



# MAPPING AND ASSESSMENT OF THE CHILD PROTECTION SYSTEM IN TIMOR-LESTE

FINAL REPORT

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## CONTENTS

<b>ACKNOWLEDGEMENTS .....</b>	<b>3</b>
<b>CONCEPTS &amp; DEFINITIONS .....</b>	<b>4</b>
<b>Acronyms .....</b>	<b>8</b>
<b>Glossary .....</b>	<b>9</b>
<b>1. BACKGROUND AND INTRODUCTION .....</b>	<b>10</b>
1.1 Objectives of the Project.....	12
1.2 Methodology .....	13
1.2.1 The Formal System .....	14
1.2.2 The Informal System .....	15
1.2.3 Limitations of the Study .....	17
<b>2. COUNTRY CONTEXT .....</b>	<b>19</b>
2.1 Historical Background.....	20
2.2 Economic and Political Development .....	22
<b>3. Child Protection Situation.....</b>	<b>28</b>
3.1 Child Protection Data.....	28
3.2 Community Perceptions of Child Protection and Well-Being.....	30
3.2.1 Unacceptable Behaviour .....	30
3.2.2 Gender Differences .....	32
3.2.3 Reporting Unacceptable Behaviour.....	33
<b>4. CHILD PROTECTION SYSTEM COMPONENTS.....</b>	<b>36</b>
4.1 Overview of Legal and Regulatory Framework for Child Protection .....	36
4.2 Principles and Approaches to Child and Family Welfare.....	43
4.3 Principles and Approaches to Justice for Children .....	48
4.5 Key Structures and Institutions for Child Protection .....	53
4.5.1 Formal Child Protection Structures .....	53
4.5.2 Justice Agencies .....	64
4.5.3 Ministry of Education .....	70
4.5.4 Ministry of Labour / SEFOPE .....	71
4.6 Informal Child Protection Structures.....	74
4.7 Coordination Mechanisms .....	80
4.7.1 National Level.....	80
4.7.2 District Level: Child Protection Networks .....	84
4.8 Services for Families and Children.....	90
4.8.1 Prevention Services .....	91
4.8.2 Child Protection Response System and Services .....	99
4.9 Services for Children in Conflict with the Law.....	116

4.10 Human and Financial Resources.....	121
4.10.1 Human Resources.....	121
4.10.2 Financial Resources.....	122
<b>5. CHILDREN’S AND FAMILIES’ PERSPECTIVES AND EXPERIENCES .....</b>	<b>127</b>
5.1 Informal Community Help and Protection.....	127
5.2 Perceptions of the Child Protection System (Formal and Informal).....	133
<b>6. CONCLUSIONS .....</b>	<b>137</b>
<b>7. GENERAL RECOMMENDATIONS.....</b>	<b>142</b>
<b>Annex A: Bibliography of Key Texts.....</b>	<b>144</b>
<b>Annex B: Research Respondents .....</b>	<b>147</b>
<b>Annex C: Crimes Reported to VPU by District (2009) .....</b>	<b>148</b>

## **TABLES, FIGURES & MAPS**

Table 1: Target Districts.....	17
Table 2: Country Timeline.....	19
Table 3: Country Overview .....	22
Table 4: Ratification of Selected International Child Protection Instruments.....	38
Table 5: Key Child Protection Areas & Related National Laws .....	40
Table 6: Legal Definitions of the Child by Age.....	42
Table 7: Current Law Regulating Child and Family Welfare.....	43
Table 8: Current Law Regulating Justice for Children .....	48
Table 9: DNRS Child Protection Strategies .....	61
Table 10: Overview of Prevention Services Offered by NGOs.....	95
Table 11: Overview of Response Services Offered by NGOs .....	110
Table 12: Types of Crimes Reported to VPU by District (2009) .....	148
Figure 1: Cases of Child Abuse Reported to MSS (Central Level), 2008.....	30
Figure 2: Ministry of Social Security Organogram .....	55
Figure 3: Conflict Resolution.....	132
Map 1: Key Government Structures .....	59
Map 2: Overview of NGO Activities .....	96
Map 3: Services Available for Children & Families .....	111

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<sup>1</sup> [www.childfrontiers.com](http://www.childfrontiers.com)

<sup>2</sup> [www.bafuturu.org](http://www.bafuturu.org)

## CONCEPTS & DEFINITIONS

Throughout this report, a number of concepts and terms are used to describe the child protection system being analysed. Below are some clarifications and descriptions of the terms used in this report to ensure consistency and a common understanding of core concepts.

**Child:** Consistent with the United Nations Convention of the Rights of the Child 1989, a child refers to a person under age of 18 years.

**Family:** The term ‘family’ is used as shorthand to refer to those within the caring circle of a child. This caring circle varies according to culture and circumstance; thus, the use of the term ‘family’ recognizes that in many societies the care environment of a child is broader than the immediate family and includes the extended family. The term also recognizes that in some circumstances, children are primary caregivers.<sup>3</sup> However, it is important to clarify that individuals from the community or service providers who are not providing daily emotional, physical and psychological care to children would not be considered family.

**Child Protection:** Strives to prevent, respond to and resolve the abuse, neglect, exploitation and violence experienced by children in all settings. It is often a specialist policy and service sector but of necessity works very closely and is sometimes integrated with other sectors.<sup>4</sup>

**Child Protection System:** According to UNICEF, a ‘child protection system consists of a set of laws, policies, regulations and services needed across all social sectors – especially social welfare, justice, education, health, and security – as well as community and faith based groups and other private service providers. It is part of social protection, and also extends beyond it.’

**Social Welfare System:** Social welfare refers to a sense of human well-being that exists where “social problems are managed, where human needs are met and when

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<sup>3</sup> Delaney and Krueger: UNICEF South East Asia and Pacific Child Protection Strategy and Toolkit (2008).

<sup>4</sup> UNICEF (2010).

social opportunities are maximized.” A social welfare system is the organization of services and supports to promote social welfare. The distinguishing factors of social welfare system for children and families are the specific objectives of promoting children’s well-being and their protection while enhancing the capacity of the families and communities to perform their responsibilities.<sup>5</sup>

**Child and Family Welfare System:** The child and family welfare system refers to those aspects nested within the social welfare system (or social protection system where applicable) that are aimed at promoting children’s well-being and protection, while enhancing the capacity of families and communities to fulfil their responsibilities.

**Justice for Children:** In keeping with the United Nations’ Common Approach to Justice for Children, ‘the goal of the justice for children approach is to ensure that children are better served and protected by justice systems. It specifically aims at ensuring full application of international norms and standards for all children who come into contact with justice systems as victims, witnesses and alleged offenders; or for other reasons where judicial intervention is needed, for example regarding their care, custody or protection’<sup>6</sup>.

**Justice system:** Is comprised of both (1) state-run justice and law enforcement institutions, including the judiciary (criminal and civil), justice and interior ministries, the police, prisons, criminal investigation and prosecution services and (2) non-state justice mechanisms, i.e. the whole range of traditional, customary, religious and informal mechanisms that deal with disputes at community levels.”<sup>7</sup>

**Formal system:** Refers to government, international organisations and local NGOs (including community and faith based organisations) involved in providing child protection, being recognized or endorsed by and subject to supervision and regulation by the government. It is also important to note that some groups, such as traditional leaders, may also have clear roles within both the formal and informal systems.

**Informal / Non-formal system:** Refers to child protection initiatives undertaken by families, communities and children themselves.

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<sup>5</sup> As defined by Delaney and Krueger (2008).

<sup>6</sup> ‘Justice for Children’ includes all children in contact with the justice system, notably children as victims, witnesses, and those subject to care and guardianship. However, the concept also includes children in conflict with the law as alleged perpetrators of crimes.

<sup>7</sup> See UN Common Approach to Justice for Children (March 2008).

**Congruence:** Congruence is generally understood as the quality or state of agreeing, coinciding. We refer to the importance for a system to be congruent with national, regional and local child caring and child protection realities. The term is used throughout this framework to underpin the positive dynamic between the population and the formal system, which allows the system to support and build upon positive beliefs and practices while promoting rights and challenging those cultural norms, beliefs and practices that are detrimental to children and family wellbeing. In the context of this exercise, congruence does not imply that a system would condone gross violations or ignore aspects of culture that have adverse affects on the wellbeing of children.

Throughout this report, a number of terms are used to identify the harm that children suffer at the hands of others. Over recent years many different definitions have been ascribed to violence, abuse, neglect, and exploitation. These definitions have typically been proposed by UN agencies and NGOs and share many common features. For the purposes of this report, the comprehensive definitions found in WHO's 'World Report on Violence and Health' (2002), have been used as the guiding principles.

WHO defines child abuse as "all forms of physical and/or emotional ill-treatment, sexual abuse, neglect or negligent treatment, or commercial or other exploitation resulting in actual or potential harm to the child's health, survival, development, or dignity". Within this broad definition of child abuse, five subtypes are distinguished: physical abuse; sexual abuse; neglect and negligent treatment; emotional abuse; and exploitation.

**Physical abuse:** Physical abuse of a child is that which results in actual or potential physical harm from an interaction or lack of interaction, which is reasonably within the control of a parent or person in a position of responsibility, power, or trust. There may be single or repeated incidents. Examples of child abuse acts include: slapping, hitting with the hand or an object, punching, kicking, pushing, beating, and pinching.

**Child sexual abuse:** Child sexual abuse is the involvement of a child in sexual activity that he or she does not fully comprehend, is unable to give informed consent to, for which the child is not developmentally prepared and cannot give consent, or that violate the laws or social taboos of society. This may included the inducement or coercion of a child to engage in any sexual activity; the use of a child in prostitution or

other sexual practices; and the exploitative use of children in pornographic performances and materials.

**Neglect and negligent treatment:** Neglect and negligent treatment is the deliberate inattention or omission on the part of the caregiver to provide for the development of the child in all spheres: health, education, emotional development, nutrition, shelter, and safe living conditions, *in the context of resources reasonably available to the family*, and causes, or has a high probability of causing, harm to the child's health or physical, mental, spiritual, moral, or social development. This includes the failure to properly supervise and protect children from harm as much as is feasible.

**Emotional abuse:** Emotional abuse includes the failure to provide a developmentally appropriate, supportive environment, including the availability of a primary attachment figure, so that the child can develop a stable and full range of emotional and social competencies commensurate with her or his personal potential, and in the context of the society in which the child dwells. Acts include restriction of movement, patterns of belittling, denigrating, scape-goating, threatening, scaring, discriminating, ridiculing, or other non-physical forms of hostile treatment or rejection.

**Commercial exploitation:** of a child refers to use of the child in work or other activities for the benefit of others. This includes, but is not limited to, harmful child labour, child prostitution, and the exploitation of children through pornography. These activities are to the detriment of the child's physical or mental health, education, and moral or social-emotional wellbeing.

Various forms of commercial sexual exploitation of children are further defined under the Optional Protocol the CRC:

**Sale of children:** means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration.

**Child prostitution:** means the use of a child in sexual activities for remuneration or any other form of consideration.

**Child pornography:** means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities, or any representation of the sexual parts of a child for primarily sexual purposes.

## Acronyms

CP	Child Protection
CPU	Child Protection Unit, Ministry of Social Solidarity
CBO	Community-Based Organization
CPU	Child Protection Unit
CRC	Convention on the Rights of the Child
EC	European Commission
FGD	Focus Group Discussion
GBV	Gender-Based Violence
IOM	International Organization for Migration
MDGs	Millennium Development Goals
MoH	Ministry of Health
MoE	Ministry of Education
MoJ	Ministry of Justice
MSS	Ministry of Social Solidarity
NCRC	National Commission for the Rights of the Child
NGO	Non-Governmental Organisations
OVC	Orphans and Vulnerable Children
PRSP	Poverty Reduction Strategy Paper
PTA	Parents Teachers Association
SEFOPE	Secretariat of State for Vocational Training and Employment (Ministry of Labour)
SEPI	Secretary of State for Promotion of Equality
UN	United Nations
UNDP	United Nations Development Programme

UNIFEM	United Nations Development Fund for Women
UNFPA	United Nations Population Fund
UNICEF	United Nations Children's Fund
UNMIT	United Nations Integrated Mission in Timor-Leste
VEC	Vulnerable and Exploited Children

## **Glossary**

Adat	Traditional conflict resolution practice
Chefe Suco	Traditional village chief
Chefe Aldeia	Traditional sub-village chief
Lia Nain	Village elder

## 1. BACKGROUND AND INTRODUCTION

Since gaining independence in 2002, the Government of Timor-Leste has made significant progress towards the development of a comprehensive and functioning child protection system. While this report does highlight the current and inherent weaknesses of the existing system, it also recognises the unique environment in which those endeavours have been undertaken. Within under a decade, the government (under the leadership of the Ministry of Social Solidarity) has made solid strides towards the protection of children and their families. It is commendable that the Ministry is now committed to a thorough and open review of the actual progress made and the impact on children and families.

At the time of independence, many of the structures of government were destroyed and the social support systems and services, though limited, disintegrated. Therefore, the achievements to date need to be assessed within this light. It was consistently stated by research respondents that, given the extreme challenges that Timor-Leste faces to improve the daily lives of its citizens, it is an achievement even to have established a dedicated department for child protection in the country. Beyond this, there has been genuine progress towards developing a national legal framework in accordance with international standards, as well as considerable emphasis upon building the capacity of social welfare staff around the country. An acceleration of progress is especially noticeable during the period 2008-2010, particularly concerning the development of policy and response processes for vulnerable children and families. The current leadership within the DNRS appears dynamic and committed to the challenge of developing a long-term and sustainable protective environment.

This mapping and assessment is being conducted at an appropriate time. After ten years, it is important to review the framework for the child protection system, to consider whether the blueprint is designed with a clear vision and if the system is implementable and sustainable.

Globally, there has been growing recognition of the need to progress beyond issue-specific, responsive programmes towards a more integrated and systems-based approach to preventing and protecting children from all forms of violence, abuse, neglect, and exploitation. This includes ensuring that children in conflict with the law

are protected in equal measure and that child-friendly systems are developed within the justice sector. Emphasis is increasingly shifting to a more holistic approach encompassing proactive and preventative child and family welfare services, rather than reactive interventions after violence or exploitation has occurred. Rather than an exclusive focus on the child victim, interventions are directed at the whole family, aiming to improve parents' capacities to provide appropriate care and protection, or to provide alternative family-based care for children who cannot live with their own family.

The child protection system in Timor-Leste is relatively young. In many parts of the world, systems have developed over many decades; however, the progress in Timor-Leste has been rapid by comparison. This situation presents both opportunities and challenges. Timor-Leste has the opportunity to learn lessons from the development of systems in other countries. The absence of an entrenched history of child protection or rigid model, places Timor-Leste in a unique position to design a system based upon good practices tailored to the Timorese context. While many countries struggle with past policies of mass institutionalization, issue-specific programming (for example, child trafficking, street children) and punitive child justice systems, Timor-Leste is able to adapt and incorporate new thinking towards the protection of children. It is reassuring that the MSS is already aligning its vision towards the development of a comprehensive and sustainable child protection system.

The research clearly demonstrates, however, that there are many challenges to overcome before this vision can be realised. The report highlights some fundamental weaknesses in the current design of the system. Increasingly it is recognised that child protection systems need to be congruent with their context. Essentially this means that foreign systems cannot be imposed or transposed to different national contexts. Timor-Leste has a unique cultural identity and history, as well as its own current economic and political status. The development of a system must be cognisant of and reflect this reality. Given the high level of international support and influence, there is a challenge to ensure that the system is designed in a way that is contextually appropriate, effective and sustainable.

## 1.1 Project Objectives

The Government of Timor-Leste and its partners have recognised the need to review the child protection system framework. In line with new thinking about the development of systems, the MSS and UNICEF proposed a research study to map and analyse the existing system. It was acknowledged that the functioning of any such system depends greatly upon community perceptions of child vulnerability and the relevance of, and access to, the formal system in their daily reality. To this end, the terms of reference for the study included a more comprehensive review of the intersection of the formal and informal protection systems. It is anticipated that this approach will provide a broader evidence base upon which to develop a strategic vision and appropriate policies for promoting the welfare of families and children.

The terms of reference summarizes the principal objectives of the assessment as follows:

- An assessment of perceptions, knowledge, attitudes, and practices on key child protection issues.
- A mapping and analysis of the child protection system; including reviewing existing structures; their mandates and capacity to carry out their responsibilities and respond effectively to child protection issues.

More specifically, the project strives to understand:

- The level of understanding and adherence to child protection principles defined in international and national law and policy;
- The functioning of government agencies at all levels, including the decentralization of child protection structures and the impact on coordination;
- The relevance of the current system established for the population of Timor-Leste.

The assessment provides a macro-level snapshot of:

- The structures or agencies of protection and welfare in place and their authority, mandate and duty to operate as defined by law and policy;
- Policy planning processes and inter-sectoral coordination mechanisms;

- Financial and human resources (including human capacity building);
- Services and programmes available for children and families at risk, as well as to protect children who have experienced violence, abuse, and exploitation.

To meet these objectives, the research looks at the ‘system’ as a whole, rather than the comparative situation of specific districts. The research does not focus on specific issues (such as child labour, physical abuse, street children). It is important therefore to emphasize that this approach provides an *illustration* rather than a *representation* of the national situation. In the same vein, the research does not attempt to gather statistical data on general prevalence of abuse and violence, nor data on incidence of specific violations. Neither is it a situational analysis on child rights violations.

The report provides a snapshot of the child protection situation in Timor-Leste and aims to broadly assess whether the current paradigm is effective, efficient, sustainable, and relevant to Timor-Leste’s context and circumstances. From these findings, recommendations for action are proposed.

## 1.2 Methodology

To achieve the aims of the research, the two defining dimensions of Timor-Leste’s child protection system have been analyzed:

- The **formal system**, which maps the laws and services available for children and families (from both government and non-government actors)
- The **informal system**, which describes the relationship of communities to the formal system and strives to understand their own traditional ways of solving child protection issues (if any)

### **1.2.1 The Formal System**

To obtain information about the formal system, a number of different data sources were used:

#### **Literature Review**

The purpose of the literature review was to obtain an initial understanding of the child protection system and the context within which it has been developed. Through a systematic review of available literature and data<sup>8</sup>, the research team was able to better comprehend the 'blueprint' of the system, especially through the examination of legal documents, policy papers, documents describing the structures of the formal system (e.g. organograms, job descriptions, departmental mandates, terms of reference, and strategic plans). This aspect was supported by a more qualitative review of numerous reports, studies and research on issues related to child protection (e.g. situation analyses from different organizations) as well as statistics and financial data. Upon the basis of this initial understanding, the subsequent field research was adapted and contextualised.

#### **Key Informant Interviews**

To further validate and expand the initial findings of the literature review, in depth interviews with key informants were conducted. These specialists were selected on the basis of their detailed understanding and knowledge of the national child protection sector and its historical development. Interviews lasted around 1.5 - 2 hours and information was gathered through a participatory discussion guide to ensure a dynamic dialogue. The list of persons interviewed during this project can be found in Annex B.

#### **Interviews with Technical Staff<sup>9</sup>**

After interviewing the selected specialists, a second round of interviews with different key technical informants was held. In this phase, semi-structured interviews were conducted to enable the researchers to gather information on the inner workings and coordination mechanisms of the protection system from the perspective of their agency. The target persons for this more specific interview phase were staff from

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<sup>8</sup> An overview of the main documents reviewed in this research can be found in Annex A.

<sup>9</sup> Such as the CPOs, staff at the CPU, members of the CPN as well as frontline workers such as teachers, health staff, etc.

government agencies, such as the MSS, MoJ, PNTL, as well as NGOs providing direct services for children and families.<sup>10</sup>

In addition, group discussions were conducted with technical staff including CPOs,<sup>11</sup> CPN members and frontline workers,<sup>12</sup> such as teachers and health staff who deal with children on a regular basis.

## **Mapping Exercise**

At the core of the research lies the mapping of the different actors and services mandated to support child protection efforts in Timor-Leste. At the first meeting of the Advisory Committee, representatives identified government agencies and NGOs with specific mandates for child protection. Through a participatory process, agencies were plotted onto a visual map to indicate the types of services (prevention / response) and functions they provide, as well as the geographical coverage of those services.

### **1.2.2 The Informal System**

#### **Focus Group Discussions with the Community**

To gain insight into how different members of the community perceive the issue of child protection, a number of Focus Group Discussions<sup>13</sup> were conducted. Such discussions enable researchers to get an understanding of attitudes and beliefs shared by a group of people and to understand societal “fault lines”.

To obtain a good overview of different perspectives towards child protection and services in the community, interviews with the following groups in each district were conducted:

- 1 Focus Group with adult men (18+ years) per district
- 1 Focus Group with adult women (18+ years) per district
- 1 Focus Group with girls (12-14 years old)<sup>14</sup> per district

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<sup>10</sup> See Annex B for the list of persons interviewed.

<sup>11</sup> Although it was originally envisaged to conduct individual interviews with CPOs, this was not possible due to logistical constraints.

<sup>12</sup> In one instance, conflicting schedules did not make it possible to conduct a group interview with the CPN; in this case, individual interviews were conducted.

<sup>13</sup> Discussions were conducted in Tetum or other relevant local language.

<sup>14</sup> The differentiation between two age groups in the children’s group reflects the different stages of cognitive and physical development that need to be considered for this research. In

- 1 Focus Group with girls (15-17 years old) per district
- 1 Focus Group with boys (12-14 years old) per district
- 1 Focus Group with boys (15-17 years old) per district

To conduct these interviews, Child Frontiers partnered with Ba Futuru, a local NGO with experience in child protection issues. After a thorough training in the research methodology, Ba Futuru assembled a team of 4 researchers of mixed gender (2 males, 2 females). This balance ensured that interviewers and respondents were of the same gender, in accordance with best practice when addressing potentially sensitive issues.

### **Interviews with Chefe Sucos**

In Timor-Leste, traditionally the chefe suco (village chief) handles the internal and external affairs of the community, especially in the area of conflict resolution. For this reason, in addition to speaking with community members, the researchers also conducted interviews with one chefe suco per target district.

### **Research Locations**

To achieve sufficient coverage of the country, as well as of different regions, Child Frontiers planned to conduct community interviews in four districts.

With the research Advisory Committee, a number of criteria for choosing the target districts were discussed including: a balance of matriarchal and patriarchal cultures; geographic coverage; recent investments in child protection; urban and rural balance; and number of services known in the district. Using the combination of all these factors would have required conducting the research in 8-10 districts, so it was recommended to conduct the research in Dili and one randomly chosen district from each geographic region.

As the research looks at the 'system' *per se*, rather than a direct comparison between districts, this random selection retains a high reliability of the results while minimizing potential bias through a purposive selection.

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order to address questions of 'equity', selection criteria will be developed to ensure that wherever possible, children from the most marginalised situations are included within the study.

Region	Districts	Selected District
West	Covalima, Oecusse, Bobonaro, Ermera	Covalima
Central	Aileu, Ainaro, Liquica, Manufahi	Manufahi
East	Manatuto, Lautem, Viqueque, Baucau	Lautem
Urban	Dili	Dili

Table 1: Target Districts

### 1.2.3 Limitations of the Study

To better understand the findings, it is worth mentioning some of the constraints of the research. As government documents are not filed at a central location or focal point, in many instances documents had to be obtained from a variety of different actors. In some cases, updated documents could also not be obtained.

Due to this decentralization of information, it was not always possible to find up-to-date information, reports and statistics. Across all departments and government sectors studied, records have not been systematically maintained. In addition, a number of the documents obtained were in Tetum or Portuguese and many documents were provided in incomplete or draft form.<sup>15</sup> Other types of information requested but not provided included financial information from the Ministry of Education and Ministry of Health and other budgetary findings required to develop more expanded recommendations.

Perhaps due to the above challenges, it was found that many respondents were unsure about the current status of the system. Respondents provided contradictory information about the system blueprint itself; for example, whether policies had been approved, whether structures and procedures were formally operational. There is clearly a lack of knowledge about the mandates and functions of other agencies within the system. This appears to be symptomatic of the general weakness in coordination and information sharing among key child protection actors.

<sup>15</sup> These issues are also addressed as part of the recommendations. The maintenance of centralized and 'final' documents that are dated and approved is important for the further strategic development of the system.

The original methodology proposed an online survey of key child protection actors. However, for a number of reasons, this approach was not applied in the final methodology. The pool of child protection actors is relatively small and ensuring a critical mass of respondents seemed unlikely. Ensuring appropriate respondents would be available and willing to participate within the framework of the methodology would have been extremely challenging: many potential respondents were either away, inaccessible or would have required express permission to participate in the survey. However, the limited number of actors within the country also provided an opportunity for direct contact: for example, it was possible to gather several CPOs together for a focus group discussion and approximately ten NGOs were interviewed directly.

## 2. COUNTRY CONTEXT

Timor-Leste has a unique and diverse history, one that has inherently shaped the current status of the country today. In looking at the development of a child protection system, it is essential that this history and its ramifications on society today are acknowledged. The country context moulds the lives of its children and determines their levels of vulnerability to abuse, neglect, violence, and exploitation. While this study does not directly focus on vulnerability, it does consider how the economic, political and social environment presents opportunities and challenges for the development of the protection system.

Year	Event
1515 – 1975	Portuguese colony
November 28, 1975	Unilateral declaration of independence by FRETILIN party
December 7, 1975	Invasion and later annexation by Indonesia
1975 – 1999	Indonesian province
12 November 1991	Santa Cruz Massacre
August 30, 1999	Successful Independence Referendum
August 31 – September 20, 1999	Violence following the Referendum
September 20, 1999	INTERFET enters Timor-Leste (International Force for East Timor)
October 25, 1999 – February 14, 2000	United Nations Transitional Administration in East Timor (UNTAET)
May 20, 2002	Formal Independence of Timor-Leste
May 2002—May 2005	United Nations Mission of Support to East Timor (UNMISSET)
May 2005—August 2006	United Nations Office in Timor-Leste (UNOTIL)
April 24, 2006 – October 2006	2006 Crisis
August 2006 - present	UNMIT United Nations Integrated Mission in Timor-Leste
February 11, 2008	Unsuccessful assassination attempts on President and Prime Minister

Table 2: Country Timeline

## **2.1 Historical Background**

Timor-Leste is a republic that occupies roughly half of the island of Timor situated to the northwest of Australia and on the southernmost edge of Indonesia. The country consists of the eastern half of the island as well as the special zone of Oecussi, an enclave in Indonesian West Timor and two separate islands, Atauro, north of the capital Dili and Jaco, at the easternmost part of the island.

### **Pre-Independence (1975-2002)**

Together with the majority of the Portuguese colonies, Timor-Leste was decolonized in a rapid and unorganized fashion following the military coup in Portugal in April 1974. With a strong independence movement, Timor-Leste officially declared independence in late 1975.

This action provoked the Indonesian military to invade the county only weeks later. The years of the Indonesian occupation of Timor-Leste were marked by high levels of repression and violence and a report for the Commission for Reception, Truth and Reconciliation in Timor-Leste estimated 102,800 conflict-related deaths in the period 1974–1999. Finally, amid increasing international pressure, a referendum was held on August 30, 1999 that was coordinated and supervised by the United Nations. With the vast majority (78%) of Timorese voting for independence, Timorese militias - supported by the Indonesian military - initiated a large scale military campaign, during which approximately 1,300 Timorese were killed and more than 250,000 people were forcibly relocated into West Timor. Effectively being a scorched-earth campaign, the majority of the country's infrastructure (irrigation, electricity and water supply grids, housing and schools) were severely damaged or destroyed within a matter of weeks. Following this, peacekeeping troops were sent and a formal UN mission established. The mission, UNTAET,<sup>16</sup> acted as a UN Transitional Administration from December 1999 to May 2002 with a mandate to oversee the transition period leading to independence.

### **Post Independence (2002 – present)**

Timor-Leste became a fully independent state on May 20, 2002. The UN Mission for the Support of Timor-Leste (UNMISSET) was established to provide further support to the government. The mandate of this mission ended on May 20, 2005 and a much smaller special political mission (UNOTIL) took its place. Caused by disputes within the

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<sup>16</sup> UNTAET: UN Transitional Administration in East Timor.

Timorese military forces, which had failed to be solved politically, violence and civil unrest hit the country in 2006. This resulted not only in the destruction of infrastructure and homes, but also in large numbers of internally displaced persons (IDP). During this crisis a large number of children and youth were involved in mob violence and many were sent to court and prison.<sup>17</sup>

To end the violence, foreign peacekeeping troops were again dispatched to Timor and another large scale UN mission (UNMIT) was established. UNMIT, which is still active, has a mandate to assist the country in restoring stability, rebuilding the security sector (such as police and the army) and to support the Government of Timor-Leste in conducting elections and strengthening political institutions. UNMIT also provides the country with 1,500 foreign police personnel.

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<sup>17</sup> The main reasons for the involvement of children were considered to be high levels of illiteracy and unemployment, which, together with a sense of alienation, made them susceptible to manipulation by various societal actors.

## 2.2 Economic and Political Development

Country Overview			
<b>Country economic classification (WB)</b>	Lower middle income	<b>Social Protection strategy present</b>	Yes
<b>Human development index</b>	150 (2007)	<b>Child Protection Leading Agency</b>	Ministry of Social Solidarity
<b>Rank Country Corruption index (TI)</b>	145	<b>National Child Protection Coordination Mechanism</b>	Consultative Council to the National Commission for the Rights of the Child
<b>Political stability</b>	Post-Conflict	<b>International Conventions not ratified / reservations:</b>	<i>ILO Minimum Age Convention 138</i>
<b>Judicial system</b>	Pluralistic: Civil law and customary law		Hague Convention on Inter-Country Adoption
<b>Overall child protection law/policy</b>	Juvenile Justice law and Child Rights Code under development		Convention on the Rights of Persons with Disabilities
<b>Key National Plans of Action</b>	United Nations Development Assistance Framework UNDAF 2009-2013  Strategic Development Plan, 2011-2030		
<b>Population, 2010<sup>18</sup></b>	1.066.582	<b>Total Fertility Rate<sup>19</sup></b>	5.7
<b>Population under the age of 18, 2008<sup>20</sup></b>	2460	<b>Infant Mortality (per 1,000 live births)<sup>21</sup></b>	44
<b>Life expectancy at birth (years), 2008<sup>22</sup></b>	61	<b>School life expectancy (years), 2005<sup>23</sup></b>	9.8

Table 3: Country Overview

<sup>18</sup> National Department of Statistics (2010).

