

Policy Recommendations

NGO Ba Futuru / For The Future



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- i.** Direct funding to adequately fund services for victims, training for key actors at all levels, and to staff and provide resources to necessary personnel to respond to domestic violence cases.
- ii.** Ensure adequate training for key actors at all levels in the protection system, including sensitivity training and legal briefings.
- iii.** Ensure broader awareness of the law, and available resources, on domestic violence by developing easy-to-understand information packets (which also respond to illiteracy) and increasing the breadth of trainings for key actors.
- iv.** Increase accessibility and efficiency of services for victims and develop creative strategies for targeting rural and dispersed communities.
- v.** Revise the legal framework to ensure protection of victims, efficiency, justice, and rehabilitation, including: mandatory trainings for perpetrators, protection orders for victims, efficient procedures, and better sentencing.
- vi.** Incentivize and push for modifications to the traditional system to protect victims and encourage local leaders to fulfill their duties, and encourage shifts in attitudes toward using the formal system.
- vii.** Hold actors accountable for fulfilling their requirements under the law and enforce sanctions for those inhibiting justice.
- viii.** Continue and expand programs to change attitudes about gender-based and domestic violence, specifically targeting grassroots levels and schools.
- ix.** Implement better data collection and case management programs across all protection sectors to enable victims to more easily follow their cases and to increase understanding of DV issues to more efficiently direct funding and resources.
- x.** Conduct sincere and sufficient monitoring and evaluation of government programs to understand the issue and where resources need to be targeted.



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The European Union is made up of 27 Member States who have decided to gradually link together their know-how, resources and destinies. Together, during a period of enlargement of 50 years, they have built a zone of stability, democracy and sustainable development whilst maintaining cultural diversity, tolerance and individual freedoms. The European Union is committed to sharing its achievements and its values with countries and peoples beyond its borders. The European Commission is the EU's executive body.

Project Background

Ba Futuru has been working in two sucos of Dili and across Atauro Island over the last two years implementing the Empowering Women and Establishing Grassroots Protection Networks project (EWP) 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 has trained and worked with 36 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, gender, 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, youth, women and CBO representatives. Trainings are conducted at the Aldea level, with 10 Aldeas targeted yearly, and cover conflict resolution, child protection, positive discipline, domestic violence and gender frameworks, and access to justice. Based on this work, Ba Futuru will develop three sets of policy recommendations to highlight issues identified and bring grassroots concerns to the national consciousness. Over three years, the project aims to benefit about 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 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 systems. In addition, when cases are reported, victims face additional challenges in slow judicial processes, lack of protection during the tribunal process, under-resourced and under-staffed 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.

Ba Futuru hopes that these recommendations bring to the national conscience gaps remaining in the protection system both at the grassroots and formal levels. So doing, we sincerely hope government actors take these issues into consideration and follow our recommendations to improve the system of protection for vulnerable persons and decrease endemic rates of domestic violence across Timor-Leste.



Laws on Domestic Violence

1. The Law Against Domestic Violence (LADV), among other things:

- i. Defines domestic violence generally as any act against a family member which causes physical, sexual, emotional, or economic harm (Arts. 2 and 3);
- ii. Clarifies that certain crimes in the Penal Code, when committed in a domestic context, are public crimes which may therefore be reported by *anyone* and the resulting legal case can not be closed except with judicial consent (Arts. 35 and 36);
- iii. Creates a **protective measure** available through the court to remove the perpetrator from the victim's home (Arts. 37 and 38.2);
- iv. **Requires police to refer all cases of domestic violence** to prosecutors within five (5) days of learning that the violence has occurred, and to inform victims of their rights (Art. 24 and 25);
- v. Sets-up a system of free support services for victims, with professional standards for their staff, including:
 - 1. Safe houses**
 - 2. Medical services**
 - 3. Legal services**
 - 4. Emergency support services and reception centers**
 - 5. Financial support for the victim from the perpetrator (maintenance), or from MSS if the perpetrator is unable to pay**
- vi. Requires prosecutors to provide victims assistance and inform them of their rights, in addition to all other obligations under the Penal Procedure Code (PPC); and
- vii. Requires the government to raise awareness and coordinate a response.

2. The National Action Plan (NAP), as the implementing document for the LADV, outlined the following areas to address with specific roles and timelines for various branches of government:

- i. Prevention
- ii. Services
- iii. Access to Justice
- iv. Monitoring and Evaluation

3. Under other laws:

- i. **The Law on Community Leaders and their Election (LCLE)** requires Chefe Sucos to report *all* cases of domestic violence, and requires Chefe Sucos and Chefe Aldeias to create special support for victims within their own communities.

Brief Findings and Recommendations

1. Findings

Community attitudes, such as the belief that domestic violence is a private issue or that a victim must be bleeding in order to refer a case, continue to hinder protection.

Through the EWP, we have found that most community leaders still have little to no understanding of gender and the LADV. Based on the EWP trainings for nearly 500 key actors, **data shows that in the pre- survey only 23% reported knowledge of gender-based violence concepts while after the training this number increased to 96%.**

Ba Futuru has found one of the largest obstacles for victims to be **economic dependency**. Unfortunately, **services for victims remain inadequate and inefficient for victims**. Additionally, few victims know of which resources are available or how to access them.

Accessing the system is too difficult and daunting for most victims, especially those in rural areas. Even if victims do attempt to access the system, **key actors hinder their meaningful use of the system and long delays in the process** often cause victims to abandon their case or lose hope in the process due to delays.

