences in the Penal Code as crimes of domestic violence and as 'public crimes'. We are very appreciative of this important step. The Law against Domestic Violence has already had a major impact because it has brought cases of domestic violence to the courts. Following the promulgation of this law, the percentage of cases of domestic violence that JSMP itself monitored in the court in 2014 was 48% of the total of 2194 cases.

We are very concerned because the majority of domestic violence cases are charged by the Public Ministry as just minor offences, without considering the seriousness of the abuse not aggravating factors such as the use of weapons. Of the total number of domestic violence cases monitored by JSMP between July 2010 and June 2014, 71 per cent were charged as minor offences. 15 per cent of domestic violence cases were charged as spousal mistreatment, and just two per cent were charged as serious offences. The majority of domestic violence cases were charged as minor offences, even though this violence is serious and often involved the use of weapons (such as machete, piece of wood, and metal pipe), ongoing threats against the women's life, and serious risk to the women's life. We believe that this prevalence reflects the common attitude that domestic violence is not a serious crime and 'easy' to judge.

**Case study:**

Assault against wife with machete A wife was returning from selling meat at the market. When she returned, her husband was sleeping in the house. The wife woke her husband and asked if he would cook rice, because she was hungry. The husband became angry, stood and kicked her until she fell (to the ground). Then he took oil and poured it over his wife's body. The wife tried to run away, but the husband to the cover from the fan and beat her face and back. The husband took a machete, to chop the wife's throat. The wife cried out to people to call her family, but the people witnessing the events were afraid to help her. In this case, the prosecutor charged the husband under article 145 of the Penal Code regarding minor offences. The Court imposed a fine of \$75, to be paid at the rate of \$1 per day for 75 days.

**Recommendation:**

Amend the Penal Code to include the use of weapons or threats to use weapons as specific aggravating factors in crimes of offences against physical integrity (bodily harm).

We urge the Prosecutor General of the Republic to issue a directive regarding the laying of charges to ensure that domestic violence cases receive adequate charges, considering all aggravating factors such as the use or threats to use weapons, threats against a victim's life, and serious risk of physical violence against the victim.

#### **d. Weak sentences in cases of violence against women and girls**

JSMP's monitoring at the courts consistently show that in the majority of domestic violence cases in which the accused is found guilty, the court gives only a suspended prison sentence or imposes a fine. For example, from the total number of domestic violence cases monitored by JSMP between July 2010 and June 2013, 52 per cent received suspended prison sentences. 24 per cent of cases received fines, and just 4 per cent received actual prison sentences. In 2014 40 per cent of cases received suspended sentences compared with 14 per cent which received prison sentences. We do not advocate for all cases to receive prison sentences, but we are concerned that sentencing is not in accordance with the gravity of the crime and the crimes' impacts on victims. If the perpetrator uses a weapon, or threatens the life of the victim, the court must consider an actual prison sentence the court must consider an actual prison sentence in accordance with the sentencing principles in the legislation. A suspended prison sentence must always be accompanied with monitoring and rehabilitation of the guilty party. Finally, the court has the power to provide civil damages to the victim. However, based on the monitoring in the courts, civil damages are applied in only a few cases of domestic violence. We are concerned that the courts are willing to impose fines, which have the potential to affect the victim's financial situation but do not consider civil damages to victims of domestic violence as an appropriate remedy.

#### **Recommendation:**

We urge the judiciary to develop a directive regarding sentencing to assist judges to determine appropriate penalties for cases of domestic violence. These directives must make clear the principles of sentencing, all aggravating and attenuating factors through the use of examples, rules for people who commit the crime repeatedly, a guide for alternative penalties, and provide orientation for how to calculate civil damages.

#### **e. Protective measure are never applied in cases of domestic violence**

Timor-Leste has no system of civil protection (civil protection orders – these do not require a criminal case, but can request the court to remove the accused from the home, or oblige them to not reside near to the victim). Protection measure are available under the Law Against Domestic Violence once a criminal case has been recorded, however monitoring shows that this article has never been applied to date. The aim of protection measures are to provide immediate protection to the women, because the remove the accused from the family home. This is particularly important in Timor-Leste because women's income generating activities are normally linked to their home and access to land. We are concerned because of the court's failure to issue protection orders, which means that women must leave their homes and stay in shelters for many months or years. This punishes women and children that register cases of domestic violence, and places them in very vulnerable situations. As well as protective measure, the courts also have the power to provide interim feeding to victims of domestic violence. Monitoring shows that

the courts have never issued orders for interim feeding. This limits women's options and places pressure on shelters, which do not receive sufficient funds from the Government.

**Recommendation:**

1. We request the Public Ministry to apply as normal protection orders in cases of domestic violence as well as interim feeding, and to give priority to removing the perpetrator from the family home.
2. We urge the Government to review the feasibility of the implementation of a civil protection regime in Timor-Leste.

**f. Sexual violence in marriage is not criminalised**

Even though the Commission made recommendations about this issue in the year 2009, Timor-Leste has not yet criminalized rape within marriage. The Law against Domestic Violence defines sexual violence as being able to occur in marriage, however this is not sufficient to protect women against sexual violence in intimate relationship. We note that to date, just one case has been monitored that involved attempted rape within marriage that came before the court, and in this case the accused was charged with a minor offence and received a fine. This situation is unacceptable, and this cases show that rape in marriage must be criminalized in the Penal Code itself so that the police, prosecutors and courts will have to apply the correct charges against the accused.

**Recommendation:**

Amend the Criminal Code to specify criminalise rape within all intimate relationships, including marriage relationships, (civil, religious and customary marriage) and *de facto* unions (living together already).

**g. There are insufficient funds for suppliers of support for women and girls**

Based on article 34 of the Law against Domestic Violence, the Government through the Ministry of Social Solidarity allocates funding to support the implementation of the Law against domestic violence however its shows that the funds referred to are not sufficient for the suppliers to support women and girls that suffer from domestic violence and gender based violence.

We are very concerned with the Government because they have provided funds that are not sufficient to NGOs that supply essential services to women and girls, such as shelter, psychosocial support and legal aids, and those who conduct advocacy. The majority of NGOs in Timor-Leste depend only on the support of international donors, and this may create emergency situations in the women's sector if donors reduce their funds.

For example, there is just one legal aid organization for women and girls, ALFeLa, and they receive core (institutional) funding from the government but still not sufficient and they continue to depend on international donors. Since the beginning of the year 2005, ALFeLa has helped 2,200 women and girls victims of violence, they have also helped clients in civil cases. The Law against Domestic Violence specifically guarantees victim's rights to independent legal aid. Even though ALFeLa's work is very important, the Government is not yet committed to provide sustainable funding. PRADET is the only NGO in Timor that offers forensic examinations for victims. PRADET also offers training for doctors and midwives from the Government about how to conduct forensic medical examinations. Considering the importance of this service for women and girls, it is not acceptable that PRADET has to continue to depend on international donors for the majority of funds.

Women and girls' access to essential services is very limited in Timor-Leste, particularly those that live in rural areas. Some districts have no women's shelter, or specialized psychosocial services or medical service facility. Even though ALFeLa offers legal aid in all districts, ALFeLa works out of just 4 buildings and it is a huge job for them to cover the entire country with just 12 legal officers. Police resources are also limited and there is no priority for the VPU (which has the mandate to protect women and girls who become victims of crime). The Government has no plan to provide funds for existing services, or to extend essential support services to all districts.

**Recommendation:**

We urge the Government to provide core (institutional) long-term funding to NGOs that provide essential support services to women and girls affected by violence. This can be introduced as an urgent Temporary Special Measure and can allocate funds from future State Budgets.

**h. The NAP-GBV must have clear and realistic targets and receive adequate resources**

The NAP-GBV 2012-2014 has finished and the Government has finally started to undertake an evaluation of the NAP, to be able to develop a new NAP before the end of 2015. The existing NAP assumed that international donors would continue to provide funding for implementation of key activities. This dependency on international donors cannot continue. Each Government agency with responsibility for implementation of the NAP must allocate funding and sufficient time in their work plan and budget and the State Budget must reflect the commitments made by the Government in the NAP. There must also be consultations with NGOs that provide the majority of services to women and girls to ensure that the costing model for the NAP actual reflects the costs of service to be provided.

**Recommendation:**

1. Ensure that all activities in the NAP use a costing (fully costed) and that the Government allocates sufficient money from the State Budget for the coming year.
2. Ensure that the roles and responsibilities of relevant Government agencies and NGOs are clearly defined in the new NAP.

**i. Prevention of violence against women and girls**

We are concerned because there is not yet enough understanding in the Government and civil society about the principle of primary prevention in the area of violence against women and girls. At present, the Government and NGOs deal with this issue through 'socialisation' activities in the community regarding the Law against Domestic Violence. We very much appreciate the promulgation of this law and the efforts already made to increase people's knowledge of the legal framework, however this is not sufficient to stop violence and make violence unacceptable in society and according to moral standards. As well as this, there are only a few Government agencies and NGOs whose staff properly understand the law and the referral network. Meaning sometimes, information that is distributed is not consistent. Based on international best practices, we think that prevention activities must be based on evidence and focus on activities with men and boys in order to change their attitudes and behaviours. During the year 2012 to the year 2014, just one coordination meeting was conducted between agencies and NGOs working on the Prevention Pillar of the NAP. This creates confusion about how to conduct primary prevention activities to stop violence against women in this country.

**Recommendation:**

1. Make investments in those programs and activities that try to change the attitudes and behaviours of individuals, and alter norms about gender.
2. Make investments to build the capacity of those organisations and Government agencies to conduct primary prevention activities in accordance with the new NAP in order to stop violence against women and girls.

**j. Human Trafficking**

Timor-Leste is a nation that has adopted the United Nations Convention against Transnational Organised Crime and its supplementary Protocol for the Prevention, Suppression and Punishment of Human Trafficking particularly of Women and Children and Supplement to the United Nations Convention against Transnational Organised Crime. Timor-Leste is bound by the content of these international legal documents because Timor-Leste has adopted its Law in accordance with international commitments, to combat the crime of human trafficking and provide protection and assistance to victims particularly women and girls.

At present Timor-Leste is developing a Human Trafficking law that as we see it that in the Introduction Needs to increase the United Nations Convention Against Transnational Organised Crime and its Supplementary/additional protocol also linked to other international conventions that the State of Timor-Leste has ratified particularly the Cedaw convention in order to guarantee that women actually receive protection and justice if they become victims of human trafficking.

In relation to victims of human trafficking have the right to accompaniment and assistance from institutions or people they consider able to accompany them during the trial process. These institutions that provide protection for victims have a right to receive maximum protection from the police/security if they are threatened or do not feel safe.

We are very concerned with the establishment of the Commission to combat Human Trafficking. The commission in question has several responsibilities, including coordination, monitoring and implementation of the draft human trafficking law. Despite the intention of creating the Commission is a positive step we see that at present there are insufficient human resources in the ministries or public institutions and there will be implications for state budget expenditure. The coordination Mechanisms adopted for implementation of the Law against Domestic Violence and the National Action Plan against Gender Based Violence can be utilised.

We are concerned about the implications for human resources which according to this law are described as transitional measure, victims have the right to support services from organisations that provide support to victims of domestic violence. NGOs that provide assistance to victims of domestic violence only receive a small amount of money or do not receive money from the government to support their activities. In the year 2016, the Government has a plan to also reduce the funding that the MSS provides to the NGOs that support victims of domestic violence. And at present, there is no specific shelter for victims of human trafficking. Some NGOs have a focus on women and children and therefore do not have experience and resources to provide assistance to adult male victims.

### **Recommendations:**

1. We recommend that the Government consider how the government can provide funding to organisations that need to provide assistance to victims of human trafficking
2. We suggest that it is more effective and efficient to use existing lines of coordination and institutions to coordinate, implement and monitor this law. For example, there are mechanisms already with SEM, the Ministry of Foreign Affairs, the Secretary of State for Security and the Ministry of Justice that the government can use to monitor the implementation of this draft law.
3. We request the creation of specific SOPs for investigation mechanism and assistance to Human Trafficking victims

## **k. Crimes of the Past**

The Right to Truth according to International Humanitarian Law, particularly article 32 of the First Additional Protocol to the Geneva Convention, means that families have the right to know the fate of their family members, article 33 and 34 place an obligation on State parties involved in armed conflict to seek people who have been lost. This has been undertaken starting with its articulation in various UN resolutions, constitutional documents to the truth and justice commission, and reports from expert commissions that have been mandated by the UN in relation to human rights violations. This instrument also enshrines the duties of States to implement laws to provide criminal sanctions against perpetrators of war crimes and crimes against humanity. And the duty to locate the perpetrators and bring them to Court (Article 49 Geneva Convention I, 1949; Article 50 Geneva Convention II, 1949; Article 129 Geneva Convention III, 1949; and Article 146 Geneva Convention IV, 1949).

The above instruments provide a great hope for many people in Timor-Leste, particularly the families whose family members were disappeared by the Indonesian military during the occupation period and whose fates remain unknown up to the present. There have been some efforts from government through the Ministry of Social Solidarity, to recognize the families who were victims of deaths and disappearances as heroes of the liberation struggle. There has been a start to memorializing those that were murdered by the military and their supporters during the occupation period, even with identification of the place of the bodies of the victims with simple means, information from families or from fellow victims themselves. This is for those where there were witnesses to their death. But for families whose family members were captured by the Indonesian military and have not yet returned (disappeared), without witnesses from the family or any fellow Timorese and to date their families remain in the dark regarding the whereabouts of their family members. Sometimes they have been recognized by the state as heroes of the liberation of the country and have received (military or civil) honours but still there remains a dark memory regarding the real fate of their family members.

