

# “HAMETIN DEZENVOLVIMENTU HO SINTIDU ISPIRITU ESTADU DE DIREITU DEMOKRATIKU”



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**Relatoriu Direitus Umanus Periodu 2011**  
**(Versaun Tetun no Ingles)**

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## K o n a - b a H A K

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Iha loron 20 Agostu 1996 aktivista Timor-oan hamutuk ema nain 6 mak hanesan Sr. Aniceto Guterres Lopes, SH., Sr. Reverendu Agostinho Vasconselhos, Sr. Reverendu Arlindo Marcal, Sr. Jose Luis de Oliveira, Sr. Jose Jaquelino no Sr. Osorio Florindo, toma inisiativa hodi hari ofisiu assistensia legal ida ho objetivu atu sai nudar defensor ka advogadu ba maluk Timor oan sira ne'ebé hetan kapturasaun husi militár Indonesia tanba luta ba direitu auto-determinasaun Timor-Leste. Atu fortifika no lejítima liu tan servisu assistensia legal hodi hatan ba ezijensia Timor oan- nia situasaun iha tempu ne'ebá, mak iha 1997 ofisiu assistensia legal ne'e transforma fali ho naran "YAYASAN HAK (*Yayasan Hukum, Hak Asasi & Keadilan*)" no membru sira aktivista hirak ne'ebé mensiona iha leten mak sai nudar fundadór ba organizasaun ida ne'e. Nune'e hahu husi Tinan 1997-1999, YAYASAN HAK nia servisu iha tempu ne'ebá, la'os de'it ona sai nudar defensor iha Tribunál maibe komesa hahu halo ona monitorizasaun, investigasaun, advokasia, no dokumentasaun ba kazu violasaun direitus umanus apoiu umanitariu ba vitima violasaun direitus umanus husi militár Indonesia.

Depois povu Timor-Leste hetan ona ninia direitu ba auto-determinasaun, hahu husi Tinan 1999-2002 YAYASAN HAK kontinua reafirma hikas fali ninia pozisaun nudar organizasaun direitus umanus liu husi programa monitorizasaun ba lalaok servisu ONU nian durante periodu tranzisaun, advokasia ba prosesu akontabilidade krime kontra umanidade iha Timor-Leste nomos programa hasa'e kapasitasaun iha aspeitu lei no direitus umanus ba entidade sira estadu nian nomos ba populasaun sira iha nivel nasional to'o iha área rural, nudar kontribuisaun iha fase prosesu tranzisaun hodi hari'i Estadu Timor-Leste iha futuru.

Atu haforsa no haki`bit liu tan organizasaun nia ezistensia mak iha Tinan 2005, naran organizasaun YAYASAN HAK transforma ba iha Asosiasaun HAK, nune'e nain ba organizasaun ne'e la'os de'it ona husi fundadór maibe bazeia ona ba ema sira ne'ebé mak voluntariu sai hanesan membru ba Asosiasaun HAK, ne'ebé tinan-tinan simu membru foun. Hahu husi tinan 2005 to'o 2011, total membrus Asosiasaun HAK hamutuk 135 ne'ebé kompostu husi sidadaun Timor-Leste nomos maluk estrangeiru ne'ebé hela iha rai laran nomos iha estrangeiru.

Nudar organizasaun, HAK rasik iha ninia Vizaun, Misaun, Valores no Programa hanesan prinsipiu nomos mata dalan ba HAK hodi partisipa iha prosesu dezvoltamentu ba libertasaun povu mak hanesan tuir mai ne'e:

## **HAK nia Vizaun no Misaun**

Hamosu sosiedade Timor-Leste ne'ebé kritiku, independente, aberta, dame iha estrutura sosial ne'ebé bazeia ba prinsipiu popular, respeitu ba direitus umanus no valores lokal hodi alkansa justisa sosial, ne'ebé realiza liu husi :

1. Defende vitima violasaun direitus umanus,
2. Hakbi'it kapasidade komunidadade liu husi transfere matenek, dezenvolve povu nia kualidade moris, dezenvolve koñesimentu lokal, no partisipasaun, no
3. Kontrola Sosial.

## **Valor no Prinsipiu ne'ebé HAK kaer mak :**

1. Umanitariu, ho prinsipiu naun-violensia no non-diskriminasaun;
2. Igualdade, ho prinsipiu prioridade ba rekursus lokal, no perspektiva jeneru;
3. Justisa, ho prinsipiu prioridade ba interese popular no sustentabilidade;
4. Demokrasia, ho prinsipiu solidaridade, transparansia no akontabilidade, partisipasaun, liberdade no responsabilidade.

## **Programa mak :**

1. Hametin Implementasaun Lei. Programa ne'e nia fokus mak oinsa polisia no ofisiais estadu ka governu no autor judisiariu sira bele implementa lei ho konsistente hodi proteje no respeitu direitus umanus.
2. Hametin Justisa. Programa ne'e nia fokus mak direitu ba vitima violasaun direitus umanus iha tempu pasadu. Intensaun husi programa ne'e mos atu eduka publiku hodi la repete hahalok violensia direitus umanus hanesan iha tempu pasadu.
3. Advokasia ba Direitu Ekonomiku, Sosial & Kultural. Programa ne'e nia fokus mak oinsa governu nia politika (inklui orsamentu estadu) no programa bele hametin sektor agrikultura no peska ne'ebé hanesan aliserse ba independensia ekonomia nasaun Timor-Leste.

## Sumariu Ezekutivu

**R**elatoriu ida ne'e nia objetivu mak atu sobre sai ka Raprezenta analiza kona-ba rezultadu observasaun nomos monitorizasaun ne'ebé hala'o husi Asosiasaun HAK husi Fulan Juñu-Dezemburu 2011. Iha periodu Fulan Janeiru-Maiu 2011 HAK konsentra liu ba iha aspetu hadia no haforsa gestaun interna tanba impaktu husi krize ne'ebé HAK hasoru iha periodu hirak liu ba kotuk.

Relatoriu direitus umanus iha periodu ida ne'e, tuir rezultadu monitorizasaun Asosiasaun HAK nian, sei kobre situasaun direitu sivil no politika ne'ebé foka liu ba asuntu direitu ba liberdade no integridade fizika - husi aspetu uza forsa ne'ebé la apropiadu husi autor seguransa no defeza - kapturasaun la ho mandadu detensaun husi Tribunál no liberdade ba relijiaun no direitu partisipa iha vida politika. Iha parte direitu asesu ba justisa relatoriu ne'e foka liu ba akontabilidade kazu violasaun direitus umanus tinan 1974-1999 no prosesu kazu feto iha sistema justisa formal. Iha aspetu direitu ekonomikua, sosial no kultural fokus liu ba asuntu direitu asesu ba rai no uma no direitu asesu ba aihan.

Analiza ba situasaun jeral relasiona ho ambiente politiku no situasaun seguransa iha Timor-leste continua kalma. Partidu politiku sira hahu konsolida sira-nia estrutura to'o iha baze ho susesu iha ambiente ne'ebé pasifiku. Liu husi Dialogu Maubisse I iha loron 21-22 Agostu 2010 & II iha loron 20 Maiu 2011 iha Palasiu Nobre, ne'ebé fasilita husi Bispu Baucau, Mgr. Dom Basilio do Nascimento, lider partidu politiku sira hotu iha kompromisu atu fo importansia hodi garante estabilidade antes, durante no depois eleisaun jeral 2012. Maske nune'e mosu mos preokupasaun husi populasaun sira kona-ba maneira konsolidasaun husi partidu politiku boot balun, ne'ebé uza sira-nia atributu partidu sira nian no mobiliza apoiante sira ne'ebé boot iha prosesu konsolidasaun hodi hamosu espetativa komunidadade katak Parpol sira hahu halo kampanye. Iha aspetu seluk bele hamosu provokasaun no reasaun husi militantes partidu seluk maske la konsege rezulta konfliktu entre partidu politiku sira. Bainhira demokrasia konsolida no instituisaun sira continua dejenvolve nafatin hodi hala'o sira nian obrigasaun ho efetivu, bele atraí atensaun publiku ba kriasaun ambiente



Governo iha obrigasaun garanti siguransa aifan ba nia povu



Komunidade sira halo asaun pasifika hato'o sira nia ejizensia ba direitu uma no rai

inklusivu liutan atu ema hotu bele ezerse sira nian direitus umanus.

Asosiasaun HAK rekonese katak progresu relasiona enkuadramentu legal iha seitor seguransa no defeza fortifika liu tan instituisaun rua ne'e hodi bele ezerse sira-nia k'nar ho responsabilidade no efetivu liu tan iha futuru. Iha loraon 27 Marsu 2011, prosesu tranferensia poder tomak iha seitor seguransa nian husi UNPOL mai PNTL hatudu mos sinal positivu ida kona-ba kapasidade instituisional nian atu asume fila fali responsabilidade atu mantein seguransa paz no estabilidade iha Timor-Leste.

Prosesu atu hametin justisa-nia mekanismu iha instituisaun PNTL nomos F-FD'TL hetan progresu ne'ebé signifikante hodi garante responsabilidade disiplinariu internu nomos kriminal ba kazu kontra lei ne'ebé sira komete. Maske nune'e, HAK nafatin preokupa no lamenta kona-ba atitudo membrus PNTL nomos membrus F-FD'TL balun, ne'ebé kontinua kontra prosedementu legal hirak ne'e nomos viola padraun direitus umanus ne'ebé Estadu Timor-Leste mak ratifika ona, wainhira sira halo atuaun ba kazu ruma ne'ebé akontese iha komunidadade. HAK simu keixa husi vitima nomos relatoriu husi instituisaun balun indika katak total kazu hamutuk 99 husi atuaun membrus Polisia no F-FD'TL relasiona ho akontesementu balun inklui kazu tratamentu a'at, agresaun fiziku, uza forsa represivu no uza kilat arbiru hodi halakon ema-nia vida iha Dili no mos iha distritu seluk. kazu violasaun direitus umanus grave ne'ebé komete husi membrus PNTL no F-FD'TL uitoan de'it mak lori ba iha sistema justisa formal no kazu sira ne'e-nia prosesu iha Tribunál lao tarde no neneik tebes tanba razaun oi-oin, inklui limitasaun fasilidade no rekursu umanus.

HAK rekonese planu no politika ba dezentvolvimentu instituisional iha seitor justisa kontinua hetan progresu liu husi programa formasaun juridiku hodi hasa'e kapasidade autor judisiariu, numeru autor judisiariu sira kontinua aumenta, nomos iha enkuadramentu legal, liu husi aprovasaun lei foun, hanesan kodigu penal, lei komisaun anti-korrupsaun, lei protesausun ba sasin no lei kontra violensia domestika iha 2009-2010. Iha parti seluk, HAK nafatin preokupa kona-ba populasaun iha área rural ne'ebé sei susar atu hetan asesu ba justisa formal. Kazu balu krime nian kontra feto no labarik nafatin rezolve liu husi dalan familia no kultura. HAK mos preokupa katak kestaun lingua ne'ebé uza iha prosesu julgamentu afeita ba prosesu julgamentu lao la efetivu, no kona-ba numeru kazu pendente iha Ministeriu Publiku no Tribunál ne'ebé as. HAK sugere katak presiza nafatin atu halo reforma ba implementasaun enkuadramentu juridiku atu hasa'e qualidade asesu ba sistema justisa formal.

Vitima kazu violasaun direitus umanus grave ne'ebé akontese iha periodu 1974-1999 nafatin hasoru obstaklu no dezafiu atu hetan sira-nia direitu ba justisa, lia los no reparasaun. Autor kriminosu nain rua (Maternus Bere no Valentim Lavio) ne'ebé iha alegasaun katak sira involve iha masakre 1999 iha Distritu Covalima nomos Distritu Liquica, depois hetan kapturasaun husi PNTL no UNPOL hodi submete ba prosesu judisiariu ikus mai la hetan kastigu iha prizaun no husik sira livre fila fali ba Indonesia (Timor Osidental). Esbosu lei reparasaun no institutu memoria la sai hanesan prioridade iha debate Parlamentu Nasional nune'e esbosu lei rua ne'e sei pendente hela to'o agora. Rekomendasaun importante lubuk ida ne'ebé hato'o husi CAVR no CTF seidak implementa no la hetan atensaun seriu husi entidade sira ne'ebé kompetente.



Aliansi Nasional ba Tribunal Internasional halo reflesaun loraon Masakre Kraras, Distritu Viqueque.



Familia vitima violasaun direitus umanus 1974-1999, nafatin halerik justisa

HAK mos observa katak iha konflitu entre grupu relijiaun ne'ebé eziste iha Timor-Leste antes independensia ho relijiaun foun ne'ebé tama iha Timor-Leste depois independensia. Relijaun sira ne'ebé eziste kleur ona iha Timor-Leste sente la kontente ho aktividade oin-oin ne'ebé relijiaun foun sira halo iha comunidade ne'ebé relijiaun tuan sira mos pertense ba. Nune`e hamosu reasaun negativu oin-oin husi relijiaun tuan sira hamutuk ho comunidade inklui autoridade lokal nomos lider relijiaun balun hodi kontra relijiaun foun sira-nia ezistensia liu husi asaun sira hanesan halo manifestasaun, estraga propriedade, agresaun fiziku nomos ameasa iha Distritu Dili, Liquica, Manufahi, Bobonaro no Baucau. Maske konflitu hirak ne`e kontra padraun legal no direitus umanus maibe entidade sira ne'ebé kompetente la foti medidas ne'ebé adekuaudu no abandona problema hirak ne`e nafatin akontese.

Dezenvolvimentu labele sai hanesan razaun atu justifika hodi hasai ka muda ema ida husi sira-nia hela fatin la ho kondisaun ne'ebé adekuaudu tanba hanesan sidadaun, ema ida-idak iha direitu atu hetan protesau hasoru despeju obrigatoriu husi sira-nia hela fatin. Faktus hatudu katak despeju obrigatoriu husi Ministeriu Justisa hamosu kazu eviksaun ba populasau sira-nia hela fatin iha Dili laran nomos iha distritu balun. Konsekuensia husi despeju obrigatoriu ne`e hamosu tiha ona ema hamutuk uma kain 200 mak desloka husi sira-nia hela fatin iha Dili no distritu seluk hodi moris iha kondisaun ne'ebé la adekuaudu no ema sira ne`e, liu-liu labarik no feto sira-nia kondisaun sai vulnerable liu tan.●

## Metodolojia

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Informasaun ne'ebé Asosiasaun HAK halibur hodi produz relatoriu ne'e hala'o liu husi mekanismu servisu ne'ebé tradisionalmente funksionariu HAK sira hala'o mak hanesan halo observasaun direita ba servisu ofisial sira Estadu nian, hanesan Polisia Nasional Timor-Leste liu husi aktividade vizita regular ba estasaun no eskuadra Polisia iha teritoriu Timor-Leste tomak, atendementu keixa no akompana vitima sira ne'ebé hatu sira-nia kazu ba orgaun kompetenei liu husi HAK no ONG sira seluk, halo observasaun ba servisu Prokuradoria nomos Tribunál. Aleinde ne'e, HAK halibur informasaun balun liu husi enkontru ho grupu alvu estratejiku iha nivel Distritu ne'ebé kompostu husi ONG lokal, lider komunitariu, grupu arte marsiais, halo diskusaun ho partidu politiku no mos halibur informasaun liu husi media masa no elektroniku.