Because the formal system is too difficult to access, too unfamiliar, and/or too inefficient for most victims' needs, many turn to **the traditional justice system**, which has few protections for victims. For example, as reported by one of Ba Futuru's PTMs in Lenuk Hun, Camea, tara bandu was used in dealing with a sexual assault case involving a 16 year-old girl abused by a married man, resulting in pregnancy. The police, Chefe Suco and Sub-District Administrator resolved this using tara bandu. The girl was never given a chance to speak or express her feelings. The perpetrator was charged \$1000, a goat and clothes for the victim. The *victim* was forced to pay the *perpetrator* a *tais* and *accept the man as family*. The authorities also forced the victim and suspect to provide food drinks to close the tara bandu session.



2. Recommendations

In brief, all actors should strive to do the following. Detailed recommendations with information about why, how, and who should affect these changes, can be found in the full Recommendations section (page 13).

- i. Direct **funding** to adequately fund services for victims, training for key actors at all levels, and to staff and provide resources to necessary personnel to respond to domestic violence cases.
- ii. Ensure **adequate training** for key actors at all levels in the protection system, including sensitivity training and legal briefings.
- iii. Ensure **broader awareness** of the law, and available resources, on domestic violence by developing easy-to-understand information packets (which also respond to illiteracy) and increasing the breadth of trainings for key actors.
- iv. Increase **accessibility and efficiency of services** for victims and develop **creative strategies** for targeting rural and dispersed communities.
- v. **Revise the legal framework** to ensure protection of victims, efficiency, justice, and rehabilitation, including: mandatory trainings for perpetrators, protection orders for victims, efficient procedures, and better sentencing.
- vi. Incentivize and push for modifications to the **traditional system** to protect victims and encourage local leaders to fulfill their duties, and encourage shifts in attitudes toward using the formal system.
- vii. Hold actors accountable for fulfilling their requirements under the law and enforce **sanctions** for those inhibiting justice.
- viii. Continue and expand programs to **change attitudes** about gender-based and domestic violence, specifically targeting grassroots levels and schools.
- ix. Implement **better data collection and case management** programs across all protection sectors to enable victims to more easily follow their case and to increase understanding of DV issues to more efficiently direct funding and resources.
- x. Conduct **sincere and sufficient monitoring and evaluation** of government programs to understand the issue and where resources need to be targeted.

Findings



1. On Prevention

i. Societal attitudes still suggest problems

Societal attitudes, which pervade even to the formal justice system, severely inhibit efforts to decrease the number of domestic violence victims. Awareness-raising, socialization of the law (especially the LADV), and programs aimed to combat these attitudes must therefore receive priority in the protection scheme.

Domestic violence is still considered by many to be a **personal or family issue**, which should be discussed with local leaders if discussed outside the family at all. However, as explained below, community leaders do not adequately understand the LADV, child protection, or gender issues. As a result, those victims who do take their case outside of the family may find inadequate support or be forced to resolve the problem according to the Chefe Suco's beliefs. Additionally, in Atauro, religious leaders are almost always incorporated into the discussion. Unfortunately, however, many of the religious leaders with whom Ba Futuru has interacted show very little understanding, if any, of the LADV, and hold attitudes toward domestic violence and women's issues that belittle the harms of abuse. Moreover, as most leaders are male, women and girls often feel reluctant to report and discuss cases with these leaders, especially when sexual violence is involved.

In addition, attitudes about the types and extent of harms that constitute domestic violence create a **dangerous threshold of harm** for victims. For instance, Ba Futuru's work consistently confirms that many people believe that the victim must be bleeding for their injuries to constitute domestic violence—a belief which discounts the psychological, sexual and economic crimes, as well as the physical harms that do not necessarily result in bleeding, which are codified in the LADV and Penal Code as constituting domestic violence. Particularly disconcerting is the fact that police officers have expressed the same “ra'an sai” (bleeding) standard to victims with whom Ba Futuru has worked.

Moreover, patriarchal beliefs about **what is best for women and children** in terms of support and the family unit have forced victims to remain in violent relationships despite having gone to

authorities with their cases.

This is particularly worrying given that most victims of domestic violence do not report their attacker until the abuse has reached an extreme level. While financial dependency does severely impact victims' abilities to leave their attacker, the choice of whether to pursue a case and the understanding of financial consequences should be the *victim's* choice, as she is in the best position to weigh whether the abuse is significant enough to risk financial instability. Unfortunately, authorities—from local leaders all the way to judicial officers—do not seem to understand this dynamic. We have heard reports that police officers commonly refuse to report a case to the Prosecutor because they believe it will harm the woman or children economically. Second-guessing victims' choices (even if done so with good intentions) forces women back into situations



they have finally gained the courage to leave.

ii. Publications and information about the law are difficult for the general population to understand

While the LADV and supporting laws are a crucial step in ending domestic violence in Timor-Leste, effective socialization of these laws is necessary for their successful implementation. The LADV, Article 10, thus requires awareness raising programs.

The NAP (point 2.2) in-

corporates this standard by requiring the Secretary of State for Promotion of Equality (SEPI) to print hand-outs about the LADV and nature of Gender-Based Violence (GBV), and SEPI has admirably made copies of the Law available in Timor-Leste.

Unfortunately, Ba Futuru is finding these hand-outs inadequate. Few people in Timor-Leste are trained in law and therefore cannot understand the law by simply reading the text. Moreover, legal

Tetum often includes borrowed words that are unfamiliar to most citizens.

Simply reading the actual language of the law therefore does not provide victims with much insight into their rights, nor does it work to discourage offenses, because few people could understand the criminality of domestic violence. **These documents must be simplified to make them accessible and adequately informative to the general population.**



This problem is compounded by the fact that **high rates of illiteracy** in Timor-Leste restrict the ability of the community to read the law, even in simplified forms. According to an UNFPA Timor-Leste survey, more than half the women and more than 40% of men in Timor-Leste are illiterate.¹ Although some news and radio broadcasts reading the law aloud would reach illiterate audiences, a sincere understanding of the law requires distilled information in a way the average citizen can understand.

iii. Not enough local leaders know or appreciate the LADV despite trainings; and, most do not understand their obligations under LCLE

Despite the NAP (1.1.1) requirement that community leaders receive training on the LADV and the nature of gender-based violence, through Ba Futuru's trainings with key actors, we have found a significant lack of awareness among these leaders. From both urban areas in Dili to rural Atauro, our program confronts the same misconceptions by community leaders. Based on the EWP trainings for nearly 500 key actors, **data shows that in the pre-training surveys only 23% reported knowledge of gender-based violence concepts, while this number increased to 96% after the training.** And, in our baseline surveys with community leaders across Lahane Oriental, Camea and Atauro from 2012 to 2013, only 24% of respondents reported knowing about the LADV.

