



**DEMOCRATIC REPUBLIC OF TIMOR-LESTE  
NATIONAL PARLIAMENT**

**Draft Law No.../2003**

**DOMESTIC VIOLENCE**

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**PREAMBLE**

Considering that, the data about and the level of domestic violence cases, which are brought to the attention of the Police, to the Public Prosecutor and to both Government and non-Government bodies in Timor Leste, consistently indicate that such cases have a higher incidence than other types of criminal cases. However, despite the high incidence of domestic violence cases, the Criminal and Civil Codes, along with other existing laws and regulations, are inadequate in the face of the complexity of the domestic violence cases. In addition, law enforcement officers and the judiciary do not yet have mechanisms or guidelines for services, which can adequately fulfil the needs of domestic violence victims.

Recalling that Domestic Violence Law represents the embodiment of the obligation of a nation to ensure the human rights of its citizens, as contained in the Universal Declaration of Human Rights, which states that every person has the right to life, the right to freedom and the right to personal security.

Further recalling that Domestic violence Law is also in pursuant of the nation's commitment towards the implementation of the International Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), ratified by Timor-Leste as well as the Declaration for the Elimination of Violence Against Women announced in Vienna in 1993 and the International Convention on the Rights of the Child.

Taking into account that, provisions on the human rights of its citizens are stated in the Constitution of the Democratic Republic of Timor-Leste under Title II, Personal Rights, Freedoms and Guarantees, Sections 29 and 30. In particular, the Constitution also guarantees equality between women and men and the protection of children, the elderly and the disabled, as stated in Part II on Fundamental Rights, Duties, Freedoms and Guarantees, Sections, 17, 18, 20 and 21.

Further taking into account that, in addition, the Charter for the Rights of Women of Timor Leste and the first Congress of Timorese women in 2000 provided the Government and the nation with the mandate to uphold the rights of women in Timor Leste.

Under these terms and pursuant to the provisions of Section 97, paragraph 1, subparagraph c) and Section 115, paragraph 2, subparagraph a) of the Constitution of the Democratic Republic of Timor-Leste, the National Parliament enacts the following text that shall have the force of law:

**CHAPTER I**  
**General Provisions**

**Section 1**  
**Definitions**

For the purpose of the present law, the following words and/or expressions shall have the following meaning unless the context otherwise requires:

1. Domestic relation is relation between person to person or civil relation in the context of family, marriage relation, partners in an intimate relation either sexually and or socially and relation between employers and servants in household.
2. Marriage according to the state law is marriage that is conducted according to current laws or regulations of the state.
3. Marriage according to religion is marriage that is conducted according to the couple's religion and before a religious leader.
4. Marriage according to tradition is marriage that is conducted according to traditional procedures and customs or marriage that is agreed by the parents and/or families of the parties.
5. Intimate relation is a romantic social and/or sexual relation, outside of marriage as defined by the state, religion and tradition.
6. Vulnerable groups are women, children, the elderly, disabled, indigenous and communities from extreme isolated areas.
7. Perpetrator is the person that commits domestic violence offence, as described in this law.
8. Victim is the person that suffers the offence of domestic violence, as described in this law.
9. Minor is a person under the age of eighteen.
10. Witness is a person who hears, sees or observes domestic violence offences.
11. Expert witness is a person who has specific knowledge, who may or may not have professional qualifications, but who nevertheless, has experience or proven knowledge on the subject. Expert witnesses are able to provide information on the symptoms or the impact of the various forms of domestic violence experienced by the victims and other members of the family, as described in this law.
12. Caretaker is lawyer, family, relative or person who is appointed by victim and perpetrator to deal with or manage the using of their common property in line with their interest, as stated in this law
13. Member of community is everyone who resides in a particular community
14. Community leader is chefe de suco, chefe de aldeia, chefe de posto or those who reside in a particular community and are given role as the leader of the community
15. Traditional leader is the local leader who is acknowledged as such by local tradition and custom in Timor Leste

16. Counsellor is a person who, either individually or institutionally, has ability and commitment to provide specific advice or assistance to victim of domestic violence, in line with their expertise and as required by a victim of domestic violence.
17. Legal counsellor is a lawyer, public defender or paralegal that, either individually or institutionally, has expertise and commitment to provide legal advice and assistance to victims of domestic violence, both during and outside a trial, as required.
18. Psychosocial counsellor is a person who, either individually or institutionally, may or may not have a professional license or certificate, but has experience and commitment to provide trauma and rehabilitation counselling to victims of domestic violence, as required.
19. Medical officers are doctors, midwives, nurses or other certificated medical professionals.
20. Para-medical worker is a person that does not have a professional qualification but has specific medical expertise and have undertaken training or have experience and ability to provide medical care.
21. Mental health worker is a professionally certificated psychologist **or** psychiatrist or other mental health worker who has undertaken training or has experience and ability in providing mental health services.
22. Referral services is a system of services centred on Vulnerable Persons Units (VPU) at the district or Police stations at sub-district level, where victims of domestic violence can be referred to other relevant and competent service providers, in accordance with the needs of the victim, as described in this law.
23. Community-based service is service provider for victims of domestic violence at community level that prioritise local community to receive services. Community-based services develop the potential and initiative of the local community and may be set up by any person, mainly by the local community itself, as described in this law.
24. Independent services is service provider that is set up by any person, either by an individual or by an organization, to provide services for victims of domestic violence in general, or to specific groups such as vulnerable groups, as described in this law.
25. Expedited trial is a trial that is held for domestic violence cases where the maximum sentence does not exceed five years, as described in this law and in other criminal provisions currently in force.
26. VPU or Vulnerable Persons Unit is a special unit within the National Police of Timor Leste that provides services specifically for vulnerable persons as described by this law and in other legal provisions currently in force
27. Safe house or shelter is a place of temporary protection where victims of domestic violence can obtain specific, intensive, secure, comfortable and effective services. Safe houses or shelters may be a part of a service provider or an independent facility.
28. Group counselling program for perpetrators of domestic violence is a counselling program that is conducted in-group within a prison service.
29. Individual Counselling Program for perpetrators of domestic violence is a counselling program that is conducted within or outside prison service and which is aimed at perpetrators with previous convictions for domestic violence.

30. Law enforcement officers are police and public prosecutors.
31. *Standard Operating Procedure* (SOP) is criterion guidelines that are applied by the police, public prosecutor, counsellor and service providers organisations or institutions in delivering services to victims of domestic violence as stated in this law
32. Substitute restrictive measure is alternatives forms of detention and/or restrictive measures that are given to the perpetrators of domestic violence when the case is in trial. Substitute restrictive measure is given by the investigating judge or trial judge

## **CHAPTER II**

### **Principles and Objectives**

#### **Section 2**

#### **Principles**

1. Gender equality and justice.
2. Justice in social relations.
3. Protection for and upholding of the most basic of human rights, that is the right to life, the right to freedom and the right to security.
4. Protection of the integrity of the family as the primary unit of a benevolent society.

#### **Section 3**

#### **Objectives**

1. To emphasize that domestic violence is a crime.
2. To uphold the rights of victims.
3. To undertake efforts to eliminate domestic violence for vulnerable groups in domestic relations.

## **CHAPTER III**

### **Definition and Scope of Domestic Violence**

#### **Section 4**

#### **Definition of Domestic Violence**

Domestic violence is violence that harms victims physically, psychologically, economically or sexually that happens in domestic relations.