### **Recommendations:**

1. The State of Timor-Leste, must institutionalise the process of identification of Timorese children that were separated from their families during the Indonesian military occupation of Timor-Leste, in order to re-unify them with their families;
2. We encourage the State of Timor-Leste to request the government of Indonesia to implement the recommendations of the CVA particularly to form a commission to deal with the issue of those lost during the Indonesian military occupation and to be accountable for women victims of the war in Timor-Leste.

3. Request the National Parliament to start to reactive the draft Law of the Memory Institute and Law of Reparations for victims and family victims during the conflict from 1974-1999 for debate and approval.
4. Request the government and National Parliament to examine and study the advantages of the International Convention on Force Disappearances in order to ratify (it).

### **PART 3: Empowering Women**

Even though the RDTL Constitution guarantees Equal Rights between Women and Men, the State has not yet created a Gender Equality Law to be able to guarantee Women's participation in any sector that can bring changes to women's lives particularly in the area of women's participation in political life and decision making, also gives advantage to women's the patriarchal system linked with the attitudes and mentality of fellow Men, becoming a major impact that prevents the participation of women.

- **The Constitution of the Republic of Timor-Leste Article 16, 17:** guarantees the Right to Gender Equality to access all sectors including Politics, Social and Family. But women representatives in leadership for decision-making positions are low at the Government, Municipal and Suco levels.
- **Political Party Law No. 3/2004 Article 8:** Women's' Quota, However Political Parties have no implemented this in practice in terms of placing Women in Decision making positions
- **School Re-Entry Policy,** The right to access to education is a fundamental Right that the State needs to attend to in order to ensure Human resources for the nation of Timor-Leste, However the Ministry of Education today has not ensured Women's right to access to Education by creating a Return to School Policy to facilitate Women Students with early pregnancies to continue the learning process after labour.
- **Workers Law No. 4/2012,** talks about the rights of workers in the public and private sectors, the Government has not yet created a good mechanism to collaborate with other entities competent to conduct socialising of the Workers Law to increase the knowledge of Workers to prevent discrimination in the workplace, and also there has been no monitoring of the implementation of the law in question.
- **Specific law for domestic workers,** in Timor-Leste there are many cases of discrimination against domestic Workers but the Government has not yet created a specific Law for domestic workers to ensure the rights of domestic workers.
- **Mega projects, The major project being undertaken at the present time in Timor-Leste are the ZEEMS, Supply Base and refinery,** however the Government has not created conditions for affected populations to avoid becoming victims of mega projects and also

the Right to participation and access to information, But the Staff responsible for the Mega projects being conducted in Timor-Leste do not consider Women's Participation to contribute ideas to develop infrastructure in the Municipalities, Administrative Posts and Sucos.

**Recommendations:**

1. The State must create a Gender Equality Law (GEL) to guarantee equality of participation in decision making positions in Government Institutions and Political Parties.
2. The Government must create policy to provide space for students that have early pregnancies to return to school after they have given birth and to create conditions to facilitate students to do transfers.
3. The Government needs to give attention to political Parties to implement the Political party Law article 8 regarding the Quota for women in Political Parties
4. In order to ensure that domestic workers are not discriminated against the Government needs to create a specific law for domestic workers based on the workers law **no. 4/2012**

Development of the nation is important, but the Government needs to ensure that is people do not suffer in the process of development, the Government needs to give maximum attention to facilitate conditions for the people to enjoy their rights.

# Implementation of Cedaw Convention in Timor-Leste

## Part 1: To ensure women's right to life (Article 12 CEDAW)

Based on Article 12.1 and CEDAW<sup>1</sup> and the concluding observations of the CEDAW committee, the Government of Timor-Leste must ensure women's right to life, particularly in the right to health.

Maternal and infant mortality continues to become a major problem in Timor-Leste: the MMR is 557 mothers per 100,000 births and neonatal mortality (newborns) is 22/1,000 births, from the 2009/10 DHS (Demographic Health Survey). Community understanding about optimal health behaviours during pregnancy, such as nutrition guides, pregnancy risk signs, and health seeking behaviour change, is limited. Although, there has already been progress in the increase of rate of skilled birth attendance since independence in 2002, various problems continue to affect the capacity of the current system to provide women qualified and high quality care during labour, particularly when there are complications. Many midwives have had no training in emergency obstetric care (EmOC), geographic Access to birthing facilities is limited as are communication and transport to facilities. Although multi-functional vehicle/ambulance has been provided at birth facilities, many women do not have transport to get to facilities once they give birth.<sup>2</sup>

The number of maternal and infant deaths is considered very high based on the *Demographic Health Survey* (DHS 2009-2010), the total fertility rate has lowered from 7.8 children per women in 2003 to 5.7 in 2009-2010. This results is considered to be the second highest in the Asia-Pacific. Maternal and infant mortality is a key questions for women, that has been identified as a main priority in public health by the Ministry of Health (MoH). Traditional attitudes and limitations in economic opportunities encourage women to marry and commence child-bearing at a relatively young age, resulting in a high level of fertility. As well as high fertility, limited access to health treatment, clean water and sanitation facilities of poor quality increase maternal and infant mortality.

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<sup>1</sup> Article 12.1 of CEDAW says: States must take all measure to eliminate discrimination against women in the area of health care and guarantee access to health services and access to family plan and must be based on women and men's equality. As well as article 12 in CEDAW, there is also the Concluding Observations of the CEDAW Committee, especially in the are of health the CEDAW Committee gave great attention to the State of Timor-Leste to look at the issues of Reproductive Health, including Maternal and Infatn Mortality, Family Planning, Mental Health, Unsafe Abortion, Nutrition, HIV/AIDS

<sup>2</sup>Research about awareness, behavior and coverage of the Mobile Moms/Linking Mothers program, September 2012

## A. Right to Health (Maternal and Child Mortality)

### 1. Birthing mothers do not receive assistance from health staff

Timorese women have almost six (6) children during their lifetimes, which places the fertility rate very high amongst other nations in the world. This high fertility gives rise to high maternal mortality. The maternal mortality rate reduced a little from last year, from 660 per 100,000 live births in 2003 to 557 iha the year 2009-2010, however this is still considered as a high level in the world. The national objective is to reduce maternal mortality by half to 252 iha the year 2015.<sup>3</sup>

It is important to have qualified staff present during the process of pregnancy and labour to be able to prevent, detect and manage any complications. The Reproductive Health Strategy identifies that the provision of qualified midwives, as well as equipment and other essential supplies, is “an individual factor that is fundamental to prevent maternal mortality”. Less than one third (30%) of births receive assistance from a qualified birth attendant (for example: a doctor, nurse, midwife or nursing aid). The majority of births take place at home (78%), and cases such as this often receive assistance from family. Women in urban areas have a high probability to give birth in a health facility compared to women in rural areas. Just 3 out of every 10 women give birth with assistance from staff or trained providers (doctor, nurse, midwife), most often from a nurse or midwife (26%). Others 18% receive assistance from staff of traditional birth attendants and 49% from untrained family or friends. The proportion of births with a qualified midwife in Timor-Leste is very low compared with neighbouring nations in South-East Asia and the Pacific such as Papua New Guinea (53%), the Philippines (62.0%), Indonesia (79.4%) and Thailand (99.5%).<sup>4</sup>

The Government of TL, has commitment to guarantee that “All women must have access to quality antenatal and post-partum health care, including family planning, emergency obstetric care, and medical referral mechanisms as necessary”.

#### **Recommendation:**

The Government must increase the budget allocation to implement the new revised strategy for Reproductive, Maternal, Neonatal, Infant and Adolescent Health with adequate facilities and capacity building for qualified health personnel.

### 2. Unsafe Abortion.

The low usage of contraception may result in unwanted pregnancy and there is a possibility that some mothers will have unsafe abortions. Abortion and assisting abortion is a criminal act according to the Criminal Code (Article 141) and attempts to exclude incest has not yet been successful. According to the law, abortion is only allowed when the interruption or

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<sup>3</sup>Country Level Gender Assessment, Page 35

<sup>4</sup>Country Level Gender Assessment, Page 36

termination of pregnancy is the only way to avoid maternal mortality. This requires authorization from a medical certifications signed by three doctors. While these measures continue to influence the practice of abortion in Timor-Leste at present, recent reports show that the number of abortions conducted at the hospital or health centres was 1,035 in the year 2011 and 972 in the year 2012.

This study was made by Alola Foundation, Charles Darwin University and the UNFPA, and says that the practice of abortion in Timor-Leste is conducted in secret, which increases the health risks. This means that sometimes women have abortions in secret because of rape, incest, and failure of the man to take responsibility for the child, because when there is no assistance from health personnel to help them when they have an abortion, this has an impact of a risk of mortality if they have bleeding, or other health complications following abortion.<sup>5</sup>

In the Committee's Final Observations on the 7<sup>th</sup> of August 2009, the Committee requested Timor-Leste to "review legislation regarding abortion with the aim of removing the punitive provisions for women having abortions". Despite this recommendation, Timor-Leste has continued to limit women's access to safe and legal abortion since the last periodic report. When passed on the 8<sup>th</sup> of April 2010, article 141 in the Criminal Code ruled that abortion were illegal, excluding when needed to protect the mother's physical and psychological health and the mother's or foetus' life. On the 15<sup>th</sup> of July 2010, Timor-Leste amended article 141 to protect the life of the mother of foetus, and in these cases there must be authorization from a panel of three doctors. Amendments also make allowance for other health professionals to submit objections to the abortion in question. Women that undergo illegal abortions may receive a penalty of three years in prison. From 2012-2015 4 women have received prison penalties because of the practice of illegal abortion.<sup>6</sup>

This amendment makes it very difficult for women to obtain legal abortions, particularly women in rural areas where there is only limited access to doctors. The 2009-2010 Demographic and Health Survey showed that just four (4%) per cent of women received pre-natal treatment from a doctor. When considering the small number of qualified medical professionals in the districts, it is not realistic for a women to obtain approval for abortion from a panel of three doctors. Without access to safe and legal abortion, women in Timor-Leste will continue to obtain abortions in secrecy and without proper medical supervision. A report from 2009 regarding this matter showed that (40%) percentage of emergency obstetric treatments manage and treat complications the occur because of loss of the foetus (whether from intentional abortions or spontaneous abortions/miscarriages).

Article 141 of the Criminal Code also criminalises abortion in cases of rape, incest and prejudices the psychological health of the mother. Considering the high number of sexual assaults and incest documented by NGOs in Timor-Leste, the government must ensure that

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<sup>5</sup> *Country Level Gender Assessment, Page 39*

<sup>6</sup> *JSMP Monitoring Report.*

all services from counselling to medical are available to victims. This includes options to terminate pregnancy. It must be noted that other nations with catholic traditions, such as Portugal, Brazil and Spain have authorized legal abortions in the case of rape and incest. Rape cases increased strongly in 2014 compared with the years 2012 and 2013. 132 cases (29%) involved sexual assault. 61 cases of the 132 cases of sexual assault (46%) involve girls under the age of sixteen. In 43 out of 132 cases (33%) the perpetrator of the sexual assault did not know the victim or was a person from outside. IN 2012 there were a total of 216 cases of sexual violence, in 2013 a total of 361 cases and in 2014 a total of 513 cases.<sup>7</sup>

**Recommendation:**

We request the government to quickly amend article 141 of the Criminal Code which is very restrictive for women's reproductive health;

**3. Anaemia**

Anaemia can be an indirect cause of maternal mortality and abortion, premature and underweight births. Often a result of food lacking in vitamins, illness, i.e. malaria and intestinal worms; anaemia is a very common problem, with 28% of pregnant women anaemic in 2009-2010. The prevalence rate is very high for women in rural areas and poor people. The Timor-Leste 2009-2010 Demographic Health Survey included an examination of haemoglobin from women aged 15-49 years and children 6-59 months. 38% of women in Timor-Leste, have some form of anaemia. 2 out of 10 women have anaemia. Globally, the main cause that directly results in maternal mortality is haemorrhaging, infection, high blood pressure (eclampsia), unsafe abortion.<sup>8</sup>

**Recommendation:**

Request the Government to intensify civic education about the importance of consuming nutritional balanced food and also to maintain the SISCa (Integrated Community Health Service).

**B. Health Facilities.**

There continues to be a lack of birthing facilities in Timor-Leste. In this research health facilities are defined as hospitals, community health centres, maternity buildings (one in each sub-district), health posts, or private clinics. Only 32% of women in Manufahi and 29% in Ainaro said that they gave birth in a health facility with the last child (Table 15). It is noted that, in the sub-district of Turisca (Manufahi) and Hatubuilico (Ainaro) there were just 1% and 7% that gave birth in health facilities.

In Manufahi only 2% said that they walked to health facilities, whilst in Ainaro 24% walked to get to health facilities for their last birth. Use of private vehicle is lower, and there were no reports of this in 5 out of 8 sub-districts. One possibility that is a barrier to birthing at a health facility is the travel time and the lack of private and public transport available in rural

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<sup>7</sup>2015 Annual report, Legal Aid for Women and Children, ALFeLa, 2014

<sup>8</sup>Country Level Gender Assessment, Page 39.

areas. A total of 41% said that they could get to facilities in 30 minutes.  $\frac{3}{4}$  of women in Manufahi and  $\frac{1}{4}$  in Ainaro said that they needed 30-60 minutes to get to a facility.<sup>9</sup>

Based on research conducted by *Health Alliance International*, which covers just the 2 districts Ainaro and Manufahi, the conclusion continues to arise from this research, particularly regarding health facilities for pregnant women to give birth in, show that there are major barriers faced by women in accessing good facilities at health centres. It is not yet imagined that other districts of municipalities have the same concerns as these two municipalities. Regarding the question of health facilities, the majority of municipalities it is a major question for the Ministry of Health to give attention to.

