

# **Annexes**

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## Annex 1: Statistical data and tables

- *Table 1: Gender-Based Violence cases recorded by the PNTL-VPU between 2009 and 2012 (p.15)*

	2009	2010	2011	2012
DV	590	629	589	530
Sexual Abuse	12	73	61	14
Sexual Abuse of minor	32	0	14	53

Source: PNTL-VPU database report from 2009 to 2012

- *Table 2: Key education indicators, Timor-Leste, 2010 (p.40)*

	Net attendance ratio (%)		Gross attendance ratio (%)		Gender Parity Index
	Male	Female	Male	Female	
Basic education ( <i>age 6-14</i> )	74.8	75.7	100.0	98.9	0.99
Primary school ( <i>age 6-11</i> )	70.8	72.0	110.0	107.6	0.98
Pre-secondary school ( <i>age 12-14</i> )	21.8	25.7	76.7	78.4	1.02
Secondary school ( <i>age 15-17</i> )	14.6	18.4	71.6	65.8	0.92
Tertiary education ( <i>age 18-23</i> )	6.8	6.5	17.6	12.3	0.70
University	6.0	5.8	15.7	11.0	0.70
Polytechnic / Diploma	0.9	0.7	1.8	1.3	0.72

Data source: 2010 Population and Housing Census, National Statistics Directorate, Ministry of Finance, Timor-Leste.

- *Table 3: Current education status, Timor-Leste, 2010 (p.40)*

Various population groups

	Population aged 6-14* (%)		Population aged 15-19 (%)		Mothers aged 15-19 (%)
	Males	Females	Males	Females	
At school	77.0	77.9	73.7	71.1	25.5
Left school	2.5	2.4	11.3	12.8	47.9
Never attended school	19.8	19.1	14.5	15.6	26.2
Don't know	0.7	0.6	0.5	0.5	0.4
Total	100.0	100.0	100.0	100.0	100.0

\* The official age range for compulsory education in Timor-Leste.

- *Table 4: Literacy and school completion rates, Timor-Leste, 2010 (p.41)*

	Youth literacy rate (%) aged 15-24		Adult literacy rate (%) aged 15 and over		Adult primary completion rate (%) aged 15 and over		Adult secondary completion rate (%) aged 19 and over	
	Male	Female	Male	Female	Male	Female	Male	Female
Timor-Leste	80.0	78.1	63.1	52.5	48.7	42.1	26.7	19.8
Urban	92.2	92.4	86.1	80.0	72.5	68.3	49.3	43.7
Rural	71.9	69.2	51.6	40.4	36.9	30.7	15.5	9.8

- *Table 5: Ministry of Education scholarships granted to study abroad, Timor-Leste, 2009-2013 (p.43)*

Destination country for study	Total places	Number of females	Number of males	Proportion (%) that are female
Brazil	150	52	98	35%
Cuba	13	4	9	31%
Indonesia	16	2	14	13%
Malaysia	1	1	0	100%
Philippines	136	48	131	35%
Portugal	191	88	103	46%
Thailand	150	48	102	32%
United States of America	1	1	0	100%
<b>Total</b>	<b>658</b>	<b>244</b>	<b>457</b>	<b>37%</b>

- *Table 6: Key labour market indicators, Timor-Leste, 2010 (p.48)*

Population aged 15 and over

	Employment to population ratio (%)		Unemployment rate (%)		Labour force participation rate (%)*		Vulnerable employment rate (%)		Inactivity rate (%)	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Timor-Leste	54.4	25.7	3.1	4.6	56.2	26.9	65.9	78.5	43.0	72.2
Urban	53.3	24.6	-	-	47.9	21.9	37.3	53.9	-	-
Rural	54.8	26.1	-	-	44.6	21.7	77.5	87.2	-	-
Youth (age 15-24)	15.7	8.0	8.8	19.7	17.2	9.9	-	-	-	-

- Indicates that the rate could not be calculated from the data published.

\* Urban and rural labour force participation rates are for the population aged 10 and over.

Source: 2010 Labour Force Survey, National Statistics Directorate, Ministry of Finance, Timor-Leste.

- *Table 7: Secondary economic activity of primarily economically inactive population, Timor-Leste, 2010 (p.51)*

	<b>percentages (%)</b>	
	Women (aged 15 and above)	Men (aged 15 and above)
No secondary economic activity	57.6	77.4
Crop growing – unpaid	24.2	15.1
Making tais and tablecloths, “Kurse”, necklaces, etc.	7.1	0.4
Livestock farming – unpaid	5.3	2.7
Other household based production or services	1.2	1.8
Other paid employment	1.6	0.9
Construction	1.3	0.3
Crop growing – paid	0.7	0.7
Wholesale or retail trade / kiosk	0.6	0.2
Livestock farming – paid	0.2	0.2
Guard / security	0.1	0.2
Fishing	0.1	0.1
<i>Total</i>	<i>100.0</i>	<i>100.0</i>

*Data source: 2010 Population and Housing Census of Timor-Leste, National Directorate for Statistics*

- *Table 8: Primary use of social assistance benefits as reported by households (in percent) (p.63)*

	<b>Food</b>	<b>Health</b>	<b>Education</b>	<b>Purchase of Livestock or Assets</b>	<b>Other</b>
<i>Bolsa da Mãe</i>	0.0	6.0	91.1	0.0	2.9
<b>Elderly Pension</b>	88.4	13.4	28.1	6.4	10.7
<b>Disability Pension</b>	77.9	7.6	5.0	4.3	5.1

*Source : Timor-Leste Social Protection Survey, 2011*

## **Annex 2: Legal documents**

- *Constitution (Selected articles)*

### **Section 3 (Citizenship)**

1. There shall be original citizenship and acquired citizenship in the Democratic Republic of East Timor.
2. The following citizens shall be considered original citizens of East Timor, as long as they are born in the national territory:
  - a) Children of father or mother born in East Timor;
  - b) Children of incognito parents, stateless parents or parents of unknown nationality;
  - c) Children of a foreign father or mother who, being over seventeen years old, declare their will to become East Timorese nationals.

### **TITLE I: GENERAL PRINCIPLES**

### **Section 16 (Universality and Equality)**

1. All citizens are equal before the law, shall exercise the same rights and shall be subject to the same duties.
2. No one shall be discriminated against on grounds of colour, race, marital status, gender, ethnical origin, language, social or economic status, political or ideological convictions, religion, education and physical or mental condition.

### **Section 17 (Equality between women and men)**

Women and men shall have the same rights and duties in all areas of family, political, economic, social and cultural life.

### **Section 20 (Senior Citizens)**

1. Every senior citizen has the right to special protection by the State.
2. The old age policy entails measures of economic, social and cultural nature designed to provide the elderly with opportunities for personal achievement through active and dignified participation in the community.

### **Section 21 (Disabled citizens)**

1. A disabled citizen shall enjoy the same rights and shall be subject to the same duties as all other citizens, except for the rights and duties which he or she is unable to exercise or fulfill due to his or her disability.
2. The State shall promote the protection of disabled citizens as may be practicable and in accordance with the law.

### **Section 39 (Family, marriage and maternity)**

1. The State shall protect the family as the society's basic unit and a condition for the harmonious development of the individual.
2. Everyone has the right to establish and live in a family.
3. Marriage shall be based upon free consent by the parties and on terms of full equality of rights between spouses, in accordance with the law.
4. Maternity shall be dignified and protected, and special protection shall be guaranteed to all women during pregnancy and after delivery and working women shall have the right to be exempted from the workplace for an adequate period before and after delivery, without loss of remuneration or any other benefits, in accordance with the law.

### **Section 56 (Social security and assistance)**

1. Every citizen is entitled to social assistance and security in accordance with the law.

2. The State shall promote, in accordance with its national resources, the establishment of a social security system.
3. The State shall support and supervise the activity and functioning of institutions of social solidarity and other non-profit institutions of recognised public interest, in accordance with the law.

**Section 59 (Education and culture)**

1. The State shall recognise and guarantee that every citizen has the right to education and culture, and it is incumbent upon it to promote the establishment of a public system of universal and compulsory basic education that is free of charge in accordance with its ability and in conformity with the law.
2. Everyone has the right to equal opportunities for education and vocational training.
3. The State shall recognise and supervise private and co-operative education.
4. The State should ensure the access of every citizen, in accordance to their abilities, to the highest levels of education, scientific research and artistic creativity.
5. Everyone has the right to cultural enjoyment and creativity and the duty to preserve, protect and value cultural heritage.

- *Law N° 6/2010 of 12 of May on International Treaties*

There is a clear degree of openness of the Constitution of the Democratic Republic of Timor-Leste insofar as International Law is concerned, particularly if one considers the inclusion in the Constitution of a set of general principles and objectives of International Law aimed at governing the acts of the Timorese State in the field of international relations.

The consecration by the Constitution, as a fundamental objective of the State, of the establishment and development of relations of friendship and cooperation among all peoples and States, and the acceptance, also by the Constitution, of the Universal Declaration of Human Rights as a criteria for interpreting the fundamental rights, also bear witness to the openness of the Fundamental Law of the Nation.

Considering the degree of relevance conferred to international relations, it is imperative to clearly specify the international procedures for concluding treaties as fundamental norms established among subjects of International Law.

The need also exists to specify the internal procedures for integrating treaties into the internal juridical order.

Thus, pursuant to articles 92 and 95.1 of the Constitution of the Republic, the National Parliament enacts the following to have the force of law:

#### **Article 1 - Definitions**

For the purposes of this law:

- a) "Agreement by exchange of notes" means the adoption or authentication that takes place when a treaty is divided into two or more identical instruments, each of them containing the intention of the respective State to bind itself. Adoption shall take place by the mere signature of the representatives of the State, followed by the exchange of signed diplomatic notes.
- b) "Adhesion" means a form of binding to a treaty not authenticated by the State where such State has not taken part in its negotiation and adoption.
- c) "Adoption" means the act that puts an end to the negotiation of a treaty, establishing its text.
- d) "Signature on a solemn treaty" means the act that authenticates the text and binds the State not to act in the sense of rendering the treaty impracticable.
- e) "Signature on a simplified agreement" means the act that authenticates the text and simultaneously binds the State.
- f) "Authentication" refers to the stage where the text of the treaty, once already adopted, is formally recognised and considered to be final by the participants to the negotiations.
- g) "Letter of Credential" means the document, issued by the Minister for Foreign Affairs, which designates the delegation to participate in international meetings and conferences and authorizes the head of the delegation to sign the final act.
- h) "Negotiations" refers to the state in which the text of the treaty is conceived, prepared and drafted.
- i) "Full Powers" refers to the document issued by the Council of Ministers indicating a person or head of delegation to represent the Government in the negotiation, adoption or authentication of the text of a treaty, to express the consent of the State to be bound by a treaty or to undertake any other act relating to the treaty.
- j) "Ratification" means a form of binding to a solemn treaty.
- k) "Treaty" refers to any agreement concluded between two or more subjects of Public International Law intended to produce juridical effects and regulated by International Public Law.

## **Article 2 - Scope**

1. This law shall govern the procedures for concluding international treaties to which Timor-Leste is a party.
2. For the purposes of this law, international treaty shall mean any agreement concluded in writing between the Timorese State and another one or more subjects of International Law or international financial institutions intended to produce juridical effects and regulated by International Law, irrespective of its designation as agreement, charter, convention, declaration, statute, protocol, treaty or other designation agreed to.

## **Article 3 - Classification of Treaties**

1. Treaties shall be in solemn form or in simplified form.
2. Binding of the Timorese State to treaties in solemn form shall take place by ratification.
3. Binding of the Timorese State to agreements in simplified form shall take place following approval, which may be the prerogative of the National Parliament or of the Government, depending on the division of their respective legislative competences.

## **Article 4 - Stages**

1. The making of an international treaty shall correspond to a procedure containing the following stages:
  - a) Negotiation of the text of the treaty and its adoption and authentication.
  - b) Consent of the State to be bound by the treaty.
  - c) International communication or notification of such binding.
  - d) Entry into force of the treaty.
2. Stages a) and b) shall be essentially governed by internal law, whereas stages c) and d) shall be essentially governed by international law.

## **Article 5 - Document of Full Powers and Letter of Credential**

1. A representative or head of delegation charged to negotiate, adopt or authenticate the text of a treaty or to undertake any other act relating to the treaty shall be in the possession of a document of full powers issued by decision of the Council of Ministers.
2. A person or persons traveling abroad in representation of the Government to participate in international meetings and conferences shall be in possession of a letter of credentials issued by the Minister for Foreign Affairs authorizing his or her presence and for the head of delegation to sign the final act.
3. The President of the Republic, the Prime Minister, and the Minister for Foreign Affairs shall not need any of the documents referred to in the preceding paragraphs in their trips abroad, irrespective of the objectives of such trips.

## **Article 6 - Negotiation**

1. Negotiation of international treaties shall be the prerogative of the Government.
2. The organ charged with negotiating shall be the Ministry for Foreign Affairs, without prejudice to the competences specifically conferred to other government departments or to the mandates conferred by the Council of Ministers to other organs in specific situations. Negotiation of international treaties shall be authorized by the Council of Ministers and the delegation charged with the negotiation shall include, at the minimum, a jurist.
3. Negotiation of international treaties shall be authorized by the Council of Ministers and the delegation charged with negotiating shall include, at the minimum, a jurist.
4. In agreements in the area of defense and security, the competence for conducting the entire negotiating process shall be the responsibility of the President of the Republic, in concertation with the Government, with the approval of same agreements being the prerogative of the National Parliament.

### **Article 7 - Adoption and authentication**

1. International adoption of the text shall require unanimity of the States that took part in the negotiations, except where the treaty has been negotiated at an international conference, in which case it shall suffice a majority of two-thirds of the States present and voting.
2. Following the authentication, the text of the adopted Treaty is formally recognised and considered as final by the participants in the negotiation, and it may be done by the signature, signature ad referendum, or initialing, by the representatives of the States of the text of the treaty or the final act of a conference in which the text was made.
3. Adoption of treaties may also take place by exchange of notes where such act has been previously agreed upon between the States party to the treaty.

### **Article 8 - International responsibility**

The signing of a treaty implies the recognition of the rights and obligations contained in the text of that treaty.

### **Article 9 - Binding**

1. In case of solemn treaties or conventions, binding shall take place by ratification, a competence of the National Parliament.
2. In case of international agreements in simplified form, the form of binding shall consist in its approval, which may be the competence of the National Parliament if the agreements relate to matters under its exclusive competence or to basic issues of the external policy of the country, or the competence of the Government in the remaining cases.
3. Binding in the internal order shall always have the form of resolution be it in the case of solemn treaties or of agreements in simplified form.
4. International treaties shall produce effects on the internal order following their publication in the official gazette.
5. Decisions to approve or ratify international treaties may be subject to a prior binding referendum, pursuant to applicable legislation.

### **Article 10 - Deadline**

In case of treaties to be approved or ratified by the National Parliament, the Prime Minister, after their approval by the Council of Ministers, shall forward them to the National Parliament within fifteen days.

### **Article 11 - Reserves**

The issuance, modification and revocation of reserves shall follow the same rules defined for the competence and procedure for negotiation and binding to international commitments relating to the reserves.

### **Article 12 - Unbinding**

It shall be incumbent upon the competent organs to initiate the process of unbinding.

### **Article 13 - Deposit**

1. After ratification, adhesion and approval of international treaties, the original documents shall be forwarded for deposit, within thirty days, to the Ministry for Foreign Affairs, and shall be deposited in a room specifically for that purpose.
2. The Ministry for Foreign Affairs shall issue a yearbook containing a compilation of all international treaties to which the Democratic Republic of Timor-Leste is a party.
3. The President of the Republic, the Council of Ministers, the National Parliament and the Court of Appeals shall receive a copy of the international treaties concluded.

### **Article 14 - Implementation**

The State shall take the necessary measures to ensure that the treaties are respected and complied with.

**Article 15 - Entry into force**

This law shall enter into force on the day after its publication in the Official Gazette.

Approved on 23 February 2010.

Promulgated on 5 May 2010

- *Gender Working Group Resolution (Resolution No.27/2011 on Gender Working Group Mechanism)*

The IV Constitutional government is committed to the principle of equality between men and women as recognized in Article 17 of the Constitution of the Democratic Republic of Timor-Leste and continues to strive to strengthen the mainstreaming of gender into the design, analysis, implementation and monitoring of national and local policies, programs, legislation and plans.

In line with this commitment, the IV Constitutional Government approved Government Resolution No. 11/2008 establishing a mechanism for inter-sectoral cooperation and coordination within the Government to ensure concerted action on the promotion of gender equality and affirmation of women's role in Timor-Leste society.

In Government Resolution No. 11/2008, the Government established and implemented a mechanism within each Ministry and Secretary of State in the Presidency of the Council of Ministers to ensure the integration of a gender perspective in the development of strategies, policies, programs and legislation within the Government. In this mechanism, Gender Focal Points were identified in each Ministry/Secretary of State and an Inter-Ministerial Working Group composed of these Gender Focal Points was established, under coordination of the Secretary of State for the Promotion of Equality (SEPI), to ensure collaboration and effective mainstreaming of gender throughout Government activity.

The Gender Focal Point mechanism along with the Inter-Ministerial Working Group on Gender Mainstreaming has been functioning for over two years and improving the Government's efforts to incorporate gender related concerns into its policies, programs, plans and legislation. Recognizing that in Timor-Leste gender equality is a priority, expansion of this gender mainstreaming mechanism is crucial to strengthening its effectiveness.

The expanded mechanism shall establish National Gender Working Groups within each Ministry/Secretary of State composed of key officials to ensure proper coordination within each Ministry/Secretary of State. The Inter-Ministerial Working Group, coordinated by SEPI, will continue to meet, with representatives from each Gender Working Group with the goal of ensuring inter-sectoral coordination and collaboration.

Recognizing also the importance of mainstreaming gender at the district level and the ongoing development of effective democratic local governance, the expanded mechanism will also establish Gender Working Groups at the district level which will receive support and coordination from SEPI.

Thus, the Government decides, under line b) of paragraph 1 of Art. 115 of the Constitution, the following:

1. To be implemented in all Ministries and Secretaries of State part of the Council of Ministers, the mechanism of Gender Working Groups, both at the national and district level.
2. At the national level, the NGWGs (National Gender Working Groups) will be composed of civil servants in key positions in each Ministry and/or Secretary of State and will provide expertise on gender and the mainstreaming of gender in their relevant Ministries and/or Secretaries of State.
3. Each Ministry and Secretary of State shall, two times a year, convene a NGWG which shall be composed of at least 4 civil servants, as follows:

The chair of the NGWG, which will be a Director-General to be nominated by the relevant supervising Minister or Secretary of State of each government entity and to represent the NGWG at the Inter-Ministerial Working Group coordinated by SEPI.

Members of the NGWG shall be Directors from, at minimum, all the directorates responsible for Planning, Policy, Finance and Monitoring and Evaluation.

Any other members considered relevant by the Minister and/or Secretary of State to be included who have position, knowledge and influence over planning, program, policies and budgets.