<sup>19</sup> Timor-Leste: Demographic and Health Survey - Preliminary Data (2010).

<sup>20</sup> UNICEF (2009).

<sup>21</sup> Timor-Leste: Demographic and Health Survey - Preliminary Data (2010).

<sup>22</sup> [http://www.unicef.org/infobycountry/Timorleste\\_statistics.html](http://www.unicef.org/infobycountry/Timorleste_statistics.html) (Accessed: November 28, 2010).

<sup>23</sup> Cited in UNICEF (2008c).

## Political System

Timor-Leste is a parliamentary republic with a strong central government. The first parliament was formed from an 88-member Constituent Assembly, which was elected in free elections supervised by the UN.

Timor-Leste consists of 13 administrative districts including the capital, Dili. Each district is divided into several sub-districts, with a total of 65. Although the Constitution envisages a decentralization of the districts headed by elected representatives, the decentralization process is still under way. District administrators are nominated by the central government. It is expected that the first elections for district mayors will be held in 2013.

Under the sub-district level is the suco<sup>24</sup> (village) level, which is then divided into aldeia (sub-villages). Villages are governed by chefe suco together with a suco council. Although these are traditional positions based upon customary law, the chefe suco (and chefe aldeia) have been acknowledged by the government as community leaders and are elected by popular vote.

## Economic Development

Timor-Leste remains one of the poorest countries in the Southeast Asia Pacific region. Economic and social developments are intrinsically linked. Being an agrarian, rural country with few resources and poor education levels, Timor-Leste's economy and budget is mostly dependent upon the country's economy recent exploitation of gas and oil fields and aid from international donors. Due to limited natural resources (besides oil and gas) and a virtually non-existent industrial sector, unemployment and underemployment are rampant at estimated levels of 70%. Among young urban males the unemployment rate is 43%.<sup>25</sup> Around 40% of the country's population lives below the poverty line. Development is hampered by a high level of food insecurity and slow, volatile GDP growth.

Around 50% of the population is estimated to be under the age of 18, giving Timor-Leste both the youngest population in the world and the most rapid population growth worldwide. In addition, Timor-Leste suffers from significant gender inequalities, high

<sup>24</sup> A total of 446 sucos exist in Timor-Leste.

<sup>25</sup> [www.unicef.org/infobycountry/Timorleste\\_1034.html](http://www.unicef.org/infobycountry/Timorleste_1034.html) (Accessed: November 28, 2010).

infant and maternal mortality, as well as a demographic explosion that is expected to put more pressure on economy, resources and social services in the future.

Food insecurity and pervasive poverty, especially in rural areas, underpin and exacerbate these issues. Following the crises of 1999 and 2006, a large number of children were orphaned or abandoned, leading to an influx of aid organizations providing shelter.

To address these issues, UNDP has committed itself in its Country Program 2009-2013 to support interventions pertaining to poverty reduction in

*“macro-economic policy issues such as human development and MDG-based national development planning, tax reforms, effective and transparent use of the petroleum fund, microfinance policies and energy and environment“; and “urban employment creation areas targeting vulnerable groups such as returning IDPs, youth, women, and food-insecure households.”*

The main strategies to reduce poverty are use of community mobilization and community-based, sustainable natural resource management to promote agricultural productivity and income, as well as the strengthening of microfinance institutions.

## **Health**

Timor-Leste’s health situation is marked by high levels of fertility along with high levels of child and maternal mortality. Few mothers give birth in a health facility or experience attended delivery, due to poor access to these services in rural and remote regions, compounded by lack of awareness and adherence to traditional practices.

To improve public health and ensure access to health services, a “Basic Services Package for Primary Health Care and Hospitals” was launched in 2007. While this increases the numbers of referral hospitals, community health centres and mobile clinics, many services are under-utilized. Unfortunately, only limited data on the health situation in Timor-Leste is available for public use; a number of key indicators have only started to be collected through the Health Monitoring Information System as recently as 2006. Data from the HMIS does not routinely collect data on child abuse.

## **Education**

According to Timor-Leste's constitution, basic education is "universal, mandatory and free". Basic education generally consists of nine years in school: six years of primary school as well as three years pre-secondary school. This cycle was severely disturbed after the referendum in 1999, as most administrative positions, as well as school positions were occupied by Indonesians. Many of these teachers left the country during and after the 1999 emergency, during which an estimated 95% of schools were damaged and four out of five schools physically destroyed, effectively leaving the education system in ruins.

In the immediate aftermath of 1999, UNICEF concentrated on the provision of providing basic teaching materials, offering incentives for teachers to return to work and on making schools operational. To bridge the gap in the number of qualified teachers, assistant teachers (with limited training) were recruited and university students were encouraged to become teachers. However, the 2006 riots created another severe disruption for the education sector, as families fled into IDP camps and schools were destroyed. Both crises created significant educational disturbance and increased the numbers of children without access to schooling. Equally, teachers have received limited training and have only basic training in classroom management and student discipline. This has perhaps exacerbated the levels of severe physical punishment of students.

### **Medium Term Strategic Plan 2011-2030**

In 2010, the government presented a medium term strategic plan (MTSP) for Timor-Leste in which many of the pressing issues mentioned above were addressed. The strategy describes a vision for: facing urban and rural imbalances; addressing a shortage of skilled human resources; dealing with fragile government institutions; and addressing traumatic post conflict experiences. The strategic plan describes the country's core components to be a strong political will, a vast economic potential (through the exploitation of oil and gas fields), a strong national identity, as well as the potential for dynamism.<sup>26</sup>

Based on these parameters, the MTSP envisages for 2030, among others, the achievement of: universal literacy; universal education up to Grade 12; universal

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<sup>26</sup> Democratic Republic of Timor-Leste (2010a).

access to health care; eradication of malnutrition; and access to safe water for all. These measures are important for ensuring the long-term welfare and protection of children.

However, the strategic plan does not detail specific provisions for the development of a child protection system. That said, during the Development Partners meeting in 2010, where the MTSP was introduced, the government outlined its broad intentions for the enhancement of the social welfare system, in particular: *“(the) establishment of a nationwide social assistance program in 2010... with the development of a policy for disability including child protection systems and a decree law for the implementation of the Bolsa da Mãe conditional cash transfer programme.”*<sup>27</sup>

Similarly, the UN Development Assistance Framework (UNDAF) also acknowledges in its plan (2009-2013) the importance of child welfare services by including the following child protection outcome (3.5): *“Vulnerable populations, especially children and women, benefit from quality social protection, particularly social welfare services, including in emergencies.”*<sup>28</sup>

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<sup>27</sup> Timor-Leste Development Partners Meeting 7 April 2010, Background Paper.

<sup>28</sup> UNDAF 2009-2013.

## Key Findings

Current efforts to establish a comprehensive and functioning child protection system in Timor-Leste are defined by the social and economic environment. This, together with the historical background to the country, presents a number of opportunities and challenges:

1. Despite the colonisation of Timor-Leste over many centuries, the country has not inherited a fixed blueprint or entrenched structures of social welfare. Unlike many countries, an indelible colonial model is not a feature of the new landscape. This provides Timor-Leste with the opportunity to design its own national system, and indeed it is clear that the government has forged its own path by developing its own laws, policies and services. However, due to a lack of Timorese experience in designing welfare systems and the subsequent influx of different foreign approaches, the system is now vulnerable to 'westernisation' or the undermining of strategies due to importation of fragmented approaches from different places. While many aspects of foreign models may be applicable, caution is required to ensure that the model proposed is applicable to the new Timorese context.
2. A review of the country indicators reveals the deep-rooted economic and social issues facing Timor-Leste today. It is evident that priorities have focused upon the development of the State, ensuring good governance and security, and alleviation of poverty through rural development and economic initiatives. Similarly, education and health indicators demonstrate a need for massive investment to secure healthier futures for children. However, the national development plans – while addressing the need for financial support to the poor – tend not to provide detail on endeavours to eradicate abuse, violence and exploitation against children. Education, health and social protection strategies will only be maximised when children are brought up in safe and protected environments.
3. A lack of systematic and thorough record keeping, data collection and policy distribution has led to a lack of clarity about the welfare situation of Timorese children. This compounds difficulties in long-term planning for children's needs.

### 3. Child Protection Situation

This chapter will focus on the information available on child protection issues in Timor-Leste. From the outset, it worth noting that the information is extremely limited and much of the available data has been collected through participatory studies rather than baseline surveys. Anecdotal evidence, however, indicates a high level of abuse, violence and neglect within families, as well as a high threshold for triggering remedial action against perpetrators. This chapter looks at the following key questions:

- What information (empirical or anecdotal) is available to assess the magnitude of child protection issues in Timor-Leste?
- What mechanisms are available for collecting data and how are these organised?
- What do communities, including children, consider to be the leading child protection issues?
- What is the perceived threshold for taking action against alleged perpetrators?

#### 3.1 Child Protection Data

There is an almost total absence of reliable data on the prevalence of abuse, neglect, exploitation, and violence in Timor-Leste. Although quantitative, indicator-based surveys have been developed to measure the situation of children in relation to health and education, these have not incorporated assessment of vulnerability to abuse and exploitation.

UNICEF maintains a periodic survey-based monitoring and evaluation system designed to capture basic indicators of the child protection situation. However, in Timor-Leste, early versions of such representative household surveys (MICS or DHS)<sup>29</sup> conducted in 2002 and 2003 respectively did not include questions on child protection. The most recent DHS survey findings include questions on domestic violence but the findings had not been released at the time of writing. The only child protection statistics

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<sup>29</sup> “Multi-Indicator Cluster Surveys” and “Demographic Health Surveys”

published by UNICEF indicate that 4% of children (all age groups) are victims of child labour, while up to 47% of children are not birth-registered.<sup>30</sup>

Statistics on prevalence are notoriously difficult to capture due to the private and sensitive nature of the issues addressed. In this respect, Timor-Leste's lack of data is not exceptional. However, this means that notions of the magnitude of abuse, violence and exploitation have largely been captured through participatory studies and assessments. The most prominent study that used both qualitative and quantitative methods, entitled "Speak Nicely to Me" (2008),<sup>31</sup> concluded that the majority of children are physically punished in their homes and / or at school. More than one third of parents questioned believed that it was acceptable to "beat a child with a stick", "twist his/her ears" or "slap the child on the face".<sup>32</sup>

A number of child protection concerns were raised and acknowledged in the report, suggesting that incidences of sexual abuse, child trafficking, child labour, neglect, and violence are prevalent in Timor-Leste. Physical violence towards children, often perceived within families as essential discipline, appears (anecdotally) to be extremely common.

Despite the inherent difficulties in obtaining reliable prevalence statistics, it is nonetheless critical to have some baseline of understanding in order, at a minimum, to formulate appropriate policy and advocate for necessary financial resources. To date, the only statistics available to the MSS, policy-makers and service providers is the number of cases that come to the attention of the Child Protection Officers or the Vulnerable People's Unit. Given the widely accepted anecdotal evidence of abuse and violence patterns, a cursory glance at the data suggests that the national statistics in no way reflect actual prevalence of violations against children.

Records obtained from the MSS central database (2008) show that a total of 71 cases were reported to and classified at central level.<sup>33</sup> Of these, the following breakdown is provided:

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<sup>30</sup> [http://www.unicef.org/infobycountry/Timorleste\\_statistics.html](http://www.unicef.org/infobycountry/Timorleste_statistics.html) (retrieved: November 28, 2010)

<sup>31</sup> UNICEF (2006).

<sup>32</sup> Due to the methodology and sample design of the survey, findings cannot necessarily be generalized for Timor-Leste, although they are supported by anecdotal evidence.

<sup>33</sup> These records do not include Dili.

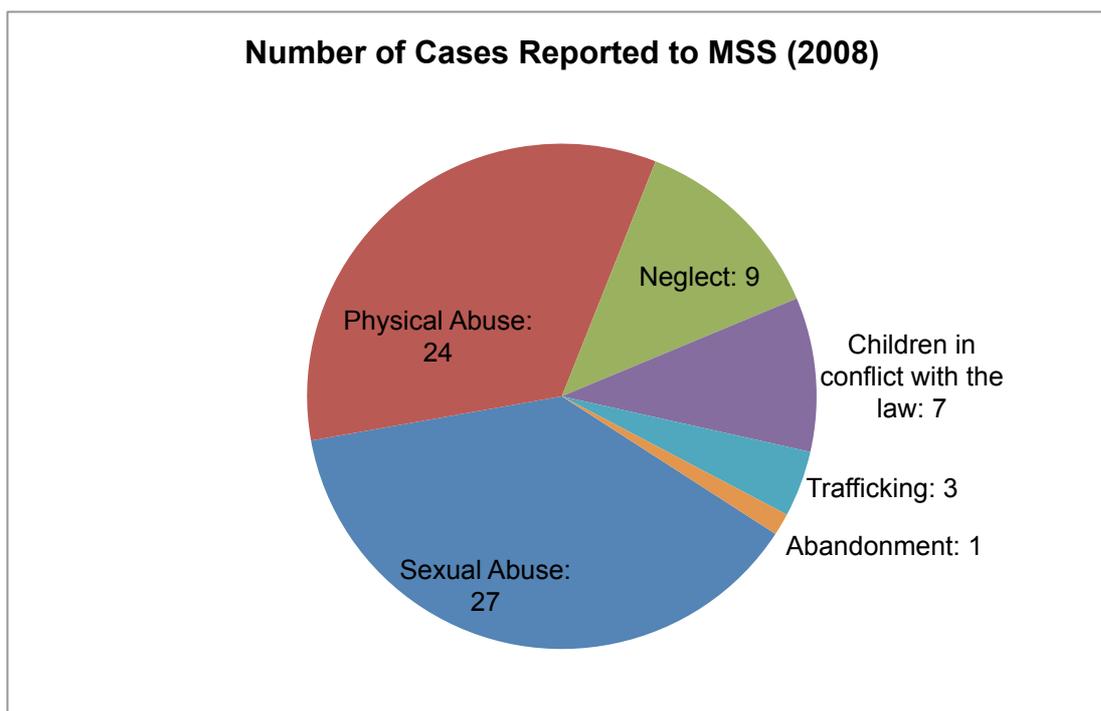


Figure 1: Type & Number of Cases of Child Abuse Reported to MSS (Central Level), 2008

### 3.2 Community Perceptions of Child Protection and Well-Being

The scope of this research did not extend to a comprehensive prevalence review. However, in order to assess the types of behaviours that would be deemed a child protection concern within the Timorese context, the study did focus on community perceptions of abuse and harm. During focus group discussions, adults and children were asked to identify behaviours that were 'acceptable' or 'unacceptable' within families and communities. The following paragraphs summarize the findings of this exercise.

#### 3.2.1 Unacceptable Behaviour

##### Sexual Abuse

A key finding is that all groups agreed that "rape" or "attempted rape" is unacceptable: all respondents consider these violations a serious crime. All groups agreed that such cases should be brought to the attention of the local authorities and police.

### **Severe Corporal Punishment**

Behaviours in the realm of physical abuse are considered to be unacceptable by a majority of respondents. On the other hand, a considerable number of respondents – especially male – emphasized that such behaviours served mostly to “educate” children. Overall, respondents made a clear distinction between different levels of physical violence: those considered to be less severe were seen to be acceptable in the context of “educating” children. However, certain behaviours (such as “hitting a child with a stick” or “hitting a child with a closed fist on the face”) were deemed to be unacceptable because of the danger or intent of injuring children. Such cases of violence were considered to be a crime – however, in contrast to rape, they should not be brought to the attention of the police, because this is seen as a family matter to be dealt with informally.

### **Neglect**

Leaving children less than 10 years old alone overnight was considered to be unacceptable behaviour by all groups, except for young boys (12-14 years old), who were split in their opinion. However, the majority of the other groups stressed that unaccompanied young children would be helpless on their own. In addition, the girl groups and female adults noted the danger that children could be abducted or fall prey to other forms of abuse in the absence of their parents.

The majority of target group respondents agreed that other cases of neglect and discrimination (“some children are treated better than others” and “some children get more food than others”) are not acceptable, although in some instances groups were split in their opinions. Respondents suggested that children should be treated equally when it comes to receiving love and food. On the other hand, it was argued – especially by male adults – that in some instances the economic situation of the family should be considered. This financial imperative might create circumstances where preferential treatment of children is acceptable. This underlines the perceived linkage between poverty and abusive behaviour, which was stressed not only by communities, but also by key informants.

### **Keeping a Child as a Servant**

Keeping a child as a servant was also unacceptable to the majority of respondents. This again indicates that some children are discriminated against. A minority of adult

women argued that children would need to assist their parents. While this statement was agreed upon, it was underlined that all work in the household should be divided fairly among children.

### **3.2.2 Gender Differences**

Although in the first activity the questions for all target groups (men, women, girls, and boys) were exactly the same, it was interesting to note that child protection concerns raised different responses according to gender. In general, females regarded more behaviour to be unacceptable than males, especially when involving direct body or physical contact.

#### **Physical Punishment**

As mentioned above, physical punishment was considered by the majority of boys and men to be acceptable behaviour if it would serve as an “educational measure”. Certainly, “slapping” and “pulling a child’s ears” are believed to be acceptable. Employing a fist or implement to beat a child was considered acceptable so long as there is no intention to actually injure the child and the instrument should not be capable of severely hurting the child. Interestingly, the same standard applies to physical punishment handed out by both parents and teachers. This threshold of physical violence seems high, but perhaps coincides with the often cited belief in Timor-Leste that physical harm is only reached at the point where bleeding is caused. On the other hand, girls and female adults rejected all such violent behaviours as they involve direct body contact.

#### **Emotional Punishment**

At the same time, girls and women consider the threat of abandoning a child to be acceptable when it is used as an “educational” measure. Indeed, it was seen as an alternative to hitting girls, which was deemed to be not acceptable. As a result, girls considered this behaviour to be “only a threat”. Boys, on the other hand, who were not used to this kind of punishment, considered this to be a very severe threat and therefore deemed it to be unacceptable behaviour.

### **Selling Items in the Community**

For a number of women and girls, selling items on the street was considered to be acceptable, as this is considered to be easy work and an opportunity to earn money, while others contested that children should not work. Males and boys also took into account the opportunity to earn money, but also considered the risks of such employment, such as having to walk long distances and falling prey to physical violence in the communities by other adolescents or adults. This suggests that perhaps the risks of such work are different for boys and girls: while for girls the activity would be mostly around the home, the boys would be required to walk far distances.

### **Differences between Adults and Children**

Only in the area of child labour did the perceptions of children and adults diverge significantly. Some boys and girls considered it to be acceptable for (older) boys to work on a construction site; the main reason being the opportunity to earn money for oneself and the family. On the other hand, a number of child respondents – but all adults – rejected the notion on the grounds that working on a construction site would be too hard and strenuous for children.

#### **3.2.3 Reporting Unacceptable Behaviour**

Whenever behaviour was deemed to be “unacceptable” by at least one respondent, the group was asked to whom such behaviour should be reported to. It is interesting that only cases of “rape” and “attempted” rape were seen as crimes and therefore should be reported to the authorities, such as the police, the chefe suco or chefe aldeia.

All other behaviours were considered less severe matters that should be addressed within the family. Other violent behaviour, such as hitting a child with the intention to severely injuring them, may be considered criminal acts; however, unless the child dies, the matter is ultimately considered to be a family matter. Children stated that child victims or witnesses to abuse, neglect and violence would inform the parent or, if the parent was the perpetrator, inform another relative such as an uncle. Within families, it was generally stated that relatives would speak directly to the perpetrator to prevent such an incidence occurring again.

However, community members would be extremely reluctant to report cases of abuse by neighbours and would probably not approach the perpetrator. The following quotes describe the reasoning behind this:

*“In this community, all families have relations with each other... if we report (this behaviour to an outsider), they will think we interfere with their family issues. This would mean that we would have problems with this family afterwards.” (Adult Male, Dili)*

*“Once I saw that a family tied up their child with a rope, but I could not intervene because that is their family” (Adult Female, Lautem)*

Although a majority of behaviours were seen to be unacceptable for either all children or specific groups of children (especially girls) it is interesting that different levels of tolerance do exist. While a low tolerance for abusive behaviours inside the family could be found across all respondents, tolerance of the same behaviours within external families appears to be high. This difference in tolerance seems to stem from families' belief that one should not interfere with the affairs of other community members.

## Key Findings

1. There is very little reliable information on the numbers of children who are at risk of, or suffering, abuse, neglect, and exploitation. This is not unique to Timor-Leste: collecting such prevalence data is extremely difficult and often unreliable. However, it is not feasible to advocate for resources and develop appropriate strategies unless there is some information about both the types of problems and the magnitude of those problems.
2. Information gleaned through past reports and discussions with respondents, both service providers and communities, indicates high levels of physical violence against children. There appears to be a clear distinction between 'criminal violations' against children and 'educational measures' for children. The latter tend to be acceptable by men and boys, almost as a rite of passage. Community authorities may intervene only when a child is severely injured and bleeding. Attempts to resolve issues are generally kept within the family with little community interference, reflecting the need to maintain harmonious community relations. Respondents demonstrated a link between poverty and vulnerability to abuse and exploitation. If children are unable to go to school, they are at greater risk of labour exploitation or being attacked when they sell goods in other communities. These children are seen as more likely to be unsupervised and therefore at risk of delinquency.
3. Neglect and labour exploitation were perceived as a 'necessary evil' by many of the male groups. Because children are considered as 'property', they have to follow instructions given by their parents.
4. The limitations of this study did not permit a more rigorous analysis of community perceptions; however, various studies have shown fairly conclusive evidence of the patterns of child disciplining and child abuse. There is a clear gap between the behaviour that the formal systems attempts to sanction and the perceptions of communities about what actions need to be addressed. Regardless of whether the formal or informal system is invoked, it is essential to define the threshold at which protective action needs to be instigated.

## **4. CHILD PROTECTION SYSTEM COMPONENTS**

This chapter will review the status of the current child protection system in Timor-Leste. It will begin by mapping the existing system components, both formal and informal. In particular, different sections will focus on the essential elements of a system, namely the:

- Legal and regulatory framework
- Structures and institutions for child protection (formal and informal)
- Prevention and response services for children and families
- Available resources (human and financial)

### **4.1 Overview of Legal and Regulatory Framework for Child Protection**

Pursuant to the CRC, national laws should guarantee children's right to protection from all forms of violence, abuse neglect and exploitation, and ensure that the rights of those children in conflict with the law are upheld. These laws should reinforce the primary responsibility of parents for the care, protection and development of children. It should also obligate the State to support families in their child-rearing responsibilities, and in particular provide child welfare authorities with the power to intervene to support and protect children who have experienced violence, abuse, neglect and exploitation in or outside of their homes.

An effective legal framework for child protection is one that: designates a government agency with clear mandate, authority, and accountability for the management and delivery of child welfare services, including division of responsibility between the national and sub-national levels; stipulates a continuum of prevention, early intervention, and response services to prevent and respond to all forms of child vulnerability, both children who are victims of crimes and those who are in conflict with the law; stipulates the standards, criteria, authority, and procedures for making decisions about which interventions are appropriate in individual cases, including the standard for when compulsory protective services may be used; requires that all decisions regarding compulsory protective services, the separation of a child from his/her family, and out-of-home care are made by a designated government authority, subject to judicial review; and includes a binding regulatory framework for compulsory

registration, accreditation, monitoring, and inspection of all government and non-government service providers.<sup>34</sup>

This chapter considers the extent to which the Government of Timor-Leste has been able to introduce and implement a functioning legal framework that supports the realisation of children’s fundamental rights to protection.

## Legal and Regulatory Framework

The national child protection framework depends broadly upon the laws in force in Timor-Leste. There are several sources of law in Timor-Leste, which are listed below in order of authority (each higher source overrides all lower sources).<sup>35</sup>

- National Constitution
- Rules provided for in international conventions, treaties and agreements ratified or acceded to<sup>36</sup>
- Laws passed either by the National Parliament or the Government
- Regulations, Executive Orders, Directives, and Notifications made by UNTAET from 25 October 1999 to 19 May 2002
- Laws that applied in Timor-Leste prior to 25 October 1999 (provided these do not conflict with international obligations and human rights standards)<sup>37</sup>

Section 18(1) of the Constitution is a cornerstone for the national child protection framework, stating that “Children shall be entitled to special protection by the family, the community and the State, particularly against all forms of abandonment, discrimination, violence, oppression, sexual abuse and exploitation.” Section 18(2) further notes that “Children shall enjoy all rights that are universally recognised”, while Section 9 directly incorporates into national law the rules of international conventions, treaties and agreements ratified or acceded to by the Government. National legal provisions that are contrary to such international law are considered invalid.

<sup>34</sup> “Technical Guide: Social Welfare Systems” found in ‘Child Protection Programme Strategy Toolkit, UNICEF East Asia and the Pacific’, 2009.

<sup>35</sup> United Nations, Core Document Forming Part of the Reports of States Parties: Timor-Leste, HRI/CORE/TLS/2007, 16 July 2007, par. 70.

<sup>36</sup> Constitution, Section 9.

<sup>37</sup> UNTAET Regulation 1999/1; Constitution, Section 165; Law N. 2/02: Interpretation of Applicable Law on 19 May 2002; and Law No. 10/2003: Interpretation of Section 1 of Law No. 2/2002, of 7 August, and Sources of Law.

As such, the Government’s ratification and accession to many important international child protection instruments provides an ample foundation for the national framework. As indicated in Table 4 below, Timor-Leste is State Party to the Convention on the Rights of the Child, its two Optional Protocols, and other important international instruments. Among those listed, the Government of Timor-Leste has not ratified or acceded to the ILO Minimum Age Convention 138, the Hague Convention on Inter-Country Adoption, or the Convention on the Rights of Persons with Disabilities.

<b>RATIFICATION OF SELECTED INTERNATIONAL CHILD PROTECTION INSTRUMENTS</b>			
	<b>Not signed, ratified, or acceded to</b>	<b>Ratified/ Acceded to</b>	<b>Date</b>
Convention on the Rights of the Child		✓	16 April 2003
CRC Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography		✓	16 April 2003
CRC Optional Protocol on Involvement of Children in Armed Conflict		✓	2 August 2004
ILO Minimum Age Convention 138	✓		
ILO Convention 182 on the Worst Forms of Child Labour.		✓	16 June 2009
Optional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime		✓	9 November 2009
Hague Convention on Inter-Country Adoption	✓		
Convention on the Elimination of All Forms of Discrimination Against Women		✓	16 April 2003
International Covenant on Civil and Political Rights		✓	18 September 2003
International Covenant on Economic, Social and Cultural Rights		✓	16 April 2003
Convention on the Rights of Persons with Disabilities	✓		

Table 4: Ratification of Selected International Child Protection Instruments

Beyond the Constitution and international law, the mixed applicability of new Timorese law with historic UNTAET, Portuguese, and Indonesian law characterizes the legal complexities at hand. In addition to this complicated backdrop, the majority of legal disputes in daily life are resolved through customary law processes and alternative dispute resolution methods. These are recognized in general by the Constitution, without any detailed regulation by national law, and they have no written procedures or enforcement mechanisms.<sup>38</sup> This multi-layered system has suffered chronic confusion over which laws are applicable, and the Government of Timor-Leste has committed to providing greater clarity through the “passage of new RDTL laws across all areas of public life.”<sup>39</sup>

In attempts to pass comprehensive new legislation, the Government has accepted extensive international legal drafting assistance, through both the United Nations system and bilateral aid. This assistance has often resulted in “the wholesale adoption of foreign statutory models,” which may sometimes be incompatible with the Timorese reality.<sup>40</sup> Foreign-inspired laws may create complex statutory schemes that overwhelm national institutions’ capacity for reasonable application, implementation, and enforcement.

In particular, the national framework for child protection is hindered by a lack of clarity on applicable law and by continuing gaps in legal regulation. While international child protection instruments are essential, these typically lay out general principles that require national legislation to specify institutions, mandates, and procedures in order to be put into practice. As seen in Table 5 below, several critical child protection areas have no clear legal regulation at all, including inheritance rights, adoption, street children, and child protection in emergencies. Several other areas are regulated to some degree by relevant law, but legal regulations do not cover all essential aspects or take full account of children’s special status. For example, Decree No. 10/2008 assigns the MSS responsibility for child and family welfare, yet does not establish a legal mandate for MSS to intervene to prevent and respond to violence, abuse and exploitation of children. The Penal Code criminalizes many violations of children’s

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<sup>38</sup> UNMIT, *The Justice System of Timor-Leste: An Independent Comprehensive Needs Assessment*, Dili, 13 October 2009. Section 2(4) of the Constitution states “The State shall recognize and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law.”

<sup>39</sup> United Nations, Core Document Forming Part of the Reports of States Parties: Timor-Leste, HRI/CORE/TLS/2007, 16 July 2007, par. 73.

<sup>40</sup> UNMIT, *The Justice System of Timor-Leste: An Independent Comprehensive Needs Assessment*, Dili, 13 October 2009, at 27.

rights (e.g., child labour, sexual abuse, child prostitution, child pornography, trafficking of children, involvement of children in armed conflict) but the simple classification of such violations as crimes is not a substitute for a functioning child and family welfare system and specific authority to address such violations. Likewise, the custody and maintenance of children, children in conflict with the law, child victims / witnesses in criminal proceedings, and physical abuse/corporal punishment are inadequately addressed by current laws.

