



**JUDICIAL SYSTEM MONITORING PROGRAMME**

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**PROGRAM PEMANTAUAN SISTEM YUDISIAL**

**POLICE TREATMENT OF WOMEN IN TIMOR LESTE**

DILI, EAST TIMOR  
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*The Judicial System Monitoring Programme (JSMP) was set up in early 2001 in Dili, East Timor. Through court monitoring, the provision of legal analysis and thematic reports on the development of the judicial system, JSMP aims to contribute to the ongoing evaluation and building of the justice system in East Timor. For further information see [www.jsmp.minihub.org](http://www.jsmp.minihub.org)*

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## **1. EXECUTIVE SUMMARY**

This report examines police treatment of women in Timor Leste. In particular it investigates allegations of gender discrimination against women by the Policia Nacional Timor Leste (PNTL), including that: police do not consider cases of domestic violence or sexual assault seriously, that police officers themselves are involved in cases of violence against women, and that sexual harassment of female police officers is occurring within the PNTL.

The information for this report was gathered by JSMP's Women's Justice Unit through 15 days of interviews with the District Chiefs of PNTL, Vulnerable Person's Unit (VPU) officers, local government, women's groups and NGOs in all the 13 district.

The report finds that there is some gender discrimination against women by the PNTL: it appears that many police officers do not consider cases of domestic violence seriously. All the PNTL officers interviewed said they know domestic violence is a crime, but they only take the cases where the violence has caused "serious" injury through the formal justice process. They refer the small cases back to the traditional justice process. Even when the PNTL arrest the suspect, they use the 72 hour pre-hearing detention limit to give the victim time to ask to withdraw the case from the formal justice process. It appears that many PNTL officers do not understand the purpose of the 72 hour pre-hearing detention limit.

However, all of the PNTL officers interviewed said they know that sexual assault is a crime, and most of them indicated they always deal with these cases through the formal justice process. In the interviews we were only informed of four cases of police wrongdoing against women – two cases of abandonment of high school aged girls who had been impregnated by policemen, and one case of police harassment of a middle school girl, and one case of sexual harassment within the PNTL.

According to Timor Leste's Constitution, and its obligations under a number of international treaties, women should be guaranteed equality before, and equal protection of, the law. An essential first step in this equality of treatment is to ensure women are treated fairly by police officers when they first report a case of violence to the police. It is hoped that the recommendations provided in this report will help improve police treatment of women so as to help improve women's access to justice in Timor Leste.

## **2. ABOUT THIS REPORT**

### **2.1 AIM OF THIS REPORT**

JSMP's Women's Justice Unit (WJU) decided to write a report on police treatment of women because during research for other reports we had heard allegations of gender discrimination against women by the police. In particular, it was alleged that police did not consider cases of domestic violence or sexual assault seriously, that police officers themselves were involved in cases of violence against women, and that sexual harassment of female police officers was occurring within the PNTL.

Through this report we investigate the basis of these allegations of gender discrimination against women by the PNTL. In particular, we investigate whether there is a culture of discrimination against women within the PNTL, or if problems are occurring primarily because the PNTL lack adequate resources and training to carry out proper investigations of these cases.

One of the objectives of the WJU is to improve women's access to formal justice in Timor Leste. Women should be guaranteed equality before, and equal protection of, the law. After a criminal offence has been committed, the victim's first contact with the justice system is usually through the police. The response of the police during this first encounter may have a decisive impact on the victim's attitude to the criminal justice system as such. Women should be treated fairly by police officers when they first report a case of gender based violence to the police. The police must consider cases of gender based violence seriously, and investigate the alleged crime thoroughly.<sup>1</sup> It is also important that women trust the police as an institution and believe the police will uphold values of gender equality, not be perpetrators of human rights abuses against women. This report therefore aims to provide a number of useful recommendations as to how to improve police treatment of women so as to help improve women's access to justice.

### **2.2 METHODOLOGY**

JSMP's Women's Justice Unit conducted fifteen days of interviews with the District Chiefs of PNTL, VPU officers, local government, women's groups, and NGOs in all the 13 districts (and some sub-districts) of Timor Leste from 23 August to 5 October 2004. (The interview questions are in Appendix 1.) This report is based on the results of these interviews. It also uses information gained from research conducted for JSMP's reports "Women in the Formal Justice Sector", "An Analysis of a Sexual Assault Decision from Dili District Court" and "Access to Justice for Women Victims". The results of the interviews are listed in Appendix 2 and are described in Chapter 4. The interviews are listed by district, but the districts are numbered rather than named, as the purpose of the report is to gather general impressions of police treatment of women in Timor Leste, rather than to identify problems in specific districts.

Although it was attempted to obtain a nation wide perspective through the interviews conducted, the limitations of the approach adopted must be acknowledged. The sample of people interviewed is small (a total of 38 across the country). It would of course have been preferable to have interviewed a wider sample, and in particular to have interviewed a number of victims and ask their impressions of the treatment they received when reporting violence to the police.

The interviews were conducted by two Timorese female lawyers and one Timorese female outreach officer from JSMP. The interviews were conducted during distribution of public education materials and

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<sup>1</sup> See Article 4 of the Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 December 1993, discussed in 3.2 of this report.

the interviewers spent only one or two days in each district. Given the short period of time to develop acquaintance it is not to be expected that those being interviewed would necessarily have given full and honest answers for each of the questions. Also, given that the interviewers were distributing public education materials about reporting sexual assault and domestic violence, those being interviewed may have just said what they thought the interviewers wanted to hear. It would of course have been preferable to have spent longer in each district and built up a better rapport with those to be interviewed, as well as to observe how the police in each district interact with the community, and to try and observe community impressions of the police.

However, given time and resource limitations of JSMP it was decided to conduct the limited sample of interviews described above, in a relatively short period of time. Perhaps in future research more, and more thorough interviews, along with observational analysis, can be conducted over a longer period to obtain more accurate impressions of police treatment of women.

### **3. THE INSTITUTIONAL SETTING**

#### **3.1 THE STRUCTURE OF THE PNTL**

The Policia Nasional Timor Leste (PNTL) was formally established in August 2001 under UNTAET Regulation 2001/22. Prior to this date, police functions were undertaken exclusively by the United Nations Police (UNPOL) (from September 1999). From August 2001 to May 2004 policing was carried out jointly by UNPOL and PNTL. Since May 2004 PNTL has been entrusted solely with law enforcement in Timor Leste.

The PNTL consists of the General Command, Community Protection Unit, Criminal Investigations Unit, Traffic and Road Safety Unit, Marine Unit, Police Information Service, Migration Service, VIP Security Unit, Rapid Intervention Unit, Border Patrol Unit, and Police Reserve Unit.<sup>2</sup> PNTL district commands are located in each of the 13 districts, and there are sub-district commands in each of the 65 sub-districts.

The Vulnerable Persons Unit ("VPU") was created in March 2001. It is part of the Criminal Investigations Unit. The VPU is the gateway to the formal justice sector for female victims of crime in Timor. The PNTL and UNPOL created the VPU in order to have an investigations department that specialized in solving cases relating to women and children. The VPU has jurisdiction over the following types of crime: rape, attempted rape, domestic violence (emotional, verbal and physical), child abuse, child neglect, missing persons, paternity, and sexual harassment. There is a VPU in each of the 13 districts.<sup>3</sup> Recruitment intakes of PNTL have constituted approximately 20% women, and the VPU and sub-district police usually attempt to have a woman police officer interview women victims.<sup>4</sup>

The PNTL training program (initially designed during UNTAET) is currently of three months duration (in the Police Academy) followed by a three-month Field Training Program. The establishment of the Police Academy, development of the curricula and delivery of training were all undertaken by UNPOL members. There have been significant problems identified with the short length of this training program.<sup>5</sup>

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<sup>2</sup> Decree Law No.8/2004, The Organic Law of the National Police of Timor-Leste (PNTL)

<sup>3</sup> Interview with UNPOL Kimberly Campbell, September 27, 2003, and Interview with UNPOL Kiran Bajracharya, Team Leader Dili VPU, October 2, 2003.

<sup>4</sup> Results from interviews for this and previous reports.

<sup>5</sup> Joint Assessment Mission, *Report of the Joint Assessment Mission Carried out by the Government of Timor Leste, UNMISSET, UNDP and Development Partner Countries for the Timor-Leste Police Service*, January 2003.