Iha parte seluk, atu kompleita no fortifika liu tan konteudu relatoriu ida ne'e, Asosiasaun HAK hetan asesu informasaun ne'ebé importante no relevante tebes husi ONG sira hanesan Fokupers, Forum Tau Matan, Belun nomos husi Seksaun Direitus Umanus Justisa Tranzisional UNMIT nian, nomos hetan referensia husi relatoriu konjuntu husi PDHJ no Sosiedade Sivil ne'ebe submete ba ONU nia Konsellu Direitus Umanus bainhira hala'o Revizaun Universal Periodiku, deklarasaun husi Relatora Espesial ba probreza extrema no direitus umanus ne'ebe vizita Timor-Leste iha periodu 13 – 18 Novembru 2008, relatoriu Sekretariu Jeral ONU nian kona-ba Misaun iha Timor-Leste iha periodu 8 Janeiru – 20 Setembru 2011 no steitmentu grupu travailho ONU nian kona-ba ema lakon in Feveiriu 2011.

Husi informasaun ne'ebé HAK halibur husi entidade hotu ne'e, hafoin funksionariu HAK halo kompilasaun no halo abordajen fila fali, hodi identifika informasaun sira ne'ebé relevante relasiona situasaun direitus umanus ne'ebé sai nudar preokupasaun ba Asosiasaun HAK-nia- relatoriu ida ne'e. Refere ba dadus no informasaun ne'ebé hetan, hanesan organizasaun HAK halo diskusaun interna dala tolu hodi analiza informasaun sira ne'e antes hakerek relatoriu ne'e.

Durante prosesu halibur dadus no informasaun, iha jeral, HAK hetan kooperasaun diak husi parte hotu inklui entidade estadu nian balun, maluk sosiedade sivil sira, inklui mos representante grupu alvu estratejiku sira iha Distritu. Asosiasaun HAK rekonese katak relatoriu ida ne'e karik ladun komprensivu nomos la representativu ba asuntu direitus umanus hotu ne'ebé akontese iha Timor-Leste, tanba relatoriu direitus umanus ne'ebé produs iha periodu ida ne'e relasiona de'it ba área programa HAK nian.●

## Introdusaun

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Tinan 2012 Timor-Leste sei hala'o eleisaun jeral rua (Eleisaun ba Presidente Republika no Eleisaun ba Parlamentu Nasional) ba dala-tolu depois-de independensia hodi forma governasaun foun. Lider politiku nain sira no partidu politiku (Parpol) sira hahu tiha ona konsolidasaun estrutura iha baze. Membru Parpol sira ne'ebe mos asume hela kargu publiku iha governu nomos parlamentu komesa intensivu liu tan utiliza rekursu estadu hodi halo politika ba interese partidariu. Observasaun HAK nian hatudu katak agora dadauk mosu tendensia politiku nain sira atu politiza prosesu lejislasaun asuntu importante nasaun nian ba sira-nia interese partidu nian, hanesan lejislasaun ba asuntu reparasaun vitima, veteranus, rai, isu foos no asuntu kombate korrupsaun. Nune'e hamosu presepsaun publiku katak tratamentu ba asuntu hirak ne'ebé eskreve iha leten indika nudar esforsu ne'ebé halo husi lider Parpol sira ne'ebé asume kargu iha instituisaun estadu, maske asuntu hirak ne'e nudar estadu-nia obrigasaun atu garante povu ninian direitu.

Eleisaun jeral iha tinan 2012 nudar ezersisiu importante ba prosesu hametin demokrasia no prinsipi estadu de direitu iha Timor-Leste ba futuro, tanba ho ambiente politiku no seguransa ida ne'ebé nafatin kontinua iha situasaun paz no estavel, nudar oportunidade atu dezenvolve instituisaun estadu hodi hala'o sira-nia knaar atu fo atensaun ba prosesu dezvoltamentu hodi garante povu nian moris diak. Tuir rezultadu observasaun HAK nian hatudu katak instituisaun estadu seidak optimaliza sira-nia knaar atu serve, garante, proteje no hakonu direitu povu nian, liu husi hametin mekanismu koordinasaun ne'ebé integradu no apropriadu entre institusaun estadu ne'ebé relevantes hodi hatan ba preopasaun populasau iha área rural.

Ekipa asesmentu konjuntu ne'ebé kompostu husi Governu (Seketariu Estadu asuntu Seguransa & Komandu Jeral PNTL) no UNMIT (Seksau Direitus Umanus no Justisa Tranzisional, Asuntu Politiku & UNPOL) konklui katak PNTL iha Distritu 12 preenxe ona kriteri ba tranferensia poder. Iha loron 27 Marsu 2011, Polisia Nasional Timor-Leste ho UNMIT asina termus de tranferensia poder seguransa iha nivel nasional ba iha Polisia Nasional Timor-Leste ninia responsabilidade, iha momentu selebrasaun aniversariu PNTL ne'ebé realiza iha Palacio do Governo. Maske nune'e, Komandante Jeral PNTL nian husu nafatin ba UNPOL atu kontinua fo apoiu iha aspeitu seguransa pesoal, patroliamentu konjuntu no politika fronteira nian.

Polisia Nasional Timor-Leste (PNTL) seidak hatudu ninia profesionalismu atu prevene no kombate violencia. Dala-barak, membrus forza seguransa no defeza sira-nia atusaun la imparcial no sei toman halo reajen ho violencia no uza armas arbitariu ba konfliktu ne'ebé akontese iha komunidad, duke proaktivamente halo medidas prevensaun no serve asaun judisiariu ho efetivu. Nune mak kazu violencia

oin-oin hanesan oho malu no ataka malu entre grupu aumenta durante fulan hirak iha inisiu tinan 2011. Kondisaun ne'e hatudu katak povu seidak fiar metin ba instituisaun implementador lei nian atu serve justisa ho diak, nune'e hamosu implikasaun ba siklu violensia iha comunidade nafatin aumenta ba bebeik.

Instituisaun importante atu promove direitus umanus, hanesan *Provedor do Direitos Humanos e Justiça* (PDHJ) no *Comissão Anti Corrupção* (CAC), nafatin enfrenta obstaklu no dezafiu relasiona ba limitasaun mandatu no rekursu atu hala'o sira-nia k`nar, nune'e instituisaun rua limitadu hodi "kura moras governasaun modernu". Limitasaun husi servisu instituisaun rua ne'e akontese mos iha instituisaun judisiariu, seguransa (*PNTL no F-FDTL*) nomos Funsau Publiku. Maske Estadu Timor-Leste establese ona instituisaun oin-oin hamutuk ho ninia enkuadramentu legal ne'ebé apropriadu, maibe nafatin iha failansu tanba membrus entidades estadu nian balun la halo tuir regulamentus no enkuadramentu legal ne'ebé ejiji sira nian responsabilidade. Nune'e atitude imaturidade, interese partidariu no grupuismu sei domina iha espasu publiku no orgaun Estadu ne'ebé implika ba kazu abuzu de poder nafatin akontese.

Nudar organizasaun ne'ebé iha kompromisu no servisu ba asuntu direitus umanus, Asosiasaun HAK konsidera situasaun hirak ne'ebé deskreve iha leten, nudar kestaun seriu tebes ne'ebé instituisaun estadu presiza nafatin tau matan ba no foti medidas ne'ebé adekuadu.●

## Konteudu Relatoriu

Respeita ba direitus umanus iha kontestu nasaun Timor-Leste ukun rasik a`an (independensia) sai nafatin nudar preokupasaun husi entidade sira iha rai laran nomos komunidadade internasional sira, iha prosesu kontrusaun nasaun Timor-Leste hodi dezenvolve instituisaun estadu hamutuk ho ninia enkuadramentu legal sira ne'ebé respeita prinsipiu demokrasia no valor sira direitus umanus nian.

Tuir prinsipiu direitus umanus nomos enkuadramentu legal nian indika katak estadu mak iha kompetensia atu garante, respeita, protégé no hakonu direitus fundamental sidadaun sira nian, mak bainhira estidades la hala'o sira nian obrigasaun tuir lei konsidera nudar asaun violasaun kontra direitus umanus povu nian, iha aspetu direitu civil politika nomos direitu ekonomia, sosial no kultura.

Konteudu relatoriu tinan ida ne'e, Asosiasaun HAK hakarak foti situasaun direitus umanus balun ne'ebé liga ho direitu sivil no politiku, sei foka liu ba asuntu sira hanesan direitu ba liberdade no integridade fisiku, direitu asesu ba justisa no direitu atu partisipa iha vida politika. Iha parte direitu ekonomia, sosial no kultura, sei foka liu ba asesu ba rai no asesu ba nesesidade baziku.

### ■ Direitu ba Vida, Seguransa, Liberdade no Integridade Fiziku;

Polisia Nasional Timor-Leste (PNTL) ne'ebe foin simu fali poder tomak husi UNPOL, seidauk hatudu ninia profesionalismu atu prevene no kombate violensia, maske Governu - liu husi Konsellu Ministru - estabelese ona enkuadramentu legal ne'ebé adekuaudu kona-ba regulamentu disiplinariu, dekretu lei uza forsa nomos amenda rejimentu ba salariu iha instituisaun nomos realia tiha ona programa kapasitasaun teknika no kuinesementu lei ho padraun internasional nian, liu husi koperasaun entidades oin-oin ne'ebé estabelese tiha ona. Dala-barak, membru forza seguransa sira-nia atuasaun la imparcial no sei toman halo reajen ho violensia no uza arma arbitariu ba konfliktu ne'ebé akontese iha komunidadade, duke proaktivamente foti medidas prevensaun no serve aksaun judisiariu ho efetivu.

Tuir dadus HAK nian, depois halo kombinasan no analiza dadus balun husi instituisaun kompetentis sira seluk nian, hatudu katak iha tinan 2011 kazu alegasaun tratamentu at nomos uza forsa ne'ebé la proporsional



Polisia uza forsa esesivu hapara komunidadade sira hato'o sira nia ejijensia direitu ba rai no uma.

mak komete husi membrus Polisia Nasional Timor-Leste hamutuk 99. Kazu alegasaun sira ne'e akontese iha situasaun kaer no iha fatin detensaun, relasiona kazu konfrontasaun arte marsiais no konfliktu seluk ne'ebé akontese iha comunidade. Asosiasaun HAK mos simu keixa husi vitima sira kona-ba kazu alegasaun tratamenu at no uza forsa ne'ebé la proporsional hasoru membrus F-FD'TL hamutuk kazu 9 bainhira responde ba konfliktu sira ne'ebé akontese iha comunidade. Kazu sira ne'ebé sei iha prosesu investigasaun disiplinariu no kriminal husi entidade relevante ne'ebé kompetente. Asosiasaun HAK preokupa kona-ba prosesu akontabilidade disiplinariu no krime ne'ebé lao neneik tebes, nomos kazu anterior iha tinan 2010 ne'ebé membru Polisia 199 inklui Polisia feto nain 10, ne'ebé krime sei pendente hela, no regra dezempena funsaun iha nivel operacional entre Militar no Polisia sidauk klaru.

Iha periodu relatoriu ida ne'e, Asosiasaun HAK simu alegasaun husi comunidade sira hasoru membrus Polisia nomos membrus F-FD'TL balun relasiona uza forsa esesivu no uza armas la tuir lei hodi halakon emania vida. Tuir dadus hatudu katak iha loron 16 Maiu 2011, soldadu F-FD'TL uza forsa esesivu ne'ebé rezulta feto nain ida mate, iha Dili (favor haree iha kraik). Membrus F-FD'TL ida ne'e hetan ona demisaun husi komandu F-FD'TL no iha 26 Outubru 2011 Tribunál Distrital Dili hasai ona akordaun hodi kondena tinan 15 iha prizaun. Aleinde ne'e HAK mos identifika kazu membru sira PN'TL uza armas la tuir lei rezulta feto ida mate iha loron 04 Novembru 2011 iha Distritu Bobonaro. Membru Polisia nain rua hetan ona prizaun preventiva no investigasaun disiplinariu sei iha prosesu. Asosiasaun HAK lamenta tebes katak feto nain rua mak lakon sira nia vida. Maske nunee, HAK apresia katak Estadu foti medida nudar sinal positivu ne'ebé presiza hametin nafatin hodi hadiak liutan kredibilidade instituisaun rua ne'e iha futuru.

Rezultadu monitorizasaun HAK nian mos hatudu katak husi suspeitu nain 37 ne'ebé hetan detensaun iha Polisia Distritu Baucau, HAK identifika suspeitu nain 20 ne'ebé hetan detensaun la ho mandatu husi Juis sira iha Tribunál, ne'ebé la tuir kondisaun iha art. 220 Kodigu Penal, durante operasaun PN'TL iha Distritu Baucau iha loron 20 Junu – 30 Agustu 2011. Liu husi primeiru interrogatoriu, Tribunál Distritu Baucau decide, arguidu nain 8 tama prizaun preventiva no arguidu nain 29 hetan termus identidade residencia (TIR).

## **Uza kilat la-tuir lei rezulta vitima feto ida mate iha Distritu Bobonaro**

Iha loron 4 Novembru 2011 kalan tuku 12.00 otl iha Suco Lourba, Sub-distritu Bobonaro, membrus Polisia nain 2 ho naran inisial MMDJ (membru polisia husi Unidade Patroliamento Fronteira) no LCD (Membru polisia husi Eskuadra Sub-distritu Bobonaro) nudar MMDJ nian, hamutuk ho familia sira seluk nudar festa nain ba festa aniversariu MMDJ ninia-oan. MMDJ no LCD hemu tua lanu toda no MMDJ ho kondisaun lanu todan dansa ho ninia fen ho modelu kizomba oin-oin de'it. Ninia ferik oan la gusta hodi fila ba tur, maibe MMDJ nafatin obriga dada ninian fen nia liman hodi hakilar iha tenda laran. Atitude MMDJ ne'e halo Sr. Agostu nudar ninia-rian hirus no dudu malu iha ema barak ninia-oin. Asaun ida ne'e halo MMDJ laran manas hodi hasai pistola sei ba Sr. Agostu no Sr. Agostu mos foti fatuk atu tuda hasoru MMDJ maibe la konsejo.

Lakleur MMDJ se fila fali pistola ba ninia fen rasik Lurdes Soares Cartelita Ximenes, hodi tiru kedas. Membru polisia LCD la foti medidas atu trava, maibe hasai ninia pistola hodi tiru alarma no ema sira iha tenda laran mos tauk halai namkari. Vitima Lurdes Soares Cartelita Ximenes alias Lulu, monu tun kedas iha tenda laran, vitima-nia aman Alcino foti kedas vitima hatur fali iha kadeira ida no sira haree ran sai husi vitima ninia kelen sorin. Iha tempu ne'e membrus polisia MMDJ hare vitima Lulu seidaunk mate, MMDJ tiru tan nia pistola dala rua ba vitima hodi vitima Lulu mate kedas iha tenda laran.