<b>KEY CHILD PROTECTION AREAS AND RELATED NATIONAL LAWS</b>	
Child and Family Welfare	Decree No. 10/2008: Organisational Structure of the Ministry of Social Solidarity, and other laws
Birth Registration	UNTAET Regulation No. 2001/3 on the Establishment of the Central Civil Registry for East Timor
Custody and Maintenance of Children	Decreto-Lei N.º 1/2006 de 21 de Fevereiro Que Aprova o Codigo de Processo Civil
Inheritance Rights	-
Adoption	-
Child Labour	UNTAET Regulation No. 2002/5 on the Establishment of a Labour Code for East Timor Penal Code
Children in Conflict with the Law	Penal Code Criminal Procedure Code
Street Children	-
Child Victims / Witnesses in Criminal Proceedings	Law No. 2 / 2009 of 6th of May: Protection of witnesses
Physical Abuse / Corporal Punishment	Penal Code (penalizes harm, mistreatment, cruel treatment, etc.; corporal punishment not outlawed)
Sexual Abuse	Penal Code
Child Prostitution	Penal Code
Child Pornography	Penal Code
Trafficking in Children	Penal Code
Involvement of Children in Armed Conflict	Penal Code
Child Protection in Emergencies	-
Domestic / Gender-based Violence	Lei N. 7/2010 de 7 de Julho: Lei Contra a Violência Doméstica Penal Code
Children Affected by HIV/AIDS	(National HIV/AIDS/STIs Strategic Plan 2006 – 2010)
Early Childhood Education	Law No. 14/2008 of 29 October: Education System Framework Law

Table 5: Key Child Protection Areas &amp; Related National Laws

As in other areas of legal reform and drafting, the Government of Timor-Leste has sought to move quickly in passing new sovereign legislation on child protection. It has prioritized filling current gaps in legislation, as evidenced by the following draft bills: Child Rights Code, Civil Code, Paternal Power Bill, Guardianship Bill, Bill on Adoption, and Juvenile Justice Law. While these drafts are currently at various stages in the drafting / legislative process, they reflect some of the larger concerns about the adoption of statutes modelled closely after other countries' laws and realities. For example, in broad terms, draft bills would rely extensively on state institutions and professionals for implementation and enforcement, yet such institutions (e.g. the police, courts, social workers) remain in the early stages of developing the capacity and credibility necessary to take on such roles nationwide. In contrast, local leaders have historically handled nearly all disputes using customary law – including cases of land and ownership disputes, child support, domestic violence, etc. – yet none of the draft bills significantly address local leaders' future roles.<sup>41</sup> These also do not appear to take into account a separate draft bill on the use of traditional justice mechanisms, which would create a framework for legally recognizing community leaders' decisions and providing them with some level of judicial oversight.<sup>42</sup> Customary law brings many challenges, such as inconsistency and certain violations of children's rights, but the national child protection framework must inevitably address this.<sup>43</sup> It remains unclear whether future laws will strike the challenging balance between a sufficient legal child protection framework and a legal framework that is fully compatible with the Timorese reality.

In light of the laws currently in force, it is possible to compile a snapshot of how children are defined in different contexts. Table 6: Legal Definitions of the Child by Age 6 below summarizes the key child protection age limits.

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<sup>41</sup> Mearns, David, *Looking Both Ways: Models for Justice in East Timor*, Australian Legal Resources International, 2002.

<sup>42</sup> The draft bill on traditional justice mechanisms is not publicly available. See International Crisis Group, "Handing Back Responsibility to Timor-Leste's Police," *Asia Report* N°180, 3 December 2009.

<sup>43</sup> Swaine (2003).

<b>LEGAL DEFINITIONS OF THE CHILD BY AGE</b>	
Definition of a Child under the Child Protection / Child Welfare Laws	Below 18 <sup>44</sup>
Minimum age for marriage	15 - girls 18 - boys
Age for completion of compulsory education	16
Minimum age for employment	15
Minimum age for engaging in employment or work that by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons.	18
Age for consenting to sexual activity under criminal laws	14
Minimum age of criminal responsibility	16
Age for compulsory recruitment by governments and armed groups	18
Age for voluntary recruitment by governments and armed groups	18

Table 6: Legal Definitions of the Child by Age

<sup>44</sup> National law does not yet define this age, but the definition of the Convention on the Rights of the Child (i.e., below 18 years) is incorporated into national law by way of Section 9 of the Constitution.

## 4.2 Principles and Approaches to Child and Family Welfare

To the extent they have been formalized, the principles and approaches to child and family welfare in Timor-Leste emerge through a mix of current law, draft bills, and various policy guidance documents. Each of these areas is highlighted below.

### Current Law

As seen in Table 7 below, there is no current law regulating core child and family welfare considerations and only a few approved laws provide relevant provisions.

<b>CURRENT LAW REGULATING CHILD AND FAMILY WELFARE</b>	
<b>Decree No. 10/2008: Organisational Structure of the Ministry of Social Solidarity</b>	<p>Creates National Directorate for Social Reintegration (DNRS) within MSS</p> <p>Gives DNRS responsibility to “develop and implement programmes aimed at promoting and protecting the rights of the child”</p> <p>Not a legal mandate for government intervention to prevent and respond to violence, abuse and exploitation of children.</p>
<b>Lei N. 7/2010 de 7 de Julho: Lei Contra a Violência Doméstica [Law against Domestic Violence]</b>	<p>Law requires hospitals and social assistance providers to take into account the special needs of girl victims</p> <p>Does not provide any further guidance or mandate for how they should do so</p>
<b>Decreto-Lei N.º 1/2006 de 21 de Fevereiro Que Aprova o Código de Processo Civil [Civil Procedure Code]</b>	<p>Describes some procedures related to child custody and maintenance in cases of separation and divorce</p> <p>Rules to determine peoples’ rights and obligations in these and other cases (e.g., marriage, parentage, adoption, alimony, inheritance, parental custody and authority, and guardianship) still await approval of the draft Civil Code</p>
<b>Decree Law No. 19/2009 Approving the Penal Code</b>	<p>Penalizes many violations of children’s rights (e.g., abandonment, harm, mistreatment, cruel treatment, child labour, sexual abuse, child prostitution, child pornography, trafficking of children, involvement of children in armed conflict)</p>
<b>UNTAET Regulation No. 2002/5 on the Establishment of a Labour Code for East Timor</b>	<p>Sets out the ages, standards, and conditions for child labour, and created a “Social Service Unit for Children”</p> <p>Awaits eventual replacement by a draft sovereign Labour Code</p>

Table 7: Current Law Regulating Child and Family Welfare

## Draft Bills

Draft bills at various stages of development aim to remedy the lack of legal regulation in child and family welfare. None of these bills appears to be finalized in terms of content.

The draft **Child Rights Code** (3<sup>rd</sup> draft, July 2010) is annotated as “not ready for public disclosure or distribution”, but is intended to serve as the substantive national framework for protection. While the draft Code includes many important provisions, there remains much room for improvement. Among the positive aspects, it asserts the government’s obligation to protect children at risk of or having experienced significant harm and to provide special protection and assistance to children without parental care or who have experienced violence, abuse, neglect or exploitation. It creates principles for intervention by state entities and the courts and addresses the protection of children in emergencies.

While the draft Code’s reiteration of key provisions of the Convention on the Rights of the Child can be considered a favourable feature, its text uses broad language (like the Convention itself) that does not resolve the existing voids in national child and family welfare law. For example, the government’s role in supporting parents in their child-rearing responsibilities is not articulated. There is insufficient detail to specify which government body is responsible for overseeing child welfare services or to designate authority from national to sub-national levels. Likewise, there is no regulation of the hierarchy of mandates and responsibilities both across different government agencies / structures, as well as in relation to non-governmental entities. The types of prevention and response services to be delivered and the circumstances that would give rise to the need for child protection services are delineated in broad terms and do not address more detailed questions of the regulation of child and family welfare services. In terms of providing a national framework with a clear mandate, authority, and accountability for effective child and family welfare services, the current draft Code represents a step in the right direction but falls short in determining when the State should intervene.

An additional concern for the draft Child Rights Code is its limited embrace of the existing Timorese reality. As suggested above, the draft text extensively paraphrases the Convention on the Rights of the Child, without providing the level of detail necessary for national-level implementation. Moreover, it ignores the reality that community leaders typically handle cases of domestic violence, and many cases of

sexual assault and rape, at the local level.<sup>45</sup> While the draft Code very importantly defines the competence of state entities and the court to intervene for reasons of child protection, and creates a legal obligation for education professionals to report signs of child abuse to the relevant authorities, it says nothing about customary law or local leaders' role in reporting or intervening for reasons of child protection.<sup>46</sup>

At present, local leaders tend to resist referrals to other authorities; for example, referral to the police might be perceived as an admission of the inability to resolve cases themselves.<sup>47</sup> At the same time, police officers do not always understand when they are required to file crime reports or may leave matters to traditional mechanisms. Among other effects, this creates tremendous pressure on women and children to accept traditional resolutions, without having a fair opportunity to express their own views, and it is closely linked to systematic underreporting of crimes. While these issues are both complex and sensitive, it is difficult to imagine how child and family welfare system can succeed without addressing the role of the local leaders in it.

All of the foregoing challenges related the draft Child Rights Code are complicated by the parallel drafting of closely related bills, most importantly the draft Civil Code. The draft Civil Code details areas such as marriage, parentage, adoption, alimony, inheritance, parental custody and authority, and guardianship, and the draft Child Rights Code overlaps with some areas but specifically defers to the draft Civil Code's regulation of others.<sup>48</sup> However, the draft Civil Code appears to have been largely borrowed from an unspecified Western country's Civil Code. At roughly 600 pages, it seems unlikely that the small and developing cadre of Timorese legal and justice professionals independently drafted it, or will have the capacity to fully implement it. This creates a certain mismatch between the overlapping draft Codes. Where the draft Child Rights Code lacks important details, the draft Civil Code approaches the opposite extreme of complexity of detail, and the latter is not built around a children's rights framework. The contrasts between the two draft Codes is not particularly promising for the development of a coherent framework and system for child and family welfare.

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<sup>45</sup> Mearns, David, *Looking Both Ways: Models for Justice in East Timor*, Australian Legal Resources International, 2002.

<sup>46</sup> See, respectively, Articles 49, 52, and 37.

<sup>47</sup> International Crisis Group, "Handing Back Responsibility to Timor-Leste's Police," *Asia Report* N°180, 3 December 2009.

<sup>48</sup> See draft Child Rights Code Articles 65 (denial of parental responsibilities), 66 (system of adoption), and 67 (system of guardianship/foster care).

Three other bills were apparently drafted quickly in hopes of serving as provisional measures until passage of the comprehensive draft Civil Code: the draft Bill on Adoption; the bill on the Legal Regime of Guardianship of Minors; and the bill on the Regulation for the Exercise of Paternal Power. The current relevance and prospects of these projects is not clear, in particular as they relate to the continuing development of the draft Civil Code and Child Rights Code.

### **Policy Guidance Documents**

In the continuing absence of a substantive, dedicated legal framework, a series of policy documents outline various components for state action in child and family welfare. Among these, the central documents are the MSS Case Management in Child Protection: Policy and Procedures and the MSS Child Protection “Code of Conduct” Policy for Vulnerable and At-Risk Children, both apparently endorsed by MSS in 2008, with the latter endorsed by the Council of Ministers in 2008. Neither document is a decree, law, ministerial statute or ministerial diploma, thus neither one creates any formal legal mandates or provides a strong basis for engaging other ministries around child protection.

With the “Case Management in Child Protection: Policy and Procedures,” MSS identifies the Child Protection Unit of the DNRS as its primary agency with responsibility for child protection, and seeks to create standards for child protection interventions. It should be noted that the document represents MSS’s own commitment to undertake this work, not a legal mandate to intervene for protection. The policy sets out basic social work case management practices including a referral process, assessment, case conferences, case plans, referrals to other agencies, and record keeping. However, it does not detail the actual assistance, treatment, and care services that are expected and should be provided as appropriate to children and families. This document does not provide details of how to conduct an assessment or a multi-disciplinary case conference.

The “Child Protection ‘Code of Conduct’ Policy for Vulnerable and At-Risk Children” outlines the values, principles, and beliefs of MSS, DNRS, and its Child Protection Unit. This includes their commitment to child protection, and steps to be taken to achieve this. However, this document represents MSS’s self-commitment to such work, not a legal responsibility to undertake this or a defined scope of authority to do so.

A series of other policy documents (both draft and endorsed at the Ministerial level) provide some guidance on how the Child Protection Unit and other actors should approach certain aspects of child protection, and on the role of other ministries and bodies. In brief, these documents include the following:

- **MSS Memorandum of Understanding [with other Ministries]** – defining district level collaboration for monitoring, reporting, and referrals through child protection Networks
- **PNTL Rules of Procedures for Child Victims, Children at Risk and Children in Conflict with the Law** – inform PNTL Vulnerable Persons Unit and Community Police Unit roles in preventing and responding to child abuse
- **MSS Policy, Procedures and Standards for Care Standards and Boarding Houses** – registration, licensing, monitoring, and minimum standards for child care centres and boarding houses
- Referral Guidelines for Police, Service Providers and Child Protection Officers dealing with child protection cases
- National Guidelines on Separated and Unaccompanied Children

### 4.3 Principles and Approaches to Justice for Children

The goal of the justice for children is to ensure that children who come into contact with the justice system as victims, witnesses, or offenders are better served and protected. As in child and family welfare, justice for children principles and approaches utilized in Timor-Leste are reflected in a mix of current law, a draft bill, and various policy guidance documents. Each of these areas is highlighted below.

#### Current Law

As summarized in Table 8 below, current law provides extremely few provisions specific to children in the justice system, and by default adult provisions generally apply to children.

CURRENT LAW REGULATING JUSTICE FOR CHILDREN	
<b>Decree Law No. 19/2009 Approving the Penal Code</b>	Stipulates the minimum age of criminal responsibility (16 years of age) No special provisions, protections, or guarantees regarding alleged child offenders Defines many crimes on the basis of victims being children (e.g., abuse, exploitation, prostitution)
<b>Decree-Law No. 13/2005 Approving the Criminal Procedure Code</b>	No special courts, judges, procedures, or considerations for children
<b>Decree-Law 12/2008: Organic Statute of the Ministry of Justice</b>	Public Defender's Office – responsibility to defend the rights of children as a matter of priority National Directorate of Prison and Social Reintegration Services – responsibility for juvenile rehabilitation centres and education, professional training, and social reintegration of juvenile inmates
<b>Law No. 2 / 2009 of 6th of May: Protection of witnesses</b>	No special consideration of children themselves as witnesses of crimes

Table 8: Current Law Regulating Justice for Children

#### Draft Bill

The draft Juvenile Justice Law would effectively close the current legal gaps regarding alleged child offenders, as well as children between 12 and 16 years (i.e., younger than the minimum age of criminal responsibility) who come into conflict with the law, and it specifies many important procedures and rights for such children. However, the draft Law is another major legislative work in progress and the current draft is problematic in a few respects. Most critically, the prominence of “educational tutelary

measures” for children between 12 and 16 years lends itself to children’s rights violations, particularly where measures include deprivation of liberty in “educational centres”. Such measures effectively amount to punishment of children younger than the minimum age of criminal responsibility, without appropriate guarantees of due process. Other independent critiques of a recent version of the draft Law are also valid and significant, including concerns for length, complexity, coherence, and unclear and duplicative institutional roles and relationships.<sup>49</sup>

As in other cases, these traits suggest legal drafting that borrows heavily from other country’s laws, and that may overwhelm current institutional capacities, without a full accounting of Timorese realities. The draft Law does include chefe suco, members of suco councils and chefe aldeia among the “structuring agents of the Juvenile Justice System”, yet their roles and mandates are not clearly defined, even though local leaders presumably handle many cases of children in conflict with the law.<sup>50</sup> The draft text also regulates in some detail the use of traditional mediation methods, which appears to be a promising development, yet the safeguards provided to children may be insufficient in light of recurring rights violations under such methods.<sup>51</sup> Finally, although some provisions are relevant to child victims and witnesses, the draft Law does not attempt to fully regulate these areas of justice for children.

### Policy Guidance Documents

Current law is supported by two key approved policy guidance documents. The PNTL Rules of Procedures for Child Victims, Children at Risk and Children in Conflict with the Law<sup>52</sup> guide PNTL Vulnerable Persons Units and Community Police Units in responding to children in conflict with the law, and have been used in police training. Ministry Diploma No. 3/2006, 24 August 2006: Organic Structure of the National Board of Prison Services and Social Reinsertion adds significant detail to the Decree-Law 12/2008: Organic Statute of the Ministry of Justice, and further defines ministerial roles

<sup>49</sup> Judicial System Monitoring Programme, “Legal analysis on the draft Juvenile Justice Laws,” *JSMP Bulletin on Parliamentary Activities*, No: 1/JSMP/2010, May 2010.

<sup>50</sup> Article 7.

<sup>51</sup> See Articles 13, 57, and 93-100. Mearns, David, *Looking Both Ways: Models for Justice in East Timor*, Australian Legal Resources International, 2002. International Crisis Group, “Handing Back Responsibility to Timor-Leste’s Police,” *Asia Report* N°180, 3 December 2009. Swaine, Aisling, *Traditional Justice and Gender Based Violence*, International Rescue Committee, 2003.

<sup>52</sup> See also above in “0

and responsibilities regarding children deprived of their liberty. The Ministry Diploma includes a section on Re-education Centres and their organizational divisions serving children in conflict with the law. These basic provisions are clear, relevant, and practical, but they do not detail the rights of children deprived of their liberty nor the full principles that apply in such cases. Such details are included in the draft Juvenile Justice Law instead.

The inclusion of such points is a promising sign of commitment to further developing laws, institutions, and policies in justice for children.

## Key Findings

1. Timor-Leste has ratified and acceded to many key international child protection instruments and their automatic incorporation into national law provides an important foundation for the national child protection framework. However, international instruments alone are not sufficiently detailed to create a national-level framework.
2. As in other areas of law, the national legal framework for child protection is marked by sizable gaps in legal regulation and confusion over applicable law. Core principles and approaches to child and family welfare are not yet specified by law, while justice for children is currently administered with few or no special considerations for children under adult justice laws. Rather than creating the framework for a robust child protection system, current law largely criminalizes a long list of violations of children's rights to protection. This approach is no substitute for a functioning child and family welfare system with specific authority to address such violations.
3. The Government of Timor-Leste has undertaken an ambitious legislative reform agenda across all legal areas, and has generated a range of major legal drafts in child protection with many positive features. Each of the central draft bills (i.e., draft Child Rights Code, draft Civil Code, and draft Juvenile Justice Law) includes important, positive legal developments, yet each requires significant further revision. Moreover, the overall approach to creating a new child protection legal framework suggests several underlying weaknesses. Closely-related bills appear to have been drafted in an ad hoc and stand-alone basis, rather than through planned coordination; they draw

extensively from other countries' laws without fully reflecting legal, institutional, and social realities of Timor-Leste (in particular, its limited institutional capacities and credibility, and the pre-eminence of traditional justice and dispute resolution mechanisms); they fluctuate greatly between excessive and insufficient detail of legal regulation; and they do not consistently reflect children's rights principles. These weaknesses suggest the absence of a broader, consistent vision of what a child protection system can and should look like in Timor-Leste. The proposed legal framework reflects disparate approaches as such, and does not project a firm basis for a coherent and sustainable child protection system.

4. Due to the incomplete legal framework, legal mandates and scope of authority often remain undefined. Policy and guidance documents are often the provisional basis for mandates, but these measures do not provide sufficient authority for state interaction or even for protection initiatives involving actors outside any single ministry or institution. Very few ministries/institutions have defined roles and mandates in child protection, including clear definitions of when intervention is required, whereas relevant responsibilities should ideally span across many different ministries / institutions.

## Recommendations

1. Ratify or accede to further international child protection instruments, including among others the ILO Minimum Age Convention 138, the Hague Convention on Inter-Country Adoption, and the Convention on the Rights of Persons with Disabilities.
2. Undertake a comprehensive review of the draft Civil Code, the draft Child Rights Code, the Bill on Adoption, the bill on the Legal Regime of Guardianship of Minors, and the bill on the Regulation for the Exercise of Paternal Power with a view to consolidation and reducing duplication. All provisions with respect to parentage, adoption, inheritance, custody, maintenance, parental authority, and guardianship should be reviewed to ensure that these issues are dealt with consistently, and from a child rights-based perspective, in all current drafts. Some provisions from the bills on adoption, guardianship and paternal power could be consolidated into the draft Codes, while others may be more appropriate as part of subsidiary legislation (regulations, rules, decrees, directives, etc) to guide implementation of the codes.
3. As part of this process, undertake a broad process of review and consultation on the Child Protection sections of the Child Rights Code. These provisions should reflect the nation's vision for the child protection prevention and response system, drawing on the strengths of existing community practices as well as the lessons learned by MSS in the implementation of its existing policies. Once the Child Rights Code has been revised, detailed subsidiary legislation (rules, regulations, directives, etc) will also be needed to guide its implementation
4. Review and revise the current draft Juvenile Justice law with a view to making it more contextually appropriate and bringing it into line with the national vision for the juvenile justice system. This should include simplifying the draft, clarifying roles and responsibilities, aligning it with the bill on traditional justice mechanisms, and ensuring that children's due process rights are fully respected, particularly where deprivation of liberty is imposed. Special protections for child victims or witnesses involved in criminal justice proceedings should be included either as a separate section in the juvenile justice law, or as part of the criminal procedure code.

## 4.5 Key Structures and Institutions for Child Protection

In order to fulfil its obligations under the CRC to support parents in their child-rearing responsibilities, to protect children from all forms of maltreatment, and to provide care for children whose families fail in their responsibilities to protect children, the State must have an effective child and family welfare system in place. An effective system requires a well-resourced, logically organized, and adequately coordinated child welfare authority with a clear mandate to manage all services to prevent and respond to violence, abuse, and exploitation of children. This should include clear structures, processes, authority, and accountability for management and delivery of child and family welfare services from the national level down through the provincial, district, and sub-district levels. While inter-agency child rights committees, police, health care officials, NGOs, and community members have an important role to play as part of the overall service delivery paradigm, responsibility for management of the system, and for making decisions in individual cases, should rest with the government social welfare authority.<sup>53</sup>

This chapter addresses the following core questions:

- What are the formal and informal structures and institutions in place for the protection of children in Timor-Leste?
- What kind of coverage do these structures have?
- What are their individual mandates and functions for child protection?

### 4.5.1 Formal Child Protection Structures

#### National Level: Ministry of Social Solidarity

Within the Government of Timor-Leste, the Ministry of Social Solidarity (MSS) has designated responsibility for the welfare and protection of all Timorese people. This role was decreed in 2007:<sup>54</sup>

*“The Ministry of Social Solidarity is the Government’s main body responsible for the design, execution, coordination and assessment of the policies defined and approved by the Council of Ministers for*

<sup>53</sup> UNICEF East Asia and the Pacific, “Technical Guide: Social Welfare Systems,” *Child Protection Program Strategy Toolkit*, 2009.

<sup>54</sup> Democratic Republic of Timor-Leste (2007).

*the areas of social assistance, social security and community reinsertion.”*

Within this Ministry, a specialised directorate has been established to promote and provide for the well-being of Timorese families, focusing especially upon the protection of women and children. This National Directorate for Social Reinsertion (DNRS) is therefore the primary child and family welfare agency in Timor-Leste and is central to the mapping of the child protection system:

Article 11 in decree 10/2008 describes the DNRS responsibilities as follows:<sup>55</sup>

- a) To develop and implement policies and programmes geared towards people in vulnerable circumstances;*
- b) To develop and implement programmes oriented towards shelters;*
- c) To develop and implement programmes aimed at promoting and protecting women’s rights, in coordination with the Office of the Secretary of State for the Promotion of Gender Equality;*
- d) To develop and implement programmes aimed at promoting and protecting the rights of the child;*
- e) To promote the reintegration of inmates into society, in coordination with the Ministry of Justice and other relevant entities in this area;*
- f) To strengthen relations and cooperation with other governmental and non-governmental bodies in the implementation of social reintegration services.*

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<sup>55</sup> Democratic Republic of Timor-Leste (2008).

Within the structure of the DNRS are two departments:

- The Department of Protection & Social Assistance to Vulnerable Children;<sup>56</sup> and
- The Department of Protection of Women Victims and Social Reinsertion of Vulnerable Families.

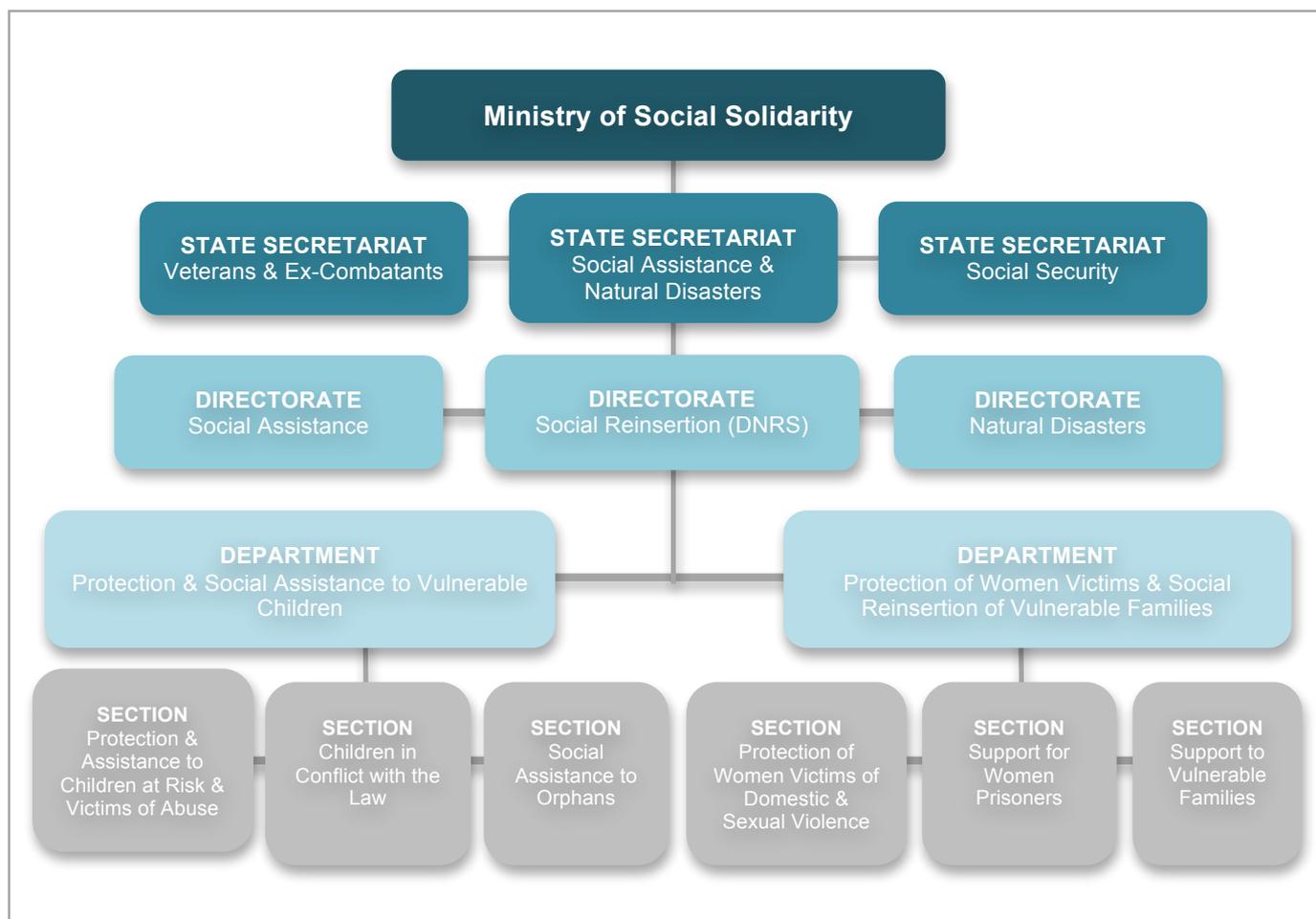


Figure 2: Ministry of Social Security Organogram

With regard to the development of the child protection system in Timor-Leste, the CPU has the lead responsibility. The CPU is housed within the MSS compound in central Dili. The CPU has a department director who manages the following sections:

- Protection and Assistance to Children at Risk and Victims of Abuse (3 officers);
- Children in Conflict with the Law (2 officers);
- Social Assistance for Orphans (2 officers).

<sup>56</sup> This department is informally referred to as the 'Child Protection Unit'. This generic name is used throughout this report.

It is worth noting that the DNRS is currently undergoing a re-structuring process. The purpose of this re-structuring is to create a more professional and accountable structure. At the time of writing, the details of the structural refinement have yet to be agreed and approved. This re-structuring does not represent an overhaul of the directorate; however, the changes will incorporate the following measures:

- Development of comprehensive terms of reference for the directorate, departments and sub-units;
- Development of more concrete job descriptions for all staff;
- Creation of more sophisticated work log-frames, aiming to provide structured and costed activity plans, as well as accountability mechanisms; and
- Development of a longer-term human resource plan.

An assessment of service gaps is also being undertaken to ensure that the refined structure of the directorate reflects anticipated welfare provision that will be developed. Linked to the resource plan, this assessment will help to ensure more realistic, effective and functioning services.

### **District Level**

The MSS is represented in each of the regions and districts of Timor-Leste. In order to improve the access of Timorese families to welfare and protection services, the MSS established Child Protection Officers (CPO) in 2007. Of these 13 CPO, five are female.<sup>57</sup>

One officer is now deployed in each district.<sup>58</sup> In the regional capitals (Dili, Baucau, Maliana and Oecussi), the CPO are based in the government's Regional Administrative Offices while the others are based in the District Administrative Offices (DAO). In each DAO, the MSS is also represented by an officer from the Directorate of Natural Disasters.

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<sup>57</sup> This is an improvement on the 3 / 13 ratio in May 2008.

<sup>58</sup> At the time of writing, the position of CPO at the Dili District Administrative Office was vacant. The national officers from the CPU have assumed the functions in the interim period.

The terms of reference of the CPO include the following responsibilities and activities:<sup>59</sup>

- Monitor child protection trends at the district level and report all related issues to the national DNRS offices;
- Coordinate between the focal points from all related sectors (Health, Education, Police etc), to develop reporting and referral systems, including protocols for cases of violence against children or exploitation;
- Conduct all case management activities, including the monitoring and reporting cases of violence, exploitation and abuse; conducting of case conferences to address individual cases according to guidelines and standards; following up cases with national service providers (e.g. VPU) and reporting back to victims and their families on their case status;
- Facilitation of the Child Protection Networks

### **Sub-district Level**

In each sub-district of the country, the MSS is represented by 'Social Animators'. In effect, these Social Animators are responsible for the identification of families in need of support in their communities. They act as the principal conduit of referral between families and the MSS. Through their proximity to the community, the Social Animators channel their concerns about women and children at risk to the CPO in the first instance, but can also refer to the national office if required. The Social Animators are also responsible for ensuring that vulnerable children are appropriately reintegrated into their communities, or perhaps referred to a home for children. Beyond this, the Social Animators are responsible for the implementation and monitoring of the activities under the MSS annual plans.