Based on the above legal frameworks the government through the Ministry of Health has an obligation to create policies and plans to meet its obligations to achieve the right to health for all people. According to the results of HAK's monitoring in 53 sucos, community authorities inform (that), almost 62 of these sucos have a health post to provide health services for the community. However 38% of these sucos do not yet have a health post in their own suco. Thus they need to travel a long way from their suco to get access to health centres in neighbouring sub-districts and sucos. Despite various complaints reported by the public about public health services in hospitals, HAK also recognised that the government has made efforts so that all people can have access to health services in the sucos.

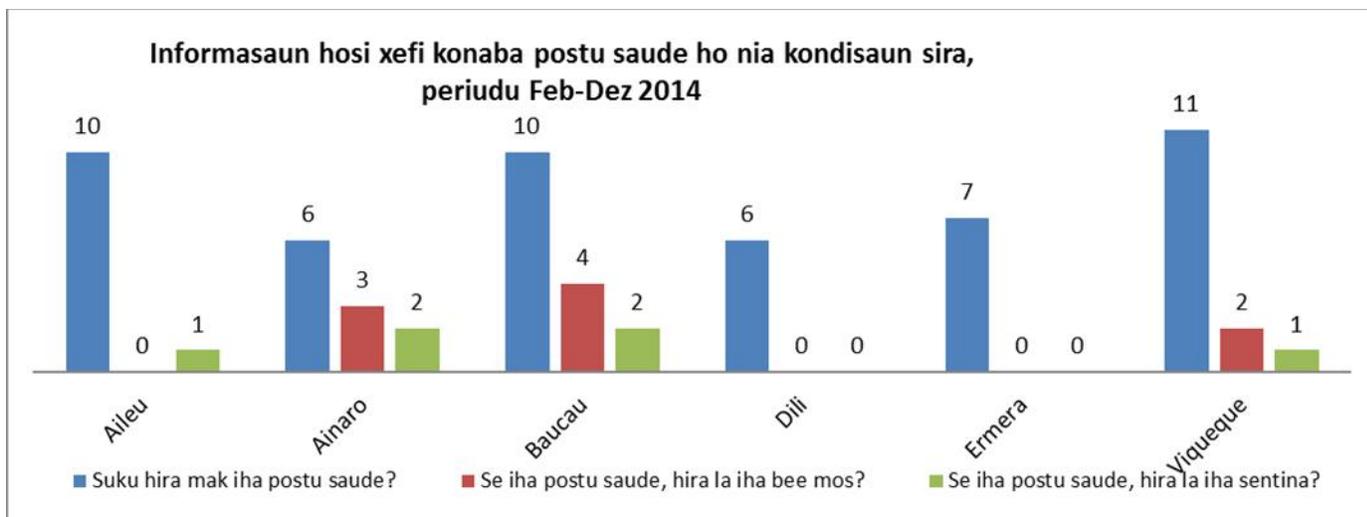
At the health posts they face various problems that are barriers for community access to good health. Firstly at some health posts there are not yet health personnel providing permanent services. Therefore health services in these sucos is only provided regularly based on need and the schedule of health personnel at the sub-district. Also at some health posts there are already health personnel to provide permanent services there but equipment and health facilities don't yet properly support the work of health personnel. For example in some places there is not yet anywhere (a house) for staff to live at. At some health posts as well a lacking health equipment, there are also 2 health posts that do not yet have water. (This) therefor makes it difficult for the work of health personnel in the community.<sup>10</sup>

Based on monitoring by HAK regarding the condition of health posts established by the government in sucos, the suco chief stated that some health posts have poor sanitation conditions. Of 50 health posts in 6 districts, almost 18% of health posts have no clean water and 12% do not have toilets. As well as this some sucos do not yet have a preventative doctor to provide health assistance. Thus, communities must access health assistance from health centres at their administrative posts (sub-districts) and also some go to health posts at their neighbouring sucos with long distances when there are sick.

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<sup>9</sup>Research Report about Linking Women.

<sup>10</sup>HAK Association Annual Monitoring Report, in the Health sector, 2014



This is a small image of the overall existing situation for the Government to give attention to further improve work strategies to guarantee all people's right to good health services. Because of the condition of some existing health posts, it is not possible to provide good health assistance to the community. Also these conditions do not support health personnel to undertake their roles in these health posts. If health posts do not provide proper medical assistance to communities that are sick then the sharing of information to the community regarding healthy living and how to avoid ill health is also difficult for them.<sup>11</sup>

### 1. Transport Facilities

The Australian Government has provided support to the Ministry of Health regarding practical life-saving actions in Timor-Leste through facilitating repairs to ambulances and health vehicles. At present 7 ambulances are functioning again and another 17 are in the repair shop. Ambulances and multi-functional vehicles can take mothers and children needing urgent treatment from sucos to health facilities. For example, maternal mortality in Timor-Leste is the highest in the region, sometimes because mothers do not seek or receive treatment for labour quickly. Support for functioning ambulances is part of a new program from the Australian Government for health (with a total budget value of \$28 million Australian dollars for the first step over four years). This program has the aim of contributing to improve health results in 13 districts, particularly women's and children's health. Mr Jon Moore, Chief Facilitator Department of Ambulance Transport at the Ministry of Health said that he feels very proud to work on such an important project, which made immediate results and could save lives. We have already demonstrated how this project could be effective through quickly repairing 7 cars that

<sup>11</sup> HAK Association Annual Report 2014

are functioning again, in the first four months of the programa. These problems occur in the 13 districts that, have no Ambulance, have no fuel.<sup>12</sup>

## **2. Management of Medications and health staff service provision.**

President of Commission F – Education, Health, Veterans, Gender Equality, Sr. Virgilio Hornai, in the plenary of the National Parliament raised this question because the oversight of commission F show that: the problems that occur in the 13 districts at present are the lack of medicines, oxygen, nurses (male and female), midwives, doctors, medical specialists, cleaning is not undertaken, no potable water at hospitals, poor attendance to patients, no electricity at the hospital, medical students not receiving subsidies, no residence for doctors, unpaid salary and overtime and other problems that require attention at the HNGV, because the Ministry of Health has already stopped the transfer of patients for treatment overseas, but when patients come to the hospital for treatment (health management) they complain about the hospital, that they look around and say there are no medicines. So there is a need to improve management, there is a national development strategic plan which we want to be a model, but it is not followed, and because of this management must be improved.<sup>13</sup>

## **3. Equipment**

In order to have complete health facilities, the Ministry of Health needs to coordinate and seek support from development partners. The work presented shows good examples about how partners support the Ministry of Health to improve the package of basic services at health facilities. Patients with serious health problems are referred to the hospital to the Primary Health Care system.

Poor families sometimes travel far to go to health facilities and consume their limited resources on transport and accommodation to obtain treatment but there are not health service providers and no medicines available. This are often reports of the shortage of essential medicines and lack of fuel for ambulances to take pregnant women to health facilities. Health facilities and equipment lacking, include no beds for patients at the Hospital and Health Centres, no tables and chairs for health staff to facilitate consultations, the menu for meals for patients does not follow the nutrition standard including VIP at the Guido Valadares National Hospital has not health facilities.<sup>14</sup>

Each health centre needs to implement various components to achieve the same standards including, functioning infrastructure with water, electricity, and waste management systems. Availability of health services with competent staff. Availability of medicines, equipment and materials, properly functioning referral systems, effective management systems and active participation from the community.

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<sup>12</sup>*National Parliamentu Oversight Report, Commission F Education, Health, Veterans and Gender Equality Matters, 2014, page 2*

<sup>13</sup>*Oversight Observations National Parliament, Commission F Education, Health, Veterans and Gender Equality Matters, 2014, page 3*

<sup>14</sup>*National Parliamentary Oversight Observations, Commission F Education, Health, Veterans and Gender Equality Matters, 2014, page 4*

### C. Nutrition

The National Nutrition Strategy for 2013-2018 that is current being finalized, calls for multi-sectoral action and support from health, agriculture, education, water and sanitation, and others in order to improve maternal and infant nutrition in Timor-Leste.

Household economic status influences the nutritional status of children. Children living in poor families have high levels of malnutrition compared with children from wealthy families. However, the TLDHS 2009-2010 suggest that malnutrition is a common problem in Timor-Leste, because there are high levels of stunting, wasting and under-weight (children). Other problems that need to be resolved are the very high levels of malnutrition and under-nutrition. Chronic malnutrition is indicated by living with stunting, and 58% of Timorese children under five years of age have low height for their age (Demographic Health Survey (DHS) 2010). This situation can be partially resolved with basic maternal education about nutrition.<sup>15</sup> Research in the *National Nutritional Strategy 2012-2017* states that the Timor-Leste Ministry of Health has no consensus regarding the causes of malnutrition and the variation between districts. These reasons are civil war, interruption to subsistence and public services, poverty, reduced agricultural product, weak health services, lack of potable water, inadequate sanitation and hygiene, low levels of public investment and knowledge to nutrition issues.

The majority of nutrition interventions being implemented at present by the Timor-Leste Government are nutrition-specific interventions that respond to the immediate determinants of nutrition and foetal and infant development – adequate ingestion of food and nutrients, feeding practices, care and parenting, and low incidence of infectious diseases. These include supplementary feeding of children and infants and micronutrient fortification, treatment of acute malnutrition, and disease prevention and management. A number of stakeholders and partners are providing support for the implementation of specific interventions including NGOs such as Alola Foundation and faith based organisations (*Pastoral da Crianças*), bilateral donors (AusAID, EU, Governu Japan, USAID, Spain, etc.), international financial institutions including the World Bank, and global alliances such as the Spanish MDG Achievement Fund (F-MDG) and UN Agencies (FAO, UNICEF, WFP, WHO).<sup>16</sup>

Even though nutrition-sensitive interventions have been implemented through other sectors including agriculture and food security; social security net; early childhood development; maternal mental health; women's empowerment; child protection; schooling; water; sanitation and hygiene; health and family planning services. Links between specific and nutrition sensitive interventions remain weak. Therefore, there is a need to strengthen coordination between various sectors to be able to respond to the complex problems of nutrition. The National Nutrition Strategy 2013-2018 that is currently being finalized, needs multi-sectoral action and support from health, agriculture, education, water and sanitation, and others to improve maternal and infant nutrition in Timor-Leste.

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<sup>15</sup>Demographic and Health Survey, 2009-2010

<sup>16</sup>Situation Analysis of Children in Timor Leste (*Maternal Health, Health Facilities*), page 83

## 1. Pregnant women with malnutrition

A woman with poor nutrition status, as indicated by body mass index (BMI) short stature, anaemia, or other micronutrient deficiency, will have a high risk during labour, of death because of haemorrhaging, post-partum and underweight mothers giving birth and babies with low birth-weight, implying that the mother and child will get sick. Anaemia in women of reproductive age has implications for work performance because of physical immunity that is not strong, babies with low birth-weight and high risks of mortality during pregnancy.

Anaemia is the highest cause of morbidity and mortality. It has a Strong relationship with various disease complications that can affect mortality, and is a strong indicator for poor health and nutrition for all women and children. Anaemia in Young children impedes their psychomotor and cognitive development. Iodine deficiency can give rise to poor brain development and intellectual impairments. Acute iodine deficiency during pregnancy can cause cretinism, acute mental and physical retardation and can cause foetal death and miscarriage.

The Timor-Leste Demographic Health Survey also measured the weight and heights of women aged 15-49 years. Only a small number of Timorese women are overweight (5%), however 27% are wasted, showing that malnutrition amongst women is a serious concern for public health in Timor-Leste. Good education levels and healthy lifestyles contribute to reduce the number prevalence of women under-weight. The highest proportion of wasting in women was found in the district of Bobonaro (39%).

Hunger and poor nutrition are a serious public health concern in Timor-Leste. The DHS shows that in the year 2009-2010, an additional 27% of women aged 15-49 suffered from malnutrition, from 38%. Women with impoverished nutrition status have a higher risk of experiencing major illness, ineffective work, haemorrhage and pain after child-birth.<sup>17</sup>

## 2. Children with Malnutrition.

Malnutrition amongst children is very extremely high, with 58% of children suffering from chronic malnutrition in the year 2009-2010, compared with 54% in the year 2007. Measures of child nutrition are seen from shortness (short for aged – stunted), wasted (wasted body for height – wasted), and underweight (body wasted for age – underweight). There is no significant difference amongst boys and girls, despite this malnutrition is a very large problem amongst children in rural areas rather than children in urban areas, which shows that there is a large difference amongst children living in rural and urban areas. In rural areas there are many local products to provide nutrition, however in the preparation of food meals are not balanced, such as Protein, Carbohydrate, Oils and Minerals. In 2013 Timor-Leste conducted preliminary research *Findings of the National Nutrition Survey in Timor-Leste* regarding nutrition, the results

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<sup>17</sup>Demographic and Health Survey Timor-Leste, 2009-2010.

show a high prevalence of shortness (stunting) at 51.92%, wasting 11%, and underweight also reduced to 38%.<sup>18</sup>

### Case Study

*Based on comments from Alola Foundation staff Sra. JP who provided training about nutrition in rural areas, said that: the nutrition of children in rural areas is not the same as children in urban (areas), because the meals consumed lack balance of protein, carbohydrate, oil and mineral content. If they are eating rice then the vegetable is noodles meaning that they are only consuming carbohydrates, so they don't consume the correct protein content, don't need to consume protein with a high price like meat, fish, but cassava leaves, mustard greens, potato also have protein nutrient. Comments from Alola Foundation staff, show the community in rural areas don't yet have good information about how to prepare balanced meals to ensure family nutrition, particularly for children.*

In general, preliminary results of studies regarding National Nutrition Status also indicate significant improvements in the nutritional profile of Timorese children under-five years of age, with special impact on the level of malnutrition help in children under two years of age.