#### **Section 5**

#### **Scope of Domestic Relations**

1. Partner in the context of marriage according to the law, religion and custom.  
The scope includes: husband and wife in accordance with the definition of a spouse within marriage according to the law, religion and custom as well as to usual practices.
2. Parties within a family  
The scope includes: mother and father (biological, step- or adopted mother and father), children (biological, step- or adopted child, whether they live under the one roof or not), mother- and father-in-law, brother- and sisters-in-law, daughter and son-in-law, grandfathers and grandmothers (either biological, step- or adopted), siblings, cousins, nieces and nephews, uncles and aunts (biological, step- and adopted), guardians and relatives according to local culture or customs.

3. Partner in the context of an intimate relationship, both social and or sexual
  - 3.1. The scope includes: partners who are in a relationship or intimate relationship, both social and/or sexual.
  - 3.2. To be able to assess the intensity of the partner relation, the court may take into account one of the following aspects:
    - a. The habitual nature and intensity of the relationship: the nature of the relationship and the frequency of interaction.
    - b. The length of the relationship/connection.
    - c. Consequences and or impact that have arisen from the relationship.
4. Any person who works within the household  
The scope includes: the employer or the head of the house and any domestic workers.

## **CHAPTER IV**

### **Domestic violence Offence**

#### **Section 6**

#### **Forms of Domestic violence Offences**

1. Physical violence means acts of violence and/or neglect that cause pain, physical wounds, unconsciousness, and injury including injury to reproductive organs, deformity, miscarriage or death of the victim.
2. Psychological violence is all action and/or omission with purpose to degrade the victims, to control victims' behaviour and beliefs and to control victims' decisions. Psychological violence is conducted by a direct or indirect intimidation and threat, a continuous surveillance, harassment and undervaluing victims' value, destroying victims' property and to deprive the victims of food, humiliation, isolation or any behaviour that implies damage to psychological health, self determination, human development, self esteem or sense of identity.
3. Sexual violence is any conduct that violates the sexual integrity of the victim. Sexual violence as set out in this regulation consists of the following acts:
  - 3.1. Rape
 

Rape occurs when:

    - a. The perpetrator invades the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
    - b. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent.
  - 3.2. Incest
 

Incest is sexual violence that happens between members of a family and not only in parent and a child relation (in terfamilial sexual abuse). Incest does not necessarily imply a biological relationship, but also a social one between child and a parental figure and also other family relations.

Incest can occur in the forms of:

- a. Rape
  - b. Perpetrators have sexual relations with children in domestic relation
  - c. Molestation (such as fondling child's genital and the other way around, namely forcing the victim to hold the perpetrators sexual organ)
- 3.3. Child pornography
- a. Display of pornographic or lewd pictures to a child in domestic relation
  - b. Produce and selling child pornography in domestic relation
- 3.4. Forcing the victims to have sexual relations with third parties for prostitution, trafficking and any other purpose including child trafficking or sexual exploitation for commercial purpose
4. Economic violence is any conduct and/or neglect that cause direct or indirect economic loss to the victims. This type of conduct affects, inter alia, rights of maintenance or economic source in family and property rights in which the victims have interests.

## **CHAPTER V State Obligations**

### **Section 7 Forms of State Obligations**

1. To prevent the occurrence of domestic violence. For the purpose of preventing occurrences of cases of domestic violence, the state shall:
  - a. Facilitate and formulate an education curriculum about human rights, for both primary and high schools
  - b. Facilitate the writing of an educational curriculum about human rights and the various forms of domestic violence for police, prosecutors, judges and lawyers who will handle such cases
  - c. Provide information to the public, traditional leaders and community leaders about human rights and domestic violence as a violation of human rights
  - d. Work together with various government, non-government institutions and communities to jointly undertake efforts to prevent domestic violence and address the social-economic factors that increase the risk of domestic violence.
2. To protect the victims of domestic violence, especially those from vulnerable groups. For the purpose of providing protection to the victims of domestic violence the state shall:
  - a. Promote the establishment of rehabilitation facilities for the process of rehabilitation and processing of domestic violence cases, both in law enforcement institutions, Hospitals and within the community environment.
  - b. Strengthen services to victims as well as social services, particularly for victims from vulnerable groups.
  - c. Undertake the strengthening of case handling skills for law enforcement officers, judiciary, counsellors as well as the community, through training.

## **CHAPTER VI Victims Rights**

### **Section 8 Types of Victims Rights**

1. The right to assistance and support from individuals or groups, including from government institutions, or from non-government, private, law enforcement, community or other organizations.
2. The right to access services that are secure, comfortable and confidential based on universal human rights principles.
3. The right to legal, medical, psychosocial and other services as set out in this law and in other relevant legal provisions currently in force.
4. The right to protection provided by the police or other party, as set out in this law and in other relevant legal provisions currently in force.
5. The right to access information about the handling of cases of domestic violence that is being undertaken by law enforcement officers as well as by legal counsellor, psychosocial and other counsellors.
6. The right to a spokesperson and translator during all legal processes.
7. The right to participate in the making of a decision regarding services received by the victims.
8. The right to objective news reporting.
9. The right to expedite justice, simple and affordable.
10. Child victims and perpetrators of domestic violence have a right to special treatment as set out in the present law or other legal provisions currently in force.

## **CHAPTER VII**

### **Powers and Duties of Police, Public Prosecutor and Judges**

#### **Section 9**

#### **Powers and Duties of the Police**

1. To carry out powers and duties as stated in this law and other relevant legal provisions currently in force based on the profession code of ethics and universal human rights principles
2. To take legal steps concerning domestic violence offences or if they see or witness domestic violence, with or without the consent of the victim in accordance with this law and other relevant legal provisions currently in force.
3. To receive reports of domestic violence, both orally, directly or via telephone, and in writing.
4. To assist and facilitate child victims of domestic violence who wish to report their case by seeking assistance from other child support services.
5. To respond to requests for assistance in cases of domestic violence and requests for protection from any person in cases of domestic violence, without discrimination.
6. Having received a report, the Police are to immediately proceed to the crime scene, especially in cases where:
  - a. The person reporting states that domestic violence is currently occurring.
  - b. The person reporting states that domestic violence has already occurred.
7. At the time of receiving a report, the Police are to:
  - a. Interview the two parties, the perpetrator and the victim, and witnesses, particularly those who are children, in a separate place or room such that they are able to speak freely.
  - b. Provide services to the victim, witness and family members whilst maintaining confidentiality.
  - c. Produce detailed case notes that are readily accessible.
  - d. Protect any material evidence from loss, destruction or forced removal.
  - e. Provide transportation as part of services for victims, witnesses and family members
  - f. Accompany the victim and their family whilst they gather the property of the victim and safeguard it from any actions that may result in its loss, destruction or forced removal.
  - g. Inform the victim and their family of the rights of a victim.

- h. Document the domestic violence reporting notes in accordance with Standard Operating Procedure (SOP) and other existing and valid mechanisms as well as improve the current system of documentation.
  - i. Contact the parties which are able to provide assistance and support for the victim, that is, hospitals, legal aid institutions, women's and human rights organizations which provide services, social workers, either those provided by the state or those who are within the community or from religious groups, community-based and religion-based service providers as well as independent service providers.
  - j. Undertake consultations concerning the steps to be taken with respect to the victim, particularly victims from vulnerable groups such as children, with social workers, health workers, mental health workers and officers or workers from organizations that provide services, for example, in moving the victim and separating them from the perpetrator.
  - k. Provide copies of case materials to the public prosecutor.
8. Undertake an investigation in accordance with this law and other legal provisions currently in force.
  9. Police shall not refer domestic violence cases to traditional leaders
  10. In cases of domestic violence where the sentence is likely to be less than one year, the Police must request the Judge to undertake an expedited trial.
  11. To monitor the implementation of substitute restrictive measures as stated by this law and other legal provisions currently in force
  12. Undertake cooperation between law enforcement agencies in the interests of further processing and investigation of the case.