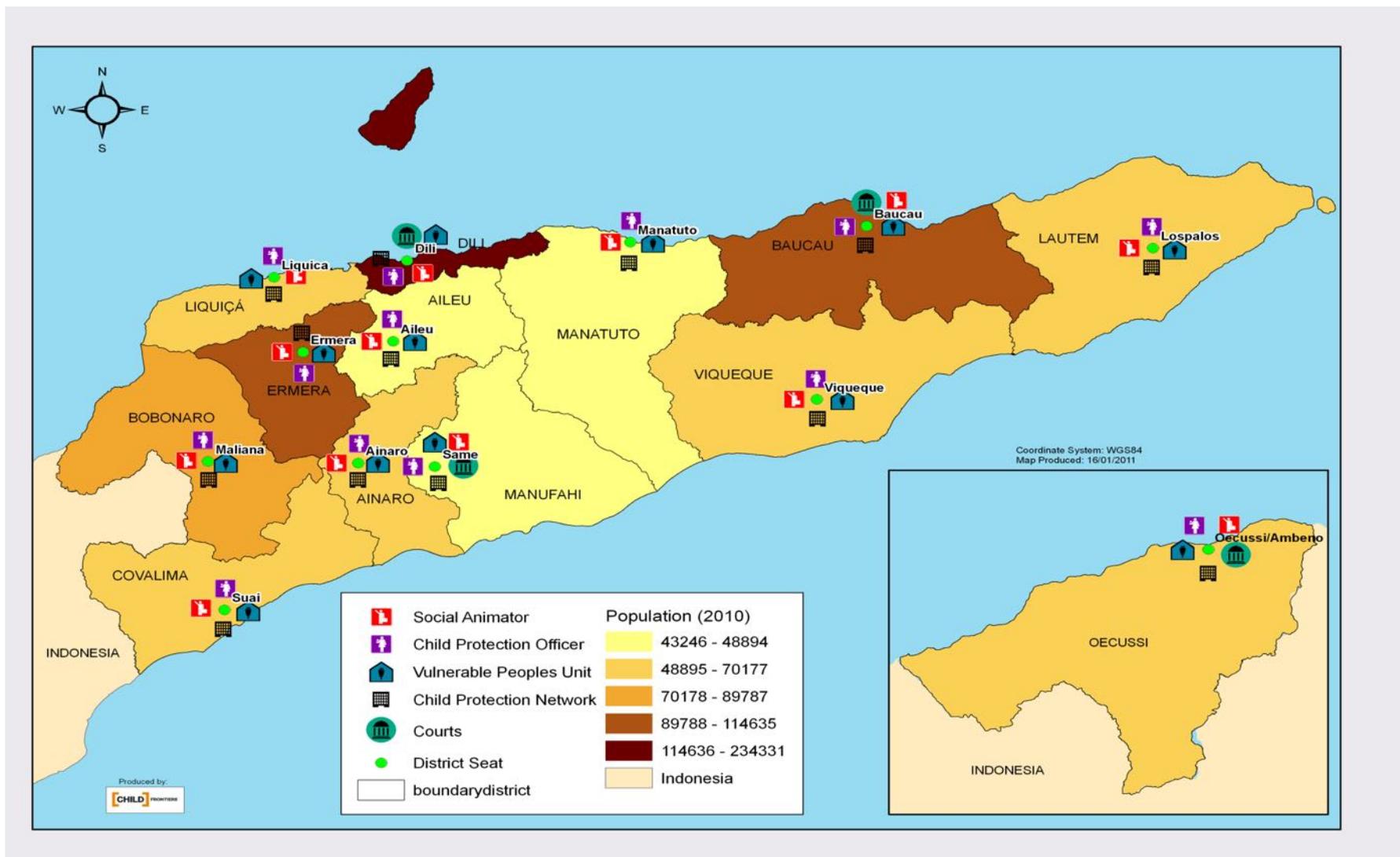
Within the restructuring process, and in line with decentralisation plans, it is envisaged that Social Animators will become more generic community workers, while current district CPOs will all be located in the four restructured regional offices. This will mean that CPOs have a less direct link to communities but will increasingly focus on technical case management for child protection.

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<sup>59</sup> Ministry for Social Solidarity (2007a).

The map below demonstrates the key government structures in each of the districts. This highlights the somewhat formulaic approach to structures, most noticeably:

1. All structures and staff are based in the district capitals, except for the Social Animators.
2. There is one CPO per district regardless of the actual population in the district. This means that the CPOs in Dili, Baucau and Ermera are responsible for at least twice as many children as CPOs in Aileu, Manufahi and Manatutu.
3. The geographical area of the four most easterly districts is significantly greater than the others; as the map illustrates, the distance to access services, especially courts, is considerable.



Map 1: Key Government Structures

## MSS Strategic Plans

The MSS's strategic vision is described in the "Long Term Strategic Plan 2011-2030". Under "Goal 1: Children at risk are protected",<sup>60</sup> the principal strategy until 2015 is the strengthening of basic services within the protection system. These include:

- Strengthening of the overall mechanism and referral system;
- Awareness raising in the communities on child rights and the "Safe Homes" concept;
- Awareness raising to eradicate harmful practices (early marriage, child labour, domestic violence, etc.);
- Rehabilitation of street children with special attention to girls;
- Advocacy for the establishment of juvenile prisons and standards for maintaining them.

With regard to child protection, in the long term (2021-2030) the MSS commits to: raise awareness for the rights of disadvantaged groups; strengthen the access to justice; strengthen a comprehensive social safety net for vulnerable people.

For the development of the Medium Term Strategic Plan 2009-2012,<sup>61</sup> the MSS conducted a participatory stakeholder consultation.<sup>62</sup> This exercise was essentially a review of the current strengths and weaknesses of the directorate. Some of the strengths of this review were cited as: a clear mandate; strong leadership; a large number of beneficiaries; good organizational structures; committed staff and advisors; existence of budget; and control mechanisms.

On the other hand, weaknesses were seen in the following key areas: most programmes were seen to be in pilot mode and addressing only the national level; absence of a social protection policy; lack of Standard Operating Procedures; lengthy procedures for response; limited capacities; lack of 'Performance Management System'; and a high level of centralization which renders difficult operations in districts. Besides addressing these shortcomings, the Strategic Plan makes detailed plans for each directorate.

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<sup>60</sup> The document does not define who "children at risk" would include. Nor is this agenda outlined in the Medium Term Strategic Plan.

<sup>61</sup> As can be seen, the dates and timeframes of the respective plans do not appear to be synchronized. According to the planning section of the DNRS, these processes are to be streamlined and linked next year to avoid confusion.

<sup>62</sup> Stakeholders consulted in this exercise included: beneficiaries, working partners, funding agencies as well as MSS staff and advisors.

## DNRS Strategic Plans

The DNRS has a series of different strategic plans: long-term (10-30 years); medium term (5 years); and annual plans. As the main targets for the DNRS for 2009-2012, the Strategic Plan<sup>63</sup> describes:

- Protection of children at risk
- Protection of women
- Support for families at risk (especially households headed by women)
- Support for families affected by disasters
- Rehabilitation of prisoners
- Improved service delivery

Regarding the protection of children, five strategies were developed, for which one main “core action area” was developed. However, both the strategies as well as the actions remain on a very abstract level and cover wide issues. In a number of instances the actions address the strategic scope only indirectly (such as point 1.1. and action 1.1.1), cover only parts (strategy 1.3 and action 1.3.1) or overlap with other main strategies (action 1.5.1 with strategy 1.4). This makes the development of targeted activities, as well as measuring progress in the different areas difficult.

Strategy	Core Action Area
<b>1.1 Increase service quality of Child Protection Networks</b>	1.1.1 Reach an agreement with national and international partners in ensuring and securing coordinated intervention
<b>1.2 Strengthen institutions taking care of children</b>	1.2.1 Strengthen the functions of the Child Protection Network through continuous capacity building of DNRS staff to the suco level (SPO, social animators, social workers, collaborators, volunteers, etc) ... including response to emergency in cooperation with working partners
<b>1.3 Increase quality of social services for children's and families' well-being</b>	1.3.1 Develop and implement legal framework for child care institutions (shelter and safe home)
<b>1.4 Increase awareness of children rights among the families and communities</b>	1.4.1 Develop and implement programmes for child well being
<b>1.5 Increase the spirit of solidarity amongst communities and other institutions to prevent and protect the children from risk</b>	1.5.1 Develop and implement awareness raising campaigns on child rights for the families and communities and other relevant institutions

Table 9: DNRS Child Protection Strategies

<sup>63</sup> MSS (2009).

### **Directorate for Natural Disaster Plans**

A National Disaster Risk Management Policy was developed by the Directorate for Natural Disasters (MSS) in 2008. According to the policy, Timor-Leste is at risk of 'droughts, cyclones, earthquake, floods, storm winds, landslides, emerging infectious diseases and pests such as locusts'.<sup>64</sup> The policy highlights the importance of raising awareness of the risks of natural disasters among the most vulnerable populations, including children, as well as ensuring that they know best practice response procedures. Indeed a series of trainings for schoolteachers and students is outlined to ensure greater disaster preparedness and mitigation among children. However, the policy contains no specific reference to post-disaster procedures for ensuring the safety and protection of children, and makes no statement about the vulnerable status of children post-disaster. While the importance of food security, health measures and education are all mentioned as essential for recovery, child protection is overlooked. There is no provision for responding to family separation, nor to family tracing processes or documentation of affected children.

The role of child protection mechanisms at national level and district level (CPN and CPO) are not elaborated in the policy document. This is unfortunate considering that the only MSS representatives located in the District Administration Offices are the CPO and District Disaster Coordinator. It was pointed out by several respondents that, in response to the severe floods of 2009, the collaboration between the DNRS and the Directorate for Natural Disasters was not as effective as it might have been.

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<sup>64</sup> MSS: National Disaster Risk Management Policy.

## Key Findings

1. The significant progress made by DNRS in developing the structures for an effective child protection system must be recognised. It is a progressive move to locate the core responsibilities for child and family welfare under one directorate, mandated through the decree 10/2008: this has enabled the directorate to take longer-term decisions for the professionalization of the sector. Many key respondents felt the formal establishment of the DNRS had created a greater sense of ownership and leadership within the ministry. Whereas international agencies had tended to wield considerable influence, there has been a gradual and positive realignment of leadership towards the ministry.
2. In the past decade, efforts have largely focused upon creating the infrastructure of a child protection system. Notwithstanding the unresolved and inherent problems of the legal framework, respondents reiterated that the system should be made operational. The current restructuring of the departments and posts will aid this process: however, a rigorous effort to delineate functions and increase accountability is required to effectively manage the systems operations.
3. Further to this point, opportunities need to be created for closer inter-departmental planning and coordination. While there is inter-departmental dialogue on individual cases of vulnerable families and children, the departmental programs appear to be quite distinct. In fact, greater coordination and planning would enable the departments to look at issues of vulnerability more holistically and would support the development of a more comprehensive service delivery paradigm. Even where representatives of the MSS have opportunities to collaborate on the ground (e.g. the CPO and the officer responsible for natural disasters, based in the same district offices), these relations are not maximised.
4. The department sections currently support one or two officers to manage individual projects or 'issues' (such as adoption, juvenile justice).<sup>65</sup> While this approach ensures some definition of role, the numbers of staff allocated to each section remains

<sup>65</sup> This said, it is positive in terms of developing a system able to respond to all vulnerable children that the different sections are not delineated based on 'categories' of children (i.e. street-children, trafficked children).

insufficient. Instead of being able to effectively design strategic direction and policy, these officers are very much involved with individual case management and monitoring.

5. It is encouraging to see that there are plans underway for professionalising and standardising the functions of the CPO. However, a single CPO in a district is insufficient to deal with the numbers of families that require support.<sup>66</sup> It is clear that the CPO are limited to dealing with only the most severe cases, brought directly to them. Although the Social Animators are stationed in the sub-districts, their capacity and scope for dealing with families at risk – and preventing escalation of problems – remains limited. Throughout the research, very few respondents identified the Social Animators as an integral resource within the child protection system.

While the MSS has the lead mandate for child and family welfare and protection, including children in conflict with the law, there are a number of ministries and agencies with mandated responsibilities for promoting child protection:

#### 4.5.2 Justice Agencies

In Timor-Leste, the Ministry of Justice is an important agency for ensuring the protection of children. Within the Ministry, there are a number of different directorates and agencies with direct responsibilities for ensuring justice and protection for both child victims of abuse and exploitation and for child offenders.

However, it is well recognised that the Ministry of Justice has limited capacity and resources to ensure justice for children according to either international standards or domestic policy. Despite considerable progress in recent years to establish a functioning and effective national justice system, the recent **Justice Sector Strategic Plan** (JSSP), concluded:

*“The Timorese justice system is currently too small to serve the entire population, to meet the growing demand and to fulfil its constitutional mandate of applying the law and ensuring the respect for the Rule of Law. It is the poor and underprivileged who most need the rule of law to protect*

<sup>66</sup> This is especially true at the early stages of a child protection system: the CPO are often sent for training or other ‘reporting’ duties in Dili and there is no coverage during their absence.

*them from 'the rule of strength'. A very substantial proportion of conflicts are addressed through traditional justice mechanisms, often involving the violation of fundamental rights, particularly with regard to women and children."*<sup>67</sup>

Given the current gap in legislation on justice for children and current status of the draft Juvenile Justice Law, the JSSP is perhaps the most important policy guidance document for the foreseeable future. The 2010 Plan sets out an ambitious agenda for comprehensive justice sector development. Among others, notable objectives regarding children include the following:

- Passage of the draft Child Rights Code and draft Juvenile Justice Law, plus public consultations and implementation plans for them
- Functioning National Commission for Children's Rights (which has already been established) to monitor rights of children and juveniles who come into contact with the justice sector
- Established, specialized Youth Detention Centres and special facilities for women and their children
- Implementing alternatives to the imprisonment of children
- Participation of young people in the crime prevention programme(s)
- Training to judicial actors on children's rights and gender equality
- Supporting the establishment of shelters for women and children at risk

The following key structures exist under Ministry of Justice with an official mandate to promote and ensure the protection of children:

- National Commission on the Rights of the Child (NCRC)
- Public Prosecution Service
- Public Defenders
- Judges
- Police / Vulnerable Persons Unit

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<sup>67</sup> Justice Sector Strategic Plan (2009)

### **National Commission on the Rights of the Child (NCRC)**

Timor-Leste recognizes the importance of human rights in its Constitution, and shortly after independence, the government ratified the UN Convention for the Rights of the Child in 2003. The Government strived to establish a National Commission for the Rights of the Child as early as in 2003, but it was only after the Human Rights Commission was transferred from the Prime Minister's Office to the Ministry of Justice that a dispatch<sup>68</sup> was issued for the creation of the National Commission for The Rights of the Child in 2008. The NCRC was finally established and decreed in 2009. In 2010, NCRC received the majority of its funding from UNICEF, but from 2011 will receive USD 100,000 from the MoJ.

The NCRC currently has a staff of nine. This includes 2 dedicated officers to the 'Health and Education Section', and 2 for the 'Juvenile Justice and Welfare Section'.

The NCRC essentially serves as a watchdog and advocacy organization on child rights in Timor-Leste. Due to the fact that the NCRC was only recently established, its main activities until 2014 focus on raising awareness at all levels on child protection issues as well as developing an organizational network, such as a child rights network, program and a database development. The NCRC is mandated to conduct monitoring of all ministries work on child rights. It writes a quarterly report to the MoJ and an annual report to the PM. It also makes progress reports to official workshop on progress of CRC progress on different issues e.g. infant mortality and will develop plans of action with the MoH.

However, the NCRC is not mandated to establish a complaints mechanism. There is reportedly a complaint mechanism within the HCRC that can be used by families to raise their concerns. NCRC officers are often in the field and do consult with families and traditional authorities about their needs.

### **Public Prosecution Service**

Besides the Supreme Tribunal located in Dili, there are three regional courts in Timor-Leste: Baucau, Oecussi and Manufahi. However, the NGO Working Group on CEDAW<sup>69</sup> expressed doubts that this structure was sufficient for women or other vulnerable populations to bring

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<sup>68</sup> Decree No 15/A/GMJ/V/2008

<sup>69</sup> NGO Working Group on CEDAW 2009

their cases to the formal system. The courts are too dispersed geographically and there is only limited awareness of the formal legal system.

An ICNA assessment<sup>70</sup> concluded that the Public Prosecution Service, under the Ministry of Justice, remains understaffed, especially in face of the rising number of cases brought to the office, which - as of June 2009 - were reported to be 5,210 pending cases (details unspecified). The assessment also considered the prosecution's investigation, planning and management skills to be low and, besides capacity development, recommended the establishment of a case tracking and management system to be able to handle the mounting number of cases. In addition, coordination between the Prosecution Service and other investigative bodies were considered to be currently weak.

Within the General Prosecutors Office, there is a '**Minors Section**'. This is represented by a single prosecutor, responsible for handling cases of 'abandonment'. The role does not extend to cases involving child victims of abuse and violence or to children in conflict with the law. The abandonment cases primarily concern payment of child maintenance by absent fathers, often after the father has a new family. However, cases could involve custody and parental visitation. The Minors Section does not deal with inheritance matters, and there is no special funding for this position.

### **Public Defenders**

The Office of the Public Defender is responsible to give free legal advice for those citizens, who cannot afford legal assistance through private lawyers. There are 6 public defenders in the country and they are selected to represent children in the normal 'case number' rotation system. Under the Constitution (Article 132), all public prosecutors are responsible for 'ensuring the defence of the underage'. Public defenders are concentrated in Timor-Leste's urban centres (Dili and Baucau): this limits their accessibility to vulnerable populations in rural areas.

### **Judges**

It was reported that the twenty judges in Timor-Leste have not been trained in child-friendly procedures and therefore the judicial system lacks standardization in its approach to child abuse cases. The result is that judges tend to use their own discretion to interpret the evidence, meaning that cases frequently do not result in convictions.

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<sup>70</sup> ICNA – Justice System Needs Assessment for Timor-Leste (2009)

All court proceedings are conducted in Portuguese so that persons who are not able to speak and understand Portuguese are essentially not able to follow the proceedings. When it comes to children or other vulnerable persons, the judges are deemed to lack specific training to deal with them.

## **Police**

The “Independent Comprehensive Needs Assessment” concluded that the current skills and practices in the investigation of cases are not sufficient. Besides poor coordination between the UN Police and the national police force (PNTL), a lack of clear guidelines and language issues were considered main weaknesses. Although the assessment found a lack of skills in all units, a specific weakness was found in the investigation units. This is due to the self-image of the PNTL, which, according to the final report of the mission, considers its core function to uphold law and order, while the investigation units remain understaffed and lack both efficient organization and adequate skills. Effectively, these limited skills of investigators contribute to a lack of standard procedures and - consequently – to the application of different guidelines in collecting evidence. Sometimes, due to limited skills and confidence, evidence is not collected at all and cases were reportedly transferred to traditional justice systems.

## **Vulnerable Persons Unit**

The Vulnerable Persons Unit (VPU) is a special investigation division of the national and international police force in Timor-Leste. Its mandate is to investigate all crimes against vulnerable persons such as women and children and “persons who, due to mental or physical handicap are less able to defend themselves”. Crimes under investigation by the VPU include, but are not restricted to GBV, rape, domestic violence, child abuse, missing persons and human trafficking.<sup>71</sup>

The VPU was initially founded by the UN Police force (UNPOL) in March 2000, shortly after the United Nations Transitional Administration in East Timor (UNTAET) started their activities in late 1999. Until the 2006 crisis, UNTAET and its succeeding missions provided support in building up the PNTL and the VPUs were established in all districts. However, the PNTL was rendered no longer operational in the wake of the 2006 crisis and the VPU had to close their operations in a number of districts.<sup>72</sup>

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<sup>71</sup> UNMIT, Standard Operational Procedures for District Vulnerable Person Unit

<sup>72</sup> Styles-Power (2008)

With the UNMIT peacekeeping mission arriving in late 2006, UNPOL again effectively took over the responsibility for law enforcement, including building capacities for the PNTL as well as re-establishing the VPU in all districts. The national administrative office comprises two PNTL staff as well as 6 UNPOL staffers responsible for the development and management of the VPU section nationwide. In each district there are between two and six officers, with a total number of approximately 52. Because of chronic under-resourcing within the PNTL, many full-time VPU officers are obliged to take on caseloads beyond the official VPU mandate.

Staff have been specially trained by the Australian Federal Police under the Timor-Leste Police Development Program (PDP) with supplementary training conducted by UN agencies including UNICEF and UNDP. However, the Independent Comprehensive Needs Assessment indicated that staffing levels and skills were effectively too low to address all such cases falling within VPU's mandate. Training programs have been primarily focused on investigation techniques; there has been less focus on training officers in international standards for child-friendly policing techniques, including interviewing of victims and witnesses. The low skill levels also were found to contribute to a lack of a victim-centred approach, which includes support to victims as well as victim protection while their case is being resolved.

Since the assessment, UNICEF supported the VPU in a number of improvements, which include the development of referral guidelines, the conduction of skill trainings, better staffing levels as well as the establishment of child friendly interview rooms in 7 out of 13 districts. To enhance the VPU's visibility and to increase ownership, these child friendly interview rooms are being decorated by the local community and a specific inauguration ceremony is held. As some services (such as forensic examinations, shelters and safe houses) are not available as government services, the VPU was also asked to link more effectively with NGOs providing these services at the national and district level.

The VPU are not funded by the PNTL, although salaries of offices are covered. Instead they are reliant on funding from a variety of sources including UNICEF, UNDP, TLDPD, FAP and NGOs. Some of these agencies provide financial support, while others provide material support such as motorbikes and office equipment. This means that consolidation and expansion of the VPU is challenging due to the instability of the budget.

### 4.5.3 Ministry of Education

As indicated in the introduction, the education sector faces severe challenges and suffers from considerably low enrolment rates, high levels of dropouts as well as missing capacities in teachers.

Violence in schools is manifested by severe corporal punishment by teachers within the Timorese school system: according to one report,<sup>73</sup> 67% of students reported to have witnessed a teacher beating a child with a stick and 39% to slap a student in the face. It was shown that sexual or physical abuse within schools (or perhaps even on the way to school) has significant psychological implications for the well-being of both child victims and witnesses. As a consequence, victims might suffer from lower academic performance and are at greater risk of dropping out of school altogether.

There is perhaps increasing recognition of the role of the education sector in protecting children from abuse and violence. In recent years, the MoE and UNICEF have collaborated to address violence in schools, setting new benchmarks for acceptable disciplining behaviours. These are important for changing the attitudes and behaviours of the 'adults of tomorrow' as much as parents and teachers today.

In 2008, the Minister of Education declared a "Zero Tolerance Policy" for violence against children at school. Although promoted as an official "policy" thereafter, this announcement has never been formalized in an official document. Under the "Zero Tolerance" policy, school inspectors at all levels (General Inspector, Regional Inspector and District Inspectors) have been deployed to monitor and promote a violence-free learning environment. However, although cases of child abuse at school (mostly through teachers) have been brought to the attention of the inspectors, the circumstances and procedures for referring to welfare services remain unclear. Key informant interviews also hinted that "child protection" in the education sector was sometimes understood as protection of children from harm at school, such as from insecure buildings, sharp edges, etc, rather than from abuse.

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<sup>73</sup> UNICEF (2006)

In addition, the MoE and UNICEF have initiated the “100 Schools Project”, based upon the concept of child-friendly schools, and rolled-out nationwide in 2010. This project consists of five dimensions: inclusiveness; effectiveness; health, safety and protection; gender friendliness; and involvement of students, family and the community. To address grass root needs in the education sector, the component consisted of the following sub-projects:

- Teacher Training to provide basic training in concepts such as child-centred, activity-teaching / learning methods.
- Development of School-Based Management, which promotes decentralization of the decision-making authority to the school.
- Development of Parent Teacher Associations (PTAs) / School Councils to involve parents and communities in democratic decision-making and management of schools.
- Development of capacities by the deployment of trainers in schools, who monitor teachers for a week and mentor them to further build their capacities in pedagogy and classroom management.
- Raising awareness on the negative effects of physical punishment for parents, communities, teachers and directors.

#### **4.5.4 Ministry of Labour / SEFOPE<sup>74</sup>**

Child labour, especially in agriculture and the coffee industry is a significant problem in Timor-Leste, as highlighted in the Rapid Assessment conducted by the ILO in 2009. While children, both those in and out of school, have traditionally supported the family income through work, there are currently no definitions of what constitutes light and heavy work for children. As the report highlights, families often see more value in learning occupation skills (in agriculture and construction, for example) than in formal education. Work, even heavy work, may be considered to guarantee the moral fibre of a child and ensure that through work s/he is not left unsupervised and at risk of delinquency.

Although the MSS and the Ministry of Labour were once formally joined (MLSS), there is currently no formal collaboration or joint planning to address child labour issues, although the MSS did comment in the draft of the new Labour Code.

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<sup>74</sup> SEFOPE: Secretariat of State for Vocational Training and Employment

In 2009, the Government of Timor-Leste ratified the ILO Convention 182 on the worst forms of child labour. This requires the government to put in place a series of measures to combat child labour. Consequently, a new national commission is to be established comprising actors from the government, trade unions and employers associations. A key responsibility of this commission is to draft the revised Labour Code to ensure the improved regulation and standards for child work. A strategic plan for implementation of the Code is currently underway. The Commission is also proposing to establish an inter-ministerial consultative board, supported by ILO and UN agencies, parliamentary commissions and employers associations.

The Labour Inspectorate was established under UNTAET Regulation No. 5. Although there are 18 inspectors nationwide, under the current Labour Code they have limited legal powers to intervene on behalf of exploited children. However, the Inspectorate apparently remains under-funded and under-resourced; and due to the remoteness of many agrarian communities, officers are not able to reach those considered most at risk. Under the new strategic plan, the Inspectorate will extend its coverage from four regional offices to having an office in every district.

## Key Findings

1. The establishment of the NCRC, with a clear mandate for promoting and protecting children's rights, is a positive step forward in monitoring progress of child welfare in Timor-Leste. The relationship with the MSS has still to become fully operational but it is hoped that the NCRC will be able to act in a supportive advisory capacity and act as a bridge to the MoJ itself.
2. Formal justice structures for supporting child victims of abuse, neglect and violence remain limited. There are no special procedures and a general lack of awareness about the special needs of children in contact with the justice system. The justice sector remains highly dependent upon NGOs for supporting child victims to seek and obtain justice.
3. The MSS and its NGO partners have the responsibility for the welfare of children in conflict with the law. The MoJ does not have separate structures for dealing with juvenile offenders. Although there is a separate wing of the prison to house youth offenders, the ministry does not employ 'probation workers', specially trained police officers or prison guards. Most youth offending is dealt with by the chefe suco, or in serious cases through the usual adult investigation and prosecution services.
4. As in most countries of the region, a specialist police service (VPU) has been established for investigating crimes against women and children. The VPU appear to be developing well. Despite obstacles in terms of resources and capacity, there is an increasing uptake of services. However, it will be a continuing challenge to ensure equal access across the country and dispel the mistrust of formal policing services. This will require greater collaboration with the MSS to make the VPU services visible and relevant to communities, as well as to streamline coordination and follow up.
5. Ministries concerned with education and labour have begun to implement policies and initiatives to promote the protection of children. While these are positive advancements, the level of integration with formal child protection efforts appears limited (despite the MOU of 2007). Given the inherent links between access to education, child labour and issues of exploitation and violence, it is essential that formal dialogue channels and joint planning are established as soon as possible, not least during the process of official policy development.

## 4.6 Informal Child Protection Structures

### Traditional Authorities

Traditionally, communities have been governed by a **chefe suco** at the village level and by a **chefe aldeia** at the sub-village level. In the past, the chefes were members of local royal families and titles were hereditary. Following Timor-Leste's independence, different models for governance and decentralization were debated and reformulated. Decree Law 5/2004 acknowledges these traditional leaders and formalizes their relationship with the state.<sup>75</sup>

*"... the prominent role played by community leaders and bodies in organising communities should be recognised by the State without further delays as the organisation and mobilisation of communities for the social, economic and cultural development of the country greatly relies on those leaders and bodies."*

Under this new legislation, the chefes are democratically elected by the communities and would be responsible for matters such as:

- Upholding peace and social harmony in the community;
- Civic education;
- Development and implementation of local development plans (in consultation with the suco council and the communities);
- Liaison between the suco and government agencies in terms of civil registration, electoral registration, collection of statistic data, transmission of information on land and property;
- Resolution of minor conflicts.

And pertaining more specifically to child protection:

- Support of initiatives regarding the follow-up and protection of domestic-violence victims, and the rehabilitation and punishment of domestic-violence perpetrators so as to suppress the occurrence of such cases within the community;

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<sup>75</sup> Democratic Republic of Timor-Leste (2004)

- Request the intervention of security forces in case of conflict that cannot be solved at local level and when criminal offences or riots are reported.<sup>76</sup>

These responsibilities effectively make the chefe suco and, to a lesser extent, the chefe aldeia local authorities and liaison persons between their communities and the government. However, the chefes do not have an official government function. Rather they are a traditional authority in the communities and, being responsible for the resolution of conflicts as well as for questions of child protection, the chefe is a central figure at the suco level for managing responses to cases of child abuse and neglect.

Besides the chefe suco, the lia-nain (village elder) is in charge of facilitating the traditional “adat” conflict resolution practice. Although the village elder is also mentioned as one member in the aforementioned decree, this individual does not have any official function in Timor-Leste.

### **The ‘Adat’: Community Conflict Resolution Mechanism**

Conflict in the communities is usually addressed using the traditional “adat”. In the “adat” the chefe or the lia-nain talks to families of both the victim and the perpetrator and will call together the two families involved. Although traditionally the “adat” deals with civil cases such as land ownership, theft or damage to property, the “adat” is also used in cases that deal with cases of domestic violence and child protection, as the interviews with both the chefes and the communities revealed.