For example, after a training in Makadade, a male story teller (59 years old) commented, "In the past I always thought that women have no rights and they have to be obedient to the man or their husbands. However, through this training, I have learnt that men and women have equal rights and they need to completely respect each other as a human beings."



Of particular concern is the continued reliance on traditional justice despite the requirement in the *Law on Community Leaders and their Election* that *Chefe Sucos* report all crimes. Not only do **Chefe Sucos continue to rely on traditional justice as their main means of dealing with domestic violence, many of them discourage victims from pursuing other forms of justice** if the victim wishes to. Community leaders are often the first point of contact—and often the only point of contact within reasonable proximity—for DV victims. As such, they hold remarkable power to shape the victim's response to, and position in, a DV situation.

iv. There are too few programs for offenders and not enough emphasis on programs in sentencing

The NAP and LADV made an important connection in understanding the need to train and rehabilitate perpetrators. However, Ba Futuru has not seen enough support for these programs, especially as they relate to prevention and suspended sentences, nor has the government taken the necessary initiative to make such programs mandatory. As such, most of the behavior-change programs currently in existence are primarily voluntary and do not adequately target perpetrators. Domestic violence will not have a meaningful end unless perpetrators learn why their actions are illegal and unhealthy, and the cycle of violence can be stopped. This is also an extremely important area of need given the deeply-rooted negative stereotypes about divorce and the fact that many victims do not feel able to completely separate from their attackers.

Until these mentalities can be shifted, programs aimed solely at punishment and justice will be inadequate to respond to the domestic violence problem in Timor-Leste. Prevention and rehabilitation to shift family dynamics and attitudes regarding violence will be crucial, and could be a cost-effective response for the government, considering the endemic levels of violence currently going unstopped.

¹ UNFPA (Aug. 2010), Available at: <http://countryoffice.unfpa.org/timor-leste/2009/11/02/1482/timor-leste-democratic-republic-of/>

2. On Services



Through interviews with victims and Protection Team Members across Lahane Oriental, Camea and Atauro, Ba Futuru has found that one of the largest obstacles for victims is economic dependency. In response, the LADV developed an important prong in the protection system, which provides necessary services to victims. Unfortunately, despite this framework, services remain inadequate and inefficient for victims. Additionally, few victims know which resources are available or how to access them.

Where a victim has accessed assistance, services have been too slow and require consistent follow-up. For example, Ba Futuru assisted a victim beaten so badly by her husband that she could not walk for several weeks. It took two and a half months for the victim to get financial support. It then took *six months* to get two bags of rice. Throughout this time, Ba Futuru repeatedly had to call MSS to follow-up and remind them to provide support to the victim. And, eventually, Ba Futuru went to the MSS office to provide transport for the government focal point delivering the rice. Moreover, victims have been forced to wait long periods, even just to do a needs assessment. Ba Futuru informed MSS in April 2013 of an abandonment case, and MSS said that it would do an assessment to verify the victim's needs. To date, no assessment has been made nor have services been provided.

One particular problem with the implementation of the LADV and NAP is that support centers, direct assistance or **emergency assistance services are slow to be created and trained**. Such coordination mechanisms are crucial in the protection matrix as they provide victims an easy-to-access point for information and an advocate in the legal process. As the national system is difficult to reach for most at the grassroots level, and because service providers are too overwhelmed with cases, local coordinators assigned specifically to cases would help bridge the gap at the grassroots level between the formal protection system and the victim. MSS made an important step toward filling this gap when, in August 2013, they hired and trained one gender focal point per district and also hired and trained additional Child Protection Officers (CPO/OPLs) to ensure coverage across all districts.

Unfortunately, this model still provides inadequate protection for victims, as two people could not possibly adequately support the protection needs of an entire district. Indeed, in Atauro, where we have trained and placed Protection Team Members in each *aldeia*, these members report being unable to promptly respond to some claims due to distances and travel restrictions.

Moreover, because Atauro is included in Dili District, no special focal point is allocated to the island, which is far removed from the mainland. Additionally, we have heard reports that the MSS officers that are in the field often spend the much of their time assisting veterans. It is therefore crucial that MSS ensure that officers dedicated to protection issues are utilized only for vulnerable persons' protection.

While the LADV guarantees and regulates **medical support services**, Ba Futuru has identified a crucial security issue in these services. Victims who require follow-up procedures after being taken to the emergency room are placed among the general hospital population without any additional protections. Even when police have brought victims to the hospital after a DV call, they often do not remain there to ensure the victim's security. As such, perpetrators have easy access to return and contact the victim—at a time when the victim is at their most vulnerable. While security exists at the hospital, there is no protocol for visitors or no-contact lists. There is also no private room with additional security and visitor restrictions in which victims can be secured. Recently, in one of the EWP's target areas, the PTM identified a domestic violence case and successfully called the police to do an intervention and take the victim to the hospital. While the victim was in the hospital, however, her husband arrived and took her back home. The police had not remained with the victim to stop the husband from contacting the wife, and no one from the hospital intervened or inquired as to the husband's identity. While the Fatin Hakmatek does offer important protections for victims and medical forensics, our team has found a gap for victims not yet healthy enough to move to the Fatin Hakmatek.

