Improving grassroots protection of women & children

This policy brief has been prepared in collaboration with local female leaders forming Protection Teams set up as part of NGO Ba Futuru’s Empowering Women and Establishing Grassroots Protection Networks project (hereinafter Empowering Women project) jointly funded by the European Union and AusAID. The aim of the project is to reduce incidents of violence against women and children through the establishment of grassroots protection networks that link to the district and national level protection mechanisms.

Lessons learned from the project are used as the basis of this policy brief, and it showcases gaps in the formal protection system where improvements need to be made.

This brief introduces the context of the issue and the Empowering Women project, then highlights needs identified through project implementation, and finally presents concise policy recommendations to be presented to and adopted by government bodies and stakeholders.

Recommendations and insights contained within this brief highlight needs and gaps identified so that they can be understood and addressed. It is hoped that through an ongoing commitment to dialogue and collaboration, impunity regarding violent crimes will decrease and victims’ human and constitutional rights, and physical and emotional well being, will be assured.

Recommendations

1. Increase Awareness of Legal Framework
2. Give Effect to Formal Protection Scheme
3. Prioritize Protection in Government Budgets
4. Ensure Legal Obligations are Understood
5. Utilize Local Leaders as Protection Agents

See details of recommendations inside
Ba Futuru hopes that this brief and the recommendations contained therein contribute to a sincere dialogue on advancing protection mechanisms for women and children at the grassroots level across Timor-Leste.

The needs identified in the front of the book give context to the issue and reasons behind Ba Futuru’s recommendations. They help to bring the realities faced by vulnerable persons at the grassroots level to the fore. Through these findings, the reader will gain a better understanding of domestic violence at the grassroots level and what prevents victims from accessing justice at that level. So doing, the reader will be better equipped to legislate on and advocate for meaningful change that will sustainably increase protection.

The recommendations, which follow the “needs identified” section, reflect requests from victims as well as constructive solutions formulated by Ba Futuru staff in coordination with community leaders, Protection Team Members, and numerous partners. The recommendations thus represent real, needed, and achievable solutions that should-- and can-- be adopted to increase protection for victims across Timor-Leste.

To discuss the findings, recommendations, or next steps, please contact Ba Futuru for a meeting.
To create sustainable peace and a stable country, protection systems need to be prioritized by the Timor-Leste Government. As long as the cycles of violence in homes, schools and communities continue in Timor-Leste, the country will be unable to achieve these goals. Studies show that when a person experiences violence as a means for resolving a dispute or as a disciplinary measure at home or school (an endemic practice in Timor-Leste) the person is more likely in the future to themselves resort to violence. This cycle of violence must be stopped.

At this stage, much of the basic legislation is in place to assist in stopping the cycle of violence, but is not supported with sufficient resources, political will and infrastructure to enforce the laws. Moreover, the laws must be socialized and understood by the broader Timorese population in order to create sustained change.

Since gaining independence in 2002, the Government of Timor-Leste has made significant inroads towards the development of functioning protection mechanisms. The Vulnerable Persons Unit (VPU) was established within the Timor-Leste National Police (PNTL) in 2002 to cater specifically to victims of violence and abuse, and a Child Protection Unit (CPU) now operates within the Ministry of Social Solidarity (MSS) with one Child Protection Officer (CPO) per district and one Social Animator per sub-district at work across Timor-Leste. The Penal Code and Penal Procedure Code were passed in 2009 and 2005 respectively, the Law Against Domestic Violence (LADV) was promulgated in 2010, and a draft Child Protection Law is currently being debated. The Secretary of State for the Promotion of Equality (SEPI), together with the multi-sector national drafting committee, has created the National Action Plan for Gender-Based and Domestic Violence (the NAP), which was passed by the Council of Ministers in May of 2012. Giving effect to the LADV, the NAP is Timor-Leste’s first approach to implementing policies to address gender-based violence that bridges sectors. It points out short- and long-term goals for the next three years and how state institutions, civil society and development partners will work together in the education, social services, justice, security and health sectors to reach these goals.