Membrus polisia MMDJ no LCD ne'ebé iha alegasaun hamate vitima Lulu, hetan krime tuir julgamentu preliminaru iha Tribunál Distrital Covalima no hetan prizaun preventiva iha Prizaun Bekora. Prosesu investigasaun disiplinariu sei prosesa husi Departamentu Justisa PN'TL nasional.

Liu husi HAK-nia monitorizasaun ba kazu konfliktu entre grupu arte marsiais PSHT nomos KORKA ne'ebé individualmente komete duni aktu krime ordinariu iha loron 14 Agostu 2011 iha Zumalai, Distritu Cova Lima ne'ebé rezulta membru polisia nain ida mate, vitima nain ida kanek todan, vitima nain ida kanek k`man, uma 58 hetan sunu no 168 familia deslokadu husi sira-nia hela fatin. Arguidu nain 15 ne'ebé diskonfiar katak oho membrus Polisia hetan detensaun preventiva iha prizaun no nain 5 hetan liberdade kondisional. Arguidu nain 18 ne'ebé involve iha sunu uma hetan mos detensaun. Asosiasaun HAK mos identifika katak maioria arguidu sira ne`e, reklama katak hetan tratamentu a`at no uza forsa esesivu husi membrus Polisia iha situasaun kaer no detensaun.

Asosiasaun HAK konsidera katak hahalok violasaun direitus umanus ne'ebé deskreve iha leten no ne'ebé komete husi membrus Polisia no Militár nudar aktu krime ne'ebé presiza duni hetan medidas remediis husi instituisaun sira ne'ebé kompetente bazeia ba enkuadramentu legal sira ne'ebé ezisti tuir padraun internasional hirak ne'ebé estadu Timor-Leste ratifika.

### ■ Direitu Liberdade ba Relijiaun

Durante periodu relatoriu ida ne`e nafatin kontinua mosu konfliktu entre grupu relijiaun sira la'os de'it iha nivel national, maibe akontese mos iha nivel distritu sira hanesan Liquica, Manufahi, Bobonaro, Manatuto no Baucau, liu husi asaun sira hanesan manifestasaun, estraga propriedade, asaltu fiziku nomos amiasa ba vida. Tuir dadus HAK nian hatudu katak relijiaun protestante foun sira hanesan Evangelika, Kristaun Vizaun, Jehova no Adventista hamutuk ho sira-nia ema sira identifikadu nu`udar parte ne'ebé vulnerabel tebes husi atake komunidadade relijiaun seluk, lider relijioja balun no autoridade lokal sira balun, tanba autor ba kazu hirak ne`e la hetan responsabilidade legal ba aktu ne'ebé sira komete. Tuir observasaun HAK nian hatudu katak iha tendensia konfliktu entre grupu relijiaun foun no relijiaun tuan sira kontinua akontese iha futuru bainhira estadu la foti medidas adekuaudu tuir lei ba akontesementu hirak ne`e. Iha komunidadade ne'ebé grupu relijiaun foun sira eziste hodi halo sira-nia aktividade, komunidadade husi relijiaun tuan ne'ebé ezisti kleur ona iha Timor la kontenti tanba sira sente katak programa hirak ne'ebé relijiaun foun sira hala'o la respeita ba

## **Violasaun ba Integridade Fiziku Ne'ebe Rezulta Vitima Feto Ida Mate Iha Dili**

Iha loron 16 Maiu 2011, oras mais ou menus tuku 16.30, iha Aldeia 06, Suco Mascarenhas, Sub-distritu Nain Feto, Distritu Dili, arguidu ho naran inisial MDC nudar membru F-FDTL hamutuk ho ninia kolega ema sivil balun hemu tua lanu. Tenpu ne'ebá, sasin ida ho inisial LC ba vizita katuas ida ho naran inisial FM iha uma sorin. La kleur, arguidu MDC mos tuir ba hare LC tanis hela no arguidu husu ba LC tansa nia tanis?

LC dehan triste tanba haree katuas FM nia moras no tempu ne`e arguidu husu ba LC katak se katuas FM hakarak arguidu bele kura katuas ne`e nia moras, tanba ne`e ema mak halo. Bainhira koaliala hela, vitima Luciana Martins mos mosu iha katuas FM nia uma lori hela hodi atu han, tanba arguidu MDC diskunfia ona katak vitima Lucia Martins mak halo katuas FM moras. Tuir sasin nain 5 ne'ebe hare ho matan iha tempu ne'eba katak arguidu MDC basa no rasta vitima-nia fuk, tebe dala barak, lori kanuru suru rai henek nian baku iha vitima ninia isin lolon, depois les vitima-nia ropa no rasta vitima-nia kelen hodi hatudu ba publiku hodi dehan katak "*nia buan, nia buan, nia subar aikulit iha ninia oin-lulik mak hanesan ne`e*".

Depois, arguidu hatun no hasai vitima ba posu laran hodi dehan tan katak "*laiha ema ida mak bele intervein, hau ne`e forsa, bainhira imi intervein hau sei halo ba imi hanesan ne`e*". Tempu ne`e vitima rasik mos harohan hodi hakilar katak "*nai hau sala saida*" maibe arguidu MDC nafatin tuku no tebe vitima to'o monu desmaia no lakon sentidu. La kleur ambulancia mai tula vitima hodi ba tratamentu iha Ospital Nasional maibe la konsege hetan salvasaun no vitima Luciana Martins mate.

Relasiona ho akontesementu ne`e, iha Fulan Outubru 2011 Arguidu MDC hetan ona demisaun husi Instituisaun F-FDTL no iha loron 26 Outubru 2011 Tribunál Distrital Dili hasai akordaun hodi kondena MDC ho pena tinan 15 iha prizaun.

relijiaun tuan no la respeita kultura Timor nian.

Nudar organizasaun ne'ebé servisu ba direitus umanus, Asosiasaun HAK lamenta aktu violensia hirak ne'ebé komete ba representante Igreja Protestante Evangelika no Kristaun Vizaun no Jehova ho ninia ema sira. Instituisaun estadu ne'ebé kompetente tenke prosesu autor violensia hirak ne'e tuir enkuadramentu legal krime nian. Tuir Konstituisaun Timor-Leste-nia artigu 45.1-4 ema ida-idak iha liberdade ba konsiensia rasik atu hala'o aktividade relijiaun no kultura, no artigu 135 Kodigu Penal Timor-Leste regula katak ema ka grupu ne'ebé halo propaganda hodi insita halo diskrimenasaun, odio no violensia ne'e nudar hahalok krimee.

Artigu 27 no 26 konvensaun direitu sivil no politiku regula katak ema ne'ebé minoria tenke hetan protesau husi estadu no labele bandu ema minoria sira ezerse sira-nia aktividade kultura ka relijiaun, no labele nega justisa ba ema ida tanba ninia rasa, kultura, etnisidade ka tanba ninia relijiaun.

Tuir perspetiva HAK nian katak estadu-nia obrigasaun mak atu garante no protégé grupu sidadaun sira hotu bele goza sira nian direitu tuir lei inklui grupu minoridade sira-nia direitu no la limita ka bandu ema sira ne'e atu ezerse sira-nia aktividade kultural nomos relijiosu, inklui oinsa atu garante relijiaun sira ne'ebé eziste iha Timor-Leste bele respeita malu no kria ambiente ne'ebé pasifiku no harmonia. Estadu mos iha obrigasaun tuir lei atu foti medidas ne'ebé rigoroju ba individu ka grupu ne'ebé viola ema seluk ninian direitu la tuir lei no la respeita direitus umanus.

## ■ Direitu Asesu ba Justisa

Prinsipiu igualidade iha sistema justisa nian servisu administrasaun no mekanismu prosedural sira hotu importante tebes atu haburas responsabilidade no matein lei-nia regra sira bele implementa ho diak no efetivu. Tuir Konstituisaun RDTL artigu 118-136 no lei relevantes sira seluk define katak orgaun estadu ne'ebé iha responsabilidade no kompetensia atu garante sistema justisa mak Ministeriu Publiku, Defensoria no Tribunál, no mos Polisia & Servisu Prizonais. Maske Polisia no Servisu Prizonais nudar sub ordinariu ba poder ezeutivu (governu), maibe iha aspetu justisa no lia los, PNTL liu-liu Seksaun Investigasaun Kriminal ne'ebé inklui Unidade Pesoal Vulnerabel sira, submete ba instrusaun prokuradoria no Tribunál. Unidade rua ne'e ladun hetan atensaun ne'ebé seriu husi instituisaun PNTL iha aspetu logistik nomos finanseiru, nune'e sira nafatin enfrenta limitasaun ba facilidades no equipamentus bainhira hala'o sira-nia kna'ar.

Iha periodu relatoriu ida ne'e HAK nota katak iha progresu signifikante balun ne'ebé hala'o ona husi instituisaun judisiariu sira iha seitor justisa nian mak hanesan; dezentovimentu ba justisa ninian infraestrutur no ninian rekursus. Programa formasaun kontinua dejenolve kapasidade ba autor judisiariu inklui servisu prizaun sira, liu husi centru formasaun judisiariu, workshop no seminariu oin-oin nomos estagiu ba iha rai estrangeiru, stablesimentu baze de dados ne'ebé integradu entre instituisaun judisiariu, esforsu ba implementasaun lei kontra violensia domestika, formasaun tetun juridiku, numeru autor judisiariu komesa aumenta; Juis hamutuk 25 (feto nain



Ema ida-idak iha leberdade de sira nia relijiaun



Kondisaun ida iha Tribunal Distritu Dili bainhira remata julgamentu

5), Prokurador hamutuk 21 (feto nain 5) no Defensoria Publiku hamutuk 18 (feto nain 3). Esforsu sira hanesan ne'e nafatin kontinua atu garante populasaun iha área rural, sira bele asesu ba justisa diak liu tan iha futuru, inkorpora ho planu Ministeriu Justisa periodu 2011-2030 inklui Planu Nasional ne'ebé trasa tiha ona. HAK mos apresia kona-ba programa Tribunál movel ne'ebé katak Tribunál Distrital mak hala'o.

Iha parte seluk, Asosiasaun HAK ninia rezultadu observasaun mos hatudu katak durante periodu ida ne'e total kazu pendente iha Ministeriu Publiku hamutuk 4.830 no iha Tribunál hamutuk 890. Husi numeru hirak ne'e hatudu katak kazu pendente nafatin sai preokupasaun boot iha instituisaun judisiariu, nune'e presiza medidas ne'ebé integradu husi instituisaun judisiariu sira ba redusaun numeru kazu pendente sira ne'e. Maske lei No 7/2010 kontra violencia domestika hetan ona promulgasaun iha 7 Juillu 2010 no designasaun violencia domestika nudar krime publiku, maibe iha rezultadu monitoring HAK nian identifika katak lider komunitariu no polisia iha distritu balun nafatin rejolve kazu inestu 8 no kazu violencia domestika liu husi dalan familiar.

Maske iha Konstituisaun RDTL artigu 13 garante direitu ba lian tetun, maibe iha prosesu julgamentu, desizaun Tribunál no publikasaun dokumentus ofisial iha seitor judisiariu inklui promulgasaun lei sira iha de'it lian Portugues & Ingles nudar parte ida ne'ebé limita ona sidadaun sira nia-direitu asesu ba justisa. Implementasaun lei No 11/2008 ne'ebé regula katak advogadu privadu hotu-hotu iha obrigasaun tenke tuir formasaun fulan 15 iha sentru formasaun judisiariu hafoin halo pratika durante fulan 9 antes hetan lisensa pratika nudar advogadu iha Tribunál. Laiha duvidas katak dezvoltamentu kapasidade ba profisaun legal mak medida positivu hodi hasa'e kualidade, maibe iha preokupasaun katak to'o iha Jullu 2012 foin indika advogadu privadu nain 14 mak karik kompleita kursu ne'e no hamutuk ho defensoria publiku nain 16, mak numeru hirak ne'e absolutamente la suficiente hodi responde ba nesesidade asistensia legal populasaun sira, nune'e sidadaun sira barak sei lakon sira-nia direitu asesu ba justisa.

Nudar organizasaun direitus umanus durante periodu ida ne'e HAK mos identifika kestaun importante balun ne'ebé presiza hetan atensaun seriu husi instituisaun relevantes ne'ebé kompetentis hodi fortifika liu tan prinsipiu estadu de direitu demokratiku iha Timor-Leste. HAK nafatin preokupa kona-ba prosesu kazu krime kontra umanidade ou kazu violasaun direitus umanus ne'ebé rezulta ema hamutuk 102,800 mate durante tinan 1974-1999 iha Timor-Leste no vitima sira hein hela justisa, lia los no reparasaun. Ate agora tinan 12 ona autor husi kazu sira iha pasadu maioria seidak lori ba Tribunál, tanba elit politik timor-oan sira inklui Presidente no governu la iha vontade politika ba akontabilidade kazu krime kontra umanidade iha pasadu.

Susesu Presidente nafatin repete uza ninia poder konstitusional hodi fo perdaun ba ema sira ne'ebé komete iha kazu krime kontra umanidade iha Timor-Leste. Iha kazu ida, lider milisia ne'ebé oho ema nain 9 inklui Madre nain 2, Frater 3 no Jornalista 1, hetan kastigu tinan 33 iha prizaun no foin hala'o tinan 7 hetan ona perdaun no livre husi komarka. HAK mos preokupa katak lider milisia konesidu nain 2 Maternus Bere husi Distritu Covalima ho instrusaun husi Primeiru Ministru hasai husi prizaun Bekora haruka fila ba Indonesia no Valentim Lavio husi Maubara



Justisa iha duni ba ema hotu?



Familia vitima violasaun direitus umanus 1974-1999, nafatin halerik justisa

depois hetan desizaun Tribunál Distrital Dili ikus mai halai fila ba Indonesia.

Laiha esplikasaun ne'ebé klaru husi governu kona-ba esforsu implementasaun ba rekomendasaun sira husi CAVR nomos CTF nian, maske iha durante Revizaun Universal Periodiku iha Konsellu Direitus Umanus Governu Timor-Leste esklaresé ona katak governu implementa ona 200 rekomendasaun husi komisaun CAVR & CTF. Maibe iha realidade maioria husi rekomendasaun hirak ne'e seidak implementa maske Timor-Leste gasta tempu, rekursu no orsamentu boot tebes ba komisaun rua ne'ebé refere, inklui lei institutu memoria no reparasaun ne'ebé pendente hela iha Parlamentu Nasional.

## ■ Direitu Partisipa iha Vida Politika

Eleisaun jeral iha tinan 2012 nudar ezersisiu importante ba prosesu hametin demokrasia no prinsipiu estadu de direitu iha Timor-Leste ba futuro, tanba ho ambiente politiku no seguransa ida ne'ebé nafatin kontinua iha situasaun pas no estavel, nudar oportunidade atu dezenvolve instituisaun estadu hodi hala'o sira nian k'nar atu fo atensaun ba prosesu dezvoltimentu hodi garante povu-nia moris diak. Durante periodu ida ne'e, HAK observa katak iha entidades oin-oin husi parti Estadu nomos Sosiedade Sivil inklui Igreja realiza tiha ona aktividade importante lubuk ida, atu enkoraza no haforsa sidadaun liu-liu feto sira-nia partisipasaun iha vida politika relasiona ba preparasaun eleisaun jeral iha tinan oin.