In addition, hospital staff, police, and the Fatin Hakmatek must improve communication whenever a domestic violence victim is taken to the hospital.

Moreover, **victims still remain unaware** of what resources are available and how to access them. For example, Ba Futuru has worked on several cases in which the victim felt hopeless until Ba Futuru explained what services are available. Despite terrible abuse, many victims are hesitant to leave their home, fearing they would be unable to support themselves and their children. When Ba Futuru has informed victims of resources, most never knew such resources existed. Regardless of the government's best efforts to implement and create service programs responding to victims' needs, these programs are insufficient unless adequate information is provided at the grass-roots level to ensure victims know of—and can access—support.



3. On Access to Justice

Accessing the formal protection system is too difficult and daunting for most victims, especially those in rural areas. In several cases of domestic violence discovered through 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 long periods of 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.

In Atauro (and likely other rural areas), this is all the more common. Since beginning the project on the island in December 2012, Ba Futuru's team has identified thirteen cases. However, only two have been referred to the formal system, with most victims indicating it would be too difficult to travel to Dili to access resources. As a result, Ba Futuru has found that many victims rely on the traditional justice system rather than accessing formal justice.

Even if victims do attempt to access the system, **key actors hinder their meaningful use of the system.** Ba Futuru has received numerous reports, especially in Camea, Dili, that community police are insensitive to domestic violence victims and often refuse to process the case. While VPU officers are strong and trusted in referring cases, with only six VPU officers for Dili, the community police are more often those that respond to calls. The EWP team has also identified one police station in Dili that interviews victims in public spaces—behavior that discourages victims and others from reporting due to sensitivity concerns. In addition, as discussed below, prosecutors and judges hinder victims' justice by undercharging or issuing suspended sentences. And, throughout the system, victims report being encouraged to abandon their claims by police, prosecutors, and judges. In this regard, training for all actors involved in the system is



crucial and has not yet been provided.

Aside from these professionalism concerns, **long delays in the process** often cause victims to abandon their case or lose hope in the process. As a first obstacle, even receiving an initial police response to a complaint may prove difficult. In Camea, our PTMs report that they rarely call the police in a domestic violence case because the police may never respond, or may not even answer the telephone call. While the VPU are skillful in responding to domestic violence calls, there are only six VPU officers to cover the entire population of Dili District. In Atauro, this concern is very real due to the fact that zero VPU are based on the island.

Additionally, long delays once a case has been reported discourage victims and erode the status of the formal system. In all fourteen cases Ba Futuru has referred, the police have taken far longer than the 5 day maximum to refer the case to the prosecutor—indeed, in one case, the victim has heard no update since reporting her case to police nearly one year ago. As a result, victims have had to repeatedly travel, at their own expense or with the help of Ba Futuru, to the police station to check the status of their case, only to learn that nothing has happened. Once the case is processed through to the prosecutor, it may take *years* before the case appears in court. During this time, the victim is likely being pressured by the perpetrator or others to close the case and reunify the family. Alternatively, the victim must wait in a safe house away from family, or struggle for support. While part of the delay may be due to a lack of human resources at all levels, especially among judges, it also reflects a

decision not to prioritize these cases. Simple internal policies at the PNTL, Office of the Prosecutor General and the Ministry of Justice to expedite domestic violence cases could go a long way to clearing some backlog.

Once the case reaches the court, victims rarely find the justice they seek or need due to the **mishandling of cases** or actors not fulfilling their professional roles. In too many cases, graphic physical assaults are charged as “simple offenses against physical integrity” (Art. 145) when they should be classified as aggravated “serious offenses against physical integrity” (Art. 146 and 147). In July alone, of the 22 cases JSMP observed, thirteen were charged as domestic violence cases, and all thirteen of those cases were charged under Article 145. Similarly, Ba Futuru has been involved in at least one case where the prosecution failed to investigate all of the facts that would have shown a context of dependency, and thus did not charge the case as domestic violence. This meant the case was considered a semi-public crime, leaving the victim subject to pressure to close the case. Most shockingly in that case, the pressure came from the *judge and prosecutor*. When cases are improperly charged and pursued, victims—and those who hear their stories—are dissuaded from using the formal justice system, and opportunities to work toward improving the system are lost.

Perhaps the biggest obstruction to meaningful justice in domestic violence cases is the number of **suspended sentences** issued, even in extremely brutal cases of violence.

While suspended sentences may be a good way of ensuring that the main economic supporter of a family is not sent to prison, this remedy is used too often in domestic violence cases. Where significant physical harms have occurred, suspended sentences not only send a dangerous perpetrator back to the community and the victim, but they also send a harmful public message that even the worst cases of domestic violence will not be taken seriously by the courts and that perpetrators will face no serious consequences for their behavior. Moreover, there are currently no adequate systems in place to ensure the perpetrator does not repeat—or escalate—the violence despite the suspended sentence. Many have raised concerns about the need to ensure the court communicates these sentences to police for enforcement if violated. And, specific officers need to be assigned to ensure enforcement.





Of significant concern is not only the effect this system has on victims, but also the secondary effect created by the larger message sent to society generally. **The formal system currently sends a message to victims and perpetrators that cases will not be processed quickly, that victims' needs are not taken seriously, that the system will not accommodate those who live far away or have minimal resources, and that value on maintaining the family—even if abusive—will be emphasized above all.**

Particularly worrying is the **lack of protection** for victims both during and after the legal process. Domestic violence victims place themselves in additional danger when they report their attacker.

It is thus crucial for the formal system to respond with adequate protections. Currently, the LADV has an option for protection orders issued by the court at any time before or during the trial (Art. 37) and as a supplement to any sentence issued (Art. 38.2). However, Ba Futuru knows of *no such orders having been issued*. Additionally, the law currently provides no civil protection orders, including ex parte emergency orders, which are a crucial means of protecting victims without forcing them to begin criminal proceedings against a spouse that may result in further anger, and potentially more violence. In our conversations with PTMs and victims across Dili and Atauro, Ba Futuru has found that the concept of a protection order is generally supported.

