



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA MONITORIZASAUN SISTEMA JUDISIAL**

Summary of the thematic report titled Facing the Challenge of Domestic Violence in Timor  
Leste: Can the New Law Deliver?

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This report interprets and critiques the new Law against Domestic Violence (DV Law), promulgated on 7 July 2010; its purpose is to provide suggestions about the preferred interpretation of provisions and identify implications and possible practical challenges of the Law. The report does not address every provision, but instead focuses on key definitional provisions, underlying principles, practical issues regarding provision of services and the relationship between the DV Law and the criminal legal framework.

First, the report commends the broad definitions of family and violence in the DV Law, and particularly the inclusion of sexual, psychological and economic violence as forms of domestic abuse. The principles provide a valuable foundation; JSMP believes the principles of equality and consent are central, but that the victim's withdrawal of consent to an intervention needs to be carefully considered. The interpretation of the DV Law with respect to children needs to be consistent with Timor-Leste's obligations under the Convention on the Rights of the Child.

Second, the report discusses aspects of support mechanisms: the establishment of a network of social, emergency, hospital, police and legal services is a promising framework. The report notes the importance of maintaining confidentiality, professional standards, and the need to develop guidelines for service providers to ensure victims' rights are not compromised by other service provider obligations.

Third, the report identifies the risk of conflicts of interest if the limited number of Public Defenders provides legal assistance to victims of domestic violence. The urgent need for a comprehensive Legal Aid scheme is highlighted as critical to ensure the ethical delivery of legal assistance. Reported instances of private lawyers representing victims being refused access to court proceedings are concerning, and highlight the need for universal recognition of legal representation of victims' rights.

Fourth, the relationship between the new DV Law and the criminal legal framework is analyzed: the report recommends the definitions of the DV Law are preferable over pre-existing definitions

in the Penal Code; and that charges carrying more severe penalties should be preferred where possible to reflect the seriousness of domestic violence as a crime. Alternative coercive measures are commendable, and should be used and developed extensively and creatively by judges. The use of fines is regarded as generally inappropriate, because of the negative impact on families and the possibility it will trivialize domestic crimes.

Fifth, the problems caused by withdrawal of the victim's consent and the risk these will undermine the success of criminal prosecution are highlighted; Article 125 is particularly detrimental to the success of the DV Law because if family members choose not to give evidence in court, defendants will continue to enjoy impunity for their crimes.

Finally, suggestions for the prosecution process and more general recommendations for stakeholders are made. Overall, the DV Law is recognized as an important tool to eliminate violence within the domestic context: while there remain logistical and interpretive complexities, the DV Law has the potential to promote victims' health, rights and freedoms. Government investment in resources, facilities and training is imperative to ensure the network of services to protect and assist victims is realized.

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