Members of the NGWG shall have their functions as Working Group members included as a component of their regular responsibilities.

The NGWGs will promote and support the integration of gender related considerations into policies, programs and legislation of the national government by:

- a. Meeting at least two times a year, as convened by the Chair of the NWGW, to coordinate, plan and discuss implementation of gender related activities.
- b. One or more designated representatives of the NGWG attending the Inter-Ministerial Working Group meetings, coordinated by SEPI to be held on a quarterly basis.
- c. Developing and implementing a work plan, to be reviewed by SEPI, that effectively mainstreams gender throughout all relevant programs, legislation, policies and budgets of their corresponding Ministry and/or Secretary of State.
- d. Ensuring the Annual Action Plan (AAP) and corresponding budgets incorporate gender related concerns and that the AAPs are shared with and commented on by SEPI prior to their adoption.
- e. Providing specialized technical advice and advocacy to the Minister and/or Secretary of State on how to revise and reform policies and programs from a gender perspective.
- f. Developing indicators and monitoring implementation of gender mainstreaming.
- g. Providing periodic assessments of progress and achievement of gender mainstreaming goals at the Inter-Ministerial Working Group, as requested by SEPI.
- h. Reporting on relevant gender related data to SEPI on a periodic basis as requested.
- i. Contributing to periodic reporting to the Committee for the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) on government compliance with CEDAW.
- j. Promoting professional development of key officials of the Ministry and/or Secretary of State on gender related issues to build internal capacity.
- k. Advocating for the inclusion of gender equality considerations in any relevant meetings and discussions.

The Inter-Ministerial Working Group, coordinated by SEPI, will be attended, at minimum, by the Chair of each NGWG or a designated replacement member of the NGWG holding at least a director level position. The Inter-Ministerial Working Group shall have the goal of coordinating and monitoring the implementation of gender mainstreaming as follows:

- a. Meeting quarterly and in special sessions as designated by SEPI.
- b. Identifying opportunities and challenges in the implementation of gender mainstreaming within the Government's activities in Timor-Leste.
- c. Sharing and developing strategies and tools for implementation and monitoring of the integrated approach for gender mainstreaming in each Ministry and/or Secretary of State.
- d. Developing partnerships between Ministries and Secretaries of State concerned and other stakeholders to implement gender mainstreaming.

- e. Monitoring progress in implementing the integrated approach to gender in policies, programs, legislation, budgets and national development strategies.
- f. Producing reports and assessments on the efficacy of gender mainstreaming and gender responsive budgeting efforts as necessary.

District Gender Working Groups (DGWG) shall be established in each district of the Democratic Republic of Timor-Leste to improve coordination between the districts, and the district and national levels, on gender mainstreaming and promotion of equality in district level policies, programs, local regulations and budget allocations.

Each district shall have a DGWG composed of, at minimum, the following members:

- a. A chair of the DGWG, which will be the District Secretary in each district who reports to the District Administrator.
- b. The District Commander of the District Police Victim's Protection Unit (VPU).
- c. The District Director or District Coordinator of the Ministry for Social Solidarity, Education, Health, Justice, Agriculture, Economy and Development and Infrastructure or equivalent official nominated by the relevant Ministry.
- d. Any other members considered necessary by the District Secretary, District Director or District Coordinator of each Ministry.
- e. All members of the DGWG shall have their roles and responsibilities as DGWG members included into the terms of reference of their positions as civil servants.
- f. The DGWGs will promote and support the integration of gender related considerations into policies, programs and legislation of the district level government:
- g. Convening at least quarterly to discuss gender mainstreaming activities and prepare for the Inter-District Working Group meeting, to be coordinated by SEPI and convened quarterly.
- h. At least the chair of the DGWG or other designated high-level representative member of the DGWG attending the Inter-District Working Group.
- i. Developing a district gender action plan to be reviewed and commented on by SEPI and engaging in the gender responsive budgeting process.
- j. Planning and coordinating the celebration of relevant gender equality and women's empowerment celebrations as designated by SEPI.
- k. Participating in efforts to socialize, prevent and address Gender-Based Violence/Domestic Violence and other gender equality issues.
- l. Collaborate with other stakeholders on gender related issues.
- m. Providing data and information as requested by SEPI periodically.
- n. Supporting implementation of gender mainstreaming and women's empowerment programs at the district level.
- o. Informing and cooperating with all sub-district administrators in each district.
- p. Informing and cooperating with senior Officers considered relevant by the chair of the DGWG from each sub-district.
- q. Receiving support with coordination and planning from SEPI district focal point.

The Inter-District Working Group, coordinated by SEPI, shall have the goal of coordinating and monitoring the implementation of gender mainstreaming at the district level as follows:

- a. Meeting quarterly and in special sessions as requested by SEPI.

- b. Identifying opportunities and challenges in the implementation of gender mainstreaming within the district governments of Timor-Leste.
- c. Sharing and developing strategies and tools for implementation and monitoring of the integrated approach for gender mainstreaming.
- d. Developing partnerships between districts and district level government entities and other stakeholders to implement gender mainstreaming.
- e. Monitoring progress in implementing the integrated approach to gender in policies and national development strategies.
- f. Producing reports and assessments on the efficacy of gender mainstreaming and gender responsive budgeting efforts as necessary.

Approved by the Council of Ministers on 24 August, 2011.

- *Gender Responsive Budgeting Resolution (Parliamentary Resolution N°12/2010 of the 19<sup>th</sup> of May 2010)*

## Preamble

Having regard to articles 16 and 17 of the Constitution of the Democratic Republic of Timor-Leste which guarantee all men and women of Timor-Leste equal opportunities in all aspects of life and development;

Recalling article 9 of the Constitution of the Democratic Republic of Timor-Leste wherein the ratification of any international convention by the State of Timor-Leste imposes a national obligation to implement the provisions of the international conventions and reminding the Fourth Constitutional Government of Timor-Leste of its obligations under the CEDAW convention which was ratified on 18 December 2003;

Further recalling the Government of Timor-Leste of its commitment to promote gender equality through the political and public pledge to invest in women and girls under the *Dili Kompromiso* of 8 March 2008;

Reaffirm Parliament's own commitment to the *Dili Kompromiso* and towards promoting gender equality;

Reiterates its support for greater efficiency in public spending to enhance gender perspective in all policies, and to promote women's participation in the decision-making process; in this respect, gender budgeting can serve to improve the achievement of these aims while promoting a more equal distribution of financial burdens and benefits among citizens;

Noting that Gender Budgeting is a strategy to promote gender equality in macro- economic and budgetary policies and contributes to the quality of public finance. It is an important strategy for ensuring greater consistency between economic goals and social commitments. Studies have highlighted the costs of gender inequality to productivity, efficiency and economic progress. A restructuring of public finance according to gender equality considerations thus contributes to growth and prosperity.

Gender Budgeting contributes equally towards improved governance, that is, increases in accountability participation and transparency of budgetary policy processes

Emphasizes that gender budgeting does not aim to produce separate budgets for women but rather to influence public budgets, since they are not gender-neutral, as they have a different impact on women and men both from the revenue and from the expenditure perspective; with this in mind gender budgeting implies that in all budget programmes, measures and policies, revenue or expenditure in all programmes and actions should be assessed and restructured in order to ensure that women's concerns and needs are taken into account on an equal basis to those of men, the final aim being to achieve equality between men and women;

Recalls that gender budget strategies must be implemented in a broader macroeconomic context which bolsters the development of human resources and human capital; according to the principles and objectives set out in the Constitution of Timor-Leste, CEDAW and the *Dili Kompromiso*, so that greater economic and social development and human empowerment should be promoted as long term investments in the framework of macro-economic policies for capacity building, employment to foster economic growth in order to create an economy based on knowledge;

Emphasizes that successful implementation of gender budgeting requires a political commitment to achieving equality between women and men; this means that all institutions defining public policies must promote political and institutional representation of women at all levels, support a wider presence of women in all decision-making processes both in public and private sectors and develop public sensitivity and concern for equal opportunities and human capital development;

Stresses the fact that macro-economic policy can contribute to narrowing of gender gaps in terms of economic resources and power, education and training and health; by promoting gender equality and by implementing policies in the framework of gender budgeting, public budgets also achieve major political objectives such as: equality, fair and balanced budgetary policies aimed at reducing inequalities and promoting equal opportunities according to the different roles of women and men in the economy and society,

Reaffirms that integrated policies for the promotion of gender equality in the development process and in the electoral reform activities constitute a guarantee for the significant and genuine participation of women;

Notes that as elected representatives of the people, parliamentarians, and Parliament as an institution, have a key role to play in the promotion of gender equality;

Stresses that the gender budgeting strategy should become a 'parliamentary procedure' within the national Parliament and the decentralized processes with Parliamentary Committee on Poverty Reduction, Rural and Regional Development and Gender Equality (Committee E) and the *Grupo das Mulheres Parlamentares de Timor-Leste* (GMPTL ) playing a key role;

Calls on all the Parliamentary Committees to use and promote the application of gender budgeting instruments and methods (accompanied by specific statistics broken down by sex, gender, and indicators and bench marks on equality between the sexes) so that budgetary revenue and expenditure policies may be structured and carried out with the aim of promoting equality between women and men;

Acknowledges that creating conditions for an increase in the number of women parliamentarians and for the improvement of women's competencies in parliament is a commitment of all countries in the world and therefore calls on the 4th Constitutional Government, AMP, to adopt appropriate legislation that promotes gender equity, including increasing participation of women in Parliament Decision making positions in the decentralization process and outcome through training programs to encourage women's participation in electoral politics;

Calls on the Fourth Constitutional AMP Government to:

1. Through its Ministry of Finance and Committee on Budgets to implement gender budgeting in the process of budget definition in order to develop a gender-responsive budgetary policy; to instruct its committee responsible with promoting and monitoring the implementation of gender budgeting in the national budget with respect to definition, construction, implementation and evaluation of all policies for its compliance with the mainstreaming of gender and integration of gender perspectives,
2. Calls on the Government of Timor-Leste to monitor and analyze the impact of macroeconomic and economic reform policies on women and men, and the development of strategies, mechanisms and corrective measures to address gender imbalances in key areas, with the aim of creating a broader economic and social framework in which gender budgeting could be positively implemented;
3. Points out that gender budgeting strategies require inter-ministerial coordination linking ministries for the budget, economic affairs and finance with the ministry and/or departments and organizations responsible for equal opportunities, involving all the departmental heads and sectoral officials taking part in drawing up the public budget, in order to ensure that the gender perspective is incorporated in the definition of revenue and expenditure in all budget policies;

4. For this purpose urges the Government to instruct the Ministry of Finance and the Budget Committee to establish a Coordination-Mechanism for the budget that monitors and advises all of the ministries, departments and sectors to ensure gender budgeting and to provide the ministries, departments and sectors with a checklist to ensure that budgetary allocation is made for meeting the needs of women and men, girls and boys in order to promote gender equality in all aspects of their budget planning and to refuse agreement to any budgetary matter which is not designed in accordance with gender equality principles.

5. Urges the Government to verify that the allocation of resources corresponds in an appropriate and equal manner to the different needs and demands of women and men, girls and boys, ensuring that gender analyses and impact are thoroughly taken into consideration in all phases of the budgetary process, including project, definition, implementation, monitoring and evaluation, using public budgets to define meaningful political priorities and identify specific tools, mechanisms and actions in order to achieve equality between women and men through public policies, redefining priorities and reallocating public expenditure without necessarily increasing the total amount of a public budget, verifying/accounting for the efficacy and efficiency of public expenditures in respect of established priorities and commitments, in general terms, and, specifically, with regard to respect for equal opportunities between women and men in the redistribution of public resources and services;

6. Calls on the Government to prioritize gender budgeting in the implementation of the Gender Equality Road Map and provide for sufficient funding to take action with the aim to implement gender budgeting in budgetary and macro-economic policies by 2010, to support the process towards integrating gender equality considerations in all financial and budgetary policies.

7. To publish a communication on gender budgeting by the end of 2009, including a road map, pursuing a participatory approach both in writing the communication as well as in implementing Gender Budgeting;

8. To ensure the development, collection, publication and dissemination as well as the use of sex and gender-disaggregated statistics in all areas.

9. To recognize the important contribution women have made to the economy, particularly through the informal economic sectors; to promote the development of meaningful statistics on unpaid work and to conduct a study on the actual amount of monetary contribution of women in the informal economy to the national economy.

10. Urges Government to strengthen their supervisory function to ensure that all policies relating to gender equity are well implemented; including financing for the drafting, adoption and implementation of a Gender Equality Act for Timor-Leste; and the financing for the implementation of laws and support services for victim/survivors of gender based violence and domestic violence.

11. Urges the Government to provide adequate funding in the budget of the Parliament to support all proposed gender activities of the National Parliament, including the GMPTL and the Parliamentary Gender Resource Centre.

12. To support the allocation of sufficient budget in all sectors of the Government and ministries to develop women's economic and other activities and skills, and maintain links with the community to ensure strong and relevant policy development;

13. Establish a clear mechanism within the Government structure to facilitate links among, governments and civil society to share national experiences and build capacity relating to their mandates on gender equity. In this context the recommendations of the Third Timorese National Women's Congress Recommendations are relevant as a guide.

14. Calls on the Government to make the necessary budgetary allocations and adopt the necessary measures to achieve the Millennium Development Goals (MDGs) particularly the goals on gender equality, eradication of poverty, girls' education and reduction of maternal and child mortality, as well as HIV/AIDs.

15. To ensure that all policies, programmes, projects and budgetary allocations undergo an equality impact assessment and the regular production of a gender equality scorecard.

16. To publish annual reports on the impacts of macroeconomic and financial policies on gender equality.

17. To allocate sufficient funding for non-governmental initiatives that support the Government's primary responsibilities such as support services for victims of gender-based violence.

18. To consider gender equity as a regular agenda in the development partners meetings and debate on all policies and legislation, and in particular that gender budgeting principles are adopted as a mandatory practice.

- *Penal Code (Selected articles)*

- **Article 154: Mistreatment of a spouse**

Any person who inflicts physical or mental mistreatment or cruel treatment upon a spouse or person cohabiting with the perpetrator in a situation analogous to that of spouse is punishable with 2 to 6 years imprisonment if no heavier penalty is applicable by force of another legal provision.

- **Article 155: Mistreatment of a minor**

1. Any person who provides guardianship or custody, or is responsible for the upbringing of a minor aged less than 17 years, or does so under employment, and:

a) Causes harm to the minor's body or health, or inflicts physical or mental mistreatment or cruel treatment;

b) Subjects the minor to economic exploitation, hazardous work or work capable of compromising his or her education or physical, mental, spiritual, moral or social development;

c) Subjects the minor to any form of slavery or analogous practice;

d) Uses, recruits or offers the minor for purposes of prostitution, production of pornographic material or pornographic shows; or

e) Uses, recruits or offers the minor for practicing unlawful acts or activities, namely production and trafficking in narcotics as defined by international conventions, is punishable with 2 to 6 years imprisonment, if no heavier penalty is applicable by force of another legal provision.

2. Any person who, under similar circumstances, uses a minor for begging is punishable with up to 3 years imprisonment, if no heavier penalty is applicable by force of another legal provision.

3. If the victim is a descendant, collateral kin, relative or similar to the second degree, has adopted or been adopted by the perpetrator or a person cohabiting with the perpetrator under similar conditions, the limits to the penalties referred to in the preceding subarticles shall be increased by one third.

- **Article 156: Aggravation due to results**

If, as a consequence of mistreatment described in articles 153 to 155, any of the effects referred to in article 146 occurs, the perpetrator is punishable with 3 to 10 years imprisonment and if death is caused by such mistreatment, then the perpetrator is punishable with 5 to 15 years imprisonment.

- **Article 163: Human trafficking**

1. Any person who recruits, assigns, purchases, transports, transfers, houses or receives persons, through use of threats, force or other forms of coercion, kidnapping, fraud, trickery, abuse of power or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, to obtain the consent of a person with authority over another, for purposes of exploitation, shall be punishable with 8 to 20 years imprisonment.

2. The penalty referred to in the subarticle above shall apply to any person who recruits, transports, transfers, houses or receives a minor under the age of 17 for the purpose of exploiting the same, even if none of the means referred to in the subarticle above are involved.

3. For the purpose of applying the provisions of this article, exploitation shall include but is not limited to exploitation through prostitution of another person or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or extraction of organs.

4. Consent of the victim is irrelevant, if any of the means referred to in subarticle 1 were employed.

- **Article 164: Aggravation**

If the acts described in articles 162 and 163 are committed:

a) As a means to facilitate sexual exploitation or use of the victim, by the perpetrator or a third party;

b) The victim is a minor under the age of 17;

c) The victim is in a foreign country or travelling to a foreign country;

d) The victim is used, against his/her will, in the commission of crimes; or

e) The perpetrator is engaged in an activity that grants the same public or religious authority before a group, region or entire country;  
Said perpetrator shall be punishable with 12 to 25 years imprisonment.

○ **Article 165: Trafficking in human organs**

1. Any person who obtains, sells, assigns, purchases, transports or transfers tissues, organs, substances or parts of the human body of third parties without consent or through use of threats, force or other forms of coercion, kidnapping, fraud, deceit, abuse of authority or situation of vulnerability, or by means of delivery or acceptance of payments or benefits, or assists in the collection, transaction, transport or storage of the above shall be punishable with 3 to 10 years imprisonment.
2. If commission of any of the acts mentioned in the subarticle above results in any of the effects provided for in article 146 or the death of the victim, the perpetrator shall be punishable with 4 to 12 years imprisonment and 5 to 20 years imprisonment, respectively.
3. Consent of the victim is criminally irrelevant, if any of the means referred to in subarticle 1 were used.

○ **Article 166: Sale of persons**

1. Any person who, apart from the cases provided in article 163, by any act or other means of transaction, transfers a person, or group of persons, to another person or group of persons against payment of any sum or any other exchange, reward or advantage, is punishable with 2 to 8 years imprisonment.
2. If the acts referred to in the previous subarticle are committed:
  - a) Against a minor aged less than 17 years;
  - b) Through abuse of authority arising from a family relationship, ward or guardianship, or hierarchical, economic or labor-related dependence;
  - c) Through taking advantage of any office or authority held, in any capacity, in a prison, educational or correctional establishment, hospital, mental institution, rest home, clinic or other health establishment or establishment intended to provide assistance or treatment; or
  - d) Upon an unconscious or incapable person who is particularly vulnerable by virtue of disease, physical or mental deficiency;Said perpetrator is punishable with 4 to 12 years imprisonment.
3. Consent of the victim or third party who exerts any form of power over the victim is criminally irrelevant.

## **SECTION II : SEXUAL AGGRESSION**

○ **Article 171: Sexual coercion**

Any person who, by means of violence, serious threat, or after having made, for the purpose of compelling another person to endure or to practice with the same or a third person any act of sexual relief, such a person unconscious or placed the same in a condition where resistance is impossible, is punishable with 2 to 8 years imprisonment.