#### **Section 10 Powers and Duties of the Public Prosecutor**

1. To carry out powers and duties as stated in this law and other relevant legal provisions currently in force based on the profession code of ethics and universal human rights principles
2. To initiate legal action for every case of domestic violence in accordance with this law and other legal provisions currently in force
3. To protect and uphold the rights of the victim and witnesses during the investigation.
4. To implement and refine Standard Operating Procedure (SOP) for the handling of domestic violence cases and for protection mechanisms and services for the victim, witnesses and family members in cases of domestic violence.
5. To not undertake any actions which are outside their authority and competence, such as recommending the victim to withdraw the case or recommending and ordering the Police to undertake mediation in cases of domestic violence.
6. To lead and undertake investigations with respect to a case of domestic violence in accordance with their authority and competence so as to find material truth consistent with a gender and human rights perspective.
7. To enquire about the income of the perpetrator
8. In undertaking an investigation into a case of domestic violence, the prosecution is obliged:
  - a. To ensure the presence of the victim and witnesses.
  - b. To cooperate closely with other institutions, according to their competencies.
9. In instances of domestic violence where the sentence is likely to be less than five years, the Prosecution is obliged to put forward a request for an expedited trial.
10. Should the Prosecution decide to release the suspect or shift the suspect to another place of detention, then the Prosecution is obliged to inform the victim and their family.
11. To put forward a request for an arrest and detention warrant to the Investigating Judge based on there being sufficient initial evidence of a case of domestic violence.
12. To undertake documentation of the domestic violence case being investigated.

**Section 11**  
**Powers and Duties of the Investigating Judge**

1. To examine the case files presented by both parties at the time of the initial review hearing.
2. To provide a guarantee to the parties, both the suspect and the victim, that they will be assisted by a legal counsellor during the hearing.
3. To issue orders for the purpose of:
  - a. Arrest of a suspect
  - b. Detention and extension of detention
  - c. Exhumation
  - d. Forensic examination
  - e. Searching of places or buildings
  - f. Seizure of goods including the seizure or opening of mail
  - g. Body searches/examinations
  - h. Physical examinations to obtain and examine blood and DNA, along with the taking, for examination, of specimens from whatever parts of the body are deemed necessary
  - i. Interception of telecommunications and other forms of data transfer
  - j. Other types of warrants which relate to a case of domestic violence as set out in this law and other relevant laws or legal provisions currently in force
4. To oversee the protection of the victim, the witnesses and family members, to be provided by the Police.
5. To rule on the issue of the victim and family's maintenance, for the duration of the hearing
6. To rule on the issue of the use of common property.
7. To grant substitutive restriction measures to the accused as set out in this law or other legal provisions currently in force

**Section 12**  
**Powers and Duties of The Trial Judge**

1. To receive and examine the case files from both parties.
2. To initiate and conduct a hearing on domestic violence which is open to the public, except in cases where the acts of domestic violence involve:
  - a. Sexual assault.
  - b. Children as either victim or perpetrator.
3. To inform the victim, witnesses and the family members of their rights, especially concerning their providing testimony in the hearing.
4. To protect and uphold the rights of victims and witnesses during the period of the trial.
5. To pay attention to and to provide special treatment and procedures to victims, the witnesses and child perpetrators in cases of domestic violence as stated in this law in other legal provisions currently in force.
6. Guarantee that the parties, both the suspect and the victim, are accompanied by counsellor and/or legal counsellors for the duration of the hearing
7. To protect the security and safety of victims, witnesses and the family members.
8. To not release, free or give substitute restrictive measures of the accused without a valid legal reason.
9. To examine evidence which is put forward during the course of the hearing.
10. To examine and hear information from the accused, victims, witnesses and expert witnesses in cases of domestic violence
11. To provide the final decision in cases of domestic violence.
12. To oversee protection for victims, witnesses and family members, to be provided by the Police.

**Section 13**  
**Powers and Duties of the Individual Judge in Expedited Trials**

1. To conduct expedited trials in accordance with this law and other legal provisions currently in force.
2. To call and to hear the testimony of the accused within 21 days of the issuance of a summons by the police or the prosecutor
3. Inform victims of their rights and the schedule for the hearing, through the Prosecutor.
4. To guarantee that the parties, both the accused and the victim, will be accompanied by legal counsellors for the duration of the hearing.
5. To evaluate evidence and hear witnesses presented by the parties as well as by the police and the prosecution.
6. To make and issue an expedited decision on the day of the hearing or, at the latest, two days after the expedited hearing has been conducted.
7. To provide copies of the decision to the parties involved.

**CHAPTER VIII**  
**Prison Services**

**Section 14**  
**Powers and Duties of Prison Services**

1. To carry out their powers and duties in accordance with their competence and in line with universal human rights principles as stated in this law and other legal provisions currently in force.
2. To develop Standard Operating Procedures (SOP) for implementing the Court decision imposing sentencing.
3. To execute the sentence in accordance with lawful Court decision with respect to perpetrators of domestic violence.
4. To facilitate, monitor and ensure the carrying out of the obligation of additional sentencing imposed by the Court regarding community service and counselling program for perpetrators of domestic violence within their custody.
5. To collaborate with government institutions, counselling service providers, the community and traditional leaders in the carrying out of community service, in accordance with the lawful Court decision
6. To maintain adequate infrastructure of the prison services.
7. To prepare counselling programs, group or individual, for rehabilitation of perpetrators of domestic violence
8. To register and record the execution of the sentences.

**CHAPTER IX**  
**Duties of the Counsellors**

**Section 15**  
**Duties of Legal Counsellor**

1. To provide legal consultation and advice about the rights of victims and about the trial process in accordance with the profession code of ethics, standard operating procedure, universal principles of human rights and as stated in this law and other legal provisions currently in force.
2. To report the occurrence of cases of domestic violence to police or to the public prosecution.
3. To advise victims, witnesses and family members at all stages of the trial of a domestic violence case.
4. To monitor the handling of cases conducted by law enforcement officers and judiciary, that is, by the police, the public prosecutor and the Court.

5. To contact relevant agencies, bodies and community groups for the purpose of handling domestic violence cases.
6. To advise victims concerning access to other services which may be required.
7. To facilitate parties access to information on the case in the terms stated by this law and other legal provisions currently in force.

**Section 16**  
**Duties of the Psychosocial Counsellor**

1. To provide counselling as in line with the profession code of ethics, standard operating procedures and universal human rights principles for the victim, witnesses and family members.
2. To counsel the victim, witnesses and family members throughout the entire processing/handling of a domestic violence case.
3. To report the existence of domestic violence to law enforcement officers.
4. To monitor the condition of the victims, witnesses and family members throughout the entire process of the handling of the case, according to the needs.
5. To advise the victims to obtain necessary services and to contact relevant agencies, bodies or community groups, with the aim of receiving assistance in the processing of domestic violence cases.

