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RESUMU ASESU BA JUSTISA TRIBUNÁL-NIA FUNSIONAMENTU IHA TIMOR-LESTE

Avaliasaun kona-ba Funsionamentu Tribunál Distritál Oecusse no Baucau

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Sumáriu Rezultadu Avaliasaun no Rekomendasaun
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Relatóriu ida ne'e prodús ho apoiu laran-luak hosi povu Amerikanu, liu hosi Ajénsia Estadus Unidus ba Dezenvolvimentu Internasionál (ka *USAID)* tuir termu iha Akordu Kooperativa ho Númeru AID AID-486-A-13-00007 ba projetu Ba Distrito iha Timor-Leste ne'ebé implementa hosi Ajénsia Counterpart International no ninia parseiru sira. Konteúdu no opiniaun ne'ebé espresa iha relatóriu ida ne'e pertense de'it ba Counterpart International, no la-reprezenta vizaun USAID nian ka governu Estadus Unidus nian.

Iha tinan 2013, **Counterpart International, Inc. (Counterpart)** hetan fundus hosi USAID/Timor-Leste atu implementa **Projetu Ba Distritu (Projetu)** ba periodu tinan haat. Objetivu hosi projetu ne'e mak atu hasa'e kapasidade institusionál no pesoál iha nivel lokál hodi fornese servisu báziku ba komunidade nu'udar parte ida iha vizaun luan atu hadi'a prosesu desentralizasaun governasaun no kria asesu ba justisa ne'ebé inklusivu iha Timor-Leste. Relasiona ho aspetu asesu ba justisa ne'e, Projetu iha objetivu atu a) suporta governu hodi dezenvolve no implementa enkuadramentu ba asisténsia legál; aumenta kapasidade no rede ba organizasaun no servisu asisténsia legál; suporta kriasaun no distribuisaun informasaun ne'ebé relasiona ho asuntu legál; hametin funsionamentu tribunál distritál no mós instituisaun sira seluk iha setór justisa.

Sumáriu ida ne'e bazeia ba relatóriu ne'ebé Barry Walsh hakerek bainhira nia hetan kontratu hosi Projetu hodi halo avaliasaun ba tribunál distritál-nia funsionamentu iha distritu Oecusse no Baucau ho apoiu hosi ekipa Asesu Ba Justisa inklui Fausto Belo Ximenes, Maria Veronika N. M. Da Costa no Carlos Miguel. Sr. Walsh halo revizaun ba publikasaun sira, depois halo entrevista ba pesoál tribunál no *stakeholder* sira iha Oecusse, Baucau no Dili. Avaliasaun ne'e foka no haree ba nesesidade judisiál no pesoál sira nian, montante servisu, fasilidade, jestaun orsamentu, automatizasaun, informasaun públiku no transparénsia, no asesu ba justisa. Relatóriu ida ne'e sumariza deskobrimentu importante no rekomendasaun. Sr. Walsh mak halo no dezenvolve rekomendasaun hamutuk ho Sra. Carolyn Tanner, Xefe Diretór Counterpart International nian. Liu hosi rekomendasaun sira ne'e, ami tenta atu diskute de'it kona-ba saida mak presiza atu halo hodi hadi'a tribunál-nia funsionamentu ho efetivu, la'ós kona-ba saida mak Projetu Ba Distritu bele halo. Projetu Ba Distritu-nia atividade loloos sei iha diskusaun no negosiasaun entre Projetu-nia reprezentante sira, Tribunál Rekursu no USAID.

Governu Amerikanu, liu hosi **USAID,** servisu hamutuk ho governu Timor-Leste hodi suporta dezenvolvimentu ne'ebé efetivu iha setór oioin. Dezde tinan 2001, USAID ajuda ona fundus kuaze millaun 253 dolares amerikanu hodi suporta dezenvolvimentu iha Timor-Leste, no iha tinan 2013, USAID fornese millaun 12 dolares amerikanu hodi hadi'a povu-nia moris Timor-Leste. USAID apoia Timor-Leste-nia esforsu atu harii nasaun demokrátiku ida ne'ebé prosperu no saudavel liu hosi programa sira ne'ebé promove kreximentu ekonómiku ho sustentável no inklusivu, liuliu iha setór agrikultura; hadi'a saúde povu Timor-Leste, liuliu ba labarik no feto sira; no hametin fundasaun ba governasaun di'ak—hirak ne'e mak área importante sira ne'ebé mensiona iha Timor-Leste-nia Planu Estratéjiku ba tinan 2013-2030.

Counterpart International ne'e organizasaun globál ida iha área dezenvolvimentu ne'ebé kapasita ema no komunidade atu implementa solusaun inovativu ba problema sosiál, ekonómiku no ambientál. Kuaze tinan 50 ona Counterpart halo parseria ho komunidade sira ne'ebé presiza atu rezolve problema kompleksu kona-ba dezenvolvimentu ekonómiku, seguransa ai-han no nutrisaun, no harii governasaun no instituisaun ne'ebé efetivu. Atu hatene liu-tan kona-ba Counterpart, vizita www.Counterpart.org

Tetra Tech DPK (Tt DPK) ne'e lider no inovadór iha área fornesimentu servisu konsultáriu hodi promove regra lei no governasaun di'ak. Tt DPK servisu iha nasaun barak hodi ajuda estabelese no hametin relasaun produtivu entre estadu no sosiedade no dezenvolve governasaun no sistema justisa sustentável ne'ebé responsivu, transparente, iha kredibilidade, justu, no efisiente. Tt DPK-nia área servisu importante ida mak hadi'a asesu ba justisa, liuliu ba grupu dezavantajen sira. Ba informasaun klean liu-tan, visita www.tetratechdpk.com/

Barry Walsh ne'e espesialista seniór iha administrasaun justisa. Nia servisu tempu naruk no badak nu'udar asesór ba Banku Mundiál, Banku Dezenvolvimentu Aziátiku, USAID, MCC, DFID no projetu iha setór justisa ne'ebé fundu hosi Uniaun Europeia. Sr. Walsh mós uluk servisu nu'udar espesialista seniór ba Reforma Justisa hamutuk ho Banku Mundiál-nia Ekipa Prátika Reforma Justisa iha Washington D.C. Sr. Walsh nia espesialidade mak administrasaun tribunál no jestaun kazu, no nia servisu iha fatin barak ona, inklui Indonézia, Filipina, Papua Giné Foun, Índia, Nepál, Bangladexe Afeganistaun, no Srilanka. Nia mós uluk tuur iha pozisaun nu'udar Xefe Ezekutivu iha Prokuradoría-Jerál-nia Departamentu no Tribunál ba Relasaun Industriál, fatin rua ne'e iha Sydney, Austrália. Sr. Walsh simu Lisensiatura Direitu hosi Konsellu Admisaun ba Solisitadór no Advogadu iha Sydney, Austrália, no nia simu Diploma Pós-Graduasaun iha Jestaun Setór Públiku hosi Universidade Teknolojia Sydney, Austrália. Nia mós simu Sertifikadu Pós-Graduasaun iha Jestaun Mudansa hosi Australia-nia Estudu Jestaun, iha Sydney.

Kontendu

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VIZAUN JERÁL: SISTEMA JUDISIÁRIU IHA TIMOR-LESTE

Sistema tribunál ne'ebé daudaun ne'e eziste iha Timor-Leste adopta hosi sistema ne'ebé uluk Administrasaun Tranzisionál Nasoins Unidas nian ba Timor-Leste (ka UNTAET) estabelese iha tinan 2000[1] no iha sistema ida ne'e eziste Tribunál Rekursu ida no tribunál distritál haat iha distritu Dili, Baucau, Suai no Oeccuse. Tribunál distritál Dili kobre distritu sira hanesan Aileu, Ermera no Liquisá no tribunál distritál Baucau kobre distritu Baucau, Lautém, Viquque no Manatuto. Tribunál distritál Suai kobre distritu Covalima, Manufahi, Ainaro no Bobonaro. Tribunál distritál Oecusse mak kobre de'it distritu Oecusse. UNTAET-nia regulamentu mós fasilita estabelesimentu ba tribunál distritál iha Lospalos, Viqueque, Same, Maliana no Ermera, maibé tribunál sira ne'e seidauk estabelese. Maske konstituisaun RDTL mensiona estabelesimentu ba Tribunál Supremu no inklui tribunál administrativu sira seluk, tribunál sira ne'e mós seidauk harii.

Konstituisaun deklara katak prezidente Tribunál Supremu mak prezide ba Konsellu Superiór Judisiáriu ne'ebé iha kompeténsia atu halo nomeasaun, transferénsia, mantén dixiplina no promosaun ba juis sira bazeia ba Estatutu Majistratura Judisiál[2]. Iha prátika, funsaun ida ne'e prezidente Tribunál Rekursu mak hala'o tanba Tribunál Supremu seidauk estabelese. Efetivamente, prezidente Tribunál Rekursu mak xefia judisiáriu no funsionáriu sira iha Tribunál Rekursu mak asiste prezidente halo administrasaun ba tribunál hotu-hotu.

Kompara ho tribunál, Ministériu Públiku no Defensór Públiku mós iha estrutura governasaun ne'ebé hanesan. Konstituisaun define estabelesimentu ba Ministériu Públiku no Konsellu Superiór ba Ministériu Públiku ne'ebé responsabiliza hodi halo nomeasaun, transferénsia, promosaun no dixiplina ba prokuradór sira. Ministériu Públiku ne'e harii iha tinan 2005[3].