Despite these advancements in the resource and support services available to victims of violence and abuse, rates of domestic violence remain high and the number of people who access justice and support services is low. The objective of this policy brief is to explain the project’s findings and suggest crucial steps that we recommend be taken to address these issues.
Project Background

Ba Futuru has been working in two sucos of Dili over the last year implementing the Empowering Women project of which the key priority is to increase access to justice and other forms of vital assistance for vulnerable groups. Under the project model, Ba Futuru trains and works with 20 female “Protection Team Members” (PTMs) who can serve as focal points for identifying and referring cases within their community. PTMs receive training in legal frameworks, child protection, conflict resolution, referral pathways, leadership, debate, and public speaking.

The Ba Futuru staff also support the PTMs with monthly meetings to discuss cases and deal with challenges. In addition, the Project implements trainings with key actors, such as police, local authorities, young people, women and CBO representatives. Trainings are conducted at the Aldeia level, with 10 Aldeais targeted yearly, and cover conflict resolution, child protection, positive discipline, domestic violence frameworks, and access to justice.

Based on this work, Ba Futuru will develop yearly policy recommendations to highlight issues identified and bring grassroots concerns to the national consciousness.

Policy Recommendations are based on Ba Futuru’s Empowering Women and Establishing Grassroots Protection Mechanisms Project

The project aims to benefit 60 female leaders (2 in each of 30 target communities), 900 key actors (30 in each of 30 target communities), and tens of thousands of tertiary beneficiaries who benefit from increased protection systems and decreased violence.

While the project is already showing measurable success in changing attitudes towards the use of violence and bringing knowledge to the local level about how to refer cases to ensure victims receive assistance, certain factors remain unchanged at the local level that inhibit people accessing existing protection mechanisms. This is partly due to lack of knowledge about protection mechanisms, and the widely held belief that violence in the home remains a private issue to be resolved – if at all – by traditional mechanisms. In addition, when cases are reported, victims face additional challenges in slow judicial processes, lack of protection during the tribunal process, under-resourced and understaffed protection related agencies, a system that obliges the victim to leave their home rather than force the suspect out, and protection networks that are unreliable due to understaffing and mistrust.
Through this project, Ba Futuru has identified resourcing issues as a serious impediment to the provision of meaningful victim support. The legal framework lacks effective support services. While it creates requirements for protection orders, legal support, police response and reporting, victim housing and witness protection, governmental resources and budget allocations have not been prioritized to these areas to adequately support implementation. This has left them relatively ineffectual. While the NAP may address some of these issues, it is not clear whether and to what extent NAP programs will actually be funded. Thus, political will which prioritizes funding to domestic violence issues rather than simply legislating on them is crucial to move forward on protecting vulnerable persons in this context.

In order to ensure protection mechanisms have the intended effect, the Government should place a larger financial focus on instituting protection mechanisms that work. For example, the Government currently recognizes—and funds—the need to provide veterans’ services in order to create stability. Similarly, protection and rule of law in regard to protection cases is extremely important to the long-term stability of the country. This area, however, is severely under-resourced.

One specific area where additional resources need to be allocated, which has become clear through the implementation of this project, is in regard to the MSS Child Protection Officers (CPOs). The introduction by MSS of CPOs in 2008 was a significant step towards attaining national child protection coverage; however, sub-district and village level assistance is still lacking. Due to the allocation of only one CPO per district, each CPO is responsible for the welfare of, on average, 39,000 children (In highly populated areas, this number can be far higher. For example, the Dili CPO is responsible for approximately 90,000 children aged 0-19 years old, based on the most recent census data). Unfortunately, CPOs do not always receive sufficient financial support to facilitate communications or travel within districts, which is crucial to bring protection assistance to those living in rural and remote areas. (MSS & UNICEF, Mapping and Assessment of the Child Protection System in Timor Leste (2011)).