The rate of malnutrition in the country suffered a fall of 6.6%, meaning from 44.7% in 2010 to 38.1% in 2013. This data presents a reduction in the rate of chronic malnutrition in children aged 0 to 23 months of 11% (49% in 2010 to 38% in 2013), and close to a 6.7% reduction in the prevalence of chronic malnutrition amongst children of the same age relative to the results of the Demographic and Health Survey (18.6% in 2010 to 11.9% in 2013).<sup>19</sup>

Specifically, the Study shows improvements in the prevalence of malnutrition in different districts, except for Covalima, Bobonaro and Oecusse, which need to identify the main cause of this difference. Despite advances over these time periods, infant malnutrition amongst children aged 0-4 continues to be a public health problem in Timor-Leste. The Ministry of Health continues to work with other relevant sectors including agriculture, commerce and industry to provide development tracking for the Strategic Plan to Combat Malnutrition in Timor-Leste, and its focus requires multi-sectoral interventions, in the scope of the Comoro Declaration 2010.

Based on the report from the NGOs HIAM HEALTH that has been a rehabilitation centre conducting only rehabilitation for people affected by malnutrition in 2 Municipalities including the Municipality of Ermera and Dili, shows that the Municipality of Ermera has 35 suco HIAM Health went into only 10 Sucos and found a total of 835 people not yet covering the entire territory of Timor-Leste. Starting from the year 2010-2014, a total of

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<sup>18</sup>Country Level Gender Assessment, Page 41

<sup>19</sup>Preliminary Research on National Nutrition Status, based on the comoro declaration 2010.

1895 people that were referred from the Guido Valadares National Hospital to HIAM Health for rehabilitation from Malnutrition.

**Recommendation:**

1. How will the Government of Timor-Leste, particularly the Ministry of Health ensure implementation of the national nutrition strategy for 2013-2018?
2. The Government of Timor-Leste needs to ensure multi-sectoral action and support from health, education, agriculture, water and sanitation to improve maternal and infant nutrition in Timor-Leste.
3. Request the Government to increase the awareness of the population through socialization, campaigns about nutrient composition.

**3. School meals**

School meals is a policy of the Government, particularly the Ministry of Education to provide meals for children with malnutrition with the objective of helping develop children's brains and improve their nutrition. This policy is based on observations by civil society that in part (its is to) improve children's nutrition to be able to develop their brains in the process of learning, and also to make children diligent to go to school because of attracting them with school meals provided to students or children, this shows the positive part. Because of this the school meals (program) has a working relationship with the Ministry of Health to examine and analyse the nutrients of foods and prepare a menu of meals with nutrition from carbohydrate, proteins, fats and minerals. There are many complaints from the community or public about the existing school meals, because of failures in preparation of a menu and foods provided to children, such as (lanu???) fish and uncooked beans that gave children upset stomachs; these events occurred in the District of Dili and also in other districts. Each year the budget approved for school meals \$0.15 per student.

Based on the Public School Health Plan for 2012 there will be attempts to improve the things that were not effective in 2011 in the public education sector particularly for students in primary education such as the school meals programa and school public health. "Because of this partners will sit together to discuss the plans for things that need to be improved in 2012", said the National Director for School Social Action, Carlito Mota, just recently at the Non-Formal Education Room, Ministry of Education, Vila Verde, Dili. According to Director Mota, the Ministry of Health (MoH), Department of School Public Health must look after the health of students in public schools and must have linkages with the school meals program because school public health has its own department to look after this issue. He shared examples of this relationship, the Department of School Public Health can raise the awareness of students when about to eat and after eating that they must wash their hands. Meanwhile the Rita Soares, the Ministry of Health's Public Health Officer said that there is already a plan to implement a public health program in schools by training the teachers, and conducting monitoring in the schools, working together with the Ministry of Health, Water and Sanitation Service

(SAS) about how to support sanitation in schools so that students could learn more effectively and protect their own health.

**Recommendation:**

- a. Urge the Government of Timor-Leste, particularly the Ministry of Education to improve the policy and budget transfer mechanism from the Ministry of Education to each school.
- b. Urge the Government of Timor-Leste, particularly interministerial between the Ministry of Education and the Ministry of Health to examine the nutrition provided by the school meals program.

**D. Sexual identity and sexual orientation (LGBT)**

The term LGBT will be a unique word for the general community in Timor-Leste. In relation to this issue, the LGBT community has existed for some time, however the language and their existence is considered taboo for the community. In this report those of us under the shelter of civil society organisation that works together with the LGBT community called CODIVA (Coalition for Diversity and Action) or in Tetun “*Hamutuk iha Diversidade ba Asaun*” wish to share some ideas that the LGBT community has faces in their daily lives. CODIVA looks after the LGBT community, i.e. MSM (*Men who have Sex with Men*) and TG (*Transgender*). In the Timor-Leste context there are many transgender (individuals) in the community and they are not closed. In Tetun transgender people are called *bifeto*. But the main word that the transgender community feel is most aggressive towards them is *panlero*. On the 16<sup>th</sup> of December 2014 at Hotel Ramelau consultations were conducted to discuss their rights. CODIVA and ISEAN (Insular Southeast Asian Network) promote and conduct advocacy for the rights of the MSM and TG community, and also undertake capacity development with this community. The results of consultations indicate that transgender individuals are exposed to stigma and discrimination in different sectors including health, family, friends, general community, security, legal and education.<sup>20</sup>

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<sup>20</sup>CODIVA Activity Report 2014.

### **Case Study about LGBT:**

*ZV lived for 12 years together with MM as “Lesbian”, even though the two of them are the same sex they chose to live together like a family. In the life, the families of ZV and MM have a good understanding that maybe this is the life they chose, without discrimination, or violence from their two families. Discrimination and violence happened to the two of us (ZV & MM) because as an intimate relationship there are feelings of jealousy of each other, giving rise to physical, psychological, sexual and economic violence. Society showed discrimination through stigma and violent words directed towards us, saying: Two women together, don’t really know how to have sex properly? Although we heard these aggressive or violent words directed towards us we received them well because this is the life we chose, to live together as lesbians until death parts us.*

## **E. HIV/AIDS**

### **1. Information and training**

#### **a. Information**

The national prevalence of HIV/AIDS estimated at almost 0.1845%, is considered a low level epidemic, although there is evidence the HIV/AIDS has increased. The first case was registered in 2003-2012 with a cumulative total of 281 persons confirmed as HIV/AIDS positive (a total of

52% women are affected or HIV/AIDS positive, 36 have died (women being 33% of the total). And 84 people are currently receiving anti-retroviral treatment, 40% women. According to the government progress report in 2012, HIV infections are concentrated in the urban areas of Dili and Maliana. Half of the infections occurred amongst the 25-44 year age group and 34% are aged between 15-24. (*Gender Assessment in Timor-Leste, page 49*)

Information available from the Demography and Health Survey suggests that, while the prevalence is actually small (it is estimated at 0.6% in 2033), the epidemiological situation for HIV/AIDS in Timor-Leste threatens the population and the future of the nation because the virus continues to spread from person to person. The number of cases registered from 2003 to the second quarter of 2014 are 447 with 41 people having

died already and in March 2015 the number of people HIV positive rose to 509, and the number who have died to 56.<sup>21</sup>

## **b. Training**

In 2011, the second HIV/AIDS and Sexually Transmissible Infections strategic plan (2011-2016) is a framework for action for the next five years. This strategy is concentrated or focussed on prevention, behaviour change through awareness and treatment, care and support for those people infected and affected by HIV/AIDS.

Although there is information from the HIV/AIDS prevention campaign provided by Society, Agencies and the Ministry of Health there is still a high risk from limited knowledge about how the virus is transmitted or impeded. Only 44% of women and 61% of men have heard and speak about HIV/AIDS. In Timor-Leste many (people) have mistaken ideas about the virus, just 1/3 (33%) of women and 46% of men understand that people who appear to be healthy can also have HIV, and only a few understand that HIV cannot be transmitted from mosquito bites (women 25% and man 42%). Knowledge about the role of condoms in the prevention of transmission of AIDS is very low amongst men (45%) and women (30%), only 35% of men and 17% of women aged 15-49 know where to go for HIV testing. In an interview the Director of Estrela+ which works in looking after and advocating for women affected by HIV/AIDS, said that only 17% of women know where to go for testing and have knowledge of the use of condoms for prevention because many women have not yet accepted reality and do not want to be tested because they are afraid, and ashamed that it might be detected that they are HIV/AIDS positive. Information and capacity building for them to continue to have the courage to seek treatment for themselves is really lacking. Only a few women are ready to accept the situation they face despite the discrimination experienced from their families and society. When some of the women already affected are taken by staff from Estrela+ for counselling and treatment, they are shy to speak about their real illness, and sometimes because the foreign doctors that treat them find it difficult to understand them properly because of the language used.

The gaps in the implementation of these policies include a lack of orientation towards specific targets for prevention programs (for example, young people at risk, people with multiple sexual partners), difficulties in maintaining supplies of medicines, provision of adequate information to doctors, safeguarding or protection of the rights of HIV positive people, inter-sectoral coordination, and lack of monitoring and evaluation data. There is already data that has been recorded, but there is no monitoring and evaluation of the implementation of the policy in question, reviewing the training already provided, medicines and access for HIV positive persons to routine treatment.

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<sup>21</sup>*Relatorio annual Komisaun Nasional Kombáte HIV/SIDA, Pájjina 45, no Relatoriu seminariu internasional parlamentu kona ba politika jéneru, Pájjina 31*

## **2. Access to Health Facilities (for) the HIV/AIDS affected.**

Voluntary counselling and testing services of HIV/AIDS are provided in 19 locations: the Dili National Hospital, 5 referral hospitals, 9 Community Health Centres (CHC), one private clinic and three mobiles clinics. Development of programs for the prevention of transmission of HIV/AIDS from mother to child started in 2010 and pre-natal examinations and care was available at 6 hospitals in 2011. During this year, uptake of examinations for pre-natal care was highest in Dili (2,154 women) with 587 women having medical examinations in Baucau, 346 in Maliana and no women having pre-natal care examinations in Covalima, Ainaro and Oecusse. From this outcome, a total of 7 women have been confirmed as HIV positive and have received health treatment. The Ministry of Health provides treatment for pregnant mothers affected with HIV/AIDS positive.

### **Case Study: Discriminative treatment from Health staff**

*A women named LU affected by HIV/AIDS, in 2012 gave birth to her second child in the Referral Hospital in Baucau, when she was giving birth, she herself did not know that she was HIV/AIDS positive, health staff saw that she had complications with other illnesses such as skin rashes and wounds, at that time laboratory tests were performed, the results for the testing then detected that she was HIV/AIDS positive. When it was detected that the women was HIV/AIDS positive, she had to have a caesarean operation and was admitted to the hospital for just one week because the health staff particularly the midwives shunned her, and the hospital telephoned to the family and the family (mother, father, older sister and younger siblings) immediately came to the hospital and separated the child, they shunned her too, because she had contracted a bad disease, she could not breastfeed or be near her child.*

*When Mrs LU returned home, her family scorned her, separated her bowl, spoon, cup, and cooking pots, she could not eat with the family, and could not hold or feed her baby, she was very isolated from her family and society and particularly from the neighbours. This treatment continued until a counsellor from Estrela+ went to the family of the affected, and then the family understood and accepted her again. Mrs LU lives on here own with her two children, her husband has not accepted her and they have separated.*

### **Discrimination from government institutions, family and society.**

*Mrs LM, HIV/AIDS affected from the District of Aileu, has three children, worked at a government institution as a cleaner, and then moved to become a civil servant. When she became ill and it was detected that she was HIV/AIDS positive, her boss removed her from the workplace, her colleagues scorned her, and the family also wouldn't accept her or her children because she had contracted a bad disease. Her husband died because he was affected by HIV/AIDS, but there was no detection by the health services, and now she lives as a widow. After she was removed from her work, the organisation Estrela+ conducted advocacy with the government institution in question to accept her back at work, then the government institutions where Mrs LM had worked understood and*

*wanted to call her to come back to work, but she was ashamed because everyone in the institution knew and shunned her.*

Through the second HIV/AIDS Strategy the Government wishes to further strengthen the significant successes already achieved in 2010-2011, such as the strengthening of voluntary counselling and testing services, guides for counselling, training for medical staff, and provision of treatment. The number of people with HIV/AIDS in Timor-Leste with access to treatment is 52% and 48% do not have access to treatment. The factors that lead to people not being treated or not getting access to treatment are because there is no support from the family or because they are afraid of stigma and discrimination.