It is hoped to address some of these problems through the Australia-UK police mission. Since October 2004 Australian Federal Police officers, under the Australian-UK police mission, have been providing a Training for

In most police organizations, officers are guided in the day-to-day performance of their duties by written procedures. These procedures reflect the laws of the particular jurisdiction, international conventions (eg. *UN Code of Conduct for Law Enforcement Officials*, *UN Basic Principles on Use of Force and Firearms*), community needs and expectations, and the policies of government in relation to law enforcement. The VPU have draft Standard Operating Procedures (SOPs) which are being considered through the Capacity Building Unit of the PNTL.<sup>6</sup>

### 3.2 POLICE DUTIES ACCORDING TO THE LAW

According to Timor Leste's Constitution, all citizens are equal before the law, and have the same rights and duties. Furthermore, no one shall be discriminated against on grounds of gender.<sup>7</sup> The constitution also guarantees women and men the same rights and duties in family, political, economic, social and cultural life.<sup>8</sup>

Under the Constitution the role of the police is to defend the democratic legality and guarantee the internal security of the citizens. In preventing crime, police must respect human rights.<sup>9</sup>

According to the Organic Law of the PNTL<sup>10</sup>, the PNTL should guarantee the people's safety and welfare and safeguard the citizens' rights.<sup>11</sup> Some of the fundamental goals of the PNTL are: to guarantee the maintenance of public order, security and peace; to promote conditions to assure citizen's exercise of their rights and freedoms; to prevent crime; and to investigate crimes and pursue perpetrators of crimes.<sup>12</sup>

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Trainers Program at the Police Academy. This program has provided short courses to 50 PNTL officers. In 2005 these 50 PNTL officers will be trained for a further six to nine months, after which they will be providing training to their PNTL colleagues in their different work units and in the districts. Interview with Kendelle Clark, Timor Leste Police Development Program, 30 November 2004

<sup>6</sup> The other PNTL unit's SOPs are also still being considered by the Capacity Building Unit. Interview with Kendelle Clark, Timor Leste Police Development Program, 30 November 2004

<sup>7</sup> **Section 16 (Universality and Equality)**

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.

<sup>8</sup> **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.

<sup>9</sup> **Section 147 (Police and security forces)**

1. The police shall defend the democratic legality and guarantee the internal security of the citizens, and shall be strictly non-partisan.

2. Prevention of crime shall be undertaken with due respect for human rights.

3. The law shall determine the rules and regulations for the police and other security forces.

<sup>10</sup> Decree Law No. 8/ 2004, 5 May 2004

<sup>11</sup> **Article 1 (Nature of the PNTL)**

1. PNTL is the security force that has the mission to defend the democratic legality, to guarantee the people's safety and welfare and to safeguard the citizens' rights, under the terms established by the Constitution and the Law.

<sup>12</sup> **Article 2 (Competencies)**

2. Within the framework of internal security policy and without prejudice to the legal responsibilities of other entities, the fundamental goals of the PNTL are:

(a) to guarantee the maintenance of public order, security and peace;

(b) to promote conditions to assure the normal operation of the democratic institutions and the exercise of the rights and the fundamental freedoms of citizens;

(c) to prevent crime and the occurrence of actions contrary to the law and regulations...

The Disciplinary Regulations provide that the PNTL shall be guided by a criteria of impartiality, detachment, objectivity and respect for democratic legality.<sup>13</sup> The oath taken by the police includes reference to the fact they will carry out their functions without discrimination on the basis of gender or marital status.<sup>14</sup> It is noted that the law only come into force in the middle of 2004 and the translation of the law and subsequent training of the law to the police is not complete.

Under international law the Timor Leste government has a legal duty to provide effective remedies for persons whose rights and freedoms are violated according to article 2(3) of the *International Covenant on Civil and Political Rights*.<sup>15</sup> Under Article 2(b) and (c) of CEDAW Timor Leste has a legal duty “to adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women” and “to establish legal protection of the rights of women on an equal basis with men”.<sup>16</sup>

The Code of Conduct for Law Enforcement Officials (adopted by General Assembly resolution 34/169 of 17 December 1979) also establishes that “law enforcement officials shall at all times fulfill the duty imposed upon them by law, by serving the community and by protecting all persons against illegal acts, consistent with the high degree of responsibility required by their profession” (Article 1). Further, “in the performance of their duty, law enforcement officials shall respect and protect human dignity and maintain and uphold the human rights of all persons” (Article 2).

Under Article 4 of the Declaration on the Elimination of Violence against Women, General Assembly resolution 48/104 of 20 “States should pursue by all appropriate means and without delay a policy of eliminating violence against women and, to this end, should:

- (c) Exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons;
- (i) take measures to ensure that law enforcement officers and public officials responsible for implementing policies to prevent, investigate and punish violence against women receive training to sensitize them to the needs of women.”

### 3.3 ALLEGATIONS OF GENDER DISCRIMINATION BY THE POLICE

At present only a small percentage of gender based violence cases are actually reported to the police in Timor Leste.<sup>17</sup> There are a number of reasons why women do not report gender based violence to the police<sup>18</sup>, one of which is because they fear discrimination by the police, or that the police will not take

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(e) to perform the functions set out in the law in regard to the penal process and collect information about crime occurrences, to impede crime consequences and pursue perpetrators of crimes;

<sup>13</sup> Article 5 of the Decree Law 13/ 2004 “Disciplinary Regulation of the National Police of Timor-Leste of 16 June 2004.

<sup>14</sup> Article 6 of the Decree Law 13/ 2004 “Disciplinary Regulation of the National Police of Timor-Leste of 16 June 2004.

<sup>15</sup> Timor Leste ratified the ICCPR on 10 December 2002. According to **Section 9.2** of Timor Leste’s constitution, “Rules provided for in international conventions, treaties and agreements shall apply in the internal legal system of Timor Leste following their approval, ratification or accession by the respective competent organs and after publication in the official gazette.”

<sup>16</sup> Timor Leste also ratified CEDAW on 10 December 2002.

<sup>17</sup> Many women do not report the gender based violence that has occurred to them to the police. The “IRC Prevalence of GBV Study” found that most women who did seek help for domestic violence went to their family (32%), 5% went to traditional justice, 3% went to police, 9% tried to forget about it. Swaine, Aisling, International Rescue Committee, “Traditional Justice and Gender Based Violence”, August 2003

<sup>18</sup> See JSMP’s report on “Access to Justice for Women Victims” pg. 15

their case seriously. During interviews for the “Women in the Formal Justice Sector” report, JSMP was told by some VPU officers that they had discouraged women from reporting “minor” domestic violence

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Many women do not think that the violence that has occurred to them is a crime. 51% of those surveyed in the “IRC Prevalence of GBV Study” strongly agreed that “a man has a good reason to hit his wife if she disobeys him”. In cases of domestic violence and sexual assault (especially if it happens in the family eg. by an uncle, brother, or father) many women do not think they should discuss these issues with people outside the family. In the “IRC Prevalence of GBV Study” 84% of respondents strongly agreed with the statement that ‘family problems should only be discussed with people in the family’, and 51% of women felt that the best way to cope was with support from their family.