In dealing with child sexual abuse cases (especially rape) through the “adat” process, the traditional authority tries to negotiate a mutually beneficial agreement between the families. The agreement is not legally binding but must be acceptable to both parties. This can result in a penalty for the perpetrator, marriage between the victim and the perpetrator, or both. Through marriage, the honour of the girl can be protected and ensures that she can fulfil her role as a married woman within the community.<sup>77</sup>

According to their traditional role, the chefes consider themselves responsible for the well-being of the community, as interviews revealed.<sup>78</sup> Their official role is to take care of the

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<sup>76</sup> Ibid, Democratic Republic of Timor-Leste (2004)

<sup>77</sup> To underline that the agreement is binding between the two parties, in some instances, the police is invited to witness the agreement ceremony.

<sup>78</sup> During the project, 5 interviews with chefe sucos (3 interviews) and aldeia (2 interviews) were conducted.

community as a whole and interviewees showed a clear distinction between cases they should be involved in and those that surpassed their authority.

*“Firstly, the parents need to educate and take over responsibility for their children. If some children have very poor families then the State can assist. As the chief of the aldeia, when there are hungry children, I inform the government, but if this is the problem of individual children then it’s the parent’s responsibility.” (Chefe Aldeia, Lautem)*

As the chefes do not tend to interfere in family affairs (which might include child protection issues), it is foremost the family’s decision to involve a chefe to resolve an issue. The chefe then will consult with the other elders and possibly the police to determine an appropriate response – whether to report the matter to the formal justice and welfare systems or to use the traditional system of conflict resolution:

*“Many problems are resolved in the family but when (they) are not satisfied (with the result) they will bring the case to the aldeia or the suco... As the community leader, when a crime takes place against a child, we have to look at the real situation. Sometimes they are fighting with each other seriously (“until they bleed”), then I take it to the police. But if the family does not want this then we resolve it in the traditional way, the family way. But I let them know that if this happens again we must follow the law and take it to the formal system.” (Chefe Suco, Dili)*

Although most chefes reported to solve the majority of cases themselves, they acknowledged that capital crimes such as rape and murder must be referred to the formal justice system. Referrals to the formal system are also perceived to be needed in cases that involve poverty, which can only be solved by material help from the government – such as the problem of school drop-outs:

*“Problems like people killing each other or sexual abuse are crimes that need to go to the police. Also children stopping going to school is also the responsibility of the State. If the crime involves someone being hurt then it can be resolved by traditional law, but if someone is killed then it cannot be resolved by traditional law but must be taken to the formal system”. (Chefe Aldeia, Lautem)*

It is interesting that in cases of children’s offending, the same traditional system is also usually invoked, unless these are capital crimes:

*“The problems with children (in this community) are normally fights and stealing chickens... When children show such bad behaviour, I sit*

*together with them with their parents to provide counselling and advice.”  
(Chefe Aldeia, Lautem)*

*“The law says you can’t incarcerate children but if children do crimes like kill someone that’s up to the police, and needs to be referred to the police” (Chefe Suco, Manufahi)*

When involved in cases the chefes also serve as role models and moral authorities in their communities:

*“(If an adult has hit a child) we will sit together with the Lia-Nain and the adults that hit the child. We will remind the adults then that they cannot do this again. The adults also must promise that they will not do this again.”  
(Chefe Aldeia, Lautem)*

*“I remind all the families when I meet with them that child protection cases are examples to us all to better watch out for children so that they don’t happen again.” (Chefe Suco, Dili)*

Being a key authority in the communities with links to both the traditional as well as to the formal system, all chefes wished for a closer cooperation between the formal and informal systems:

*“These two must work together because if the traditional law does not work, one can still use the formal law. Many times we follow the traditional law because we think the children are not following the cultural norm.” (Chefe Aldeia, Lautem)*

Despite the fact that some chefes were well connected to the formal system and the CPO/CPN, the flow of information was mentioned as a real bottleneck:

*“It is better if in the future the national CPN can come to the districts to consult with the chefe sucos and chefe aldeias so that everyone in the community can know about the work of the CPN through a meeting to bring about action.” (Chefe Aldeia, Cova Lima)*

This is supported by the fact that some interviews revealed a lack of trust in the formal system, which might stem from both negative experiences, lack of information and, as a consequence, possible prejudice: overall, only two of the five interviewed chefes were aware of the CPO and the Social Animator.

## Key Findings

1. The traditional authorities remain the major force for maintaining the well-being of communities. It appears that considerable respect is given to decisions that chefe and lia-nain make regarding order and conflict resolution among their constituents.
2. Findings reveal that families only revert to the chefe for resolution if they are unable to resolve a case themselves, both in cases of abuse against children and when children commit crimes. In all these cases, the adat structure still plays a pivotal role in deciding whether the case is serious enough to warrant referral to the formal authorities. Providing the families are happy with the solution then the case may not be referred, even in serious case of abuse / violation of the child's rights.
3. It is not clear to what extent the views of the victim (i.e. the child) or the best interests of the child are taken into account during resolution of issues by informal structures. This is of particular concern when, for example, marriage is proposed as a solution to sexual violence and rape.
4. The chefe have closer links with the police than with welfare agencies: it is a concern that many are not aware of the role of the CPO. However, the chefe largely remain external to the formal protection system, as well as that for dealing with children in conflict with the law.

## Recommendations

1. The re-structuring of the DNRS needs to be accompanied by significant capacity development in internal administration and management. Specifically, the role of the central ministry needs to be reviewed, ensuring that its critical policy-making, coordination and data collection role is consolidated. To ensure this, its direct intervention and case management functions need to be decentralised.
2. A comprehensive plan for the incremental development of human resources should be created, including a wider cadre of trained CPOs. While the number of CPOs remains limited, so the system will remain fragile and ineffective.
3. Review planning processes within the Ministry to maximise inter-departmental cooperation. Integrated planning and budgeting processes are essential for the development of comprehensive prevention and response services.
4. While a Juvenile Justice Law is being drafted, the structures, services and resources for managing cases of children in conflict with the law have not been conceptualised. Working in close partnership with the MoJ, the MSS should begin a thorough process of informed 'visioning' of this system; hopefully, this will contribute to the current discussions on the law itself.
5. Informal and traditional structures need to be recognised as integral to a child protection system. Through further study and dialogue, the roles of the chefe suco and chefe aldeia need to be delineated and aligned to the national system. However, this role must be congruent and acceptable with local expectations of traditional roles.
6. The Inter-Ministerial MOU needs to be revived. Given that the system is more operational now, concrete planning activities should be established to promote collaboration. A series of joint actions need to be defined beyond the conceptual MOU per se.

## 4.7 Coordination Mechanisms

This chapter considers the types of coordination mechanisms that have been established in Timor-Leste for the development and effective functioning of the child protection system. The MSS has the lead mandate for the welfare and protection of families and children in Timor-Leste. However, as shown in the previous chapter, a number of other ministries and government agencies have significant responsibilities for the protection of children. In addition to these mandated government agencies, there is a host of civil society organisations with critical roles to play in ensuring the protection of children. Developing a functioning and organized inter-agency collaboration is complex. This includes creating a common vision and ensuring that resources are allocated to guarantee effective and appropriate provision for families and children. To this end, the MSS and partner agencies have created a number of different coordination mechanisms in Timor-Leste.

To gain insight into Timor-Leste's coordination mechanisms at national and sub-national level, core questions included:

- What are the principal coordination and planning mechanisms for child protection?
- What is the mandate and functions of these mechanisms?
- Are these mechanisms at the national level or do they reach sub-national level?
- Are the mechanisms linked into wider national planning and development frameworks?
- Are these mechanisms used effectively and efficiently by their members?

### 4.7.1 National Level

Some of the existing coordination mechanisms appear to be quite well institutionalized, while others have been established for a short-term programme of work. Perhaps tellingly, it was difficult to obtain clear information about the status and functioning of these different coordination mechanisms. A particular case in point is the Inter-Agency Memorandum of Understanding on child protection, signed in 2007 between all stakeholders (Ministry of Social Solidarity, Ministry of Justice, Ministry of Health, Ministry of Education, Secretary of State for Security, Secretary of State for Labour, UNICEF, NGOs, and church organizations). This Memorandum signals the commitment of all agencies to advocate for and collaboratively build the district Child Protection Networks. Many agencies stated that they

did not know the direct provisions of the MoU and that few tangible results had come from this agreement. In fact, as far as is known, no other ministry has appointed a formal central-level child protection focal point under this agreement. Certainly it has not yielded greater collaboration in terms of joint planning and financing for child protection initiatives.

### **NCRC Consultative Council**

The Consultative Council to the NCRC has the task to give technical advice and inputs to the NCRC.<sup>79</sup> The first meeting of the Consultative Council was held in November 2009, one year after the NCRC office was established. Its responsibilities include:

- Identification and examination of rights compliance & violations
- Support the work of the NCRC and provide advice to the Commissioner
- Share & disseminate information
- Assist to coordinate rights implementation
- Promote CRC conformity & compliance with their constituency.

The members of the Consultative Council are appointed by their respective agencies and shall include at least one representative of:

- Ministry of Justice
- Ministry of Education
- Secretary of State on Youth and Sports
- Ministry of Health
- Ministry of Social Solidarity
- General Prosecutors Office
- Secretary of State for Security
- Representatives of Civil Society, such as NGOs, youth organizations, faith based organizations, the University of Timor-Leste and the media.

The Consultative Council is expected to meet at least quarterly. As a consultative body, all decisions made are not legally binding for the NCRC, but are rather recommendations.

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<sup>79</sup> MoJ Dispatch 20/II/2010.

## **The Referral Pathway Network**<sup>80</sup>

The Referral Pathway Network is the umbrella coordination mechanism for the welfare and protection of women and children. It is coordinated by the Secretary of State for Promotion of Equality (SEPI), under the Prime Minister's office. The Referral Pathway Network includes a number of national sub-committees responsible primarily for dealing with specific child protection issues:

## **Child Protection Working Group**

The Child Protection Working Group<sup>81</sup> was established in 2006 to respond to the immediate child protection needs of children during the crisis, especially those settled in IDP camps. Since that time, the role of the working group has evolved and this has become the principal national coordination mechanism for the protection of children. The group, convened by the MSS and UNICEF, is expected to meet every month to:

- Exchange information on activities of members
- Coordinate activities among members
- Discuss and provide inputs to matters of capacity, strategy and policy development in the area of child protection
- Coordinate activities with local leaders and raise awareness of human rights and child rights issues.

The Child Protection Working Group shall report the proceedings and findings of its meetings to the "Protection Cluster", when activated in an emergency situation. Greater coordination is required between Child Protection Working Group activities and CPOs and CPNs in the districts.

Members of the Working Group are all actors in child protection, including the MSS (which chairs the meetings), UNICEF (co-chair), VPU, NGOs, and UNMIT.

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<sup>80</sup> The terms of reference for this working group were unavailable and information about its actual functioning remains elusive. However, researchers were informed that the network has a strong focus on case management of children's cases. It is strange that such a high level committee would be working to resolve individual cases, rather than taking a broader oversight role for policy and strategic development.

<sup>81</sup> This working group is also known as the Child Protection Sub Cluster.

### **Counter-Trafficking Working Group**<sup>82</sup>

The Counter-Trafficking Working Group was established to respond to the possibility that Timor-Leste might develop a significant trafficking problem. The working group has approximately 25 NGO members and is led by Alola Foundation and supported by IOM. In recent years, the group has largely been responsible for the drafting of the revised Penal Code amendments and for sensitization projects in the districts. The working group also serves as a forum for discussing individual cases and emerging issues. The working group has been involved, under the leadership of IOM, in the training ("Halt Exploitation, Learn to Prosecute, Phase III (HELP III)", of 377 PNTL officers in the 13 districts on counter trafficking measures.<sup>83</sup>

A National Referral Mechanism for Human Trafficking (a standard operating procedure) has been drafted by Alola and partners and is currently with the MSS for review. It is anticipated that a MOU for service providers will follow.

### **Domestic Violence / Gender Based Violence Working Group**

This working group came together, chaired by Fokupers, as a separate working group to develop the Domestic Violence Law under a process supported by UNDP and UNFPA. It is unclear whether this was a formal group and if it still meets in this capacity. It is now involved in the implementation of the Law on Domestic Violence and ensuring that gender mainstreaming is incorporated into budgeting and planning activities of State actors.

### **Juvenile Justice Working Group**

A Juvenile Justice Working Group used to meet every month, but now meets sporadically every few months. The working group is led by UNICEF and NGOs<sup>84</sup> with limited participation of the MSS. The group focuses on the resolution of individual cases, ensuring that the rights of detainees are upheld and provision of appropriate services from within the network of justice agencies.

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<sup>82</sup> This is not the same as the Inter-Agency Trafficking Working Group (ITWG): this latter group works on matters of immigration and border control. This working group will be responsible for the development of a National Plan of Action to Combat Human Trafficking.

<sup>83</sup> Sponsored by the United States Department of State Office to Monitor and Combat Trafficking in Persons.

<sup>84</sup> JSMP, CDI, Forum Tau Matan, Pradet, Caritas Australia. However, NCRC and MSS are involved sporadically.

#### 4.7.2 District Level: Child Protection Networks

Child Protection Networks (CPN) were established in 2006 to support child protection activities in the districts. Recognising that child protection efforts require a multi-agency collaboration, CPNs were created to bring all relevant stakeholders together to promote child protection and welfare. The CPN are now considered the most (perhaps only) important coordination mechanism at the district level.

Convened and facilitated by the CPOs, the CPN are mandated to meet every month in the district capital. Under the terms of reference<sup>85</sup> of the CPN, the following agencies (based in the district) should be represented at all meetings: Ministries of State Administration, Health and Education; the police; local or international NGOs; faith-based groups and child rights / welfare focused community groups. The CPO have been trained by IICRD on effective management of the CPN meetings, and all CPO have received a 'Tips Sheet' that explains how to prepare for the meeting and how to facilitate the discussions.

While the CPOs monitor the situation and serve as case workers, the CPN's role is to raise awareness and promote child rights on all levels (district, sub-district and community) as well as share information on their own programs, projects, policies and research amongst themselves to enhance coordination. Due to their field presence, they are also expected to give input into national policies and programs and to inform all stakeholders (government, donors, national and international NGOs) on the status of child protection in their district.

As a group, the CPN is responsible to support the CPO by updating him or her on a regular basis on child protection in the districts but not take over the role of caseworkers as their terms of reference clearly state:

*"CPNs as collective bodies are not mandated to coordinate referrals or manage individual child protection cases. These roles will be undertaken by designated institution-based focal points that will liaise and coordinate with DNRS, Health, Education and PNTL where appropriate."*<sup>86</sup>

<sup>85</sup> Ministry of Social Solidarity (2007b)

<sup>86</sup> Ministry of Social Solidarity (2007b)

To better understand the tasks and functioning of the CPN, interviews with its members were conducted in three districts.<sup>87</sup> While a CPN was established in all three districts, it was found that their level of organization and engagement varied greatly. Although describing similar ways of working and dealing with cases, significant differences were found in the level of activity and engagement.

During interviews with the CPN, the different members described their past and future activities, as well as the types of cases that have been brought to the CPN's attention. The difference between the different CPN becomes apparent when they were asked about their nature of their meetings:

*"The meeting is particularly about monitoring results of children's lives. We look back at activities that we've done and to get information: especially recommendations about what can be done more about child protection in the future. The CPO can also share information." (CPN "A")*

*"When we have child abuse case in the meeting we coordinate amongst ourselves, sometimes we respond together and support each other, because our roles complement each other. We also talk about the case to get clear ideas regarding the case." (CPN "C")*

While the member of the first CPN describes the meeting as mostly an exercise in sharing and obtaining data,<sup>88</sup> the latter focuses on joint coordination and support to manage cases brought to the CPN.

In the CPN "A", the level of inter-agency coordination was found to be significantly reduced. Members indicated that most cases would be discussed bilaterally between the CPO and relevant agencies:

*"We have discussed some cases of violence at school (in the CPN meeting) and the CPO informed the MoE, who is responsible to deal with this... but I do not know, how they dealt with it" (CPN "A")*

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<sup>87</sup> Where members could not be reached for a collective interview, individual interviews with different members were conducted.

<sup>88</sup> This notion confirmed by a different member of the same CPN: "We have the CPN but we don't yet have a coordinating line that is good for child protection issues".

As a consequence, the CPO in the district was also considered to be quite passive by the CPN members:

*“The CPO in our district mostly waits for instructions from Dili, and when (person) has received these instructions, he will train us (at the CPN meeting)” (CPN “A”)*

Securing the participation of CPN members at meetings has proved an ongoing challenge. This has a serious impact upon the effectiveness of coordination across sectors for the protection of children. For example, the issue of violence in schools is central to the dialogue: however, despite the best efforts of one CPO to include a representative from the education department, it was reported that:

*“... during the meeting many cases came up of violence against children in the classroom and the representative (from the Ministry of Education) became embarrassed and did not return.” (CPN “C”)*

Effectively this means that the invitation to the MoE representative to participate in the CPN meeting yielded an adverse result. While one example does not prove the point, it perhaps illustrates that the intended provisions of the Inter-Agency MOU (2007) are not playing out in the districts as well as expected.

All CPNs studied have an annual plan of activities, developed and agreed upon by all CPN members. Interestingly, while two CPNs reported to have their own budget, it was spent on different priorities: one CPN used it principally for educating the public about child rights and protection via community radio announcements, while the other used it to cover the transport costs of CPN members to the sucos and to buy snacks. While it is positive that the CPN can prioritize their own activities, the spending of funds depends strongly upon the activities of the group. This illustrates the need to give guidance regarding the appropriate use of funds. The relations between the traditional authorities and the CPN were seen in all three districts to be positive. Indeed the CPN members acknowledged the importance of the cooperation with the traditional leaders, when it comes to identification of child victims and to agree on next steps and solutions. However, the CPN members underlined strongly that the formal and informal protection system should fulfil different roles:

*“We consider (cases of sexual abuse) as crimes, so we resolve them according to the formal law. We cooperate with the lia nian in the process of reintegrating the victim to the family because in reality families and communities think of the lia nian as the most important person in their community. We don’t ask the lia nian to resolve the problems.” (CPN “C”)*

Overall, the CPN members indicated that the formal system would yield better results for the victim than the traditional conflict resolution strategies:

*“Before the CPN was established, sexual violence against children was resolved by the cultural practice of the adat only. This did not provide justice for children because it can kill the child’s expectations for justice and for their future. For example if a man sexually violated a child, normally the perpetrator would only paid with a tais (traditional woven fabric) to ‘clean the women’s face’.*

*If the child was hurt or had ripped or spoiled cloths from the assault the child would be cleaned up (by the family) and thus they would lose all the evidence to support the case. Now the CPN and the communities know that they need to keep and document the evidence... Children think that: “If I don’t go to the police I can go to the CPO.” (CPN “B”)*

In that regard, the CPN members seem to think that with the establishment of their network and the conducting of awareness raising activities, the overall situation was enhanced. Similar to the CPOs, the CPN members in all three districts also indicated that a main obstacle of their work still would be a general lack of awareness of the formal system in a number of communities:

*“It is difficult to get information about the formal law especially in the rural areas... Therefore there needs to be socialising done about the two systems and each system’s way. It is important to convey how both systems could benefit the victim.” (CPN “C”)*

## Key Findings

1. According to respondents, after the 2006 crisis coordination between the MSS and the NGOs was strong especially due to the establishment of the CPWG. While the CPWG is still functioning and monthly meetings are held, there is a sense that momentum was lost when agencies returned to normal operations. Many NGOs noted that they felt part of the system during the 2006-2007 period but that they had less structured engagement now.
2. During the research, it was difficult to ascertain the precise status and functioning of each of the sub-groups. They appear to be quite fluid and based on specific projects, mostly noticeably in the development of specific pieces of legislation and policy. However, it is also evident that, despite the overlap in participants, there is little dialogue between the sub-groups. This is important to ensure consistency and avoid duplication.
3. The fact that many of these sub-groups discuss – and even manage - individual cases of victimised children (even though the terms of reference do not include this aspect) is symptomatic of the highly centralised system in place. It is questionable whether these committees should perform this function at all.
4. There appears to be significant differences between the functioning and impact of the different CPN. While some seem quite active, others are less so. It was suggested that the central planning processes are laborious and do not always reflect the specificities of the individual districts. The greatest challenge for effective functioning of the CPN seems to be the reluctance of other sectors (although mandated under the joint MOU) to participate in a consistent and meaningful way. This research process itself demonstrated the difficulty of engaging other signatory agencies in discussions about child protection: but given the critical role of education and health, for example, in reducing child vulnerability, it is essential that the CPN maintain its inter-agency function.

## Recommendations

1. Conduct a systematic review of the terms of reference of each of the coordination groups. These should be fully aligned (to avoid duplication) and should have their functions (policy development v case management) agreed by the MSS. Formal reporting mechanisms should be established to share plans and outcomes with MSS and between other sub-groups.
2. Effective monitoring and accountability mechanisms need to be established for guiding the work and evaluating the impact of the CPN. They must be driven by the terms of reference rather than the inclinations of the various CPN members. A thorough review of their effectiveness should be undertaken.

#### 4.8 Services for Families and Children

This chapter will consider the services that are available for children and families at risk of, or suffering, abuse, violence and exploitation. Under the CRC, the State has responsibility to prevent violence, neglect, and exploitation of children, as well as to provide appropriate care and protection to children deprived of their family environment, or who have experienced abuse and exploitation. Child maltreatment is a complex issue; it is rarely simply one isolated incident or occurrence and generally involves a continuum of actions, behaviours, and experiences.

Typically, maltreatment occurs within a progression, involving escalating levels of violence and cumulative effects of emotional abuse or increasing harm caused by persistent neglect. It is a symptom of complex human problems and relationships and as such cannot be addressed with simplistic responses. Therefore, in order to fulfil their obligations under the CRC, State parties must have in place a continuum of child protection services designed to promote children's wellbeing and protection, while enhancing the capacity of families to fulfil their responsibilities. This should generally include:

**Prevention initiatives** directed at the community as a whole to strengthen the overall capacity of society in caring for children and keeping them safe. This includes activities directed at changing attitudes and social behaviours through advocacy and awareness campaigns, strengthening parenting skills, promoting the need for alternative forms of discipline rather than physical punishment, and sensitization on the impact of violence against children. However, as a secondary layer of intervention, it is important that early intervention services are established for children and families who have been identified as vulnerable or at risk of maltreatment or neglect.

Early intervention services target families that are already at risk of engaging in abusive behaviours in order to change those circumstances before they create actual harm to a child. For example, families might seek help for separation, mediating or dealing with disputes, alcohol and / or drug problems, domestic violence, mental health problems or difficulties in caring for children. Given this range of problems, a variety of actors provide services at the secondary level – both government and civil society organizations.

**Response interventions** respond to circumstances where a child is at serious risk of or is being abused, exploited, neglected, or harmed in any way. This requires a continuum of

interventions, including both voluntary or community-initiated interventions in less serious cases (mediation, counselling and advice giving, community monitoring), as well as mandatory State interventions where children have experienced or are at risk of serious harm (structured supervision and family support services such as parenting programmes, family and individual counselling, and therapeutic treatment programmes; and / or temporary or permanent removal of the child and placement in alternative care). Decisions regarding the use of compulsory measures are generally made through a formal administrative or court process, based upon the assessment and recommendations of the social welfare authority.

The systematic implementation of this continuum of services requires both pro-active and reactive approaches, with clear processes, procedures and services for: 1) identifying and providing appropriate support to vulnerable children and families; and 2) reporting, assessment, intervention planning, and case management for children who have experienced maltreatment. In most countries, States seek out partnerships with civil society to support service delivery, however overall responsibility for ensuring access to and quality of services, rests with the government child welfare authority.<sup>89</sup>

#### 4.8.1 Prevention Services

- What initiatives have been developed to reduce vulnerability to child abuse and exploitation?
- Who are the services targeted at and how are beneficiaries identified?

There appears to be an understanding and commitment within the MSS to orient its approach towards a more prevention focused approach to child protection. This is demonstrated by the efforts made in recent years to support the most vulnerable of families.

#### Awareness-raising Campaigns

In 2009, the MSS launched its ‘Social Mobilization Strategy’ in acknowledgement of the endemic violence against children in Timor-Leste and the consequent impact upon nation building. The strategy is supported by UNICEF and although designed for national coverage, will initially focus on UNICEF’s five convergent (AVEMO) districts.<sup>90</sup>

<sup>89</sup> UNICEF East Asia and the Pacific, “Technical Guide: Social Welfare Systems,” *Child Protection Program Strategy Toolkit*, 2009.

<sup>90</sup> Aileu, Viqueque, Ermera, Manatutu, and Oecussi

In particular, this strategy will endeavour to reduce the prevalence of physical and gender-based sexual violence against children by mobilising community members (including children) to reject these behaviours. To this end, the strategy aims to raise awareness on child rights and protection with a wide range of actors, namely: parents, teachers, traditional leaders and government agencies. At the core of the strategy lie a series of 'Behaviour Change Communications' through mass media (radio and television), community networks, peer-to-peer education (in youth centres) and activities in schools and communities. At the same time, more formal structures such as Parent Teacher Associations, CPN and District Youth Councils will be mobilised to spread anti-violence messages and promote reporting of abuse to the authorities. An important aspect of the strategy is to communicate the role of the MSS and the Child Protection Officers so that communities are both knowledgeable about and able to access the formal social welfare system.

This campaign started in June 2009; however, at this stage no M&E data is available to measure its effectiveness and impact. From the strategy document, it appears that the program is only to run for a one year period. It is recommended that, in order to have a measurable impact, the strategy needs to become a central pillar for attitudinal and social behaviour change in Timor-Leste.

A core component of the Social Mobilisation Strategy approved in 2009 is the 'Flipchart Project'. This creative training tool is designed to sensitise welfare providers and local communities through a 'trickle down' approach. The flipchart contains a series of modules on issues such as: the effects of violence against children; non-violent discipline methods; reporting abuse; and the role of the CPOs. To support the efforts, CPO have established a plan for sensitizing the communities to child protection through radio 'spots'. Using the topics from the flipcharts, CPOs air every month on a child protection related topic.

CPOs are currently training the CPN members on usage of the flipchart and, between them, the CPO and CPN have already trained 222 chefe suco; it is expected that by the end of 2011 all 442 chefes will have received training to be able to apply the program within their own communities. This impact of the program has yet to be evaluated.

Under another initiative, the Spanish MDG Achievement Fund is sponsoring the Joint Programme<sup>91</sup> — a consortium of agencies working to ensure the protection and empowerment of women and girls. The program will pursue the implementation on the recent Law on Domestic Violence, as well as work towards the fulfilment of the National Plans of Action on Domestic Violence and Human Trafficking. As part of this endeavour, a handbook is being developed for SEPI<sup>92</sup> Gender Focal Points to promote greater gender mainstreaming and within the national strategic development framework, including national priorities, annual action plans and state budgeting processes in line with recommendations of CEDAW. The Alola Foundation continues to manage gender advocacy programs in all thirteen districts. The aim is to promote behaviour change through television and radio broadcasts, advocacy materials and celebration days and events.

### **Social Protection**

Social protection is a priority in the MSS strategy as well as a core element of the national strategic plan. Timor-Leste is one of the poorest countries in the world and it is recognised that poverty and child protection issues are closely linked. The majority of the individuals talked to in the course of the study, underlined the relationship between the two:

*“In general I see that parents are not interested in their children because of the economic factor... When there was a project ... from ILO last year many children were involved in this project and sometimes the parents themselves did not go to work but instead sent their children to take their place.” (Chefe Suco, Cova Lima)*

Some respondents highlighted the fact that children may be required to work to support the family and themselves, and would drop out at school. Without education, the respondents agreed, they would remain poor, and the vicious cycle would be perpetuated.

Social protection measures in Timor-Leste remain very limited. The MSS lacks the structure and resources to provide systematic and sustainable financial support to families. However, with the guidance and technical assistance of UNDP, the ‘Support for Vulnerable Families Section’ of the DNRS established a programme, Bolsa da Mae, to provide conditional cash transfers to a number of the country’s poorest households. This program is cited under National Priority No.5.<sup>93</sup> The program was initially established to provide financial assistance

<sup>91</sup> SEPI, UNDP, UNFPA, UNICEF, UNIFEM, IOM, along with a range of NGOs, including the Alola Foundation.

<sup>92</sup> Secretariat for the Secretary of State for Promotion of Equality

<sup>93</sup> Under section ‘Social Services and Localized Service Delivery’

to widows of war veterans, with the express aim of ensuring that their children were able to attend school rather than work to increase the family income.

Following the crisis in 2006, the program was expanded to incorporate families affected by displacement and evolved into a formal scholarship program. With the establishment of the CPOs, more structured needs assessments were implemented. Families in need are put forward by the chefe suco and, if eligible, a cash transfer is made to the mother to support the education of one child. This financial assistance is provided until the child leaves school or until the family is deemed financially able to support its children.

At present, approximately 13,000 families are benefiting from the Bolsa da Mae program. A recent Decree Law has been approved by the Council of Ministers to extend the coverage of the program from 2011. This approval is in accordance with a wider review of the Social Security System<sup>94</sup> aimed to ensure that those deemed financially vulnerable are provided for by the state.

While economic assistance is an important source of support, and it is clear that there are often close associations between poverty and abuse, it must also be remembered that simply providing financial aid is not always the answer to protection concerns.

### **NGO Prevention Initiatives**

A great number of NGOs are working actively in Timor-Leste to reduce risk to children through their awareness raising and campaigning. This report cannot acknowledge all individual projects, but it is fair to say that these efforts are regarded highly within Timor-Leste. What is less certain is the extent to which some activities may duplicate the actions of others, or the effectiveness of some of the interventions.