○ **Article 172: Rape**

Any person who, by the means referred to in the previous article, practices vaginal, anal, or oral coitus with another person or forces the same to endure introduction of objects into the anus or vagina is punishable with 5 to 15 years imprisonment.

○ **Article 173: Aggravation**

If the sexual offenses referred to in articles 171 and 172 are committed:

- a) Through abuse of authority arising from a family relationship, ward or guardianship, or hierarchical, economic or labor-related dependence;
- b) Through taking advantage of duties exercised or office held, in any capacity, in a prison, educational or correctional establishment, hospital, mental institution, rest home, clinic or other health establishment or establishment intended to provide assistance or treatment; or

- c) Upon an unconscious or incapable person who is particularly vulnerable by virtue of disease, physical or mental deficiency;
  - d) Against a victim aged less than 17 years;
- The perpetrator is punishable with 4 to 12 years imprisonment in the case of article 171 and 5 to 20 years imprisonment in the case of article 172.

### **SECTION III : SEXUAL EXPLOITATION**

#### **○ Article 174: Sexual exploitation of a third party**

1. Any person who, with intent to derive profit or any person who makes a livelihood from, promotes, facilitates, or by any other means, contributes toward engaging another person in prostitution or other sexual acts, is punishable with 3 to 10 years imprisonment.
2. The perpetrator is punishable with 4 to 12 years imprisonment, if any of the following circumstances arises:
  - a) Exploitation of the situation of abandonment or economic necessity of the victim;
  - b) Use of violence, serious threat or coercion over the victim;
  - c) Displacing the victim to a country different from where the victim was born or was resident;
  - d) Withholding any identification document belonging to the victim.

#### **○ Article 175: Child prostitution**

1. Any person who, even with consent of the victim, practices any of the acts of sexual exploitation referred to in the preceding article against a minor aged less than 17 years, is punishable with 4 to 12 years imprisonment in the case of subarticle 1 and 5 to 15 years imprisonment in cases where any of the circumstances described in subarticle 2 occur.
2. Any person who offers, obtains, seeks or delivers a minor aged less than 17 years for purposes of child prostitution is punishable with 4 to 12 years imprisonment if no heavier penalty is applicable by force of another legal provision.

#### **○ Article 176: Child pornography**

1. Any person who, for predominantly sexual purposes, uses, exposes or represents a minor aged less than 17 years performing any sexual activity, whether real or simulated, or by any other means, exhibits the sexual activity or sexual organs of a minor, is punishable with 3 to 10 years imprisonment;
2. The same penalty is applicable to any person who produces, distributes, disseminates, imports, exports, offers, sells or possesses any medium of communication, instrument, document or record for the purposes referred to in the previous subarticle or with the aim of disseminating such acts.

- *Law against Domestic Violence (Law N°7/2010 of the 7<sup>th</sup> of July 2010)*

### **Preamble**

Domestic violence is a long standing problem and perhaps one of the most complex social problems of our time.

In the last three decades, several guidelines arising from international legal instruments have revealed the necessity of preventing and investigating crimes of domestic violence and establishing appropriate remedial measures for victims, particularly in relation to equality and discrimination as in the International Convention on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination against Women ratified by the Timorese State.

The principles of international legal instruments on human rights ratified by Timor-Leste, including the Convention on the Rights of the Child, are reflected in this law that has been approved.

Similarly, in accordance with the Constitution of the Democratic Republic of Timor-Leste, the measures set forth in this law are designed to ensure respect for human rights and integrity of the family as a fundamental social and cultural unit in Timor-Leste and recognize that it is the family that is primarily bound to a special duty of protection and defense of especially vulnerable groups such as women, children, the elderly and disabled from all forms of violence, exploitation, discrimination, neglect, oppression, sexual abuse and other ill treatment.

It is not, however, only within the family that the protection of the most vulnerable must exist, but it is an obligation of all citizens to prevent domestic violence and facilitate assistance to its victims.

Finally, the State also cannot fail to provide protection to its citizens, as it is its role to coordinate all public, private and community leaders in implementing the policies on prevention of domestic violence and victim support.

The National Parliament enacts, in accordance with Article 92 and paragraph 1 of Article 95 of the Constitution of the Republic, as law, the following:

## **CHAPTER I: GENERAL PROVISIONS**

### **Article 1: Objective**

This law establishes the legal regime applicable to the prevention of domestic violence and protection and assistance to victims.

### **Article 2: Definition of domestic violence**

1. For purposes of this law, domestic violence is any act or a result of an act or acts committed in a family context, with or without cohabitation, by a family member against any other family member, where there exists influence, notably physical or economic, of one over another in the family relationship, or by a person against another with whom he or she has an intimate relationship, which results in or may result in harm or physical, sexual or psychological suffering, economic abuse, including threats such as acts of intimidation, insults, bodily assault, coercion, harassment, or deprivation of liberty.
2. The following, among others, are considered forms of domestic violence:
  - a) Physical violence is understood as any conduct which offends bodily integrity or physical health;
  - b) Sexual violence is understood as any conduct that induces the person to witness, to maintain or participate in unwanted sexual relations, even within a marriage, through intimidation, threats, coercion or use of force, or which limits or nullifies the exercise of sexual and reproductive rights;
  - c) Psychological violence is understood as any conduct that causes emotional damage and reduced self-esteem in order to degrade or control the actions, behaviors, beliefs and

decisions of others by threat, embarrassment, humiliation, manipulation, isolation, constant vigilance, systematic persecution, insult, blackmail, ridicule, exploitation, limiting the right to travel or otherwise adversely affecting psychological health and self-determination;

- d) Economic violence is understood as any conduct that involves retention, partial subtraction, or total destruction of personal items, working instruments, impeding work inside or outside the home, personal documents, goods, values and rights or economic resources, including those designed to meet the personal needs and the needs of the household.

### **Article 3 : Family**

For the purposes of this Act, the following persons shall be considered members of a family:

- a) Spouses or former spouses;
- b) People who live or have lived in conditions similar to that of spouses, even without cohabitation;
- c) Ascendants and descendants of both or only one spouse or whomever is in the situation described in the preceding paragraph, provided they are in the same context of dependency and family economy;
- d) Any other person who is in the same context of dependency or family economy, including whoever carries out continuous and subordinate domestic labor activity.

## **CHAPTER II: FUNDAMENTAL PRINCIPLES**

### **Article 4: Principle of equality**

Every individual, regardless of ancestry, nationality, social status, gender, ethnicity, language, age, religion, disability, political or ideological beliefs, cultural and educational level, enjoys the fundamental rights inherent in human dignity and shall be assured equal opportunity to live without violence and the right to preserve his or her physical and mental integrity.

### **Article 5: Principle of Consent**

1. Without prejudice to any other provisions under the criminal law and criminal procedure, any intervention to support the victim should be made after the victim gives his or her informed consent and shall be limited by full respect of the victim's will.
2. Any support intervention, under the present law, to a young victim of domestic violence, aged 16 years or more, shall depend on his/her consent.
3. Any support intervention, under the present law, to a child or young victim of domestic violence under the age of 16 years, requires the consent of a legal representative, or in his/her absence or if he/she is the perpetrator of the crime, of the entity designated by the law and the consent of the child or young person aged over 12 years.
4. The consent of a child or young person aged between 12 and 16 years is enough to justify support intervention under this law if circumstances prevent the timely reception of a declaration of the consent of the legal representative designated by law or in his/her absence or if he/she is the perpetrator of the crime.
5. Depending on his/her age and maturity, a child or young victim of domestic violence under the age of 12 years shall be entitled to decide on the specific support intervention received under this law.
6. The victim may at any time freely withdraw his/her consent by his/herself or through his/her legal representative.

### **Article 6: Protection of the victim who lacks capacity to give consent**

1. Any intervention made outside the scope of the criminal process to support the victims who lack capacity to give consent can only be made for his or her direct benefit.
2. Where, under the law, an adult lacks the capacity to consent to a support intervention because of mental disorder, illness or similar reason, the support intervention cannot be made without the consent of his representative, or in her or his absence or if this is the perpetrator of the crime, an authority or a person or entity designated according to the law.
3. The victim in question shall, to the extent possible, take part in the authorization process.

**Article 7: Principle of information**

The State, through the police, prosecutor, public defender's office, and medical and social services, shall ensure that the victim is provided with adequate information to protect his or her rights.

**Article 8: Professional obligations and rules of conduct**

Any intervention of specialized support to victims should be conducted in compliance with professional standards and obligations, applicable codes of conduct, standard operating procedures, universal principles of human rights as well as any rules of conduct applicable to the case.

**Article 9: Raising awareness**

The Government shall develop campaigns to raise public awareness through the media to promote a culture of nonviolence and combating stereotypes based on gender, encouraging respect for the rights and duties of individuals, in particular, in order to change behaviors that lead to violence against vulnerable groups.

**Article 10: Information**

1. The Government shall develop information and training materials on prevention and identification as well as factors related to domestic violence, paying particular attention to materials aimed at professionals and transcription, publication and dissemination of international texts on this issue.
2. The Government shall also prepare and distribute, free of charge, throughout the national territory, a guide for victims of domestic violence, which includes practical information about their rights as well as existing materials at their disposal.
3. The Government shall prepare training and information materials specifically for Heads of Suco and Villages, taking into account the privileged position of community leaders in the dissemination of information.

**Article 11: Education**

1. The Government, as a way of combating violence, shall incorporate into the school curriculum issues related to human rights, particularly issues relating to gender, including good conduct in relationships, sexuality and the principle of negotiated conflict resolution.
2. It is the responsibility of the Government entity responsible for education to develop relevant school curricula for each teaching cycle.

**Article 12: Study and research**

The State, by itself or in cooperation with other institutions, shall support and encourage the study and research of the factors underlying physical, psychological, sexual and economic forms of domestic violence.

**CHAPTER III: INSTITUTIONAL COOPERATION****Article 13: Intervention of the State**

1. It is the responsibility of the Government to promote and develop the National Action Plan on prevention and services in the area of domestic violence, in collaboration with the whole of society, and especially family and local authorities, pursuant to this law.
2. The Government shall coordinate and integrate policies, measures and sectoral activities at the National and community level.
3. The programs under this chapter shall be implemented in stages as defined in the National Action Plan against domestic violence.
4. The services providing medical support, legal aid and police assistance shall be made available as from the entry of force of this law.

**Article 14: Coordinating Entities**

1. The Government shall ensure the existence of a public entity that assists in defining, coordinating and monitoring the National Action Plan referred to in the preceding article.
2. The public entity mentioned above and the member of Government responsible for promoting equality should collaborate with, among others, members of the Government responsible for the areas of security, health, education, justice and social solidarity.
3. The Government shall produce an annual report on the activities undertaken and programs planned for the coming year and submit it to the National Parliament.

## **CHAPTER IV: SUPPORT AND ASSISTANCE TO VICTIMS**

### **SECTION I: Support to Victims**

#### **Article 15: Assistance to victims**

1. The Government, through the entity responsible for social solidarity, shall establish, manage and oversee the national network of support centers for victims of domestic violence, which shall be responsible for providing direct assistance, shelter and counseling to victims.
2. The support centers shall include reception centers and shelters which shall work in coordination.
3. In districts where there are no shelters, reception centers shall operate in coordination with the nearest shelter.
4. The Government, through the entity responsible for social solidarity, shall formulate a set of operational guidelines to oversee the creation and management of the support centers mentioned in the preceding paragraphs.

#### **Article 16 : Objectives of Shelters**

1. The following shall be objectives of the shelters:
  - a) Temporarily accommodate victims of domestic violence, with or without minor children, whenever, for security reasons, they cannot remain in their habitual residence;
  - b) Ensure psychological and/or medical care, social assistance and legal support appropriate to the situation of the victim;
  - c) Where justified, while they are in the shelter, develop the personal, professional and social skills of the clients which will enable them to avoid possible situations of social exclusion and contribute to effective social reintegration.
2. The Government, through the entity responsible for social solidarity, shall define, through additional legislation, procedures common to all shelters particularly in regards to victims' rights, access to information, admissions, maximum duration of stay and an outpatient regime.

#### **Article 17 : Rights and duties**

1. Clients and minor children staying in the shelters shall have the following rights:
  - a) Accommodation and food in conditions of dignity;
  - b) Enjoyment of an area of privacy and a degree of autonomy in the conduct of their private life that is appropriate to their age and situation;
  - c) Enjoyment of a safe and healthy space inside the shelter;
  - d) Access to the school closest to the shelter.
2. Clients and minor children staying in shelters have a special duty to comply with the rules of operation.

#### **Article 18: Free of Charge**

The services provided through the national network of support centers for victims of domestic violence shall be provided free of charge.

#### **Article 19: Participation**

For the purposes of criminal proceedings, the reception centers shall communicate to the National Police of Timor-Leste (PNTL) or to the Public Prosecution Services the circumstances of domestic violence victims brought to their attention. They shall do so in keeping with respect for

confidentiality and the privileged nature of information shared between the victim and her counselor, analogous to the relationship established between physician and patient.

## **SECTION II: Assistance to victims**

### **Article 20: Emergency Assistance Services**

1. An emergency assistance service shall be established to assist victims of domestic violence with the objective of informing them of the steps that may be taken to address their situation.
2. The emergency assistance service shall provide an emergency telephone hotline which will be anonymous in nature for a period of time and under conditions to be set by ministerial order.
3. In urgent cases, the emergency assistance service will communicate with the competent police authorities the need for immediate intervention and, if appropriate, will refer the victims to shelters.

### **Article 21: Direct assistance to victims**

1. A specialized service shall be established for filing complaints related to crimes of domestic violence and providing assistance and guidance to victims regarding hospital services, the organizations in the referral network of support services and the National Police of Timor-Leste (PNTL).
2. The implementation of the services provided in the preceding paragraph shall be made in a phased manner by joint order of the entities of the Government responsible for domestic violence and for the areas of security, health and social solidarity.
3. The Government, through the entity responsible for social security, shall ensure the availability of information and specialized training of the employees working in the services referred to in paragraph 1.

### **Article 22: Assistance at hospital services**

Whenever a patient reveals her or himself to have been a victim or a clinical diagnosis concludes the patient is a victim of a domestic violence related crime, the specialized hospital services are requested to intervene to:

- a) Provide assistance and medical follow-up for victims of domestic violence while taking into account the needs of victims, particularly children;
- b) Proceed with the preservation of evidence relating to possible crimes committed, including the completion of examinations or forensic tests or taking other precautionary measures appropriate to the case;
- c) Inform the victim of his / her rights and possible remedies and the obligation of the hospital authorities to notify police of the facts of the case;
- d) Immediately report the facts of the case to the police or the Public Prosecutor;
- e) Prepare a report on the situation and the measures taken and send it to the competent authorities;
- f) Refer the victim to a shelter if the situation so warrants and the victim makes such a request.

### **Article 23: Duties of social assistance services**

It is the responsibility of the social assistance services to:

- a) Provide services adequate to the needs of victims of domestic violence in accordance with the Code of Professional Ethics and standard operating procedures;
- b) Provide special services for child victims of domestic violence;
- c) Report cases of domestic violence to law enforcement officers in compliance with the Code of Professional Ethics;
- d) Conduct counseling sessions with victims of domestic violence;
- e) Facilitate, if necessary, the removal of the victims to a place that suits their needs, particularly for child victims;
- f) Prepare reports and other documentation for use in cases by the police, prosecutors and courts;
- g) At the request of the victim, provide support and monitor the case in court;

- h) Participate in the promotion and creation of safety networks for domestic violence victims at the community level.

**Article 24: Police Assistance**

1. The specialized police services shall intervene in cases of crimes relating to domestic violence after receiving reports from hospital services and victims support services.
2. The specialized police service located in the PNTL district services have the responsibility to:
  - a) Provide the victim with all necessary assistance, including informing him or her of his or her rights;
  - b) Refer the victim, upon request, to a shelter or support center;
  - c) Whenever necessary, take measures to ensure that the victim receives immediate medical and psychological assistance by specialized staff;
  - d) In the event of possible mental instability, take measures to ensure that a mental health professional undertakes an evaluation of the victim so that the victim may continue to have the necessary support from relevant institutions;
  - e) Prepare a summary report of the observations made, the steps taken and evidence collected to be attached to the criminal complaint and provide it to the prosecutor within five days of the facts being reported;
  - f) If the victim has no financial capacity to retain a lawyer without compromising his/her livelihood, inform the Public Defender through a summary report no later than five days after the facts of the case are reported.

**Article 25: Legal Assistance**

1. In all legal proceedings, the victim must be accompanied by a lawyer or a public defender, regardless of whether the victim has the financial capacity to retain a lawyer.
2. It is the responsibility of the lawyer or public defender to:
  - a) Provide legal advice to victims of domestic violence;
  - b) Report the occurrence of domestic violence to the police and the prosecutor where doing so would not result in a breach of confidentiality;
  - c) Advise victims, witnesses and family members about the progress of legal proceedings relating to domestic violence cases;
  - d) Monitor the attention given to the cases by law enforcement officials and judiciary officials, i.e. the police, prosecutors and courts;
  - e) Contact entities, agencies and community groups regarding domestic violence cases;
  - f) Advise victims of their entitlement to other necessary services;
  - g) Facilitate access by the parties to information related to the cases according to this law and other applicable legal provisions.

**Article 26: Measures for the rehabilitation of victims**

1. It is the responsibility of the Government to promote and support the establishment and operation of support associations or other organizations where it considers existing mechanisms inadequate.
2. The objective of the support associations is to protect victims of domestic violence while prioritizing programs that address victim's support and monitoring and personal and professional development in accordance with their social needs.

**Article 27: Measures to support offenders**

The Government, through the entity responsible for promoting equality, shall foster the development of projects of public or private initiative directed towards raising awareness of perpetrators and inducing them to adopt nonviolent behavior.

**Article 28: Assistance by the Public Prosecutor**

In addition to his/her obligations under criminal procedure, in the context of the fight against domestic violence, the prosecutor must:

- a) Provide direct assistance to victims who seek services and inform them of their rights and how to exercise them, especially through the services of the Public Defender if they do not have resources to hire a lawyer without compromising their ability to provide for themselves and their family;
- b) Refer victims to the hospital or to shelters in cases where referrals have not already been made.

## **CHAPTER V: MAINTENANCE**

### **Article 29: Right to Maintenance**

Where the victim is a spouse or ex-spouse or has lived with the offender in conditions similar to those of spouses, even without co-habitation, or is a descendant or ascendant of the offender, he or she shall be entitled to maintenance as long as he or she proves to be in need of that assistance.

### **Article 30: Amount of the maintenance**

The amount of the maintenance due shall be established by taking into account the capacity of the person responsible to pay and the needs of those entitled to maintenance while taking into consideration the ability of the entitled party to partially provide for his or her own maintenance.

### **Article 31: Type of obligation**

1. The amount of the maintenance due may be defined by written agreement between the person responsible for payment and the entitled party, or their legal representative in the case of a minor or disabled person, or it may be determined by the court.
2. If, having determined the amount by agreement or court order, the circumstances change, the amount of the maintenance may be increased or reduced by agreement or court order.