- In East Timor, and especially in the districts, there are no means of communications – there is often no telephone and no transport. Often people live far from the nearest police station. The police also do not have a telephone and in the sub-districts often have no transport. So, physically, it is very difficult for women to tell the police when violence is committed against them.
- Often, when women experience domestic violence it is difficult for them to escape from the place where it is occurring, that is, often the person committing violence against them will not permit them to leave to inform anyone about it.
- Women are often embarrassed to tell the police when violence has occurred, especially if it involves sexual assault. They do not want to tell others what has happened to them, and they especially do not want to admit they have been sexually assaulted. Women also sometimes believe that people will think they are the person who is at fault in a case of sexual assault (this is unfortunately quite commonly believed in other countries too), and if they report it they will be seen as a “bad girl”. In Timor, many people also believe that to talk openly about sex is against Timorese culture, so of course this limits a woman’s ability to inform the police she has been sexually assaulted.
- Women are worried that if they tell the police about the violence it will become public knowledge. Sometimes the press reports on these cases and often they publish the name; or enough of the story that the victim thinks that other people will know about it.
- Some people appear to believe that domestic violence is an unavoidable part of Timorese culture, and as a result many women do not think they should report it to the police.
- Women do not know that domestic violence and sexual assault are crimes, and they do not know that they should report these problems to the police.
- Women think adat law will be a better system to resolve issues of domestic violence and sexual assault. Women also know that police are also sending women back to local justice or solving violence cases at police station level.
- Women think the police will not believe them when they report crimes of gender based violence.
- Even if the police believe the woman’s account of what has happened, they may not consider it serious, and will often send them back to the family or to live with the person who has assaulted them.
- Many people in East Timor do not have a good impression of the police. Sometimes they do not trust them because they still associate the PNTL with POLRI (the police force during the Indonesian occupation) who reportedly committed human rights abuses against numerous Timorese. Some people do not trust the PNTL because they have heard stories of them committing abuses against Timorese, in particular against women (for example, the highly publicised case of the alleged rape of an 18 year old girl by nine PNTL officers in May 2004). Some people also do not believe the PNTL are very competent, so do not think there is much point in reporting a crime to them, because the PNTL will not do a very thorough investigation and may make the situation worse for them.
- Women may be aware of the numerous problems in the formal justice system, particularly the lengthy delays in the court process. They may decide that it is not worth the trouble of reporting the violence they have experienced to the police because they do not want to have to go through the problems others have experienced with the formal justice system.
- Women may be aware that gender based violence is a crime, and that they should report it to the police, but may decide that for financial or other reasons, they cannot afford to report the perpetrator to the police, because they fear what his absence from them may mean. For instance, often because of their lack of economic power, some women prefer to solve problems through local justice due to a fear of losing economic support should their husbands be jailed.
- Even if a woman reports the violence to the police, due to the lack of social support mechanisms (especially safe houses) in Timor, she may continue to be exposed to real threats.

incidents or rapes that were not "serious".<sup>19</sup> It is claimed that some police do not respond quickly to reports of such violence, and that some police do not investigate such cases very thoroughly. In some cases, the police send the victim back to the place where they suffered the violence or tell the victim to resolve the problem through traditional justice mechanisms.<sup>20</sup> Women are returning home from police stations with the belief that the violence they have experienced is not valid or 'serious' enough to be dealt with by police.<sup>21</sup>

JSMP is also aware of alleged cases of sexual assault by police officers, for instance the high profile alleged rape of an 18 year old girl by nine PNTL officers in Dili in May 2004.<sup>22</sup> There are also reported cases of police harassment of women and marriage to minors.<sup>23</sup> Furthermore, the Alola Foundation October 2004 report "Trafficking in East Timor: a look into the newest nation's sex industry" discussed allegations of police corruption in connection with the sex industry, including of extortion of brothels in exchange for protection through demands for monetary payments and free sexual services.<sup>24</sup> The report also discusses inappropriate police investigation of prostitution. In particular, police have charged the prostitutes with pimping themselves under Article 296 of the Indonesian Penal Code, but have not charged the proprietors of the brothels or the pimps with any offence (ie. the police were charging the victims (women), rather than the perpetrators (usually men)).<sup>25</sup>

JSMP has also heard rumours of sexual harassment of female PNTL officers by their male colleagues. In only one interview for this report however, was a specific allegation made.

## **4. RESULTS OF THE INTERVIEWS**

### **4.1 GENERAL IMPRESSIONS OF THE POLICE**

All of the local government officials and women's groups we interviewed said the PNTL's relations with the community are good. All of the PNTL officers we interviewed also said they have good relations with the community. Many local government officials and women's groups said they work together with the police to resolve cases of gender based violence.<sup>26</sup> In most districts PNTL and women's groups said only policewomen question women victims.<sup>27</sup>

### **4.2 DOMESTIC VIOLENCE**

All the police we interviewed said that they know domestic violence is a crime and should be processed through the formal justice system.<sup>28</sup> However, some police said that they refer some of the "small cases" to adat (the traditional justice process)<sup>29</sup>, and that often cases are resolved within the family<sup>30</sup>, or by the

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<sup>19</sup> Interview with Dili District VPU 2 October 2003.

<sup>20</sup> Aisling Swaine, op cit and report to JSMP from UNHCR 10 June 2004, about case of sexual assault of a girl in Suai where police tried to negotiate a traditional justice settlement

<sup>21</sup> Interview with UNHCR officer 10 June 2004 and Swaine, Aisling, opcit, pg. 3

<sup>22</sup> See JSMP Press Release, 3 June 2004 (available at [www.jsmp.minihub.org](http://www.jsmp.minihub.org))

<sup>23</sup> JSMP interviews in Districts 1 and 3, 16 September and 26 August 2004.

<sup>24</sup> See pages 43 and 44 of the report: "Trafficking in East Timor: a look into the newest nation's sex industry"

<sup>25</sup> Ibid, page 40.

<sup>26</sup> interviews in all districts

<sup>27</sup> interviews with OMT in District 1 (16 September 2004), PNTL in Districts 5 (28 August 2004) 9 (23 August 2004) and 10 (17 September 2004)

<sup>28</sup> interviews with PNTL in all districts

<sup>29</sup> interviews with PNTL in District 1 (16 September 2004), District 2 (4 September 2004),

<sup>30</sup> interviews with PNTL in District 3 (26 August 2004), District 9 (23 August 2004)

village or sub-village chief.<sup>31</sup> In only one district did the PNTL say that they had never sent cases back to the family or traditional justice because of the police code of conduct.<sup>32</sup> Many police said that only in cases where the violence caused serious injury did they take the case forward (through the formal justice process)<sup>33</sup> although in some districts, even in those circumstances, the police follow the victim's wishes as to which process (formal or traditional) to pursue.<sup>34</sup> Many police and district officials seem to see their role as mediators in domestic violence cases.<sup>35</sup>

Many district officials and women's groups said that in cases of domestic violence the victim usually tells the sub-village or village chief first. They then try to resolve the matter according to traditional law. If they cannot resolve it, or if the violence has caused serious injury to the victim, then the sub-village or village chief take the case to the police.<sup>36</sup>

There appears to be a belief on the part of many (police, government leaders, victims and their families) that if the traditional justice process does not go well they can take the case to the formal justice process.<sup>37</sup>

In domestic violence cases many police seem to use the 72 hour detention period as a time to let the victim make up their minds what they want to do about the case - to prosecute the perpetrator according to formal justice or to have him released. That is, PNTL officers are not necessarily using the 72 hour period to investigate the alleged offence. Many police say the decision as to whether to process the case through the formal justice system or not is entirely up to the victim.<sup>38</sup> In District 10 the PNTL said "we never force the victim to follow any process".<sup>39</sup> In only one district did the PNTL say that even if the victim tries to withdraw her case the PNTL continues to take the case to court.<sup>40</sup>

#### 4.3 SEXUAL ASSAULT

PNTL officers in all districts said sexual assault is a crime and that these cases have to be dealt with through the formal justice process, not adat.<sup>41</sup> However, some cases of sexual assault seem to get sent back to the sub-village or village chief to resolve.<sup>42</sup>

Police and local government officials are very aware of cases which make it to court or where the perpetrator has been sent to prison.<sup>43</sup> Many of the cases police and local government officials cited to interviewers were sexual assault cases against children.<sup>44</sup>

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<sup>31</sup> interviews with PNTL in District 4 (28 August 2004), District 6 (2 September 2004), District 12 (23 August 2004) However, in research by the IRC, the pattern was as follows (Swaine, opcit, pg. 21):

Alerting family member -> Mediation by family members only and/or -> Ruling of case by Lian Nain/Dato/Diretus Humanus -> to Chefe d'Aldeia -> to Chefe de Suco -> to Police

<sup>32</sup> interview with PNTL in District 12 (23 August 2004)

<sup>33</sup> interviews with PNTL in District 3 (26 August 2004), District 5 (28 August 2004), District 6 (2 September 2004), District 7 (5 October 2004), District 12 (23 August 2004).