**Chapter 17**  
**Duties of the Medical Officers**

1. To provide medical services to the victims of domestic violence in accordance with professional standards and code of ethics, standard operating procedures and universal human rights principles for either Doctors or para-medical staff, in accordance with the needs of the victims, particularly child victims.
2. To prepare medical statements concerning the condition of victims of domestic violence in the form of medical reports and other medical documentation in accordance with the requirements of the processing of the case and as stated in this law and other legal provisions currently in force.
3. To prepare detailed reports on the services provided to the victims of domestic violence whom they treat.
4. To provide reports to the police and or to the public prosecutor concerning the victims of domestic violence whom they treat.
5. Medical personnel are required to act pro-actively should they receive cases, which are considered indicative of domestic violence and are required to contact the police.
6. To contact the family and other relatives, particularly in relation to carrying out specific medical measures.
7. To undertake coordination with other service providers in accordance with the needs of the victims.
8. To prohibit the perpetrators of domestic violence from contacting the victims in a hospital, at the time they are being treated by medical personnel, or in a related hospital/nursing situation, as stated in this law and other legal provisions currently in force.

**Section 18**  
**Duties of the Social Workers**

1. To provide adequate services to every victim of domestic violence as in line with the profession code of ethics, standard operating procedures and universal human rights principles in accordance with the needs of the victim.
2. To compulsorily provide special services to child victims of domestic violence as stated in this law and other legal provisions currently in force.
3. To make contact with other relevant institutions to provide services to victims, in accordance with the needs of victims and their families.

4. To report the occurrences of domestic violence to law enforcement officers.
5. To conduct counselling with victims of domestic violence.
6. To facilitate the removal of the victim to a location which is suitable and appropriate to the needs of the victim, particularly for child victims.
7. To make reports and provide information about services and decisions made concerning the victims of domestic violence.
8. To prepare reports and documentation about the services provided to victims of domestic violence, which reports and documentation can be accessed by related institutions.

## **CHAPTER X**

### **The Role of the Community**

#### **Section 19**

#### **The Role of Community Members**

1. To provide protection and first aid to victims, witnesses and family members.
2. To accompany the victim to report the violence that has occurred to the Police or the Public Prosecutor.
3. To assist and accompany the victim and their family to retrieve their belongings.
4. To participate in developing and supporting community initiatives in the provision of services to victims and the families of victims of domestic violence.
5. To work cooperatively with the various service providers, law enforcements agencies, both government and non-government institutions as well as with other communities.

#### **Section 20**

#### **The Role of Traditional Leaders, Community Leaders, And Religious Representatives**

1. To monitor cases of domestic violence which occur within their districts and their communities.
2. To assist in the reporting and the complaint of cases of domestic violence which occur in their communities and their districts, to the nearest police station
3. To assist, facilitate and encourage initiatives for the development of community-based or religious-based services as well as safe houses in their districts.
4. To cooperate with law enforcement officers, relevant government agencies, non-government and community organizations as well as with other relevant groups.
5. To encourage the application of domestic violence legal provisions in their communities and their districts.

## **CHAPTER XI**

### **Types of Services**

#### **Section 21**

#### **Referral Services**

1. The service providing agencies included in referral services are as follows:
  - a. VPU (*Vulnerable Persons Units*) at district level and police stations at sub district level, throughout Timor -Leste
  - b. Hospitals and other community health service providers, both government and independent
  - c. Legal Aid Institutions
  - d. Women's and Children Organizations which provide services to victims of domestic violence, in accordance with their mandate

- e. Human Rights Organizations which provide services to victims of domestic violence, in accordance with their mandate
  - f. Professional associations such as those for Doctors, Lawyers, Psychologists amongst others
  - g. Other relevant institutions which are competent to provide services and support for victims of domestic violence
2. Requirements of referral services
    - a. The National VPU is to act as the umbrella organization for referral services
    - b. District VPUs or sub-district Police Stations are to be coordination points
    - c. Conducting of regular meetings and coordination between service providers at the district and sub-district level
    - d. Preparation of a list of institutions to support referral services
    - e. Preparation of a list of institutions and communities which have safe houses or shelters
    - f. Establishment of an effective communication system between service providers
  3. Duties and functions of the National VPU in referral services
    - a. To monitor the handling of domestic violence cases at the district VPUs and those at sub-District Police Stations
    - b. To receive and keep systematic files of the reports from district VPUs
    - c. To undertake strengthening of the referral and coordination functions of VPUs and police stations
  4. Duties and functions of district VPUs
    - a. To coordinate with service providers by setting up regular three-monthly meetings and in accordance with case requirements between service providers
    - b. To generate a list of service providers in their area
    - c. To refer and/or accompany victims to service providers in accordance with their needs (Hospitals, counsellors, legal counsellors, safe houses, etc.)
    - d. To monitor the cases of domestic violence which have been referred to service providers
    - e. To provide a quarterly report on the referral system to the National VPU
    - f. To coordinate with the referral functions undertaken by Police Stations at the sub-district level
  5. Duties and functions of sub-district Police Stations
    - a. To coordinate with service providers by setting up regular three-monthly meetings, in accordance with case requirements between service providers
    - b. To generate a list of service providers or service institutions in their area
    - c. To refer and/or accompany victims to service providers in accordance with their needs (Hospitals, counsellors, legal counsellors, safe houses, etc.)
    - d. To monitor the cases of domestic violence which have been referred to service providers
    - e. To provide a quarterly report on the referral system to the District VPU
    - f. To coordinate with communities and traditional leaders concerning cases of domestic violence which have occurred at the community level
  6. Duties and functions of Traditional Leaders, Church Representatives and other Community Leaders:
    - a. To support the victim in reporting the case to the Police and assist them to do so.
    - b. To coordinate the services in their areas, together with the police at the sub-district level.
    - c. To monitor evolution of cases of domestic violence that has been reported to the Police.

**Section 22**  
**Community-based Services**

1. Every community has the right to set up services for victims of domestic violence in their areas
2. Traditional and community leaders can facilitate and encourage the initiatives and wishes of the communities to develop services in the community area
3. Community-based services shall be comprised by coordinated services between the Police and other service providers, such as Hospitals, Judiciary, among others
4. Community-based services are required to provide services in accordance with universal human rights principles and upholding of the rights of the victim and perpetrators

**Section 23**  
**Independent Services**

1. Any person including non-government organizations as well as Church-based and other organizations have the right to set up a services unit for victims of domestic violence
2. Independent services may focus on specific victim groups, such as women, children or other vulnerable groups, in cases of domestic violence
3. In providing services, independent services will coordinate with the Police and other service providers, such as Hospitals or health centres
4. Independent services are required to provide services based on Standard Operating Procedures and relevant code of ethics, in accordance with universal human rights principles and the upholding of the rights of the victim and perpetrators

**Section 24**  
**Safe House**

1. Any person has the right to establish a Safe House, in accordance with their competence and capacity
2. It is a requirement that a Safe House coordinates with the police to provide support for the protection program for victims, witnesses and family members and also for the protection of those giving testimony in Court.
3. Safe house will provide services in accordance with relevant code of ethics and standard operating procedures developed by service provider or professional organizations, in accordance with the needs of the victims of domestic violence.
4. Safe houses are required to document their services and provide regular reports to their overseeing organization or as required by those handling the case
5. The requirements of a Safe House are:
  - a. Counsellors
  - b. Security
  - c. Means of communication
  - d. Means of transport
  - e. Adequate beds
  - f. Requisites for babies, women (sanitary napkins)
  - g. Skills and courses for economic strengthening