**Recommendation:**

1. Request the Government to invest in human resources for training, facilities, quality health personnel for HIV/AIDSs, to combat HIV/AIDS in Timor-Leste because it has a low population, and so that the number of people affected by HIV/AIDS does not increase each year, and to undertake more early prevention rather than treatment later.
2. Request the Government, particularly the Ministry of Health to provide training for health personnel to provide good care services, without discrimination, professional, showing a gentle manner to people affected by HIV/AIDS, treating them with dignity as human beings, with the same rights as people who are unaffected.
3. Request the Government to strengthen coordination between ministries and organisations working in this area which need to examine the successes and challenges faced when implementing policy and to create follow-up mechanisms and strategies for the future.

## **Part 2. Ensure Women’s Physical Integrity (Article 6, 15, General Recommendation 19)**

The right to justice is a fundamental human right for all (people) in a Nation. In Timor-Leste, the RDTL Constitution guarantees all citizens their fundamental Rights and also Women have the same Rights as men in the Nation of Timor-Leste. The State of Timor-Leste has also ratified a number of International Conventions and the State has obligations to implement including also other National Laws and to create conditions to be able to respond to the implementation of these conventions.

In this part we examine the Rights of families in the general provisions of the civil code, crimes of the past and human trafficking because these issues are very important to raise in this report based on the experience in implementation their continues to be a lot of discrimination against Women and the State doesn’t really give attention to guarantee implementation.

### **A. Article 16: Equality in marriage and family law**

#### **1. Civil Code & draft Civil Registry Code**

We really appreciate the promulgation of the Civil Code (Decree Law 10/2011) on the 14 of September 2011, which provides equality before the law in the areas of capacity to enter into contracts, use of property, marriage, divorce, sustenance and inheritance. However, the Civil Code still has provisions that are discriminatory against women and need to be amended. Firstly the law recognizes Catholic marriage as a legitimate marriage but does not include marriage for other religions. The law also does not recognise *de facto unions* (taking each other without marriage), and also doesn’t recognize same-sex relationships (men with men, women with women). Many women in Timor-Leste live in *de facto unions* (not yet married in accordance with the law), or have not yet registered their marriages, which can have major consequences for women in relation to their rights to their spousal property (house and land) and to sustenance. In the majority of cases that come to ALFeLa, women have the right to sustenance only for their children, and not sustenance for themselves, because they are not yet married in accordance with the Civil Code.

We are also concerned that the current draft Civil Registry Code requires registration of a child’s father on the birth certificate. There is no exception if the mother cannot reveal the father’s name because of rape or other reasons for not being able to reveal it. Obliging women to register the father’s name may re-victimise a woman who was raped,

particularly because the Government cannot guarantee confidentiality for the registration process. This requirement also violates the child's right to birth registration and identity.

We note also that the Civil Code has not yet been translated from Portuguese to Tetun, understood by the majority of people in Timor-Leste. The lack of a Tetun version limits women's ability to understand and enjoy their civil rights.

**Recommendation:**

1. We urge the Government to amend the Civil Code to recognise *de facto* unions and to give the same recognition, and all the same rights and obligations to same-sex relationships in accordance with the Civil Code.
2. We urge the Government to ensure the draft Civil Registry Code does not require the registration of the father on the birth certificate.
3. We urge the Government to immediately translate the Civil Code into Tetun.

**2. Divorce**

It is very difficult to obtain a divorce in accordance with the Civil Code. If one person does not wish to divorce, the court must find one person to be guilty or guiltier for the divorce<sup>22</sup>. Finding one person guilty for divorce has an impact on the sharing of property/goods and sustenance. For example, a person found guilty in a divorce has no right to any benefits from their spouse or other parties as a result of the marriage.<sup>23</sup> Many women wanting to obtain a divorce in Timor-Leste are also victims of domestic violence. If they do not have adequate legal counsel, a woman may not request divorce and may not protect her legal rights. As discussed below already, in relation to General Recommendation 19, the Government must provide funds to those NGOs that provide free legal aid to women in civil cases, in family cases and cases of domestic violence. This can be introduced as a Special Temporary Measure (special temporary measure to achieve gender equality) and (with) allocation of funds from the State Budget.

The Civil Code also says that women must wait 300 days before remarrying following divorce or the death of their husband. The time period for a man to wait is just 180 days.<sup>24</sup> The Government recognizes in its report to the Commission that this provision is

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<sup>22</sup> Article 1663 of the Civil Code.

<sup>23</sup> Article 1667 of the Civil Code.

<sup>24</sup> Article 1494 of the Civil Code.

discriminatory and “from social dogma (fixed ideas, cultural ideas) about widows”.<sup>25</sup> They recognize it already, therefore we urge the Government to amend this provision to ensure that women and men can remarry after the same time period.

**Recommendation:**

We urge the Government to amend Article 1494 of the Criminal Code to allow women to remarry after 180 following divorce or being widowed, without consideration as to whether the woman is pregnant or has given birth following the dissolution of the previous marriage.

**B. General Recommendation 19: Violence against women and girls**

Domestic violence is the largest category of crime occurring in Timor-Leste (sources from ALFeLa’s annual report). We are very concerned about the high level of violence against women and girls in Timor-Leste. The Demographic and Health Survey 2009/2010 showed that 38% of women have experienced physical violence starting from age 15, and the main types of violence experienced by women is violence from their husband or domestic violence.<sup>26</sup> Between the year 2009 and the year 2014, PRADET supported 1,761 women and girl survivors of domestic violence, sexual assault and other abuses. Of these clients, PRADET conducted forensic medical examinations and provided medical treatment to 1,539 women and girl clients, and provided temporary accommodation for 357 clients. Statistics from other NGOs also show 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<sup>27</sup>

	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
<b>Total</b>	<b>188</b>	<b>230</b>	<b>218</b>	<b>268</b>	<b>345</b>	<b>512</b>	<b>1761</b>

<sup>25</sup> Second and third periodic reports of Timor-Leste, 17 September 2013, CEDAW/C/TLS/2-3

<sup>26</sup> National Statistics Directorate, Ministry of Finance, and ICF Macro, ‘Timor-Leste Demographic and Health Survey 2009-10’, 2010, at 228, 230.

<sup>27</sup> Source: ALFELA & PRADET client statistics, 2009-2014.

Table 2. Client statistics, new female clients only, from Women and Children’s Legal Aid (ALFeLa), January 2009—December 2014 <sup>28</sup>

	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
<b>Total</b>	<b>160</b>	<b>221</b>	<b>224</b>	<b>186</b>	<b>321</b>	<b>409</b>	<b>1521</b>

Since Timor-Leste’s last report, it has promulgated the Law Against Domestic Violence (Law 7/2010), which has a broad definition about what constitutes domestic violence and its relationships, and make some offences in the Criminal Code including the crime of domestic violence thus also a ‘public crime’.<sup>29</sup> We are very appreciative of this important step. The Law against Domestic Violence has already had a huge impact because it has directed domestic violence cases to the courts. Following the promulgation of this law in July 2010, the percentage of domestic violence cases monitored by JSMP increased to 48% of all cases monitored in the court 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.<sup>30</sup>

Table 3. Number of domestic violence cases monitored by JSMP, July 2010—December 2014 <sup>31</sup>

	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

<sup>28</sup> Source: ALFeLa client statistics, 2009-2014.

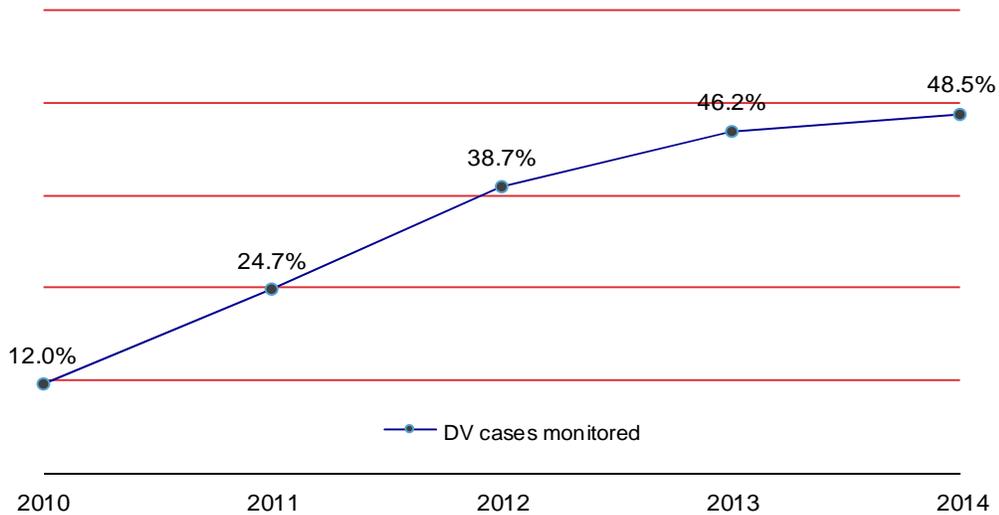
<sup>29</sup> ‘Public crimes’ can be prosecuted without a complaint being filed by the victim, and cannot be mediated by the Court.

<sup>30</sup> Judicial System Monitoring Program, ‘Women in the formal justice sector, report on the Dili District Court’ (2010) at 12; Judicial System Monitoring Program, ‘Statistics on cases of domestic violence against women in Timor-Leste’ (2005) at 9.

<sup>31</sup> Court monitoring data from Judicial System Monitoring Program, 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.

Total	50	283	429	481	951	2194
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**Chart 1.** Percentage of domestic violence cases from total cases monitored by JSMP, July 2010-December 2014 <sup>32</sup>

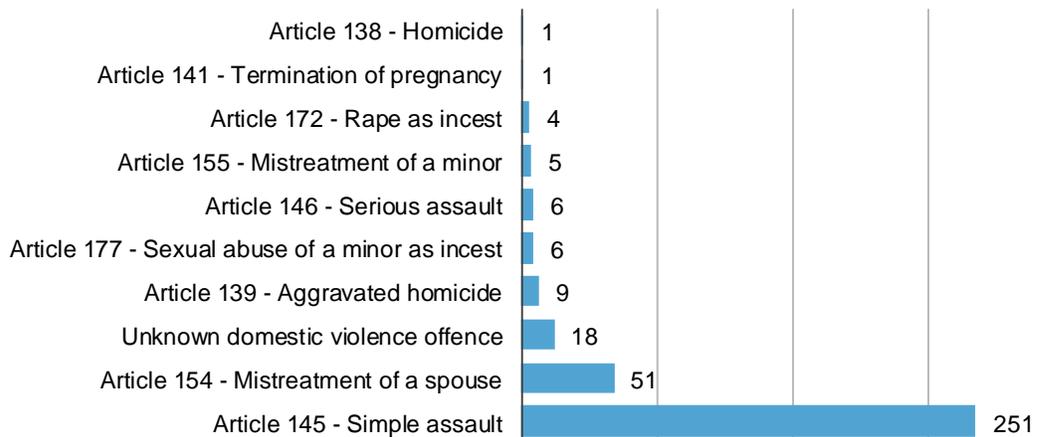


We are concerned because the majority of domestic violence cases are being charged only as minor offences by the Public Ministry, without consideration of the seriousness of the abuse and aggravating factors such as the use of weapons. Of the total number of domestic violence cases monitored by JSMP between July 2010 and June 2014, 71% were charged as minor offences. 15% of all cases of domestic violence were accused as mistreatment of a spouse, and just 2% were charged as serious offences.<sup>33</sup> The majority of domestic violence cases are charged as minor offences, even though the violence is serious and often involves the use of weapons (such as machetes, tree branches and metal-pipes), ongoing threats against the woman’s life, and serious risks to the life of the woman. We believe that this prevalence reflects normal attitudes that domestic violence is a crime that is not serious and is ‘easy’ to judge.

<sup>32</sup> Court monitoring data from Judicial System Monitoring Program, 2013 - 2014.

<sup>33</sup> Judicial System Monitoring Program, ‘Law against Domestic Violence: Obstacles to implementation three years on’, (2013) at 15.

**Chart 2. Charging in domestic violence cases monitored by JSMP, July 2010—June 2013** <sup>34</sup>



**Case study: Assault against wife with machete**<sup>35</sup>

A wife was returning from selling meat at the market. When she returned, her husband was sleeping in the house. The wife woke her husband and asked if he would cook rice, because she was hungry. The husband became angry, stood and kicked her until she fell (to the ground). Then he took oil and poured it over his wife's body. The wife tried to run away, but the husband took the cover from the fan and beat her face and back. The husband took a machete, to chop the wife's throat. The wife cried out to people to call her family, but the people witnessing the events were afraid to help her. In this case, the prosecutor charged the husband under article 145 of the Penal Code regarding minor offences. The Court imposed a fine of \$75, to be paid at the rate of \$1 per day for 75 days.

**Recomendation:**

1. Amend the Penal Code to include the use of weapons or threats to use weapons as specific aggravating factors in crimes of offences against physical integrity (bodily harm).
2. We urge the Prosecutor General of the Republic to issue a directive regarding the laying of charges to ensure that domestic violence cases receive adequate charges,

<sup>34</sup> Judicial System Monitoring Program, 'Law against Domestic Violence: Obstacles to implementation three years on', (2013) at 14.

<sup>35</sup> Judicial System Monitoring Program and Women and Children's Legal Aid, 'Improving the Criminal Code to better protect women and children, Submission to the National Parliament of Timor-Leste' (2015) at 32.

considering all aggravating factors such as the use or threats to use weapons, threats against a victim's life, and serious risk of physical violence against the victim.