### **Article 32: Provisional maintenance**

1. The court may at any time, ex officio or upon request of the victim or prosecutor, grant provisional maintenance.
2. Under no circumstance shall there be restitution of provisional maintenance already granted.
3. Where there is economic insufficiency on the part of the defendant, the Services of the Ministry of Social Solidarity shall provide support regarding the maintenance due.

### **Article 33: Social Reintegration**

1. The ministry responsible for social services shall support the victims in the process of social reintegration as well as in the provision of maintenance whenever deemed necessary.
2. The scope and nature of the support to be provided shall be defined by a decree issued by the Government entity responsible for Social Solidarity.

### **Article 34: Proceeding**

1. The request for provision of maintenance may be attached to the corresponding criminal proceeding.
2. In all other cases, the provisions contained in articles 831 and subsequent articles of the Civil Procedure Code shall apply.

## **CHAPTER VI: CRIMINAL ISSUES**

### **Article 35: Crimes of domestic violence**

For the purposes of this law, the following are considered crimes of domestic violence:

- a) The types of crime provided for in articles 153, 154, 155 and 156 of the Criminal Code;
- b) The types of offenses in articles 138, 141, 145, 146, 167, 171, 172, 175, 177, 178 and 179 are crimes of domestic violence where, in addition to satisfying the typical elements of the crime, the acts also occurred in the circumstances described in Article 2 of this Act.

### **Article 36: Public nature of the crimes of domestic violence**

The domestic violence crimes referred to in Article 35 are all public crimes.

**Article 37: Coercive measures**

In addition to the coercive measures provided for in the Criminal Procedure Code, in the case of a domestic violence crime, the perpetrator may be subjected, by determination of the trial judge, to the measure of coercive removal from the place of family residence, including prohibition of contact with the complainant, whenever there are signs of violence which are reasonably foreseeable as acts of aggression which may occur again in a manner that creates danger to the life or the physical, psychological or sexual integrity of the victim.

**Article 38: Choice and determination of the sentence**

1. The court may substitute the penalty of imprisonment with a penalty of a fine provided the prerequisites provided for in article 67 of the Criminal Code have been met, the security of the victim has been guaranteed, the perpetrator agrees to undergo treatment, or follow-up support services for the victim and such a measure would benefit the preservation of the family unit.
2. The defendant may further be sentenced to an additional penalty prohibiting contact with the victim for a maximum period of 3 years whenever it is considered that the application of the principal penalty is insufficient to prevent the repetition of similar acts.

**Article 39: Witness Protection**

Whenever deemed necessary, the competent court shall apply procedural measures to protect witnesses and victims in domestic violence cases and people with knowledge of the facts constituting the object of the proceeding or of other information deemed relevant for the decision pursuant to the applicable law.

**Article 40: Professional Confidentiality**

1. The technical and non-technical staff working at reception centers, shelters and specialized assistance services shall be subject to professional confidentiality regarding any facts revealed to them solely by virtue of their professional interaction with the victims under their care.
2. Once the consent of the victim has been requested and the victim has given the consent of his or her free will, the professional confidentiality of the personnel referred to in the preceding paragraph ceases in the event they are called by judicial entities to testify or furnish other information.

**CHAPTER VII: FINAL PROVISIONS**

**Article 41: Regulation**

The Government shall adopt the necessary rules for the implementation and development of this law within 180 days.

**Article 42: Entry into force**

This Act comes into force the day following its publication.

Approved May 3 in 2010.

- *Law N°2/2009 of the 6<sup>th</sup> of May on Protection of Witnesses [Lei de Protecção de Testemunhas]*

Faced with the need to safeguard the rights, freedom and guarantees of citizens in the exercise of the most elementary of civil rights, and given the need to ensure social peace in an unsettled period for the Nation, the political leaders of Timor-Leste have set out the establishment of measures for the protection of witnesses as one of the priorities in the ongoing drafting of legislation.

It should be noted that the normative solutions established, in addition to respecting the specific socio-cultural reality of Timorese society, shall receive contributions from different judiciaries operating in Timor-Leste and lessons drawn from comparative Law.

This is an exceptional mechanism which can only be applied, in concrete terms, if the need for such mechanism proves to be necessary and it proves to be appropriate for the protection of the persons and the purposes of the proceedings, in the pursuance of Justice as an inalienable value.

Thus, the National Parliament decrees that the following shall be considered law under the terms and conditions set out in No. 1 of article 95 of the Constitution of the Republic:

## **CHAPTER 1: General Provisions**

### **Article 1: Object**

1. This law regulates the application of measures for the protection of witnesses, in civil or criminal proceedings, when their lives, physical or psychological integrity, freedom or assets of considerable value are jeopardised due to their contributing to ascertaining the proof of facts or to the discovery of the truth which constitute the object of the proceedings.
2. The measures paragraph 1 above refers to may cover the spouse, the relatives in the ascending line, the children or the siblings of the witnesses and other persons close to them.
3. The measures set out in this law are of an exceptional nature and may only be applied if such measures prove to be necessary and appropriate for the protection of the persons and the accomplishment of the purposes of the proceedings.
4. The cross-examination in the proceedings shall be guaranteed to ensure a fair balance between the parties, the right of the defence and the discovery of the truth.

### **Article 2: Definitions**

For the purposes of this law:

- a) "Witness" means any person who, notwithstanding his/her status towards procedural law, is in possession of information or knowledge necessary to the disclosure, apprehension or evaluation of facts subject to investigation and which are likely to present a danger to himself or to spouse, relatives in the ascending line, children or siblings and other persons close to the witness, under the terms set out in paragraphs 1 and 2 of article 1 above;
- b) "Intimidation" means any kind of pressure or threat, direct, indirect or potential exercised by any person over a witness with a view to influence his/her testimony or statement;
- c) "Teleconference" means any kind of testimony or statement taken in the witnesses' physical absence by using technical means of transmission, at long distance and in actual time, either of sound or animated images;
- d) "Identification feature" means any features which, separately or jointly, enable a person's individualisation, thus distinguishing him from any other person;
- e) "Residence" means the place the witness lives or where he can be contacted;
- f) "Of considerable value", a sum exceeding USD 50,000.

### **Article 3: Appeals**

1. The delay for any appeal from the decisions set out in this law reduced to half its usual duration. The appeal shall be immediately and separately committed to the competent court.
2. The appeal from the decisions to apply protective measures for witnesses shall not have suspensory effect.
3. The fact the appeal from the decisions to apply protective measures for witnesses shall render the testimony invalid and shall require that the act be repeated.

## **CHAPTER II: Concealment and teleconference**

### **Article 4: Witnesses' concealment**

1. The court may decide, either unofficially, upon the request of the Public Prosecutor, or upon the demand of the defendant or of the witness, that the testimony or the statement must be taken by means of either concealing the witness's image or distorting his voice, or both, instead of taking the form of a public procedural act or of a cross-examination, in order to avoid the witness's recognition.
2. The decision must be based upon facts or circumstances which reveal intimidation, or a high risk of intimidation of the witness, and it shall also refer to the degree of concealment of image or distortion of voice.
3. In the event the measure to conceal the witness is applied there can be no confrontation.

### **Article 5: Teleconference**

1. The court may decide, either unofficially, upon the request of the Public Prosecutor, or upon the demand of the defendant or of the witness, that the testimony or the statement must be taken by means of teleconference, instead of taking the form of a public procedural act or of a cross-examination, in order to avoid the witness's recognition
2. Teleconference can include the resort to concealment of image or distortion either of image or voice, or of both, with a view to avoid the witness's recognition.

### **Article 6: Location**

The long-distance testimony or statement shall be taken in a public building, whenever possible in the Courts, or in the Police or prison premises which offer the appropriate conditions to the installation of the necessary technical devices.

### **Article 7: Access to the Location**

The court may restrict the access to the place where the testimony or the statement shall be taken, allowance being granted to the technical staff, the officials or the security personnel deemed strictly indispensable.

### **Article 8: Commitment**

Whenever the witness's recognition by image or voice is to be avoided or his identity is to be kept concealed, the technical staff intervening in the teleconference shall render a commitment not to disclose the location or the witness's identification features. Should the technical staff fail to do so, the punishment for aggravated disobedience shall apply.

### **Article 9: Escorting Judge**

The judge presiding to the act shall guarantee the presence of a judge at the location where the testimony or the statement shall be taken, on whom shall be incumbent namely:

- a) To identify and take the oath to the witness whose identity is to remain concealed or whose recognition is to be avoided;
- b) To receive the commitment mentioned in the previous article;
- c) To ensure that the witness will make a free and spontaneous testimony or statement;
- d) To provide for the clear understanding of the questions by the witness and for the transmission of the answers in actual time;
- e) To act as interlocutor of the judge presiding to the act, by calling his attention to any incident occurring during the testimony or statement;

- f) To guarantee the authenticity of the video recording to be enclosed to the proceedings;
- g) To take all the preventive, disciplinary and restraining measures legally admissible, which prove adequate to enforce the access restrictions to the location and, in general, to guarantee the security of all persons present.

**Article 10: Questions**

The questions to which the witness is required to answer during the collection of evidence are made through the judge presiding to the act, and they shall observe the terms of the procedural law.

**Article 11: Recognition**

If, during the testimony or the statement, any recognition of persons, documents or objects becomes necessary, the witness shall be allowed the respective visualization.

**Article 12: Non-disclosure of Identity**

Where the witness's identity is to remain concealed, it is particularly incumbent of the judge presiding to the act to avoid asking any question likely to induce the witness to the indirect disclosure of his identity.

**Article 13: Access to Sound and Image**

1 - In case of the concealment of the witness's image and voice, the access to the undistorted sound and image is to be allowed in exclusive to the judge presiding to the act or the court, should the technical means available enable it.

2 - The autonomous and direct communication between both the judge presiding to the act and the escorting magistrate, as well as between the defendant and his counsel, shall be guaranteed in any circumstance.

**Article 14: Proximity**

The testimonies and statements made through teleconference, according to this Diploma, are deemed, for all purposes, as having been made in the presence of the judge or of the court.

**CHAPTER III: RESTRICTION REGARDING THE DISCLOSURE OF THE WITNESS'S IDENTIFICATION FEATURES**

**Article 15: Prerequisites**

1. The non-disclosure of the witness's identity may cover one or all the phases of the proceedings provided the following conditions occur concurrently:

- a) The witness, spouse, relatives in ascending line, children, siblings or other persons in close contact with him face a serious danger of attempt against their lives, physical or psychological integrity, freedom or property of considerable value;
- b) The witness's credibility is beyond reasonable doubt;
- c) The testimony or the statement constitutes a relevant probative contribution.

2. Besides having met all the conditions set out in the paragraph above, the application of the measure not to disclose the witness's identity shall only take place when:

- a) The proceedings relate to a crime, the maximum penalty of which corresponds to more than five years imprisonment;
- b) The guardianship of minors is at stake;
- c) Assets of a considerable value are at stake.

**Article 16: Jurisdiction**

1. The non-disclosure of the witness's identity is decided by the Examining Magistrate, ex officio or upon request.

2. The measure taken not to disclose the witness's identity may be requested by the Public Prosecutor during the inquiry.

3. The measure taken not to disclose the witness's identity may be requested by any of the parties, by the Public Prosecutor, by the defendant or by the injured party during the proceedings.
4. The request contains the grounds for the non-disclosure of the identity in casu, as well as the reference to the evidence that must be offered thereto.

**Article 17: Supplementary proceedings of non-disclosure of identity**

1. For purposes of decision on a request for non-disclosure of identity a supplementary proceeding of a confidential and urgent nature shall be separately prepared, to which only the Examining Magistrate and whoever he appoints for that purpose shall have access.
2. Unofficially or upon request the Examining Magistrate makes the investigation he deems indispensable to meet the requirements needed for the granting of such a measure.
3. Once the investigation has been concluded, the Examining Magistrate notifies the parties of the grounds for the request so they can, should they so wish, within five days, express their opinion in writing and within this time limit request that further measures be taken.
4. The Examining Magistrate is responsible for the supplementary proceedings and corresponding confidentiality and therefore the notification referred to in paragraph 3 above may not contain elements which may point to the disclosure of the identity of the witness to be covered by the measure on protection.
5. The possibility of carrying out further investigations is taken by the Examining Magistrate.
6. The decision allowing the requested measure confers the witness a codified reference, by which he shall be referred afterwards in the proceeding. The reference is transmitted to the judicial authority with jurisdiction over the proceedings.
7. As soon as it is deemed unnecessary, the measure is revoked by the Examining Magistrate upon the request of the Public Prosecutor or upon the demand of the interested party or upon the witness's demand, the proper procedural acts having been carried out and the Public Prosecutor having been heard, in case he is not the requesting party.
8. The decision taken by an Examining Magistrate on the request not to disclose the identity of a witness prevents him from subsequently taking part in the main proceedings.

**Article 18: Witnesses' testimony or statements and respective probative value**

1. The witness to whom it has been granted the measure of non-disclosure of identity may make his testimony or statement either by concealing his image or distorting his voice, or through teleconference, pursuant to articles 4 and 5 here above.
2. No condemning decision can be based, exclusively or significantly, upon the testimony or the statement made by one or more witnesses whose identity has not been disclosed.

**CHAPTER IV: SECURITY AND SPECIAL MEASURES AND PROGRAMMES**

**Article 19: Sporadic Measures of Security**

1. Where significant grounds for security so justify and where the criminal offence may result in a maximum penalty of over five years imprisonment, entails the guardianship of minors or assets of a considerable value, without prejudice to other measures of protection set out in this law, the witness may benefit from sporadic measures of security, namely:
  - a) Mention in the proceedings of an address different from the one he uses or which does not coincide with the domicile locations provided by the civil law;
  - b) Being granted immediate reimbursement of the expenses incurred with his displacement to testify or give statements;
  - c) Being granted a room, eventually put under surveillance and security, located in the Court or the Police premises, to which he must displace himself and inside which he may stay without the presence of other intervening parties in the proceedings;
  - d) Benefiting from police protection extended to his spouse, relatives in ascending line, children, siblings or other persons in close contact with him;

2. The measures laid down in the previous paragraph are ordered by the Public Prosecutor during the enquiry, either unofficially, upon the demand of the witness or his legal representative or upon proposal of the criminal police authorities. Subsequent to the enquiry the said measures are ordered by the Judge presiding to the current phase of the proceeding, ex officio or upon the request of the Public Prosecutor.

3. In civil proceedings, the measures set out in paragraph 1 are ordered by the Examining Magistrate, unofficially or upon request by the Public Prosecutor, the witness or his legal representative.

4. The judicial authority undertakes the necessary procedures to assess in casu the need and the suitability of the measures.

5. Every third month the judicial authority re-appreciates the decision, either maintaining or modifying it, or revoking the applied measures

6. The police protection stated in paragraph 1, sub-paragraph d) here above shall generally be at the charge of a police entity.

#### **Article 20: Special Security Programme**

Any witness, the respective spouse, relatives in ascending line, children, siblings or any other persons in close contact with him, may benefit from a special programme of security during the running of the proceedings or even after its closure, provided the following concurrent conditions occur:

a) The testimony or statement concern the criminal offences which may result in maximum penalties of imprisonment of over five years;

b) There is a serious danger to their lives, physical or psychological integrity or freedom;

c) The testimony or statements constitute a contribution which is deemed, or has proved to be, essential to the ascertainment of the truth.

#### **Article 21: Contents of Special Security Programme**

1. The special security programme includes the enforcement of one or several administrative measures of police protection and support, eventually supplemented by duly combined rules of behaviour to be complied with by the beneficiary.

2. For the purposes of the previous paragraph the following measures are regarded, among others, as measures of protection and support:

a) Granting of police protection, within the scope and for the time to be determined;

b) Delivery of documents officially issued, including identification features different from those previously inserted or that should be inserted in the replaced documents;

c) Granting of a new place to live in the country or abroad, for a period to be determined;

d) Free transportation of the beneficiary, his close relatives and the respective property, to the new place of living;

e) Implementation of conditions for the obtaining of means of subsistence;

f) Granting of a survival allowance for a specific period of time;

g) Changes in the physiognomy or the body of the beneficiary.

3. Where the special security programme includes rules of behaviour, their intentional non-compliance entails the exclusion from the programme.

#### **Article 22: The Special Security Programmes Committee**

1. A Special Security Programmes Committee is hereby established under the direct supervision of the Minister of Justice, on whom the definition and the implementation of special security programmes shall be incumbent.

2. The Special Security Programmes Committee consists of a president and a secretary - both appointed by the Minister of Justice -, a judge and a public prosecutor indicated by the Supreme Judicial Council and the Public Prosecutor's Supreme Council respectively, by a representative appointed by the Secretary of State for Security's Office indicated by the respective Secretary of State and by a representative of the Human Rights and Justice Ombudsman appointed by such Ombudsman.

3. The decisions of the Committee shall be taken by a simple majority of votes, and the president shall have the casting vote.
4. The members of the Committee are nominated for a renewable three-year period, which may be renewed for a similar period of time for a maximum of two times.

**Article 23: Procedure**

1. Whenever possible, a unique confidential proceeding covering the witness and the persons mentioned in article 20 shall be organised for each special programme of protection.
2. With a view to the establishment and enforcement of the programme the Committee shall be given the most effective and prompt cooperation by all public authorities.
3. The enforcement of the programme is subject to the beneficiary's agreement, who shall sign the declaration agreeing thereto and shall commit to respect the programme.
4. The special programme of protection can be modified whenever necessary. It shall be obligatorily reviewed from time to time as specified therein.

**Article 24: Impeachments**

The personal intervention in specific criminal proceedings constitutes an impeachment to become a member of the Special Security Programmes Committee in the field of the definition and the enforcement of the programme.

**CHAPTER V: FINAL PROVISIONS**

**Article 25: Ruling Orders and their Enforcement**

1. Within a time limit of ninety days from the date of entry into force of this law, the Government shall take the necessary measures of an organisational and technical nature and shall guarantee the infrastructures and other technological means necessary for the enforcement of this law.
2. The measures set out in the preceding articles may be requested and adopted from the date this law becomes effective and in accordance with the conditions set out in the regulatory legislation of this law.

**Article 26: Repeal**

The provisions contrary to those set out in this legal diploma shall be repealed.

**Article 27: Entry into force**

This legal diploma shall enter into force on the sixtieth day subsequent to its publication.

Approved on 17th February, 2009

Promulgated on 30th April, 2009

- *Law no. 7/2011 of 22 June – Second amendment to the Law no. 6/2006 of 28 December – Law on the Election of the National Parliament*

The National Parliament, pursuant to article 65(5) and article 95(2)(h) of the Constitution, decrees the following that shall have the force of law:

**Article 1: Amendments**

Articles 4, 12, 33, 34, 37, 40, 41, 45, 46, 47 and 48 of Law no. 6/2006 of 28 December, as amended by Law no. 6/2007 of 31 May, shall read as follows:

**Article 4: (...)**

1. Active electoral capacity shall be granted to all Timorese citizens over 17 years of age.
2. (...).
3. Voters who possess an up-to-date voter's card (*cartão de eleitor*) and find themselves hospitalized or being held at penitentiary institutions are entitled to vote by means of the itinerant voting process (*processo de votação ambulante*).
4. The itinerant voting process shall take place within the hospital or penitentiary institution facilities where the voter is located, according to a schedule established by the management of the institution in accordance with STAE, and within the timeframe of the conventional voting process.
5. (...).