<sup>34</sup> interviews with PNTL in District 12 (23 August 2004), District 9 (23 August 2004), District 10 (17 September 2004),

<sup>35</sup> interviews with PNTL and Sub-District Administrator in District 1(16 September 2004), District 5 (28 August 2004), District 7 (5 October 2004), see also Swaine, opcit pg. 37

<sup>36</sup> interview with Sub-District Administrator in District 1 (16 September 2004),

<sup>37</sup> interview with Sub-District Administrator in District 10, the District Administrators in District 8 and 11

<sup>38</sup> interviews with PNTL in Districts 3, 5, 10 and 11

<sup>39</sup> interview with PNTL in District 10

<sup>40</sup> interview with PNTL in District 6

<sup>41</sup> interviews with PNTL in all districts.

<sup>42</sup> interviews with the Sub-District Administrator District 5 (28 August 2004), the District Administrator District 8 (17 September 2004), the Sub-District Administrator District 10 (17 September 2004)

PNTL in three districts said there had been no, or very few cases, of serious domestic violence or sexual assault in their district.<sup>45</sup> However, the statistics from the VPU (to be discussed in a subsequent JSMP report) indicate that actually there have been domestic violence and sexual assault reported in every district.

#### 4.4 DIFFICULTIES

Some interviewees said that victims of domestic violence and sexual assault (especially children) are too embarrassed (because of the damage it will do to their family's reputation) or scared (because of the threat of divorce or further violence) to report these crimes.<sup>46</sup>

In one district, the distance to the court was identified as a barrier to meeting the 72 hour deadline, as a result of which they sometime have to set the suspect free.<sup>47</sup> Sometimes the police do not have food (or the budget to buy it) to give the suspect during the 72 hour detention period. The PNTL in said that in these circumstances they have to ask the suspect's family to provide food.<sup>48</sup>

All of the different groups interviewed (police, local government, and women's groups) noted that after reporting a crime of violence to the police, many women withdraw their case from the formal justice process. The reasons for withdrawing included financial (because they need their husband's income to support the family), and threats from their husband and/or his family.<sup>49</sup>

Many of the police, local government officials and women's groups we interviewed said that the problem with formal justice (and the reason many victims do not want to use it) is that the court is too far away<sup>50</sup> (Dili District Court has been the only functioning court for more than one year) and the process takes too long.<sup>51</sup> The difficulties with gathering appropriate medical evidence were also noted.<sup>52</sup>

In some districts the PNTL or local government authorities complained that sometimes the court sends back cases of domestic violence to be dealt with by traditional processes. This behaviour by the courts was seen as belittling the seriousness of domestic violence and increasing the likelihood of it reoccurring.<sup>53</sup>

In one district the lack of a domestic violence law was perceived a problem by the PNTL and the District Administrator. They urged the government and parliament to draft and pass such a law quickly.<sup>54</sup>

In the interviews conducted for the WJU's "Access to Justice for Women Victims" report the VPU in Districts 6, 12 and 13 said it was difficult to do their work because of a lack of training (some VPU officers had not had any training as VPU) and a lack of equipment (although each district VPU had been

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<sup>43</sup> interviews with the Sub-District Administrator in District 1, and PNTL in Districts 8, 11 and 12

<sup>44</sup> interviews with the Sub-District Administrator District 1, and PNTL District 8

<sup>45</sup> interviews with PNTL in District 1, 2 and 6

<sup>46</sup> interviews with the Sub-District Administrator Districts 2 and 9, and the District Administrator District 5

<sup>47</sup> interview with PNTL in District 8

<sup>48</sup> interview with PNTL in District 11

<sup>49</sup> interviews with the Sub-District Administrator and PNTL in District 2, the Sub-District Administrator in District 6, OPMT in District 9, the District Administrator in District 11, and PNTL in District 12

<sup>50</sup> interviews with OPMT in District 2, PNTL in Districts 4, 7 and 8, and the District Administrator in District 11

<sup>51</sup> interviews with PNTL in Districts 5 and 10

<sup>52</sup> interviews with PNTL in District 11

<sup>53</sup> interviews with the PNTL and Sub-District Administrator in District 6

<sup>54</sup> interviews with PNTL and District Administrator in District 7

given a motorbike by UNFPA, these were often broken, and the district PNTL usually only had one functioning vehicle). This lack of vehicles made it difficult to get to victims, pick up suspects, and investigate the alleged crimes.

#### **4.5 POLICE WRONGDOING AGAINST WOMEN**

In three districts police wrongdoing against women was reported. In District 1 OMT informed JSMP of two cases in 2004 where two policemen had impregnated (through consensual sex) two high school girls and then refused to marry them or take responsibility for the children (ie. they abandoned the women).<sup>55</sup> In District 3, (in interviews conducted outside of the period for this study) we were informed of a case of a middle school girl who had felt pressured to leave school in mid 2004 because a policeman wanted to marry her and was hanging around her school trying to force her to agree to marry him. He was also pressuring her family to agree to marriage.

In District 2 there was a report of a case of sexual harassment against a female police officer in mid 2004 by her superior (a senior police officer in the district). The case had been reported to national headquarters but no action had been taken against the perpetrator. JSMP was informed that he had since been promoted. In all the other twelve districts, all the PNTL and VPU we interviewed said there was no problem with sexual harassment in the PNTL in their district.

### **5. ANALYSIS OF THE INTERVIEW RESULTS**

#### **5.1 GENERAL IMPRESSIONS**

The generally positive impressions of the PNTL we found in the interviews are supported by the September 2004 *Survey on Public Perception of the East Timor National Police's Work* by the Centre for Applied Research and Policy Studies, Dili Institute of Technology. In this survey 69.6% of respondents said they trust and respect the work of the police. Police are seen to know the community well. According to this study, one of the few areas where the public are not satisfied with the work of the police is in their efforts to counter prostitution.<sup>56</sup>

Based on the interview results there does not seem to be a culture of discrimination against women in the PNTL. There were problems with investigative omissions, or wrongdoing by some PNTL officers, but these problems did not appear to be indicative of institutional gender discrimination within the PNTL.

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<sup>55</sup> In the IRC study abandonment was reportedly considered to be one of the most serious offences against women. Swaine opcit

<sup>56</sup> According to the public the major problem the PNTL face in carrying out their work is that they don't receive sufficient training (26%) in order to help them understand law and order, and to shift police mentality towards serving the community better. This obstacle arises because police recruitment isn't very good (19.5%), and there is a shortage of money for police to carry out their work (17.5%). Other obstacles include insufficient equipment and police to serve the community, and strong interference from outside the police force, which reduces the quality of their work.

The public prefer money to be spent on increasing training for police (30.4%), setting up additional police posts at suku (village) level (25%) and increasing police salaries (15.3%). *Survey on Public Perception of the East Timor National Police's Work* by the Centre for Applied Research and Policy Studies, Dili Institute of Technology, September 2004.

## 5.2 DOMESTIC VIOLENCE

However, the police are not thoroughly investigating reports of domestic violence. Many PNTL officers are sending these cases back to the families or village officials to be dealt with by family or traditional processes. Very few PNTL, government officials, or women's groups see this as a problem, and none of the interviewees complained that PNTL were not investigating these cases properly. Some PNTL officers appear to have difficulty determining what is and is not a crime when it comes to domestic violence. It appears that the victim has to have sustained very serious injuries (usually that occasioning bleeding or physical injury) before the PNTL consider the case is one that should be dealt with by them.<sup>57</sup> Given the cultural constraints a victim has to overcome before she reports domestic violence to the police this state of affairs is not acceptable.

Although of course, considering the resource constraints of the PNTL and the courts, not every case of domestic violence can be dealt with in the formal justice system, it appears the police need more training in understanding that all domestic violence – not just that occasioning grievous bodily harm – is a crime.

Also, many police leave it up to the victim to decide whether to process their domestic violence case through the formal system. Although the victim's wishes are of course important, as are the economic necessities of her and her family, the police should also take into account the public interest in having the perpetrator of such violence prosecuted for the crime. The police should also consider the deterrent effect of successful prosecutions.