### **1. Weak sentencing in cases of violence against women and girls**

JSMP's monitoring at the courts consistently show that in the majority of domestic violence cases in which the accused is found guilty, the court gives only a suspended prison sentence or imposes a fine. For example, from the total number of domestic violence cases monitored by JSMP between July 2010 and June 2013, 52 per cent received suspended prison sentences. 24 per cent of cases received fines, and just 4 per cent received actual prison sentences.<sup>36</sup> In 2014 40 per cent of cases received suspended sentences compared with 14 per cent which received prison sentences. We do not advocate for all cases to receive prison sentences, but we are concerned that sentencing is not in accordance with the gravity of the crime and the crimes' impacts on victims. If the perpetrator uses a weapon, or threatens the life of the victim, the court must consider an actual prison sentence the court must consider an actual prison sentence in accordance with the sentencing principles in the legislation. A suspended prison sentence must always be accompanied with monitoring and rehabilitation of the guilty party. Finally, the court has the power to provide civil damages to the victim. However, based on the monitoring in the courts, civil damages are applied in only a few cases of domestic violence. We are concerned that the courts are willing to impose fines, which have the potential to affect the victim's financial situation but do not consider civil damages to victims of domestic violence as an appropriate remedy.

#### **Case study: Serious assault with an object to the head and body<sup>37</sup>**

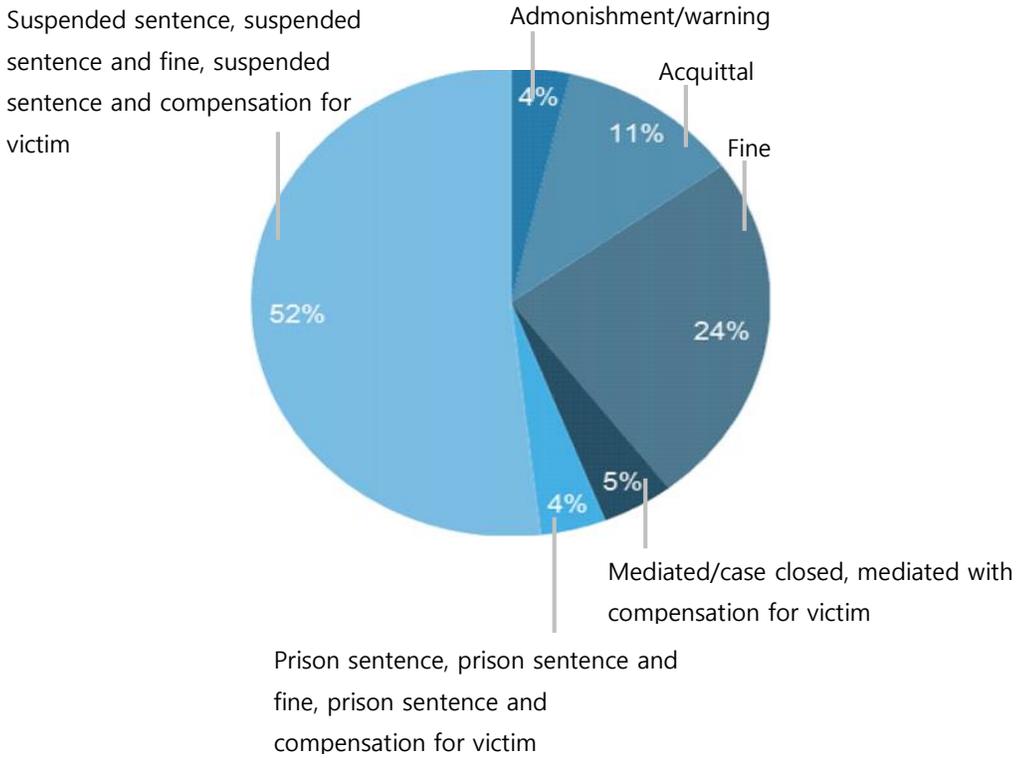
The charges said that the accused hit the victim's right ear twice and punched her in the mouth, and made her fall to the ground. When the victim fell to the ground, the accused dragged the victims head and beat her in the fire-place. The accused continued to grasp the victim's hands, dragged her outside and took a metal pipe and beat the victim's body [...] The victim suffered from swelling to the right ear, the head and wounds to her left leg. The victim was treated at the health centre. The Public Ministry charged the accused with the crime of minor offence against physical integrity and violence of a domestic nature in accordance with article 145 of the Criminal Code and article 35 of the LADV [...] The victim said that the accused beat her regularly and she could not

<sup>36</sup> Judicial System Monitoring Program, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 17, 32.

<sup>37</sup> Judicial System Monitoring Program, 'Law Against Domestic Violence: Obstacles to implementation three years on', (2013) at 29.

continue to accept this behaviour, and because of this she reported it to the police. The Public Defender asked the court to absolve the accused of the charges because he had repented his behaviour, the accused had responsibility for three children and promised no to repeat the behaviour again in the future. The Court decided the crime as proven and awarded a fine of \$45 and asked the accused to pay judicial costs of \$10.

**Chart 3.** Decision status of domestic violence cases monitored by JSMP excluding unknown decisions, July 2010—June 2013 <sup>38</sup>



**Recommendation:**

We urge the judiciary to develop a directive regarding sentencing to assist judges to determine appropriate penalties for cases of domestic violence. These directives must make clear the principles of sentencing, all aggravating and attenuating factors through the use of examples, rules for people who commit the crime repeatedly, a guide for alternative penalties, and provide orientation for how to calculate civil damages.

<sup>38</sup> Judicial System Monitoring Program, ‘Law Against Domestic Violence: Obstacles to implementation three years on’, (2013) at 17.

## **2. Protective measure are never applied in cases of domestic violence**

Timor-Leste has no system of civil protection (civil protection orders – these do not require a criminal case, but can request the court to remove the accused from the home, or oblige them to not reside near to the victim). Protection measure are available under the Law Against Domestic Violence once a criminal case has been recorded, however monitoring shows that this article has never been applied to date.<sup>39</sup> The aim of protection measures are to provide immediate protection to the women, because they remove the accused from the family home. This is particularly important in Timor-Leste because women's income generating activities are normally linked to their home and access to land. We are concerned because of the court's failure to issue protection orders, which means that women must leave their homes and stay in shelters for many months or years. This punishes women and children that register cases of domestic violence, and places them in very vulnerable situations. As well as protective measure, the courts also have the power to provide interim sustenance to victims of domestic violence.<sup>40</sup> Monitoring shows that the courts have never issued orders for interim sustenance. This limits women's options and places pressure on the shelters that do not receive sufficient funds from the government.

Recommendation:

1. We request the Public Ministry to apply as normal protection orders in cases of domestic violence as well as interim feeding, and to give priority to removing the perpetrator from the family home.
2. We urge the Government to review the feasibility of the implementation of a civil protection regime in Timor-Leste.

## **3. Sexual violence in matrimony/marriage is not criminalised**

Even though the Commission made recommendations about this issue in the year 2009, Timor-Leste has not yet criminalized rape within marriage.<sup>41</sup> The Law against Domestic Violence defines sexual violence as being able to occur in marriage, however this is not sufficient to protect women against sexual violence in intimate relationship. We note that to date, just one case has been monitored that involved attempted rape within marriage that came before the court, and in this case the accused was charged with a minor offence and received a fine. This situation is unacceptable, and this cases show that rape in marriage must be criminalized in the Penal Code itself so that the police, prosecutors and courts will have to apply the correct charges against the accused.

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<sup>39</sup> Article 37 of the Law Against Domestic Violence.

<sup>40</sup> Article 32 of the Law Against Domestic Violence.

<sup>41</sup> Concluding observations of the Committee on the Elimination of Discrimination against Women, CEDAW/C/TLS/CO/1, 7 August 2009, para. 30.

### **Case study: Rape in marriage in which the accused was charged with minor offences<sup>42</sup>**

The charges said that the accused returned home at midnight, drunk, and tried to force his wife to have sexual relations but the wife did not want to because she was menstruating. The husband beat the wife in the stomach, and used a saw to wound her right hand. The Prosecutor charged the husband with minor offences and requested a suspended sentence because it was the first time the crime had been committed and the problem had been 'resolved' between the two families. The Court found him guilty of minor offences and made him pay a fine of \$45.

#### **Recommendation:**

Amend the Criminal Code to specify criminalise rape within all intimate relationships, including marriage relationships, (civil, religious and customary marriage) and *de facto* unions (living together already).

#### **4. There are insufficient funds for suppliers of support for women and girls**

Based on article 34 of the Law against Domestic Violence, the Government through the Ministry of Social Solidarity allocates funding to support the implementation of the Law against domestic violence however it shows that the funds referred to are not sufficient for the suppliers to support women and girls that suffer from domestic violence and gender based violence.

We are very concerned with the Government because they have provided funds that are not sufficient to NGOs that supply essential services to women and girls, such as shelter, psychosocial support and legal aids, and those who conduct advocacy. The majority of NGOs in Timor-Leste depend only on the support of international donors, and this may create emergency situations in the women's sector if donors reduce their funds.

For example, there is just one legal aid organization for women and girls, ALFeLa, and they receive core (institutional) funding from the government but still not sufficient and they continue to depend on international donors.<sup>43</sup> Since the beginning of the year 2005, ALFeLa has helped 2,200 women and girls victims of violence, they have also helped clients in civil cases.<sup>44</sup> The Law against Domestic Violence specifically guarantees victim's rights to independent legal aid.<sup>45</sup> Even though ALFeLa's work is very important, the Government is

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<sup>42</sup> Judicial System Monitoring Program, 'Press release: Public Prosecutor and Court fails to apply appropriate provision in domestic violence and attempted rape case' (19 May 2015).

<sup>43</sup> 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.

<sup>44</sup> Source: ALFeLa client statistics, January 2005 - June 2015

<sup>45</sup> Article 25 of the Law Against Domestic Violence.

not yet committed to provide sustainable 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 per cent) from the Government.<sup>46</sup> PRADET is the only NGO in Timor that offers forensic examinations for victims. PRADET also offers training for doctors and midwives from the Government about how to conduct forensic medical examinations. Considering the importance of this service for women and girls, it is not acceptable that PRADET has to continue to depend on international donors for the majority of funds.

Women and girls' access to essential services is very limited in Timor-Leste, particularly those that live in rural areas. Some districts have no women's shelter, or specialized psychosocial services or medical service facility. Even though ALFeLa offers legal aid in all districts, ALFeLa works out of just 4 buildings and it is a huge job for them to cover the entire country with just 12 legal officers. Police resources are also limited and there is no priority for the VPU (which has the mandate to protect women and girls who become victims of crime). The Government has no plan to provide funds for existing services, or to extend essential support services to all districts.

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<sup>46</sup> Source: PRADET annual budget forecast, 2015.

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	<b>No</b>	<b>No</b>	Yes
Baucau	Yes	Yes	Yes
Lautem	Yes	<b>No</b>	Yes
Viqueque	<b>No</b>	<b>No</b>	Yes
Manufahi	<b>No</b>	<b>No</b>	Yes
Aileu	<b>No</b>	<b>No</b>	Yes
Ainaro	<b>No</b>	<b>No</b>	Yes
Cova Lima	Yes	Yes	Yes
Bobonaro	Yes	Yes	Yes
Oecusse	Yes	Yes	Yes
Ermera	<b>No</b>	<b>No</b>	Yes
Liquica	<b>No</b>	<b>No</b>	Yes

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<sup>47</sup>

“When a woman becomes victim to rape in the district of Lautem, she has to travel more than five hours in a car to come to PRADET in Dili to be able to have a forensic medical examination and to receive counselling. Often we do not have a car to carry the victim, and the police don’t have a car. We try to work closely with other NGOs to organise transport for victims, but it is difficult for us all because of limited resources. PRADET will open a Shelter in Baucau for women from the eastern districts to be able to access our services.”

#### **Recommendation:**

We urge the Government to provide core (institutional) long-term funding to NGOs that provide essential support services to women and girls affected by violence. This can be introduced as an urgent Temporary Special Measure and can allocate funds from future State Budgets.

#### **5. The NAP-GBV must have clear and realistic targets and receive adequate resources**

The NAP-GBV 2012-2014 has finished and the Government has finally started to undertake an evaluation of the NAP, to be able to develop a new NAP before the end of 2015. The existing NAP assumed that international donors would continue to provide funding for implementation of key activities. This dependency on international donors cannot continue.

<sup>47</sup> Source: PRADET, 10 June 2015.

Each Government agency with responsibility for implementation of the NAP must allocate funding and sufficient time in their work plan and budget and the State Budget must reflect the commitments made by the Government in the NAP. There must also be consultations with NGOs that provide the majority of services to women and girls to ensure that the costing model for the NAP actually reflects the costs of service to be provided.

**Recommendation:**

1. Ensure that all activities in the NAP use a costing (fully costed) and that the Government allocates sufficient money from the State Budget for the coming year.
2. Ensure that the roles and responsibilities of relevant Government agencies and NGOs are clearly defined in the new NAP.