**Article 12: Organisation of the lists**

1. (...).
2. (...).
3. The lists of effective and alternate candidates shall include at least 1 (one) woman candidate for every group of 3 (three) candidates, under pain of rejection.

**Article 33: (...)**

1. On the day scheduled for the election, polling centres and polling stations shall open at 07:00 (seven) hours and close at 15:00 (fifteen) hours and shall operate uninterruptedly throughout this period.
2. After 15:00 (fifteen) hours, only voters in the queue waiting to cast their vote shall be allowed to vote, and such fact shall be verified by the queue controller and communicated to the secretary of the polling station.
3. For the purposes of paragraph 33(1) above, voting in foreign countries shall take place in accordance with the local time.

**Article 34: (...)**

1. Each polling centre or polling station shall include the following electoral officers:
  - a) one president (*presidente*), who shall be responsible for the polling centre and the respective polling stations;
  - b) one secretary (*secretário*), who shall be responsible for the voting station, for coordinating the work of the polling station officers and who reports directly to the president of the polling centre;
  - c) four identification verification officers (*oficial verificador de identificação*);
  - d) one ballot paper controller (*oficial controlador de boletim de voto*);
  - e) one ballot box controller (*oficial controlador da urna eleitoral*);
  - f) one controller for the use of the semi-permanent election ink (*oficial controlador para a aplicação da tinta indelével*);
  - g) two queue controllers (*oficial controlador de fila*).

**Article 37: (...)**

1. (...).
2. (...).
3. (...).
4. (...).
5. Civil servants and State agents who are on duty on Election Day as part of the electoral process shall vote in the geographic unit to which they have been assigned to perform their duties.

**Article 40: (...)**

1. (...).
2. Voters who have lost their voter's card shall request STAE to issue a duplicate up to 15 (fifteen) days before the Election Day.
3. Where a voter does not possess his or her voter's card on election day, he or she shall be allowed to exercise his or her right to vote by presenting his or her RDTL ID card or Timorese passport, as long as his or her personal details feature on the list of voters for the geographic unit in question.
4. For the purposes of the provisions in paragraph 40(3) above, the applicable technical rules shall be included in a regulation submitted by STAE and approved by CNE.

**Article 41: (...)**

Voters shall vote in the *suco* indicated as their Geographical Registration Unit (*Unidade Geográfica de Recenseamento*) in their updated voter's card

**Article 45: (...)**

1. Any voter or any delegate of a political party or party coalition shall be allowed to raise doubts and present complaints or challenges relating to electoral operations.
2. (...).
3. Complaints presented according to paragraph 45(2) above shall be the object of a decision approved by a minimum of 6 (six) electoral officers.
4. (...).
5. (...).

**Article 46: Counting of votes and initial tabulation**

1. The counting of the votes shall begin immediately after the closing of the polling centre or polling station and after a review of any doubts, complaints and challenges. It shall be carried out by the electoral officers at the polling centre or polling station, in the presence of the delegates of the candidacies and, whenever they are present, of national or international observers and media professionals.
2. After the counting of the votes, or while it is taking place, the delegates of the candidacies may present complaints which shall be assessed and decided upon pursuant to article 45(2) and (3) above.
3. If the counting of the votes and tabulation cannot be started up to 1 (one) hour after the closing of the voting process, the sealed and duly identified ballot boxes shall be immediately transported by the electoral officers to the district tabulation centre. These may be accompanied by the delegates of the candidacies if they so wish.
4. Once the procedures provided for in paragraph 46(1) above have been completed, and the doubts and challenges analysed and the corresponding complaints decided upon, or under the circumstances provided for in paragraph 46(3) above, minutes shall be drafted detailing all the relevant occurrences which shall be immediately transmitted to the district tabulation centre.

**Article 47 : District tabulation centre**

1. A district tabulation centre (*assembleia de apuramento distrital*) shall be composed of the following members:
  - a) a CNE commissioner (*comissário da CNE*) who shall oversee the tabulation procedure;
  - b) a STAE coordinator (*coordenador do STAE*) who shall chair the tabulation centre;
  - c) STAE staff;

- d) the chairpersons of the polling centres (*presidente do centro de votação*);
- e) brigade members (*brigadistas*) proposed by STAE.
- 2. (...).
- 3. Operation of the district tabulation centre:
  - a) the district tabulation centre shall initiate its procedures once it has received the minutes of at least 5 (five) polling centres;
  - b) on the basis of the minutes of the polling centres, minutes of the district tabulation (*acta de apuramento distrital*) shall be prepared;
  - c) the minutes of the district tabulation shall be transmitted to CNE up to 2 (two) days after election day, together with the challenged votes, any complaints concerning the electoral procedures, and a copy of the minutes is sent to STAE.
- 4. (...).

**Article 48: (...)**

- 1. Within 72 (seventy-two) hours of receiving the district tabulation minutes, CNE shall proceed to the national tabulation (*assembleia de apuramento nacional*) by verifying the district tabulation minutes and deciding definitively on the ballot papers subject to protests and on the complaints filed pursuant to article 45(4).
- 2. (...).

**Article 2: Addition**

Articles 37-A and 50-A are hereby added to Law no. 6/2006 of 28 December, as amended by Law no. 6/2007 of 31 May and shall read as follows:

**Article 37-A: Timorese citizens living abroad**

- 1. Timorese citizens who are or reside abroad shall enjoy the protection of the State.
- 2. Pursuant to paragraph 37-A(1) above, such Timorese citizens may exercise their right to vote as long as they are registered as voters and are in the possession of an updated voter's card and valid passport.
- 3. The applicable procedure shall be defined in a regulation to be adopted by the Government.

**Article 50-A: Institutional cooperation**

- 1. In the framework of the electoral process, CNE may request the assistance of any bodies or services of Public Administration.
- 2. The Public Prosecution Service shall appoint a special prosecutor to oversee any cases concerning electoral infringements.
- 3. The STJ shall appoint 3 (three) judges to decide on any cases referred to in paragraph 50-A(2) above.
- 4. Such cases shall be considered as urgent and handled as such.

**Article 3: Repeal**

Article 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72 and 74 of Law no. 6/2006 of 28 December are hereby repealed.

**Article 4 Republication**

Law no. 6/2008 of 28 December, in its current drafting, is published as an annex to this law, of which it is an integral part.

**Article 5: Entry into force**

This law shall enter into force on the day following its publication.

Adopted on 4 May 2011.

Promulgated on 16/6/2011

- *Law 3/2009, of 8 July 2009 - Community Leaderships and Their Election*

The community leadership structures in Timor-Leste have undergone elections in 2004 and 2005 for the choice of the Suco Leaders and the Suco Councils, in accordance with the provisions of Law 2/2004, of 18 February 2004. As new elections approach, the need has arisen to establish a better definition and the action limits of the community leadership structures. The experience accumulated in managing the previous electoral process and that of the 2007 presidential and legislative elections is also used in this instance to promote changes aimed at improving the electoral process, by ensuring the democratic change-over in said structures.

Therefore the National Parliament, pursuant to Articles 92 and 95.2(h) of the Constitution of the Republic, enacts the following into law:

## **CHAPTER I - SCOPE AND GENERAL PRINCIPLES**

### **Article 1: Scope**

This law defines and governs the action limits of the community leadership structures, as well as the organization and implementation of the process for their election.

### **Article 2: Definition of community leadership**

1. Community leadership is the collegial body the purpose of which is to organize the community's participation in the solving of its problems, to uphold its interests and to represent it whenever required.
2. The community leadership is exercised by the Suco Leader and the Suco Council, within the limits of the Suco and the relevant villages, elected in accordance with the provisions hereof.
3. The community leaders are not included in the Public Administration and their decisions are not binding upon the State.

### **Article 3: Definition and delimitation of suco and village**

1. The suco is a community organization formed on the basis of historic, cultural and traditional circumstances, having an area established within the national territory and a defined population.
2. The village comprises a population cluster united by family and traditional bonds and connected to the sucos by historical and geographical relationships.
3. Powers to delimitate the number and areas of the sucos and the relevant villages shall lie with the Government.

### **Article 4: Suco Leader and Suco Council**

The Suco Leader is the community leader elected to direct the activities carried out by the community within a given suco, in fields contributing to the national unity and the production of goods and the provision of services aimed at satisfying the basic life and development needs, in close cooperation with the Suco Council.

### **Article 5: Suco Council**

1. The Suco Council is the collegial and advisory body of the Suco, intended to assist and advise the Suco Leader in exercising its duties, and shall operate for the benefit of the local community interests and without prejudice to the national interests.
2. The Suco Council comprises the Suco Leader, the leaders of all the villages comprising the suco and also the following members:
  - (a) Two women;
  - (b) Two youngsters, one of each gender;

(c) One elder;

(d) One lian nain.

3. The lian nian is not elected, but rather appointed by the Suco Council in its first meeting.

4. For the purposes of this law, "youngster" shall mean anyone who, on the Election Day, is between seventeen and thirty years old and "elder" shall mean anyone who, on the Election Day, is more than sixty years old.

#### **Article 6: Elections**

1. The Suco Leaders and the members of the Suco Councils shall be elected by universal, free, direct, secret, personal and periodic suffrage.

2. Men and women without discrimination may be candidates and be elected as Suco Leaders and members of the Suco Councils, provided they reach the age of seventeen until the time of submission of the candidacies.

#### **Article 7: Loss of office**

1. The Suco Leader and the member of the Suco Council who, during their term of office and without the authorization of the Suco Council, do not reside for more than three consecutive months in the suco or village for which they were elected, shall lose their office.

2. The Suco Leader and the member of the Suco Council who are convicted by a court decision with the condition of res judicata for a willful crime to which an imprisonment sentence corresponds, regardless of the duration thereof, shall also lose their office.

3. The Suco Leader or any member of the Suco Council who lose their office, resign or decease shall be replaced by the alternate indicated in the candidacy list.

4. The alternate Suco Leader or member of the Suco Council shall complete the term of office of the Suco Leader or member of the Suco Council being replaced.

#### **Article 8: Temporary replacement**

1. In the event of impediment or prolonged disease of the Suco Leader or a member of the Suco Council, they shall be temporarily replaced by another member or their alternates.

2. The decision on who shall temporarily replace the Suco Leader shall be taken by the absolute majority of the members of the Suco Council, in a meeting called and chaired by the eldest member of the Suco Council.

#### **Article 9: Term of office**

1. The term of office of the Suco Leaders and the members elected for the Suco Councils shall have duration of six years, and they may be reelected once.

2. The term of office shall commence upon the taking of office, which shall occur within thirty days of the announcement of the results.

3. The Suco Leader and the members of the Suco Councils shall be assigned to their offices by the Mayor, or the Government representative until such time as the municipality is instituted.

### **CHAPTER II - FIELD OF ACTIVITIES, RESPONSIBILITIES AND FUNCTIONING**

#### **SECTION I - FIELD OF ACTIVITIES AND RESPONSIBILITIES**

#### **Article 10: Field of activities**

1. The activities of the Suco Leader and the Suco Council may be carried out in fields such as the following:

(a) Peace and social harmony;

(b) Population census and registration;

- (c) Civic education;
- (d) Promotion of the official languages;
- (e) Economic development;
- (f) Food safety;
- (g) Environmental protection;
- (h) Education, culture and sports;
- (i) Assistance in the maintenance of social infrastructures, such as housing, schools, health centers, opening of water wells, roads and communications.

2. The activities of the Suco Leader and the Suco Council shall be carried out without prejudice to such national programs and plans as approved by the Government.

**Article 11: Responsibilities of the Suco Leader**

1. The Suco Leader shall represent the Suco and chair the meetings of the Suco Council, and shall act with impartiality and independence in exercising their duties.

2. The Suco Leader shall also:

- (a) Coordinate the implementation of the decisions taken by the Suco Council and, in cooperation with the other members of the Suco Council, promote a continuous consultation and discussion process with the whole community on the planning and execution of community development programs; Cooperate with the Municipal Administration and the Government representatives on the procedures to be adopted in carrying out the Suco's activities;
- (b) Favor the settlement of minor disputes involving two or more of the Suco's Villages;
- (c) Promote the creation of mechanisms for preventing domestic violence;
- (d) Support 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;
- (e) Request 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;
- (f) Submit to the approval of the Suco Council the annual financial report and the annual report on the activities carried out;
- (g) Exercise such other duties as are consistent with the nature of their duties, or as are assigned by the Government or the Municipal Administration.

**Article 12: Responsibilities of the Suco Council**

The Suco Council shall:

- (a) Assist the Suco Leader in preparing an annual development plan for the Suco;
- (b) Advise the Suco Leader in finding solutions aimed at the carrying out of activities within the Suco;
- (c) Identify, plan and monitor the carrying out of the activities in the fields of health, education, environment, employment and food safety promotion, amongst others to be carried out to favor the development of the Suco;
- (d) Call ordinary meetings at the Suco level, for the purpose of discussing development plans and activities;
- (e) Promote the respect for the principle of equality;
- (f) Promote the respect for the environment;
- (g) Ensure the respect for the Suco's customs and traditions; Cooperate with the Government and the Municipal Administration in implementing plans and activities aimed at promoting the development of the Suco;
- (h) Account to the Ministry of State Administration and Territorial Planning for the resources received from the General State Budget.

## SECTION II - FUNCTIONING

### **Article 13: Functioning of the Suco Council**

1. The Suco Council shall hold ordinary meetings once a month and special meetings at the request of the Suco Leader or of one-quarter of the members of the Suco Council.
2. In order to transact business, the Suco Council shall require the attendance of more than half its members, and its resolutions shall be adopted by the simple majority of the members attending the meeting.
3. In the event of a tie, the Suco Leader shall have the casting vote in their capacity as chairman of the Suco Council.
4. The Suco Leader may invite any citizen to participate in the meetings of the Suco Council, under the same terms as provided for in Article 10.3 above.

### **Article 14: Village Leader**

Without prejudice to the responsibilities to be provided for in the law, the Village Leader shall, in their capacity as member of the Suco Council:

- (a) Be a member of the Suco Council in representation of the Village;
- (b) Implement such decisions approved by the Suco Council as have implications as regards the Village;
- (c) Provide the Suco Leader with such data as requested by them which are required for the coordination with the Ministries and the Local Administration;
- (d) Favor the creation of base structures for the settlement and resolution of minor disputes occurring in the Village;
- (e) Promote the respect for the law and cooperate in the pursuance of social stability;
- (f) Ensure the creation of mechanisms for the prevention of domestic violence, including by means of civil education campaigns in the relevant village;
- (g) Facilitate 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;
- (h) Promote the consultation and discussion between the Village inhabitants on all matters in connection with the community life and development, and report to the Suco Council;
- (i) Exercise such other responsibilities as are consistent with the nature of their duties.

### **Article 15: Rights of the Suco Leaders and members of the Suco Councils**

In exercising their duties, the Suco Leaders and the members of the Suco Councils shall have the following rights:

- (a) The right to receive an incentive, the value of which shall be proposed by the Ministry of State Administration and Territorial Planning, as follows:
  - (i) The Suco and Village Leaders shall be entitled to a fixed allowance and to attendance fees in the meetings;
  - (ii) The members of the Suco Councils shall be entitled to attendance fees in the meetings;
- (b) The right to such material resources as allow them to duly exercise their duties;
- (c) The right to education and training aimed at enhancing their skills;
- (d) Right to a compensation from the State for any accident in connection with the exercise of their duties.

### **Article 16: Incentives from the Government or the Municipality**

1. The Government or the Municipality shall provide the Sucos with material and financial resources with a view to ensuring their proper functioning and development.

2. The amount to be granted to the Sucos shall be proposed by the Ministry of State Administration and Territorial Planning or the Municipal Assembly, taking into consideration the proposal submitted by the Suco Council.

### **CHAPTER III - ELECTORAL CAPACITY AND CANDIDACIES**

#### **Article 17: Active electoral capacity**

The national citizens aged seventeen or more are entitled to vote for the Suco bodies, provided that they are enrolled in the list of voters of the Suco or Village in which they registered themselves.

#### **Article 18: Passive electoral capacity**

The Timorese citizens who:

- (a) Are fully entitled to their right to vote;
- (b) Reside and are registered as voters in the Suco or Village to which they submit their candidacy, may be candidates.

#### **Article 19: Candidacy limits**

The following persons may not be candidates to the Suco bodies:

- (a) The President of the Republic;
- (b) The Members of Parliament;
- (c) The members of the Government;
- (d) The judicial magistrates and those of the Public Prosecution Office;
- (e) The religious authorities;
- (f) The members of the FALINTIL-FDTL;
- (g) The CNE commissioners;
- (h) The members of the PNTL;
- (i) The Human Rights and Justice Ombudsman and their assistants;
- (j) The public servants.

#### **Article 20: Incompatibilities**

One cannot submit a simultaneous candidacy for Suco Leader and member of the Suco Council, nor be a candidate in more than one list.

#### **Article 21: Submission of candidacies**

1. Candidacies shall be submitted by means of complete lists, at such time and place as defined by STAE, from amongst the citizens residing in the relevant suco or village, and registered thereat.
2. Together with the list, the candidates shall indicate their alternates and submit the candidacy acceptance letter.
3. No candidacy lists may be submitted by political parties.
4. The public presentation of the candidates shall be made in a community meeting called by STAE under the terms of the law.
5. The additional procedural rules shall be comprised in regulations to be prepared by STAE and approved by CNE, at least sixty days prior to the date set for the election.

#### **Article 22: Requirements for the submission of candidacies**

1. Candidacy lists shall be accepted provided that they are subscribed by at least 1% of the voters residing in the Suco.
2. As regards the sucos with less than three thousand voters, the lists shall be accepted with at least thirty signatures from voters residing in the Suco.

3. Candidacy lists shall be complete and comprise:

- (a) Candidates to Suco Leader, Village Leaders, Suco Council and their alternates;
- (b) A candidacy acceptance letter signed by each candidate and alternate.

#### **CHAPTER IV - ELECTIONS PERIOD AND VOTING**

##### **Article 23: Electoral campaign period**

The electoral campaign shall have a duration of seven days and shall end forty eight hours prior to the Election Day.

##### **Article 24: Electoral campaign principles**

1. The electoral campaign shall be conducted in observance of the following principles:

- (a) Freedom of electoral propaganda;
- (b) Prohibition of the candidacy being bound to a political party;
- (c) Equal opportunities and treatment of the various campaigns;
- (d) Impartiality from the public entities as regards the candidacies;
- (e) Transparency and inspection of the electoral accounts.