Konsolidasaun Partido Fretilin iha Suco Leorema Sub Distritu Bazartete, Distritu Liquica

Tuir HAK-nia monitorizaun iha 2011 periodu, mos nota katak partidu politiku sira ne'ebé hetan ona legalidade hodi partisipa iha eleisaun jeral 2012 (22 Partidu Politiku mak regista iha CNE), hahu tiha ona konsolidasaun ba sira nia estrutura no programa to'o iha baze liu husi aktividade kongresu distrital nomos kongresu nivel nasional. Enkontru entre lider partidu politiku sira, Igreja, Sosiedade Sivil ne'ebé fasilita husi Bispu Diocese Baucau iha sorumutu Maubisse primeiru iha loron 21-22 Agostu 2010 no kontinuaun sorumutu Maubisse segundu iha loron 20 Maiu 2011 iha Palacio Nobre nudar kompromisu lideransa politiku sira hodi garante eleisaun jeral 2012 lao iha ambiente dame no pas. Ida ne'e nudar sinal positivu ida ba prosesu hametin demokrasia no dezvoltimentu iha futuro. Orgaun eleitoral sira (CNE & STAE) esforsu halo hela ona preparasaun administrasaun eleitoral inklui preparasaun logistiku nomos edukasaun sivika antes tama ba eleisaun 2012, no Parlamentu mos aprova lei foun No 08/2011 & No 07/2011 kona-ba eleisaun Presidente Republika nomos Parlamentu Nasional, ne'ebé enkoraza feto nian numeru partisipasaun iha vida politika.

Iha parte seluk, HAK mos identifika pontu importante balun ne'ebé presiza hetan konsiderasaun husi Partidu Politiku nomos entidades estadu ne'ebé relevantes kona-ba kestaun hirak hanesan tuir mai ne'e.

Liu husi observasaun HAK nian hatudu katak kuaze maioria Parpol sira seidak familiar ho termus konsolidasaun, nune'e fo implikasaun iha prosesu konsolidasaun dala barak uza lingua ne'ebé violentu no provokativu, maske la konsege rezulta violencia. Tanba ne'e HAK sugere katak prosesu konsolidasaun ne'ebe Partidu sira hala'o, labele hala'o de'it iha tempu besik eleisaun. Aktividade importante ida ne'e tenke



Kongresu Nasional Partido Socialista Timorensé

hatudu karakteristiku ne'ebé eduka duni povu atu sai membrus partidu ne'ebé iha kualidade ne'ebé diak iha aspetu oin-oin. Aktividade ne'e, tenke hala'o bebeik no sustentavel nune'e bele muda presepsaun publiku katak Partidu Politiku la'os identiku de'it ho eleisaun, maibe iha fungsaun importante ba hametin prosesu dezenvolvimentu nasional.

Maske seidak iha lei espesifiku ne'ebé regula kona-ba prosesu konsolidasaun Partidu Politiku, ne'e la siknifika katak autoridade kompetente labele uza prinsipiu jeral no lei sira seluk ne'ebé relevantes kuandu iha konsolidasaun mosu asaun ruma ne'ebé afeita ba sidadaun ninian direitu civika. Ijemplu tuir HAK nian observasaun hatudu katak durante konsolidasaun iha masa husi partidu politika balun taka dalan publiku no bandu ema seluk labele liu, tuir lolos hahalok sira hanesan ne'e tenke hetan atensaun mak'as husi entidades relevantes, nune'e labele viola direitu civika sidadaun sira seluk.

Relasiona ho aprovasaun lei eleisaun foun ba Presidenti nomos Parlamentu Nasional, Asosiasaun HAK mos identifika lakuna balun katak lei rua ne'e, jeralmente hamosu derotasaun ba prosesu eleisaun iha tinan 2012. Bainhira kompara ho lei eleitoral sira anterior, lei foun ladun fo kompetensia ne'ebé bo'ot ba CNE nudar instituisaun fiskalizaun independente iha prosesu eleisaun maibe fo fali kompetensia barak liu ba STAE nudar instituisaun teknika husi governu ne'ebé presiza hetan fiskalizaun husi CNE. HAK mos preokupa katak artigu 35 lei ida ne'e sei la garante ema timor-oan hotu iha estrangeiru bele partisipa iha prosesu eleisaun tanba sidadaun balun seidak iha pasaporte ka kartaun eleitoral, inklui ita seidak iha apareillu ne'ebé sufistikadu nomos rekursu umanus ne'ebé limitadu inklui laiha planu orsamentu atu ezekuta artigu ida ne'e hodi garante votus ne'ebé segredu no justu. Lei ida ne'e os regula eleitores sira tenke ba vota iha suco ne'ebé sira registu, HAK konsideira ida ne'e inkonstitusional tanba eleisaun nasional ne'e nudar sirkulasaun nasional ba sidadaun sira hotu. Parlamentu Nasional presiza halo amenda ba artigu balun iha lei rua ne'ebé refere nune'e sei la hamosu obstaklu no konflitu iha prosesu eleisaun.

Maske iha artigu 12 pontu 3 Lei Eleisaun ba Parlamentu Nasional No 07/2011, garante numeru partisipasaun fetu iha vida politika, maibe iha realidade fetu sira sei eenfrenta obstaklu no dezafiu iha sosiedade ne'ebé afeita husi kultura patriarkiku nomos desizaun internal partidu politiku ne'ebé sai mos nudar barreira ba fetu sira atu foti desizaun ne'ebé bele favorese sira-nia interese politika.

## ■ Direitu Asesu ba Rai & Uma

Asuntu hela fatin partikularmente uma no rai mak hanesan problema sosial ida ne'ebé kompleksu tebes no kontinua sai preokupasaun boot iha Timor-Leste hahu husi kolonializasaun Portugueza, durante okupasaun Indonesia to'o Timor-Leste independensia. Iha tinan 1999 infranstrutura tomak inklui uma populasaun sivil hamutuk hotu 70% mak hetan sunu no estragus iha teritoriu tomak. Situasaun jeral hela fatin iha Timor-Leste deskreve kondisaun real kona-ba populasaun 58% ne'ebé sei hela iha kondisaun uma at ne'ebé seidak rezolve. Impaktu husi konflitu pasadu nian, obriga mos populasaun sira okupa propriedade estadu nomos privadu ne'ebé Indonesia husik hela iha national nomos iha Distritu. Kondisaun hela fatin sai problema boot liu tan ho akontesementu krizi 2006 ne'ebé rezulta uma hamutuk 5.300 mak hetan sunu no estragus, populasaun hamutuk 67.916 mak halai husi sira-nia- hela fatin ba fatin ne'ebé seguru iha Dili laran nomos ema nain 78.431 mak muda ba Distritu.

Responde ba preokupasaun ne'e, governu aloka ona orsamentu



Komunidade sira eji sira nia direitu ba uma

hamutuk montante miliaun sanulu resin aloka ba Ministeriu Solidaridade Sosial hanesan sub-sidiu ba populasaun sira ne'ebé uma hetan sunu no estragus nomos nudar meius ida atu lori fila comunidade fila ba sira nian hela fatin, inklui programa atu hari uma lima iha kada aldeia iha Timor-Leste.

Maske nune'e, iha periodu ida ne'e populasaun balun nafatin hato'o keixa mai Asosiasaun HAK relaciona ho sira-nia uma ne'ebé hetan estragus no sunu iha krize 2006 seidak hetan kompensasaun ruma husi governu. Tuir HAK nian observasaun hatudu katak



Komunidade ijiji sira nia direitu ba rai no uma

equipa taskforce ne'ebé responsavel atu tau matan ba preokupasaun ne'e la funsiona ho efetivu, nune'e seidak iha solusaun ne'ebé adekua no efetivu ba problema ida ne'e. Populasaun sira ne'ebé tanba situasaun konflitu pasadu inklui krize 2006 ne'ebé hela iha uma Indonesia nian, sai vulnerabel at liu tan bainhira governu halo despeju obrigatoriu hodi hasai populasaun sira husi sira-nia hela fatin seluk.

Tuir rezultadu monitorizasaun HAK nian hatudu katak hahu fulan Janeiru 2011, Ministeriu Justisa liu husi Diresaun Terras e Propriedade komesa hasai despeju ba populasaun sira ne'ebé hela iha uma estadu Indonesia nian, nune'e sei fo impaktu ema barak mak sei lakon sira nian hela fatin. Dadus HAK nian indika katak hahu husi Janeiru 2011 – Novembru 2011 iha total kazu eviksaun hamutuk tolu iha área Dili mak hanesan Brimob/Bairo Pite, Timor Plaza oin no kotuk no Bidau, no tolu iha Distritu Lospalos, Manufahi & Ermera). Impaktu husi despeju obrigatoriu ne'e halo ona ema hamutuk familia 202 ne'ebé hela rai no uma estadu no familia 21 rai privadu mak muda husi sira-nia hela fatin ba fatin seluk. Nune'e populasaun sira ne'ebé hela iha rai & uma estadu inklui ema ne'ebé iha estatutu rai la klaru, sai potensia boot atu hetan eviksaun iha futuru. Observasaun HAK nian hatudu iha familia balun maske simu ona kompensasaun finanseiro husi governu maibe osan sira ne'e mak lato'o atu bele sosa rai no hari fali uma foun sira, nune'e halo familia sira afeitada no sai vulnerabel liu tan tanba sofre mos ba sira-nia direitu sira seluk hanesan moris iha kondisaun hela fatin ne'ebé la adekua iha tempu udan, laiha saneamentu adekua, sofre moras oin-oin no labarik sira hela dok husi sira-nia eskola. Despeju sira labele hamosu rezultadu ema lakon uma nomos hamosu violasaun direitus umanus sira seluk no estadu tenke foti medidas apropiadu sira hotu hodi hametin alojamentu alternativu adekua no halo realokasaun orsamentu ne'ebé suficiente no espasu rai ne'ebé naton hodi hari uma antes halo despeju liu-liu iha rai parsela ne'ebé estadu mak jere.

## ■ Direitu Asesu ba Aihan ka Nesesidade Baziku

Mudansa klimatika no udan ne'ebé boot hamosu akontesementu dezastre naturais iha Timor-Leste, nune'e fo duni impaktu ne'ebé boot ba agrikultura sira-nia moris iha distritu liu-liu iha área rural sira atu hasa'e sirania produsaun ba aihan. Governu halo esforsu hodi hola fos husi nasaun seluk hodi responde ba siuasaun ne'e, maibe tuir monitorizasaun HAK nian nota katak populasaun sira iha área rural la hetan asesu ba subsidiu fos husi governu tanba mosu manipulasaun presu fos iha merkadu. Governu mos kria programa atu hasa'e produsaun aihan liu husi distribuissau trator, fini hibrida, pestisida, herbisida no fungisida ba agrikultura sira, maibe agrikultur sira-nia moris iha Distritu seidak hatudu mudansa ruma ne'ebé signifikante no iha faktu hatudu produsaun menus.



Agrikultur tenki iha kondisaun produs rasik aihan

Parte seluk HAK mos nota katak inspesaun hodi kontrolu ba ba nesesidade baziku husi entidade relevantes lao la efektivu maske lei tributaria implementa kleur ona no redusaun taxa ba sasan nesesidade baziku, maibe sasan nesesidade baziku sira iha merkadu nafatin as no la iha kontrola ba sasan folin inklui la iha mekanismu protesaun ba konsumidor sira-nia direitu, nune`e emperezariu sira faan sasan ne`ebe laiha kualidade no liu prazu no hasa`e sasan folin sai dobru husi presu normal.



Estado tenki garanti katak ema hotu asesu ba aihan ne`ebe kualidade, no ho folin tuir kondisaun

Pobreza, inserteza alimentar no desempregu sira hotu mak aat liu hotu iha área rural sira, ne`ebe porsentu 75 populasaun sira sei hela. Maioria husi grupu ne`e moris ho kiak ho limitasaun asesu ba informasaun no meius komunikasaun sosial, infraestrutur la iha kualidade no prosesu foti desizaun mak sei konsentra iha nasional, ne`ebe impede tebes prestasaun servisu baziku sira iha nivel distritu, suku no aldeia sira.●

# Konkluzau no Rekomendasaun

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## Konkluzau

Iha aspeitu politika no legislasau Timor-Leste hetan ona progresivu ne'ebé signifikante tebes kompara ho nasaun post konfliktu sira seluk, tanba Estadu Timor-Leste hatudu ona ninia kompromisu hodi dezenvolve enkuadramentu legal sira ne'ebé bele hametin funsionamentu instituisaun estadu nian, tuir padraun lei internasional sira ne'ebé refleta tiha ona iha Timor-Leste ninia Konstituisaun rasik, hodi hametin prinsipiu estadu ida ne'ebé demokratiku, respeita lei nomos direitus umanus. Maske nune'e, iha aspeitu implementasaun Estadu Timor-Leste sei nafatin hasoru obstaklu no dezafiu husi prosesu transformasaun kultura, etika politika, mentalidade no atitude, husi esperensia konfliktu pasadu tama iha fase hari estadu liu husi prosesu governasaun modernu. Kondisaun ida ne'e refleta duni iha instituisaun estadu ninian k`nar ne'ebé atu serve, garante no protéjé hodi hakonu direitu povu nian tuir objetivu estadu ne'ebé regula iha artigu 6 konstituisaun RDTL, dala barak seidak lao efetivu ho profesionalismu, tanba sei domina ho mentalidade feodalismu, kultura paternalistiku no toman reazen ho violensia duke proaktivamente foti medidas prevensaun no servi aksaun judisiariu ho efetivu.

Makina estadu ne'ebé iha responsabilidade atu garante justisa ba populasaun hotu iha nasaun ne'e, hahu husi polisia no autor judisiariu sira sei enfrenta difikuldade, frakeza no obstaklu oin-oin, ne'ebé mosu iha parti internal instituisaun nomos mosu husi parte esterna (ambiente sosial politiku), fo implikasaun ba makina estadu ne'e seidak funsiona tuir lei, hodi bele fornese servisu no garante katak prinsipiu estadu de direitu no demokratiku ninia implementasaun hanesan ba ema hotu.

Tranferensia poder husi UNPOL ba PNTL nudar sinal konfiansa ida ne'ebé importante tebes atu hare fila fali abilidade instituisaun PNTL hodi responde ba obstaklu no dezafius iha área seguransa interna relasiona ho periodu eleisaun jeral 2012 nomos mandatu UNMIT nian ne'ebé sei remata iha Dezembru 2012. Asosiasaun HAK mos hakarak agradesse ba lider partidu politiku sira hotu ne'ebé hato`o ona sira-nia kompromisu hodi manteis paz durante prosesu konsolidasaun strutura iha baze no HAK espera katak situasaun ida ne'e sei nafatin kontinua durante prosesu kampanha, durante eleisaun no depois eleisaun remata iha 2012.