It should be noted, however, that there is sincere concern that forcing the suspect out of the family home may result in retaliation or threats by the suspect or the suspect's family. In addition, questions remain as to whether the order would be enforced when issued. It will thus be essential that police are properly trained on enforcing such orders.

Because the formal system is too difficult to access, too unfamiliar, and/or too inefficient for most victims' needs, many turn to **the traditional justice system**. And, many key actors continue to rely on the traditional justice system based on misconceptions and lack of understanding of the LADV's requirements and the criminality of domestic violence.

Devastatingly, **no complimentary protections** have been established in the traditional system to ensure victims' rights are protected and justice served. Because the goal of traditional justice systems is community and family harmony, justice for the victims (and the possibility of separating from the abuser if necessary) may be secondary to the goal of collective harmony. This results in victims being forced to remain in unsafe environments. Moreover, because the leaders in charge of the traditional system are overwhelmingly male, women's needs and rights may be subverted. In addition, the punishments of the traditional system often

involve an exchange of goods between families. This sends a message to perpetrators that their victims can be bought, and also further victimizes the family as the cost of the goods will come from family funds.

For example, one of Ba Futuru's PTMs in Lenuk Hun, Camea reported that the police, Chefe Suco, and Sub-District Administrator used tara bandu in dealing with a sexual assault case involving a 16 year-old girl abused by a married man which resulted in pregnancy. The girl was never given a chance to speak or express her feelings. The perpetrator was charged \$1000, a goat and clothes for the victim. The victim was **forced to pay the perpetrator** a tais and accept the man as family. The authorities also forced the victim and suspect to provide food and drinks to close the tara bandu session.

4. On Monitoring and Evaluation

As the EWP focuses on linking the grassroots protection system to the formal system, Ba Futuru has not been heavily involved in coordination, monitoring and evaluation of the larger NAP system. We have, however, found that the first NAP report was inadequate as a sincere review of progress and needs. Many of the indicators in the NAP report had no update. Those that did have an update mostly included numbers of trainings and participants rather than quantitative and qualitative outcomes, such as pre- and post-training surveys. To better understand areas of need and where to direct resources, Ba Futuru would seriously suggest each government body conduct a more formal evaluation showing change rather than simply participation.





Recommendations

1. For the National Parliament of Timor-Leste

i. Revise the LADV, Penal Code, Penal Procedure Code, and Civil Code to:

1. Make the definition of DV simpler in the LADV

Currently, the definition of family in the LADV is too confusing to meaningfully target all forms of domestic abuse. Because the definition includes a requirement of “dependency and household economy” and a long list of ascendancy requirements, actors and victims do not adequately understand the definition of domestic violence. As a result, investigators and prosecutors must have detailed knowledge of the law and the facts of each case to adequately charge it as domestic violence. Unfortunately, where a detail is missed, prosecutors may charge the case as a semi-public crime, believing that it does not meet the full definition of domestic violence. This leaves the victim vulnerable to pressure to close the case. The definition should therefore be revised to include 1) an act, which meets the definition of any of the crimes in Article 35; committed 2) by a family member, spouse or ex-spouse, or intimate partner against any other member of that family or relationship, or one in a context of dependency.

2. Make protection orders more accessible

Although the legal framework provides criminal options for protection orders, as discussed in the Findings section, we know of *no such orders being issued*. In addition, the process to receive an order is too lengthy as currently written and there is no *civil protection order*. Through our work, Ba Futuru has found that most victims and community members believe a protection order would be an important measure, though there are fears of retribution if the order expels the suspect from the home.

An important remedy for this would be to **revise the LADV and Penal Procedure Code to make protection orders a mandatory part** of any sentence, especially if suspended, in a domestic violence case. Because an order could be processed within the same proceeding at the time of the decision, there would be fewer burdens on the judiciary’s and prosecutor’s already strained resources. And, because it would not be a request by the victim but, rather, a required part of a sentence, there would be less chance of retribution against, or animosity toward, the victim.

Additionally, **the LADV and Penal Procedure Code should be revised** to allow a simpler procedure for obtaining an order, including allowing judges to issue the order without prosecutor application, and providing ex parte orders that should be available 24 hours a day and 7 days per week. The **Penal Code** should also be amended to include separate **crimes for violating a protection order** or aiding in the violation of an order. Moreover, **amending the Civil Code to allow for emergency and long-term protection orders** with an easy application process would be a particularly important change because civil protection orders do not impose a criminal penalty and can be processed more quickly. These remedies should be supplemented by **requiring notice of each order be provided to the victim, the perpetrator and the police**.

3. Ensure sentences serve justice

As discussed in the Findings section, there are currently issues with sentencing which risk the violence reoccurring and do not end the cycle of violence, especially when suspended sentences are given in cases of gross physical violence. The **Penal Procedure Code** should be amended to provide **mandatory minimum sentences** in cases of physical domestic violence. In addition, the PPC should be amended to list factors the judge must consider in issuing a suspended sentence or fine (For example: the severity of the harm, safety of the victim, the defendant's willingness to take a course, and the likelihood of children viewing additional violence).

To ensure perpetrators change their behavior, the **LADV and PPC should be revised to make follow-up and treatment mandatory** in every case where the suspect is found guilty, even if a suspended sentence is issued. The **Penal Procedure Code** should also be amended to ensure monitoring of suspended sentences, and application of the sentence if the convicted person goes on to commit a further crime.

4. Discourage use of traditional justice

While the traditional justice system may serve as a useful compliment to the formal system, it is inappropriate for domestic violence cases. The **LADV should be revised to incorporate rules on reporting from the LCLE** to ensure that any trainings on the LADV alert local leaders to their reporting responsibilities and decreases the use of traditional justice.