Currently, there is a high attrition rate of CPOs, which could be mitigated if remuneration reflected the technical level of expertise and workload their job requires. Moreover, for the majority of 2012 there was no Dili CPO as the position was vacated and not refilled. For high population districts, like Dili, there should be more than one CPO allocated and back ups should be put in place to cover periods when positions are left vacant. Moreover, MSS noted that, although there is a social animator assigned to each sub-district, in practice their job focuses more on providing social services, such as ensuring veterans receive benefits or providing support to impoverished communities. MSS resources and capacity are thus stretched too thin to ensure adequate protection. As discussed in Need 3 (below), the gap in protection resources is particularly salient at the district and local levels. There is demonstrable impetus to narrow the gap between district level protection mechanisms and local need; however, funding and capacity building need to be allocated across the board to services for victims so that they are adequately protected and can utilize protection mechanisms.
Although Article 37 of the Law Against Domestic Violence (LADV) provides no-contact and protection orders for victims of domestic violence, these protections are currently under-utilized and ineffective. Anecdotal evidence indicates that this is due to both the inefficient process for obtaining said orders in addition to skepticism regarding police willingness to enforce them. Although safe houses offer a viable alternative to many domestic violence victims, they punish the victim by forcing them to leave their familiar home environment, where they may have support, rather than removing the suspect. As such, the law as written recognizes the need for protection orders, which provide protection to a victim without further disrupting their lives. Thus, reform measures must be taken to give effect to those provisions.

The process for obtaining the order is inefficient. Currently, protection orders require that the victim request the prosecutor to request an order from the judge in the case. As judges are woefully overextended, it may take too long for an order to be issued. Moreover, the LADV requires that the victim act through the prosecutor to request an order; however, few prosecutors seem familiar with the process or willing to take the time to seek such orders. A more efficient procedure in this regard would quickly and efficiently provide necessary protections to victims while cases are being processed.

Such a system should include an expedited motion procedure including a temporary protective measure while a formal protection order is processed. Specialized judges should be available to issue an order within 24 hours of such requests. In addition, training should be provided to prosecutors in order to understand and expeditiously seek protection orders on behalf of victims. Alternatively, Article 25 of the LADV could be modified to allow victims’ lawyers to directly request protection orders from the judge on behalf of the client without requiring prosecutor involvement. A simplified application procedure could also be used to expedite matters and enable victims to apply without specialized knowledge. Moreover, an awareness campaign regarding the right to and effect of protection orders should be vigorously pursued.

Even where an order has been obtained through the current inefficient procedure, there is concern that victims have no guarantee of enforcement and may find themselves at greater risk of retaliation by seeking such an order. Police units have not been properly trained on requirements for enforcing such orders and there is concern that they may be unwilling to enforce the orders. This is unacceptable. Specific legislation that provides fines or other punishments for police that fail to enforce protection orders would make the law more effective, and would ensure that police forces begin to reflect the priority status given to domestic violence in the law. A confidential and independent complaint procedure should be implemented to ensure victims can report police derivations without the fear of reprisal.

Moreover, protection measures should be given effect by providing arrest/detention for violating orders. Currently, the Law Against Domestic Violence and the Penal Procedure Code do not specifically outline such penalties; however, the laws should be amended to guarantee the protections have meaning rather than simply providing symbolic protections without substance.
While important formal protection networks have been established, this project has revealed a particularly striking gap between those mechanisms and the grassroots level. Through conversations and implementation at the aldeia and suco level, Ba Futuru found that victims are not accessing formal protection mechanisms due to issues with transportation, availability, security and information. Of the community leaders, youth, female focal points, and victims with whom the Empowering Women project has worked, many report being unaware of available services. For instance, one Chefe Aldeia in Cama did not know safe houses existed for victims. This lack of knowledge also results in victims preferring known and convenient traditional systems rather than accessing formal mechanisms. Even where victims know of the court system or the VPU, many prefer to work through traditional mechanisms with which they are familiar—even if it risks injustice or violating their rights. The project also found that victims are deterred from accessing formal mechanisms due to transportation and funding constraints.

In two cases of domestic violence discovered in this project, the victims reported attempting to go through the formal court system but being deterred, and thus resorting to traditional mechanisms, due to the cost of continuous transport to the police station and court without hearing results or updates on their cases for a long time. Indeed, with courthouses in only four of the thirteen districts in Timor-Leste, many community members must travel long distances to access formal justice mechanisms—a cost many are unable to afford. Similarly, one victim reported abandoning her claim in the formal justice system because she could not afford to pay a lawyer over the lengthy process and was unaware of the legal aid guaranteed by the LADV.

Through the Empowering Women project, Ba Futuru has worked to develop protection teams at the local level by empowering council members and other female non-formal leaders as local protection agents who form Protection Teams. To bridge the access gap, the government should build on this model. In line with recommendations contained in the 2012 Timor-Leste Child and Family Welfare System Policy Paper, Ba Futuru recommends bringing protection access to the local level by appointing certain individuals on the suco council to act as local level protection advocates to help fill the protection gap.