Eleisaun 2012 nudar eventu ida ne'ebé importante tebes atu bolu atensaun ba entidades tomak estadu nian inklui orgaun eleitoral sira, sociedade sivil no lideransa partidu politiku sira hotu, liu husi ida-idak nian k`nar no responsabilidade atu fo kompromisu ba situasaun seguransa bele hakmatek no kria iklima politika ne'ebé positivu, nune'e esperensia at ne'ebé akontese ona padasu sei la akontese fila fali iha eleisaun tinan oin mai no bele garante prosesu eleisaun bele lao ho dame. HAK apresia katak

eleisaun 2012 nudar fator determinante atu sai nudar sasukat ba iha prosesu hametin demokrasia no dezentvolvimentu Timor-Leste iha futuru.

## **Rekomendasaun**

Atu aseguira Estadu Timor-Leste sai nudar estadu demokratiku nomos hanesan estadu ne'ebe garante direitus ne'ebe hakerek iha konvensaun direitus umanus ne'ebe ratifika tiha ona, mak bazeia ba rezultadu monitorizasaun HAK nian nomos fonte informasaun sira seluk ho relatoriu sira ne'ebe hetan asesu, tuir mai ami hato'o rekomendasaun ba entidades estadu sira atu konsidera hodi bele foti medidas tuir ida-idak nia kompetensia hodi bele hadiak liu tan kondisaun direitus umanus povu nian iha futuru. Rekomendasaun espesifiku kada asuntu ne'ebe identifika iha relatoriu periodu ida ne'e mak hanesan tuir mai ne'e;

### **1. Direitu ba Vida, Seguransa no Liberdade ba Integridade Fizika**

#### **Husu ba Instituisaun PNTL :**

- Aseguira investigasaun bainhira simu keixa no alegasaun ruma husi comunidade, kontra membrus PNTL no foti medidas disiplinariu internal ho rigorozu ho transparansia no liu husi komunikasaun sosial, Garante katak prosesu investigasaun kriminal ba alegasaun hirak atu lao ho efetivu, inklui mos aslera prosesu investigasaun ba kazu alegasaun krime no disiplinariu iha periodu 2010 ba kotuk.
- Haforsa liu tan implementasaun politika internal instituisaun nian relasiona ho sistema kontrolu armas/kilat no halo monitorazasaun regular ba membrus Polisia sira hotu iha nivel nasional nomos distritu, nune'e bele halo kontrolu ne'ebe efetivu, no halo investigasaun kedas ho urgente no foti medidas ne'ebe adekua ba membrus Polisia ne'ebe uza sala armas/kilat.
- Haforsa no fo apoiu liutan servisu Departamentu Justisa iha komandu PNTL iha distrital inklui unidade Investigasaun no VPU, nune'e sira bele hala'o sira-nia funsaun diak liutan iha futuru no dezentvolve lina koordenaun ne'ebe efetivu ho instituisaun judisiariu sira.

#### **Husu ba Instituisaun F-FDTL :**

- Husu ba instituisaun Falintil Forsa Defeza Timor-Leste (F-FDTL) nian atu aseguira katak bainhira iha alegasaun disiplinariu nomos kriminal hasoru membrus F-FDTL ruma, tenke halo kedas investigasaun no foti medidas ne'ebe rigorozu ba membrus hirak ne'e. Aseguira mos prosesu investigasaun no disiplinariu ba kazu alegasaun tuan hirak ne'ebe sei pendente hela iha Departamentu Justisa F-FDTL nian tuir dekretu lei No 17/2006 no Rejimentu Disiplinariu.
- Haforsa no hametin liutan apoiu servisu instituisaun nian ba Departamentu Justisa ninia membrus sira iha aspetu facilidades no rekursu umanus inklui dezentvolve lina koordenaun ne'ebe efetivu ho instituisaun judisiariu sira.
- Periodikamente publika informasaun ba publiku kona-ba medidas efetivu hirak ne'ebe instituisaun foti ona relasiona ho prosesu akontabilidade ba membrus hirak ne'e.

### **2. Direitu Liberdade ba Relijiaun**

#### **Husu ba Lideransa Religioza :**

- Kria konsellu nasional inter-relijioza ne'ebe sira-nia nomeasaun mai husi representante kada relijiaun sira hotu (relijiaun tuan no foun), nune'e bele ajuda rzjolve problema ou konflitu ne'ebe akontese entre grupu relijiaun sira no halo koordenaun ho instituisaun kompetente ne'ebe relevantes relasiona ho interese komun iha sociedade.
- Dezentvolve programa oin-oin hamutuk iha comunidade ne'ebe bele hametin unidade nomos toleransia entre grupu relijiaun sira hotu ne'ebe eziste iha Timor-Leste, inklui promove kultura dialogo hodi prevene violensia iha futuru.

### **Husu ba Polisia Nasional Timor-Leste :**

- Halo investigasaun klean no lori autor violensia sira ne'ebé iha indikasaun forei involve iha aktu kriminal sira ne'ebé relasiona ho konfliktus entre grupu relijiaun sira la ho diskriminasaun no tuir prosesu tuir lei ne'ebé vigor iha Timor-Leste.
- Polisia Nasional Timor-Leste tenke neutru no imparcial bainhira halo atuasaun ba konfliktus ne'ebé mosu entre grupu relijiaun sira no Instituisaun PNTL rasik bainhira iha kuinesementu kona-ba membrus Polisia balun la halo sira nian k`nar tuir lei tenke foti medidas ne'ebé adekuaudu ba membrus hirak ne`e.

### **Husu ba Entidades Governu :**

- Dezenvolve kurikulum kona-ba materia relijiaun sira hotu ne'ebé ejisti iha Timor-Leste no adopta iha sistema edukasaun formal liu husi Ministeriu Edukasaun
- Dezenvolve legislasaun ne'ebé fo rekonesementu ba ejistensia relijiaun sira iha Timor-Leste no garante partisipasaun ne'ebé igual inklui garante oinsa relijiaun sira bele kria ambiente ida ne'ebé pas no armonia

### **Husu ba Sociedade Sivil & Komunidade :**

- Respeita no valoriza inklui la halo diskriminasaun ba ejistensia relijiaun sira hotu ne'ebé ejisti iha Timor-Leste
- Sociedade Sivil sira dezenvolve no implementa programa edukasaun sivika iha komunidade atu nune`e bele hasa'e konsensia komunidade sira nian atu valoriza no respeita malu.

## **3. Direitu Asesu ba Justisa**

### **Husu ba Presidenti da Republika :**

- Explora maneira posivel ho Indonesia atu hadia prosesu akontabilidade ba krime pasadu (1974-1999), aleinde pas no rekonsiliaun iha Timor-Leste ba futuro no propoint atu ratifika tratadu konvensaun ema lakon, nune`e estadu Timor-Leste bele hala'o ninia obrigasaun legal atu identifika inklui mos buka sidadaun hirak ne'ebé lakon durante iha okupasaun Indonesia.

### **Husu ba Parlamentu Nasional :**

- Halo lei kona-ba implementasaun mekanismu atu asegura katak prosesu indultu ne'ebé Presidente Republika fo tuir establesementu regra lei nian, bazeia ba mata dalan international sira no establese prosesu konsultasaun ne'ebé ho entidades hotu relasiona ho esbosu lei ne'ebé refere antes halo aprovasaun iha Parlamentu Nasional.
- Fo prioridade ba debates no aprovasaun lei institutu memoria no reparasaun ba vitima konfliktu armadu husi 1974-1999 ne'ebé agora sei pendente hela iha Parlamentu Nasional, nune`e bele rekopera kondisaun moris vitima sira nian.
- Halo fiskalizasaun ne'ebé apropiadu ba ezekusaun orsamentu iha instituisaun judisiariu sira nomos iha instituisaun PNTL liu-liu unidade Investigasaun no unidade VPU, nune`e sira bele hetan duni benefisiu husi alokasaun orsamentu ne'ebé refere.

### **Husu ba Governu :**

- Alokasaun orsamentu no facilidades ne'ebé adekuaudu ba instituisaun judisiariu atu ajuda sira-nia servisu bazeia ba preokupasaun real ne'ebé instituisaun judisiariu sira enfrenta atu hadiak liutan sira-nia kualidade atendentu servisu justisa ba populasan sira, liu-liu atu garante komunidade iha área rural sira bele asesu ba justisa.
- Dezenvolve kooperasaun ne'ebé efetivu no regularmente entre ministeriu relevantes sira kona-ba implementasaun lei kontra violensia domestika nomos lei protesasaun ba sasin
- Dezenvolve politika ne'ebé atu mantein advogadu privadu sira nian servisu hodi kontinua fo assistensia legal iha Tribunál to bainhira advogadu ne'ebé tuir ona formasaun iha numeru ne'ebé

suficiente no nafatin loke espasu ba advogadu privadu sira atu kontinua tuir formasaun judisiariu nudar programa reguler iha seitor judisiariu atu hasa'e qualidade servisu husi advogadu privadu inklui autor judisiariu sira seluk.

#### 4. **Direitu Partisipa iha Vida Politika**

##### **Husu ba Partidu Politiku :**

- Hatudu kompromisu ne'ebé firme no toleransia maximu entre lideres Partidu Politiku sira hotu, inklui membrus sira, hodi kria ambiente politika no seguransa ne'ebé pas no harmonia durante kampaye, eleisaun jeral nomos depois eleisaun remata.
- Uja mekanismu legal sira ne'ebé ejisti hodi rejolve elisitu eleitoral hirak ne'ebé akontese, durante kampanye, eleisaun no depois eleisaun remata, nune`e bele hametin liu tan sentidu estadu de direitu demokratiku iha Timor-Leste.
- Regularmente (la'os de'it tempu besik eleisaun) dezenvolve programa ne'ebé bele hasa'e konsensia politika nomos kuinesementu iha aspeitu prinsipiu estadu de direitu demokratiku, prinsipiu nasionalismu, direitus umanus no aspeitu sira seluk ne'ebé nesesariu, ba lideransa strutura partidu sira iha nivel nasional no distritu tuir padraun internasional sira. Nune`e sira hotu bele sai nudar membrus partidu ne'ebé iha qualidade no pro-aktivu liutan iha prosesu dezenvolvimentu Timor-Leste iha futuru.
- Dezenvolve no implementa mekanismu interna partidu politiku nian ne'ebé bele fo espasu ba feto atu dezenvolve sira a`an nomos bele toma desizaun iha partidu nian laran, tuir padraun internasional nomos lei eleisaun foun ne'ebé Parlamentu Nasional aprova.

##### **Husu ba Parlamentu Nasional :**

- Atu halo amandamentu ba artigu 35 nomos artigu balun iha lei eleisaun jeral foun ne'ebé la kondis ho situasaun real Timor-Leste agora nomos la iha facilidades ne'ebé apropiadu atu implementa rekijitus hirak ne'ebé regula iha lei ne`e, nune`e la fo impaktu ba prosesu eleisaun jeral 2012
- Halo aprovasaun ba orsamentu ne'ebé apropiadu ba orgaun eleitoral sira atu bele hala'o sira nian fungsaun ho diak no efetivu tuir rekizitus hirak ne'ebé regula ona iha lei sira ne'ebé relevantes ho eleisaun jeral 2012.

##### **Husu ba Governu :**

- Aloka orsamentu ne'ebé apropiadu ba orgaun eleioral sira tuir rekizitus lei eleitoral foun ne'ebé aprova husi Parlamentu Nasional, nune`e orgaun eleitoral sira bele hala'o sira nian k`nar efetivu liu tan iha eleisaun 2012
- Entidades ne'ebé kompetentis atu fortifika liu tan sistema kontrolu no foti medidas ne'ebé rigorozu ba membrus governu sira ne'ebé uza facilidades estadu iha aktividade partidu politiku
- Polisia & instituisaun Judisiariu sira atu foti medidas ne'ebé apropiadu no rigorozu ba membrus partidu Politiku ne'ebé komete krime ou infrasaun kontra lei ne'ebé ejisti ona durante iha prosesu eleisaun jeral 2012

##### **Husu ba Orgaun Eleitoral :**

- STAE no CNE atu foti medidas preventiva ruma ne'ebé relasiona ho enkuadramentu legal inklui lei eleisaun foun nomos facilidades teknika ne'ebé identifika nudar lakunas ne'ebé sai hanesan obstaklu no dezafiu ba orgaun eleitoral sira bele hala'o sira nian fungsaun ho efetivu, nune`e bele produs rezultadu eleisaun ne'ebé justu no kredibel.

##### **Husu ba UNMIT :**

- Hametin liutan lina koordinasaun ho orgaun sobenaru sira Timor-Leste nian atu garante sidadaun sira nian partisipasaun iha prosesu eleisaun 2012 ne'ebé justu no dame, inklui fornese

rekursu umanus no facilidades ne'ebé adekuaudu iha prosesu kampanha, eleisaun jeral no depois eleisaun

- Mobiliza rekursu umanus ne'ebé adekuaudu hodi halo monitoramentu ne'ebé efetivu ba prosesu eleisaun jeral 2012
- Kontinua promove no facilita prosesu surumutu entre lider partidu politiku sira nomos sociedade sivil atu hametin liu tan konsensu entre lider partidu politiku nian kompromisu atu garante eleisaun

#### **Husu ba Komunitade :**

- Atu respeita prinsipiu estadu direitu demokratiku no direitus umanus, nune`e atu labele hamosu diskriminasaun ba malu tanba kor politika, rasa, relijiaun no seluk-seluk tan iha comunidade
- Hakribit violensia no uza meius legal hodi rejolve konflutis ne'ebé akontese tanba motivu politiku iha comunidade

### **5. Direitu Asesu ba Rai no Uma**

#### **Husu ba Governu :**

- Kria programa nasional ida kona-ba uma adekuaudu husi propriu instituisaun nasional ida ne'ebé iha kompetensia atu dezenvolve politika uma adekuaudu no halo kontrolu ne'ebé efetivu, inklui kria fundus ne'ebé apropriadu hodi hari konstrusaun foun ba residencia comunidade ne'ebé populasaun k`bit laek sira bele asesu.
- Prevene eviksaun ne'ebé uza forsa no kria lei ida hodi regula kona-ba prosedementus propriu ba eviksaun, kompensasaun no realokasaun ne'ebé prevene violasaun direitus umanus labele akontese antes, durante no depois eviksaun.
- Haforsa servisu entre lina minsteriu sira ne'ebé relevantes atu asegura intervensaun integradu ba planu eviksaun tuir lei no padraun standar internasional, hodi garante asesu ba informasaun relasiona ho prosesu tomak ba planu eviksaun nian.

### **6. Direitu Asesu ba Aihan & Nesesidade Baziku Sira Seluk**

#### **Husu ba Governu :**

- Haforsa programa agrikultura-nia objetivu atu garante seguransa aihan ba populasaun
- Kontrola sistema distribuisaun fos atu garante asesu ne'ebé hanesan nomos haforsa produsaun variadaades produktu lokal ne'ebé adekuaudu atu alkansa sustentabilidade produsaun aihan lokal ba povu hotu
- Kontinua halo studu ka peskija kona-ba intrudusaun ba teknologia foun ba agrikultura no aumenta treinamentu hodi hasai kuinesementu kona-ba produsaun aihan
- Hamosu politika no programa dezenvolvimentu ekuitabel no inklusivu ne'ebé aumenta kresimentu ekonomiku hodi fo benefisiu ba ema kiak no vulnerabel sira iha área rural, medida hirak hanesan ne`e sei redus dependensia ba rekursu natural limitadu sira.
- Iha programa hametin kresimentu sustentavel mos implika ba protesauun meu-ambiente no biodiversidade no medidas sira atu prezerva sustentabilidade rekursu nutural sira no konsideira meu-ambiente iha prosesu dezenvolvimentu sira.