2. CNE shall monitor the observance of the above principles and shall adopt measures conducive to encourage the peaceful functioning of the campaign.

##### **Article 25: Functioning of the electoral campaign**

1. The candidacies of the lists accepted shall be granted an allowance from the General State Budget to finance the electoral campaign.
2. The amount of the allowance shall be proposed by the Government and approved by the National Parliament.
3. The candidacies shall account to CNE for the expenses incurred.

##### **Article 26: Electoral time schedule**

STAE shall propose the electoral time schedule, which shall be approved by the National Elections Committee (CNE) at least sixty days prior to the elections.

##### **Article 27: Voting center**

1. At least one voting center shall function in each suco, and STAE may, in keeping with the number of voters or the distance between the villages, open more voting centers.
2. Each voting center shall comprise one or more voting stations.
3. The location and number of the voting centers shall be disclosed together with the candidates' lists.

##### **Article 28: Electoral officials**

In each voting station there shall be five local electoral officials, selected, recruited and trained by STAE.

##### **Article 29: Ballot paper**

The ballot paper shall contain the names and pictures of the candidates for Suco Leader heading the list.

##### **Article 30: Functioning of the voting center and voting process**

The functioning of the voting center and the voting process shall be the subject of specific regulatory rules proposed by STAE and approved by CNE.

##### **Article 31: Doubts, complaints and objections**

1. Any voter or candidacy inspector may raise doubts, submit complaints or present objections relating to the electoral operations.
2. The doubts rose, complaints submitted and objections presented during the voting or after the closing thereof shall be immediately reviewed by the electoral officials, who may consult with STAE if so required.
3. The complaints shall be the subject of a resolution from the electoral officials approved by at least three of their numbers.
4. The resolutions shall be notified to the claimants who, should they so wish, may address the complaint to CNE, which complaint shall be delivered at the same voting center or station and shall be filed together with all the documentation in connection with the relevant voting center.

## **CHAPTER V - COUNTING OF VOTES AND ESTABLISHMENT OF RESULTS**

### **Article 32: Counting of the votes**

The counting of the votes, made by the voting station, shall commence immediately after the closing of the voting center and the reviewing of the complaints, and shall be made by the electoral officials, in the presence of the observers, electoral inspectors and members of the media, in accordance with such regulations as proposed by STAE and approved by CNE.

### **Article 33: Validation and announcement of the results**

1. In the sucos where only one voting center exists, upon conclusion of the counting and review of the complaints, the final results shall be established and minutes shall be drawn up with the general list of the results established, to be affixed on the outside of the voting center.
2. In the sucos where more than one voting center exists, the votes shall be counted and the results partially established, and the final results shall be immediately established in such voting center as defined in advance by STAE.
3. The final minutes and the complaints filed shall be forwarded to STAE in the capital of the district which, upon conclusion of the district electoral process, shall enclose the documents relating to the voting in each suco and shall deliver the same to CNE for review of the process.
4. CNE shall review the process as well as the complaints addressed to it, and shall resolve within one week in the form of recommendations to the court of competent jurisdiction.
5. CNE shall forward all the documentation in respect of each suco to the court of competent jurisdiction, which shall validate and announce the results of the electoral process within thirty days.

### **Article 34: Annulment and repetition of the annulled elections**

1. In case the election was declared void in a suco, the election shall be repeated within fifteen days.
2. The elections shall only be annulled if the irregularities detected have an influence in their results.

### **Article 35: Winner candidates**

1. The list obtaining the higher number of valid votes shall elect the Suco Leader and the members of the Suco Council.
2. In the event of a tie, a second vote shall be taken within fifteen days between the two most voted lists.

## **CHAPTER VI - FINAL AND TRANSITIONAL PROVISIONS**

### **Article 36: Revocations**

1. Law 2/2004, of 18 February 2004, governing the elections of the Suco Leaders and the members of the Suco Council, and Decree-Law 5/2004, of 14 April 2004, on the community authorities, are hereby revoked.

2. All provisions inconsistent with the provisions hereof are likewise revoked.

**Article 37: Effective date**

This law shall become effective on the day following its publication.

Approved on 4 June 2009

Promulgated on 8 July 2009

- *Labour Code – Law 4/2012 (Selected articles)*

The Labour Code of the Democratic Republic of Timor-Leste was approved through UNTAET Regulation No. 2002/05 of 1 May. Since then, labour relations in the country have been governed by such Code.

The country's social and economic progress over the last decade requires the approval of a legislative instrument that responds to the current needs of the labour and entrepreneurial market in the country, thereby enabling investment in, and development of, entrepreneurial activities as well as the protection and professional development of workers in a harmonious manner.

In this connection, the drafting of a new legal framework regulating the labour relations represents a critical contribution towards the development process of the Timorese society and economy.

Organisations representing employers and employees have been listened to.

Thus, pursuant to article 95.1 of the Constitution of the Republic, the National Parliament enacts the following, to have the force of law:

## PART I: INTRODUCTORY PROVISIONS AND FUNDAMENTAL PRINCIPLES

[...]

### CHAPTER II: FUNDAMENTAL PRINCIPLES

#### **Article 6: Principle of equality**

1. All workers, men and women, have the right to equality of opportunities and treatment insofar as access to employment, training and capacity building, work conditions and remuneration are concerned.
2. Nor worker or employment candidate may, either directly or indirectly, be benefited, negatively affected, deprived of any right or exempted from any duty on the basis of colour, race, civil status, gender, nationality, ascendancy or ethnical origin, social position or economic status, political or ideological convictions, religion, physical or mental condition, age or health status.
3. Any distinction, exclusion or preference based on qualifications required for accessing to or executing a certain work shall not constitute discrimination.
4. Any specifically defined legislative measure of a temporary nature that benefits certain disadvantaged groups, notably on the basis of gender, reduced work capacity or deficiency, with the objective of ensuring the exercise, under conditions of equality, of the rights provided for in this Code, shall not be considered discriminatory.
5. Retributive differences shall not constitute discrimination where they are based on objective criteria common to men and women, notably distinction on the basis of merit, productivity, assiduity or seniority of workers.
6. It shall be incumbent upon the person alleging discrimination to substantiate such allegation, indicating the worker in relation to whom they consider to have been discriminated, and it shall be the responsibility of the employer to prove that the

preference in the access to employment or the differences in working conditions are not based on any of the factors indicated in paragraph 2 above.

#### **Article 7: Harassment**

1. Harassing a job applicant or a worker shall be prohibited.
2. Harassment shall mean any undesired behavior that affects the dignity of women and men or that is considered to be offensive either verbally, nonverbally or physically, or that results in an intimidating, hostile, humiliating and destabilizing work atmosphere for the harassed person.
3. Sexual harassment shall mean any undesired behavior of a sexual nature that affects the dignity of women and men or that is considered to be offensive, in a verbal, non-verbal, or physical manner, such as contact or insinuations, commentaries of a sexual nature, exhibition of pornography and sexual demands, or that creates an intimidating, hostile, humiliating and destabilizing work environment to the harassed person.
4. The employer must take all necessary measures to prevent cases of harassment, notably sexual harassment, at the workplace.

[...]

### **CHAPTER V: SPECIAL LABOUR PROTECTION REGIMES**

#### **SECTION I: PROTECTION OF MATERNITY AND PATERNITY**

##### **Article 58: General principles**

Maternity and paternity constitute an essential social value and all rights relating thereto shall be guaranteed to the working mother and father.

##### **Article 59: Maternity leave**

1. Female workers shall have the right to paid maternity leave for the minimum period of 12 weeks, 10 weeks of which shall necessarily be taken after delivery, without loss of remuneration and seniority rights.
2. The period of maternity leave shall neither affect the remuneration nor the length of the vacation period.
3. Without prejudice to maternity leave provided for in paragraph 1 above, female workers shall be entitled to leave of absence prior to delivery in situations of clinical risks for the worker or the new-born that hamper the exercise of her functions for the period of time established by medical prescription and deemed necessary for preventing such risks.
4. In case of interruption of pregnancy the worker shall have the right to a leave for 4 weeks.

##### **Article 60: Paternity leave**

1. Male workers shall have the right to a five-day remunerated paternity leave after the birth of their children without losing the right to seniority.
2. The period of paternity leave shall neither affect the salary nor the duration of the length of the vacation period.
3. In case of birth of a child followed by the death of the spouse or of a person with whom the worker lives in cohabitation, the worker shall have, at that very moment or up to two weeks after delivery, the right to the leave provided for in paragraph 1 of article 59 above, without loss of the remuneration and the right to seniority.

##### **Article 61: Responsibility**

It shall be the responsibility of the employer to pay the remuneration to the workers during the period of maternity and paternity leave until such time as the social security system is established.

**Article 62: Leave of absence for medical consultation and breastfeeding**

1. Pregnant workers shall have the right to be away from work without loss of remuneration or of any rights in order to undergo medical examinations for the time and frequency deemed necessary against presentation to the employer of the relevant justification.
2. Female workers shall have the right to be away from work into order to breastfeed their children until such time as the latter reach 6 years of age, without loss of remuneration or of any rights.
3. For the purposes of the preceding paragraph, the worker shall have the right to two breastfeeding periods per day with the duration of one hour each.

**Article 63: Health and security protection**

1. Pregnant or breastfeeding workers shall have the right, without reduction to their remuneration, of not performing functions that are not advisable to their health status, notably works that imply physical efforts or their exposure to dangerous substances for them and the child.
2. Pregnant or breastfeeding workers shall have the right of not to provide night or overtime work.

**Article 64: Leave for assisting children**

1. Workers with children aged less than 10 years shall have the right to be away from work up to a maximum of 5 days per annum in order to provide pressing and indispensable assistance to them in case of disease or accident against presentation of relevant certification.
2. The right to be away from work referred to in the preceding paragraph shall only originate loss of remuneration corresponding to the days the worker was away from work.

**Article 65: Protection against dismissal**

1. Once the maternity leave has ended, female workers shall have the right to be reintegrated in their work position or in an equivalent work position with the same remuneration.
2. Dismissal of the female worker due to pregnancy, breastfeeding or child feeding shall be prohibited.
3. It shall be incumbent upon the employer dismissing the pregnant, breastfeeding or child feeding worker to prove that the dismissal is not based on these facts.

- *Civil Code (Selected articles)*

LAW NO. 10/2011 of 14 September  
APPROVES THE CIVIL CODE

A Civil Code is of fundamental importance to the legal system of any civil law country; more than a compilation of statutes, it is an ordered set of provisions that follows a systematized selection of matters regulating to legal relations among private legal entities, be they individuals or corporate bodies.

The Civil Code hereby approved is a modern statute, and the solutions brought by it are considered to be in line with the Timorese reality and in conformity with the general principles of law and the international norms enshrined in the Constitution and which constitute founding principles of a Democratic State based on the rule of law.

The present Code is now one of the main instruments of the legal system in Timor-Leste which, as mentioned earlier, will enable the regulation of the legal relations among private legal entities.

The approval of the Civil Code therefore constitutes a benchmark of extraordinary importance to the entire society insofar as the future of private legal relations and the construction of the national legal system are concerned.

Thus, pursuant to article 95.1 of the Constitution of the Republic, the National Parliament enacts the following to have the force of law:

[...]

## TITLE II ON LEGAL RELATIONSHIPS

### SUBTITLE I ON PERSONS

#### CHAPTER I - Natural persons

##### SECTION I - Personality and legal capacity

###### **ARTICLE 63 (Emergence of personality)**

1. Personality is acquired with complete birth and with life.
2. The rights recognized by the law to the unborn child depend on his or her birth.

###### **ARTICLE 64 (Legal capacity)**

Any person may be a party in any legal relationship, except as otherwise provided by law. This is what defines his or her legal capacity.

###### **ARTICLE 65 (Termination of personality)**

1. Personality ceases with death.
2. When a given legal effect depends on one person surviving another, in case of doubt it is assumed that both died at the same time.
3. A person whose corpse was not found or identified is presumed dead, when the disappearance took place in circumstances that leave no doubt as to his or her death.

###### **ARTICLE 66 (Renouncing the legal capacity)**

A person may not renounce, wholly or in part, his or her legal capacity.

[...]

**ARTICLE 78 (Voluntary limitation of personality rights)**

1. Any voluntary limitation of the exercise of personality rights shall be null and void if it is contrary to the principles of the public order.
2. When legal, voluntary limitation of personality rights can always be revoked, albeit with the obligation of compensating the damage caused to the legitimate expectations of the other party.

[...]

SECTION V - Incapacities

SUBSECTION I - Legal condition of minors

**ARTICLE 118 (Minors)**

A minor is a person who has not yet completed seventeen years of age.

**ARTICLE 119 (Minor's incapacity)**

Unless otherwise provided, minors lack the capacity to exercise rights.

**ARTICLE 120 (Supplantation of minor's incapacity)**

A minor's incapacity is supplanted by parental authority and, subsidiarily, by guardianship, depending on the respective arrangement.

[...]

BOOK IV - FAMILY LAW

TITLE I - GENERAL PROVISIONS

**ARTICLE 1466 (Sources of legal relationships amongst family members)**

Marriage, consanguinity, affinity, and adoption are sources of legal relationships amongst family members.

**ARTICLE 1467 (Concept of marriage)**

Marriage is the contract entered into by two persons of different genders who intend to constitute family by means of full cohabitation, pursuant to the provisions of this Code.

**ARTICLE 1468 (Concept of consanguinity)**

Consanguinity is the bond connecting two people as a consequence of one of them descending from the other or both coming from a common parent.

**ARTICLE 1469 (Family elements)**

Consanguinity is determined by generations linking relatives one to the other: each generation creates a degree, and a series of degrees constitutes the family relationship.

**ARTICLE 1470 (Family relationships)**

1. A straight line is said to exist when one of the relatives descends from the other; a collateral line is said to exist when none of the relatives descends from the other, but both come from a common parent.
2. A straight line is either descending or ascending: it is descending when it is considered as coming from the ascendant to the one that comes from her/him; it is called ascending when it is considered as coming from the descendant to the parent.

**ARTICLE 1471 (Counting of degrees)**

1. In the straight line, there are as many degrees as people forming the family relationship, excluding the parent.

2. In the collateral line, degrees are counted likewise, ascending through one of the branches and descending through the other, but without counting the common parent.

**ARTICLE 1462 (Limits of consanguinity)**

Except as otherwise provided by law, the effects of consanguinity are produced in any degree of the straight line and up to the sixth degree in the collateral line.

**ARTICLE 1473 (Concept of affinity; elements and termination)**

1. Affinity is the bond connecting each of the spouses to the relatives of the other.
2. Affinity is determined by the same degrees and lines defining consanguinity and it is not terminated by dissolution of marriage.

**ARTICLE 1474 (Concept of adoption)**

Adoption is the bond that, like natural parentage, but irrespective of the bonds of blood, is legally established between two people in terms of article 1853 and subsequent articles.

TITLE II ON MARRIAGE

CHAPTER I - Modalities of marriage

**ARTICLE 1475 (Civil, catholic, and bride-price based monogamic marriage)**

1. Marriage is either civil, catholic, or bride-price based monogamic.
2. Civil law recognises value and efficacy of marriage in catholic matrimony and in bride-price based monogamic marriage, pursuant to the following provisions.

**ARTICLE 1476 (Effects of catholic marriage)**

Catholic marriage is governed, with respect to civil effects, by the common norms of this code, except as otherwise provided.

**ARTICLE 1477 (Duality of marriage)**

1. Catholic marriage entered into by people who are already bound by undissolved civil marriage is registered in the entry book, irrespective of the prior publication of banns.
2. Civil marriage of two people united by previous catholic matrimony is not allowed.

**ARTICLE 1478 (Bride-price based monogamic marriage)**

1. Bride-price based monogamic marriage is that which is entered into between people of different genders in accordance with the customs and usage of a certain region.
2. Bride-price based monogamic marriage is governed, with respect to effects, by the common norms of this code, except as otherwise provided.

**ARTICLE 1479 (Urgent marriages)**

An urgent marriage entered into without the presence of a clerk of the civil registry, Catholic Church minister or community authority is considered either civil, catholic or bride-price based monogamic marriage as per the parties' intention expressly manifested or inferred from the formalities adopted, the betrothed's beliefs, or any other elements.

CHAPTER II - Marriage promises

**ARTICLE 1480 (Inefficacy of promises)**

A contract whereby two persons of different genders undertake, as engaged couple or in any other capacity, to contract matrimony does not give the right to either demand that marriage be entered into or claim, if the promise is not fulfilled, compensations other than those provided for in article 1483, even when resulting from a penal clause.

**ARTICLE 1481 (Restitutions, in cases of incapacity and retraction)**

1. If marriage is not entered into due to incapacity or retraction of one of the promising parties, each of them is obliged to restitute the donations the other or a third party has made due to the promises and in the expectation of marriage, in accordance with the terms prescribed for nullity or annullability of the legal transaction.
2. The obligation to restitute comprises letters and personal portraits of the other contracting party, but not things that have been consumed before the retraction or the occurrence of incapacity.

#### **ARTICLE 1482 (Restitution in case of death)**

1. If marriage does not happen due to the death of one of the promising parties, the surviving promising party may keep the deceased's donations, but, in this case, he shall forfeit the right to demand, on his or her part, the restitution of those that he has made.
2. The same promising party may retain the deceased's correspondence and personal portraits and demand the restitution of those the deceased has received from him.

#### **ARTICLE 1483 (Compensations)**

1. If any of the contracting parties breaks the promise for no good reason, or through fault of his or her own, gives ground for the other party to retract, he shall compensate the innocent spouse, as well as his or her parents or third parties that have acted in the parents' behalf, for both the expenses incurred and the obligations contracted in anticipation of marriage.
2. Equal compensation is due when marriage does not happen because of incapacity of one of the contracting parties, if he or his or her representatives have acted deceitfully.
3. Compensation is determined at the court's prudent discretion by taking into account, in its calculation, not only the extent to which the expenses and obligations are deemed reasonable, in view of the circumstances surrounding the case and the condition of the contracting parties, but also the advantages that might, apart from marriage, still be granted to one another.

#### **ARTICLE 1484 (Time limit within which to bring action)**

The right to demand the restitution of donations or compensation lapses within one year of the date on which the promise was broken or the promising party passed away.

### CHAPTER III - Assumptions about marriage

#### SECTION I - Catholic marriage and bride-price based monogamic marriage

#### **ARTICLE 1485 (Civil capacity)**

Only those with the matrimonial capacity required by civil law may enter into catholic marriage and bride-price based monogamic marriage

#### **ARTICLE 1486 (Preliminary process)**

1. The betrothed couple's matrimonial capacity is attested by means of a prior publication of banns, organized in a civil registrar's office at the request of the betrothed couple or the respective parish priest.
2. The consent of the parents or guardian, in relation to an underage betrothed, may be given in the presence of two witnesses before the parish priest or community authority, depending on whether the marriage is catholic or bride-price based monogamic marriage, who shall prepare an occurrence report and sign it together with all the other stakeholders.
3. The consent referred to in the previous paragraph may also be directly given in a civil registrar's office.