In addition, the **LCLE should include sanctions or incentives** to ensure local leaders adopt and implement protections for victims of domestic violence in their communities.

ii. Allocate funding for the following

1. MSS: trained human resources (specifically for social workers, CPOs and gender focal points), support for women and children, safe houses, and awareness raising.
2. PNTL: training, materials, phone lines dedicated to DV calls, safe spaces for interviews.
3. MoJ: additional judges, separate waiting rooms for victims, facilities in courtrooms to enable video-link testimony.
4. MoH: safety/security rooms.
5. SEPI: trainings for offenders, economic empowerment programs.
6. Money to SEPI and various educational institutions for detailed and wide-reaching research on DV/GBV in Timor-Leste and comparative studies to ensure the state budget is allocated in terms of needs.

iii. Provide stronger oversight to ensure government bodies adequately perform under the LADV and NAP

1. Work with the Ministry of State to ensure Chefe Sucos follow their reporting requirements.
2. Hold the Ministry of Justice accountable to sentencing guidelines.
3. Hold SEPI accountable for outcomes of the trainings they are supposed to provide—not just the numbers of people trained.
4. Hold the Secretary of State for Security accountable for training all PNTL officers.

2. For the Ministry of Social Solidarity (MSS)



i. Increase access to and effectiveness of support services

As the entity charged with providing most social services for victims, MSS plays a crucial role in the protection scheme. While many of its programs are now running and being implemented, **MSS must work to make these services more effective and efficient.** As outlined in our findings, many victims wait months to receive assistance and must constantly follow-up about with MSS. This leaves victims vulnerable to additional attacks or pressure to return to their attacker. MSS should create a more easily accessible application system for services and provide enough trained human resources to quickly respond to requests. Perhaps MSS could utilize civil society organizations or other focal points to act as a clearinghouse for resources and requests. Indeed, Ba Futuru's PTM model serves well as a link between victims and MSS. This model could be adopted and replicated throughout the country. In addition, MSS should ensure the planned, dedicated support telephone line is implemented and adequately staffed.

ii. Increase awareness of support services available

In addition, MSS must make these services—and how to access them—known across the country. Currently, our program has been successful in securing social assistance for about ten victims. However, none of those victims knew of these resources or how to access them until Ba Futuru assisted them. Perhaps the introduction of additional CPOs and Gender Focal Points (GFPs) in every district will enable MSS actors to more easily provide victims with information about their rights and resources. However, as this only provides one GFP and two CPOs per district, it will be impossible for these actors to adequately provide support and information across an entire district. MSS must also conduct a wider campaign of awareness raising to ensure victims have relevant information and telephone numbers. Perhaps these resources could be included in SEPI's informational publications on the law.

iii. Ensure funds to adequately staff and train human resources

MSS made an important and laudable step forward in August 2013 by hiring and training one CPO and one GFP for each district. However, to adequately deal with the caseload and demand, **MSS must ensure these officers are adequately funded and that these positions continue to be staffed.** For example, as each focal point will be responsible for covering a full district, ensuring transportation and communications support will be crucial. The UN Handbook on DV recommends one officer per 50,000 people. MSS should ensure that it is meeting this requirement for both CPOs and GFPs. It should look, however, at altering this model based on the disparity in district populations and consider making it one officer per certain distance to ensure that coverage is appropriate. In addition, resources should be used to adequately train these staff.

3. For the Secretary of State for the Promotion of Equality (SEPI)



i. Revise publications and ensure widespread distribution

As the entity responsible for awareness raising on the LADV, the Secretary of State for the Promotion of Equality (SEPI) **should ensure that its materials are easy to access and easy to understand**. As discussed in our findings, the materials currently available in most areas include only a copy of the text of the LADV without synthesis of the material, descriptions in laymen's terms, or images that respond to illiteracy concerns. SEPI should thus work to revise its publications appropriately. Incorporating information from civil society materials that have already proven successful would be a wise start. In addition, these materials should be widely distributed to guarantee that victims, perpetrators, and key actors all have some access to materials that can help them understand their rights and responsibilities.

SEPI should consider working with MSS to utilize the new CPOs and Gender Focal Points to raise awareness of resources and domestic violence issues. MSS and SEPI should orient the CPOs/GFPs so that they do not just share information with the Chefe Suco and Suco Council members, but with all community members. Moreover, SEPI and the CPOs/GFPs should train the community on how to use materials, rather than simply give to each suco to put in their office.

ii. Revise trainings and target all key actors

While SEPI is charged with trainings for local leaders, **the community leaders** with whom we have worked—even in urban areas of Dili—**show a low level of comprehension** of both the LADV as well as their responsibilities as community leaders. One specific remedy on this front would be to modify SEPI's plan under the NAP to train all Chefe Sucos to instead include training for *all community leaders*. In addition, SEPI should consider utilizing other civil society organizations to provide trainings. This will ensure that trainings have the broadest reach possible. At a minimum, SEPI should incorporate materials successfully used by civil society organizations into SEPI's trainings. Additionally, if it currently does not include the *Law on Community Leaders and their Election*, SEPI should revise its training program to highlight the *legal obligation* of community leaders to report crimes. SEPI may also wish to work closely with the Ministry of State to develop creative ways to ensure community leaders attend the full length of the training. For instance, **SEPI should tie funding allocated through NAP 1.1.2 (to support Suco-proposed GBV programs) to the leader completing training**.