# Versaun Ingles

# **“STRENGTHENING DEVELOPMENT WITH THE PRINCIPLE OF RULE OF LAW”**

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**HAK Association  
Human Right Reports – Period 2011**

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## About the HAK Association

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On August 20, 1996 Timorese activists consisted of 6 people such as Mr. Aniceto Guterres Lopes SH., Mr. Agostinho Vasconselhos, Mr. Arlindo Marcal, Mr. Jose Luis de Oliveira, Mr. Jose Jaquelino and Mr. Osorio Florindo, initiated to establish a legal aid office in order to be a defender or a lawyer for the Timorese who were arrested by the Indonesian military for the sake of fighting for independence for Timor-Leste. To strengthen and further the legitimacy of legal aid services to respond to the demands of Timorese situation at the time, in 1997 the legal aid office was transformed with the name ‘Yayasan HAK (Foundation for Law, Justice & Human Rights)’ and the members of the activists whose names mentioned above were the founder of this organization. Thus, starting from 1997-1999 the work of Yayasan HAK was not just as a defender on the court but started conducting monitoring, investigations, advocacy and documentation of cases on human rights violations and humanitarian support to victims of human rights violations by the Indonesian military.

After the people of Timor-Leste got its independent, ranging from 1999-2002 Yayasan HAK remain its reaffirmation back into its position as human rights organization through monitoring the work of UN programs during the transitional period, the advocacy of accountability process of crimes against humanity in Timor-Leste and also capacity building program on legal and human rights aspects for government entities as well as the population at national to rural areas level as a contribution to the phase of transition process in establishing a state of Timor-Leste for the future. To strengthen and enable the existence of the organization, thus in 2005 the name of the organization transform into the HAK Association, so the owner of this organization not only the founders but based on people who volunteer to become a member of the HAK Association and every year receive new members. Starting from 2005 to 2011, total members of the HAK Association are 135 people composed of East Timorese and also foreigners who live within Timor-Leste and overseas. As an organization, HAK itself has a Vision, Mission, Values & Programs such as principle and guideline for HAK to participate in the development process for the freedom of society are as follows:

### **Vission & Mision of HAK:**

“Bringin Timor-Leste society a critical, indepenmdent, open, peace within social structure based on populist principle, respect for enforcement and fulfilment of human rights and local values to achieve social justice” which realize through:

(1) Defending victim of human right violation,

- (2) Building community capacity through transferring knowledge, developing good quality of life, developing local knowledge and participation, and
- (3) Social Control.

### **Value and Principles of HAK:**

- (1) Humanitarian, with non-violence and non-discrimination principles;
- (2) Equality, with local resources, and gender perspective principle;
- (3) Justice, prioritize public interest and sustainability principle;
- (4) Democracy, with solidarity, transparency and accountability, participation, liberty and responsibility principles.

### **Programs :**

- (1) Strengthen the implementation of law. This program is focused on how police, government officials and judicial actors can consistently implement the law in order to protect and respect human rights.
- (2) Strengthening justice. This program is focused on victims of human rights violations in the past. The purpose of this program is to educate the public not to repeat the same human rights violations in the past.
- (3) Advocacy on Economic, Social and Cultural rights. This program is focused on how government policies (including government budget) and this program can strengthen the agriculture and fisheries as a foundation of an independent economic of Timor-Leste. ●

## Executive Summary

The purpose of this report is to present an analysis of the observation and monitoring result conducted by the HAK Association from June to December 2011. For the period of January-May 2011 HAK focuses more on aspects of improving and strengthening the internal management because of the impact of the crisis facing by HAK at the earlier period.

Human rights reports for this period based on the monitoring results conducted by the HAK Association, including the situation of civil and political rights is more focused on the issue of the right to liberty and physical integrity - from the aspect of an inappropriate use of force by security and defense actors - arrest without any arrest warrant from the Court and freedom of religion and the right to participate in politics. On the right access to justice; this report is more focused on accountability cases of human rights violations from 1974-1999 and the cases of women in the formal justice system. In the aspect of economic, social and cultural rights are focusing more on access to land and property and access to food.

The analysis on general situations in regards to the political and security situation in Timor-Leste to remain calm. The political parties began to consolidate its structure to the grassroots level successfully in peace environment. Through 1<sup>st</sup> Maubisse Dialogue held on 21-22 Augusts 2010 & 2<sup>nd</sup> Maubisse Dialogue held on May 20, 2011 at Palacio Nobre, facilitated by the Bishop of Baucau, Mgr. Dom Basilio do Nascimento, all political party leaders promised to give importance to ensure stability before, during and after the 2012 elections. However, there is also concern from the public on the consolidation of several major political parties where they used their party's attributes and mobilize supporters during the consolidation process of which raises public expectations that the political parties have started campaigning. In another aspect, it could also provoke a reaction from other parties, although there were no conflicts between political parties. When the democracy is consolidated and institutions continue building its obligations effectively, can attract public attention to the creation of inclusive environment for everyone to run their rights.



State have an obligation to ensure food security for its citizens



Peaceful protest community to convey their demands on land rights and housing

The HAK Association acknowledged that the development of legal framework on security and defense sectors to further strengthen these institutions to carry out the roles and responsibilities more effectively in the future. On March 27, 2011, transfer of power process in the security sector from UNPOL to PNTL shows a positive sign regarding the institutional capacity to perform tasks / responsibilities to maintain security, peace and stability in Timor-Leste. Processes to strengthen justice mechanism within the institution of PNTL and F-FDTL have significant progress to ensure internal disciplinary and criminal responsibility of legal cases against them. However, HAK keep concerns and disagree with the act of several PNTL and the F-FDTL members who keeps violates legal procedures and human rights standards ratified by the government of Timor-Leste when they take any action against cases that occur within community. HAK receive complain from victims and also reports from some institutions Indicating that the total of 99 cases committed by members of Police and the F-FDTL cover several incidents/acts including bad treatment, physical aggression, using repressive force and in indiscriminate use of weapons to scowled the lives of people in Dili and also in other districts. Serious cases of human rights violation committed by members of the PNTL and F-FDTL just very few of them has been taken to the formal justice system and process of these cases in court are very slow with a lot of reasons, including the Limitation of facility and human resources.



National Alliance for International Tribunal had discussions commemorate Masacre Kararas day.

HAK acknowledged plans and policies for institutional development in the justice sector have significant progress through judicial training programs to increase the capacity of judicial actors, number of judicial actor continues to grow as well as actors in the legal framework through new laws approved such as Penal Code, Anti Corruption Commission law, Witness protection law and Domestic Violence Law in 2009-2010. In other parts, HAK concerns on rural areas where the populations are still facing difficult to access to the formal justice system. Although the domestic violence law was passed, however there are cases on crimes against women and children which are solved traditionally. HAK also concerns the use of language in the trial process is not effective, and the number of pending cases at prosecution service are very high. HAK suggests that the need for reform in the implementation of legal framework to improve the quality of access to formal justice system is needed.

Victims of serious human rights violations cases occurred in the period 1974-1999 remains the challenge to get right to the justice and reparations. Two perpetrators (Maternus Bere and Valentim Lavio) who involved in the alleged massacre in 1999 in Covalima and Liquica districts, after being caught by PNTL and UNPOL to be submitted to the judicial process did not end up getting a prison sentence and release them to Indonesia (West Timor). Draft law of reparation and memorial institute were not priority at National Parliament debates, thus both draft laws are currently pending. Some important recommendations submitted by the CAVR and CTF have not been implemented and did not get serious attention by the competent entities.



Families victims of human rights violation period 1974-1999 was always yelling justice

HAK also observed that there are conflicts between

religions that exist in Timor-Leste prior to independence and new religion that emerged after independence. Religion has long been in Timor-Leste are not satisfied with the various activities undertaken by the new religion within society. Therefore it causes various negative reactions from the old religion along with the local authority including religious leaders against the presence of a new religion via protests, manifestations, Destroyed Properties, physical aggression and terrors in Dili, Liquica, Manufahi, Bobonaro and Baucau districts. Although these conflicts violating legal standards and human rights; however the competent entities do not take any proper action to prevent it and let it occurred.

Development can not be a reason to justify by removing or moving people from their homes without adequate condition, because as a citizen, every person has the right to protection from forcible eviction from their homes. Facts have shows that forcible eviction by the Ministry of Justice created eviction against population in Dili and also in some districts. The consequences of forcible eviction have raised 202 head of the family moved from Dili to the districts to live in conditions that are not adequate and the majority of them are women and children and their conditions are increasingly vulnerable. ●

## Methodology

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Information gathered by the HAK Association is to produce this report; and the work done through the traditional mechanisms by HAK staff such as direct observation on the work of the State officials such as PNTL through a regular visit activities to Police Headquarters in all territories of Timor-Leste, receiving complaints and assist victims to present their case to the competent organs through HAK and other organizations, observing the work of the Office of Prosecutor General and the Court. Additionally, HAK gather information through meetings with the strategic target groups at district level consisting of Local NGOs, community leaders, martial arts group, held discussions with political parties and also collect information from mass media and electronic.

In other parts, to complement and reinforce the content of this report, the HAK Association have access to important and highly relevant information from NGOs such as Fokupers, Forum Tau-Matan, Belun UN Human Rights & Justice Section, and also get a reference of a joint report from PDHJ and civil society submitted to the UN Human Rights Council when conducting universal periodic review, a statement of Special Reporters to Extreme Poverty and Human Rights who visited Timor-Leste in the period of 13 to 18 November 2008, the Report of the UN Secretary General on Mission in Timor-Leste on January period of 8 to 20 September 2011 and the statement of UN working group on missing persons in February 2011.

From the information compiled from various entities by HAK, after HAK staff perform compilation and approach to identify relevant information on human rights situation concerns by HAK in this report. Refers to existing data and information, as an organization; HAK held internal discussion three times to analyze this information before put them into a report.

During the process of collecting data and information, in general, HAK gained good cooperation with all parties including government entities, civil society and representatives of strategic target groups in districts. The HAK Association acknowledge that if this report is not comprehensive and representative of all human rights issues occurred in Timor-Leste, it is because the human rights reports produced in this period relates only to the area of HAK programs.●

# Introduction

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In 2012 Timor-Leste will conduct two elections (Presidential and Parliamentary Elections) a third time after independence to form a new government. Political leaders and political parties began to consolidate the structure at the grassroots levels. Members of political parties who are currently hold positions in government and parliament more intensive using government resources for party interest. HAK's observation shows that there are tendency from politicians to politicize the process of state legislative important issues to the interests of their party, such as legislation issues of reparations of victims, veterans, land, rice problems and corruption issues. Therefore, it cause public perceptions that it's indicating the above topics as efforts of political party leaders who occupy government positions, although those issues are state's obligation to guarantee the rights of its citizens.

The general election of 2012 is very important for the process of strengthening democracy and the rule of law in Timor-Leste in the future, because the temperature of the politic and security situation remain safe and stabil; it is as an opportunity to build state institutions to carry out its role and give attention to the development process to ensuring people's lives better. According to HAK observations showed that state institutions have not optimally perform its role to serve, guarantee, protect and fulfill the rights of its people, through the strengthening of cooperation and appropriate integrated mechanism between relevant state institutions to respond to community concerns in rural areas.

The joint assessment team composed of government (Secretary of State for Security affairs & General Commander of PNTL) and UNMIT (UN Human Right and Transitional Justice Section, Politic and UNPOL issues) concludes that PNTL in 12 districts have met the criteria for hand over. On March 27, 2011, PNTL and UNMIT signed a terms of Security hand over at the national level to PNTL on the celebration of its anniversary held at the Palacio do Governo. Nevertheless, the General Commander of PNTL requested UNPOL to continue support in aspects of personal security aspects, joint patrols and border policies.

PNTL has not shown professionalism in addressing and combating violence. Most members of the security and defense measures are not impartial and still getting used to react with violence and arbitrary use of weapons in the conflict within the community rather than proactively to address and effectively serve the judiciary act. Therefore various crimes such as murder and assault among groups increased at the earlier months of 2011. This condition indicates that the public have not fully trust law enforcement institutions to serve justice well, thus causing the implications of violence cycle within society continues to increase.

The important institution to promote human rights such as Provedor do Direitos Humanos e Justiça (PDHJ) and Comissão Anti Corupção (CAC), are still facing challenges since there are lack of human resources to perform its functions, so the two institutions is very limited “ to treat diseases of modern government”. Limitation of the two institutions occurred also in the judicial institution and security (PNTL and F-FDTL) and also public service. Although the government of Timor-Leste had established many institutions along with appropriate legal framework, but still there is a mistake because many members of the governmental entities are not comply with regulatory and legal framework applicable in their responsibility. Thus it result in immaturity attitude, interest of party and groupism dominating public works and other government organs that implicating to abuse of power cases remains occurred.

As an organization that has commitment and work in the field of human rights, the HAK Association considers the above situation as serious issues which need attention from government institutions to take appropriate actions.●

## Content of the Report

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Respecting to Human Right in the context of Timor-Leste as an independent country always becomes the concerns of national entities and international communities in the process of building Timor-Leste in order to develop the state institutions and its legal frameworks that respect the principles of democracy and the value of the human rights.

According to the human right principles and the legal framework indicate that State has the competency and responsibility to guarantee, respect, protect and fulfill the fundamental rights of its citizens. Therefore, if the entities do not perform their obligations according to law is considered as the violation of the human right of citizens. This includes the civil and political rights and the rights of economic, social and cultural.

In the content of this annual report, the HAK Association will raise some situation related to the civil and political rights. It also will focus on the issues such as the right of freedom and physical integrity, right of access to justices and the right of participation in politics. From the part of economic, social and cultural rights, it will focus on the access to land and basic needs.

### ■ Right to Life, Security, Freedom for Physical Integrity

The National Police of Timor-Leste (PNTL) recently took over the full responsibility of security from UNPOL, has not yet showing its professionalism in preventing and solving the violence. Even the Government through the Council of Ministers already established and endorsed an adequate legal framework regarding the disciplinary regulation, Decree law of the use of power and Decree Law of Pay rate of PNTL and there have been many technical capacity-building programs provided about the knowledge on the international standard through the cooperation with many other partners. However, many PNTL members in performing their task are not impartial and still using the violence and weapon as the means to solve problems in the community instead of using proactive actions through the prevention and judiciary actions effectively.