Because paying for additional protection actors at the suco level has already been considered and deemed not financially realistic by the government, utilizing suco leaders instead will allow the government to make better use of those already working at the suco council level. This should be done by defining their roles in a more precise way and giving them the necessary resources to conduct those roles (possibly a small stipend for communications and transport for assisting with the referral of protection cases; however, when a free phone line is installed by MSS in accord with the LADV, this may help to mitigate the need for communications stipends, depending on how it is managed. It will be crucial to ensure the phone line is implemented with adequate human resource capacity to effectively respond to the needs of callers, especially children).
The Empowering Women project piloted the use of female suco council members as protection advocates in two sucos in Dili thus far. The project will expand to rural locations in years two and three of implementation, targeting Atauro Island and Ermera District respectively, so that comparisons can be made, and the challenges unique to remote locations can be considered. However, our preliminary findings show that giving a stronger protection role to suco council members will help fill the protection gap by helping bring access to justice to the local level.

Moreover, our findings indicate that such a model would be efficient because the village leaders are often the first point of contact for victims who decide to seek assistance beyond the family home. Local authorities are therefore already recognised as access points for justice, and they possess high levels of knowledge about the contextual reality in their communities, including who the main perpetrators of violence are.

There is therefore great need to continue efforts to empower local leaders with knowledge in areas such as gender equity, criminal law, the Law Against Domestic Violence and reporting strategies so that they can act as reference points in community decision-making structures and use their influence to affect attitudinal change.

In the Community Leadership and Election Law 3/2009 of 8 July 2009 on suco councils there is a clear role defined for the Chefe Suco but no clear role for the remainder of the suco council members. A further policy or law could be propagated to define the roles of the other members, possibly giving specific members a clear focus on protection and resourcing them to enact this role. For example, there are two women and two youth members in each suco structure whose presence is prescribed but whose role is undefined. The government should support and empower these established leaders by making it officially their role to act as referral focal points for protection cases.

Specifically, Ba Futuru advocates for a clearly defined role for at least one of the Feto Rua (two women required to be on each suco council) in providing protection and referrals. So doing, it is vital that the government ensure adequate training and proper accountability mechanisms for such focal points.
Lack of Public Awareness of Legal Framework at Local Level

Although Timor-Leste has made significant advances in its domestic violence legal framework, these advances will remain ineffective until citizens are aware of and able to assert their rights under the laws and institutions. The Law Against Domestic Violence (LADV), promulgated in 2010, makes certain acts in the Penal Code, when committed in a family or intimate relationship, public crimes and provides for their prosecution regardless of the victim’s desire to pursue legal action. The Law also includes specific provisions regulating safe houses; provides for support payments to the victim for the duration of the hearing (and possible extension thereof after trial); and sets out specific requirements of healthcare professionals in evidence collection and support. In addition, Article 37 specifically provides no-contact and removal orders before and during trial.

Despite this strengthened legal framework, interviews conducted at the grassroots level in central Dili demonstrate that local populations, both rural and urban, possess very little knowledge about Timor-Leste’s LADV or formal protection mechanisms. In the baseline study conducted as part of this project, 28 community leaders from two sucos in Dili were interviewed. Of those interviewed, 75% cited domestic violence to be the most common form of violence in their communities (a figure which is most likely understated as leaders may not know to include or recognise psychological or economic forms of gender-based violence), followed by youth fighting and land rights disputes. Additionally, 79% believed their community members had no knowledge about the LADV.

Lack of knowledge of the law at the local level means that people remain unaware of the penalties for perpetrators of violence against women, children and other vulnerable groups, and the law thus lacks effectiveness as a deterrent. Moreover, many people at the community level who do decide to seek help from the police are unaware of – or choose not to engage with – the VPU and instead seek help from community-based police. Unfortunately, community-based police and the Investigation Unit do not have the same level of specialised training and often refer cases back to be dealt with by the same family and/or community violating the legal framework. While the VPU has such specialized training, it will only have full effect where the community-based police appropriately refer and respond to cases, supported by a more powerful investigation unit. Moreover, few people, including police, know of protections provided in the LADV, such as no-contact and removal orders. Thus, victims rarely request such measures, and, even if such measures are granted by the courts, they are rarely enforced. As such, victims are not provided the level of protection the law guarantees them.