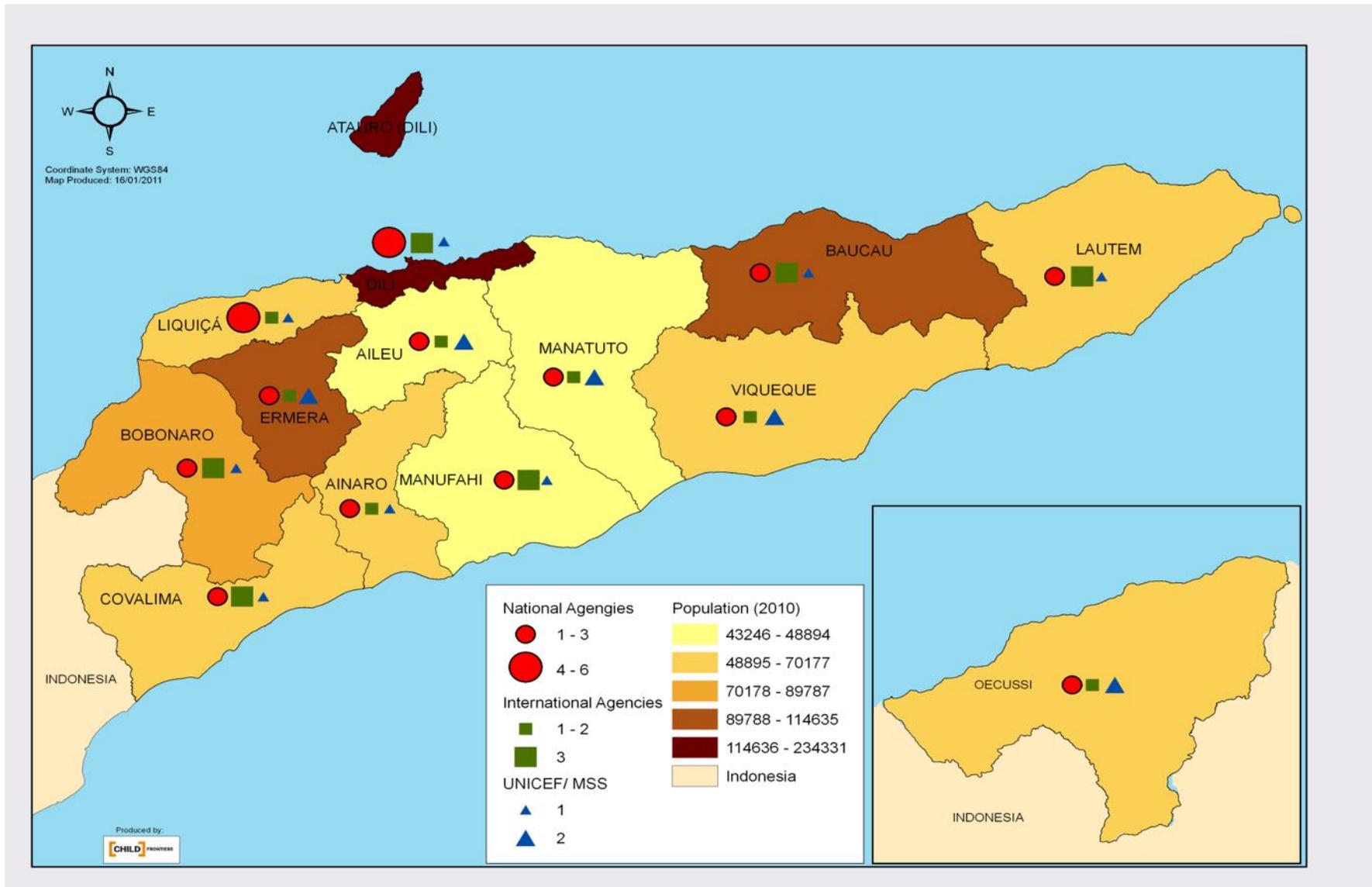
Examples of the range and scope of these activities are illustrated in the table and map below.

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<sup>94</sup> Under the purview of the 'Inter-Ministerial Commission on Social Security'.

Agency	Primary Initiatives	Coverage
<b>Ba Futuru</b>	Training on CP for parents, teachers and organizations who work in CP	Nationwide
<b>JSMP</b>	Campaigns on gender and Child Protection issues	Nationwide
<b>IOM</b>	Provision of information on trafficking	Oecusse, Manufahi, Covalima, Bobonaro, Baucau
<b>Fokupers</b>	Information on laws and human rights and GBV training	Bobonaro, Covalima, Liquica, Dili, Ermera
<b>Child Fund</b>	Psychosocial activities and education	Liquica, Bobonaro, Manatuto, Covalima, Lospalos
<b>Ismaik</b>	Psychosocial activities and education	Liquica, Cova Lima, Viqueque
<b>Save the Children</b>	Information on Child Rights / Protection	Ainaro
<b>Save the Children</b>	Grants for promoting Child Rights activities	Manufahi
<b>Plan International</b>	Communication Campaign on Child Protection	Aileu, Lospalos, Dili
<b>CRS</b>	Trainings for parents on Child Protection	Baucau
<b>Congregasaun ADM</b>	Dissemination of information on child marriage and trainings for parents on Child Protection	Dili
<b>CARE</b>	Dissemination of information on Child Protection	Dili
<b>Alola</b>	Dissemination of information on trafficking	Dili
<b>KBH</b>	Psychosocial activities and awareness raising	Liquica, Aileu, Dili, Metinaro
<b>CDI</b>	Communication Campaign on Child Protection	Liquica

Table 10: Overview of Prevention Services Offered by NGOs



Map 2: Overview of NGO Activities

## Key Findings

1. While numerous initiatives are underway to reduce incidence of child abuse and neglect, macro-prevention targets through linkages with the health, education and justice sectors have not been sufficiently articulated. The linkages between schooling and vulnerability to abuse and exploitation have not been defined within the policy framework. It is essential that the reduction of risk be defined within the broader experience of childhood.
2. Overall, given the chronic poverty in Timor-Leste, there are very few sophisticated social protection measures, apart from the Bolsa da Mae scheme. Although this program is well regarded, it can enhance the incomes of only a small percentage of vulnerable families.
3. The impact of all the communication strategies on both child rights and child protection is difficult to evaluate. It does appear though that access to information has largely depended upon the target districts of international agencies. These have tended to be in more urban areas and have perhaps not expanded equally to more rural areas. While there appears to be a more systematic approach to awareness raising through the Flipchart Project, there has been in the past a reliance on special events (such as International Children's Day) to promote messages. These have not engendered the sustainable approach required to affect real attitudinal and behavioural change to address the very serious and widespread issues of abuse and violence within families.
4. As the findings show, the identification of children and family at risk is largely seen as a community responsibility. The Social Animator has responsibilities to identify families, but it is usually the chefe aldeia and chefe suco who approach the Social Animator on behalf of the family during visits to the community. There appear to be no formalised 'community watchdogs' with responsibility for identifying children; but this is perhaps symptomatic of the private realm of the family.
5. None of the prevention activities appear to specifically address issues in relation to children who may become in conflict with the law, such as anti-social and offending behaviours. It is positive to see, however, that community police are active in prevention initiatives in their communities. It was suggested that the involvement of

community police in youth activities, including sporting events, and school talks by VPU officers has been important in informing children about their protection rights and channels for reporting. The involvement of police in activities can furthermore help reduce some of the barriers that communities (especially children) may have in relation to the police, and also help sensitize the police to working with children in more helpful ways.

## Recommendations

1. A comprehensive and sustained prevention strategy should be developed for national roll-out. It is recommended that concrete, positive messages and advice about good parenting replace many of the current 'punitive' campaigns. As a starting point, create a simple database of the agencies that are conducting awareness raising initiatives on child protection. A more thorough review of the districts covered by various initiatives will ensure greater equity in the dissemination of information, especially ensuring that remote communities are covered.
2. Continue to scale-up the Bolsa da Mae scheme, but ensuring that it is used primarily as an initiative to reduce vulnerability to harm. While the families of children that have suffered neglect and exploitation will benefit from financial assistance, it should not be perceived as a replacement for the strengthening of family services and protective care.
3. Review the role of community actors, including the Social Animators, to act as family mediators. While there are mechanisms for resolving conflicts, these do not appear to include an element of family mediation and counselling. These could be helpful mechanisms for preventing family tensions from escalating into violence and abuse.

#### 4.8.2 Child Protection Response System and Services

This section focuses on the existing formal protective measures and services available to families and children at high levels of risk of abuse, violence and neglect. Key questions to be answered in this section include:

- What happens to children if abuse and neglect are suspected or discovered?
- What kind of formal processes are followed to ensure children are made safe and cared for?
- What services are available for child victims (government and NGO)
- What kinds of processes are followed to ensure that child victims receive justice?

#### Role of Child Protection Officers

The CPU has dealt with 384 cases nationwide since August 2008. Unfortunately, a full breakdown of these cases by district, type, age and gender was not available during the research. CPOs interviewed for the purposes of the research indicated that on average they deal with one new case per month. Realizing that one case per month might seem not too much work at first sight, they underlined that most of their work is to follow up the unresolved cases, which for one officer amounted to 40 out of 44 in total. This caseload includes children with a range of different issues (abuse, abandonment / neglect, violence, orphans, children from poor homes in need of scholarships and financial assistance), but also children who are in trouble with the law.

Within a typical month, CPOs estimated that they spend 75% of their time in the field where they monitor cases and liaise with the police, the courts, and the families involved. The remaining 25% of their time is spent on administrative tasks. Although they also acknowledged that they support other MSS functions (such as with providing payments for elderly persons), most of the time (“80-90%”) they worked on child protection related issues.

#### Care and Protection Procedures

In 2008, the MSS (supported by UNICEF) published the ‘Case Management in Child Protection – Policy and Procedures’,<sup>95</sup> in line with its mandate under the Organic Law of the Ministry of Social Solidarity No. 23. 23 January 2008 (Article 11, Section 2(d)). This guidance sets out the government’s values and principles for ensuring the wellbeing and

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<sup>95</sup> This guidance replaced the Case Management Policy and Procedures of 2005.

safety of children, but also articulates the procedures to be followed once a child has been identified as at risk, or already suffering, abuse, neglect or exploitation. Many of the capacity building efforts for national staff, as well as the current professionalization processes, are being undertaken in order to make the policy and procedures operational. In addition, the Policies and Procedures outline the responsibilities and expectations of all those with responsibilities for protecting children, including a simple code of conduct and ethics. CPOs are required to follow these standard procedures:

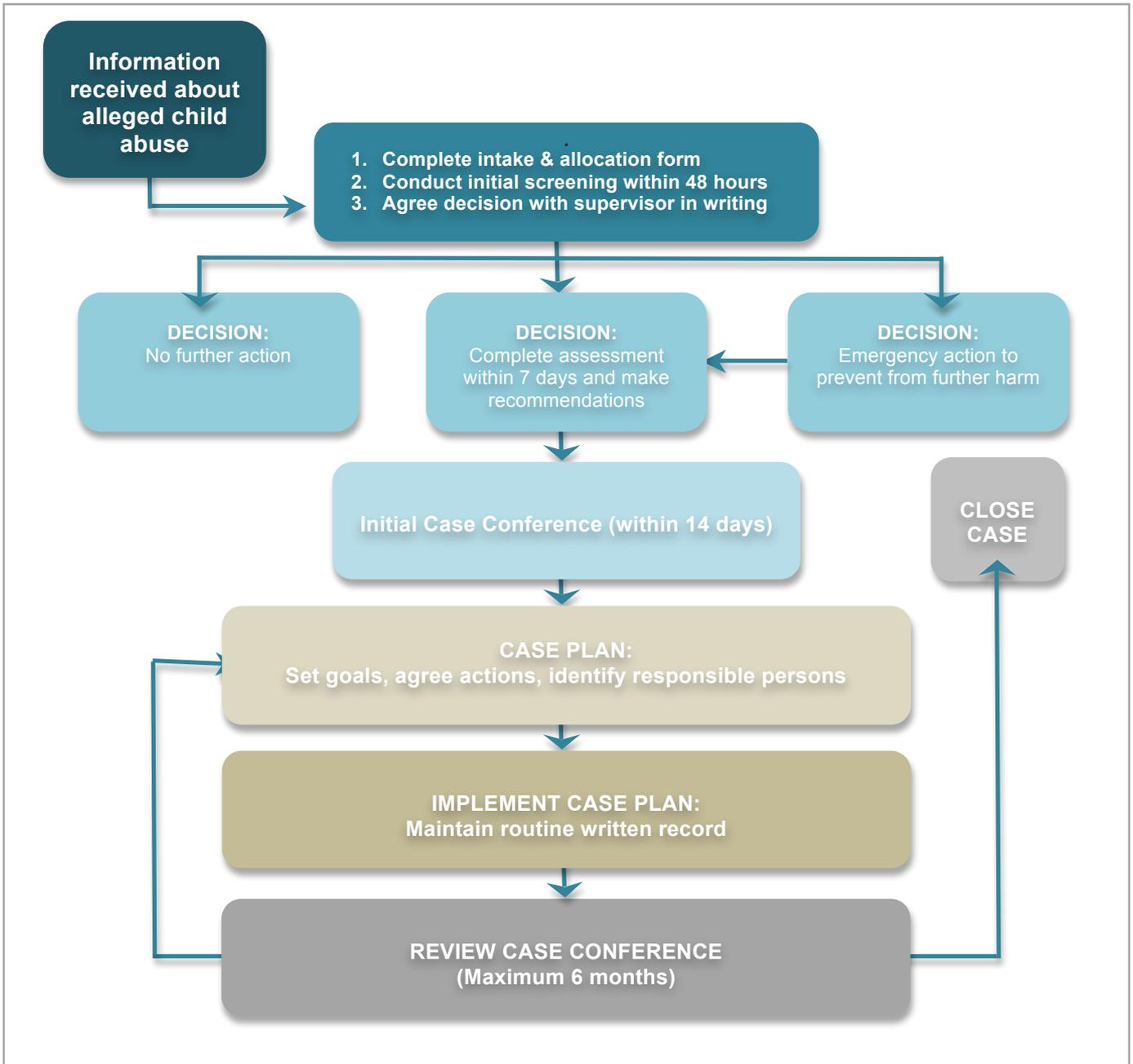


Figure 3: Referral guidelines<sup>96</sup>

<sup>96</sup> Sammon, E (2008), the status of these referral guidelines (draft, final, approved or in action) is unknown.

The process has the following procedural elements:

**Reporting:** Regardless of by whom an alleged child victim is found by first (i.e. by PNTL/UNPOL or a service provider), the CPO must be informed. If a CPO believes that a crime might have occurred, the CPO is responsible to report the incident to PNTL/UNPOL and/or Prosecutor.



**Intake, Initial Screening and Case Allocation (Referral Process):** The CPO needs to fill out an intake form for each case reported to establish a record of all referred cases, regardless if these cases are followed up or not. Within 48 hours following the intake, the CPO staff is also supposed to collect as much information as possible to be able to make a decision on the next steps. Such next steps can include a decision that more information is needed on the case, that no follow up action is required or that DNRS should initiate emergency procedures to protect the child, i.e. by transferring the child to a safe house, in coordination with the PNTL.



**Assessment:** Each case followed up by the caseworker needs to undergo a complete assessment, to be completed within 7 days. The aim of this assessment is to establish information about the case, on the background and the family environment. To obtain this information, the caseworker needs to gather information from any witnesses or informants, such as family members, neighbours, etc.



**Case Conference:** The purpose of the case conference is to share information about the case and to decide on the next steps. This meeting is chaired by the CPO and can include any person, who “is connected to the child and family and who has information about the child protection issue or who may have some possible solutions.” It is important to note that this not only includes teacher, health professionals, or the police, but also members of the family, as long as they are not involved in the case as perpetrators. The overall aim of the conference is to decide on a “case plan”, which details the activities to meet the child’s needs and protect

them from further harm. Such a case conference should at least be held every six months until the case is resolved.



**Implementation of a “Case Plan”:** The case plan is developed and decided upon at the Case Conference and details which person or organization should initiate which activities and to define what needs to be achieved to consider the child protection issue resolved.



The case is **monitored** regularly by the caseworker and followed-up until resolved.

Principal responsibility for managing the process outlined above remains with the Social Animators and CPOs. Interviews with respondents from the formal system reported that cases of abuse, neglect and violence are often disclosed or discovered by Social Animators who then report to the district CPO. However, there seems to be significant subsequent referral to the Child Protection Unit in Dili, both for advice and for practical support in managing the case. Because the MSS has few actual services to offer child victims, the role of the CPO is, in essence, to facilitate resolution, coordinate NGO service provision and accompany the child throughout the process. The role of the central level CPU is primarily to mobilise material support (food, shelter and clothing) as well as financial aid (Bolsa da Mae) if available.

However, the interview also indicated that the leading obstacle CPOs face is lack of willingness either on behalf of the victims’ families or the chefes sucos to bring cases to their attention:

*“One of our main challenges is a cultural one: in our language there is no word that describes rape (in a way that it exists in English or other languages). Parents or other people also do not want to be exposed and want to protect the child. This is why they not always give permission for a formal investigation. Usually, such issues are being resolved through the traditional ‘adat’ in which the perpetrator needs to pay a specific penalty to the victim’s family. Usually the families ask the child and the perpetrator to marry.” (CPO)*



- In some cases, the police will only be contacted if the traditional conflict resolution fails; this might be days after the incident, so that evidence is already spoiled;
- No equipment within the VPU to collect evidence.<sup>99</sup>

Where there is evidence to support a prosecution under the Penal Code, a report is filed with the Prosecutor General's Office, regardless of whether the parent or child consents to that action.

### **Judicial Process**

Once a case is filed with the General Prosecutors Office, support for victims through the judicial process is provided by the NGO Justice System Monitoring Program (JSMP).<sup>100</sup> A special programme, the Victim Support Service (VSS), was established in 2005 and since then has supported 196 girls (no boys) under age 18, most of whom are victims of domestic and sexual violence. The agency has a team of lawyers in Dili, as well as support systems (including shelters) in Baucau, Manufahi and Oecussi.

Most children are referred to the VSS by the VPU. While the VSS staff accompany the child through the judicial process, they also ensure that children are referred to partner agencies for their physical security.

While the VSS offers preparation for, and explanation of, the judicial system, there are few official child-friendly measures in place to support children through the process. For example, there are no children's courts and no special sessions dedicated for hearing cases involving children. Children are not permitted to visit the court prior to their appearance and there are no in-camera facilities. This means that children often have to face their alleged perpetrator in court; indeed it was even reported that they sometimes have to share an official car to get to the court. Although judges have not received formal training for hearing children's cases, it was stated that judges do at least take off their official garments.

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<sup>99</sup> This was mentioned by a VPU in the course of the CPN interviews.

<sup>100</sup> Supported by the Asia Foundation and UNFPA.

## **Legal Aid**

There is currently no government legal aid service in Timor-Leste. There are a number of legal aid institutions in the country although none offer specialised services for child victims of abuse. JSMP is planning to offer a legal aid service for women and girl victims of abuse and domestic violence in 2012. This service will possibly also be offered to children in conflict with the law.

## **Prosecution**

Statistics on prosecutions and convictions for abuse, exploitation and violence perpetrated against children are either not available or have not been collected. Apparently the clerks of the court maintain records of cases but once cases are brought to court, agencies (including the VPU) do not receive or maintain any records of the outcomes. However, according to JSMP, 8 known cases have resulted in conviction between September 2009 and September 2010. It was perhaps indicative of the small number of successful prosecutions (and significant sentences) that the same two cases were repeatedly cited: both cases involved incestuous relationships with minors for which sentences of six and ten years were handed down by the court.

## **Care and Protection for Child Victims**

### **Safe-houses and Shelters**

Across Timor-Leste, there are a number safe houses designated to accommodate girl victims of abuse, violence and exploitation. As part of an inter-agency agreement between the MSS and NGOs, and reiterated in the guidance for referral to safe-houses<sup>101</sup>, CPOs have the duty to assess whether a child at risk needs to be removed to a place of safety. Consent is sought from the guardian of the child but, of course, this consent is not required if the alleged perpetrator is the guardian. A child may not be removed from the safe house unless agreed by the CPO, guardian and safe-house manager, or on the express order of the prosecutor. Although the CPO may not be involved in the day-to-day activities of the child, s/he nonetheless remains case manager and is responsible for developing a longer-term reintegration plan.

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<sup>101</sup> 'Referral Guidelines for Police, Service Providers and Child Protection Officers Dealing with Child Protection Cases', May 2010. It is not clear if this document is finalised and approved, but appears to be in draft form.

The MSS does not have a government shelter for either women or child victims of abuse and violence, but plans to open a long stay facility in Tibar (just outside Dili) in 2012 following the approval of the Law on Domestic Violence.

NGO shelters include:

**Pradet** has a temporary safe house (Fatin Hakmatek) for women and children based in the grounds of Dili Hospital. Adult victims are able to stay for up to three days before being referred to Fokupers, while girls under eighteen are usually referred to Casa Vida.

**Fokupers**<sup>102</sup> runs a safe house in Dili for women victims of domestic and sexual violence. Many bring their children with them. The agency is able to provide physical security for women while their cases go through judicial processes, or alternatively provide a safe environment where family / spousal reconciliation can be facilitated. Their children are enrolled in a non-formal education program during their stay and, through an agreement with the Ministry of Education, are enabled to follow the national curriculum. Children are also encouraged to participate in a range of leisure activities (e.g. painting, cooking, sewing). Formal counselling is also available for those suffering trauma as a result of the violence they have suffered or witnessed.

Since 2008, **Casa Vida** has provided refuge and counselling services for 85 girls under the age of eighteen.<sup>103</sup> There are currently 27 girls receiving shelter, some of them with babies of their own. Most of the girls are referred by MSS, VPU or Pradet following sexual abuse within their families. There is a sense that many girls are removed to Casa Vida as a first option, possibly because families prefer to hide the abuse, especially when girls become pregnant. Although girls are supposed to remain in Casa Vida for a maximum of three months, many stay indefinitely. The delay in court processing means that many girls have to remain at Casa Vida until the case has been resolved through the formal channels. These pending cases may take several years to come to court. In the meantime, to ensure that the future of the girls is assured, Casa Vida (as Fokupers) has an agreement for girls to attend local schools and follow the national curriculum. The agency also manages a restaurant, Café Aroma, where girls are trained in the restaurant business.

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<sup>102</sup> Forum Komunikasi Untuk Perempuan Timor Lorosa'e (East Timor Women's Communication Forum).

<sup>103</sup> There is also a shelter for young women over the age of eighteen, mostly those who were referred as children, but who can still not return home.

There are also safe houses in some districts for easier access to the regional courts. In Manufahi, girls may be referred to the Holy Spirit Shelter run by the Salesian Sisters; and in Baucau girls are sheltered either at the Uma Paz Home or the Buka Hatene for victims of trafficking<sup>104</sup>. There is also a shelter in Maliana. Because the more egregious criminal cases tend to be referred to the court in Dili, many girls are transferred to the capital while their case is pending. This can result in a loss of contact with their families.

The MSS are always informed of placements of minors in these shelters and assist in providing logistical, financial and material support to the NGOs. During the child's stay at the shelter, the CPO is charged with conducting an assessment of the family and finding solutions to reintegrate the child.

In the case of women affected by domestic violence, the CPU and the Section for the Protection of Women Victims work together to ensure that the whole family, including children, are protected. During the period of January-September 2010, 35 cases of domestic violence have been referred to the MSS for assistance. In emergency cases, the national level staff may go directly to the community to intervene, making assessments of the safety of the home and working with the police to consider if criminal charges should be brought against the perpetrator. At the same time, CPOs will specifically assess the risk to children in the household. The MSS acts as a conduit to other services, but is able to provide material support (food, financial assistance) to women and their families in difficult circumstances.

During a group interview with NGOs, a simple statement was put forward:

*'Coordination between government and NGOs is effective'*

Of the thirteen respondents, eight agreed with this statement. These respondents felt that the coordination mechanisms for the child protection response were established and that interagency processes for case management were clear. However, they acknowledged that the coordination mechanisms are generally not working effectively. There is little consistency between different districts, not least because those communities furthest away from Dili have less access to information, especially in rural areas. Similarly, the quality of the response depends upon the individual CPO and the CPN. In many instances the response is very slow, not least because individual case management – especially within the judicial system – gets 'stuck'.

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<sup>104</sup> Supported by Caritas Australia.

## Child Care Centres and Boarding Homes

In 2009, the MSS launched its new policy, procedures and standards<sup>105</sup> for the management of child care centres<sup>106</sup> and boarding homes<sup>107</sup> in Timor-Leste in compliance with the recommendations of the CRC. Although the MSS “respect(s) the responsibilities, rights and duties of parents or extended family to care for and support the child”, it acknowledges that in some instances living at home might not be in the best interests of the child.

There are no government child care centres in Timor-Leste. Under the new policy, the duty of the MSS is to register and license all centres and homes and ensure that the new care standards are implemented. One officer of the CPU has been dedicated to manage this process. There are currently 18 child care centres, mostly run by local NGOs, and 35 boarding houses run by the Catholic Church. All homes that accommodate more than five children are required to obtain a licence. These accommodate a total of 3829 children, of which 2290 are girls<sup>108</sup>. There appears to be a fairly even spread of homes between east and west of the country, although by far the highest concentration of homes in the east is found in Baucau. Approximately 35% of all homes are found in that district, while in Dili there were an estimated 350 children accommodated. These homes cater for between five children (Colegio Sta. Clara Vila Verde, Dili) and 200 children (Colegio Fatumaka, Baucau). While many are single or double orphans, a large number are placed in care due to poverty or inaccessibility to secondary schooling. These homes are perceived as providing good care and education for children, as well as necessary vocational and life skills. Many children maintain contact with their families. The MSS does not directly fund these homes, but does provide material and food goods.

The MSS conducts annual inspections to ensure that the conditions of the homes correspond to the minimum standards of the new policy; the MSS reserves the right to revoke the licence of any home that fails to comply with the standards. All homes have an initial period of six months to comply with the regulations. Every year, each home has to provide information about the intake and total numbers of children and the number of staff, and the reasons for which children are living there.

<sup>105</sup> MSS Policy, Procedures and Standards for Child Care Centres and Boarding Houses (2008).

<sup>106</sup> Described under the policy as ‘an institution that provides accommodation and care for children who cannot live with their families’. The literal translation in Tetum is ‘orphanage’.

<sup>107</sup> An institution for children aged 13 years and above which provides accommodation with a primary objective of imparting an integral education.

<sup>108</sup> There is no further disaggregated data on reasons why children are placed in these homes, e.g. whether they are orphans or not.

## NGO Response Services

As has been mentioned above, NGOs remain the key service providers in Timor-Leste. Many are well established and have provided the backbone of the system since Independence. It was not possible to represent all possible actors in the country, but those mentioned below are a core group that have been dedicated to the amelioration of children's rights in the country, especially those protection rights have been violated.

The chart and map below highlight some of the different types of services available to children and families. In particular, this demonstrates:

1. The majority of shelters for children (and women) are based in Dili. Given the lack of other available services, it is understandable why children end up staying for such long periods in temporary shelters.
2. Many of those 'nationwide' services are based in Dili with either satellite offices or outreach services.<sup>109</sup> Without these, many districts would not have any services represented.

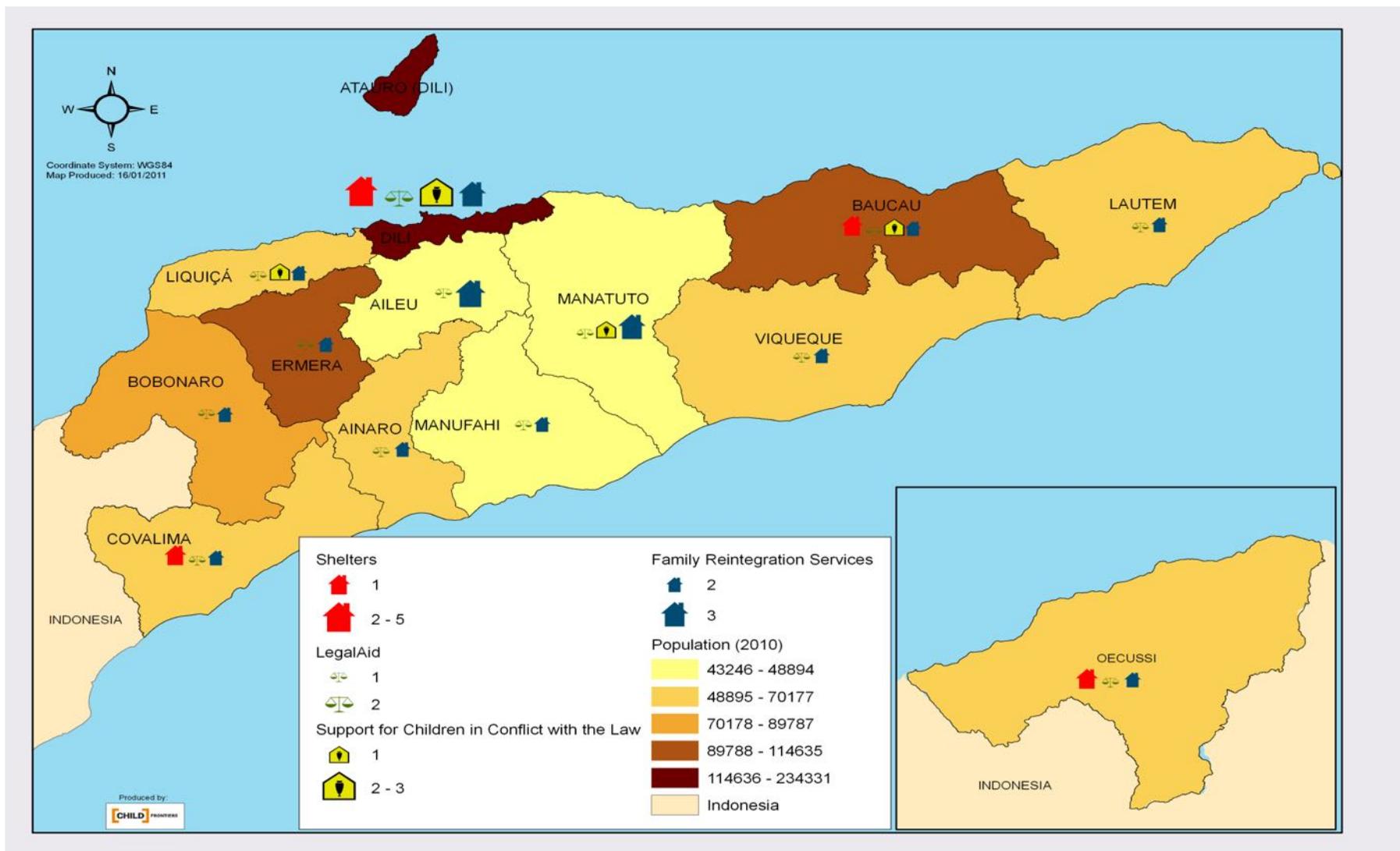
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<sup>109</sup> This map is perhaps generous in its attribution of these services to all districts. Additional information to validate this information was unavailable.