**CHAPTER XII**  
**Criminal Procedures**

**Section 25**  
**Reporting Mechanism**

1. Any person may report cases of domestic violence, either orally (directly or through other means of communication such as telephone or radio communication) or written, to the police or to the Public Prosecutor
2. Every person, particularly social workers and other service workers, are required to assist child victims of domestic violence should they wish to report their case
3. If a case of domestic violence is reported to the Public Prosecutor, then they are obliged to:
  - a. Contact any services which are required by the victim
  - b. Make brief notes and immediately hand over the case to the Police, with priority to the VPU
4. Upon receiving a report of a domestic violence offence, police officers must immediately refer it to other service providers, according to the needs of the victim
5. After receiving a report, the police must provide a copy to the Public Prosecutor in order that an investigation can be initiated immediately
6. The police shall immediately detain and/or arrest the perpetrator and visit the crime scene in order that evidence is not destroyed, altered or lost before the public prosecutor carries out the investigation. The Police shall secure the scene of the crime by posting a police-line
7. The Public Prosecutor shall initiate the investigation and for that purpose request the Police to take specific actions

**Section 26**  
**Arrest without an Arrest Warrant**

Perpetrators of domestic violence can be arrested without warrant under the following terms:

1. The perpetrator of domestic violence is clearly in the process of committing the domestic violence offence
2. There are reasonable ground to believe that the perpetrator has committed a crime and there is an immediate likelihood that before a warrant could be obtained the perpetrator could flee or destroy, falsify or taint evidence, or endanger public safety or integrity of the victims or witnesses; or
3. The police is in hot pursuit of a suspect immediately after commission of a crime and evidence of the suspect participation of a crime is found in the suspect position.
4. The police shall immediately inform the Public Prosecutor of all circumstances and shall submit the report to the Public Prosecutor without undue delay

**Section 27**  
**Referral Services Mechanism**

1. Every victim that goes to district VPU, to a sub-district police station or Public Prosecutor shall be received with adequate respect and sensitivity regarding the offence experienced.
2. The police or public prosecutor shall decide on the type of services required by the victim, witnesses and family members.
3. The police or Public Prosecutor shall contact relevant service providers and counsellors.
4. The police shall prepare and provide a list of service providers to which the victim, witnesses and family members can be referred.
5. The police shall accompany the victim, witnesses and family members, especially those who greatly require assistance based on the type of offence.

6. The VPU and the police station shall monitor domestic violence cases, which have been referred.

**Section 28**  
**Protection of the Victim, Witnesses and Family Members**

1. The police must provide protection to victims, witnesses and family members from threats, either both from the suspected or from the family of the suspect, starting from the investigation until a lawful court decision.
2. The victim, witnesses and family members have the right to Police protection at the time they provide testimony in the Court.
3. The police are required to contact service providers that have safe houses or special places which can accommodate the victim, witnesses and family members so that they can be given protection, as required.
4. The police are required to monitor the protection given to the victim, witnesses and family members even though they are under the care of an organization or in a safe house.
5. The police are required to provide copies of documents relating to the given protection, to the Public Prosecutor as a special attachment to the brief.
6. The investigating judge and the panel of judges are required to ensure on the protection provided by the police to the victim, witnesses and family members as stated in paragraph 1 of this section.

**Section 29**  
**Expedited Trial Procedure**

1. When the offence of domestic violence is one for which the maximum penalty does not include a period of imprisonment in excess of five years:
  - a. The Public Prosecutor shall request for an expedited trial to the competent District Court. Police is obliged to prepare a brief with description of the facts for the indictment, whether orally or in written.
  - b. The Public Prosecutor shall indict the suspect and submit the case to the court within 21 days of the arrest of the suspect.
  - c. If the suspect is under detention, the request for an expedited trial shall be made within 48 hours of the detention.
2. When the offence of domestic violence is one for which the maximum penalty does not include a period of imprisonment in excess of one year:
  - a. The police may bring the case directly before a Judge and request an expedited trial
  - b. If the suspect is under detention, the request for an expedited trial must be made within 48 hours of the detention.
3. If the perpetrator is minor, police is obliged to inform the parents, guardian or family/relative of the minor.
4. In filing a request for an expedited trial, the Prosecutor and the Police are required to furnish the following documents:
  - a. A report concerning the qualification of the crime.
  - b. A summary of the facts obtained
  - c. Available evidence to be presented at the hearing
5. An expedited trial is carried out by an Individual Judge
6. Under no circumstances shall an Individual Judge order an expedited trial for a crime carrying a penalty exceeding five years of imprisonment.
7. Nothing in this section shall be applied in a manner to prejudice the right of the accused to prepare and present a defence, or to obtain and present the testimony of witnesses and other evidence as provided for other cases in the present law and other legal provisions currently enforce.

**Section 30**  
**Substitute Restrictive Measures**

1. As an alternative to an order of the detention, the Court may order one or more substitute restrictive measures.
2. The suspect, either alone or through his/her legal counsellor, may put forward a proposal for substitute restrictive measures.
3. Substitute restrictive measures may only be implemented if the Court believes it is necessary to ensure the integrity of evidence related to the alleged crime or the safety or security of the victims, witnesses and other persons related to the proceeding.
4. Police or court is required to supervise the substitute restrictive measures granted by the Investigating Judge.
5. Substitute restrictive measures which may be directed by the Court are as follows:
  - a. House detention of the suspect, alone or under the custody of another person.
  - b. The submission of the suspect to the care or supervision of a person or an institution.
  - c. A regime of periodical visits of the suspect to an agency or authority designated by the Court.
  - d. The prohibition of the suspect from leaving an area designated by the Court.
  - e. The prohibition of the suspect from appearing at identified places or meeting a named individual.
  - f. If the domestic violence offence was committed within the family or household, the suspect is prohibited from remaining in the family home
6. If the suspect violated the substitute restrictive measures, he/she shall immediately be arrested without hearing. However, if there is new offence committed, then the initial review hearing shall be undertaken.
7. With respect to substitute restrictive measures, the Court may direct the suspect to provide a monetary bond as guarantee for the substitute restrictive measures granted by the Investigating Judge, as set out in this law and in other legal provisions currently in force.
8. Should there be a violation of the substitute restrictive measures, the monetary bond, as directed by the Court, must be paid to the Court. Any forfeited bond or surety shall accrue to the consolidated budget of Timor Leste.
9. A monetary bond shall not be paid if the suspect has met the conditions for substitute restrictive measures.

**Section 31**  
**Maintenance for Victims and Families**

1. If the perpetrator of domestic violence is someone in the position as breadwinner, then he/she is obliged to provide maintenance for the victim and family while the case is in trial
2. Order for the maintenance is to be given by the Investigating Judge at the hearing.
3. The Investigating Judge is obliged to order the provision of the maintenance in the following ways according to priorities:
  - a. If the suspect works in a government or non-government agency, then the Investigating Judge may order that agency to give up to 2/3 of the income of the suspect to the victim and their family members in accordance with the rules in force.
  - b. If the suspect has his/her own business or is a farmer, then the Investigating Judge may give up to 2/3 the management rights of that business to the victim or his/her family members.
  - c. If the perpetrator cannot provide maintenance as stated in the above sub-paragraphs then the Investigating judge shall order the use of common property as maintenance for the victim and his/her family.
  - d. If the common property cannot be used as maintenance for the victim and their family, the Investigating Judge is obliged to request the family of the suspect to provide maintenance for the victim and their family.