The reasons for preferring adat (traditional law) to the formal justice system to deal with cases of domestic violence were variously identified as: traditional law is the law we respect<sup>58</sup>; the formal justice process takes too long, victims think it is a waste of time<sup>59</sup> and that it gives more support to the suspect<sup>60</sup>; adat is more effective and efficient<sup>61</sup>; and the court (until now almost always only Dili District Court) is too far away.<sup>62</sup> In only one interview did an interviewee state they thought the formal justice system is better than the traditional justice system. This is "because with adat the suspect can do the crime again" and "adat does not ask the victim her opinion on the decision".<sup>63</sup>

The apparent belief (on the part of police, government leaders, victims and their families) that the formal justice process is only a fall back if the traditional process does not go well, will have to be changed. Police in particular, should understand the importance of gathering contemporary evidence in their investigation of a crime. If the case has already gone through the traditional justice process, by the time it is referred to the formal justice process, any evidence will likely be weeks old, and not very useful. The police, in particular, should be educating the public on the value of the formal justice system versus the traditional justice system (particularly in regards to protection of the rights of women) and encouraging its use.<sup>64</sup>

Many PNTL officers interviewed do not seem to understand the purpose of the 72 hour limit on detention prior to a hearing. When the police detain a suspect they are expected to question and investigate the

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<sup>57</sup> Similar findings were made in the IRC report, opcit Swaine, pages 14, 16 and 21

<sup>58</sup> interview with District Administrator District 8

<sup>59</sup> ibid

<sup>60</sup> interview with the Sub-District Administrator District 10

<sup>61</sup> interview with District Administrator District 11

<sup>62</sup> interviews with PNTL in Districts 4, 7, and 8.

<sup>63</sup> Interview with the Gender Focal point in District 8: "I think it is better to process cases through the formal justice process....The uncles of the victim actually receive the payment of buffalos or money (in compensation for the crime), not the victim. The victim has to be quiet..... If both families accept the decision, then it does not go to court."

<sup>64</sup> Similar findings were made in the IRC report, opcit Swaine, pages 14, 16 and 21. Also, see pg. 29 for problems with the gender biased views of some outcomes from traditional justice processes.

alleged crime and present that information to the court. According to Section 20.1 UNTAET Regulation 2000/30, a suspect must, within 72 hours of arrest, be brought before an investigating judge for the investigating judge to decide 1) whether there is a case to answer (ie. whether there should be a trial) and 2) whether the suspect presents such a risk to society that he should be put in pre-trial detention.<sup>65</sup> In Timor Leste it was decided the pre-hearing detention limit should be 72 hours because of the difficulties in transporting suspects from the place of arrest to the court (until recently Dili was the only functioning court and in many districts there is only one functioning police car and often the roads are impassable). It is important that the period is restricted to only 72 hours because of the significant restrictions that detention places on the rights of the suspect.

However, interviews in many districts indicate that, in cases of domestic violence many PNTL think the purpose of the 72 hour limit is to allow the victim of the violence to decide whether or not she wishes to pursue her case through the formal justice system (ie. to provide a cooling off period, or time for the victim to reflect). As discussed above, once a domestic violence case has been reported to the police, it should be thoroughly investigated. It was not clear to JSMP that in these cases of domestic violence the PNTL made any significant attempt to investigate the alleged offence during the 72 hour period. It certainly did not seem that the PNTL were making attempts to transport the accused to court in Dili. If the victim indicates she does want to proceed, and the PNTL have not arranged to transport the suspect to court within the 72 hour period, then the continued detention after that period is a violation of the rights of the victim and is unlawful because it contravenes Section 20.1 UNTAET Regulation 2000/30. The suspect would then be entitled to file a habeas corpus requesting immediate release.

### **5.3 SEXUAL ASSAULT**

PNTL officers in all districts said sexual assault cases have to be dealt with through the formal justice process, not adat.<sup>66</sup> There was no discussion of the prevalence of sexual assault cases – especially incest – which are not reported to the police. It was encouraging however, that a number of sexual assault cases did appear to have been processed by the police through the formal justice system, with the assistance and support of local government and traditional leaders. Moreover, many of the interviewees knew about some of the case which had occurred in their District, especially if the case had commenced trial or if the suspect is in prison. This would appear to indicate that, at least in sexual assault cases, PNTL officers and community members are aware of the effect of prosecution through the formal justice system. Hopefully this will mean that the formal justice system will have a deterrent effect on future potential perpetrators of sexual assault.

The complete lack of awareness by PNTL in some districts of the number of sexual assault and domestic violence cases that had occurred in their district was worrisome (some PNTL denied there had been any cases). Although they may have just told the interviewers there were no cases because the PNTL thought that would give a better impression of the level of crime prevention in their district, it is also possible that these PNTL did not consider these cases as “serious” enough to record. There is clearly a need for more police training in the seriousness of sexual assault and the importance of accurate recording of statistics of its occurrence.

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<sup>65</sup> The purpose of the hearing is to review the lawfulness of the arrest and detention and for the judge to decide whether to:

- a) confirm the arrest and order the detention of the suspect
- b) order substitute restrictive measures
- c) order the release of the suspect

<sup>66</sup> Interviews with PNTL in all districts.

#### **5.4 DIFFICULTIES**

The difficulties of transporting the suspect from the district police station to the court within the 72 hour limit will hopefully be partly addressed by the fact the district courts are now functioning a few days a week, one or twice a month in Suai, Oecussi, and Baucau. This will also hopefully partly address the problem of the victim attending the trial. Clearly however, the PNTL's transport problems will have to be addressed (that is, maintenance of, and fuel for, district vehicles is required). Budget should also be provided for the PNTL to provide food for suspects during the 72 hour detention period. Further training of all VPU and PNTL officers in investigating cases of domestic violence and sexual assault, and in women's rights, is also needed.

The recommencement of trials in the District Courts by international judges has helped speed up the formal justice process in the Districts. This will hopefully encourage more faith in the formal justice process from victims. There is also clearly a need for greater social and financial support for victims to encourage them not to withdraw their cases from the formal justice process. It is also envisaged that some of this need will be addressed by the new domestic violence law.

#### **5.5 POLICE WRONGDOING AGAINST WOMEN**

Given the high number of rumoured cases of police wrongdoing against women heard by JSMP prior to commencing research for this report, the low number of cases actually reported during interviews was surprising. It is possible that interviewees were embarrassed or reluctant to report cases to interviewers, but it is encouraging that the problem does not appear to be as widespread as rumoured. This again indicates that there does not appear to be institutional gender discrimination in the PNTL.

## 6. RECOMMENDATIONS

Following analysis of the results of the interviews and statistics gathered for this report, JSMP makes the following recommendations:

### Training

- All PNTL undergo further training on what constitutes crimes of sexual assault and domestic violence. Further training of PNTL that domestic violence and sexual assault are crimes and should be thoroughly investigated, not diverted back to traditional processes.
- Further training be conducted of all PNTL in the public interest elements of investigating crimes, and the deterrent effect of successful prosecution of crimes.
- Public education be conducted that the formal justice system is not just a fall back if the traditional justice system does not work. Public and police education of the value of the formal system versus the traditional system.
- All PNTL undergo training on the impact of domestic violence on the family, including economic and social effects. That is, why not thoroughly investigating the allegations of domestic violence will inculcate a belief in all parties concerned that it is not serious. And the long term detrimental effects of domestic violence on children, in particular the risk of repetition of these offences in future generations.
- Further training of court actors in the importance of not sending back cases of domestic violence and sexual assault to traditional justice processes.
- Further training of PNTL on the purpose of the 72 hour detention limit.
- Budgetary training for the PNTL in budget management to ensure continued fuel supply and maintenance of PNTL vehicles.

### Resources

- The PNTL be provided with more resources so they can investigate alleged crimes more thoroughly and transport suspects to court within the 72 hour pre-hearing detention limit. Further funding for material items, especially transport and communications, and for maintenance of these resources.

### Statistics

- The government should compile and publish statistics on the number of complaints of sexual and/or domestic violence made to police, the actions taken, the number of complaints referred for prosecution, and the final outcome of each complaint. These statistics should be compiled together in a central agency.<sup>67</sup>

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<sup>67</sup> Although JSMP was able to gather most of these statistics (and these will be discussed in a January 2005 report), it was not easy to gain access to this information and involved a considerable number of visits to the PNTL National Investigations Unit, the office of the General Prosecutor, and the District Courts.

## **Law**

- The draft domestic violence law and draft Penal Code should be passed by the Council of ministers and Parliament as soon as possible, and include better legal protections for the rights of women in Timor Leste. These laws will need to be translated and training provided to PNTL and women's support services regarding their operation.
- Police regulations should establish clear and explicit guidelines for police intervention in cases of domestic abuse.
- The police disciplinary regulation <sup>68</sup> should be amended to include disciplinary measures against police who use their position to violate the rights of, or harass women. Translation of and training for police is also required regarding this regulation.