Not only is access to information about the legal frameworks surrounding violence and abuse low, citizens are unaware of the places where victims can access alternative services such as emergency shelter, counseling, medical assistance, legal advice or socioeconomic support. Of 274 key actors who participated in the Empowering Women project’s Protection, Empowerment and Conflict Transformation training, only 34% said they knew of places they could seek assistance if they or their neighbour experienced sexual abuse and only 15% could demonstrate this knowledge by listing such places (whereas, after receiving training through this project, 73% could demonstrate this knowledge). As a result, many victims remain isolated from essential support and in unsafe living conditions where they – or their children – are highly at risk.

Due to this confusion about referral pathways, and disillusionment with the police, many victims understand their only option of recourse to be through local justice mechanisms that favour community and family resolution (generally in the form of fiscal penalties) over justice for individual victims. In addition, it is essential that victims are aware of and connected with vital services such as forensic testing, counseling or emergency shelter following traumatic events. These services are guaranteed by the LADV. Additionally, even if victims choose not to engage with police, they should be made aware of how to make a complaint and the services available to them so they can make informed choices.
That both women and children victims of sexual gender-based and domestic violence often remain in unsafe living conditions at risk of further sexual exploitation demonstrates an urgent need for behaviour change strategies directed at the general public.

This level of acceptance comes not only from a tolerance of such acts, but also from fear of reprisal. Community members, including Ba Futuru Protection Team members, reported being afraid to intervene due to perceived threat of black magic reprisal. This fear is compounded by ineffective enforcement of legal protections for witnesses and victims. Government and NGO actions on this front are thus urgently needed to combat such practices and attitudes.

Trainings for local leaders, which reinforce the legal frameworks available and the illegality of such violence should be pursued across the country. In addition, socialization through trainings, media campaigns, and other means should target community members to shift attitudes against acceptance and toward intervention. It is imperative that these measures are pursued in conjunction with strengthened enforcement of the law and formal protection mechanisms, so that citizens are not encouraged to access and utilize services that will ultimately prove unhelpful, or worse, make them more vulnerable to harm.

5 Reluctance of Community Members to Intervene

One particularly alarming factor apparent from the Ba Futuru Protection Teams’ experiences in Dili is that community attitudes tend to be highly tolerant towards violent forms of sexual gender-based and domestic violence. Cases of sexual assault and rape, as well as sexual abuse of children, may be known by community members and leaders but victims are stigmatized and remain isolated not only from justice, but other vital forms of support.

For example, in an interview conducted with one chefe suco, he spoke dispassionately about two cases of incest in one family that were ongoing in his community. In one case, he had attempted to call the community-based police, but did nothing further when there was no follow-up from the police force. He never contacted the VPU, as he did not know of its existence before training with Ba Futuru. Later, he suggested he could conduct mediation and ask the perpetrator to publicly apologize for his behaviour to set an example for his peers.

Ba Futuru has since been able to place one victim in a safe house with the assistance of her mother, and is working with the local Protection Team to assist the second. It is of significant concern, however, that awareness without action exists of acts so brutal, immoral and damaging to women and children’s health, safety and psychosocial development.
Timor-Leste has included legal obligations for specific protection agents in its domestic violence policies and laws. However, because many community leaders and police lack knowledge of the intricacies of domestic violence legal frameworks, they remain unaware that they bear certain legal responsibilities and obligations under the laws.

The LADV provides a clear obligation for VPU members regarding domestic violence cases. A crime of domestic violence has been committed if an act is a crime under the Penal Code and also considered a crime under Article 35 of the LADV. Importantly, crimes that fall into these categories are considered ‘public crimes’ – meaning they can be prosecuted without a complaint from the victim, any observer can report an act of domestic violence without the consent of the victim, and cases cannot be closed without judicial authority (meaning victims cannot choose to close a case once it has been opened).