iii. Increase economic empowerment through more varied methods

Currently, SEPI is required to raise the economic empowerment of women. This is a crucial step in ending domestic violence, as Ba Futuru has found that women often remain in dangerous relationships due to economic dependency on their abuser. SEPI should ensure that economic empowerment programs continue and expand. Importantly, they must also **ensure that economic empowerment programs fit with the needs of women at the grassroots level.** Most women with whom we spoke said money to open a small shop would be good support, as it would enable them to stay near their children while working. However, several others have responded that, depending on the victim's ability, training programs



and/or assistance finding employment would be better. Moreover, additional support should be put into ensuring women's empowerment well before violence occurs in the home. Most importantly, of course, will be ensuring that any economic assistance is readily available and easily accessible when needed.

iv. Prepare and conduct anger-management/DV courses for

offenders in concert with MoJ and civil society partners

As discussed in our findings, anger-management and rehabilitation programs are crucial in ending cycles of violence, particularly in light of cultural attitudes toward family, divorce, children's rights, and women. Not only should **SEPI develop and/or support these programs, it should work with**

the Ministry of Justice to make them mandatory for all domestic violence perpetrators. In addition, SEPI should work with local leaders to encourage incorporating such trainings at the community level. While perpetrators processed through justice systems should be a priority for training programs, SEPI should work to expand these programs to increase prevention of domestic violence.



4. For the Secretary of State for Security (SoSS)



i. Remove mandatory rotation for Investigations Unit and VPU officers

Ba Futuru has overall been impressed by the ability and dedication of the VPU. Because of the VPU's effectiveness, community members are increasingly likely to report cases to, and feel comfortable with, the police. Unfortunately, however, these **advances may be lost if officers are regularly transferred and changing**. Currently, the PNTL implements a policy of mandatory rotation for all units, which forces VPU staff to transfer out of the VPU and new, inexperienced officers would need to rebuild community confidence and become familiar with this work. Instead, the SoSS should remove the mandatory transfer provision for VPU officers and continue to support their work. Similarly, the Investigations Unit should be removed from the mandatory rotation requirement, as specialization and familiarity in this field will increasingly be important as more DV cases are reported and processed in the court systems.

ii. Providing training for all police, not just VPU

The SoSS made a significant step forward in developing, training and supporting the VPU. Unfortunately, because the number of VPU officers is limited, coverage in some areas is impossible or too slow. Instead, these citizens must rely on the community police, which Ba Futuru has found are **unprepared to deal with domestic violence cases and therefore may actually harm the victim**. Thus, **SoSS should ensure that all police receive training on the basic requirements of identifying and reporting domestic violence cases**. A simple Standard Operating Procedure (and hand-out) should be developed and implemented to help officers understand what constitutes domestic violence and what must be done when responding. Similarly, sensitivity trainings and lessons on how to properly interview vulnerable victims should be included in basic curricula for all PNTL.

iii. Ensure police are not a roadblock to justice

Too often, police have become a roadblock to justice in the communities in which Ba Futuru works. We have identified that police discourage reporting, refuse to file a case unless the victim proves she has first used traditional justice/mediation, apply a "ra'an sai" standard that requires a victim to be bleeding for a report to be filed, and lack care in interviewing child and female victims and witnesses. These kinds of practices are dangerous and undermine the protection system. Not only is training required to discourage these attitudes and reinforce legal obligations for police officers, **sanctions for those who do not follow their obligations should be developed and**

enforced. Only when police understand that domestic violence cases must be taken seriously will cases be properly processed.

iv. Direct resources to rural areas and provide sanctions if resources are used for personal, not professional, purposes

While resources are understandably limited, all entities should ensure that they are intelligently allocated and properly used. In too many cases, Ba Futuru and other partners have reported stories of a victim who did not receive speedy attention because a vehicle allocated to the police unit was being used for some other purpose or had no petrol. These kinds of mistakes leave victims unnecessarily vulnerable, yet are easily remedied. **Additional funds should be allocated to direct resources to rural areas, where it is most difficult to respond to victims. Where funds have been used to allocate a resource, the government must ensure that it is used properly.** And, if there are reports that it is not, there should be punishments to ensure that the behavior is not repeated or condoned.

v. Establish a protocol with OPG/MoJ to enforce protection orders

As discussed in our findings, protection orders are a crucial area to enhance security for victims and increase the likelihood of reporting. Although we know of no such orders being issued, the police will play a crucial role in giving effect to these protections. The SoSS should work with OPG and MoJ to develop a protocol and implement a system for communication on protection orders. This should ensure that each order issued is reported immediately to the PNTL, and especially to the VPU and the community police in the victim's area. **The SoSS must also develop protocols and ensure all police units are trained on their legal responsibilities and how to enforce protection orders.**

vi. Establish and utilize a consistently working database of DV cases

Due to the long processing times for domestic violence cases, victims are often forced to **continually check on the status of their case.** While the PNTL have implemented a case processing system, this system is rarely working properly and is not easily accessible for victims. The system should firstly be improved to ensure that it always works. In addition to assisting victims and their lawyers, this program could also provide statistics on cases and processing times to help generate a better understanding of where and how to direct state resources in battling domestic violence.



5. For the Ministry of Justice



i. Develop sentencing guidelines that ensure justice and prevent repeat offenses

To change the cycle of violence in Timor-Leste's homes, perpetrators must understand why their actions are illegal and damaging. Courses on gender, anger management, conflict resolution, and child protection can help transform attitudes. **The MoJ should make attending and passing these trainings mandatory as part of all sentences issued in domestic violence cases.** Especially in the case of suspended sentences, such a requirement will decrease the likelihood of repeat offenses and send a message that domestic violence is taken seriously.

Suspended sentences have been documented by JSMP in too many cases. While Ba Futuru recognizes the advantages of this system in certain cases, we encourage the MoJ to consider the societal message this sends about the seriousness of DV, and also consider how suspended sentences impact the protection of victims. To reinforce nationally that domestic violence is taken seriously, and to ensure victims' safety, **sentences imposed should equal the harm suffered by the victim.** Suspended sentences should never be issued in cases of physical harm.