## **Disciplinary measures**

- Allegations of police wrongdoing and sexual harassment of female PNTL officers should be thoroughly investigated and those responsible disciplined appropriately.
- Independent mechanisms should be established to monitor and oversee police treatment of female victims of violence. Police who reject complaints without cause, harass complainants or their families, or otherwise block investigations should be appropriately disciplined.

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<sup>68</sup> Decree Law No.13/2004 “ Disciplinary Regulation of the National Police of Timor-Leste.

## 7. CONCLUSION

This report has found that there is some gender discrimination against women by the PNTL. From the results of JSMP's interviews with PNTL officers, local government authorities, and women's groups in each of the thirteen districts, it appears that many police officers do not consider cases of domestic violence seriously. We come to this conclusion because according to the interviews, the police send back many cases of domestic violence to be dealt with by the family or traditional justice mechanisms.

However, according to the interview results, it appears that the PNTL do consider allegations of sexual assault seriously, and believe all such allegations should be dealt with by the formal justice system.

In the interviews we did not hear of any cases of police violence against women. We were however, informed of two cases of abandonment of high school aged girls who had been impregnated by policemen, and of one case of police harassment of a middle school girl, and one case of sexual harassment within the PNTL.

Based on these interview results therefore, we do not believe that there is evidence of institutional discrimination against women within the PNTL.

The problems which are occurring in regards to inadequate investigation of domestic violence cases would appear to, in part, reflect community attitudes towards these cases. In order to improve this situation therefore, and ensure that PNTL officers do consider domestic violence cases seriously, it is important that the PNTL be provided with further training about what constitutes domestic violence, and how to respond and investigate reports of domestic violence. The PNTL should also be provided with adequate resources to properly investigate domestic violence. It is also extremely important, that public education continue on the seriousness of crimes of violence against women, and on how the formal justice system can assist women victims of violence.

## **APPENDIX 1 – INTERVIEW QUESTIONS**

### **Questions for the Police**

1. Do you have good relations with the community, especially women's groups?
2. It seems that sexual violence and domestic violence occur often, how do you think you can assist these cases as the ones who are in charge of law and order?
3. When women report their cases, like sexual violence and domestic violence, what do you do and what methods do you use to process these cases? If it is a case of domestic violence or sexual assault do you always take it to the court or do you sometimes send it back to the home to resolve in the family? Please give some examples.
4. How are your relations with the victims, if the victims are women?
5. During this time, how many cases of domestic violence and sexual assault have you attended? And how many cases have been processed?
6. What do you think of cases where the victim withdraws the case?
7. What difficulties have you faced in cases of sexual violence and domestic violence?
8. Have police women faced problems of discrimination?

### **Questions for local government authorities**

1. How are the police's relations with the community? What do police usually do with cases of domestic violence and sexual assault? Do they take them to the court or sent back to be resolved in the family?
2. What do you (as a community leader) do when cases of domestic violence and sexual violence occur? Do police give good treatment to women and respect them? Are there cases where the police abuse the woman when she is giving her evidence?
3. During this time some cases of domestic and sexual violence have been taken to the formal legal process and some have gone through the traditional process. What mechanisms do you use in the traditional process? What do you use as the basis for your decisions? How do you see the legal process?
4. What kind of cases usually occur here?
5. During this time, when cases have been resolved following a traditional process, are there some victims who have withdrawn their cases? Do victims feel the decisions are just?

### **Questions for women's groups**

1. How are relations between women's groups and the police?
2. What kinds of programs do you do?
3. What kind of assistance do you give to women who have suffered from sexual and domestic violence?
4. What kinds of mechanisms do you use to take the process forward?

## **APPENDIX 2 - RESULTS FROM INTERVIEWS IN 13 DISTRICTS**

### **District 1            16 September 2004**

#### Sub-district Administrator

- Community's relationship with the police is good. We always work together with the police to resolve these cases.
- Ordinarily in cases of domestic violence we resolve it through traditional law in the sub-village or village, by the Chief of the Sub-Village or Chief of the Village. The Chief of the Village gives a letter to the victim to take to the District Administrator, then we debate. If the perpetrator recognizes he has done wrong, and wants to make peace, then we try to resolve it. That is when the case is not too serious. If however, the perpetrator has bashed the victim until she has serious wounds, or is bleeding, we take it to the police. If the case is a serious one it goes to the court.
- In 2002 and 2004 there were two cases of sexual assault. Each was against a child. Both of the suspects are in prison. These cases are indeed crimes. So the police take charge of them.

#### PNTL Sub-District Commander

- Especially in the sub-district and villages, PNTL's relationship with the community and the community leaders is very good.
- Domestic violence - if it is reported by the victim we contact the suspect and take him to the police. We do the investigation and after that we try to do a mediation. We ask the victim if she wants to resolve through the court or through adat. But many times the victim wants to resolve through adat, so if those circumstances we give the case to the Village Chief.
- We have not had a case where the victim had serious injuries. We have only had cases of the man slapping his wife.
- We have not had any cases of sexual assault.

#### OMT

- The relationship between the PNTL and community is good, and we also have good relations with the police.
- In some cases we take the victim to the police, to help the victim speak better. It is always a policewoman who asks the questions.
- Cases in 2004:
  - One high school girl was the girl friend of a policeman. The policeman promised to marry her, then afterwards had a sexual relationship with her. The third time he had sex with her, the girl told her parents. But the policeman did not want to marry her. Now the girl is still at school. The man was called to resolve the issue with her family, but he said he did not want the girl anymore. We have tried to help solve the case with the Commander of the Police.
  - There was another girl who became pregnant to a policeman. The girl left school but we spoke to the headmaster and asked him to give her permission to finish her schooling.
- Domestic violence: if the husband bashes his wife until she is swollen, the victim comes to OMT. If the victim wants to go to the police, the police take her to the hospital, and catch her husband (the suspect) and do the investigation.

### **District 2            4 September 2004**

#### OPMT

- Relations between the women's group and PNTL are going well.
- Many domestic violence and sexual assault cases are resolved through adat.
- There are still many victims of domestic violence who have not yet received a decision. One problem is because sometimes the suspect does not go to the trial. Another problem is because the court is far away.

#### Sub-district Administrator

- Relations between the PNTL and the population are going well.
- Women are embarrassed to tell the police about the violence which is committed against them. Inside the village they do mediation. If the mediation does not reach a good conclusion, they take to the formal justice process.

- The sub-district administrator does not have power to resolve domestic violence, therefore we take these cases to the police.
- I have not heard of any cases of sexual assault of children. The victim is too embarrassed to tell, they resolve within the family because they are scared of dirtying the family name.
- Victim's withdraw their cases because they are worried, and think of their husband.
- To take a case through the formal justice process we have to think about economic factors. Usually the District Administrator looks at the economic situation and writes a letter to the court. People often withdraw because the formal justice process does not go very well.
- There is a women's group in this sub-district which works with the human rights unit, but I don't know about their process of helping women.

#### Deputy Commander PNTL

- The relationship of the PNTL with the population is good. The police and the Bupati go to the community to tell people about the work of the police.
- There are more cases of domestic violence, we have not yet had one case of sexual assault – maybe there has been one but until now nobody reported it to us. If it happens we have to take the case to the court.
- Sometimes cases of domestic violence are processed, but the victim withdraws their case for various reasons, so we try to resolve according to adat.
- There was a case of discrimination within the institution in May/June 2004. A senior member of the district PNTL touched a policewoman inside the police building. It was resolved at the national level but until now there is no result. The policewoman has now moved her position so she no longer works with the perpetrator. The woman has asked National Headquarters about the progress of her case but until now there is still no result.

### **District 3      26 August 2004**

#### Commander PNTL

- The relationship with the community is going well.
- There are a lot of cases of domestic violence.
- Sometimes we imprison the suspect for one day and then his wife comes to get him to resolve the problem within the family, but sometimes the VPU looks to see whether the case is serious or not.
- Victims withdraw their cases for many reasons, including because they have a lot of children, the husband is looking for money.
- 70% of cases are resolved within the family. If the victim is seriously injured, we never leave the case to be resolved within the family.
- In one case the husband bashed his wife until she miscarried. In this case we asked Fokupers to help the victim. The suspect was in prison for 6 – 9 months. Then the process just stopped.