**6. Prevention of violence against women and girls**

We are concerned because there is not yet enough understanding in the Government and civil society about the principle of primary prevention in the area of violence against women and girls. At present, the Government and NGOs deal with this issue through 'socialisation' activities in the community regarding the Law against Domestic Violence. We very much appreciate the promulgation of this law and the efforts already made to increase people's knowledge of the legal framework, however this is not sufficient to stop violence and make violence unacceptable in society and according to moral standards. As well as this, there are only a few Government agencies and NGOs whose staff properly understand the law and the referral network. Meaning sometimes, information that is distributed is not consistent. Based on international best practices, we think that prevention activities must be based on evidence and focus on activities with men and boys in order to change their attitudes and behaviours. During the year 2012 to the year 2014, just one coordination meeting was conducted between agencies and NGOs working on the Prevention Pillar of the NAP. This creates confusion about how to conduct primary prevention activities to stop violence against women in this country.

**Recommendation:**

1. Make investments in those programs and activities that try to change the attitudes and behaviours of individuals, and alter norms about gender.
2. Make investments to build the capacity of those organisations and Government agencies to conduct primary prevention activities in accordance with the new NAP in order to stop violence against women and girls.

## C. Human Trafficking

Timor-Leste is a nation that has adopted the United Nations Convention against Transnational Organised Crime and its supplementary Protocol for the Prevention, Suppression and Punishment of Human Trafficking particularly of Women and Children and Supplement to the United Nations Convention against Transnational Organised Crime. Timor-Leste is bound by the content of these international legal documents because Timor-Leste has adopted its Law in accordance with international commitments, to combat the crime of human trafficking and provide protection and assistance to victims particularly women and girls.

At present Timor-Leste is developing a Human Trafficking law that as we see it that in the Introduction Needs to increase the United Nations Convention Against Transnational Organised Crime and its Supplementary/additional protocol also linked to other international conventions that the State of Timor-Leste has ratified particularly the Cedaw convention in order to guarantee that women actually receive protection and justice if they become victims of human trafficking.

In relation to victims of human trafficking have the right to accompaniment and assistance from institutions or people they consider able to accompany them during the trial process. These institutions that provide protection for victims have a right to receive maximum protection from the police/security if they are threatened or do not feel safe.

Article 11 in the draft Human Trafficking Law says that the court can nominate a guardian to represent a minor, if the person with parental powers (such as the mother or father themselves) does not represent the interests of the minor, this issue is also discussed in Article 1806 of the Civil Code, the court can nominate a legal guardian for a minor if: (a) the parents have died; (b) the court has prevented the parents from exercising parental powers (in accordance with article 1791); (c) the *de facto* parents are prevented from exercising parental powers for 6 months; or (d) the parents identity is not known.

According to civil society's view the reason for the existence of these rules about legal guardianship is that those in the Civil Code are not sufficient and the Government has had to create new rules in this draft law which shows duplication and confusion in its implementation because according to the Criminal Code victims are represented by the Public Ministry. In cases of domestic violence, victims have the right to legal aid from a public defender or private lawyer.

We are very concerned with the establishment of the Commission to combat Human Trafficking. The commission in question has several responsibilities, including coordination, monitoring and implementation of the draft human trafficking law. Despite the intention of creating the Commission is a positive step we see that at present there are insufficient human resources in the ministries or public institutions and there will be implications for state budget

expenditure. The coordination Mechanisms adopted for implementation of the Law against Domestic Violence and the National Action Plan against Gender Based Violence can be utilised.

It would be better to exchange the United Nations Convention Against Transnational Organised Crime and its Supplementary protocol regarding Combatting the Trafficking of Migrants by Land, Sea, Air and with the Prevention, Repression and Punishing of the Trafficking of Persons, particularly Women and Children.

We are concerned about the implications for human resources which according to this law are described as transitional measure, victims have the right to support services from organisations that provide support to victims of domestic violence. NGOs that provide assistance to victims of domestic violence only receive a small amount of money or do not receive money from the government to support their activities. In the year 2016, the Government has a plan to also reduce the funding that the MSS provides to the NGOs that support victims of domestic violence. And at present, there is no specific shelter for victims of human trafficking. Some NGOs have a focus on women and children and therefore do not have experience and resources to provide assistance to adult male victims.

**Recommendations:**

1. We recommend that the Government consider how the government can provide funding to organisations that need to provide assistance to victims of human trafficking
2. We suggest that it is more effective and efficient to use existing lines of coordination and institutions to coordinate, implement and monitor this law. For example, there are mechanisms already with SEM, the Ministry of Foreign Affairs, the Secretary of State for Security and the Ministry of Justice that the government can use to monitor the implementation of this draft law.
3. We request the creation of specific SOPs for investigation mechanism and assistance to Human Trafficking victims

**D. Crimes of the Past**

The Right to Truth according to International Humanitarian Law, particularly article 32 of the First Additional Protocol to the Geneva Convention, means that families have the right to know the fate of their family members, article 33 and 34 place an obligation on State parties involved in armed conflict to seek people who have been lost. This has been undertaken starting with its articulation in various UN resolutions, constitutional documents to the truth and justice commission, and reports from expert commissions that have been mandated by the UN in relation to human rights violations. This instrument also enshrines the duties of States to implement laws to provide criminal sanctions against perpetrators of war crimes and crimes against humanity. And the duty to locate the perpetrators and bring them to Court (Article 49

Geneva Convention I, 1949; Article 50 Geneva Convention II, 1949; Article 129 Geneva Convention III, 1949; and Article 146 Geneva Convention IV, 1949).

The above instruments provide a great hope for many people in Timor-Leste, particularly the families whose family members were disappeared by the Indonesian military during the occupation period and whose fates remain unknown up to the present. There have been some efforts from government through the Ministry of Social Solidarity, to recognize the families who were victims of deaths and disappearances as heroes of the liberation struggle. There has been a start to memorializing those that were murdered by the military and their supporters during the occupation period, even with identification of the place of the bodies of the victims with simple means, information from families or from fellow victims themselves. This is for those where there were witnesses to their death. But for families whose family members were captured by the Indonesian military and have not yet returned (disappeared), without witnesses from the family or any fellow Timorese and to date their families remain in the dark regarding the whereabouts of their family members. Sometimes they have been recognized by the state as heroes of the liberation of the country and have received (military or civil) honours but still there remains a dark memory regarding the real fate of their family members.

At present civil society organisations and organisation of the families of victims between Timor-Leste and Indonesia are making some efforts with identifications, particularly in accordance with the CAVR report that there are many Timorese children that were separated from the families at the time of the occupation and many are believed to be living in Indonesia. Efforts from civil society and the families of victims of these two nations have been able to identify a group in Indonesia that are considered as separated from their families during the Indonesian Military occupation of Timor-Leste. At present they are awaiting re-unification with their families. It is hoped that in the future these efforts will be institutionalised within state institutions to undertake identification of victims of forced disappearances during the occupation.

### **Recommendations:**

1. The State of Timor-Leste, must institutionalise the process of identification of Timorese children that were separated from their families during the Indonesian military occupation of Timor-Leste, in order to re-unify them with their families;
2. We encourage the State of Timor-Leste to request the government of Indonesia to implement the recommendations of the CVA particularly to form a commission to deal with the issue of those lost during the Indonesian military occupation and to be accountable for women victims of the war in Timor-Leste.
3. Request the National Parliament to start to reactive the draft Law of the Memory Institute and Law of Reparations for victims and family victims during the conflict from 1974-1999 for debate and approval.

4. Request the government and National Parliament to examine and study the advantages of the International Convention on Force Disappearances in order to ratify (it).

## **Part 3: Empowering Women**

According to article 16 in the RDTL Constitution regarding Universality and Equality and article 16 regarding Equality for men and women; and also the CEDAW Convention articles 7, 10, 11, 13, and the general recommendations the Timor-Leste State must take all measure to eliminate various discrimination against women in all areas in order to guarantee equal rights between women and men in public life and politics, access to education, the same rights in the area of employment, economic and social life.

However because of the patriarchal culture that dominates life in the society of Timor-Leste, including that mechanisms are not yet effective for prevention of direct and indirect discrimination inequality continues to occur in the lives of Timorese women for the enjoyment of the same opportunities and access to their political, civil, social, economic, education and employment rights.

It is recognised that the Timor-Leste State has already made some efforts and initiatives to strengthen gender equality and promote women's participation in the areas above, however in terms of the State obligations to protect, promote, respect, create and offer the same opportunities and mechanisms to all people both women and men, these have not yet been fully implemented and because of this the State must make stronger efforts to eliminate discrimination and injustice that affects women particularly in the areas of concern below.

### **A. Women's Participation in Political and Public Life**

Even though Timor-Leste has a high number of women representatives in the national Parliament at 38.5%, in comparison the representation and involvement of women in politics in the national government structure, local government and political parties is very minimal, particularly women in higher positions in the structure, and key position at all levels of decision making.

At present, in the government structure at the national level, of the 38 people in leadership in governance, there are 21% women and 79% men; 30 men and 8 women old positions as Ministers and 3 out of 12 people (25% of ministers are women); for Deputy Ministers women are 2 out of 11 (18% of Vice-Ministers are women), and 3 out of 10 Secretaries of State (30% of State Secretaries are women).

The structure of the 5th constitutional government before its restructuring was a total of 55 people, with just 18% women and 82% men with the following composition: 45 men and just 10 women; 2 Ministers; 4 Deputy Ministers and 4 State Secretaries.

We also wish to report here on the position of women in the municipal structures, from the 12 municipalities and the Oecusse Special Economic Zone for the Social Market, the majority are led by men, and of the 65 administrative posts there are only 3 women. In the

Secretariat for Support to the Establishment of the 13 Municipalities, there are just two women. As well as this at the Suco level there are 12 women Suco Chiefs out of 442 sucos.

**Table of Women in Leadership in Decision Making Structures at the local level - Municipal**

No.	Structure and Level	Leadership Role	Women	Men
1.	442 Sucos	Suco Chief	2 %	98 %
2.	65 Administrative Posts	Post Administrator	5%	95 %
3.	12 Municipal Administrations	Municipal Administrator	-	100 %
4.	12 Municipal Secretariats	Municipal Secretary	8%	92%
5.	12 Secretariat for Support to Establishment of the Municipalities	Director	17%	83%
6.	Municipal Line Sectors	Head of Sector	2%	98%

The illustration of the government structures at the national level and information in the above table shows that the difference between women and men in key decision making position will show a very large difference. The participation and representation numbers for women are low and the 30% quota for women has not yet been implemented at these levels.

As well as this, although there have been some efforts by the Timor-Leste State to increase the participation and representation in political and public life, however discrimination continues for women in relation to sitting in important positions and government structures and the national parliament.

### Case Study 1

On the 6<sup>th</sup> of August 2012, the Prime Minister Kayrala 'Xanana' Gusmão submitted the proposed list of names of the members of the 5th Constitutional Government to the President of the Republic of Timor-Leste, following which the President questioned the name "Sra. Maria Domingas Fernandes Alves" in the role of Minister for Defence and Security, that she lacked the ability for the duties in question and the position of security did not serve women, published in the Timor Post edition 7 and 8 of August 2012. The President cancelled the position of Ministry of Defence and Security for Sra. Maria Domingas Fernandes Alves signifying a denial and ignoring of the integrity and competency of a women. Because Sra. Maria Domingas Fernandes Alves from 2002-2006 lead the GAPI (Office of the Advisor for the Promotion of Equality) as an advisor to the Prime Minister on matters of gender equality, and also from 2007-2011 undertook the role of Minister for Social Solidarity, she had already demonstrated her capacity through performance that was undertaken over 5 years to provide great success for the AMP government and she also demonstrated her integrity and ability to save the nation through peaceful solutions to the problems of IDPs that arose during the 2006 crisis. As a woman combatant, Sra. Maria Domingas Fenandes Alves certainly has the integrity and competency to safeguard

this sovereign nation as the Minister for Defence and Security, however the State ignored this just because she is a woman. The President of the Republic's decision and language violated the RDTL Constitution articles 16, 17, and article 63 which guarantees equality in the exercise of civic and political rights free from discrimination because of sex in order to have access to political roles. As a representative of the State, the President of the Republic must guarantee the implementation of the CEDAW convention and its protocols signed and ratified by the Timor-Leste State because the State has a duty to use all measures to eliminate forms of discrimination against women. The President of the Republic's interview was belittling and ignored women's participation and direct involvement in the formulation of policy and the implementation of policy in order to lead and run public office at all levels of government. This showed that the nation of Timor-Leste is fostering patriarchal ideals starting from the highest leaders that give rise to the public opinion that women do not have the capacity to lead and take up the duties of an institution such as Defence and Security, even though women have the same capacities as men.

Rede Feto and other human rights organisations were very opposed to the process and the decision taken by the President of the Republic through actions such as: conducting a press conference on the 8th of August 2012, sending a letter to the UN Secretary General Ban Ki-moon on the 15th of August 2012 and direct audiences with the President of the Republic to express their statements in relation to this matter, which in the end resulted in the position of Minister for Defence and Security continuing to be lead directly by the Prime Minister, Kayrala 'Xanana' Gusmão

## Case Study 2

In February 2015 the remodelling of the structure of the members of the 5th constitutional government took place, which substituted and removed many members of the government. Sr. Jorge Teme da Conceição who held the position of Minister for State Administration left this position and returned to the National Parliament substituting Sra. Maria Adozinda Pires da Silva. As the Secretary General of the party Frente Mudansa in reality Sr. Jorge Teme did not need to return to the parliament if he had good will as the leader of a political party that supported the participation of women. The removal or substitution of Sra. Maria Adozinda Pires da Silva from the membership of the National Parliament, clearly demonstrated how party leadership and political parties do not support women.

National leaders and also political leaders have shown direct and indirect discrimination towards the women of Timor-Leste. Their rhetoric influences public opinion regarding the capacity of women to undertake public roles including keeping women out of the process, and ignoring women's contributions and participation in the development of the nation now and for the future.