Defensór Públiku, ne'ebé hamriik iha Ministériu Justisa nia okos, mak entidade ida ne'ebé iha responsabilidade atu fornese asisténsia legál, judisiál no ekstra-judisiál, ho gratuita ba sidadaun sira ne'ebé laiha meius ekonómiku sufisiente[4]. Defensór Públiku ne'e harii durante tempu UNTAET hodi reprezenta arguidu sira iha Painél Espesiál ba Krime Grave (*Special Panels for Serious Crime*) iha tribunál distritál Dili[5]. Maske nune'e, hosi tinan 2005 mai-oin, Defensór Públiku nia mandatu aumenta hodi fornese asisténsia legál ba iha Timor-laran tomak. Konsellu Superiór ba Defensór Públiku mak tau-matan ba nomeasaun, transferénsia, promosaun o dixiplina defensór públiku hotu-hotu nian.

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[1] Regulamentu UNTAET Númeru. 2001/25 altera Regulamentu UNTAET Númeru. 2000/11 kona-ba Organizasaun Tribunál iha Timor-Leste
[2] Lei Númeru. 11/2004 altera Lei Númeru. 8/2002 kona-ba Estatutu Majistratura Judisiál
[3] Lei Númeru. 14/2005 kona-ba Estatutu Ministériu Públiku
[4] Artigu 16 of Dekretu-Lei 12/2008, of 30/4 (Estatutu Orgániku Ministériu Justisa)
[5] Defensória Públiku "Lori Justisa bá To'o Iha Komunidade, UNMIT/Ekipa Investigasaun Krime Grave (SCIT)

Juis, prokuradór no defensór públiku sira sei hetan nomeasaun no okupa de'it pozisaun sira iha nivel primeiru. Atu ba iha pozisaun nivel aas, sira tenke hetan promosaun hosi sira-nia nivel kraik. Ne'e-duni pozisaun ba juis, prokuradór no defensór públiku ne'e pozisaun karreira. Rekrutamentu ba pozisaun foun eziste de'it ba iha nivel primeiru no sira ne'ebé hetan rekrutamentu tenke hetan ona treinamentu iha Sentru Formaasaun Jurídika (ka *Legal Training Center (CFJ)).* Sentru treinamentu ida ne'e divizaun ida hosi Ministériu Justisa. Daudaun ne'e laiha tan instituisaun seluk iha rai-laran ne'ebé mak fornese treinamentu ne'ebé hanesan.

Númeru pesoál iha Judisiáriu ne'e mós ki'ik tebes – iha de'it juis 25 – no sira ne'e mak serbí populasaun kuaze millaun 1.2[6], bele dehan kada juis na'in ida serbí populasaun kuaze 40000 iha Timor-Leste. Ami kompriende katak daudaun ne'e iha juis kandidatu na'in 12 mak simu hela treinamentu iha Sentru Treinamentu Legál no sira ne'e sei lejivel atu hetan nomeasaun nu'udar juis probatóriu klase-terseiru iha inísiu tinan 2015. Juis sira ne'e sei komplementa ho prokuradór na'in 25 no defensór públiku na'in 20. Juis sira iha Timor-Leste hetan funsionáriu (ka *staff)* asistente na'in 131. Númeru ne'e inklui ofisiál judisiáriu na'in 60 – staff profisionál sira ne'ebé hetan treinamentu mós hosi CFJ no servisu hanesan sekretária seniór, sekretária judisiál, adejuntu judisiál, ofisiál dilijénsia. Proporsaun hosi númeru totál funsionáriu públiku hamutuk ho ofisiál judisiáriu ba totál númeru juis ne'ebé iha mak ida-dalima (signifika katak kada juis ida bele hetan staff na'in lima)[7]. Iha nasaun dezenvolvidu sira, dala barak juis ida hetan staff asistente na'in 10 ka liu. Tuir Prefíl Funsionáriu Tribunál no Planu Servisu Anuál ba 2014, iha expetativa atu rekruta funsionáriu tribunál na'in 144 iha 2018. Númeru funsionáriu ne'e kuaze dala-rua hosi totál númeru funsionáriu ne'ebé daudaun ne'e eziste.

Maske juis no prokuradór simu treinamentu hamutuk iha CFJ no hetan nomeasaun ho meius ne'ebé hanesan, sira-nia karreira la taka-malu – ida ne'e aspetu importante ida iha karreira judisiál ne'ebé ita bele nota. Kontráriu ho sistema judisiál balu iha Europa, iha sistema judisiál Timor nian, juis ativu sei la-hetan nomeasaun ba iha pozisaun prokuradór, nune'e mós prokuradór ativu sei la-hetan nomeasaun ba iha pozisaun judisiál. Limitasaun ne'e mós aplika ba iha defensór públiku. Diferensa ida ne'e mós refleta iha nivel saláriu ba majistradu nian para asegura katak juis sira hetan saláriu boot liu prokuradór, no prokuradór hetan saláriu boot liu defensór. Kandidatu ida-idak nia valór iha ezame finál iha CFJ mak determina alokasaun kadeira ba sira. Valór aas liu sei hetan nomeasaun judisiál, valór aas tuir mai sei hetan nomeasaun prokuradór, no sira seluk hetan nomeasaun ba defensór públiku.

Autoridade prezidente Tribunál Rekursu mak halo desizaun administrativu ne'ebé afeta tribunál-nia administrasaun. Iha tinan 2008, Lei Orgánika Ministériu Justisa estabelese Konsellu ba Koordenasaun Justisa[8]. Konsellu ne'e mak órgaun asesoría ba asuntu sira relasiona ho lei no justisa. Konsellu ne'e kompostu hosi Ministru Justisa – nia mak prezide – hamutuk ho Prezidente Tribunál Rekursu, Prokuradóri-Jerál da República, Defensór-Jerál Públiku, no reprezentante hosi advogadu privadu sira. Iha tinan 2009, Konsellu ne'e asiste Ministériu Justisa hodi dezenvolve Planu Estratéjiku ba Setór Justisa (ka *JSSP)* iha Timor-Leste ba tinan 2010-2030[9]. Progresu atu alkansa JSSP-nia objetivu la'o neineik tebes tanba limitasaun fundus hosi Governu Timor-Leste no doadór sira. Nein Konsellu ba Koordenasaun Justisa, nein Tribunál Rekursu, laiha ida mak publika relatóriu anuál kona-ba sira-nia atividade. Dezde Timor-oan sira hahú okupa pozisaun sira ne'ebé uluk juis internasionál sira okupa, to'o ohin loron, polítika judisiáriu foka de'it ba oinsá

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[6] CIA World Fact Book: https://www.cia.gov/library/publications/the-world-factbook/geos/tt.html, Asesu iha Agostu 2014. "Populasaun: 1,201,542;
Komparasaun entre nasaun ho mundu: 160; nota: estimasaun seluk hetan númeru mínimu to'o 800,000 (Jullu 2014 est.)"

[7] Proporsaun ida ne'e mai hosi fahe númeru funsionáriu tribunál hotu-hotu ba númeru juis. Nia la indika númeru funsionáriu pesoál disponivel ba juis ida-idak.

[8] Artigu 18 of Dekretu-Lei 12/2008.

[9] Planu Estratéjiku Setór Justisa ba Timor-Leste 2011-2030, Aprova hosi Konsellu ba Koordenasaun Justisa, Dili, 12 Fevreiru 201, iha pájina 14 no 31.

dezenvolve no fornese servisu báziku no kapasidade báziku, porezemplu hanesan fornese tribunál ho funsionamentu di'ak ba iha distritu sira.

Tribunál-nia dokumentu sira hakerek iha lingua Portugés tanba Portugés mós lingua ofisiál iha Timor-Leste, hamutuk ho Tetun. Polítika ida ne'e limite númeru kandidatu ba iha nomeasaun judisiál. Kandidatu hotu-hotu atu hetan nomeasaun ba juis, prokuradór no defensór tenke pasa ezame iha lingua Portugés. Tanba ne'e númeru juis ne'ebé kualifikadu uitoan liu. Kondisaun ida ne'e mós halo tribunál iha Timor-Leste dependente ba juis internasionál balu. Daudaun ne'e númeru juis internasionál kuaze porsentu 12 hosi total juis iha Timor-Leste.

REKURSU JUDISIÁL NO FUNSIONÁRIU IHA OECUSSE NO BAUCAU

Distritu Baucau iha juis na'in 4 no distritu Oecusse iha juis na'in ida. Aleinde juis, tribunál distritál Baucau no Oecusse mós iha ofisiál judisiáiru lubuk ida ne'ebé formadu hosi CFJ. Tribunál distritál Oecusse iha ofisiál judisiáiru na'in lima, interpretadór na'in rua, tékniku IT na'in ida no kondutór ida. Iha distritu Baucau, tribunál iha ofisiál judisiáriu na'in 13, interpretadór na'in rua, tékniku IT na'in ida, limpadór na'in rua no jardineiru na'in ida. Pesoál sira iha tribunál rua ne'e iha expetativa ida katak bainhira juis foun nomeadu ona iha tinan 2015, sei iha mós pesoál judisiáriu lubuk iha ne'ebé hetan nomeasaun. Ho kondisaun ida ne'e, sei laiha ona problema ho limitasaun númeru funsionáriu iha futuru.

Pergunta importante ne'ebé sei mosu mak ne'e, iha ka lae, orsamentu ne'ebé sufisiente ba pesoál sira ne'e no mós ba nesesidade seluk iha tribunál ne'e. Iha momentu halo entrevista ho pesoál tribunál sira, prosesu estimasaun ba orsamentu sei iha faze preparatória nian. Hosi diskusaun ne'e hatudu katak Tribunál Rekursu reprezenta tribunál hotu-hotu hodi buka orsamentu hosi governu atu nune'e bele kobre atividade operasionál ne'ebé planu tiha ona. Tuir informasaun ne'ebé ami hetan, atividade operasionál sira ne'e inklui servisu informasaun teknolojia, tribunál movel (ka *mobile courts)* no kustu adisionál ba saláriu hodi kobre nomeasaun ba graduante juis foun sira no mós ofisiál judisiáriu foun sira. Iha sujestaun katak, maske Governu seidauk halo desizaun kona-ba alokasun fundu sira ne'e, Tribunál Rekursu fiar katak nia sei hetan fundu hodi kobre nesesidade foun sira ne'e.