#### Sub-district Administrator

- The relationship of the police with the community is good.
- Domestic violence – the victim takes to the police, the police say that this is a civil case and so send to the camat to resolve. If it is a sexual assault case then the case is taken to the court.
- There are also cases of the girl getting pregnant, but the man does not want to take responsibility, so usually the parents give her to be married to another man.
- In seven cases which have been brought to the camat, two have been taken to process in the court.
- There are also women's groups which have helped women during this time, together with the family.
- There are not many cases of sexual assault.

### **District 4      31 August**

#### PNTL

- The relationship with the community is always good.
- The police always work together with women's groups.
- Why do women withdraw their cases? – victims always think the legal process is delayed. There are financial problems for many victims. If the process is going to Dili some victims cannot get there.

### VPU

- The VPU has worked well with the community, women's groups and other agencies. The VPU does socialisation once a month in the sub-districts and the villages. The VPU works together with women's groups to give assistance (counseling and mental support).
- Until recently we only had one staff for the VPU, now another one has moved up from Dili.

### Women's Group

- The women's group works together with the police. When the victim goes to the police, the police always calls this women's group to give assistance. We always take the victim to the hospital if she is injured. We also have a camera and take photos of the victim's injuries to gather evidence.
- The group has a shelter and conducts public education about domestic violence.

## **District 5**

**28 August 2004**

### Sub-district Administrator

- The police have a good relationship with the community.
- Cases of domestic violence – go back to religion, resolve inside the house. We resolve with mediation and work with the church to give counseling. If the case is at the level of a crime, it gets taken to the police. Sometimes when the victim is arrested, before the 72 hours are up the victim is crying and asking for her husband to be released.
- Until now women's groups have not helped the women who have experienced domestic violence.
- We look for ways to resolve cases of sexual assault like this. Sexual assault occurs because of the night market.

### Deputy PNTL

- The relationship between the PNTL and the community is good.
- The VPU looks after cases of sexual assault and domestic violence. Policewomen usually look after these cases because sometimes the victim is scared or embarrassed to give a good declaration.
- Domestic violence – police take on these cases according to the victim's wishes. Sometimes when the husband has not committed very severe violence his wife comes to withdraw the case. If the violence was very severe, then we take the case to court, no matter what the victim's wishes.
- In cases of sexual assault, the police take the process to the court. We have a lot of difficulties in regard to evidence. There are also only a limited number of doctors.
- The police always contact Fokupers.
- Difficulties – the court process is always very long.

### VPU

- We have a good relationship with OMT and OPMT and we always have discussions with them through our community policing.<sup>69</sup>
- If there are complaints of domestic violence we are always ready to help but if the victim is injured we take her to the hospital. Then we ask her husband to clarify what happened. The victim always wants to resolve it in the family, but when the victim has bad injuries we try to resolve it.
- The difficulties which we face in cases of domestic violence are that the victim tells us she has been hit, we hear the testimony then we pick up the suspect to investigate and put him in the cells for 72 hours. But his wife withdraws the case again because she has a lot of children and feels very emotional about what she told us. This makes us very confused as to how we can resolve it. But we contact the village chief to resolve within the family and we also accompany the case until it is all over.
- In cases of sexual assault we never resolve within the family but always take these cases because we see these cases as crimes.

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<sup>69</sup> Community policing is the delivery of policing services resulting from a community and police partnership that identifies and resolves issues in order to maintain social order.

#### District Administrator's wife

- The relationship between the PNTL and the community is always good.
- The VPU never contact us about cases involving women.
- But in cases like domestic violence, if it occurs in the night, then the police come and contact my husband. He is always ready to help. I also try to help resolve these cases within the family. But in cases where the wife has been seriously injured we must take them to the police. But sometimes the victim does not want their case to be resolved in the formal system. We resolve through adat, and afterwards they are fine.
- Victims of sexual assault are scared to resolve this violence with the police.
- OMT and OPMT have not yet had a special program.

#### **District 6      2 September 2004**

##### PNTL

- Relations between the PNTL and the community were not good last year but now they are good. The community always tells us their problems.
- We always take cases of domestic violence to the court, but if they are just angry with each other we give it to the village chief. If the victim is injured we take it to the court.
- If the victim has already been arrested, but within the 72 hour limit the victim comes to withdraw her case, we still continue to take the case to court.
- In this district there are not many cases of sexual assault. Some cases of sexual assault are also resolved within the family. If we hear of a case we try to resolve it through law.

##### Sub-District Administrator

- The relationship between the PNTL and the community is always good.
- In cases of Domestic Violence, if the wife is injured severely she comes and tells the police. The police then go and ask the husband for clarification. When the victim is severely injured the police put the suspect in the cell for 72 hours, but sometimes, although the 72 hours is not yet up, the victim comes and withdraws her case for many reasons, including because she is threatened by the man's family. Sometimes when the man gets out of prison he divorces her, and the police also have to help resolve these sorts of cases.
- We can see that because traditional law is very strong, when the husband and wife fight this is like a plate and spoon, so it is resolved in the family, but if you also look at formal law then domestic violence is a crime, because often the victim is badly injured.
- Many times, the process goes forward, but the court sends it back again. So I really want the courts to see that domestic violence is a crime, because if they do not, then domestic violence will occur even more often.
- There are also many cases here of young women and men who like each other, then the girl gets pregnant and sometime the boy denies that it is his, or says he does not want it.

#### **District 7      5 October 2004**

##### PNTL

- Relations are good between the PNTL and the Community. We always go to the villages and sub-villages to build up good relationships with the people. We also have good relations with the women's groups, like OPMT.
- Many times we see that cases of domestic violence occur but many times the victim withdraws her case because she wants to resolve it within the family. But in cases where the victim is severely injured we take the process forward.
- When we do mediation we always write a letter stating that this cannot happen again. If it happens again, then we take the process forward.
- But there is not yet a law about domestic violence. We ask the parliament to quickly approve the domestic violence law because there are many domestic violence cases. Many times when the husband and wife hit each other people say, this is like the plate and spoon hitting each other. So indeed, I ask to the government and the parliament to approve quickly the domestic violence law.

- We have many difficulties, for example, in cases of sexual assault, many times these occur in villages and sub-villages which are far from the police. But we do not have transport, so this causes a lot of worries to the victim, and often they do not want to take the process further.

#### District Administrator

- The relationship between the PNTL and the community is good.
- According to what I have seen, sexual assault cases always go forward, but sometimes they send me (as administrator) cases of domestic violence and sometimes I resolve them. Often when the process is going to the tribunal the victim withdraws their case, so the VPU contacts me to resolve the case.
- I also heard of the draft domestic violence law, and I would ask the parliament to quickly approve this law.

### **District 8      17 September 2004**

#### District Administrator

- Relations between the PNTL and the community are good.
- Cases of attempted rape are dealt with by the village or sub-village chief. When a case occurs, the victim goes to the sub-village or village chief, and then to the police. If the case is not resolved at the sub-village or village level, or if the crime is a serious one, then they go to the police, to get protection from the police.
- Traditional law is the law we respect. It is better we resolve according to traditional law. If there is a problem at the base level we can take it to the formal process. Usually the old adat leaders do mediation.
- The formal justice process is too long, victims think it is a waste of time.

#### PNTL

- Relations between the PNTL and the community are good. Everyday we have good communications with the schools. We also have good relations with the women's groups.
- Sexual assault cases have occurred with children as young as three. There is also a case where a father raped his 18 year old daughter. That case is now being processed in the courts.
- Cases of sexual assault are never resolved within the village.
- The difficulties which the police face in resolving cases of sexual assault are: transport; the court is too far, and sometimes because of the distance we cannot meet the 72 hour deadline so we have to set the suspect free.

#### VPU

- VPU has relations with OMT and OPMT. We contact Pradet and work together with Fokupers.
- Difficulties: when the victim does not know how to talk (clearly) it is difficult to understand what has happened.
- If a case occurs at night, the victim's family or the village chief or sub-village chief contact the VPU at home.
- We have also done public education in the villages about domestic violence and sexual assault.
- The VPU has a safe-room.