#### **ARTICLE 1487 (Matrimonial capacity certificate)**

1. If the final rule issued on the preliminary process indicates that there is no impediment to marriage, the civil registrar shall extract therefrom the matrimonial capacity certificate, which shall be sent out to the betrothed or the parish priest, and without such a certificate the marriage may not be entered into.

2. If, after the certificate has been sent out, the registrar comes to know of any impediment, he shall immediately communicate it to the betrothed or the parish priest in order to put marriage on hold until judgment is passed thereon.

**ARTICLE 1488 (Waiver of preliminary process)**

1. Marriage “*in articulo mortis*” may be entered into, when child delivery is imminent or the immediate performance of the marriage ceremony is expressly authorized by the parish priest for a serious reason of a moral nature, irrespective of the prior publication of banns and the issuance of the betrothed couple’s matrimonial capacity certificate.

2. When there is grounded fear that one of the betrothed is about to die or child delivery is imminent, bride-price based monogamic marriage is allowed to take place, irrespective of the prior publication of banns and the issuance of the betrothed’s matrimonial capacity certificate.

3. A waiver of the preliminary process does not change civil law requirements with respect to the betrothed’s matrimonial capacity, and they shall remain subject to sanctions under the same law.

SECTION II - Civil Marriage

SUBSECTION I - Matrimonial impediments

**ARTICLE 1489 (General rule)**

Every person on whom none of the impediments provided by law falls is capable of contracting marriage.

**ARTICLE 1490 (Absolute diriment impediments)**

Diriment impediments, which prevent the person on whom they fall from contracting marriage, are as follows:

- a) Age below sixteen years;
- b) Noticeable dementia, even during lucid intervals, and interdiction or incapacity due to a mental disorder;
- c) Undissolved previous marriage, either catholic or civil, even if the relevant record has not been lodged with the civil registrar’s office.

**ARTICLE 1491 (Relative diriment impediments)**

The following impediments are also diriment, preventing marriage between the persons on whom they fall:

- a) Straight-line consanguinity;
- b) Second degree of consanguinity in the collateral line;
- c) Straight-line affinity;
- d) Previous conviction of one of the betrothed, as an agent or accomplice, for murder, even if not consummated, against the spouse of the other.

**ARTICLE 1492 (Proof of maternity or paternity)**

1. Proof of maternity or paternity for the purpose of applying the provisions of subparagraphs a), b), and c) of the preceding article is always permitted in the prior publication of banns, but the acknowledgement of consanguinity, either in relation to this process or in a lawsuit of annulment or nullity of marriage, bears no other effect and is not even valid as an initial proof in an action aimed at ascertaining maternity or paternity.

2. Exception is made to the use of ordinary means for the purpose of declaring the inexistence of any impediment in a suit filed against the persons who would have legitimacy to make a petition for declaration of nullity or annulment of marriage based on the impediment which has been acknowledged.

**ARTICLE 1493 (Impeding impediments)**

In addition to others referred to in special laws, impending impediments include:

- a) Lack of parents’ or guardian’s authorization for an underage betrothed to marry, when not provided by the civil registrar;

- b) Internuptial period;
- c) Third degree of consanguinity in the collateral line;
- d) Bond of guardianship, trusteeship, or legal management of assets;
- e) Accusation of a betrothed in connection with murder, even if not consummated, against the spouse of the other, as long as the case is not dismissed on the basis of a final decision.

**ARTICLE 1494 (Period during which a widow(er) is not allowed to marry again)**

1. The impediment arising from the period within which a widow(er) is allowed to marry again prevents the marriage of the party whose previous marriage was dissolved, declared void, or annulled, as long as one hundred and eighty or three hundred days have not elapsed since the dissolution, declaration of nullity or annulment, depending on whether the person concerned is a man or a woman.
2. However, the woman may contract a new marriage after one hundred and eighty days if she obtains a judicial declaration that she is not pregnant or if she has had a child after the dissolution, declaration of nullity or annulment of the previous marriage; if the spouses were judicially separated from persons and assets and the marriage is dissolved by the death of the husband, the wife may enter into a second marriage after one hundred and eighty days have elapsed from the date on which the final sentence of separation was pronounced by the court, if she obtains a judicial declaration that she is not pregnant or if she has had a child after such date.
3. In case of a catholic marriage declared void or dissolved by waiver, time counts from the date on which the decision issued by the ecclesiastical authorities was recorded; in case of divorce or annulment of a civil marriage, or of bride-price based monogamic marriage, time counts from the date on which the final decision was issued.

**ARTICLE 1495 (Cessation)**

1. The impediment arising from the internuptial period ceases if the time limits referred to in the previous article have already elapsed from the date set in the divorce sentence on which the spouses' cohabitation came to an end or, in case of conversion of the judicial separation of persons and assets into divorce, from the date the final sentence of separation was passed.
2. The impediment ceases even if the marriage is dissolved by the death of one of the spouses, in case the latter are judicially separated from persons and assets, when the time limits set forth in the previous paragraphs have already elapsed since the date the final sentence was passed.

**ARTICLE 1496 (Bond of guardianship, trusteeship, or legal management of assets)**

The bond of guardianship, trusteeship, or legal management of assets prevents the marriage of the incapable party to the guardian, trustee, or manager, or his or her relatives or the like in the straight line, brothers, brothers-in-law, or nephews and nieces, as long as one year has not elapsed from the end of incapacity and the respective accounts have not been approved, if any.

**ARTICLE 1497 (Waiver)**

1. The following impediments are susceptible to waiver:
  - a) Third degree of consanguinity in the collateral line;
  - b) Bond of guardianship, trusteeship, or legal management of assets, if the respective accounts are already approved;
2. A waiver is the responsibility of the civil registrar, who shall grant it when there are serious reasons to justify the celebration of marriage.
3. If either of the betrothed parties is underage, the registrar shall hear the parents or guardian, whenever possible.

**SUBSECTION II - Prior publication of banns**

**ARTICLE 1498 (Need and end of process of publication of banns)**

The celebration of marriage is preceded by a publication of banns, regulated by civil registration laws and intended to ascertain the inexistence of impediments.

**ARTICLE 1499 (Declaration of impediments)**

1. Until the celebration of marriage, any person may declare the impediments he is aware of.
2. Declaration is mandatory for the Office of the Public Prosecutor and for the Civil Registrar's Office as soon as they become aware of the impediment.
3. Once the declaration is made, the marriage shall only be celebrated if the impediment ceases, if it is waived in terms of article 1497, or if it is found inadmissible in a final judgment.

**ARTICLE 1500 (Parents' or guardian's authorization)**

1. Authorization for the marriage of a minor under the age of 17 years and above the age of 16 years shall be granted by the parents exercising parental authority or by the guardian.
2. The civil registrar may grant the authorization referred to in the preceding paragraph if there are any reasons of sufficient weight to justify the celebration of marriage and the minor has sufficient physical and mental maturity.

[...]

CHAPTER VIII - Registration of marriage

SECTION I - General provisions

**ARTICLE 1538 (Marriages subject to registration)**

1. Registration is compulsory
  - a) For marriages entered into in Timor-Leste in any of the forms provided for by Timorese law;
  - b) For marriages of a Timorese person or persons entered into abroad;
  - c) For marriages of foreigners who, after entering into the marriage, acquire Timorese nationality.
2. Registration, at the request of an individual who demonstrates a legitimate interest therein, of any other marriages that do not contradict the fundamental principles of international public order of the Timorese State, is also permitted.

SECTION II - Registration by transcription

SUBSECTION I - General provisions

**ARTICLE 1541 (Cases of transcription)**

The following are drawn up by transcription:

- a) Records of catholic or bride-price based monogamic marriages celebrated in Timor-Leste;
- b) Records of any form of urgent marriage provided for in this legal instrument and entered into in Timor-Leste;
- c) Records of catholic or civil marriages entered into by Timorese persons abroad, or by foreigners who acquire Timorese nationality;
- d) Records drawn up in compliance with a court order;
- e) Records of marriages accepted for registration, at the request of the interested parties under the terms of paragraph 2 of article 1538;
- f) Records of marriages which are required to be entered into the books of a department other than that in which they were originally drawn up.

SUBSECTION II - Transcription of catholic and bride-price based monogamic marriage entered into in Timor-Leste

**ARTICLE 1542 (Transmission of duplicate or certificate of record)**

1. In the case of a catholic marriage celebrated in Timor-Leste, the parish priest shall send a duplicate of the parish record to the civil registrar's office, for transcription into the marriage record book.
2. For marriages the immediate celebration of which has been authorized by the parish priest, a copy of the authorization is sent with the duplicate, authenticated by the signature of the parish priest.

3. The community authority that witnesses the celebration of a bride-price based monogamic marriage is obligated to send a duplicate of the marriage deed to the competent registry office.

## CHAPTER IX - Effects of marriage on individuals and property of the spouses

### SECTION I - General provisions

#### **ARTICLE 1559 (Equality between spouses)**

1. Marriage is based on equality of rights and duties between the spouses.
2. Management of the family falls on both spouses, who shall agree as to the orientation of their life together, taking into account the best interests of the family and the interests of the other spouse.

#### **ARTICLE 1560 (Duties of spouses)**

The spouses are reciprocally bound by the duties of respect, fidelity, cohabitation, cooperation and assistance.

#### **ARTICLE 1561 (Family home)**

1. The spouses shall choose the family home by mutual agreement, namely, taking into account the demands of their professional lives and the interests of the children, seeking to safeguard the unity of family life.
2. Except in the case of substantial reasons to the contrary, the spouses shall adopt the family home.
3. In the absence of agreement as to the establishment or moving of the family home, the court shall decide at the request of either spouse.

#### **ARTICLE 1562 (Duty to cooperate)**

The duty to cooperate implies, for the spouses, the obligation of mutual help and assistance and joint assumption of the responsibilities inherent to the family life that they have established.

#### **ARTICLE 1563 (Duty to assist)**

1. The duty to assist includes the obligation to supply food and to contribute to the responsibilities of family life.
2. The duty to assist is maintained during de facto separation if this is not imputable to either spouse.
3. If the de facto separation is imputable to one or both of the spouses, the duty to assist is only incumbent, in principle, upon the sole or principal culpable individual; the court may, however, exceptionally and for reasons of equity, impose this duty on the innocent or less culpable spouse, taking into consideration, in particular, the duration of the marriage and the contribution that the other spouse has supplied to the couple's economies.

#### **ARTICLE 1564 (Duty to contribute to the responsibilities of family life)**

1. The duty to contribute to the responsibilities of family life is a duty for both spouses, in line with the means of each, and can be made, by either applying their resources to these responsibilities and through work in the home or in the care and education of the children.
2. If the contribution of one of the spouses to the responsibilities of family life exceeds the part incumbent thereupon under the terms of the previous paragraph, waiver of the right to demand corresponding compensation from the other is presumed.
3. When the due contribution is not supplied, either spouse may demand that he or she be directly supplied with the part of the income or proceeds from the other stipulated by the court.

#### **ARTICLE 1565 (Right to name)**

1. Each spouse maintains his or her surnames, but may add the surnames of the other to a maximum of two.
2. The right granted in the second part of the previous paragraph may not be exercised by a party maintaining the surnames of a spouse from a previous marriage.

**ARTICLE 1569 (Practice of profession or other activity)**

Each spouse may practise any profession or activity without the consent of the other.

**ARTICLE 1570 (Management of the couple's property)**

1. Each spouse shall manage his or her own property.
2. Each spouse shall also manage:
  - a) The proceeds received from his or her work;
  - b) Copyright;
  - c) Communal property brought by him or her into the marriage or acquired gratuitously after the marriage, in addition to any that is subrogated in the place of this;
  - d) Property that has been given or left to both spouses, with the exclusion of that to be managed by the other spouse, except in the case of property legitimately given or left to this other spouse;
  - e) Movable property owned by the other spouse or communally, for exclusive use by this spouse as a working tool;
  - f) Property owned by the other spouse, if this spouse is prevented from the management thereof for reasons of being in a remote or unknown location or for any other reason, and provided that power of attorney has not been granted to manage this property;
  - g) Property owned by the other spouse if this spouse grants this power to him or her by mandate.
3. Apart from the cases provided for in the previous paragraph, each spouse has the legitimacy to practise acts of ordinary management relative to the couple's common property; other managerial acts may only be practised with the consent of both spouses.

**ARTICLE 1571 (Administrative measures)**

A spouse not charged with management of property is not prevented from taking steps relative thereto if the other, for any reason, is unable to do so and damage might result from delaying such measures.

**ARTICLE 1572 (Bank deposits)**

Whatever the matrimonial property regime, each spouse may make bank deposits in his or her exclusive name and freely make transactions therein.

**ARTICLE 1573 (Practice of management)**

1. The spouse who manages communal property or property owned by the other spouse under the provisions of items a) to f) of paragraph 2 of article 1570, is not obliged to account for such management but is answerable for acts practised intentionally to the detriment of the couple or of the other spouse.
2. When management of common property or property owned by the other for one of the spouses is based on a mandate, the rules of this contract are applicable, but, unless otherwise stipulated, the managing spouse shall only account for and hand over the respective balance, if any, relative to acts practiced during the last five years.
3. If one of the spouses embarks on management of property owned by the other or communal property, the management of which does not fall on him or her, without written mandate but with the knowledge and without the express opposition of the other spouse, the provisions of the previous paragraph shall apply; in the case of opposition, the managing spouse is answerable as having acted in bad faith.

**ARTICLE 1574 (Disposal or encumbrance of moveable properties)**

1. The disposal or encumbrance of communal moveable property, the management of which falls on both spouses requires the consent of both, except in the case of an act of ordinary management.
2. Each spouse has the legitimacy to dispose of or encumber, by an act inter vivos, the individual or communal moveable property under his or her management, in terms of paragraph 1 of article 1570 and items a) to f) of paragraph 2 of the same article, with the exception of the provisions set out in the following paragraphs.
3. Disposal or encumbrance of the following requires the consent of both spouses:
  - a) Moveable property used jointly by both spouses in domestic life or as a communal working instrument;

b) Moveable property belonging exclusively to the spouse who does not manage it, except for an act of ordinary management.

4. When one of the spouses, without the consent of the other, disposes of or encumbers, in a non-valuable transaction, the communal moveable property under his or her management, the value of the property disposed of or the amortisation value of the encumbered property shall be taken into consideration in the sharing thereof, except in the case of a gift in consideration of services rendered or gift according to social uses.

**ARTICLE 1575 (Disposal or encumbrance of real estate and commercial establishment)**

1. The following require the consent of both spouses, unless their matrimonial regime is that of separation of property:

a) Disposal, encumbrance, leasing or constitution of other personal rights on individual or communal real estate;

b) Disposal, encumbrance or rental of an individual or communal commercial establishment.

2. Disposal, encumbrance, leasing or constitution of other personal rights on the family home always requires the consent of both spouses.

- *Draft Child Code (Selected articles)*

## **PREAMBLE**

The drafting of the present Child's Code was inspired in the standards and principles contained in the UN Convention on the Rights of the Child (the Convention), adopted by the United Nations General Assembly on 20 November 1989 and which was ratified by Timor-Leste on 17 September 2003.

The draft does not only incorporate the fundamental principles and rules contained in the Convention, but it also takes into account the jurisprudence and positions taken by the United Nations Committee on the Rights of the Child, which is in charge of monitoring the way in which the Convention is being implemented by all States Parties. This is especially clear in the area of prohibition of all forms of corporal punishment against children. The draft furthermore takes into account recent developments that have taken place in the area of human rights at the international level, namely the adoption of the UN Convention on the Rights of Persons with Disabilities, the recognition of sanitation and water and the adoption of the UN Guidelines for Children in need of Alternative Care, among others.

Moreover, besides being in full harmony with international commitments undertaken by the Government of Timor-Leste in the area of human rights, the draft is also consistent and in agreement with other existing national legislation in force in the country, as is the case of the Constitution and the Criminal Code. Likewise, the draft already takes into account draft laws that are currently under appreciation in Timor-Leste, namely the draft Civil Code, the draft Civil Registry Code and the draft Labour Code.

The Code is divided into four Parts: the first one with introductory provisions, the second one on rights and freedoms of the child, the third one on child protection measures and the fourth on the National Commission on the Rights of the Child.

The first Part contains the basic definitions, namely the age of majority which is set at 17 years. This Part also enunciates the general principles that guide the application and interpretation of the Code, namely the prohibition of discrimination, the principle of the best interest of the child, the principle of the inherent right to life and to the survival and development of the child and the principle of participation.

Part II is composed of a Title I containing general provisions and a Title II that enumerates the different rights of the child: Chapter I foresees a set of civil rights and freedoms, Chapter II consecrates rights to basic health and welfare, Chapter III encompasses the right to education and principles regarding the educational system, Chapter IV is devoted to the right to social security and, finally, Chapter V includes provisions on the right to culture and leisure. Part II takes on board many of the rights consecrated in the United Nations Convention on the Rights of the Child, but since the Convention is already over 20 years old, the Code includes also some innovative provisions that take into account recent developments that have occurred over the two last decades, as for example the prohibition of corporal punishment, the rights to sanitation and to water, the rights of children with disabilities, the rights of pupils and the rights of the hospitalized child.

Part III deals with child protection and is divided into 4 titles, the first one on general provisions, the second on the protection of the family and the right to family relations, the third on the rights of children in need of alternative care and the fourth on Special protection measures. Title I deals with the prohibition of abuse, exploitation, neglect and violence against children, as well as with the protection of the child at risk or having experienced significant harm. Title II establishes that the family – including the parents and the extended family - is primarily responsible for the child's upbringing, and that the State shall give it the necessary assistance in this endeavor. This title also defines what parental responsibilities are and deals with the separation of children from their parents. Title III deals with the rights of children in alternative care, closely follows the United Nations Guidelines for children in need for alternative care in this context and deals with the different types of care – such as kinship, foster care, residential care, guardianship and trusteeship , as well as adoption. Finally Title IV, on special protection measures, is divided into 5 Chapters. The first one on the child with special needs, the second on children in emergencies, the third on children in conflict with the criminal law, the fourth on children in contact with the law (which deals with the situations of children as parties to civil proceedings, victims or witnesses) and the fifth on the protection of children against exploitation, namely against child labour, sexual exploitation and abuse, as well as other forms of exploitation.

Part IV is fully devoted to the National Commission on the Rights of the Child, namely its creation, role and functions, as well as composition.

## **PART I - INTRODUCTORY PROVISIONS**

### **Article 1 - Scope**

1. This Code establishes and regulates the fundamental rights and freedoms of each child within the jurisdiction of Timor-Leste.
2. This Code further establishes a national framework of protection, thus contributing to strengthening an environment, which is enabling, enriching, safe and caring of children.

### **Article 2 - Definition of the child**

1. For the purposes of this Code, a child means every human being below the age of 17 years.
2. For the purposes of this Code, in case of doubt about whether a person shall be considered as a child, in particular, due to lack of documentary evidence, such as a birth certificate, the person is presumed to be a child.