MONTANTE SERVISU JUDISIÁL NO REDUSAUN ATRAZU IHA OECUSSE NO BAUCAU

Akumulasaun Kazu

Tribunál Rekursu la-publika estatístika kona-ba númeru akumulasaun kazu regulármente, maibé iha dadus ofisiál kona-ba númeru kazu ne'e no sekretária judisiál iha Oecusse no Baucau bele fornese bainhira iha pedidu. Maske nune'e, dadus ofisiál ne'e refere de'it ba kazu foun ne'ebé konta iha kada fulan, kazu tuan no kazu pendente bainhira taka fulan. Bazeia ba númeru ida ne'e no informasaun ne'ebé sekretária judisiál fornese, ami tau hamutuk ona análize estatístika kona-ba númeru akumulasaun kazu iha Oecusse no Baucau ba tinan 2013, hanesan iha tabela tuirmai ne'e.

Oecusse – Kazu Sivíl no Krime iha 2013		
Kazu foun	133	númeru média kuaze kazu 11 kada fulan
Proporsaun kazu sivíl ba krime	11%	
Finalizadu	190	númeru média kuaze kazu 16 kada fulan
Pendente	34	
Númeru rezolusaun (*clearance rate)*	143%	
Proporsaun kazu pendente ba kazu finalizadu	18%	

Iha Oeceusse, hosi total kazu tinan 2013 nian, kazu sivíl iha de'it porsentu 11, no ida ne'e proporsaun ne'ebé ki'ik kuandu kompara ho medida internasionál, maske iha nasaun ne'ebé la-dezenvolvidu ekonomikamente. Kuandu ita sura hamutuk tipu kazu hotu-hotu iha 2013, kazu ne'ebé tribunál finaliza kuaze porsentu 43 (190) barak liu kazu foun ne'ebé tama iha rejistu (133). Iha nasaun sira seluk ne'ebé utiliza númeru rezolusaun (ka *clearance rate)* hodi sukat prosedimentu kazu, númeru ida ne'e reprezenta rezolusaun ho porsentu 143 durante tinan tomak[10], signifika kata tribunál rezolve kazu ho porsentu 43 lalais liu númeru kazu ne'ebé tama ba iha tribunál. Iha média, kada fulan ida tribunál simu kazu 11 no rezolve kazu 16. Ida ne'e signifika katak kada semana, juis na'in ida iha Oecusse, komplementa ho audiénsia koletivu ho juis na'in tolu, bele rezolve kazu 16 iha fulan ida nia laran. Iha fulan ikus tinan 2013, hosi volume kazu ne'ebé finalizadu ne'e, porsentu 18 de'it mak rezulta ho pendente (hosi kazu 190 ne'ebé finalizadu ne'e, kazu 34 mak pendente) no ida ne'e númeru ne'ebé ki'ik kuandu ita konsidera ninia rezolusaun.

Baucau – Kazu Sivíl no Krime	**Iha 2013**	Média kada fulan	**Iha 2012**	Média kada fulan
Kazu Foun	437	36	241	20
Proporsaun kazu sivíl ba kazu krime	14%		14%	
Finalizadu	165	14	125	10
Pendente	676		404	
Númeru rezolusaun	38%		52%	
Proporsaun kazu pendente ba kazu finalizadu	410%		323%	

Kompara ho Oecusse iha tinan 2013, Baucau iha kazu sivíl porsentu 14, no ida ne'e mós konsidera hanesan proporsaun ne'ebé ki'ik. Maske iha tinan ne'ebá kazu foun ne'ebé tama kuaze 437, kazu 165 de'it mak konsege finalizadu, tanba ne'e ninia númeru rezolusaun porsentu hetan 38 de'it. Iha média, kada fulan ida tribunál iha Baucau rejista kazu 36 foun no finaliza kazu 14. Ida ne'e signifika katak kada semana juis sira iha Baucau hamutuk prosesa de'it kazu haat. Nune'e mós, kazu ne'ebé pendente iha tinan 2013 kuaze barak liu dala-haat ba númeru kazu ne'ebé finalizadu iha tinan ne'ebá. Ida ne'e númeru ne'ebé boot kuandu ita konsidera ninia rezolusaun ka *clearance rate*.

Ami mós konsege hetan asesu ba estatístika tinan 2012 nian iha Baucau ne'ebé indika katak númeru kazu foun iha tinan 2012 ki'ik liu tinan 2013. Maibé bainhira ita haree númeru ne'ebé komparavel, ita haree katak iha média kada fulan tribunál finaliza kazu 10 de'it, purizemplu kada semana tribunál finaliza de'it kazu lato'o kazu tolu.

Númeru sira ne'e la-fó indikasaun kona-ba tipu kazu krime ka tipu kazu sivíl ne'ebé tama no prosesa iha tribunál distritál Oecusse no Baucau. Hosi entrevista ne'ebé ami halo no hosi relatóriu Justice System Monitoring Program (ka JSMP) nian, ami haree katak kuaze kazu krime ne'ebé tama iha tribunál ne'e, maioria relasiona ho ofensa violénsia doméstika. Nune'e mós, JSMP-nia relatóriu indika katak iha kazu krime hotu-hotu, inklui violénsia doméstika, arguidu konfesa no admite ninia aktu krime iha tribunál, no ida ne'e redús tempu ne'ebé presiza atu halo audiénsia ba kazu ida-idak. Iha entrevista ne'ebé ami halo ba funsionáriu tribunál rua ne'e, funsionáriu sira mós afirma duni tendénsia ida ne'e.

Ami-nia entrevista ho staff tribunál mós hatudu katak bainhira arguidu la-marka prezensa iha audiénsia, tribunál sei adia kazu to'o tempu bainhira tribunál hetan fali arguidu ka hein to'o tribunál deziste atu buka

[10] Grau rezolusaun ne'e aplika iha sistema tribunál Anglófonu no Europeia nian no kompara númeru kazu ne'ebé finaliza ona ho númeru kazu ne'ebé foun sira iha periodu ne'ebé hanesan. Atu hetan númeru ida ne'e, fahe númeru kazu finalizadu ba númeru kazu foun, hafoin multiplika ho 100 hodi hetan persentajen.

hetan arguidu sira. Kazu sira ne'e sei konta hanesan kazu pendente no sei hein to'o hetan fali arguidu, no ida ne'e dala barak difisil tanba laiha prosedimentu no rekursu atu buka tuir arguidu sira ne'ebé halai lakon. Ne'e-duni kazu pendente barak mak inklui kazu sira hanesan ne'e. Númeru kazu krime pendente iha distritu Baucau iha tinan 2000 iha de'it neen, no númeru ne'e sa'e ba 221 iha tinan 2011, depois iha tinan 2012 sa'e ba 314 no iha tinan 2013 sa'e ba 559. Klaru katak hosi kazu pendente sira ne'e, kazu barak mak tribunál laiha kbiit atu prosesa tanba arguidu nunka mosu iha tribunál. Ami mós hetan informasaun katak bainhira prosedimentu hahú ona, responsabilidade formál atu buka tuir arguidu la'ós prokuradór no polísia nian, maibé tribunál nian; maibé tribunál laiha rekursu espesiál hodi buka tuir arguidu ne'ebé la-hatán ba tribunál-nia notifikasaun.

Problema seluk tan mak laiha dadus estatístika kona-ba kazu-nia durasaun, liuliu laiha informasaun kona-ba loron hira mak pasa ona hahú hosi loron rejistu kazu to'o loron tribunál finaliza no taka kazu. Hosi ami-nia entrevista ho ofisiál tribunál hatudu katak kazu barak mak tribunál bele prosesa iha fulan tolu to'o fulan neen nia laran kuandu arguidu marka prezensa iha tribunál.

Informasaun ne'ebé disponivel hatudu katak iha irregularidade, no atu rezolve irregularidade ne'e presiza hala'o estudu ne'ebé kle'an liu tan. Porezemplu, maske tribunál distritál Baucau iha juis na'in haat, jerálmente kada juis iha Baucau rezolve kazu uitoan liu kompara ho tribunál distritál Oecusse ne'ebé iha de'it juis na'in ida. Maibé tribunál distritál Oecusse mós esperiénsia númeru rezolusaun ne'ebé ki'ik maske númeru kazu ne'ebé han audiénsia tempu naruk uitoan hela. Ema hotu ne'ebé partisipa iha entrevista indika katak maioria kazu bele hetan audiénsia iha loron ida-nia laran, no kazu uitoan liu mak halo audiénsia liu loron ida. Sira mós indika katak jerálmente kazu sira ne'e la-adiadu anaunsér arguidu la-marka prezensa iha tribunál.

Embora ita haree de'it ba kazu foun ne'ebé tama, no la-konsidera númeru rezolusaun, problema kona-ba númeru akumulasaun kazu ne'ebé boot sei akontese iha futuru. Hosi númeru kazu ba tinan 2013 ne'ebé ami reokolla indika katak, valór média hosi kazu foun ne'ebé tama iha tribunál distritál Baucau mak 36 kada fulan ida, bele dehan katak kada juis iha Baucau simu kazu 12 kada fulan ida. Iha Oecusse, valór média hosi kazu foun ne'ebé tama iha tribunál iha tinan 2013 mak 11 kada fulan ida, maibé ami mós iha informasaun ne'ebé indika katak númeru ne'e aumenta maka'as iha tinan 2014.