In keeping with the obligation of the Timor-Leste State in accordance with the CEDAW principle of substantive equality, we from civil society strongly recommend and urge:

1. The Government must strengthen its commitment to support the participation of women in political and public life through the implementation of a minimum 30% quota for women starting from the aldeia to the national levels and establish policies to eliminate discrimination against women in leadership positions at the aldeia and suco levels, by applying the minimum quota of 30% women as aldeia and suco chiefs guaranteed in the law for suco elections approved in December 2015-january 2016. We encourage the CEDAW Committee to consider the recommendation point to the TL State to integrate the minimum quota of 30% of women to these suco leadership positions.
2. Political parties must implement gender equality, because of this:
  - There must be a review of the Political Parties Law No. 3/2004 to urge political parties to implement gender equality, to guarantee that political parties and their policies and programs include a gender perspective. In particular article 8 of the Political Parties law regarding the quota for women must be implemented by all parties.
  - Political parties must support women and include gender issues in their platforms, rules and programs, and offer more opportunities for women to play important roles in parties and represent parties in public and the National Parliament

## **B. Return to School Policy (Re-entry Police School)**

The high numbers of school drop-outs for adolescents and girls is an obstacle faced in Timor-Leste. Reflecting the CEDAW Report from the Government of Timor-Leste regarding the education sector, the factors that result in adolescents and girls dropping out of school includes difficulty of access to school, financial difficulties families not giving importance and value to the education of girls, violence in schools and inadequate facilities in school, including toilets and water.

According to research data from UNTL, the greatest number of girls drop out of school because they become pregnant during the learning process. According to the CEDAW validation report from SEPI, quantitative data indicates that 72% of adolescent girls abandon school because of early pregnancy, rape and other things that really affect their conditions particularly the learning process. This situation most often occurs in rural areas particularly Pre-Secondary Schools at the 7<sup>o</sup> to the 9<sup>o</sup> year of schooling. The percentage above is reinforced by studies and research from Fokupers and APSC-TL regarding gender based violence and gender based sexual violence in 2007-2009 which show that the prevalence of the patriarchal system is very strong, and it does not give advantages to girls of school age to return to school. For example in some districts such as: Manatuto, Covalima, Bobonaro and Manufahi there are stereotypes that condemn women as lacking in morals, bad girls, hot girls, women as bowls, women without heads, street girls, butterflies

and words like these arise when women face situation such as: pregnancy, incest and rape. According to data resulting from research conducted by SEPI in 2010 regarding adolescent women abandoning school because of pregnancy at secondary school, when they become pregnant they immediately abandon school. This is because the situation at schools and the majority because of socio-cultural aspects such as teachers, school colleagues, and society do not accept and welcome their situation and make them ashamed and afraid to continue school. Approximately 74% of girls that become pregnancy want to return to school and continue their education. But the reality is that they cannot access education again, because the schools will not accept them back. According to data from Fokupers, in 2013 there were a total of 49 girls that were victims of sexual violence, and 17 (35%) become pregnant, a total of 35 (71%) did not continue school at present 4 are living in the Fokupers shelter, and 14 (29%) were able to return to school with facilitation from Fokupers, and other working partners such as MSS, Alola, Uma Paz Baucau, and some were facilitated and supported by their own families.

The second and third periodic report to CEDAW the government of Timor-Leste in 2013 regarding the implementation of the CEDAW convention mentions the return to school policy as the responsibility of the Ministry of Education. The Government of Timor-Leste reported on the efforts already made to respond to the above question through the ongoing education program. However to date, there has been no policy to ensure that adolescent women and girls that drop out or abandon school for various reasons are able to return to school, especially to ensure the continuation of access to formal education. The temporary mechanism undertaken by the Ministry of Education is to facilitate transfer of students to another school once the baby is born, and also to offer special time for pregnant students to sit their final exams, however based on observations in the field only a small number of particularly isolated public schools are able to accept student transfers who had dropped-out.

According to the report from Fokupers and Casa Vida (who work to provide accompaniment to victims), the biggest obstacle faced by victims is of schools not accepting them back to continue their studies; the lack of documents or the victim's documents being incomplete, lack of belief in themselves and feeling ashamed to continue school, not being able to access formal education when living at shelters and have responsibility for looking after the baby that came as a result of violence, lack of support from family or relatives to collect their information such as their school books and transfer document from the school to help them return to another school, because their own schools would not accept them back in the place where they live.

Rede Feto Timor-Leste together with the Return to School Policy working group has conducted advocacy from 2012 to the present that recommends and asks the government to implement a School re-entry Policy. This policy recommends the following objectives:

- (a) The Government create a uniform guide to respond to the needs of school age girls to re-enter school for all schools including public and private schools;
- (b) Create an inter-ministerial collaboration mechanism, and

- (c) Create a monitoring mechanism for the school re-entry policy.

The efforts already made by these groups such as meetings and presentation of these recommendations to the GMPTL (TL Women Parliamentarians Group) and meetings with National Parliament Commission E, the Secretary of State for the Promotion of Equality (SEPI) and also meetings with Sr. Bendito Freitas who was the Minister for Education at that time, however to date there has been no positive outcome from government and the national parliament for this matter.

In 2009, the CEDAW Committee also recommended to the RDTL government to take steps to guarantee equal access for adolescent girls at all levels of education, to deal with traditional practices and attitudes (early marriage, early pregnancy) that close the way for their rights to education, to keep adolescent girls in school and to implement the Return to School Policy to enable adolescent girls to return to school following pregnancy.

Because of this we strongly recommend that school-aged girls that drop out because of problems in the learning process (pregnancy, rape, incest) and other discriminations must be able to re-access formal education as a fundamental right.

**Recommendation to government (Ministry of Education):**

Create a school re-entry policy for pregnant school-aged girls, to have the right to return to school as normal. And this must ensure that following the birth that they must return to school and with the following conditions:

**(1) While girl students are pregnant:**

- a. The school must ensure that she has medical examinations and especially counselling and inform the student that she can return to school after the birth. Counselling must also be provided before and after medical examinations.
- b. School must have a guide regarding reporting pregnancies (for example: meeting between the school and parents to ask the parents' commitment to send their daughter to school immediately after the birth).
- c. If the youth that fathers the baby of the pregnant student studies together with her at that school, the school must include him in counselling, and ask him to take financial responsibility;
- d. Schools must have a guide for when a student decides to remain at school during the weeks up to the birth.
- e. Schools must decide a staff member (for example: educational assistance officer) to regularly monitor the student during the pregnancy and immediately after the birth to ensure that the school re-entry policy is planned and actually implemented.

## **(2.) Following the birth**

- a. A school aged girl that become pregnant, has the right to maternity leave of three months to one year.
- b. If the student in question decides to transfer to another school the current school must facilitate her transfer (transfer documents);
- c. A guide for transfers to schools must facilitate, the minimum requirements and be able to be applied in all schools;
- d. Schools must provide facilities for mothers (a safe place to breast-feed)).

## **C. Mega Projects in Timor-Leste (ZEEMS, Supply Base and refinery)**

In 2011 and 2014 the Government commenced implementing two mega projects: the Suai Supply Base (SSB) in Suai, in the Municipality of Covalima and the Special Social Economic and Market Zone (ZEEMS) in the Oecusse Region. The SSB is being implemented in suco Camanasa, in the Municipality of Covalima-Suai, where the Government has taken 1.113 hectares of agricultural land to build the SSB. In 2013 when the Government and local leaders including the Municipal Administrator, Head of the Administrative Post, Municipal PNTL Commander, DNTP Director (National Director of Land and Property), Suco Chief and Lia-na'in made a declaration to resume community land, there were only 15 people all of whom were men that signed this declaration and no women.

In 2014 the ZEESM team undertook consultations regarding implementing the ZEESM project in Oe-cusse, which will use nearly 107-300 hectares, in Suco Costa, however there is not yet any in-depth information about the completion of the various project components including the port, airport, and water systems, including information about the impacts of the project on community land and property. The ZEESM team conducted 25 group discussions, from the total of 570 participants there were just 126 women participants. On December 19, 2014, La'ó Hamutuk and Fundasaun Haburas meet with the community and conducted discussions in Suco Nipani and Cunha with a total of 40 participants, there were just 5 women.

On the 23rd of July 2015 the Timor-Gap (office) and the Minister for Petroleum Resources and Minerals conducted consultations at Betano-Selihasan, in the Municipality of Manufahi to resume community land to build the refinery project, in the discussions opportunity was given for people just 12 people to ask questions and there were no women that asked questions. When La'ó Hamutuk asked women their thoughts about the impact of this project, they said that they did not know and that they just followed other community member's thoughts, particularly those of the men.

In March 2015 La'ó Hamutuk conducted interviews with the community at the Holbelis and Lohorai-Suai airports relating to the implementation of the SSB project, where La'ó

Hamutuk found that the implementation of the project gave rise to discrimination against poor people by ignoring their rights in the development process in question.

### **Case Study**

YY- a very poor woman with 4 children, lives with her husband who has been sick since 2002 and cannot work. They live in a land and house in the area now being used for the SSB project, which started in 2002 because they received it from her uncle. She had been working as a farmer to sustain her children and husband. They live in this place because it is easier to take her husband to the doctor at the hospital in Suai.

When the government gathered information to provide compensation to the community who lost their homes, land and crops for the construction of the airport, the government ignored the situation of women and did not collect their information, even though she always raised this question with the ministry and the data collection team.

This woman's land, home and crops that she had been using for 13 years to sustain herself were just taken away without any benefit. Worse than this, they received no right to compensation from the Government, she took her children and husband to live with other family members because she did not have the skills to build her own house.

When the government creates or develops public policy it must ensure that they are equitable and sustainable for the nation. To ensure this there must be a participative, efficient and effective process, to be able to obtain ideas and suggestions from all parties, women and men, vulnerable groups such as women and men farmers, aged persons and disabled people particularly those living in rural areas and affected by the public policy. It is very important to hear from everyone's ideas and experiences when developing policy and in implementation.

In relationship to the process of participation and decision making in the policy development process there will be great challenges in the Timor-Leste context, because when the Government creates any policy (law, regulations or agreements linked to the rights of people) they don't have participation from vulnerable people particularly women in rural areas. Because of the domination of the patrilineal system, the low levels of education and also other aspects don't create effective and efficient mechanisms to get maximum participation from everyone.

### **Recommendation:**

1. The Government must conduct an evaluation of the SSB and ZEESM projects, particularly examining the impact of these projects on the development of people's lives seen from a gender perspective; and it is better to create regulations that all projects must undertake an analysis of impact with a gender perspective.
2. The Government must create participatory mechanisms for the process of implementation of the SSB and ZEESM projects (and all projects) to have effective

involvement from women particularly so that the voice of women can receive attention and to protect women's rights.

#### **D. Women workers**

Timor-Leste approved the Labour Law No. 4/2012 in 2012. This law can further strengthen protection for the rights of workers, whereas prior to this the Labour Code was used which was adopted from the UNTAET period. Even so the Labour Law only refers to workers in general, it has not yet defined types of work and workers, which has implications for the interpretation of the Labour Law. For example the Labour Law does not reflect anything regarding domestic workers.

According to information from the Timor-Leste *Confederation of Trade Unions* (KSTL), between 2010 – 2012, a total of 1805 labour cases were reported as follows: cases regarding unfair treatment by private companies, cases regarding the absence of workers contracts, cases of salary payments (including overtime) and also issues of safety in the workplace. Of the cases reported 35% involved women, which also raised the following issues: Pregnant women undertaking heavy work, and not receiving payments during maternity leave, including lack of flexibility for time to breast-feed children (4 cases reported), exploitation of workers to undertake work outside of their contracts, sexual abuse during working house by bosses and fellow workers, but them having to remain silent because of being afraid of losing their work.

According to information from the *Working Women's Centre Timor-Leste* (WWCTL) 2013-2014 there were 163 women workers from the private sector and domestic workers, the majority of workers were single (72,38%) aged 21-25 years (43%) with secondary education levels 37% and pre-secondary 26%.

These workers, performed work as shop attendants (33%), waitresses in restaurants (21%) and in homes as home based help (13%), with salaries between \$105 to \$115 (56%) and \$55 - \$80 (20%). Through monitoring and data collection the WWCTL was able to identify the following problems or obstacles for women workers:

- Not yet a specific law for domestic workers, making it difficult for domestic workers to demand their rights.
- The discriminations that domestic workers faced: too much household work and duties such as cooking, washing clothes, ironing, cleaning the house, shopping at the market looking after children and taking them to school with a minimum salary of between \$30 and \$80, experiencing domestic violence and unfair treatment, and insecure/unsafe working conditions.
- Workers education is minimal, and they cannot compete in the labour market

These situations occur for workers because even though the Labour Law No. 4/2012 has been in existence for three years, many people in the public don't yet have information

about this Law, because the socialisation for this law has not been done well and there has not been effective monitoring regarding the implementation of this law. As well as this the government doesn't have a good mechanism yet to control the situation of workers in the private sector and domestic workers, and so workers continue to have their rights violated.

**In reference to the condition of workers in general and that domestic workers face, we strongly recommend that the State:**

1. Conduct socialisation of the Labour Law No. 4/2012 to the public and private sectors throughout the country and establish effective monitoring mechanisms for the implementation of the Labour Law, including creating a specific division to receive complaints from workers.
2. Create a law for domestic workers, to regulate and provide specific protections for them.