If the courts determine it is in the best interest of justice to issue a suspended sentence, judges should be required to issue, in coordination with the sentence, a protection order. Including this as a requirement in sentencing guidelines will ensure the protection of victims. Because orders are rarely sought due to fears of retribution against the victim, and not processed due to burden on the prosecution and court system, making protection orders mandatorily issued in coordination with a sentence may decrease the likelihood of retribution and ease the burden on the courts.

Ba Futuru also notes that judges are currently substituting imprisonment with fines. The MoJ should reaffirm with all judges that this may only be done "provided...the security of the victim can be guaranteed [and] the perpetrator agrees to undergo treatment..." (LADV 38.1). Moreover, because fines often come from the family finances, thereby hurting the victim and children, they

are not a recommended choice of punishment. **However, if a fine is imposed, the court should consider requiring the fine be paid to the victim, rather than the court.**

ii. Develop easy-to-use protection orders and work to make it easier for victims to apply and obtain emergency orders

Protection orders, both before, during and after trial, play a key role in protecting victims and in ensuring cases move forward without interference from perpetrators. Unfortunately, Ba Futuru knows of no such orders being issued despite Articles 37 and 38.2 of the LADV enabling the court to issue them. **Judges must begin to utilize these articles, especially in light of the numerous suspended sentences being issued and long delays in case processing that leave**



the victim vulnerable.

The MoJ should also work to make protection orders more easily available for victims. An easy-to-use application form should be developed and distributed to all legal and social services entities work-

ing on domestic violence. In addition, the MoJ should endeavor to make emergency orders available 24 hours a day and 7 days per week by ensuring a dedicated judge is on duty at all times for such orders.

iii. Ensure judges know their responsibilities and that promotions reflect merit

Ba Futuru has seen that judges are not pursuing justice as they should. In at least one case we have observed, the judge encouraged a victim to drop the case against her abusive uncle: a feat accomplished because the case was improperly charged

as a semi-public crime. Judges must understand that their duty is simply to hear the argument and decide the case—they should play no role in making moral judgments or advising victims, except as to their rights. One particular area of need may be to provide sensitivity trainings to guarantee that judges understand the unique needs and challenges of domestic violence victims, especially children. **To ensure these obligations are followed, a system of merit** should be instituted, through which complaints and improper actions result in deductions in merit. Salaries and promotions should then be based on merit.



6. For the Office of the Prosecutor General



i. More adequately train and ensure prosecutors fulfill their requirement as advocates

As an advocate for the state, the prosecution service should be vigorously pursuing all cases. However, Ba Futuru has found that the prosecution fails to do so in many domestic violence cases. All prosecutors should understand charging requirements and **should not be charging severe domestic violence crimes as simple physical offenses** (Penal Code Art. 145). In addition, the prosecution should be playing a larger role in discouraging suspended sentences by requesting the full penalty, especially when physical harm is involved.

It also appears the prosecution often fails to investigate all necessary facts to prove the highest level of its case. Especially in cases of potential domestic violence, the prosecution must **ensure that it understands all the facts and adequately includes them in charging documents to prove a family connection or economy**. In at least one case which Ba Futuru has referred, the case was charged as a semi-public crime because the victim did not live with her perpetrator; however, had the prosecution investigated further, they would have found sufficient facts to prove a context of dependency as required under LADV 3(c).

Additionally, as an advocate for the victim, **the prosecutor should be ensuring victims have access to protection orders if necessary**. Because the law as currently written requires victims to apply through the prosecutor for a protection order, victims rely on the prosecution to advocate to the judge in this respect. Unfortunately, the fact that we know of no such orders being issued indicates that the prosecutor is not fulfilling its duty in this regard.

ii. Improve communication within the prosecution

While Ba Futuru certainly understands that human resources and time are limited at the OPG, the prosecutors must adequately communicate with each other so that facts are not lost if a case must be handled by a different prosecutor. To enable prosecutors to easily transfer cases within the office, the OPG should utilize the current database that makes understanding the facts and quick transfer of cases possible. However, we have heard that the database is rarely working properly and is not fully understood by actors. It should therefore be improved to ensure that access is always guaranteed and consistently used by all in the system.

iii. Create internal policy to expedite domestic violence cases

The large backlog and delay in case processing is particularly disruptive and dangerous for domestic violence victims compared to other crime victims. Because domestic violence victims are in a unique position of living with their perpetrator, they risk repeated attacks, retribution or pressure not to pursue their case. Alternatively, this is time the victim is forced to spend in a safe house or other unstable situations, often away from their children and other support networks. As such, **the OPG should institute an internal policy expediting domestic violence cases.**



7. For Others

i. Provide additional funding to traditional systems that agree to protect victims

Because many victims, especially in rural areas, rely on the traditional justice system while the formal justice system evolves, Ba Futuru believes the government should work with the traditional system to guarantee that it, at a minimum, adequately protects victims.

For example, all local tribunals should adopt—and enforce—SOPs, victims protections, and sentencing guidelines that respect women’s rights and the seriousness of domestic violence. To ensure they do so, the **government should incentivize the adoption and utilization of such protections by tying funding to areas that agree to and utilize a more protective system.**

ii. The Ministry of Health should guarantee safety of victims and communicate properly with other actors

As discussed above, Ba Futuru is particularly concerned by the lack of protection for victims in hospitals. The **Ministry of Health should therefore institute policies that increase protections.** Lists of non-admittance should be used to ensure perpetrators do not visit the victim. A specific room for domestic violence victims should be allocated to enable security to easily screen visitors. Security allocated to these rooms must also receive specific training on victim safety.

As discussed in our findings, the Fatin Hakmatek, while offering crucial protections for outpatients, are inadequate because they do not provide protection for victims that are too unwell to be transferred from the hospital. Nonetheless, the Ministry of Health should work with PRADET, service providers, and the police to establish better communication to ensure adequate care for all domestic violence victims.





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