Númeru ne'ebé ami haree ona, no informasaun ne'ebé ami reokolla durante periodu entrevista, sujere katak presiza iha dadus estatístika ho kualidade di'ak molok ita bele halo konkluzaun ne'ebé klaru kona-ba opsaun sira hodi hadi'a jestaun kazu.

Tuirmai ne'e mak ezemplu pergunta sira ne'ebé ami rekomenda atu análize foun bele ajuda hodi hatán:

- Tansá númeru kazu sivíl uitoan liu kompara ho kazu krime?
- Tansá maioria kazu krime ne'e kazu violénsia doméstika?
- Tansá númeru konfesa/admisaun iha kazu krime aas tebes?
- Hosi totál númeru kazu ne'ebé pendente, proporsaun hira mak refere ba kazu krime ne'ebé arguidu halai lakon no difisil atu hetan?
- Oinsá ita bele kalkula númeru kazu sira ne'e para ajuda determina juis hira mak tribunál presiza iha kada distritu atu bele atende kazu sira ne'e? Maizumenus, númeru kazu hira mak razoavel ba juis ida atu nia atende iha fulan ida nia laran?
- Jerálmente, periodu atrazu ne'ebé aseitavel durante prosedimentu kazu tenke han to'o loron hira? Kuandu prosedimentu kazu han to'o fulan tolu ka fulan neen, ida ne'e konsidera aseitavel ka lae?
- Kuandu iha kazu pendente ruma ne'ebé tribunál movel bele atende, sirkunstánsia saida mak bele inisia tribunál movel atu atende kazu ne'e?

Redús/Hamenus Atrazu

Ami-nia estudu kona-ba jestaun kazu iha Oecusse no Baucau la-deskobre problema atrazu ne'ebé signifikante, prinsipalmente tanba iha ne'ebá la-reokolla informasaun kona-ba kazu-nia idade ka durasaun. Maibé konkluzaun ida ne'e mós hetan reforsa hosi partisipante sira-nia komentáriu anekdotál iha entrevista ne'ebé indika katak tempu prosedimentu ba maioria kazu han hosi fulan tolu to'o fulan neen, no kazu ne'ebé tribunál rua ne'e atende maioria relasiona ho kazu violénsia doméstika, no iha kazu violénsia doméstika sira ne'e arguidu tipikamente admite duni sira-nia asaun krime ba tribunál. Klaru katak tribunál distritál Baucau mak iha kazu pendente barak liu. Maibé tribunál distritál Baucau mós esperiénsia númeru finalizasaun kazu ne'ebé ki'ik. Ida ne'e sujere katak kualkér atrazu ne'e iha la'ós akontese tanba númeru kazu foun ne'ebé tama barak iha tribunál, maibé tanba difikuldade atu alkansa nivel produtividade judisiál ne'ebé ideal. Tribunál-nia estatístika baibain la-konsege atu esplika kauza ba problema ida ne'e.

RELATÓRIU ESTATÍSTIKA NO TRIBUNÁL-NIA FUNSIONAMENTU

Relatóriu estatístika fornese jestaun informasaun ne'ebé esensiál hodi kompriende no hadi'a tribunál distritál-nia funsionamentu. Atu bele reokolla dadus estatístika ne'ebé util kona-ba jestaun kazu, tribunál distritál tenke reokolla dadus barak liu ne'ebé ohin loron sira reokolla; no sira tenke modifika maneira konta kazu pendente sira.

Kazu Sira Ne'ebé Arguidu La-Marka Prezensa

Estudu ne'e deskobre katak kazu ida sei konta hanesan kazu pendente bainhira arguidu la-marka prezensa hodi hatán akuzasaun. Ida ne'e difikulta prosesu dokumentasaun kazu pendente ne'ebé indika akumulasaun kazu (ka *backlogs).* Iha posibilidade katak kazu pendente barak mak tribunál laiha kbiit atu prosesa tantu juis barak ka uitoan. Iha nasaun seluk, kazu ne'ebé arguidu halai-lakon, tribunál trata hanesan kazu ne'ebé taka-ona hodi nune'e bele sura kazu ne'ebé pendente. Ida ne'e akontese tanba tribunál sei laiha kbiit atu prosesa kazu to'o ninia finalidade. Anaunsér ita konta ketak kazu ne'ebé arguidu halai-lakon ona, difisil atu ita uza kazu pendente hodi justifika ejijénsia katak númeru juis ne'ebé disponivel la-sufisiente.

Rekomendasaun 1 : Dokumenta Kazu sira ne'ebé Arguidu Halai-lakon

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha tribunál distritál Oecusse no Baucau, númeru kazu pendente mensál iha tribunál ne'e tenke fahe ba kategoria rua: 'kazu pendente ativu' no 'kazu pendente la-ativu'. Jerálmente, kazu pendente ativu mak kazu sira ne'ebé marka ona ba audiénsia iha futuru ka hein hela tribunál atu marka orário ba audiénsia. Kazu pendente la-ativu mak kazu sira ne'ebé tribunál la-haruka ona notifikasaun ba arguidu atu ba iha audiénsia, ka kazu sira ne'ebé tribunál adia loron audiénsia indefinidamente tanba razaun seluk ne'ebé la-relasiona ho juis-nia disponibilidade.

Tribunál Movel

Tribunál movel ne'e program ida ho apoiu fundus hosi Programa Dezenvolvimentu Nasoins Unidas (ka *UNDP).* Programa tribunál movel ne'e halo ona pilotajen iha tribunál distritál Dili no Suai no foin hahú iha distritu Baucau. Tribunál movel ne'e esensialmente tribunál sirkúitu ida ho tipu ne'ebé ema aplika barak iha sistema tribunál anglófonu (hanesan iha Estadus Unidus, Inglaterra, Kanadá no Austrália). Juis tribunál sirkúitu ida sei halo viajen sai hosi juis-nia baze loroloron ba iha fatin seluk hodi atende kazu. Konseitu tribunál movel ne'e permite ona vizita ho tipu hanesan ne'e ba iha área rurál oioin ho fundus hosi UNDP. Implementasaun tribunál movel ne'e hetan konsiderasaun di'ak nu'udar meius importante ida, atu la'ós de'it lori justisa ba iha komunidade, maibé mós hamenus problema akumulasaun kazu. Ho esperimentasaun tribunál movel ne'ebé daudaun ne'e hala'o iha Baucau, sei iha oportunidade ba tribunál distritál Baucau atu hamenus númeru kazu pendente, liuliu kuandu tribunál prova katak durante ne'e tribunál-nia produtividade menus tanba tribunál laiha kbiit atu prosesa hotu kazu sira ne'ebé mai hosi área rurál.

Provavelmente tribunál movel sei prova-an hanesan meius utíl iha Timor-Leste tanba sei iha dezafiu pratikál no finansiál ne'ebé mak taka-dalan ba estabelesimentu tribunál permanente foun iha distritu. Númeru kazu iha área barak mak sei uitoan no ida ne'e seidauk bele justifika atu harii tribunál permanente iha distritu. Tribunál movel oferese opsaun atu fornese servisu sein kustu fasilidade tribunál permanente foun. Iha parte seluk, tribunál movel mós iha ninia kustu. Tuir estimasaun ne'ebé UNDP halo, kustu ba mantén no sustenta sesaun tribunál movel mak $2,500 to'o $3,000 ba kada sesaun ida; no seidauk iha indikasaun hosi UNDP atu kontinua ka termina apoiu ba inisiativa ida ne'e bainhira tinan fiskál ida ne'e remata.

Embora governu suporta programa tribunál movel, seidauk iha garante katak ita iha kapasidade atu hala'o sesaun tribunál movel iha futuru. Ne'e-duni kuandu UNDP no doadór sira sei kontinua suporta tribunál movel, ita tenke reokolla dadus estatístika kona-ba tribunál movel-nia susesu iha prosedimentu kazu. Partikulármente iha Baucau, hosi programa tribunál movel ne'e iha oportunidade ba ita atu avalia oinsá tribunál movel kontribui ba hasa'e produtividade judisiál iha sentru ne'ebá, porezemplu aumenta iha valór média finalizasaun kazu ba kada juis. Iha mós oportunidade seluk atu avalia se tribunál movel influensia hadi'a asesu justisa ba vítima sira iha área rurál ka lae, no bele ka lae tribunál movel hatudu relasaun ida ne'ebé indika katak bainhira ema uza barak tribunál movel, númeru ema ne'ebé uza tribunál mós aumenta.

Rekomendasaun 2: Estatístika kona-ba Tribunál Movel

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha tribunál distritál Baucau, relatóriu estatístika mensál tenke inklui sumáriu espesiál kona-ba kazu sira ne'ebé hetan ona audiénsia no finaliza liu hosi tribunál movel, no mós kona-ba prosesu-nia impaktu ba akumulasaun kazu. Aleinde ne'e, relatóriu kona-ba sesaun tribunál movel tenke inklui informasaun kona-ba enkontru no eventu seluk ne'ebé juis tribunál movel partisipa hodi haburas ema-nia konxiénsia kona-ba judisiáriu-nia papél iha komunidade laran.

Determina Kazu-nia Idade

Presiza rekolla informasaun kona-ba kazu-nia idade. Kazu-nia idade refere ba tempu ne'ebé liu ona bainhira ita sura hosi momentu kazu ne'e rejistu iha tribunál to'o bainhira kazu ne'e hetan pendente, ka bainhira kazu ne'e finaliza ona. Atu sura kazu-nia idade, ita kalkula totál loron hosi momentu kazu ne'e rejistu, no fahe totál loron ne'e ba hitu atu determina kazu-nia idade bazeia ba semana. Iha Oecusse no Baucau, ita bele manualmente kalkula kazu-nia idade bainhira kazu ida finaliza ona. Bazeia ba variasaun ne'ebé daudaun ne'e iha, ita espera katak númeru kazu ne'ebé sei finaliza iha tribunál rua ne'e sei la to'o 20 ka 30. Ida ne'e signifika katak sei la-difisil atu kalkula kazu-nia idade bazeia ba semana, liuliu iha Baucau, tanba iha ne'ebá tribunál distritál uza tiha ona sistema eletróniku hodi maneja informasaun kona-ba kazu. Kona-ba kazu pendente sira, iha Oecusse ita bele manualmente kalkula kazu-nia idade tanba jerálmente númeru kazu iha ne'ebá uitoan, no iha Baucau ita bele kalkula kazu-nia idade uza Sistema Jestaun Informasaun ne'ebé Integradu kuandu númeru kazu pendente boot liu.