- e. In a situation where none of the above conditions are possible, then the provision of maintenance during the hearing must be undertaken by the state.
- 4. The order for maintenance given by Investigating Judge is to apply in the period between the matter first arising before the investigating Judge up to the time a Court makes a final decision on the case
- 5. The Court will rule as to the continuation of the provision of maintenance to the victim and their families, particularly if a prison sentence is imposed on the accused.

### **Section 32 The Using of Common Property**

- 1. Investigating judge shall decide if common property shall be frozen or cannot be used while the case is in trial
- 2. In the period leading up from the initial review hearing to the final decision, the using of common property has to be communicated to both parties.
- 3. During this period the using of common property is as following:
  - a. Common property can be used as maintenance for the victim and their family as stated in section 31 paragraph 3, sub-paragraph c), of this law
  - b. At the review hearing before the Investigating Judge, if it is deemed necessary, the suspect and the victim may appoint a caretaker, who is agreed to by both parties
  - c. The parties are obliged to provide information to the appointed caretaker
  - d. The caretaker is obliged to provide regular reports to Registry until lawful court decision.
- 4. The Court will decide further concerning the using of common property, particularly if the accused is in detention, unless the parties decide for divorce.

### **Section 33 Rules of Evidence**

- 1. The rules of evidence for domestic violence offences shall be based on this law and other legal provisions currently in force.
- 2. The court may admit and consider any evidence presented by the various parties, provided that the method of obtaining such evidence is in line with universal human rights principles
- 3. The types of evidence that can be presented are:
  - a. Witness testimony
  - b. Expert testimony
  - c. Testimony from the suspect
  - d. Correspondence or written testimony
  - e. Other evidence according to this law and other legal provisions currently in force.
- 4. Witnesses comprise of:
  - a. The witnesses
  - b. The victims
  - c. The representative of the victim and family members.
  - d. Other relevant witnesses.
- 5. Expert witnesses comprise:
  - a. Medical officers and para-medical workers
  - b. Mental health workers
  - c. Other experts as described in this law and other legal provisions currently in force.
- 6. In cases of sexual Violence:
  - a. No corroboration of the victims' testimony shall be required.
  - b. Consent shall not be allowed as a defence if the victim:
    - b.1. Has been subjected to or threatened with or has had reason to fear violence, duress, detention or psychological oppression, or

- b.2. Reasonably believed that if the victim did not submit, another person might be subjected, threatened or put in fear.
- c. Before evidence of the victim's consent is admitted, the accused shall satisfy the court, *in camera*, that the evidence is relevant and credible
- d. Previous sexual experience history of the victim prior to the violence is inadmissible as evidence.

### **Section 34 Juvenile Justice**

1. A minor under 12 years of age is considered incapable of committing a crime. A minor between the age of 12 and 16 may be prosecuted for committing a domestic violence offence according to this law and other legal provisions currently in force, particularly if he/she commits the following criminal offences:
  - a. Murder
  - b. Rape
  - c. Violence that results in serious injury to the victim.
2. For the purpose of the present law, the relevant time for determining the age of the person is the time at which the suspected crime was committed.
3. A minor over 16 years of age may be prosecuted following ordinary rules of criminal procedure, provided however the court in which any minor is tried shall safeguard the rights of the minor, in accordance with this law, other legal provisions currently in force and the United Nation Convention on the Rights of the Child and shall consider his or her juvenile condition in every decision made in the case.
4. In conducting an investigation on a minor, the Prosecutor is required to request the company of parents, guardians, relatives or legal representatives.
5. A hearing in which the accused is a minor shall not be opened to the public. No information that may lead to the identification of the minor shall be published.
6. The parents, guardian or closest relative of a minor who has been arrested are entitled to participate in any criminal proceeding and may, if necessary, be required by the court to attend any criminal proceedings in the interest of the minor.
7. The court may prohibit the participation of parents, guardians and closest relatives in any criminal proceedings if there are reasonable grounds to believe that such exclusion is necessary in the interest of the minor.
8. A minor who is convicted of an offence for which a sentence to a term of imprisonment is allowed by law shall be considered for a variety of lesser sentencing dispositions such care, guidance and supervision order, counselling, probation, foster care, education and vocational training program and other alternative to institutional care.
9. Where a crime was committed by a minor and an adult together, the minor may be tried separately from the adult, by the same court. The decision of the court shall be issued in a session that shall not be opened to the public.
10. A warrant for an intrusive search of the body as stated in this law and other legal provisions currently in force, may be issued in relation to a minor only where it is necessary, and shall require the present of the parents, guardians or closest relatives of the minor and shall be executed in a manner that fully respects the rights of the minor.
11. Until a separate minor panel is created by law, the President of Court of Appeal and the head of the respective prosecutorial office, whenever possible shall ensure the appointment of the same group of judges and prosecutors to conduct proceeding in cases where minor are suspects.

### **Section 35 Detention of Minors in Domestic Violence Cases**

1. A minor shall not be detained or imprisoned unless as measure of last resort and for the shortest appropriate period of time as stated in this law and other provisions currently in force.

2. Where a minor is detained, physical restraint may be used only in exceptional cases and only when it is manifestly apparent that physical restraint is necessary for the security of the minor or of another person. Physical restraint measures shall be in proportions of the circumstances. Such restraint measures should not cause humiliation or degradation, and shall be used restrictively and only for the shortest possible period of time.
3. A restriction on the personal liberty of a minor shall be imposed by a court only after careful consideration of the age and special needs of the minor, the gravity of the offence, and the needs of the society. A court shall not impose a restriction on the personal liberty of a minor if there is another appropriate measure.
4. Detention of minors must be in accordance with the following special considerations:
  - a. A minor who is detained or imprisoned shall be kept separated from adult who is detained or imprisoned, and shall, if possible be detained or imprisoned in different facilities.
  - b. All minor placed in detention shall be given special attention as to their personal needs, taking into account that the personal needs of young female offenders require special accommodation. Under no circumstances shall minor female offenders receive less care, protection, assistance, treatment, and training than males.

### **Section 36 Procedures for Community Service Sentences**

1. Community service consists on the provision of free services to the state, other public law entities or private entities which goals and objectives considered by the court to be of public interest
2. For the implementation of community service sentence, the Court shall work together with various government and non-government institutions as well as with the community and traditional leaders.
3. Government and non-government institutions along with the community or traditional leaders may propose suggestions concerning the form of community service required, to the Court, the Public Prosecutor and prison services.
4. The Public Prosecutor shall operate pro-actively in recording of the suggestions of government and non-government institutions along with community or traditional leaders concerning the community services that can be undertaken.
5. The Court shall order the public prosecutor to enforce community service sentences in accordance with the lawful court decision.
6. Prison services and other related parties shall monitor the implementation of community service.

### **Section 37 Counselling Procedures for Perpetrators of Domestic Violence**

1. For the implementation of counselling programs for perpetrators of domestic violence, the Court shall work together with various government and non-government institutions, which provide counselling services.
2. The Court shall order the public prosecutor and prison services to ensure the implementation of the counselling program in accordance with the lawful court decision.
3. The prison service shall guarantee the implementation of a counselling program for perpetrators within their custody, providing both group counselling and particular individual counselling for perpetrators that have previous convictions for domestic violence offence.
4. The group-counselling program for perpetrators of domestic violence will be conducted within prison services.
5. The counselling program for perpetrators that have previous convictions for domestic violence offences can be conducted within the prison or in counselling institutions outside prison, in cooperation with prison services.