### **Article 3 - General principles**

The interpretation and application of this Code, as well as any other legislation relating to children, shall be based upon the following guiding principles:

- a) The prohibition of discrimination, according to which no child shall be subject to any discrimination, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
- b) The principle of the best interests of the child, whereby the physical, emotional, intellectual and psychological well-being of the child is to be a primary consideration in all decisions concerning children.
- c) The principle of the inherent right to life and to the survival and development of the child which shall be provided by the State to the maximum extent possible.

d) The principle of participation, pursuant to which the State must assure to the child who is capable of forming his or her own views, the right to express those views freely and have them taken into consideration in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

#### **Article 4 - Duty to protect and promote the rights of the child**

The duty to protect and promote the rights of the child lies primarily with the family and the State.

[...]

#### **Article 30 - Prohibited disciplinary action**

1. The following are prohibited in schools:

- a) corporal punishment;
- b) psychological punishment undermining of the dignity of the child;
- c) collective punishment;
- d) measures involving the discrimination or exclusion of a child due to the child's personal circumstances or those of his or her parents;
- e) disciplinary sanctions which are of a pecuniary nature;

2. Also prohibited in schools are punishments or other disciplinary measures for students on the grounds of pregnancy, being the State obliged to ensure that there is a system for attendance, continuation and completion of scholastic studies by pregnant students and mothers.

3. Every school must provide a formal confidential complaints system that may be applied if the students' rights have been violated.

#### **Article 31 - Disciplinary measures**

1. School discipline is administered in a manner consistent with the child's human dignity and in conformity with the rights of the child without recourse to any type of abuse, mistreatment, cruel, inhuman or degrading treatment.

2. Disciplinary action has an educational purpose, aimed at correcting the disruptive behavior and strengthening the civic and democratic development of students, conducive to a balanced development of the student's personality and the ability to relate to others and his or her full integration into the educational community.

3. Disciplinary action must be consistent with the objectives of the student's education and determined after considering the seriousness of the offending behaviour, the circumstances under which this took place, the intent accompanying the student's conduct, his or her maturity and other personal, family and social considerations.

#### **Article 32 - Reporting obligation and duty to inform**

1. The directors, teachers and educators in education establishments, whether public or private, must:

- a) Report to a State Prosecutor, Ministry of Social Solidarity and National Police any reasonable suspicion of child cruelty or abuse within or outside the school;
- b) Report to the Ministry of Education any cases of drug dependency;
- c) Inform the Ministry of Education in cases of repeated and unjustified absences and drop-outs where the resources available to prevent and avoid dropout have been exhausted.

d) Report to the Ministry of Education levels of school failure and to establish a diagnosis with their possible causes.

2. The education system shall itself establish proper mechanisms to respond in a timely and efficient manner on the causes of the problems identified in the preceding paragraph.
3. The education system shall adopt an independent complaints mechanism for children to report on school environment, namely, its conditions or abuses perpetrated on them.

- *Education System Framework Law No. 14/2008, October 29 (Selected articles)*

## **Preamble**

Article 59 of the Constitution of the Democratic Republic of East Timor (DRET) gives the State the power to create a system of universal basic public education, which would be compulsory and, as far as possible, free of charge. It also affirms that the State recognizes and monitors private and cooperative education. The Fundamental Law guarantees all citizens the right and equal opportunity for education and professional training, access to education at its highest levels, scientific research and artistic creation, in addition to the right to enjoyment and cultural creativity, and the responsibility to preserve, protect and emphasize our cultural heritage.

The education system framework law represents a decisive step in the sense of establishing a legal framework of reference for the organization, orientation, regulation and development of the educational system emerging from the profound changes that the country has undergone since its independence. The ideal of providing a universal primary education of nine years of compulsory free schooling, strengthening the guarantee of equal opportunities to access and academic success, and the planning of measures designed to provide an effective schooling to all citizens based on standards of quality are important markers of this law.

Thus, the National Parliament decrees, under the terms of paragraph 1) of Section 2, Article 95 of the Constitution of the Republic of East Timor, with the force of law, as follows:

## **CHAPTER I - SCOPE, PRINCIPLES AND FUNDAMENTAL OBJECTIVES**

### **SECTION I - SCOPE AND GENERAL PRINCIPLES**

#### **Article 1 - Scope and Definition**

1. This law establishes the general framework of the educational system.
2. The educational system is the network through which one is granted the right to education, expressed by the guarantee of a permanent formative action designed to foster the universal development of personality, social progress and the democratization of society.
3. The educational system is developed through various structures and actions, at the initiative and under the responsibility of various institutions and public, private and cooperative entities, which cooperate among themselves in maintaining a balanced and up-to-date system of educational offerings, capable of providing knowledge, competencies and values needed for full individual and professional realization in contemporary society.
4. It is the responsibility of the State to ensure the availability of teachers with the necessary training and other human resources, as well as the infrastructures and financial means necessary to guarantee a quality education.
5. This law is applicable throughout the national territory.

#### **Article 2 - General Principles**

1. All citizens are guaranteed the right to education and culture under the terms of the Constitution of the Republic and of law.
2. The right to education is achieved through an effective formative action throughout life, designed to provide a life that is free, responsible and democratic, designed, with respect to human dignity, to provide:
  - a) The development of personality and an appreciation of the individual based on merit;
  - b) Equality of opportunities and the overcoming of economic, social and cultural inequalities;
  - c) Social progress.
3. The system of education promotes:
  - a) The development of a democratic and pluralistic spirit, respectful of others, their personalities, ideas, and individual life projects, open to the free exchange of ideas and working together;
  - b) The formation of citizens capable of judging, with a critical and creative spirit, the society of which they are a part, and to join actively in its development, in more just and sustainable terms.
4. The State has a special responsibility to promote the democratization of instruction, guaranteeing the right to a fair and effective equality of opportunity in academic access and success.
5. In access to education and its practice, all Timorese are guaranteed respect for the principle of freedom to learn and to teach.

#### **Article 3 - Freedom to Learn and to Teach**

1. The educational system is developed in order to guarantee freedom to learn and to teach.
2. The State recognizes the value of private and cooperative education, as a concrete expression of the freedom to learn and to teach.
3. Private and cooperative education is organized and functions under the terms of its own statutes, leaving it up to the State to support it pedagogically, technically and financially.
4. It is up to the State to license, evaluate and monitor private and cooperative education in legal terms.

## **SECTION II - FUNDAMENTAL OBJECTIVES**

[...]

### **Article 5 - Fundamental Objectives of Education**

1. Education is aimed especially at achieving the following fundamental objectives:

- a) To contribute to the personal and community realization of the individual, through full development of his personality and the formation of his character, which prepare him to reflect consciously upon ethical, civic, spiritual and esthetical values, giving him a balanced mental and physical development;
- b) To ensure the formation, in cultural, ethical, civic and vocational terms, of children and young people, preparing them for the critical and strengthened reflection of citizenship, as well as the practice and learning of the creative use of their leisure time;
- c) To ensure equality of opportunities for both sexes, namely through practices of coeducation and scholastic and professional orientation, and to sensitize all participants in the educational process to this need;
- d) To contribute to defending the national identity and independence and to strengthen identification with the historical basis of East Timor, through stimulating consciousness of the cultural heritage of the Timorese people, the growing interdependence and solidarity among peoples and the right to consideration and appreciation of different knowledge and cultures;
- e) To develop in each individual a capacity for work and offer him, with a basis of solid general training, specific training which will permit him, with competencies in the area of society with which he is familiar, and with initiative, to occupy his proper place in the workforce and to make his contribution to the progress of society, according to his interests, capacities and vocation;
- f) To decentralize, localize and diversify educational structures and actions in order to offer a correct adaptation to local realities, an elevated sense of participation by populations, adequate insertion within the community, and effective levels of decision making;
- g) To contribute to the correction of regional and local asymmetries, to promote equal access to the benefits of education, culture, science and technology in a balanced manner within the entire national territory;
- h) To ensure the public service of education and of teaching, through a network of offerings from the central and local administration, as well as private and cooperative entities, to guarantee completely the needs of the entire population;
- i) To ensure the organization and functioning of public, private and cooperative schools in order to promote the development of proper educational projects according to the curricular orientations of the national area, and growing standards of operational autonomy, through responsibility for achieving educational and administrative objectives, subject to public evaluation of results, and through public financing based on transparent and fair objective criteria which motivate the best operational practices;
- j) To ensure the freedom to choose which school to attend;
- k) To contribute to the development of democratic spirit and practice, adapting participative processes in defining educational policies and models of school administration and management which ensure adequate participation and assuming of responsibility by central and local administration, of titular entities of educational and teaching establishments, of teachers, students, parents and local communities, with particular emphasis on promoting the results of the learning.
- l) To ensure a second opportunity for schooling to those who were unable to obtain it at the proper age, to those who wish to pursue instruction for reasons of professional or cultural improvement, due namely to the need for reversion or improvement, stemming from the evolution of scientific and technological knowledge.

- *National Policy on Culture (Selected articles)*

## PART I

### 1. Context

With over 40.000 years of human presence, 400 years of Portuguese colonisation, 24 years of Indonesian occupation, and a transition period under the United Nations administration, East Timor is developing today towards building solid cultural institutions and a sense of national identity.

Following the popular consultation of 1999, most of the existing infrastructure was destroyed and many technical staff in the education sector deserted. The effort since then put together to rebuild the country, done in cooperation with Development Partners and several national and international non-Government Organisations, has allowed to gradually inverting this situation. The events of 2006, however, have shown that this effort demands a continuous work in various areas, towards strengthening state institutions and creating relationships between these and other social organisations in the country.

In addition to not being a fundamental area of investment during the previous Portuguese or Indonesian administrations, the cultural sector was highly affected during the 1999 events. The effort to rebuild between 1999 and 2006 was also channeled towards issues related to institutional reform and primary education.

In the current context, the tutelage of culture should have a fundamental role of “coordination and harmonization of initiatives within the various participants in cultural activities”, both by Government and between this and civil society. For that to happen, it is essential to invest in a policy that promotes the qualification of human resources, creates infrastructure and establishes partnerships with both national and international institutions.

East Timor has a reduced number of technical and academic staff. The majority of universities do not yet offer degrees in social or cultural areas of knowledge such as anthropology, sociology, geography, philosophy, history or archaeology, or even fine arts, architecture and music. This situation is in part related with the country’s socioeconomical background and the fact that there is little capacity to absorb human resources qualified in such areas. The school curricula of basic, secondary and nonformal education are also lacking contents that reflect information of cultural and artistic nature, which is fundamental to invert this trend and create the conditions that will allow the access of future generations to academic education in such areas, both at national and international levels.

A significant part of the East Timorese population still lives in rural areas, with insufficient living conditions and access to information and communication. Despite these conditions, such context of isolation also permits a strong interdependency between communities and their environment, their history and their cultural traditions.

Like in many other cultures in the region, most East Timorese belong to a certain place and *uma lulik* (sacred house), sharing a series of beliefs and values in common with their community. In East Timor, such values gained a regional dimension of their own, resulting from the presence of Portuguese colonialism for more than four centuries.

Additionally, the nearly two and a half decades of national organised resistance to Indonesian occupation contributed to reinforce the feeling of belonging to a reality with specific physical, linguistic and cultural characteristics.

[...]

### **3. Concept**

“Culture” may be perceived as all series of practices, symbols and classifications with significance to a society or a group of people in a given period in time. The importance that each person places in the cultural environment or group that he/she belongs to is usually high; the identification of such person with a certain group frequently occurs by opposition to other groups.

Despite simplified, this definition of culture and cultural groups suggests that many social tensions, even though having multiple causes, generally result in mistrust and intolerance towards the founding principles of each group.

The ethnic and linguistic diversity, as well as the diversity of other cultural expressions present in East Timor today are assets in terms of the nation’s development and building processes. The various existing cultures should not be seen as elements opposed to development but instead as part of it (e.g. the various traditional laws, *Tara Bandu*, prohibition or limitation rules that aim at reestablishing order or balance of natural resources in a given social organisation). Because culture and traditions are dynamic processes, which change through time, a better understanding and incorporation of such elements in the process of modernizing the country will help developing a cultural identity for East Timor.

In face of such high cultural diversity, the better we understand the various traditional, national (and even international) cultural elements at stake, the less likely it is for social tensions to happen, thus making it possible to build a state that is truly multicultural, developed and peaceful.

Besides invigorating the elements of traditional culture (i.e. the knowledge and behavior that are orally transmitted from generation to generation), the country will expand if it opens itself to the introduction of quality external innovation. Because culture is dynamic, the opening to other cultural influences will allow for an enrichment of existing experiences and practices. In a context of growing professional competition, investing in the qualification of human resources, in better cultural infrastructure and in innovation will allow the cultural agents to find dignified ways of sustainability, contributing to the general objective of building a fairer, and more plural and cultural enriched country. For all these reasons, the current National Cultural Policy is a fundamental instrument towards balanced governance, and one that aims at connecting History to the Present and the Future.

- *Decree-Law N° 4/2012 on 'Integrated District Development Planning' (Selected articles)*

Section 1 of article 5 of the Constitution of the Democratic Republic of East Timor states that “The State, in organizing its territory, shall respect the principle of decentralized public administration.” In order to comply with this constitutional mandate, the Government has begun testing the model of a system of local government via the Local Development Program, which has established the institutional arrangements for local government, planning and local implementation, budget management and local procurement, in addition to creating the link between the community leaders and the government.

At the same time the government is also implementing its programs in the Districts, Sub-Districts and Sucos (Regions) via its decentralized services. To that end, in 2010 the government began a study of the practical lessons learned from the Decentralized Development Program (local acronym, PDD), whose implementation within district administration is also decentralized.

Furthermore, the Ministry of State Administration and Territorial Organization has played a role as a facilitator in the Sucos, identifying community priorities through the Suco Development Plan, (local acronym, PDS), for the purpose of coordinating these priorities with the Local Development Plan, while contributing to the Government’s Strategic Development Plan, (local acronym, PED).

Based on the aforementioned experiences, and in order to better prepare all Districts prior to their conversion into Municipalities, and in order to also reinforce the Government’s policy defined in the PED, the Government needs to set up a planning and implementation system to ensure that the state budget is invested in those areas which the Districts and Sub-Districts define as priorities.

Thus the Government hereby decrees, on the terms of article 115, section 1, line o) of the Constitution of the Republic, with the effect of law, the following:

## **CHAPTER I - SCOPE AND PURPOSE**

### **Article 1 - Scope**

1. This decree creates the Integrated District Development Planning, or PDID, which defines and governs the rules applicable to the competence, planning, implementation and

financing for executing the projects of the State at the District and Sub-District level.

2. This Decree-Law also establishes the process for preparing the District Investment Plan, or PID, which is an annual plan undertaken hand-in-hand with the Suco Development Plan, or PDS, the Local Development Program, or PDL, and the Decentralized Development Program, or PDD, at District and Sub-District level.
3. The rules defining the planning, approval, implementation and inspection process also apply to the programs envisaged in the Decentralized Development Program, or PDD, I and II, in joint coordination with the National Development Agency for implementing the projects.
4. The Ministry in charge of Local Administration is responsible for ensuring that this Decree-Law is implemented.

### **Article 2 - Purposes**

The purpose of this Decree-Law is to define and rule on:

- a) The planning, implementation and inspection process involving sectorial programs at District and Sub-District level;
- b) The composition and competence of the bodies responsible for planning, approving, implementing and inspecting the projects carried out under the PDID;
- c) The rules on mandatory consultation with the entities contemplated in article 3 hereof.

## **CHAPTER II - BODIES AND COMPETENCIES**

### **SECTION I - General Provisions**

#### **Article 3 - Bodies**

1. Planning and implementation of the PDID takes place by means of a process of consultation and inspection by the following bodies:
  - a) The District Development Commission;
  - b) The Sub-District Development Commission;
  - c) The Territorial Delegations from the Ministries in the Districts and Sub-Districts;
  - d) The Suco Council.
2. Synchronization of the PDID at district and national level takes place by means of consultation and coordination between the relevant entities during:
  - a) The District Development Coordination Meeting; and
  - b) The National Development Coordination Meeting.

### **SECTION II - The District Development Commission**

#### **Article 4 - Competence**

The District Development Commission, hereinafter referred to in abbreviated form as CDD, is the deciding body at district level competent to plan, decide and implement the District Investment Plan.

### **Article 5 - Composition**

1. The CDD comprises:
  - a) The District Administrator, as Coordinator;
  - b) The District Secretary, as Deputy Coordinator;
  - c) Directors of the Territorial Delegations of the relevant Ministries at district level, as members;
  - d) Sub-District Administrators, as members;
  - e) Three representatives from among the members of the Suco Council, elected by the Sub-District Development Commission.
2. The representatives of each Suco Council must include at least one woman.
3. The process for electing the representatives from among the members of the Suco Council mentioned in line e) of section 1 above is defined and regulated by Ministerial Decree from the Ministry responsible for Local Administration.

### **Article 6 - Competencies**

1. It is incumbent on the CDD:
  - a) To plan and decide on the projects and the budget of the PID;
  - b) To adjust the District Investment Plan in accordance with the General Budget Law of the State as approved by the National Parliament;
  - c) To supervise the implementation of the PID at the respective district level;
  - d) In coordination with the National Development Agency, to supervise and coordinate the implementation of the projects defined as PDD II;
  - e) To maintain and ensure the information for the community about the progress of the PID implementation;
  - f) To approve the progress report of the implementation activities and the financial report prepared on a regular basis by the Secretarial Department of the CDD for submission to the Ministry responsible for Local Administration;
  - g) To officially hand over to the community or to the competent government body the equipment and assets obtained from executing the PID projects;
  - h) To approve the PID planning and implementation calendar;
  - i) Other functions attributed to it under Ministerial Decree from the Ministry responsible for Local Administration.

2. To decide on the approval of PDID projects, the CDD must analyze the results against the requirements of each District indicated in the reports from the latest censuses.

[...]

## **SECTION IV - The Sub-District Development Commission**

### **Article 9 - Nature and Competency**

1. The Sub-District Development Commission, hereinafter referred to in an abbreviated form as CDSB, is the consultative body established in the sub-district for the purpose of supporting the CDD in formulating recommendations regarding the priority areas for local development.
2. It is incumbent on the CDSB to:
  - a) To take responsibility for consultations regarding the priorities of the Suco;
  - b) Decide on the proposed investment priorities for recommendation to the CDD;
  - c) Support the Secretarial Department of the CDD in supervising implementation of the PDID in the Suco;
  - d) Submit to the CDD progress reports on the implementation of the PDID;
  - e) Provide information to the local community.

### **Article 10 - Composition of the CDSB**

The CDSB comprises:

- a) The Sub-District Administrator, as the Head of the Commission;
- b) The Heads of the Territorial Delegations of the relevant Ministries at sub-district level, as members;
- c) Suco Heads, as members; and
- d) Members of the Suco Council, as members, at least one of them a woman, elected in accordance with the rules defined under Ministerial Decree from the Ministry responsible for the Local Administration.