Rekomendasaun 3: Determina Kazu-nia Idade

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha Oecusse no Baucau, presiza modifika relatóriu estatístika mensál hodi inklui lista kona-ba kazu-nia idade (iha semana) ba kazu sira ne'ebé finaliza ona iha fulan ida-nia laran, no mós kazu sira ne'ebé sei pendente.

Amplítudu hosi Akumulasaun Kazu

Sistema estatístika iha tribunál distritál trata kazu pendente hanesan ho kazu atrazu. Maibé iha nasaun barak diferensa entre buat rua ne'e klaru. Iha nasaun anglófonu, kazu ida konsidera hanesan kazu atrazu bainhira kazu-nia idade liu tiha ona periodu ne'ebé aseitavel. Porezemplu, kazu ida ne'ebé foin rejistu iha semana kotuk, ohin loron sei konsidera hanesan kazu pendente, la'ós kazu atrazu. Atu hatene loloos katak kazu ida atrazu ka lae, presiza define durasaun tempu (ka *periodu)* ba kazu-nia idade ne'ebé konsidera hanesan estandar aseitavel. Kuandu kazu-nia idade boot liu, ka naruk liu, periodu ne'ebé aseitavel ne'e, entaun kazu ne'e sei konsidera hanesan kazu atrazu. Iha Austrália no Amérika, estandar aseitavel ne'e determina liu hosi estandar kronograma ka padraun puntualidade ida. Kuandu kazu-nia idade tuan liu estandar ne'e, no sei pendente, kazu ne'e konsidera hanesan kazu atrazu. Tuirmai ne'e Austrália-nia definisaun kona-ba estandar kronograma (ka padraun ba puntualidade) ba tribunál sira ne'ebé funsiona hanesan tribunál distritál sira iha Timor-Leste:

- Hosi totál númeru kazu pendente ne'ebé iha, kazu sira ne'ebé idade liu fulan neen labele liu porsentu 10 hosi totál númeru kazu pendente; no
- Labele iha kazu pendente ne'ebé idade liu fulan 12 (ka tinan ida).

Jerálmente, tribunál sira iha Austrália simu númeru kazu ne'ebé barak liu tanba ne'e sira-nia estandar kronograma ka padraun puntualidade fó espasu tempu ne'ebé naruk atu rezolve kazu. Kompara ho númeru kazu no tribunál-nia kapasidade iha Timor-Leste, karik bele define estandar kronograma/padraun puntualidade atu nune'e tribunál prosesa porsentu 90 hosi totál kazu iha fulan tolu nia-laran no porsentu 100 hosi totál kazu iha fulan neen laran.

Rekomendasaun 4: Halo Pilotajen ba Estandar Kronograma ka Padraun Puntualidade

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha Oecusse no Baucau, adopta estandar kronograma ka padraun puntualidade hanesan tuirmai ne'e hodi kalkula no determina proporsaun kazu hosi totál kazu pendente ne'ebé sei konsidera hanesan kazu atrazu:

- Labele liu pursentajen 10 husi total kazu pendente ne'ebe idade liu fulan tolu.
- Kazu pendente sira ne'ebé daudaun ne'e eziste labele han tempu liu fulan neen.

Númeru Adiamentu Kazu

Komentáriu ne'ebé ami hetan hosi pesoál tribunál sira indika katak tribunál ladún iha nesesidade atu adia audiénsia ba kazu. Iha nasaun seluk, kazu barak atrazu tanba númeru adiamentu ne'ebé aas. Ne'e-duni kuandu ita hatene katak juis ida bele atende kazu rua iha loron ida nia laran, entaun klaru katak kazu barak sei la-sai pendente anaunsér iha kazu balu sai hanesan kazu atrazu. Ami fiar katak durante estudu estatístika ida, iha valór di'ak ba ita bainhira ita sukat no estuda kazu ne'ebé atrazu no razaun saida mak halo kazu sira ne'e atrazu.

Rekomendasaun 5: Sukat Númeru Kazu Atrazu

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha Tribunál Distritál Oecusse no Baucau, tenke inklui relatóriu estatístika mensal kona-ba númeru kazu ne'ebé hetan adiantamentu no razaun saida mak halo kazu ne'e adianta.

Konsidera Juis-nia Disponibilidade

Ami-nia análize kona-ba númeru kazu iha Oecusse no Baucau hatudu rezultadu ne'ebé iregulár bainhira ami kompara númeru média kona-ba kazu sira ne'ebé kada juis ida finaliza. Ami fiar katak irregularidade ne'e akontese tanba laiha serteza kona-ba númeru juis ne'ebé disponivel atu prosesa kazu. Kuandu juis ida la-marka prezensa tanba nia husu lisensa ka moras, impaktu hosi ninia falta ne'e ba iha kazu-nia finalizasaun sei la-disernível. Atu permite erru iha interpretasaun ida ne'e, estatístika mensál tenke sura númeru juis ne'ebé disponivel iha tribunál durante fulan ne'e.

Bainhira juis ida disponivel hodi halo servisu no halo audiénsia ba kazu, ida ne'e konsidera hanesan juis-nia loron ida. Kuandu iha juis na'in tolu mak disponivel iha loron ida atu atende kazu, entaun ida ne'e konsidera hanesan juis-nia loron tolu. Iha loron ne'ebé juis la-marka prezensa tanba lisensa, ida ne'e sei la sura. Bazeia ba metodolojia ida ne'e ita bele kalkula juis-nia produtividade iha tribunál. Atu kalkula juis-nia produtividade, ita sei fahe totál númeru disponibilidade juis ba totál loron servisu iha kalendáriu tribunál nian. Rezultadu hosi kalkulasaun ida ne'e mak númeru média juis-nia loron servisu iha fulan ida nia laran. Hafoin ita sei fahe totál númeru kazu ne'ebé finalizadu ba juis-nia loron servisu, no rezultadu hosi kalkulasaun ida ne'e mak númeru média ba kazu ne'ebé kada juis finaliza. Kalkulasaun ida hanesan ne'e bele rekoñese faktu katak maske juis disponivel iha tribunál distritál, juis-nia kapasidade atu finaliza kazu sira la-forte.

Rekomendasaun 6: Loron Juis Disponivel

Atu dezenvolve relatóriu estatístika iha tribunál distritál Oecusse no Baucau, relatóriu estatístika mensal tenke inklui totál loron ne'ebé juis disponivel iha fulan ida nia laran no totál loron servisu iha fulan ne'ebé hanesan. Ho kalkulasaun ne'e ita bele hatene valór média kona-ba númeru finalizasaun kazu ba kada juis ida.

Durasaun Audiénsia

Ami-nia entrevista ho tribunál-nia funsionáriu sujere katak jerálmente kazu barak nia durasaun la-han liu loron balun no baibain juis bele marka audiénsia rua kada loron ida. Kuandu kazu ruma han tempu naruk liu

ka kazu ruma hetan adiantamentu, ida ne'e bele kria atrazu no aumenta númeru akumulasaun kazu. Ami rekomenda katak análize estatístika kona-ba Oecusse no Baucau tenke koko atu identifika ezemplu ruma ne'ebé hatudu katak sesaun audiénsia han liu oras ne'ebé marka tiha ona, normálmente loron balu de'it ka loron ida tomak. Dadus sira hanesan ne'e bele ajuda esplika tansá kazu balu han tempu naruk liu atu prosesa no ita mós bele hatene ezemplu audiénsia kazu ne'ebé han liu oras ne'e akontese dala hira.

Rekomendasaun 7: Durasaun Audiénsia

Atu dezenvolve relatóriu estatístika ne'ebé di'ak iha tribunál distritál Oecusse no Baucau, relatóriu estatístika mensal tenke inklui númeru audiénsia ne'ebé han tempu naruk liu loron balun, no mós sura ketak númeru kazu audiénsia ne'ebé la-bele termina iha loron ida nia laran.

Kazu-nia Rezultadu

Estatístika ofisiál hosi tribunál la-hatudu kazu-nia rezultadu iha kualkér sentidu estatístika. Porezemplu iha entrevista sira no mós iha JSMP-nia relatóriu, mensiona katak iha maioria kazu violénsia doméstika, arguidu konfesa ninia aktu krime, nune'e mós ladún iha absolusaun. Hosi fonte ne'ebé hanesan ita mós bele haree katak iha pena barak mak bele impoin ba asaun krime ne'e, maibé durante ne'e tribunál dala barak fó de'it pena suspensaun bazeia ba komportamentu di'ak. Informasaun analítiku kona-ba kazu-nia rezultadu bele ajuda tribunál hodi avalia impaktu hosi akumulasaun kazu ba iha tribunál-nia kapasidade atu prosesa kazu. Ne'e-duni, importante atu reokolla informasaun kona-ba kazu-nia rezultadu tanba ida ne'e bele ajuda hadi'a jestaun kazu. Informasaun ne'e mós bele ajuda identifika impaktu hosi tribunál-nia desizaun liuliu relasiona ho variasaun iha númeru sentensa prizaun no mós durasaun sentensa prizaun. Relasiona ho avaliasaun estatístika kona-ba kazu sira iha Oecusse no Baucau, ami rekomenda katak tenke reokolla informasaun detalladu kona-ba kazu-nia rezultadu inklui informasaun kona-ba arguidu halo konfesa ka lae, kazu ne'e retirada ka hetan absolusaun; no pena saida mak kazu ne'e hetan no durasaun hosi pena ne'e mak saida. Bainhira halo estudu kona-ba kazu-nia rezultadu, tenke inklui mós halo avaliasaun ba valór di'ak hosi prosesu kolesaun informasaun ne'ebé hanesan, maibé ho meius sistemátika, iha futuru, porezemplu reokolla informasaun ne'ebé hanesan uza sistema dokumentasaun kazu ho komputadór. Aneksu 6 oferese sujestaun di'ak ba iha IIMS ne'ebé sei permite kolesaun dadus kona-ba kazu-nia rezultadu no informasaun seluk relasiona ho prosedimentu kazu sira.