Once the VPU receives a report of this nature, they have a legal obligation to perform a follow-up investigation. If police, or other public officials that learn of violence in their official capacity, know of a crime of domestic violence, they also have a legal obligation to report it, regardless of whether or not the victim wishes to report the crime. These laws are in place due to the fact that victims often do not report their own cases due to fear, dependence on their perpetrator, or intimidation. Thus, the police and other authorities need to begin to understand and fulfill their legal obligations in order to keep victims safe and help them to receive much needed assistance.

Moreover, under the Community Leadership and Election Law 3/2009 of 2009, suco and village leaders (chefe sucos and chefe aldeias) have additional responsibilities with respect to domestic violence. For the chefe suco these include:

- Art. 11(c): Promoting the creation of mechanisms for preventing domestic violence;
- Art. 11(d): Supporting such initiatives as are aimed at monitoring and protecting the victims of domestic violence and at dealing with and punishing the aggressor, in such a way as to eliminate the occurrence of said situations in the community;

- Art. 11(e): Requesting the intervention of the security forces in the event of disputes which cannot be settled at local level, and whenever crimes are committed or disturbances occur.

Responsibilities of the chefe aldeia include:

- Art. 14(f): Ensuring the creation of mechanisms for the prevention of domestic violence, including by means of civil education campaigns in the relevant village;
- Art. 14(g): Facilitating the creation of mechanisms for the protection of the victims of domestic violence and for the identification of the aggressors, in keeping with the seriousness and circumstances of each case.

As such, chefe sucos have a legal obligation to request the intervention of security forces ‘when crimes are committed or disturbances occur.’ As domestic violence is considered a public crime, the legal framework requires chefe sucos to intervene in domestic violence cases.

From baseline interviews conducted to date by Ba Futuru as part of the Empowering Women project, it is evident that community leaders do attempt to involve the police (most often community-based) on an ad hoc basis for serious crimes, but still attempt to mediate even the most extreme and repetitive forms of domestic violence. By providing local leaders with clear training on their legal responsibilities and also reinforcing key actors in the referral pathway process, these actors are very well placed to act as a conduit for the referral of cases to formal protection mechanisms.

Additionally, because the VPU has the legal obligation to respond to cases, increasing suco leader referrals will subsequently increase the number of cases investigated, strengthening the enforcement of the existing legal framework through increased use, thereby increasing overall protections for victims of domestic violence.
1 Increased Public Awareness of Legal Framework

Undertake public awareness raising campaigns in all thirteen districts to inform people about the definition and illegality of DV, and in particular sexual GBV, and to introduce behaviour change strategies to shift attitudes regarding such acts.

Provide specialised training to suco leaders and police forces (at all levels) in this regard.

Create a National Domestic Violence Victims Day in order to generate public awareness of DV.

2 Give Effect to Formal Protection Scheme

Ensure protection orders/measures are adequate and enforced:

- Provide emergency, temporary ex parte protective measures (in which the victim requests the measure without the involvement or response from the opponent while formal measures are deliberated) in addition to long-term protective measures that last beyond the duration of trial.

- Provide penalties for breaking no-contact orders.

- Provide penalties for public officials that enable others to break protection orders.

Adopt the draft Child Protection Law or similar legislation.

3 Prioritize Protection Systems in Government Budgets

Resources should be funneled towards:

- a functioning, expeditious court system;

- protection for witnesses before, during and after trials;

- adequate safe houses (currently none exist for young men, for example, and the ones that do exist are often full);

- separate transport to and from trial for victims and perpetrators; and

- well-paid and technically skilled cases workers for women and children that are accessible by those at the local level.

4 Ensure Local Leaders Understand Legal Obligations

In line with the Strategic Priority Area One of the National Action Plan for Gender-based and Domestic Violence (NAP), we strongly recommend that local authorities, including community leaders (chefe sucos, chefe aldeias and traditional leaders) and community police, continue to be targeted for gender and LADV training to increase their knowledge of domestic and gender-based violence and gender equity to prompt changes in attitudes and behaviour at the community level.

Continue to reinforce with village leaders and police that they have a legal obligation to report domestic violence, while also working to prevent domestic violence in their communities.

5 Utilize Local Leaders as Protection Agents

The government should support and empower the established leaders at the local level by specifying individuals on the suco council whose official role it is to advocate and become focal points for referrals related to protection assistance. So doing, it must ensure that proper accountability mechanisms are established and local leaders are adequately trained.