Police use excessive force to stop the action of the people expressed their demands for land and housing rights in a peaceful

According to the data collected by HAK after combined and analyzed with other data from other competent institutions show that, in 2011 there are 99 case of allegation of miss treatment committed by PNTL members. These cases were mainly related to the arresting, detentions of the martial arts members were involving in confrontation, and other conflicts happened in community. The HAK association also received complaints from the victims regarding the miss treatment committed by the members of F-FDTL. There were 9 cases of miss treatment for F-FDTL. All these cases are now in legal process. However, HAK Association concerns regarding the accountability of these processes as the action to these cases of disciplinary and crime of the law enforcement members are very slow. More than that, there cases from 2010 involved 199 PNTL members include 10 police women are still pending. In addition to that, there are no clear regulation yet of the role and functions in the operational level between Military and Police.

In the period of this report, HAK Association also received allegations and complaints from community against the members of Police and F-FDTL. These allegations are the cases related to the abusing of power and weapons not according to law which caused the victims lose life. The data show that on 16 May 2011, a F-FDTL soldier committed the abuse of power which resulted a women die in Dili (please refer to the case description below). This F-FDTL member was officially dismissed from F-FDTL Institution on 17 June 2011 and on 26 October 2011 the Dili District Court decided the punishment of 15 years imprison. In addition to that, HAK Association also identifies cases against PNTL members using weapon inappropriately according to law which resulted a women day at Bobonaro District in 4 November 2011. Two PNTL members are now in detention centre and facing the investigation of disciplinary. HAK association is very concerned with these cases as it resulted two women were killed. However, on other hand, HAK Association appreciates the State actions against the perpetrators. It is a good sign of the State's willingness to solve cases that involved the members of law enforcement institutions. This actions need to carry on in the future in order to improve the credibility of the two state's institutions.

Based on the monitoring conducted by HAK indicates that during the PNTL operation conducted at Baucau Distirct from 20 June to 30 August 2011, there were 37 suspects arrested and HAK

### **Two PNTL memebers were inappropriately using weapon and killed a women in District Bobonaro**

On 4 November 2011 evening 12.00 o'clock at suco Lourba, Sub-district of Bobonaro, there were two Police members named MMDJ/initials only (Member of Border Patrol Unit) and LCD/also initials only (from Bobonaro Sub-District Station Police). LCD is MMDJ's brothers in law. They and families were attending and celebrating the anniversary party of MMDJ's son. MMDJ and LCD drunk tua-sabu (local spirit) and were very drunk. There was also a dance. MMDJ was dancing with his wife in appropriate attitudes said kizomba dance. MMDJ's wife was not like the way his husband dancing and decided to leave the dancing floor and went back to sit down. But her husband kept insisting and pull her for dancing. The attitude of MMDJ made Mr. Augusto (MMDJ's wife brother) angry and he tried to stop MMDJ by pushing each other. in reaction to that MMDJ pull out his pistol and aimed to Mr. Antonio but Mr. Antonio reacted back back by throwing stones against MMDJ. But suddenly MMDJ changed his pistol aim to his wife and shot her and hit her on her leg. The other police member LCD did not do any action to stop but only shot to air as warning and all people in parity tent were running away. Soon the victim Mrs. Lurdes Soares Cartelita Ximenes alias Lulu got shot she fell down and then her father Mr. Alcino came to take her up and seated her on a chair as she was severely injury. When MMDJ sow the victim/Lulu has not yet die he aim his pistol to Lulu and shot again twice and killed her.

These two police member MMDJ and LCD charged of crime of murder of Lulu. They had face preliminary hearing at District Court of Cova-Lima, and now in prevention detention at Becora Prison. There is also ongoing investigation on procedure conduct of disciplinary from PNTL's national department of justice.

identified that there were 20 suspects arrested without Judges mandate from Courts. These actions have violated the art.220 of Penal Code. After the primary hearing the District Court of Baucau decided 8 accuses to be sent to the preventive detentions and 29 accuses were sentence as house detention.

In its monitoring, HAK also found cases about martial arts groups' confrontation between PSHT and the KORKA on 14 August 2011 at Zumalai, Covalima Districts. This incident resulted one police member was killed, one victim was severely injured, one victim has light injured and 58 houses were burned and 168 families were dislocated. There were 15 suspects accused planning the murder to the police member were arrested and put in detention center for hearing and 5 suspects were released. There were also 18 suspects involved in burning houses. HAK association identified that those suspects were received miss treatment from Police members during the process of arresting and in the detention center.

HAK Association also considers that the violation of the human rights described above that committed by the members of Police and Military as crime. The crimes need to be responded accordingly and seriously with remedy actions by the competent state's institutions based on the existed legal framework and international standards ratified by Timor-Leste.

### ■ Rights for Freedom for Religion

The conflict between religions groups have been happening in Timor-Leste. It is not only happening at national level but also in the district level such as in the districts of Liquica, Manufahi, Bobonaro, Manatuto and Baucau. The modus conflicts are mainly happened through the protests, properties destructions and physical assault and life threatening to the minority and new religion groups and their communities. According to data collected by HAK indicates that the churches of Evangelical, Christian Vision, Yahweh and Advent are identified as the vulnerable religion groups as they have been continuously receiving threats from other big religion's community and leaders and local authorities. However, the perpetrators of

### Violation against physical integrity from F-FDTL member which result in a female victim died

On May 2011 at 4.30, in 06 Aldeia, Mascarenhas Village, Nain-Feto Sub-District, Dili District, a suspect with initial name MDC also as member of F-FDTL with his civilian friends drank 4 bottles of spirit drink and 3 bottles of ABC beers. At the moment a witness with initial name LC went to visit an elderly man with initial FM near the place where they drank. Not long afterwards, MDC also went to see the elderly man and found LC was crying. So he asked LC why he cried. LC answered that he cried because FM was very sick. So MDC asked again, if FM allowed, he would like to cure him because he believed that FM is witched by other people.

While talking, Ms. Luciana Martins came in on FM's door bringing some food for FM. MDC suspected that Luciana Martins was the witch who made FM sick. Believing on his opinion, based on the story from 5 witnesses, MDC slapped and pulled Luciana's hair, continuously kicked her and hit all over her body with a shovel. Then, he also tore her clothes and spread her legs to display her genital while saying that, "she is a witch, she is a witch, she hides her magical roots in her genital." Then, he took her and put in the well while saying that, "Nobody can intervene, I am a member of F-FDTL, whoever intervenes, I will treat him/her the same way I treated her." At the time the victim cried and prayed, "God, I have nothing to do with this," but MDC still kicked and punched her till she fell on the ground and unconscious. Few minutes later, the ambulance came and took her to the National Hospital for treatment; however, she died on the way.

As a consequence, the suspect MDC officially condemned and fired from F-FDTL on June 17, 2011 and Dili District Court decided to condemn MDC for 15 years in prison.



Every person free has a religious

this case until now have not yet faced any legal actions. According to HAK observation indicates that there are tendency of conflict between the new and old religions groups and it will continuously happening in the future if the state does not take actions this case according to law. In the community where the new religions exist always facing the pressure from old religion. The old religion considers the activities and programs conducted by new religions are against and not respecting old religion and the culture of Timor.

As an organization that working in the area of human right, HAK association is concern to the violence and the pressure committed by big and old religion against the churches of Evangelical, Christian Vision, Yahweh and Advent and their communities. The state institutions should process the author of violence according to existing legal framework. According to the Constitutions of Timor-Leste article 45.1-4 declares that each citizen has freedom to choose any religion and culture. And the article 135 of Penal Code of Timor-Leste regulates that person or group commit propaganda and recrimination, vengeance and violence is considered as crimes. Also in the convention of civil and political right regulate that the minorities' person or groups should be protected by state and there is no prohibition for them to do their activities of culture and religion. Because if failed to protect them is considered negligence of justice to minorities races, cultures, ethnicities and religions.

According to HAK perspective, States has obligation and responsibility to guarantee and protect any groups of citizen in celebrating their rights including the minority groups and not to limited or prohibit any citizens to do their cultural and religious activities. This also includes guaranteeing the exiting religions in Timor-Leste to respect each other and establishing the conducive and harmony situation. State also has obligation to take actions according to law to the religions and their members those violate other people or religions rights and do not respect the human rights.

## ■ Rights to Access to Justice

The principle of equality in the justice system and its administration services and procedural mechanisms is also the important issues in order to improve the responsibility and to promote and maintain the effectiveness of the implementation of laws. According to the Constitution of RDTL articles 118-136 and other relevant laws define that the State bodies that have responsibilities and competencies in guaranteeing the justice systems are Office of Prosecution General, Public Defender Office and Courts and Police and Prison or correction Service. Even the Police and Prison Service are the two institutions under the executive power of Governments the two institutions do get sufficient attention from government. Especial for the two units of PNTL, the Investigation units and the Vulnerable protection Unit which are working closely with the prosecution service during the cases investigations are still lack of funding and logistical equipments. This also has great impact for these two PNTL units to undertake well their role.

HAK also found that there have been significant progresses achieved by the justice institutions in justice sector such as; development in justice sector institutions' infrastructures and their resources. The training programs are continuously provided to justice actors in order to improve their capacities including to training prison service guards/staff through the Legal Training Centre, various workshops and seminars conducted and also work training to other foreign



One of the atmosphere in Dili District Court after session.

countries. There also have been progress achieved such as establishment of the integrate information systems for each justice institution, implementation of domestic violence law, training on the legal Tetun language and the increasing in the numbers of the justice actors. Until now the total justice actors are 25 Judges (5 judges are women), 21 Prosecutors (3 prosecutors are women) and 18 Public Defenders (3 are women). This improvements need to be carry based on the Justice Sector Strategic Plan 2011-2030 and National Planning in order to guarantee access to justice for the people in rural area in the future. HAK also really appreciates the establishment of mobile courts, which is implemented by the districts courts.



Is there justice for all people?

In other part, based on HAK observations show that there are still many pending cases. There are 4.830 pending cases at Prosecution Service and 890 pending cases at Courts. Based on the number, it shows that pending cases still become the concern in justice institutions. Therefore, it is necessary for justice institution to take integrate actions in order to reduce the number of pending cases. Even the law No 7/2010 of Domestic Violence have promulgated on 7 June 2010 and considers the domestic violence as public crime, however base on the HAK monitoring identified that many local community leaders and police in districts are continuing solve the domestic violence cases through mediations and family.

Even in the Constitution of RDTL guarantees the using of Tetun language in judicial system, however, during the trial processes in courts, court decisions and other official publications in justice sector including the promulgations of laws are still using Portuguese and English as main language. This situation has negative impact in which limited citizen to have access to justice. The implementation of the law No. 11/2008 which regulates in regards to all private lawyers licence, as before legally accepted as lawyer at courts, they should attend training during 15 months at Legal Training Center and practice for 9 months. This is indeed a positive means to improve the quality and capacity of private layers. But there is a concern that currently the number of private lawyer is very low. According to prediction by June 2012 there will be only 14 private lawyers will completed the training together with 16 public defenders. With this number, it is definitely not sufficient to respond to the citizen needs of legal assistant which in results many of them will lose their right to have access to justice.

As an organization that working in the area of human rights, HAK also identifies another important issue related to the strengthening the principle of democracy and the rule of law in Timor-Leste, that need to have attention from relevant institutions. HAK always concern regarding crime against humanity and human right form the past conflicts since 1974-1999 in Timor that resulted 102,800 people died. The victims and their families are now waiting for truth, justice and reparations. Since Timor-Leste independent for 12 years, the majority



Family Victim of human rights violations the period 1974-1999, always shouting for justice

authors of the crimes have not yet face the Courts. This situation is getting worst because of some Timor-Leste's State and government leaders including president do not have political willingness in regards to the past crime cases against humanity.

Many facts could be seen from the president were continuously using his constitutional power in granted pardon and abolition to crimes authors against humanity happened in Timor-Leste. For example, there was a case of a Militia Leader who murdered 9 people including 2 nuns, 3 brothers and 1 journalist. According to courts decisions this militia leader were sentenced for 33 years imprison, however at the time when he just completed 7 years, the president already granted him pardon and free. HAK also concerns in regarding to the cases of two militia leaders who were well known committed crime of murders were captured but after released. They are Maternus Bere from Cova-Lima District was sent back to Indonesia based on Prime-Minister Instruction and Valentim Lavio from Maubara was also released and then fleet back to Indonesia based on Dili Court decision.

There are no clear explanations and statements from government regarding effort in implementing of the recommendation from CAVR and CTF. Even in the meeting about the Universal Periodical Revision with the Human Right Council, the government of Timor-Leste declared that already implemented the 200 recommendations from CACR and CTF Commissions. Even Timor-Leste already spent time, resources and lot of budget for these two commissions, however, in reality these recommendations have not yet implemented including the creation of the law of memorial and reparation which until now still pending in National Parliament.

## ■ Rights to Participate in Politics

The 2012 election next year will be an important exercise in the process of improving the principle of democracy and the rule of law in Timor-Leste in the future. Because only with the peace and stability will be come as good opportunity to develop state institutions in conducting their role in other to put more attention and guarantee the well being of the citizens. According to HAK observation find that there are many entities from State and civil societies organizations including church have conducted various important activities to encourage and strengthen citizen especially women to participate in politics in relation to the preparation to the election next year.



Based on HAK monitoring in 2011 find out that there are 22 Political parties registered at CNE and they are legally can participate in general election 2012. These political parties have been beginning their consolidation process and reorganize their structure through the congress at national and districts level. In the meetings between political parties leaders, Churches, Civil society organizations which facilitated by the Bishop of Baucau in 21-22 August 2010 at Maubisse and the continuation meeting in 22 May 2011 at Palacio Nobre became as the commitment of the political parties leaders in guaranteeing the national elections 2012 to be done peacefully. The electoral bodies such as CNE and STAE have put lot of effort to the electoral administration preparation including the logistical preparation and civic educations before enter to the national elections 2012.

In addition to that, the National Parliament also has approved new laws No 08/2011 & No 07/2011 about the Elections of Presidents and National Parliament. These two laws have the advantage to women that regulates the number of women participation in politics.

In other parts, HAK also has identified some important points that need to be considered by political parties and other state entities. These issues are as following;

Based on HAK observation indicates that almost all political parties have not yet familiar and understand the term of consolidations. Therefore, it has an impact during the consolidation process because many times political parties are using the offensive and provocative language. Even it has not yet causes any violence so far. Therefore, HAK suggests to all political parties to not only doing the consolidation process when it is near to the election time. Because this activities are important for the political party in order to show their characteristics to educate people to become a good quality political party member in various aspects. These activities should be continuously conducted in sustainable manner, as this will be able to change public perception on political party. Because the perception to political parties present day is only identical with elections. In fact, the political parties also should have an important function in strengthening and improving the process of national development.

Even currently there is no specific law regulates about the consolidation process of political parties, this not means that the relevant authority of state cannot use other general principles of laws which are relevant to the issues if in the consolidation process occur any incidents that affects and violates the citizen civil rights. For example, in HAK observation indicates that during the consolidation of some political party, the militants block the public road access and prohibit community to use the road for time being. In fact, this attitude is not permitted, as it is violate other people civil rights.