Rekomendasaun 8: Estatístika kona-ba Kazu-nia Rezultadu

Atu dezenvolve relatóriu estatístika ne'ebé di'ak liu iha tribunál distritál Oecusse no Baucau, análize kona-ba prosedimentu kazu tenke inklui perfíl estatístika kona-ba kazu-nia rezultadu, porezemplu hanesan númeru arguidu ne'ebé konfesa ninia asaun krime, númeru kazu ne'ebé hetan absolusaun no tipu pena ne'ebé impoin ba kazu sira.

LEI NO KESTAUN PROSEDURÁL

Prosedimentu Tribunál

Lei no prosedimentu ne'ebé adopta iha tempu Timor-Leste hetan independénsia no mós durante ONU-nia prezensa, lei ne'e bazeia ba sistema judisiál Portugál nian. Teknikamente, sistema ida ne'e sistema inkuzitoriál (investigativu). Iha sistema ida ne'e, juis ida de'it mak halo desizaun ba kazu krime sira ne'ebé punivel másimu to'o de'it tinan lima no ba kazu sivíl sira ne'ebé kompensasaun másimu labele liu montante $5000. Kazu krime sira ne'ebé bele hetan pena liu tinan lima no kazu sivíl sira ne'ebé kompensasaun bele boot liu $5000, panél ida ho juis na'in tolu mak deside, koñesidu hanesan tribunál koletivu. Kontrário ho sistema Europeia nian, iha ne'e juis no prokuradór-nia knaar ne'e la-hanesan, no prosesu julgamentu ba kazu krime no kazu sivíl hanesan de'it ho tribunál sira iha sistema lei komún.

Utilizasaun Lingua Portugés iha Tribunál
Polítika linguajen ne'ebé ezije de'it lingua Portugés hodi dokumenta kazu kria tiha ona impaktu balun iha prosedimentu tribunál. Lingua verbál ne'ebé uza iha tribunál laran prinsipalmente mak Tetun, anaunsér iha juis internasionál. Enkuantu tribunál-nia dokumentu sira kuaze hakerek iha lingua Portugés, iha prátika juis sira sei ko'alia ho konsellu no testemuña sira iha lingua Tetun. Buat ne'ebé mensiona ho Tetun iha tribunál laran, ofisiál judisiáriu, ne'ebé serve hanesan anotadór, sei grava informasaun ne'e iha minuta ofisiál. Ofisiál ne'e baibain hakerek nota iha ninia lingua lokál ka iha Tetun, hafoin nia sei tradús ba iha Portugés para sai hanesan dokumentu ofisiál. Nune'e mós ho juis, juis sei anunsia desizaun iha Tetun hafoin halo dokumentasaun ofisiál iha Portugés. Ne'e-duni, maske Portugés kria limitasaun signifikante ba prosesu nomeasaun juis, prokuradór no defensór, iha tribunál, Portugés ladún sai hanesan limitasaun boot. Parese pesoál tribunál hotu-hotu ne'ebé hala'o kursu Portugés pelumenus nivel báziku ladún hetan difikuldade barak iha sira-nia servisu, maibé funsionáriu barak mak espresa sira-nia preokupasaun katak presiza hadi'a sira-nia profisiénsia relasiona ho dokumentu ofisiál ne'ebé presiza atu prodús iha lian Portugés. Buat ne'ebe sai núdar difikuldade nafatin mak dalaruma arguidu ka testemuña la-ko'alia lian Tetun ka Portugés, no ko'alia de'it lian lokál. Iha Oecusse no Baucau, ema barak ko'alia lingua lokál no ladún kompriende di'ak Tetun. Konsekuentemente, tribunál rua ne'e presiza fornese tradutór hodi interpreta lingua lokál (tradutór-nia lingua terseiru) ba iha Tetun durante prosesu audiénsia. Tamba ne'e, tribunál Oecusse no Baucau presija fornese staff ne'ebe bele halo interprete husi lian lokál ba Tetun durante audiensia. Tribunál iha orsamentu ne'ebe limitadu ba servísu interpréte no tradusaun no bele sai núdar obstakulu id aba servísu justisa ne'ebe justu no efetíva.

TRIBUNÁL-NIA IMPAKTU BA IHA DISUASAUN NO REZOLUSAUN KRIME

Bazeia ba informasaun ne'ebé ami reokolla hosi entrevista no hosi tribunál-nia relatóriu estatístika indika katak juis no funsionáriu sira iha tribunál distritál Oecusse no Baucau prontu atu administra kazu sira ne'ebé tama iha tribunál ne'ebá. Ne'e-duni, maske ladún iha problema boot ho jestaun akumulasaun kazu, iha razaun di'ak atu duvida katak iha fatin rua ne'e tribunál iha impaktu maka'as hodi rezolve kazu krime no kazu sivíl barak.

Fatór ida ne'ebé hamosu duvida ida ne'e mai hosi partisipante sira ne'ebé ami entrevista. Sira konfirma katak maioria kazu ne'ebé sira prosesa iha tribunál ne'ebá mak kazu violénsia doméstika, no tuir Lei Kontra Violénsia Doméstika[11], polísia agora iha ona obrigasaun atu hato'o ba iha prokuradór, no prokuradór hato'o ba tribunál. Maibé ba kazu sira hanesan ne'e, problema ho akumulasaun kazu iha Oecusse no Baucau karik ladún boot. Númeru akumulasaun kazu ne'ebé daudaun ne'e eziste sujere katak kuandu polísia no prokuradór iha mós mandatu ne'ebé hanesan ba kazu krime públiku seluk, ida ne'e bele hasa'e númeru kazu krime seluk, la'ós de'it kazu violénsia doméstika. Karik tanba laiha diretiva lejizlativa ne'ebé forte, polísia no prokuradór la prosesa kazu krime seluk ho esforsu ne'ebé komparavel.

Estatístika ne'ebé disponivel hatudu momoos dezekilíbriu iha kazu violénsia doméstika kompara ho kazu krime públiku seluk. Laiha dokumentu ofisiál ne'ebé deskreve tipu kazu saida de'it mak disponivel, maibé iha númeru kona-ba kazu sira ne'e, no númeru ne'e prodús hosi JSMP ne'ebé koloka ninia funsionáriu hodi ba atende prosedimentu iha tribunál no dokumenta detalla kona-ba kazu-nia rezultadu. Provavelmente JSMP sei reokolla kazu hotu-hotu ne'ebé tama iha tribunál. Iha ninia relatóriu tinan 2014, JSMP oferese dadus kona-ba kazu sira ne'ebé JSMP monitoriza iha Timor laran tomak iha tinan 2013. Dadus ne'e inklui iha Aneksu 4. Númeru ida ne'e indika katak iha Timor laran tomak, hosi totál kazu krime ne'ebé iha, porsentu 52 mak kazu violénsia doméstika, porsentu neen relasiona ho ofensa asaltu seksuál, porsentu 28 relasiona ho omosídiu no krime kontra ema, no porsentu 14 relasiona ho ofensa hasoru propriedade no lei. Ida ne'e

[11] Lei Númeru 7/2010

signifika katak kazu violénsia doméstika mak barak liu kazu krime sira seluk hamutuk. Iha nasaun hanesan Timor, ne'ebé populasaun to'o millaun 1.2, laiha prosedimentu barak ba ofensa sira relasiona ho veíkulu (porezemplu, altu-velosidade ne'ebé rezulta ho mate), ofensa hasoru ema iha estrada, ofensa armas, ofensa droga ka krime ekonómiku. Ida ne'e kria pergunta ida, polísia hato'o ba prokuradór ka lae, kazu krime públiku sira ne'ebé polísia laiha mandatu lei ka obrigasaun legál atu hato'o ba prokuradór. Maske ita hatene katak prokuradór iha podér atu deside rezolusaun ba infrasaun ki'ik, no la-presiza hato'o ba tribunál, prokuradór-nia podér ida ne'e la-inklui kazu krime públiku.

Informasaun ne'ebé ami hetan sujere mós katak númeru kazu ne'ebé ki'ik refleta númeru populasaun ne'ebé ki'ik; problema barak rezolve liu hosi mediasaun ka justisa tradisionál; no laiha dezenvolvimentu ekonómiku ne'ebé baibain kria problema iha sidade boot hanesan litíjiu komérsiu, krime finanseiru, krime relasiona ho droga, armas, no komérsiu oioin. Maske nune'e, nasaun seluk ne'ebé aplika maka'as justisa tradisionál no laiha dezenvolvimentu ekonómiku ne'ebé forte mós la-benefisia barak hosi númeru kazu sériu ne'ebé ki'ik. Até iha nasaun barak ne'ebé esperiénsia situasaun hanesan, númeru kazu krime violentu aas liu tanba númeru dezempregadu ne'ebé boot no impaktu negativu hosi dezenvolvimentu ekonómiku ne'ebé mínimu.