#### Gender Focal Point

- When police resolve the case the process takes a long time, because they have to go to Dili, and there are problems with transport. If the court was working here I think it would be a little better.
- I think it is better to process cases through the formal justice process. Because with adat the suspect can do the crime again. The uncles of the victim actually receive the payment of buffalos or money (in compensation for the crime), not the victim. The victim has to be quiet. Adat does not ask the victim about her opinion on the decision. If both the families accept the decision, then it does not go to court.

### **District 9      23 August 2004**

#### Sub-district Administrator

- The police have power but sometimes they do not work to their ability. The population is always disappointed. But some police work well and always take the process to court. Sometimes the victim asks to resolve the problem within the family.

- There are many women's groups but we don't know what they do. These groups have financial problems. They always talk about women's rights but never accompany the victim through the process. They also don't give much information to women at the basic level.
- There are also cases in which the woman gets pregnant but then man does not want to take responsibility. Women's groups never help in these cases.
- In domestic violence cases sometimes the women are scared to report the violence because their husband threatens to divorce them.
- I do not know of any sexual assault cases being resolved according to traditional justice. We do not have the competency to resolve these cases, only the police can resolve them.
- In regard to victims withdrawing their cases, this problem arises because of family relations and this is according to Timorese traditions. Sometimes they want to resolve through the law but they lack information about the legal process. Also, sometimes the woman does not have the ability to take their case forward.

#### PNTL

- Relations between the police and the community are good.
- To resolve domestic violence and sexual assault, we take the case to the court, and sometimes we go to the family and sometimes we look at the problem.
- Because women are always embarrassed to tell what has happened, we always have a female VPU officer investigate.
- If victims withdraw their case, or do not want to go forward, the police follow the victim's wishes.
- The PNTL in this district do not know anything about the program of the women's groups in the district.
- Difficulties – sometimes in cases of sexual assault against children, the family wants to resolve it. But if it is a crime we take it to the prosecutor or the investigating judge to process formally.

#### OPMT

- Police relations with the community are good, but as a woman's group we have never had any relations with the PNTL.
- We have not given any counseling to women who are treated violently because we don't know how the formal justice process works.
- We always work with the district government to do public education programs and campaigns in the sub-districts.
- We know that in Dili there are groups like ETWAVE, Fokupers and Pradet, but until now we do not know their work because we never work together with them.
- Many women withdraw their cases because of financial reasons – they have so many children and no one will be able to support them if their husband goes to jail.

### **District 10      17 September 2004**

#### Sub-district Administrator

- When the people have a problem the police always help. But sometimes the police do not follow the people's wishes.
- Cases of sexual assault are resolved through adat. If it is not resolved well, it is taken to the camat and then we sit with the police to resolve these cases. In one case I resolved it, but then it went to the court (four men raped one woman).
- Sometimes when the victim goes to the police, the police do not solve the case, but send it back to the camat to resolve. If the camat cannot resolve it we take it to the court.
- The Police do an investigation if it is a major crime.
- If the case goes to the formal justice process the victim is always sad because the process takes so long. The victim feels that the law (formal justice process) gives more support to the suspect. If a court could be set up here the process would be much faster.
- Domestic violence cases are always resolved in the community.

#### PNTL

- Relations between the PNTL and the Community are good.

- If the victim is badly injured, the victim comes and gives information to the police. The police pick up the suspect to do the investigation. After 72 hours, it depends on the victim. If the victim wants to take the case to court we follow the victim's wishes.
- In cases of sexual assault, especially for children, we always take charge of the process, but we also follow the victim's wishes. If the victim wants to resolve in the formal process then we do. Sometimes the victim wants to resolve it through a traditional process. We never force the victim to follow any process.
- Women police officers always investigate the cases involving women.
- There are also women's groups who help the VPU. If the victim is scared to go to the police, these groups help take the victim to the police.

#### OMT

- Our relations are good with the police. When we do activities we invite the PNTL.
- The PNTL always attend well women's cases. They sit together with them and resolve them together. If the victim is injured, the police contact the hospital.

### **District 11**

**11 September 2004**

#### District Administrator

- Relations between the PNTL and the community are good.
- In regard to sexual assault, sometimes the victim does not inform the police.
- Women's groups always help and give courage to the victim so that she can have courage to tell her case to the police.
- I know that domestic violence is a crime, but often it is resolved within the family. Because the police are far away, they go to the Chief of the village, the Chief of the sub-village and the old traditional leaders. They resolve cases through adat because of time and money. If it is resolved through adat the victim feels happy because the process finishes. If the victim and her family are not content with the decision then they can take the case to the formal justice process. I think that resolving these cases through adat is better because it is more effective and efficient.
- If the case goes to court it will take much longer and waste time and money, because the court is far away. Also, often the victim lives in a village where there is not transport. The victim cannot go and tell the police so they have to resolve it through traditional justice. Suggestion: establish courts in each of the Districts.
- Sometimes the police try to take the process forward, but the victim and her family come to withdraw the case. Often the victim withdraws her case because her husband threatens to divorce her.

#### PNTL

- Relations between the PNTL and the community are good. When problems arise the community often report them to the police.
- Cases of sexual assault are crimes. We take these cases following a legal process, but sometimes the victim wants to resolve within the family, but these crimes have to be taken to court. We never mediate sexual assault cases. Two suspects are now in prison. We always take the victim to the doctor to be examined. If the doctor is away we take the victim to Dili. We have difficulty getting evidence of sexual assault.
- In cases of domestic violence, often the victim withdraws the case after 72 hours, usually because they need the husband to get money and food for the house.
- Difficulties: we put the suspect in 72 hour detention, but we do not have a budget to give food to the suspect. So we have to ask the suspect's family to give food to the suspect.
- We also do not have a safe house for the victims. We also face problems with transport.
- There is not a women's group in this district. We always contact Fokupers. The VPU also has a good relationship with Pradet.

#### OMT

- The PNTL have a good relationship with the community.
- There are some cases where the victim feels injustice because the case has not yet been resolved.
- In cases of sexual assault, sometimes the victim's parents come and ask OMT to help. We accompany the victim from the doctor to the police. Then we also help to give the victim courage to explain what has happened.
- Some women are scared to take their cases forward.

**District 12      23 August 2004**

PNTL

- PNTL have a good relationship with the community.
- We always take case of domestic violence to court. But sometimes the victims try to withdraw their cases because of economic factors. So then we just send the problem to the village Chief to resolve. But if the case serious we still take it to court. Sometimes the population asks why small cases have to be taken to court. There are also cases which the court sends back to the village chief to solve.
- There was a recent case of sexual assault where a teacher assaulted one of his students. It happened in July, but the child was afraid to tell her parents. Her parents noticed something was wrong with her and so she told them what had happened. Then they reported it to the police. We went and investigated and he confessed to what had happened. Now the suspect is in Becora prison.
- Sometimes the doctor's investigation is not very complete because they don't understand the importance of the medical investigation as evidence in the court case.
- The police have not sent any cases to be resolved by traditional justice.
- When the victim decides to withdraw her case we don't decide alone, we call the village chief to sit and discuss with the victim. We have not yet sent back any cases to the family to resolve because we must follow the police code of conduct.
- When the prosecutor sends back a case to the village chief he should include a letter to explain why.

OPMT and Sub-district Administrator

- In UNTAET times coordination with the police was not very good. Now it is good, but some individual PNTL officers do not work well.
- Now cases of domestic violence follow a legal process.
- Women's groups want to have better coordination with the police, because women's groups don't know what to do to help victims of violence.

**District 13      28 October 2004**

- One women's group said that although their relationship with the police is good, sometimes the police's attitude does not give much value to the victim. Police are not yet professional in attending cases and their interview process is not very good. Police treat victims according to class – people from a higher class get better treatment.
- Another women's group said their relationship with the police was good, but they had had some bad experiences with the police, so had held dialogues with the police to explain their work to the police. Since they had that dialogue their working relationship with the police has improved.
- VPU National said their relationship with the community is good. They always try to send women police officers to deal with women victims.
- Families of the victims sometimes criticize the VPU because they want to see results quickly (ie. the perpetrator punished) and do not understand that the VPU does not have the power to deliver these results, the final decision is that of the judge.