Agency	Main services	Coverage
<b>Fokupers</b>	Legal counselling for victims	Dili
<b>JSMP</b>	Legal assistance to victims	Nationwide
<b>FCJ (Don Bosco)</b>	Reintegration of victims and monitoring of reintegration	Dili, Aileu, Manatuto
<b>Pradet</b>	Psychological counselling, forensic examination, reintegration assistance	Nationwide
<b>Ba Futuru</b>	Reintegration and counselling	Nationwide
<b>CDI</b>	Monitoring of children in prison	Dili
<b>FTM</b>	Monitoring children in conflict with the law	Liquica, Dili, Manatuto
<b>World Vision</b>	Non-formal education and support to children in conflict with the law	Dili, Baucau
<b>Congregasaun ADM</b>	Boarding house for victims of child marriage	Dili
<b>Casa Vida</b>	Shelter for child victims of abuse	Dili
<b>Sta Baquiste</b>	Shelter for child victims of abuse	Dili
<b>Irmas Alma</b>	Shelter for child victims of abuse	Dili
<b>Fokupers</b>	Shelter for child victims of abuse	Dili
<b>FPW</b>	Shelter for women and children	Oecusse
<b>Baucau Buka Hatene</b>	Shelter for child victims of abuse	Baucau
<b>CEF Salele</b>	Shelter for child victims of abuse	Covalima

Table 11: Overview of Response Services Offered by NGOs

Legend	
Shelter	
Legal Assistance	



Map 3: Services Available for Children & Families

## Adoption

Until recently, formal adoption and 'fostering' has been unheard of in Timor-Leste. Traditionally, parents have informally bestowed guardianship of their children on other family members. There is a long history of children being raised by members of the extended family and this remains common today. There are many cultural and economic reasons why a child may be passed to a relative: the birth family might be too poor to care for the child, or too far away from a school, or simply because their relatives would like a specific gender of child to add to their family.

However, an Adoption Law has been drafted and is awaiting approval. The law is designed to regulate the process of adoption in Timor-Leste, ensuring that adopted children are legally and socially equal to other children of the adoptive family. This is primarily to prevent discrimination especially pertaining to entitlement to inheritance, but also to determine suitability of potential adoptive parents. For example, there is concern that children are often placed in the care of older people who, due to life expectancy and a weaker financial situation, may not be able to care for a child until they become adult.

There are currently simple procedures in place for formalising adoption: the birth family and prospective new family make a petition to the court in Dili, after which the court requests the MSS to conduct an assessment of the potential adoption family. The CPU officer reports back to the court on the suitability of the family.<sup>110</sup>

It is perhaps evidence of the informal kinship dynamics that remain in Timor-Leste that only eight petitions for adoption have been made in the last three years. It was suggested that the real reason for introducing formal procedures is to comply with the recommendations of the CRC Committee, as domesticated in the Constitution of Timor-Leste.<sup>111</sup> It was also observed that this law was considered necessary to regulate the adoption of babies by foreigners. There is no expectation among respondents that adoption practices will change radically because of the new law, and the practice of informal guardianship will continue.

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<sup>110</sup> Assessment of family financial situation; health of prospective parents; size of the household; parenting skills.

<sup>111</sup> Constitution, Article 18.1.2.3.

## Custody

At the present time all custody disputes, usually due to parental divorce, are resolved in the court in Dili, based upon a report of parental suitability by the MSS. There have only been four such custody cases in the last three years.

## Guardianship

The Guardianship Law has still to be approved. According to the draft bill,<sup>112</sup> the purpose of this law is to establish rules to appoint one legal representative, in case the paternal power cannot be performed by the parents. Furthermore it defines the guardian's rights and duties and provides the creation of a family council to monitor the performance of the guardian's duties.

## Record Keeping

Although CPOs maintain their own case records in the districts, only the more serious cases are sent to the central level. Cases are recorded in a hard file, as well as electronically. All cases have an identification number and typology of the case attributed. While the simple records received for this study do not reflect the level of information recorded in individual case files, they are nonetheless brief in nature. The records are essentially the notes provided to MSS by individual CPOs.

The notes are not uniform in their approach: for example, some are incomplete, especially in the 'Action Taken' and 'Observations' columns. Similarly, there are a number of inconsistencies with regard to the classification of the child protection concern. For example, of the ten 'negligence' cases, eight were recorded in Lautem.<sup>113</sup>

Although the VPU collects data on a regular level and publishes yearly overviews of cases referred to them, the quality of the data is believed to suffer both from under-reporting and a lack of disaggregation of cases by age and gender of the victims (which is essential to understand the largest group of registered cases, "domestic violence", from a child protection perspective).

The records that exist show that 71% of all cases reported to the VPU in 2009 concern domestic violence; only one case of "violence against children" is recorded in these

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<sup>112</sup> This draft bill is undated.

<sup>113</sup> Unless this was a single mass incident or within one family unit.

statistics.<sup>114</sup> A recent evaluation of the VPU brought to light that the low numbers of child abuse were due to both under-reporting of such cases by the communities as well as limited awareness and understanding of the issue on the part of the VPU staff in categorising violations.<sup>115</sup> Essentially, the assessment found that the VPUs focused their work on cases of gender-based and domestic violence, without taking the issue of children into account.

## Key Findings

1. In the absence of an approved legal framework, a number of policies have been drafted. In reality, these are guidance documents for those with protection responsibilities and do not offer the level of detail to make them fully operational. While basic reporting steps seem to be followed, it seems that capacity to conduct the more complex tasks of risk assessment, case conferencing and case management remains limited. It appears that CPOs do not conduct a comprehensive risk assessment of all children in the household, other than the single identified child. Similarly, it was reported that vulnerable girls in shelters are sometimes returned home by the CPO at the request of parents rather than following a comprehensive family assessment.
2. The MSS does not provide direct services for children at risk or child victims. This creates a great reliance on NGO services. These NGO services tend to provide emergency shelter and counselling for those children in the most extreme circumstances, but there are few interventions that provide for the longer-term protection and care of children. This has serious implications for the eventual reintegration of children into safe families.
3. The 'default' placing of children in residential care without considering other options, and for long periods of time, is concerning. It was noted that some girls are placed in long-term facilities by their families to avoid the stigma of abuse and pregnancy. Given the wide body of research on the effect of separation, it can be assumed that, for most of these children, this will have a detrimental effect both on the development and well-being of the child and their continuing relationships with their family.

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<sup>114</sup> See Annex C

<sup>115</sup> Styles-Power (2008)

4. While the financial and material aid offered to the families in crisis is welcomed, it cannot be assumed that financial assistance alone will increase the protective environment of the child. Rather it is important to ensure that the family environment is a safe and caring one.
5. The overwhelming majority of service provision is based in Dili and is directed towards victims of domestic and gender-based violence. These programs almost exclusively target women and girls. It appears that violence against boys is more widely tolerated and there are no specific services available to support them.
6. There remain a number of obstacles for girls to access the justice system. Firstly, there are many pending cases due to the lack of lawyers in Timor-Leste. This means that many cases are resolved through traditional mechanisms in the interim period. Secondly, because courts are based in the regional capitals, women and girls report that the distances are too great. Transport costs to court may be prohibitive, as well as the time required to attend. It was also stated that many cases in Dili reported before the conflict in 2006 have been dropped because victims returned to their districts. The most egregious cases tend to be heard in the national court in Dili and, according to respondents, many women and children do not appreciate being separated from their other family members.

## Recommendations

1. Develop a full framework for continuum of care: this must recognise the delineation of voluntary measures and formal protective interventions. This continuum should recognise the importance of preventative interventions (identification of risk, family mediation, financial assistance) and seek to ensure the well-being of children beyond a single intervention. This approach will necessitate working in closer partnership with other sectors, such as education and health, to increase the protective environment.
2. At the same time, a full inventory of existing and planned NGO services should be developed. Specific functions and responsibilities of NGOs within the system should be agreed and formalised, aligned to the policies and procedures established by the MSS. This will require a more directive and consistent approach by the MSS in its

planning processes with NGOs, but within a framework of partnership and cooperation.

3. Fast-track, child-friendly judicial procedures need to be established to ensure that violations against children are effectively dealt with. These procedures need to be effectively relayed to communities to dispel reluctance to access formal justice mechanisms.

#### 4.9 Services for Children in Conflict with the Law

There is no comprehensive framework for the provision of services to children in conflict with the law in Timor-Leste. Currently, there is a draft Juvenile Justice Law waiting finalisation and approval. However, as was frequently stated by respondents, the drafting of this law has been extremely problematic and there is a general consensus that further revision is required.

In light of this, there is only a rudimentary service system in place for children in conflict with the law. The MSS has the lead responsibility for ensuring the wellbeing of children in conflict with the law. Embedded within the national level CPU, two officers are dedicated to the oversight of both policy development and the management of individual cases. These officers are very much considered as welfare officers rather than probation officers, although technically they act in both capacities. The CPO in the districts are also mandated under their terms of reference to promote the welfare of child offenders, but also play a lead role in monitoring the compliance of young people who are 'on probation' or who have been released from prison.

#### Arrest and Custody

Of the 65 cases in 2010 (until September) reported to the department in Dili<sup>116</sup>, the overwhelming majority have been for minor crimes for which probation would be granted: street drunkenness,<sup>117</sup> fighting and throwing stones at cars. These cases tend to be reported to the police in the first instance and subsequently to the CPO.

<sup>116</sup> The department has only records from Dili and the districts of Suai, Ermira and Liquica.

<sup>117</sup> Many respondents attributed young men's offending behaviour to the easy access to alcohol. It was consistently recommended that alcohol laws needed to be tightened to reduce the availability of alcohol to children under 18. Similarly, unregulated access of teenagers to bars and nightclubs was also cited as problematic and related to youth violence. A similar concern was the selling of violent

Because there are no separate provisions for child offenders, young people may – as with adults - be kept in custody for up to 72 hours without charge.<sup>118</sup> While the vast majority of cases are resolved with a warning, those charged with more serious crimes will be brought to Dili for further case assessment. During this time, they are accommodated at Forum Comunicacoes Juventude (JCF) until the trial is arraigned. This NGO works with children and young people in difficult circumstances and has been at the forefront of efforts to reduce endemic violence among disenfranchised youth.

Under a special licence agreed with PNTL, the NGO Pradet has been granted access to assess and counsel alleged young offenders. Trained counsellors visit them either in the police cells or at the JCF centre. Drugs and alcohol tend to be a causal factor in young men's violent offending behaviours in Timor-Leste. In order to address this, Pradet offers specialist advice on substance misuse, as well as exploring the underlying causes of the delinquent behaviour. Although most young men are released within 72 hours, Pradet continues to visit the family for up to a year, as well as providing support for such young men to attend accredited vocational training courses with either Don Bosco or World Vision.

### **Diversions**

There are no formal diversion programs in Timor-Leste at the present time. Despite a lack of official statistics, it appears that the overwhelming majority of cases are resolved with an official warning. Custodial sentences are only given for the gravest, statutory offences and most young people are returned home to their families by the CPO.

Once released from the police cells, a case meeting is convened by the CPO in the young person's community. A number of different representatives attend this meeting: the Social Animator; the community police; the chefe suco/aldeia; the parents and the young person. An officer from the national directorate may also attend if the case is to be contested within the community. In the vast majority of cases, it appears that the young person is reprimanded and set a series of conditions (curfew, fine, abstinence from alcohol) for his / her probation.

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pornographic materials on the streets in Dili, including selling by young people: it was felt that this exposure was contributing to sexual violence by young men.

<sup>118</sup> This statement is according to an interview with a key informant. Neither the draft Juvenile Justice Law nor the Penal Code give provisions for custody.

## Prisons

During the 2006 crisis, more than 10% of all prisoners were children: 130 children out of a total of 1,200 persons<sup>119</sup>. Most were detained for their part in the violence during the conflict, primarily burning houses, throwing missiles and carrying weapons.

However, there are currently eleven young men,<sup>120</sup> aged between 16 and 18, who are in jail in the Becora Prison in Dili. These young men are segregated from adult offenders in Block G of the prison. Of these eleven, five were implicated in homicides, two were convicted of violent assault and four sentenced for violent robbery.

There are no formal government rehabilitation programs. However, Pradet offers a support service to young men in Dili prison, both for young men under 18 and those between the ages of 18 and 25. Pradet's purpose is to reduce the stress of detention through therapeutic counselling, as well as working with young people to understand their disposition towards violence and substance misuse. Similarly, Pradet supports these young men to maintain relationships with their families and counsels parents to ensure that full community reintegration is promoted.

There are two Dili based agencies that work to guarantee the rights of young men in prison. CDI is mandated to monitor the conditions of children in prison, while Forum Tau Matan actively advocates on behalf of young offenders and fights for reform of the juvenile justice system.

## Community Reintegration and Monitoring

Following release from prison, young men are sometimes referred back to FCJ for a short period of adjustment. They are then accompanied back to their communities by the officers of the CPO. The MSS provides food and, if available, cash for the young people to restart their lives. The CPO conducts further home visits to ensure that the young person is successfully reintegrated. These visits are not mandated by the court but depend upon the availability of MSS staff. If any conditions were placed on the release, the CPO has a duty to ensure compliance; however, due to lack of resources it is challenging to make repeat visits and the responsibility often falls to the community leaders.

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<sup>119</sup> Interview with key informant in September 2010.

<sup>120</sup> There are currently no girls in detention, although an eighteen year old was being held with other adult women at Gleno prison on charges of abandoning her baby.

## Key Findings

1. Timor-Leste does not have any formal diversion programmes for children in conflict with the law, however in the vast majority of petty crimes the chefe de suco still intervenes as both mediator and mentor, thus reducing the likelihood of children formally entering the criminal system.
2. Available data suggests that the majority of children in conflict with the law who are dealt with by the formal criminal justice system receive non-custodial measures, and generally only those who commit the most serious crimes are subject to imprisonment. While these children are separated from adults while in detention and provided some support from local NGOs, there are limited programmes and services available to help facilitate their rehabilitation and reintegration.
3. The CPOs are currently using an innovative community conferencing process to facilitate case planning for children on probation. However, their capacity to provide ongoing support and supervision to children and their families is limited.
4. There are no targeted strategies or specialised services for children in conflict with the law in Timor-Leste, or for supporting children under the age of criminal responsibility who commit serious crimes.
5. Ironically, because the age of criminal liability at 16 years is relatively high, there are concerns for children who – due to their age – cannot be prosecuted for serious crimes (such as murder or rape) but cannot be returned to their communities either for fear of retribution. In individual cases, the NCRC Commissioner has intervened directly in village discussions to resolve such matters.
6. There is widespread concern that the provisions of the draft law on Juvenile Justice are unattainable. It elaborates a series of complex processes and procedures and requires significant investment in the development of both community-based and institution-based education and rehabilitation services for children in conflict with the law and children under the minimum age of criminal responsibility. This will prove difficult to implement given current resourcing.

## Recommendations

1. Conduct a full review of the types of cases that are currently dealt with in communities to define how traditional leadership perceives their responsibilities in dealing with child offenders.
2. Undertake a process of community consultations to develop consensus on how best to promote accountability, rehabilitation and reintegration of children in conflict with the law and children under the age of criminal responsibility who are demonstrating offending behaviours. Results from this process should be used to design a new national juvenile justice policy, and to inform revisions to the draft Juvenile Justice law.
3. Conduct an assessment of the types of child offender cases currently referred to the MSS (children over and under the minimum age of criminal responsibility) to better understand the types of specialised services that may be needed. Emphasis should be placed on community-based, rather than institution-based education and rehabilitation measures.
4. Develop detailed MSS policies and procedures for child offender case management, drawing from the community conference approach currently being used by CPOs. This should include guidance on facilitating community reconciliation and acceptance of educational (rather than punitive) measures in cases where children are under the age of criminal responsibility.
5. Explore opportunities to strengthen the CPO's capacity to provide supervision, support and mentoring for children who are under the age of criminal responsibility and for children on probation through partnerships with traditional leaders, community elders, NGOs and CBOs.

#### 4.10 Human and Financial Resources

A child protection system is a series of inter-linking processes and services, each requiring its own set of skills and competencies. As the approach to planning and implementation of services becomes increasingly systems-based, it is important that staff across government departments and non-governmental agencies have clearly defined roles and responsibilities within that system, as well as the necessary capacity to carry out their functions.

Similarly, it is essential that broad strategic plans are costed and budgeted. Many ambitious legal provisions have been developed, yet it is questionable whether the MSS has the necessary resources to implement its plans.

This chapter attempts to answer the following questions:

- What are the skills and capacity of key child protection actors in Timor-Leste?
- What have been the main efforts to professionalise the child protection sector?
- What financial resources are available for the strengthening of families and for the protection of children?

##### 4.10.1 Human Resources

There is no social work training in Timor-Leste, which is why most of the CPO have limited (if any) background in social work, and why many come from other – sometimes unrelated – fields. However, there are plans to introduce a certified, post-graduate course on social work for CPO and Social Animators, through the Superior Education School at Portu University, sponsored by the Portuguese Cooperation Agency.

There is a plan to make the CPOs directed towards broader family intervention, working with other sections of the population. The CPOs were recruited during the conflict, and so have been focused on child protection efforts.

Since 2008, the MSS and UNICEF have partnered with a Canadian organization, the International Institute of Child Rights and Development<sup>121</sup>, to develop a comprehensive training package for CPOs. An initial evaluation, capacity needs analysis and capacity

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<sup>121</sup> [www.iicrd.org](http://www.iicrd.org)

development plan were undertaken. Since that time, a number of modules have been created and rolled-out with CPOs in an incremental learning process.

The courses designed by IICRD have included components on: child development; the impact of trauma on development and wellbeing; child resilience; risk assessment<sup>122</sup> and case management. Following an examination of the key theoretical elements, IICRD have delivered a series of trainings focused on building the core skills required of CPOs to effectively fulfil their role. The training modules have focused upon: listening and talking to children; encouraging participation; developing structures for dialogue; identification of social and environmental risks to children; facilitation skills; and collaboration with the Social Animators and CPN.

In late 2009, the IICRD produced a manual entitled 'Effective Mediation and Communication'<sup>123</sup>. This manual is designed to support the education of CPOs on a number of different aspects of their work, including: effective communication strategies; listening and questioning skills; managing group power dynamics; mediation and family group work; and dealing with conflict. These skills are an essential foundation for the CPOs to be able to confidently engage with communities on difficult issues such as child-rearing practices as well as more formal case management processes. A second manual was created to guide the subsequent training module for CPO: 'Reflective Planning, Monitoring and Evaluation for Child Protection'.<sup>124</sup> This module focuses: on child centred, rights based programming; service impact monitoring and evaluation; partner analysis; and planning strategies for change.

#### 4.10.2 Financial Resources

Budgetary planning for each directorate within the MSS begins every August. A consolidated ministry plan is created by the Administration and Finance Department detailing proposed expenditure on different elements: salaries; training; travel and fuel; logistics; and program activities. The annual plan is submitted to the Ministry of Finance for approval by the Council of Ministers. Ministry budgets are typically developed in isolation and joint planning across sectors remains very limited, despite, for example, the commitment of the MOU to adopt a more integrated approach to inter-ministry planning. Furthermore, there is little evidence

<sup>122</sup> A risk assessment form was created but the researchers were unable to obtain a copy.

<sup>123</sup> IICRD, UNICEF, MSS, SWPRC: 'Effective Communication & Mediation Facilitation Training Module', 2009.

<sup>124</sup> IICRD, UNICEF, MSS, SWPRC: 'Reflective Planning, Monitoring and Evaluation for Child Protection', 2009.

within the MSS of an integrated planning process and it appears that directorates and sections make their plans relatively independently of each other.

Of a total ministry budget of USD 74m in 2010, approximately USD 3.17m was awarded to the DNRS. This was a shortfall of approximately USD 834,000 requested by DNRS. However, it has been possible to request supplementary funding - based on actual expenditure - and a revised budget of USD 5.67m has been approved. Of this, 72% of the 2010 has been spent (as at October 2010).

The Department of Protection and Social Assistance to Vulnerable Children (CPU) has a total program budget of USD 57,905 for 2010, of which USD 44,450 is allocated to the section dealing with child abuse. This budget is purely for programs and interventions: salaries and administration come from the MSS general budget.

The MSS allocates funds directly to the Regional Administrative Offices for logistics and administration, but otherwise the budget is centralized. For the administration of programs, such as those undertaken by the CPOs, funding requests (accompanied by a justification note) are made at the MSS in Dili. If approved by the Administration and Finance Department, and subsequently by the Treasury Directorate (Ministry of Finance), a cheque or cash is issued for collection.

**UNICEF** has been supporting the Government of Timor-Leste to develop a comprehensive child protection system since 1999.<sup>125</sup> Key elements for UNICEF are that:

- Families and children are able to benefit from social welfare services
- Children are protected through legal means and an effective justice system from violence, abuse and exploitation
- All children under five have a birth certificate

According to the UNICEF Country Programme (2009-2013), key elements of UNICEF's support to the MSS are:

- Develop a draft juvenile justice law
- Develop of Rules of Procedure for police to deal with child victims and children at risk and dissemination of such rules at PNTL, UNPOL, VPU, PNTL academy, etc
- Establish child-friendly police stations
- Establish sustainable protection systems for children in both the child and family welfare system, as well as the justice system
- Develop Birth Registration Programme

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<sup>125</sup> More detailed information about the contributions of INGOs was not available.

- Strengthen key social welfare and law enforcement institutions and CPN

UNICEF has been a principal donor to the DNRS for many years. Records indicate that the following allocations have been made in the past three years:

- 2008: USD 155,000
- 2009: USD 428,000
- 2010: USD 234, 643

These allocations<sup>126</sup> are designed to enable the MSS to work through its implementing partners to achieve its annual strategies. Many of these partners are civil society organizations as well as government departments. UNICEF has consistently supported the process for the development of capacity within the DNRS. It has, for example, been a core sponsor of: the establishment of CPNs; development of the legal and policy framework for protection, including standards and case management procedures; training of CPOs; psychosocial support for IDPs; supporting the interagency forum and research on gender based violence; establishment of child protection coordination bodies. UNICEF also supports the DNRS through the provision of hardware (transport, office equipment) as well as specialist technical secondments.

UNICEF has similarly been a long term partner of the Ministry of Justice, ensuring that funds are available for the development of the child justice system. In recent years, the funding has been allocated to the MoJ to implement a range of initiatives through its partners<sup>127</sup>. Some key initiatives include: training on child rights for the judiciary; establishment of the NCRC, including capacity building for staff; development of the legal framework, notably the Law on Juvenile Justice and the Children's Code; roll-out of VPU across the country; and monitoring of child welfare in detention. UNICEF, through the MoJ, has also supported the development and functioning of the birth registration systems across the country.

Specific annual funding allocations in the past three years to the MoJ are broken down as follows:

- 2008: USD 70,000
- 2009: USD 285,000
- 2010: USD 234,643

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<sup>126</sup> Sponsored largely by the governments of Norway and Spain, with UNICEF Thematic Funds and UNDP MDG Funding.

<sup>127</sup> Including: MoE, MoH, MSS, PNTL (VPU), Australian Justice Facility, UNMIT, UNDP, UNPOL, loreia, Lideres Comunitarios, Grupos de Jovens, Sociedade Civil.

## Key Findings

1. The total number of government welfare officers (including CPO, Social Animators and central level officers) totals approximately 80 persons. This means that there is roughly one welfare officer for every 12,500 people in Timor-Leste. A district CPO is responsible for approximately 39,000 children under the age of 18. These figures alone highlight the challenges in ensuring an operational system.
2. There are few, if any, professionally qualified child welfare / social work staff working within the CPO / MSS / CPN structures, although plans exist to develop and introduce a post graduate qualification in social work. In essence, the professionalization of social work is a new phenomenon in Timor-Leste.
3. A number of different training programs have been undertaken to build the capacity of the CPOs. While in the first years, training was conducted on an ad hoc basis by a range of international partners, a more structured approach has now been developed. On the other hand, some respondents suggested that the CPO receive so much training that their time working directly with communities is compromised. This suggests that the cadre of CPO needs to be significantly scaled-up.
4. The MSS remains very dependent upon the support of local and international partners for its implementation of child protection initiatives. This highlights the importance of aligning skills and responsibilities to an overall service provision framework.
5. The current budget is insufficient to provide quality services for children and families. The budget, still highly dependent upon the contributions of international partners, has been used largely for the development of infrastructure and awareness raising activities. It remains inadequate for the development of a continuum of national level service delivery.<sup>128</sup>

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<sup>128</sup> Information about budgetary findings required to develop more expanded recommendations was not provided.

## Recommendations

1. Develop a solid, costed long-term human resources strategy. Clearly this will be dependent upon the vision agreed for the legal framework and service delivery infrastructure, at which time the precise function and requirements of the CPO can be delineated. The development of a wider pool of more professional CPO is crucial for the effective and sustainable functioning of the system.
2. It is a positive sign that CPOs have a relatively narrow mandate and are not responsible for a wide range of other welfare issues. Similarly, it is essential that they remain within the districts, as close as possible to their constituents. While it would be excellent to have regional offices of CPOs, there is a concern that they become increasingly detached from the communities. This might be more feasible once Social Animators are more skilled in identifying children and families at risk, refer them to the regional level, and monitor cases. Only in this way will the most egregious cases reach the formal system. It is strongly recommended that both Social Animators and CPOs become more specialised in child protection, rather than becoming more 'generalist'.
3. Introduce formal training in social work as planned for both Social Animators and CPOs. This must be increasingly practical, skills-based and applicable to the protection framework, protocols and standards approved in Timor-Leste. However, care should be taken not to remove staff from the ground for long periods of time.
4. Develop a long-term financial plan in line with the expansion of human resources and the development of a full continuum of care and protection services. A full cost analysis of the envisioned child protection system should then be developed as the key advocacy strategy for ensuring funding for the DNRS is significantly enhanced. However, financial planning should not be limited to MSS but must also include greater funding and welfare provisions within the education, justice, health and labour sectors.
5. Financial allocations to families designed to target poverty alleviation are insufficient and do not extend far enough. Welfare measures should be more closely aligned to social protection initiatives.

## 5. CHILDREN'S AND FAMILIES' PERSPECTIVES AND EXPERIENCES

Despite the government's efforts to formalise the child protection system, this research shows that child protection concerns are largely being addressed through the informal system, namely the chefe suco or chefe aldeia. To understand the reasons for this, a series of Focus Group Discussions were conducted with community members in four different districts.

The Focus Groups discussed the following questions:

- What is the response of community members, especially those with traditional authority, when a child is suspected of being at risk, or already suffering, abuse, violence and neglect?
- What formal and informal community based services are available for children who are vulnerable?
- Under what circumstances do children and families come into contact with the formal child protection system?
- What are the processes for dealing with children in conflict with the law in their communities?
- How do communities perceive the formal and informal systems in terms of effective and just outcomes for children and families?

### 5.1 Informal Community Help and Protection

To date, no comprehensive study on child protection issues at the community level exists. However, a number of studies have been conducted in the area of Gender-Based-Violence (GBV) that can provide insight into the workings of traditional justice systems and the ability and willingness of communities to bring such cases to the formal system.

An important GBV study<sup>129</sup> concludes that "... both local and formal justice processes are being used daily to resolve cases of violence against women. Through their practical use, users and holders of the justice processes have identified what is strong and weak about the systems, and what needs to happen in terms of standardizing justice processes within their new country."

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<sup>129</sup> Swaine (2003).

The traditional system was found to be inappropriate and ineffective for dealing with cases of GBV: men tend to take the decisions which are largely based on traditional beliefs, which in turn are perceived by women as discriminatory. Processes and judgements were also found to be both biased and inconsistent. However, victims of GBV continued to seek justice through traditional mechanisms for a number of reasons:

- Limited awareness of the “formal system”
- Limited trust in the formal system (as it is believed to be contradictory to local customs or does not lead to justice)
- Pressure from the community to use the traditional system
- Limited accessibility to the formal system both financially as well as physically: especially in rural areas, victims might need to walk or drive for a number of hours to reach the police. This limited access was found to be especially the case for women, children and other vulnerable populations<sup>130</sup>
- Feelings and fears that abuse is not considered as something worth reporting to the formal justice system; protection of one’s own good name; having no evidence of the deed, etc.<sup>131</sup>

With this in mind, the research attempted to develop a better understanding of how cases of child abuse and violence are treated. To this end, the different target groups within the communities were presented with a case study to discuss:

## Case Studies

### Case Study for Male / Boys Group:

*“Moisés is 13 and lives with his parents and his brother (4 years old) and a sister, (10 years). The family never had much money. One day his father tells Moisés that he needs to watch the buffalos. Although Moisés tried to stop him, one of the buffalos went into the neighbour’s field and ate some crops. Now his family has to pay \$50 to the neighbour for the damage and his father is very angry with Moisés: he hits him so hard that he has a black eye and a bleeding cut above the eye. This is not the first time the father has hit him like this.”*

<sup>130</sup> USAID (2007)

<sup>131</sup> UNFPA (2005)

**Case Study for Female Adults / Girls Above 15 Years:**

*“Dora is 12 years and lives with her parents and her brother, who is 4 years old and a sister, who is 10 years old. She likes to go to school. She likes to play with her friends after school on the yard. After school one day she loses track of time and she had to go home alone when it is already getting dark. On the way she meets a man she knows from her suco, but instead of helping her home, he takes her into the woods and rapes her. Dora is ashamed and scared when she arrives home.”*

**Case Study for Girls 12-14 Years:**

*“Dora is 12 years and lives with her parents and her brother, who is 4 years old and a sister, who is 10 years old. She likes to go to school. She likes to play volleyball with her friends during recess. One day, Dora was hitting the ball very hard so that it broke a window at the school. A teacher, who is very strict, saw that and as a punishment he made her kneel down in the sun. The sun was so hot that she fainted (lost consciousness).”*

In all cases, the respondents agreed that the child was in need of help; however, a series of ethical questions and traditional practices surfaced in the discussion as to who would be the right person to help. Especially in the case where the girl was raped, the implications for the victim were thought to be severe:

*“Nobody will marry (the girl) any more. Therefore, the parents will demand that she will marry (the perpetrator)” (Adult Woman, Cova Lima)*

*“Neighbours might gossip about the case, so people (in the community) can help the girl by not talking about this, so that she will not suffer from a bad reputation in the community” (Adult Woman, Manufahi)*

*“From the community nobody would help her, because it needs to be Dora’s secret that she cannot tell.” (Girl aged 15-17, Dili)*

In that sense, the rape victim faces a double victimization: not only the rape itself, but also the prospect of suffering a loss of reputation in the community should she disclose. In a number of actual instances in the communities visited, the victim was required to leave the

community to live with relatives. In one case, the girl continued to live in the community, but never leaves the house after she gave birth to a baby resulting from the rape.