Razaun seluk ne'ebé provavel liu atu esplika tansá númeru kazu krime uitoan liu mak karik polísia nasionál, PNTL, la-prosesa keixa kona-ba akontesimentu krime no la-dokumenta kapturasaun. Hosi diskusaun ne'ebé ami halo, iha mós sujestaun katak polísia deside hodi baku de'it autór krime ka fó kastigu seluk, no la-fó kastigu formalmente. Maske nune'e, ami la-hetan dadus kona-ba variasaun iha númeru kazu krime ne'ebé bele justifika ipóteze ida ne'e.

Karik tribunál mós seidauk refleta se tribunál-nia kontribuisaun atu mantén dame sosiál no justisa iha duni impaktu signifikante ka lae kompara ho prosesu justisa tradisionál. Kona-ba kazu violénsia doméstika tribunál hatudu duni impaktu signifikante tanba tribunál iha mandatu atu prosesa no julga kazu krime violénsia doméstika. Maibé kona-ba kazu sira seluk, sei iha pergunta se tribunál iha duni impaktu ka lae. Ami fiar katak informasaun barak mak sei menus no ida ne'e prevene ami atu halo konkluzaun kona-ba pergunta ida ne'e. Karik loos duni katak kazu sira ne'ebé tenke hato'o ba tribunál ne'e hato'o duni, entaun ita bele dehan katak tribunál hala'o duni ninia funsaun no provavelmente prevene duni krime. Maibé, karik kazu krime barak mak la hato'o ba polísia, ka polísia sira la prosesa kazu krime ne'ebé sira simu, entaun ita sei duvida tribunál-nia knaar nu'udar instituisaun ne'ebé mantén dame no defende direitu sivíl. Ne'e-duni ami propoin katak tribunál sira presiza koko alternativu sira ne'e liu hosi peskiza uma-kain hodi buka-hatene ema-nia persepsaun kona-ba krime.

Iha Timor-Leste, iha ona estudu lubuk ida kona-ba sistema justisa ho objetivu atu avalia justisa tradisionál-nia kontribuisaun no mós avalia ema-nia fiar iha sistema justisa formál. Maibé rezultadu hosi estudu ne'e la-hatudu klaru kona-ba krime nia númeru loloos, no indika de'it partisipante-nia opiniaun kona-ba oinsá sira espera instituisaun oioin atende sira-nia keixa ka kazu. Ami seidauk hetan dadus (to'o ohin loron nian) relasiona ho partisipante sira-nia esperiénsia kona-ba kazu krime loloos nu'udar vítima-nia família, no polísia no sira seluk prosesa duni kazu ne'e ka lae. Peskiza-nia pergunta sira hanesan ne'e bele hatudu mai ita katak karik iha diferensa ka problema iha sidadaun-nia tendénsia atu hato'o keixa kona-ba kazu krime, ka polísia-nia tendénsia atu atende no prosesa kazu krime ne'ebé sira simu.

Rekomendasaun 9: Peskiza Uma-Kain sobre Ema-nia Persepsaun kona-ba Krime

Nu'udar meius ida atu avalia tribunál-nia impaktu ba iha prevensaun krime no mós rezultadu satisfatóriu ba kazu krime sira, tribunál iha Timor-Leste tenke hala'o peskiza uma-kain ida hodi buka-hatene se iha diferensa entre númeru insidente krime ne'ebé akontese ho númeru keixa no prosedimentu. Peskiza ne'e tenke hala'o ho apoiu ativu hosi PNTL no mós Ministériu Públiku.

REZULTADU KAZU VIOLÉNSIA DOMÉSTIKA

Eskema lejizlativa ne'ebé mensiona iha Lei Kontra Violénsia Doméstika inklui objetivu atu garante katak tribunál independentemente halo avaliasaun ba arguidu-nia asaun iha kazu violénsia doméstika no tenke fó sentensa ne'ebé apropriadu. Bazeia ba JSMP-nia relatóriu, ita haree jerálmente tribunál kumpre duni objetivu. Maske nune'e JSMP-nia relatóriu mós hatudu kestaun kona-ba konsisténsia iha tribunál-nia sentensa, no sujere katak tanba violénsia doméstika iha ofensa oioin, no ofensa ida-idak iha ninia pena másimu, entaun difisil atu asegura konsisténsia. JSMP-nia relatóriu mós hatudu númeru kazu violénsia doméstika ne'ebé arguidu konfesa ninia aktu krime. Ida ne'e mós hamosu pergunta se arguidu hetan akonsellamentu legál ne'ebé independente no adekuadu ka lae. Dalaruma, embora arguidu admite ninia asaun krime, sei iha kestaun sobre violénsia-nia gravidade ka irregularidade, no ida ne'e bele fó impaktu ba sentensa ne'ebé tribunál sei fó ba arguidu. Seidauk klaru se defensór públiku konsidera distinsaun sira ne'e hanesan defeza ba arguidu.

Ami-nia entrevista ho defensór públiku no sira seluk indika katak Defensoria Públiku hetan númeru akumulasaun kazu boot liu iha fatin barak. Defensór públiku la'ós de'it konkorda atu reprezenta arguidu hotu-hotu iha tribunál, maibé sira mós atende disputa barabarak ne'ebé la-tama iha prosedimentu tribunál inklui disputa sivíl ne'ebé akontese iha sistema justisa tradisionál no mós kazu krime delitu (krime privadu), ne'ebé prokuradór iha podér atu rezolve diretamente entre arguidu no vítima. Iha kazu sira hanesan ne'e, prokuradór sei notifika defensór públiku kona-ba kazu ne'e no inklui defensór públiku iha prosesu negosiasaun.

Tanba defensór públiku-nia knaar ne'ebé barak, númeru reprezentasaun ne'ebé sira halo ba arguidu kazu krime uitoan liu kompara ho kazu hotu-hotu. Informasaun ne'ebé ami hetan dehan katak defensór sira preokupadu tebes, no sira laiha tempu atu hasoru malu ho sira-nia kliente antes loron audiénsia iha tribunál. Ida ne'e kria duvida katak defensór públiku laiha tempu atu avalia didi'ak akuzasaun kontra violénsia doméstika ka validade hosi kualkér konfesa/admisaun ne'ebé arguidu hato'o tiha ona. Se ida ne'e mak forma reprezentasaun ne'ebé arguidu hetan, entaun ida ne'e sujere katak laiha verifikasaun sobre kualidade hosi prokuradór-nia kazu. Se prokuradór hili no uza akuzasaun ne'ebé la-apropriadu no arguidu konfesa tuir ida ne'e, entaun juis laiha insentivu atu avalia adekuasaun hosi akuzasaun ne'e. Maibé se arguidu rekuza atu konfesa tuir akuzasaun ne'ebé la-apropriadu, entaun prokuradór iha obrigasaun atu prova akuzasaun ne'e ka buka fali akuzasaun seluk.

Komentáriu seluk ne'ebé ami simu hosi JSMP (JSMP nu'udar fonte úniku ba informasaun sobre rezultadu kazu violénsia doméstika) mensiona preokupasaun ida katak tribunál-nia desizaun balu kmaan liu. Maioria desizaun ne'ebé tribunál hasai ba kazu violénsia doméstika mak inklui liberta arguidu bazeia ba pena suspensa, no dala barak la-obriga fó indenizasaun. Iha kazu balu, tribunál sentensa (liberta) arguidu bazeia ba arguidu-nia komportamentu di'ak, maske uluk arguidu komete tiha ona krime no agora komete tan krime ba daruak.

Seidauk iha avaliasaun formál hodi haree sistema-nia kompeténsia atu prosesa kazu violénsia doméstika. Tanba númeru kazu violénsia doméstika barak liu iha tribunál, liuliu iha Oecusse no Baucau, importante atu konsidera se tribunál mantén konsisténsia iha ninia servisu hodi prosesa kazu sira ne'e ka lae, se tribunál-nia desizaun muda duni rezultadu kazu iha nivel justisa tradisionál ka lae. Ami kompriende katak, kuaze iha kazu hotu-hotu ne'ebé arguidu konfesa ninia aktu krime, dala barak arguidu no vítima ka vítima-nia familia halo tiha ona akordu liu hosi sistema justisa tradisionál. Ne'e-duni ami rekomenda katak tribunál avalia rezultadu kazu iha kazu krime, inklui kazu violénsia doméstika, hodi kumpre expetativa katak tribunál mantén ninia konsisténsia no kompeténsia atu halo julgamentu. Ida ne'e bele alkansa liu hosi ezersísiu avaliasaun pilotu ida. Depois bele hadi'ak liu tan bainhira muda ona sistema jestaun kazu iha tribunál hodi dokumenta dadus kona-ba rezultadu kazu violénsia doméstika nian ne'ebé ita bele uza hodi halo avaliasaun iha futuru.

Rekomendasaun 10: Avaliasaun ba Rezultadu Kazu Violénsia Doméstika

(a) Tribunál iha distritu Oecusse no Baucau tenkte halo avaliasaun ba kazu violénsia doméstika sira ho objetivu atu estuda konsisténsia no adekuasaun hosi sentensa sira ne'ebé tribunál hasai bainhira konsidera tiha ona kazu-nia gravidade no kualkér akordu ne'ebé arguidu no vítima halo antes tiha ona iha sistema justisa tradisionál.
(b) Tenke halo mudansa ba dezeñu sistema jestaun kazu ho komputadór iha tribunál (IIMS) atu nune'e bele permite sistema hodi reokolla dadus kona-ba kazu-nia rezultadu, sentensa ne'ebé tribunál deside, se arguidu konfesa ninia asaun krime ka lae, no se tribunál fó desizaun bainhira arguidu no vítima halo tiha ona akordu privadu ida. Dadus sira ne'ebé ami sujere atu inklui iha IIMS mak inklui iha Aneksu 6.