In relation with the approval of the new Election Law of President and National Parliament, HAK Association also identifies there are many gaps. In generally these two laws will cause the contradiction in the 2012 election. If comparing with the old laws, the new laws do not give full competency and power to the CNE as the independent foreseen institution during the election process, but on other hand, it gives more competency and power to STAE, which is technically a government institution. Actually, the CNE should have more power to supervise and foresee the STAE during the election process. HAK is really concern with the article 35 of this law which is not guarantee all Timorese citizen that living in foreign countries to participate in election because many Timorese who are residents in other countries do not yet have the RDTL passport or voter card. More than that STAE still lack in many resources such as the sophisticate tools and human resources including there is no budget allocated in order to execute and implement the issues mentioned in this article. This also will have an impact to the confidentiality and accountability of the votes if this article is implemented. The law also regulates that the voter only have right to vote in the suco where he/she was registered. HAK considers this article is unconstitutional as in national elections all citizens should be able to vote wherever they are at the day of election. HAK suggests to National Parliament to amend referred articles of these two laws, as it will emerge many obstacles and conflict during election.



National Congress Socialist Timores Party.

Even in the law No 07/2011 of Election of National Parliament article 12 point 3 regulates about the number of women participation in politics, however in reality women are continuously face many challenges in the society especially from the patriarchal culture and also the political parties internal decision. All of these issues become the barrier for women in decision making which is not in favors to their political interests.

## ■ Right to Access to Land and House

The issue of land and property especially living place/house still become a complex social problem in Timor-Leste since the occupation of colonial Portuguese, Indonesia and even during the Timor-Leste become independent country. In 1999, about 70% of infrastructures were destroyed including population houses in Timor-Leste. The present situation shows that about 58% of population still living in inappropriate house condition until now. The impacts of the past conflicts have forced the population to occupy state properties and other private properties left by Indonesian in the national and the districts. The problem of shelters and land were getting worst with the 2006 crisis where about 5.300 houses were burned and destroyed, 67.916 populations were displaced to IDP camps in Dili, and 78.431 populations were moved to districts.

In response to this problem, government has allocated fund 10 million through Ministry of Solidarity Social as the subsidy to the population, whom their houses were destroyed and burned. This is also as government action to reintegrate the displaced people to communities including build 5 houses in each Aldeia in Timor-Leste for this purpose.



Communities to claim their rights to housing

However, until now there are still many complain from population to HAK Association regarding the compensations. Many people have not yet receive the compensations to their houses were destroyed or burned during the 2006 crisis. According to the HAK observation found that the task force team who are in charge for this program have not yet undertake this situation effectively and adequately to solve this problem. There also other issues that many people who are occupied in the government property are vulnerable to the government decision to forcedly expel them from these properties.

Based on the monitoring conducted by HAK indicate that since January 2011, Ministry of Justice through the Directorate of Land and Property has commencing to expel all population who are occupied the houses left by Indonesian Government. This action has resulted that many people will lose their houses. According to data collected by HAK indicates that since January to November 2011 there are 3 cases of expelling in Dili at the area of Brimob/Bairo Pite, the area at front and behind of TIMOR Plaza and Bidau. There are also 3 cases of expelling in the districts of Lospalos, Manufahi and Ermera. The impact of the expelling have caused 202



Communities demanding their rights to land and housing

families are force to leave the government property and 21 families from the private land property. These problem will always happen in the future as those people who are occupied the government and private property including the property that have not yet clear legal status. According to the HAK observations, even these families have received the financial compensation however, the fund is not sufficient to buy land and build a new house. This situation also affects these families as they will be vulnerable and lose their right to have proper and adequate life condition such as proper shelter to stay during wet season, proper sanitations and suffer from various diseases and many children live too far from their schools. This expelling should not cause people lose their house, as it is considered as the violation of human right. therefore, state in this situation needs to find out appropriate way to provide a proper solutions such as provide alternative shelter conditions and sufficient allocation of fund and provide a piece of land if necessary so the population can build their houses before the execution of the expelling.

### ■ Right to Access to food or basic needs

The climate change and the heavy rainfall that happening recently have caused the natural disasters in Timor-Leste. This situation has great impact to the farmers to increase their crops harvest in districts especially in rural area. Government has put an effort to buy rice from other countries to response to the situation of lack of food. However, according to the monitoring conducted by HAK found that many people in rural area have not have an access to the government rice subsidy because there were many manipulation of price in the market. Even government already created many program to increase the food production through the distribution of tractors, hybrid seeds, pesticide, herbicides and fungicides for the formers, however, the life standard of formers in districts have not shown the significant improvement. In fact, food production is still low.



From other part HAK also notices that the inspection and the controlling the basic need from the competent authorities have not yet implemented effectively. Even the tributary laws have been implementing for long time and the tax reduction to the basic necessity in the market however, the there is no proper controlling system on the price including the there is no protection mechanism to the right of consumers. More than that there are many enterprise still sell goods with low quality and already expire dates and set the price as they want. Some goods are even having double price as normal.

Poverty, uncertainty of food security and unemployment are the worst aspects of people life especially in the rural area where almost 75% population live. The majority of population in rural area are lack of access to information and other social communication means, low quality of infrastructure and the centralize process of decision making in the national level. This also has become the obstacle of the basic services deliveries in districts, suco and aldeai levels.●



# Conclusion and Recommendation

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## Conclusion

On policy and legal aspect Timor-Leste has achieved significant progress compared to other post-conflict countries, because the government of Timor-Leste has shown its commitment to develop legal framework that will strengthen the function of state institutions, according to the international standard laws that has been reflected in Timor-Leste constitutions, to strengthen the principal of the state that is democratic, respect to the law and human rights. However, in its implementation the government of Timor-Leste is still facing various obstacles and challenges from cultural transformation, political ethic, mentality and attitude, from the experiences of past conflicts into the state building phase through modern governance process. This condition indeed reflects in the task of state institutions to serve, guarantee, and protect to meet the right of the people based on the government objectives that was regulated in art.6 of the RDTL constitution. However, sometimes it has not functioned effectively and professionally, because it is dominated with feudalism, paternalistic culture and the habits to react to violence instead of proactively takes preventive measures and serve the judicial action effectively.

The state institutions responsible to guarantee justice to the people in the country, such as police and judicial actors are still facing various difficulties and obstacles both internally and externally (i.e. social political environment). All of these give implications to those state institutions that they haven't functioned properly according to the law, in order to provide services and guarantee the principal of rule of law to all the people.

Power transference from UNPOL to PNTL was an important sign of confidence for us to see the ability of PNTL institutions to respond the internal security challenges and obstacles during the general election period 2012 and when UNMIT mission ceases in December 2012. HAK Association would like to thank to all the political parties that have agreed to maintain the peace during the structure consolidation of parties on the base and HAK also expects that this situation will continue during the campaign process, election and after the election in 2012.

Election 2012 is an important event to raise awareness to all the institutions including all the electoral organ, civil society, and leaders of political parties, through their tasks and responsibilities to guarantee a peaceful election and create a positive political climate, so that past experiences will not happen again in this year's election. HAK appreciates that 2012 election is a determinant factor as measure in the process of strengthening the democracy and development of Timor-Leste in the future.

# Recommendation

To ensure the government of Timor-Leste to be a democratic state as well as a state that guarantee rights that are written on the human right conventions which have been ratified, and based on the results from HAK monitoring as well as other source of information and other accessible reports, it is recommended to each state institutions to consider the following in order to take action according to each one's competence to improve the condition of human rights better in the future.

Specific recommendations as per topics that identified in the report for this period are as follows :

## 1. Rights to Life, Security, and Freedom for Physical Integrity

### **We urge the PNTL to :**

- Accelerate the investigation when receives complains and allegations from the community, against members of PNTL and rigorously and transparently take internal disciplinary measure and through social communication, guarantee that the process of criminal investigation to all the allegations runs effectively, including accelerate investigation process to criminal and disciplinary case to all the cases up to 2010.
- Strengthen the implementation of the internal policy of the institutions and weapon control systems and regular monitoring to all the police member in the national and district level, so that there will be an effective control, and immediately investigate and takes adequate measures to those who abuse weapon/gun.
- Strengthen and support the department of Justice in PNTL office in the district including Investigation Unit (VPU), so that they can perform better in the future and develop an effective line of coordination in the judicial institutions.

### **We urge the F-FDTL to :**

- We urge the Timor-Leste Defense Force Falintil or Falintil Forsa Defeza Timor-Leste (F-FDTL) to ensure that when there is a disciplinary allegation or crime against any member of F-FDTL, a rigorous investigation should immediately be conducted. We also recommend that the investigation and disciplinary process should be accelerated against all the pending allegation cases in the Department of the Justice F-FDTL based on the decree law No. 17/2006 and Disciplinary Regiment.
- Ensure and strengthen the institutional support service to the member of the Department of Justice in terms of facility and human resources including development of effective line coordination with other judicial institutions.
- Periodically publish information to the public in regards to the effective measure that the institutions had taken in relation to the accountability process for all the members.

## 2. Rights for Freedom for Religions

### **We urge the leaders of the Religious Community to :**

- Create an inter-religion counsel with its representatives comes from all the religions (both new and old religion), in order to assist solving the problem or conflict between the religion group and coordinate with relevant institutions in relation to the public interest in the society.
- Develop various programs in the community to strengthen unity and tolerance between religion groups that exist in Timor-Leste, including promoting the culture of dialogue to prevent violence in the future.

**We urge the National Police or Timor-Leste :**

- Investigate thoroughly and bring all the actors of the violence that have indication to actually commit crime that relates to conflict between religion to justice with no discrimination and based on the law that prevail in Timor-Leste.
- National Police of Timor-Leste should be neutral and impartial when solving conflicts between religion group and measures should be immediately taken to any police member who do not obey this principal and did not perform his/her task according to the law.

**We urge the Government Institutions to :**

- Develop curriculum about all the religions that exist in Timor-Leste and adopt it in the formal education through Ministry or Education
- Develop laws that recognize the existence of various religions in Timor-Leste and guarantee an equal participation including how these religions create a harmonious and peaceful environment.

**We urge the Civil Society and Community :**

- Respect and value including not to discriminate the existence of different religion in Timor-Leste
- Civil Society to develop and implement civil education program in the community in order to raise awareness of the community to value and respect each other.

**3. Right to Access to Justice****We urge the President of Republic to :**

- Explore possible ways with Indonesian government to improve accountability process on the crimes between 1974-1999, besides peace and reconciliation process in Timor-Leste in the future and propose to rectify the convention treaty for human disappearance, so that Timor-Leste can follow its legal obligation to identify including search for those who disappeared during Indonesian occupation.

**We urge the National Parliament to :**

- Draft law for mechanism of implementation to ensure that clemency process that the President of Republic gives is according to the establishment of law, based on international guidelines; and establish a consultation process with all the relevant institutions in relation to the draft of the law before the approval in the National Parliament.
- Give the priority to the debates and approval of law for memorial and repair institute for the victims of armed conflict from 1974 – 1999 which is currently pending in the National Parliament, in order to recuperate the live condition of the victims.
- Appropriately monitor the budget execution in the judicial institutions as well as PNTL institutions especially Investigation Department (VPU), in order to obtain a maximum use of the budget allocation.

**We urge the Government to :**

- Adequately allocate the budget and facilities to judicial institutions to support their work based on the real concern that the institutions are facing to improve their public service quality, especially to guarantee community in the rural area so that they can also have access to justice.
- Develop an effective and regular cooperation between relevant ministries in regards to the implementation of Domestic Violence law and witness protection
- Develop policy to maintain the work of private lawyers to continually provide legal assistance in the court until the time when the numbers is sufficient for private lawyers and continually open the space for private lawyers to attend the continuous judicial training as regular

program in judicial sector to increase the quality of work including other judicial actors.

#### **4. Rights to participate in Politics**

##### **We urge the political parties to :**

- Show strong commitment and maximum tolerance between leaders of political parties, including the members, to create a peaceful and harmonious political environment during campaign, general election and after the election.
- Use the existing legal mechanism to solve electoral elicited that occurs during the campaign election, and after the election, in order to strengthen the democratic of Timor-Leste under the rule of law.
- Regularly (not only before the election) develop programs that improve political awareness and understanding the aspects of the democracy and rule of law, the principle of nationalism, human rights and other necessary aspects, from the structural leaders of the political parties both in national and district level based on the international law standard. Hence, they all become good members and proactive in the development process in Timor-Leste in the future.
- Develop and implement internal mechanism within the parties which give opportunities to women to develop themselves in making decisions in the parties, based on the international standard and new election law that has been approved by the National Parliament.

##### **We urge the National Parliament to :**

- Amend art. 35 and other articles in the general election law which are not in accordance with the current situation in Timor-Leste and still lacks appropriate facilities to implement all the requirements that is stipulated in the law, so that it will not hinder the general election process in 2012.
- Approve appropriate budget to all the electoral organs so that they can function properly and effectively based on the requirements that is stipulated in the laws that are related to the general election 2012.

##### **We urge the government to :**

- Appropriately allocate funds to all the electoral organs so that they can function properly and effectively for the general election 2012.
- Respective institutions to strengthen their control system and take rigorous action to all the government members that use government facilities and vehicles for their parties' activities
- Police and Judicial institutions to take appropriate and rigorous actions to all the members of political parties that commit crime or activities that are against the existing laws during the process of general election 2012

##### **We urge the electoral organs :**

- STAE and CNE to take preventive measures in relation to the legal framework including new election law and technical facility that identified as gaps and become challenges and obstacles for electoral organs to function properly and effectively, so that the results of the election is fair and credible.

##### **We urge the UNMIT to :**

- Strengthen the line of coordination with all the sovereign organs in Timor-Leste to ensure a fair and peaceful participation of all the people in 2012 election process, including providing adequate human resources and facilities during the campaign, election and after the election
- Organize adequate human resources for effective monitoring of the process of general

election process 2012

- Continue to promote and facilitate meeting process among the leaders of political parties to guarantee a peaceful election

**We urge the community to :**

- Respect the democracy and the principal of rule of law and human rights, so no more discrimination based on the politics, race, religion and others within the community.
- Not to use violence, instead use legal ways to solve any political conflicts within the community.

## **5. Rights to Access to Land and House**

**We urge the government to :**

- Create a national program for adequate housing from a proper national institution that has competence to develop adequate housing policy and provide effective control, including create appropriate funds to do new construction for community residence that low income citizen do not have access to.
- Prevent forceful eviction and create law to regulate proper eviction procedures, compensation and reallocation which prevents violation against human rights, before, during and after the eviction.
- Strengthen service between relevant line ministries to ensure integrated intervention to eviction plan based on the law and international standard, to guarantee access to information in relation to all the eviction process.

## **6. Right to Access to Food and other Basic Needs**

**We urge the government to :**

- Strengthen the objective of the agriculture program to ensure the food available for the population
- Control the distribution system of the rice to ensure a fair access to the rice and strengthen the production of adequate different local products to achieve sustainability of the local food production
- Continue research on the introduction of new technology for agriculture and increase training to improve the knowledge of food production
- Create policy and equitable and inclusive development program that increase economic growth so that it can give benefit to poor and vulnerable people in rural area; all these measures will decrease dependency on the limited natural resources.
- To create program that strengthens sustainable growth as well as environment protection and biodiversity and ways to preserve sustainability of all the natural resources and consider the environment in the development process.●



Suporta husi :