Given the possible stigma, the first decision a rape or sexual abuse victim faces is “*shall I disclose?*” While the vast majority of respondents underlined the importance of disclosing to a friend or the family to get medical help and to solve the case, a number of respondents said that they themselves might not take this path:

*“If this was my friend, I would recommend her to talk about it with her parents to get help. If it was me, I would not tell anybody, because I would be ashamed and my reputation would be destroyed.” (Girl aged 15-17, Lautem)*

If a child is afraid to disclose to her parents, she might disclose to friends and relatives.<sup>132</sup> These persons would then take the child to a hospital to take care of the injuries and help support the victim if she decides to inform her parents. Interestingly, the hospital staff is not expected to take further action than treating the injuries, although it was suggested that the hospital in the district capital of Cova Lima would document the injuries which could be used later as evidence.

Upon being informed, the parents would – if the case is considered to be serious enough – directly contact the chefe aldeia or the chefe suco. The next steps depend to a large extent upon the chefes and their ability to resolve the case within the village.

In cases of physical violence, the chefe would warn the perpetrators that such behaviour is not acceptable.<sup>133</sup> In the case story about the boy from a poor family who was severely beaten by his father, the deed itself was perceived as a consequence of poverty. Therefore, in addition to talking to the perpetrator, the chefe suco would try to request material help from the government for the family, to eliminate the root cause:

*“The chefe suco can present the case to the government, so that the father can get a pension” (Adult male, Cova Lima)*

*“(the government) can assist with a scholarship so that (the victim) can buy his uniform and books, so that he can go to school and does not need to watch the buffalo any more” (Boy aged 15-17, Cova Lima).*

<sup>132</sup> In the first case study, respondents agreed that the teacher needed to be informed about the reason why the child did not show up at school. Without a proper “sick note”, the child was expected to suffer from additional punishment from the teacher.

<sup>133</sup> In one interview, respondents mentioned that the chefe would hand over the perpetrator to the police, should this happen again after his warning.

*“the government can help with clothes, money and food so that they can continue with their usual lives” (Adult male, Lautem)*

As a result of the family receiving material support (from neighbours or the government), the conflict is considered solved, as the underlying root problem (poverty) does not apply any more.

However, severe violations<sup>134</sup> would always be brought to an “adat”: the chefe (or another traditional leader according to local customs) would try to investigate the case by talking to the families of both the victim and the perpetrator. If possible, he would attempt to resolve it himself or with the lia nain (the village elder) through the traditional “adat” system. At the end of this process, these traditional authorities would try to negotiate an agreement between the families.

Should there be no agreement, the case can be forwarded to the next higher traditional authority<sup>135</sup> or, if the victim’s parents wish, to the police. If the penalty is agreed - or in the case of rape, the perpetrator and the victim marry - the case is considered solved. However, especially in urban centres like Dili or Cova Lima’s district capital, some women voiced their discontent with this solution:

*“Using a system that ‘purges the embarrassment’ in a traditional way does not help the victim. Therefore, this case needs to be taken to a higher level, the police... the chefe only talks, but the police will act and punish the perpetrator” (Adult woman, Dili)*

Although reporting to the police is certainly an option that young women in urban areas prefer, older women – and to a certain extent girls – prefer to deal with the case behind closed doors using the traditional conflict resolution mechanisms to avoid the victim’s discrimination in the community. Interviews with the chefes also revealed that using the traditional system had the advantage that the verdict would be fast and accepted by all, unlike the formal system which is considered to take too long and resolves cases in a way that is incompatible with community expectations. On the other hand, it also became apparent that the chefe’s decision to involve the formal system or the traditional system depends to a large extent upon his personal knowledge and his perception of the formal child protection system.

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<sup>134</sup> Rape is always considered to be a crime that needs to go to the “adat” or brought to the police. In cases of violence, a serious offense is considered in case the perpetrator is believed to have the “intention to kill”, or in case the victim bleeds or from other injuries (broken bones, etc).

<sup>135</sup> In the case of the chefe aldeia this would be the chefe suco, while the chefe suco would call upon the lia nain.

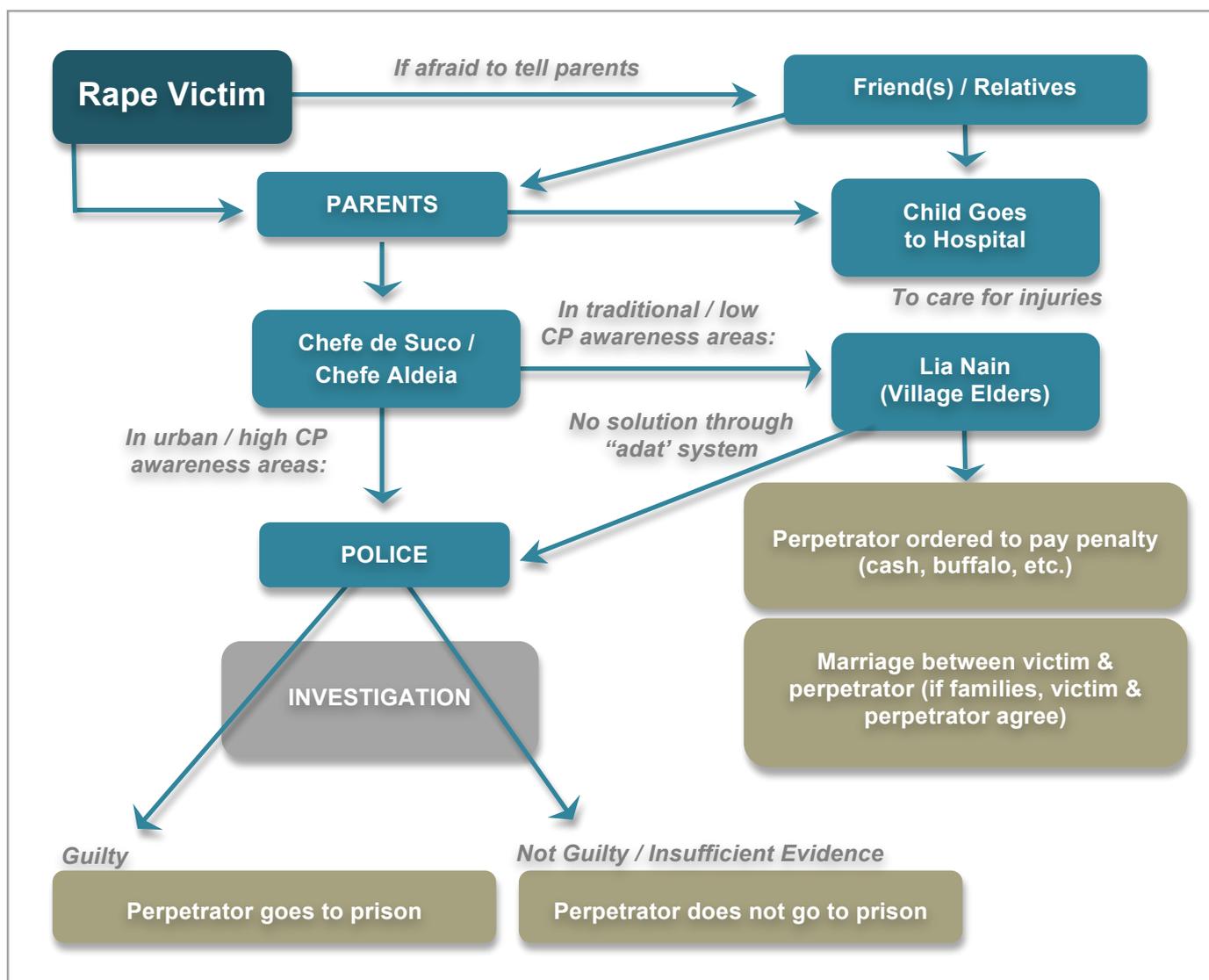


Figure 3: Conflict Resolution (example: Rape Case)

When cases are brought to the police, the chefe suco’s role would be support to the victim and the family in the process; however, none of the chefes interviewed indicated that they had been involved in cases of sexual abuse of children. If the police find the perpetrator guilty, the girls and women expect him to go to prison, but respondents stated that:

*“even if the case goes to the police, the parents will be satisfied, but the girl will still be traumatized.” (Adult woman, Dili)*

## 5.2 Perceptions of the Child Protection System (Formal and Informal)

The community interviews yielded a number of findings that illustrate the extent to which families, children and the chefe perceive the formal and informal systems.

According to the communities, the main advantage of using the traditional law is that the penalties given by the chefe tend to be high. This is seen as sufficient recompense for the affected family. Secondly, traditional resolutions and penalties are considered to be a good option for all parties to bring closure to the episode, especially if people are living in close proximity.

On the other hand, the formal system was considered to be slow and would only offer uncertain (if any) results:

*“Sometimes I don’t use the formal system because the community believes more in the traditional way. Often I resolve a problem by giving a fine to the suspect, like making them pay seven goats. Then people will think twice before they do the same thing again.” (Chefe Suco)*

*“(in this community) we don’t prefer the formal process because it is too long and we don’t know if it will go well. Today younger people say that there is a child protection officer and social animator, but we do not know, who it is. Therefore, we want to use only the adat.” (Chefe Aldeia)*

All communities and the chefes agreed that capital crimes (such as attempted rape, rape and murder) need to be referred to the formal system like the police, as this aims at punishing the suspect by sending him or her to jail. All other issues are seen fit to be resolved within families, or, if this is not possible, through the adat system. This also includes cases of (severe) physical abuse (also by teachers) and neglect. Other violent behaviour, such as hitting a child with the intention to severely injuring it, may be considered criminal acts; however, unless the child dies, the problem is ultimately considered to be a family matter.

However, the discussions suggested that there may still be a separation between what communities know they *should* do and what they *actually* do. While it was unanimously agreed that sexual abuse cases should be referred to the formal system, many actually suggested that in reality the traditional system would be tried first. An advantage of this system seems to lie in the relative discretion with which the case would be handled even

though some respondents conceded that only paying a penalty (usually to the oldest male in the family) would ultimately not be in the victim's interest.

As the interviews revealed, the traditional authorities are key actors when it comes to resolving both civil disputes (land ownership, damages of property, theft), but also in cases of child protection. These authorities also serve as the moral compass and role models for the whole community. In that regard it is understandable that a child described the chefe aldeia as follows:

*“(the chefe aldeia) is like the community’s parent” (Boy aged 12-14 years, Lautem)*

Both the communities as well as the traditional leaders strive to solve the conflict using an informal “adat” negotiation between the two parties. The formal system is seen as one that does not strive to obtain agreement, but rather as one that punishes a perpetrator, thereby leaving a winner and a loser, and perpetuating the conflict. Only if the traditional negotiation is not successful, the formal system can be invoked – it therefore serves only as a last resort when one party believes that the conflict cannot be solved by getting to an agreement.

Calling upon the formal system (in the form of the police) may be considered a unilateral and possibly hostile step by the community. Even in the case of youth crime, an intervention from the chefe would be required:

*“If some youth are arrested by the Police the local authorities, the chefe aldeia, must cooperate and negotiate with the Police to release the youth to be able to resolve the problem in the family or by using cultural mechanisms before they process the case following the formal system.” (Chefe Aldeia)*

*“Many times if you take the suspect to the police or make a report to the police then the victim’s family and the suspects family end up killing each other.” (Chefe Suco)*

Apart from cases of rape and murder<sup>136</sup> a government representative would be contacted in cases that require material support or financial transfers.

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<sup>136</sup> The respondents however pointed out that recent cases of rape and murder involved adults only, not children.

As the chefe facilitates all formal processes that deal with the police or the government, it is perhaps not surprising that no respondent from the community interviews were aware of neither the CPO nor the Social Animator.

Being a key authority in the communities with links to both the traditional as well as to the formal system, it is commendable that all chefes wished for a closer cooperation between the formal and informal systems:

*“These two must work together because if the traditional law does not work, one can still use the formal law. Many times we follow the traditional law because we think the children are not following the cultural norm.” (Chefe Aldeia)*

## Key Findings

1. Traditional ways of resolving conflict and crimes perpetrated against children are still very much the norm in Timor-Leste. Respondents underlined the importance of reaching an agreement between all parties involved, rather than evoking the formal system. Even when a case is referred to the formal authorities, usually the police, it is often referred back to the chefe for final resolution.
2. Resolution of conflict is focused strongly on ensuring that the dignity of the child and family are preserved as much as possible. It appears that the formal system is only sought if the crime is extremely severe (within the family) or resolution cannot be found (outside the family).
3. The formal child protection system is essentially understood within communities as the punishment of offenders through the judicial process. Therefore, if no village resolution is available, the aim then is to punish the perpetrator for his actions, thereby making amends for the shame brought upon the victim's family. The high fines placed on perpetrators by the chefe are seen as a significant deterrent to potential recidivists.
4. Interviews within communities demonstrate a belief that violence and neglect are caused by poverty. This means that blame is rarely apportioned to adults who fail in their caring role. Physical violence against boys in particular is often perceived as an educational measure.
5. The traditional resolutions take limited account of the victims' immediate care needs or longer-term protection concerns. The formal child protection system is perceived to

punish offenders rather than provide welfare for victims. There appears to be little knowledge of, or access to, formal services, especially within rural communities. Respondents in Dili were more aware of the shelters for women and children.

6. It is, however, generally positive that children in conflict with the law are dealt with at the community level rather than being referred to formal judicial processes. This will help to maintain the low levels of children in detention; this is especially important given the slow processing procedures of the justice system.

## Recommendations

1. There are nearly 450 chefe suco and over 2,200 chefe aldeia in Timor-Leste. Given the embryonic status of the formal system, coupled with the strong informal resolution mechanisms, it is essential to harness role of the chefe to the system. Due to cultural factors, chefe will continue to play a central role in the welfare of children and families, even if the formal system expands its scope. However, caution is advised in 'formalising' their role to a degree that would undermine their traditional responsibilities and community status.
2. At the present time, informal responses are somewhat arbitrary and tend to depend upon the individual chefe. Some consistency may come through the sensitisation programs now in place, but it is now essential to delineate the exact boundaries of their powers and duties. Strict thresholds of responsibility and decision-making must be clearly articulated and monitored.
3. These recommendations will only prove realistic if the formal system is able to respond effectively to those most egregious cases that are referred to formal authorities. The development of both systems must be synchronized and compatible.
4. To support this process, it is strongly recommended that a series of consultations with chefe suco is conducted to further study their perspectives for greater inclusion within the system.

## 6. CONCLUSIONS

Since becoming fully independent in 2002, Timor-Leste has set an ambitious agenda to achieve economic growth, reduce poverty, improve educational standards and guarantee better health. These aspirations, it is widely acknowledged, can only be reached when children and youth grow up safe and healthy. Therefore, as part of its long-term strategic planning, the Government of Timor-Leste has committed itself to the welfare and protection of its citizens through a raft of measures designed to improve their lives. This has included the establishment of a core agency, the Ministry of Social Solidarity, with a specific mandate to promote the welfare of the most vulnerable populations. However, the challenges facing Timor-Leste's children are not to be underestimated: the numbers of children out of school remain high; food security issues persist; violence and severe physical punishment are rampant; and children are too often left to fend for themselves or forced to contribute to the family income.

It is within this context that the MSS, under the guidance of the DNRS, has established its programme of reform and designed a system to protect children from abuse, violence, neglect and exploitation. Considering that a welfare system for families and children was virtually non-existent at Independence, the significant progress made over the past decade must be recognized. After nearly a decade, it is also timely to review that progress and assess the foundations that have been laid.

The status of the child protection system is symptomatic of a new nation. In many ways, the system remains embryonic although there has been considerable acceleration since 2006 to establish more formal structures and procedures for protecting children. Instead of adopting the remnants of the Indonesian welfare system, Timor-Leste has forged its own path. However, over the years, it has been greatly influenced by different advisors from the international community, many of whom come from different child protection traditions. It is clear that the international agencies will play a significant technical and advisory role for many years to come. It is now important that DNRS and local NGOs work closely together with international agencies to ensure that a systems model congruent with the Timorese context and culture – yet founded upon international standards – is designed and developed.

## **The Formal Child Protection System**

The existing system remains rudimentary in a number of ways, defined by a number of characteristics.

### **Systems Design**

The development of the formal system in the past decade has been subject to a number of different influences and, despite the lack of a clear legal framework, has many of the features of a statutory based model. However, there are a number of concerns about the design:

The model does not take into full account the wider environment in which children and families live. The MSS has been mandated to create a protective environment for children but the achievement of this requires a more comprehensive consideration of the causes of vulnerability. The fact that the Inter-Ministerial MOU has faltered is symptomatic of the isolationist way in which the broader protective environment has been conceptualised and strategies that have been developed. There is a visible lack of integrated planning between different sectors.

Perhaps as a result, and despite preventative initiatives that have been launched, the child protection system is largely perceived as a response system for children in crisis. While CPO and Social Animators do have responsibilities for identifying children and families at risk, they deal predominantly with children referred to them because they have already suffered abuse, or because the crimes they have committed are deemed serious. However, given the limited resources currently available, such a remedial approach is not sustainable. Indeed, the care services and judicial structures are not developed enough to consistently or appropriately provide for those children in need of crisis intervention. Most notably, the system is designed to resolve the crisis for an individual child rather than supporting the development of a strong and caring home and family environment for all children of the household.

The response system has other dominant features:

1. The system is highly reliant on NGOs to provide immediate and long term care and support for victims. The roles of these NGOs has not been adequately formalised to provide consistency based upon recognised standards.

2. Because many NGOs in Timor-Leste were developed to support to women facing domestic violence in their homes, the service paradigm for victims is almost exclusively available only to girls.
3. Access to support and services is not equitable around the country. A simple, if formulaic, approach to human resource distribution has been created. There is a CPO in every district. However, care services and justice structures are based in district or regional capitals making it unlikely that victims will have access to them. Indeed, many victims would need to come to Dili to access the real support required.
4. The functioning and quality of core structures, especially the CPN, is inconsistent. For a variety of reasons, some operate effectively and according to the mandate outlined while others barely function at all.

The combination of these factors results in a significant gap between how the system is supposed to function and how it actually functions. Although the study did not directly study the impact of the system on individual children, these findings to some extent explain why the system is perceived to be irrelevant or unhelpful to many children and families in crisis.

### **Management and Coordination of the System**

The development of the blueprint for the child protection system has been conducted in a largely ad hoc manner. The result is a fragmented and inconsistent legal and policy framework and a lack of long-term vision for the establishment of a continuum of services. Throughout the research, it became evident that:

- The status of a raft of documents (legal, policy, guidance) remains unclear. Many respondents from both government and NGO sectors were not aware of the existence, status (draft / approved) and implications of many of the documents.
- The documents are not consolidated nor maintained in a central repository. Many are not shared among agencies and access to them is problematic.
- Many respondents only have solid information about their own agencies. It was noticeable that agencies tend to have little knowledge about the work of others and, indeed, may have false impressions and expectations of services provided by others.

At different levels of management and coordination, some features were especially apparent:

1. The DNRS clearly has a committed leadership. However, the expectations and responsibilities of the reform process appear overwhelming. The highly centralised nature of the system seems to deflect staff in Dili from ensuring that the 'administrative' side of the system is prioritised: planning, coordinating, monitoring. This problem is further exacerbated by the poor administrative procedures for maintaining information and policy documents.
2. The opportunity to consolidate the initiatives and integrate the services of NGOs is not being maximised. There is no registry of welfare and protection NGOs and faith-based groups. Given that they are likely to remain an integral part of the system for years to come, it is essential to harness their work to a common vision and to integrate them in an official capacity.
3. The development of a more comprehensive system beyond response functions is challenging given the apparent disconnectedness between different sectors. There has been no robust engagement in substantive reform with the MSS on matters of child and family welfare. A concrete plan of action and advocacy strategy targeted, based upon solid evidence, has not been developed.

### **Traditional Structures**

The study found that the chefe suco continue to play a central role in community mediation and conflict resolution, either independently or through the adat system. Although traditional leaders do not have the authority to solve severe cases of child abuse or serious crimes, embedded traditional beliefs and practices prevail. The design of a formal system of protection in Timor-Leste must – if it is to be considered relevant by communities – be congruent with its context. This is not to say that all traditional practices must be recognised and adhered to: indeed, some of them may be injurious to children. However, an imposed formal system that disregards local tradition will undoubtedly fail.

The current formal system is perhaps not perceived as relevant to communities for a number of reasons:

1. Traditional methods of conflict resolution are done discreetly with a minimum number of actors involved; this is especially crucial for female victims, who face severe discrimination and re-victimization in the community as soon as the case becomes public.

2. The traditional conflict resolution is perceived by decision-makers (men) as providing just and sustainable solutions, whereas the outcomes of the formal system are considered slow, unpredictable and providing no benefit (especially financial) to the victim.
3. Many communities and traditional leaders are still not aware of the formal system or the role of the CPO and Social Animators.

While considerable effort is being made to build the capacity of the chefe to identify children at risk and to bring cases to the attention of the authorities, it is evident that these traditional perceptions remain widespread. A future protection system must reconcile the formal and informal systems, creating a dual system (rather than a parallel system) with clear delineation of duties and powers. However, until such time as the formal system is perceived to be functioning in a fair and effective way, it is unlikely that it will have a major impact.

## **7. GENERAL RECOMMENDATIONS**

This series of recommendations aims to address some of the more pressing priorities for the development of a coherent and appropriate child protection system in Timor-Leste. Because the existing system lacks the vision, coordination and resources to operate effectively and efficiently, these recommendations do not attempt to address or rectify specific aspects of the system. Through the findings presented in the report, an analysis of the core strengths and weaknesses of the current system have been highlighted. Given that there are major questions to be addressed with regard to the role and responsibilities of different actors and fundamental decisions to be taken (within the finite capacity and resources of the present system), these recommendations attempt to outline the main issues and actions to be taken so that stakeholders can, using the findings of the report, begin the process of dialogue.

### **1. Systems Consolidation**

This process should be led by the MSS (DNRS) but should bring together the core group of protection stakeholders. It is recommended that an independent coordinator be selected to support this process, ensuring a timely output based on key tasks.

- a) Undertake a broad process of consolidation of the existing system. This includes a full compiling of current documents (legal, policy and guidance) pertaining to the child protection system to review their status. Secondly, explore ways for consolidating knowledge about different agencies (international and national) to review current protection priorities, initiatives and resources. Thirdly, to review and substantiate the mandated role and strategic priorities of other sectors and agencies with responsibilities for protection in Timor-Leste.

### **2. Systems Reform**

This process should be led by MSS (DNRS) and the Ministry of Justice (NCRC) but in full collaboration with the designated Stakeholders Group, currently guided by a smaller technical group of five international and national agencies. As discussed in the report validation meeting, it is suggested that the process of reform and system design be supported by technical specialists. In order to ensure ownership of the process, it is recommended that a range of different agencies contribute both financially and technically, whether in terms of the coordination of that process, sponsorship of specific activities (e.g. research), or 'in kind' help (e.g. venues, translation services).

- a) Conduct a comprehensive exercise to define a long-term, sustainable vision for a functioning system for child protection, located within a broader, costed strategy of social welfare. This exercise should consider all currently available resources and should define the role and responsibilities of both international and national partners. Within this visioning process, there are some suggested actions to be taken, for example:
- Conduct national research on the prevalence and manifestations of child abuse, neglect, violence and exploitation for the purposes of developing a strong advocacy platform for comprehensive sector reform.
  - Undertake a review of the role of traditional authorities, especially the chefe suco and chefe aldeia. Specific consideration of their powers and responsibilities should be integrated into the wider visioning of the system, ensuring convergence of formal and informal mechanisms.
  - Once the longer-term strategy has been agreed, conduct a full review of the legal and policy framework to harmonise provision in accordance with international law, but also to reflect the realities and context of Timor-Leste.
  - Develop an advocacy strategy (including briefs, conferences) with other key sectors (education, health, social protection) to align strategic thinking and create greater complementarity, as well as forge links with the donor community to ensure long term resourcing of the evolving system.

## **Annex A: Bibliography of Key Texts**

### **Legal Review**

#### **Current Law**

Constitution of the Democratic Republic of Timor-Leste, 2002

Decree-Law No. 13/2005 Approving the Criminal Procedure Code

Decreto-Lei N.º 1/2006 de 21 de Fevereiro Que Aprova o Código de Processo Civil

Decree-Law No. 2/2008 of 16 January: Structure of the Ministry of Education

Decree No. 10/2008: Organisational Structure of the Ministry of Social Solidarity

Decree-Law 12/2008: Organic Statute of the Ministry of Justice

Decree-Law No. 13/2008: Organisational Structure of the Office of the Secretary of State for Youth and Sports

Decree-Law No 16/2008: Organisational Structure of the Office of the Secretary of State for the Promotion of Gender Equality

Decree Law No. 19/2009 Approving the Penal Code

Law No. 2/02: Interpretation of Applicable Law on 19 May 2002

Law No. 10/2003: Interpretation of Section 1 of Law No. 2/2002, of 7 August, and Sources of Law

Law No. 7/2004 of 26 May 2004 Approving the Statute of the Office of the Ombudsman for Human Rights and Justice

Law No. 14/2008 of 29 October: Education System Framework Law

Law No. 2 / 2009 of 6th of May: Protection of witnesses

Lei N. 7/2010 de 7 de Julho: Lei Contra a Violência Doméstica

UNTAET Regulation 1999/1 on the Authority of the Transitional Administration in East Timor

UNTAET Regulation No. 2001/3 on the Establishment of the Central Civil Registry for East Timor

UNTAET Regulation No. 2002/5 on the Establishment of a Labour Code for East Timor

#### **Draft Bills**

Draft Bill on Adoption, 2009

Draft bill on the Legal Regime of Guardianship of Minors, 2009

Draft bill on the Regulation for the Exercise of Paternal Power, 2009

Draft Child Rights Code, 2010

Draft Civil Code, 2009

Draft Juvenile Justice Law, circa 2010

#### **Policy Guidance Documents**

Ministry Diploma No. 3/2006, 24 August 2006: Organic Structure of the National Board of Prison Services and Social Reinsertion

Ministerial Statute No. 03/2008 of 27 February: Organic Statute of District Health Services

MSS Case Management in Child Protection: Policy and Procedures, circa 2008

MSS child protection “Code of Conduct” Policy for Vulnerable and At-Risk Children, circa 2008

MSS Memorandum of Understanding [with other Ministries], 2008

MSS Policy, Procedures and Standards for Care Standards and Boarding Houses – registration, licensing, monitoring, and minimum standards for child care centres and boarding houses, 2008

National Guidelines on Separated and Unaccompanied Children, undated

National HIV/AIDS/STIs Strategic Plan 2006 – 2010

PNTL Rules of Procedures for Child Victims, Children at Risk and Children in Conflict with the Law, circa 2007

Programme of the IV Constitutional Government, 2007-2012

Referral Guidelines for Police, Service Providers and Child Protection Officers dealing with child protection Cases, 2010

Timor-Leste’s Strategic Development Plan, 2011-2030

## **Background and Policy Review**

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Democratic Republic of Timor-Leste (2007): “Decree Law 2007: Structure of the IV Constitutional Government”

Democratic Government of Timor-Leste (2008): “Decree Law 10/2008: Organisational Structure of the Ministry for Social Solidarity”

Democratic Republic of Timor-Leste (2009): “United Nations Development Assistance Framework UNDAF 2009-2013”

Democratic Republic of Timor-Leste / UNICEF (2009): “Country Programme Action Plan 2009-2013”

Democratic Republic of Timor-Leste (2010a): “Strategic Development Plan 2011-2030”

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- UNFPA (2005): "Gender based violence in Timor-Leste. A Case Study"
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**Annex B: Research Respondents**

Category	Description		Method	Total
Key Informants	Key Informants		SSI	5
Central Authorities	Ministry of Social Solidarity	Director of DNRS	SSI	1
		Financial Officer of DNRS	SSI	1
		Dept. of Protection of Women Victims and Social Reinsertion of Vulnerable Families	SSI	2
		Dept. of Protection and Assistance to Children Vulnerable to Abuse	SSI	4
	Ministry of Justice	National Commissioner for the Rights of the Child	SSI	1
		Public Prosecutor	SSI	1
	PNTL	Vulnerable Persons Unit	SSI	1
	SEFOPE		SSI	1
	NGO, INGO UNICEF		SSI FGD	12 2
Regional / District Level Authorities	Child Protection Officers		FGD	1
	Child Protection Network		FGD SSI	2 4
Category	Description		Method	Total
Local Authorities	Chefe Suco / Chefe Aldeia		SSI	6
Frontline workers	Front Line Workers (priest, teachers, community police, nuns)		FGD SSI	2 4
Community Members	Men in the Community		FGD	4
	Women in the Community		FGD	4
	Boys & Girls (Age: 12-17)		FGD	16

Table 13: Research Respondents

**Annex C: Crimes Reported to VPU by District (2009)**

<b>Type of Crime</b>	Aileu	Ainaro	Bobonaro	Baucau	C' Lima	Dili	Ermera	Liquica	Lautem	Same	Man'tu	Oecusse	V'que	TOTAL
<b>Domestic Violence</b>	3	12	4	27	11	16	34	37	10	2	17	20	4	207
<b>Sexual Violence</b>	1	1	2				3	2	2		2		1	12
<b>Sexual Abuse</b>			1					1					1	3
<b>Sexual Assault</b>			3	3	2	6					1			18
<b>Missing Persons</b>				1		2			1					4
<b>Family Abandonment</b>		1		3			4		1					9
<b>Attempted Rape</b>				5			3		1			2	1	12
<b>Kidnapping / Abduction</b>								1						1
<b>Violence against Children</b>												1		1
<b>Abortion</b>												2		2
<b>Human Trafficking</b>														0
<b>Adultery</b>														0
<b>Total</b>	4	14	10	39	13	24	44	41	15	2	20	25	7	293

Table 12: Types of Crimes Reported to VPU by District (2009)

Research conducted by:



[www.childfrontiers.com](http://www.childfrontiers.com)