**Section 38**  
**The Joinder of Civil Claim and Criminal Case**

1. If the offence of domestic violence has resulted in losses for the victim and other parties, then the Court, at the request of the victim and or other parties, can determine a joint civil compensation claim within the criminal case.
2. This request for the civil compensation claim to be heard jointly with the criminal case shall be submitted by the victim or their legal counsellor/representative before the public prosecutor submits the indictment or before the final lawful decision.
3. The court shall analyse and decide the compensation claim.
4. If the decision of the conviction is not appealed, then there cannot be an appeal regarding the compensation.

**Chapter XIII**  
**Criminal Provisions**

**Section 39**  
**Types of Sentences**

1. Main sentences
  - 1.1. Prison Sentence
2. Additional sentences
  - 2.1. Community Service
3. Alternative sentences
  - 3.1. Fine
  - 3.2. Community Service
4. Perpetrators of domestic violence who have been found guilty by a lawful Court decision shall undertake group counselling in accordance with this law and other legal provisions currently in force.

**Section 40**  
**Physical Violence**

- 40.1.1. Maltreatment shall be punished by a minimum prison sentence of four months and not exceeding two years and eight months or a fine of at least \$ 250 (two hundred and fifty dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or community service of a minimum of 160 (one hundred and sixty) hours and not exceeding 2500 (two thousands and five hundreds) hours which shall be undertaken on the weekends or on a daily basis in accordance with the decision of the Court.
- 40.1.2. If the act results in serious injury, the offender shall be punished by a minimum prison sentence of two years and six months and not exceeding six years and six months.
- 40.1.3. If the act results in death, the offender shall be punished by a minimum prison sentence of three years and three months and not exceeding nine years and four months.
- 40.1.4. Maltreatment shall be identified as intentional injury to health.
- 40.2.1. Maltreatment which does not result in illness or an obstacle in the performance of a professional occupation or means of livelihood, shall, as light maltreatment, be punished by a minimum prison sentence of one month and not exceeding three months or a minimum fine of \$ 100 (one hundred dollars) and not exceeding \$ 1000 (one thousand dollars) or a minimum community service of 40

- (forty) hours and not exceeding 480 (four hundred and eighty) hours which may be carried out on the weekends or on a daily basis in accordance with the decision of the Court.
- 40.2.2. Attempts at this crime shall not be punished.
- 40.3.1. Maltreatment committed with premeditation shall be punished by a minimum prison sentence of one year and seven months and not exceeding five years and four months.
- 40.3.2. If the act results in serious injury, the offender shall be punished by a minimum prison sentence of three years and three months and not exceeding nine years and four month.
- 40.3.3. If the act results in death, the offender shall be punished by a minimum prison sentence of four years and not exceeding eleven years.
- 40.4.1. Any person who deliberately causes serious physical injury shall, being guilty of serious maltreatment, be punished by a minimum prison sentence of three years and six months and not exceeding ten years and six months.
- 40.4.2. If the offence results in death, the offender shall be punished by a minimum prison sentence of four years and six months and not exceeding thirteen years and four months.
- 40.5.1. Serious maltreatment committed with premeditation shall be punished by a minimum prison sentence of four years and not exceeding sixteen years.
- 40.5.2. If the act results in death, the offender shall be punished by a minimum prison sentence of five years and not exceeding twenty years.
- 40.6. Any person, in a domestic relation, who surrenders or leaves, a child under the age of twelve years who is under his/her legal authority to another person, knowing that the child will be used for begging or carrying out begging, for performing dangerous feats or dangerous labour or labour detrimental to the health, shall be sentenced to a minimum prison of one year and not exceeding four years.
- 40.7. Any person, in a domestic relation, who deliberately brings or leaves someone within that domestic relation, to whose sustenance, nursing or care he is obliged by virtue of law or by virtue of an agreement, in a helpless state, shall be punished by a minimum prison sentence of four months and not exceeding two years and eight months or a minimum fine of \$ 250 (two hundred and fifty dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or a minimum community service of 160 (one hundred and sixty) hours and not exceeding 2500 (two thousands and five hundreds) hours which may be carried out on the weekends or on the daily basis in accordance with the decision of the Court.
- 40.8. Any person, in a domestic relation, who exposes a child under the age of seven years, with the intention to get rid of it, abandons the child, shall be punished by a minimum prison sentence of one year and four months and not exceeding five years and six months.
- 40.9.1. If one of the acts described in paragraph 40.7 and 40.8 results in serious injury, the offender shall be punished by a minimum prison sentence of one year and ten months and not exceeding seven years and six months.
- 40.9.2. If the act results in death, the offender shall punished by a minimum prison sentence of two years and three months and not exceeding nine years.

#### **40.10. Aggravating Factors**

- 40.10.1. If the acts under paragraph 40.1, 40.3, 40.4 and 40.5 are committed by administrating any substances injurious to life or to health, then the sentences will be enhanced by one-third

- 40.10.2. If the person who commits the crime described in paragraph 40.7 and 40.8 is the father or the mother of the child, the sentence laid down in paragraph 40.7, 40.8 and 40.9 will be increased by one-third.
- 40.10.3. If the perpetrator has previous conviction of the crimes describe above, then the sentence shall include an additional community service of 100 (one hundred) hours duration, which shall be carried out on the weekends or on a daily basis in accordance with the decision of the Court, and the requirement to undertake counselling program

### **Section 41 Psychological Violence**

- 41.1. Any person who perpetrates psychological violence, within domestic relations, which causes minor psychological effects, as stated in this law, shall be sentenced to prison for minimum period of two months and not exceeding six months or fined in a minimum amount of \$ 200 (two hundred dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or be required to undertake community service of a minimum of 200 (two hundred) hours and not exceeding 2500 (two thousand five hundred) hours, which shall be carried out on the weekends or on a daily basis in accordance with the decision of the Court.
- 41.2. Any person who perpetrates psychological violence, within domestic relations, which causes major psychological effects, as stated in this law, shall be sentenced to prison for minimum period of 3 (three) years and 4 (four) months and not exceeding 10 (ten) years and be required to undertake community service of a minimum of 120 (one hundred and twenty) hours and not exceeding 480 (four hundred and eighty) hours, which shall be carried out on the weekends or on a daily basis in accordance with the decision of the Court.
- 41.3. **Aggravating factors**
- 41.3.1. If the crime of psychological violence as mentioned above in paragraphs 41.1. and 41.2 is of a premeditated nature, then the sentence will be increased by one-third
- 41.3.2. If the perpetrator of the crime of psychological violence as mentioned above in paragraph 41.1 and 41.2 has previous conviction for domestic violence offences, then the sentence will be increased by one-third
- 41.3.3. If the perpetrator of the crime of psychological violence as mentioned above in paragraph 41.1 and 41.2 has previous conviction for domestic violence offences, then the sentence shall include an additional community service of 100 (one hundred) hours duration which shall be carried out on the weekends or on the daily basis, in accordance with the decision of the Court, and the requirement to undertake counselling program.

### **Section 42 Sexual Violence**

- 42.1. By a minimum prison sentence of six months and not exceeding two years and eight months or a minimum fine of \$300 (three hundred dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or a minimum community service of 250 (two hundred and fifty) hours and not exceeding 2500 (two thousands and five hundred) hours shall be imposed in the following cases:
- 42.1.1. Any person who with deliberate intent commits sexual violence in domestic relations as stated in this law
- 42.1.2. Any person who with deliberate intent, and in the presence of others, commits sexual violence in domestic relations as stated in this law

- 42.2.1. Any person who commits rape against a woman within a domestic relation shall, being guilty of rape, be punished by a minimum prison sentence of three years and six months and not exceeding fifteen years.
- 42.2.2. If the above crime is accompanied by threats and or violence then the sentence shall be increased by one-third.
- 42.3. Any person who commits rape against a woman in a domestic relation, whom he knows unconscious or helpless, shall be punished by a minimum prison sentence of three years and not exceeding twelve years.
- 42.4.1. Any person who commits rape against a woman in a domestic relation, whom he knows or can reasonably suspect under the age of eighteen, shall be punished by a minimum prison sentence of two years and three months and not exceeding nine years.
- 42.4.2. If the act causes serious injury, the sentence shall be increased by one-third.
- 42.4.3. If the act results in death, then the sentence shall be of a minimum imprisonment of eight years and four months and not exceeding twenty-five years.
- 42.5. A minimum prison sentence of one year and nine months and not exceeding seven years shall be imposed in the following cases:
  - 42.5.1. Any person who commits sexual violence, in domestic relations, with whom he/she knows or should reasonably presume to be under the age of eighteen;
  - 42.5.2. Any person who seduces someone, in domestic relation, to engage in or allows them to take part in sexual acts and or sexual violence with whom he/she knows or should reasonably presume to be under the age of eighteen
- 42.6. Any adult who engages in sexual relations or sexual violence with another person of the same sex within a domestic relation, whom he/she knows or should reasonably presume to be under the age of eighteen years, shall be punished by a minimum prison sentence of one year and nine months and not exceeding seven years.
- 42.7.1. Any person, in domestic relation, shall be punished:  
By a minimum prison sentence of one year and three months and not exceeding five years, if he/she with deliberate intent causes, facilitates or encourages the commission of sexual acts and/or sexual relations by his/her child, step child, foster child or any other child under their supervision who is underage, or any other under-age person whose care, education or security has been entrusted to them, or by an under-age servant or subordinate, with another person,
- 42.7.2. If the offender makes an occupation or a habit of the commission of the crime, then the sentence shall be increased by one-third.
- 42.8. Any person, in domestic relations, who makes an occupation or habit of intentionally causing or facilitating sexual acts and/or relations by others with third parties, shall be punished by a minimum prison sentence of one year and not exceeding four years or a minimum fine of \$ 500 (five hundred dollars) and not exceeding \$ 4500 (four thousand five hundred dollars).
- 42.9. Trafficking in women and trafficking in underage boys and girls shall be punished by a minimum prison sentence of one year and nine months and not exceeding seven years.
- 42.10.1. Shall be punished by a minimum prison sentence of six months and not exceeding two years and eight months or a minimum fine of \$ 300 (three hundred dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or a minimum community service of 250 (two hundred and fifty) hours and not exceeding 2500 (two thousands and five hundred) hours, if any person, in domestic relation:

- 42.10.1.1. Uses, induces or causes the child to pose, model or perform, whether live or in camera or video, in obscene publications, pornographic materials, obscene exhibitions and/or indecent shows and or;
- 42.10.1.2. The production, distribution, offering, selling by a person of child pornography which means materials in any media form depicting or showing the person's child or a child in domestic relations engaged in real or simulated explicit sexual activities or any representation of the sexual parts of such child for primarily sexual purposes.
- 42.10.2. If the above offences are the occupation or a habit of the suspect, then the above sentences shall be increased by one-third.

#### **42.11. Aggravating factors**

- 42.11.1. If the above offences are premeditated, then the sentences shall be increased by one-third.
- 42.11.2. If the offences in the above sections have been committed before by the perpetrator, then the sentences shall be increased by the addition of 100 hours of community service which may be undertaken on weekends or on contiguous weekdays in accordance with the decision of the Judge and the requirement to undertake a program of counselling.

### **Section 43 Economic Violence**

- 43.1.1. Any person who, within a domestic relation, deliberately and unlawfully destroys, damages, renders useless or mislays property, which wholly or partially belongs to another person within that domestic relation, shall be liable to a prison term of at least 4 (four) months and not exceeding 2 (two) years and 8 (eight) months or a fine of at least \$ 250 (two hundred and fifty dollars) and not exceeding \$ 4500 (four thousand five hundred dollars) or community service of at least 160 (one hundred and sixty) hours and not exceeding 2500 (two thousands five hundred) hours which may be carried out on the weekends or on a daily basis, in accordance with the decision of the Court.
- 43.1.2. The same sentence shall be imposed on a person who has, within a domestic relation, deliberately and unlawfully killed, destroyed or rendered useless any animal, which wholly or partially belongs to people in that domestic relation.
- 43.2. Any person within a domestic relation who does not fulfil their legal and traditional obligations as well as current customs or as agreed by the parties to provide maintenance and fulfil other domestic requirements, shall be liable to a prison sentence of at least 4 (four) months and not exceeding 2 (two) years and 8 (eight) months or a fine of at least \$ 250 (two hundred and fifty) dollars and not exceeding \$ 4500 (four thousand five hundred dollars) or community service of at least 160 (one hundred and sixty) hours and not exceeding 2500 (two thousands and five hundred) hours which may be carried out on the weekends or on a daily basis, in accordance with the decision of the Court.
- 43.3.1. If the value of the loss, in the offence described in point 43.1.2. above, does not exceed \$ 25 (twenty five) dollars, then the punishment will be a prison sentence of a minimum of 1 (one) month and not exceeding 3 (three) months or a fine of a minimum of \$ 50 (fifty) dollars and not to exceed \$ 250 (two hundred and fifty) dollars or community service of at least 20 hours and not to exceed 40 hours.

#### **43.4 Aggravating factors**

- 43.4.1. If the crime of economical violence as mentioned above in paragraph 1 and 2 is of a premeditated nature, then the sentence will be increased by one-third
- 43.4.2. If the perpetrator of the crime of economical violence as mentioned above in paragraph 1 and 2 has previous conviction of domestic violence offences, then the sentence will be increased by one-third
- 43.4.3. If the perpetrator of the crime of economical violence as mentioned above in paragraph 1 and 2 has previous conviction of domestic violence offences, then the sentence shall include an additional

community service of 100 (one hundred) hours duration which shall be carried out on the weekends or on a daily basis in accordance with the decision of the Court, and the requirement to undertake counselling program.

**CHAPTER XIV**  
**Final Provision**

**Section 44**  
**Transitional Provision**

1. The State, law enforcement officers and the judiciary shall prepare procedures and mechanisms required for the lawful implementation of counselling program and community services for domestic violence perpetrators, within 6 (six) months from the enactment of this law
2. Police and public prosecutors shall prepare standard operating procedures (SOP) and or mechanism to deal with domestic violence cases including referral services within 6 (six) months from the enactment of this law
3. Police shall prepare protection mechanism for domestic violence victims within 6 (six) months from the enactment of this law. For this purpose, police will collaborate with government and non-governmental institutions, especially those who have safe house or shelters for victims of violence.

**Section 45**  
**Entry Into Force**

1. Domestic violence offences shall be ruled by the present law and by the explanation annex attached to the present law, of which it is an integral part.
2. This law shall be applicable applied to everyone that commits a domestic violence offence under legal authority of Timor-Leste, as stated in the Constitution
3. In cases not specifically regulated for by this law, the criminal procedure law currently in force in Timor-Leste shall be applicable.
4. This law shall take effect once it is enacted by the National Parliament

Passed on ...

The President of the National Parliament  
Francisco Guterres

Promulgated on ...

To be published

The President of the Democratic Republic of Timor Leste  
Jose Alexandre Gusmao 'Kay Rala Xanana Gusmao'