TREINAMENTU BA PESOÁL NO FUNSIONÁRIU (STAFF) TRIBUNÁL

Funsionáriu hotu-hotu ne'ebé ami entrevista iha Oecusse no Baucau iha deseju atu hetan treinamentu ne'ebé di'ak liu. Ida ne'e sujere katak maske CFJ fornese treinamentu preparatória ne'ebé adekuadu, sei iha dezafiu atu atende staff no juis sira-nia nesesidade treinamentu profisionál ne'ebé kontinua aumenta.

Kontinuasaun Edukasaun Judisiál

Maske CFJ iha kapasidade atu fornese treinamentu ba majistradu, advogadu no ofisiál tribunál sira, CFJ nia orientasaun mak prinsipalmente atu fornese treinamentu pre-kualifikasaun no fasilita ezame kandidatura ba nomeasaun nivel primeiru. CFJ-nia rekursu mós limitadu no priorizadu ba funsaun ida ne'e de'it. Ne'e-duni treinamentu ba juis, prokuradór no defensór públiku ne'ebé ativu menus liu, no dala barak treinamentu sira ne'e so bele realiza bainhira CFJ hetan fundus hosi doadór sira. Iha momentu ida ne'e, laiha programa sira hanesan konferénsia anuál ba juis sira, laiha seminário ho tópiku espesífiku ba juis sira, no laiha prosesu atu dezenvolve publikasaun espesiál ne'ebé bele orienta juis ativu sira. Programa sira ne'e eziste ona iha pasadu maibé hotu-hotu eziste hanesan eventu dala-ida nian de'it, laiha kontinuasaun, no baibain realiza ho fundus ne'ebé mai hosi doadór. Klaru katak iha estájiu dezenvolvimentu judisiáriu ida ne'e, ita presiza introdús no regula sistema hodi kontinua dezenvolvimentu sistema judisiáriu.

Programa sira ne'ebé susesu ona hodi kontinua dezenvolve juis iha nasaun seluk sempre realiza bazeia ba instituisaun-nia kompromisu ne'ebé haketak juis hosi ofisiál sira seluk. Modelu maioria ne'ebé aplika iha Europeia no nasaun Anglófonu mak akademía judisiáriu ne'ebé kontrolu hosi judisiáriu no limita ninia atividade ba de'it juis-nia dezenvolvimentu, staff no mós prokuradór-nia dezenvolvimentu (prokuradór sira halo parte boot iha judisiáriu), no husik hela edukasaun no treinamentu advogadu ba instituisaun seluk hanesan Ministériu Justisa.

Hosi pratika internasionál ne'ebé efetivu Timor-Leste sei adopta modelu ruma, no kualkér sistema no modelu ne'ebé Timor-Leste sei adopta, presiza iha kompromisu espesiál ida hodi kontinua juis-nia edukasaun. Se CFJ kumpre nesesidade sira ne'e, entaun iha valór di'ak ba CFJ atu estabelese kurríkulu ka divizaun espesiál ida ne'ebé dedikadu atu fó treinamentu judisiál. Tanba iha Timor-Leste dalan ba prokuradór-nia karreira la-hanesan ho juis nian, entaun kurríkulu espesiál ida ne'e so bele aplika de'it ba juis sira no karik bele hamriik iha Konsellu Superior ba Judisiáriu-nia okos hanesan funsaun ida ne'ebé bele fasilita Konsellu-nia interese hodi dezenvolve juis ba promosaun.

Ami rekomenda katak atu estimula neineik dezenvolvimentu akademía judisiáiru iha Timior-Leste, Tribunál Rekursu tenke inisia estabelesimentu komité ida ne'ebé kompostu hosi juis na'in tolu ka haat no hanaran Komité Edukasaun Judisiál, no sira mak serve hanesan painél espesialista hodi akonsella dezenvolvimentu programa edukasaun ba juis sira. Kuandu harii ona, komité tenke propoin programa konferénsia regulár ida ba juis sira no kurríkulu ida hodi dezenvolve oráriu ka kalendáriu seminário ba juis sira kona-ba asuntu lei ruma.

Ami rekomenda katak komité mós bele sai hanesan painél editoriál espesialista hodi dezenvolve ezbosu no publika *Benchbook* (manuál prosedimentu ba juis) ba juis tribunál distritál sira, hanesan aplika iha nasaun

barak. *Benchbook* ne'e informasaun kona-ba lei no pratika prosedurál ne'ebé juis seniór (sira ne'ebé iha esperiénsia barak ona) sira oferese ba juis foun atu nune'e sira bele benefisia hosi informasaun ne'e. *Benchbook* ne'e mós oferese konsellu kona-ba tékniku oinsá atu hala'o prosesu audiénsia no halo desizaun sentensa. Juis iha nasaun sira ne'ebé dezenvolve ona *benchbook*, konsidera *benchbook* hanesan informasaun ne'ebé importante no iha valór boot tebes, liuliu iha faze inísiu karreira.

Rekomendasaun 11: Kontinuasaun Edukasaun no Dezenvolvimentu Judisiál

Tribunál Rekursu tenke inisia estabelesimentu komité ida hanaran Komité Edukasaun Judisiál, ne'ebé sei funsiona hanesan painél espesialista hodi fó konsellu kona-ba dezenvolvimentu kontinuasaun programa edukasaun ba juis ativu sira. Kuandu estabelese ona, komité ida ne'e tenke propoin programa konferénsia regulár ida ba juis sira no kria kurríkulu ida hodi dezenvolve orário ka kalendáriu seminário ba juis sira kona-ba asuntu lei ruma. Komité mós tenke funsiona hanesan painél editoriál espesialista hodi halo ezbosu no publika *Benchbook* ba juis sira iha tribunál distritál.

Kontinuasaun Treinamentu no Dezenvolvimentu ba Staff Tribunál

Ami-nia entrevista ho staff sira iha Oecusse no Baucau hatudu katak iha nesesidade barak ba kontinuasaun apoiu no treinamentu. Kontinuasaun treinamentu ne'e inklui ba ofisiál judisiáriu sira ne'ebé responsabiliza ba jestaun kazu, tradutór/interpretadór, no staff tékniku foun informasaun nian. Iha tribunál Baucau ne'ebé uza tiha ona komputadór ba dadus IIMS, staff sira espresa sira-nia intensaun forte atu hetan treinamentu adisionál hodi ajuda sira uza komputadór. Iha Baucau no Oecusse, ofisiál judisiáriu sira mós espresa sira-nia interese atu kontinua treinamentu lingua Portugés no mós treinamentu iha kódigu prosedimentu kazu krime no sivíl hodi komplementa treinamentu ne'ebé sira hetan ona hosi LTC.

To'o ohin loron, seidauk iha prosesu sistemátika hodi avalia staff sira-nia nesesidade ba treinamentu iha tribunál distritál Oecusse no Baucau. Staff lubuk ida iha tribunál rua ne'e foin mak hahú servisu dezde fulan 12 kotuk ba (seidauk to'o tinan ida), no sira muda hosi Dili mak ba. Provavelmente entre staff sira ne'e, sira laiha nesesidade ne'ebé hanesan. Ne'e-duni, ida ne'e tempu duni atu ita halo avaliasaun no uza rezultadu hosi avaliasaun ne'e para dezenvolve proposta ba programa treinamentu ne'ebé espesífiku. Ami rekomenda katak presiza iha avaliasaun kona-ba nesesidade treinamentu iha tribunál distritál rua ne'e ba funsionáriu hotu-hotu, inklui juis. Avaliasaun kona-ba nesesidade treinamentu ne'e sei sai parte ida iha atividade pilotajen oioin iha tribunál rua ne'e no sei sai hanesan gia para dezenvolve fundasaun forte ba kurríkulu ida sobre dezenvolvimentu profisionál ba prazu naruk nian. Ami mós sujere katak bele hahú dezenvolve ona buat rua: sistema email no baze-dadus IIMS iha komputadór. Ida ne'e sei sai hanesan ezersísiu aprendizajen ne'ebé bele benefisia funsionáriu sira.

Uza Email Ofisiál

Primeiru mak utilizasaun email nu'udar instrumentu ba administrasaun tribunál. Tribunál rua laiha sistema email ofisiál ida hodi substitui kualkér memo ne'ebé tenke hakerek iha papél, imprime no distribui. Maske jerálmente dokumentu tribunál labele haruka tuir email, iha tipu komunikasaun no korrespondénsia administrativa lubuk ida ne'ebé bele hala'o liu hosi email, no la-presiza hakerek iha papél ka karta. Iha momentu ida ne'e, funsionáriu hotu-hotu iha tribunál distritál Baucau no Oecusse iha ona kapasidade tékniku atu halo komunikasaun ba malu no ho Tribunál Rekursu iha Dili liu hosi email. Sistema email ofisiál ba funsionáriu tribunál hotu-hotu iha tiha ona maibé funsionáriu IT iha Tribunál Rekursu hatete katak jerálmente sistema ne'e seidauk la'o. Ami rekomenda katak presiza iha programa treinamentu ida no fornese ba funsionáriu sira iha tribunál pilotu rua ne'e ho objetivu atu koko no avalia utilizasaun email nu'udar instrumentu komunikasaun administrativu ba tribunál distritál sira.

Kontinuasaun ba Treinamentu Sistema Jestaun Informasaun Integradu (IIMS)

IIMS-nia manuál ba utilizadór ne'e iha pájina kuaze 1000 resin no hakerek iha lingua Portugés, no ida ne'e difikulta funsionáriu tribunál sira atu kompriende di'ak IIMS, no tanba manuál ne'e laiha versaun Tetun, difisil ba funsionáriu tribunál sira atu hadi'a ka hametin sira-nia kompriensaun kona-ba sistema IIMS. Ami rekomenda katak, la-presiza halo tradusaun ba manuál naruk ne'e, tanba hafoin tradús tiha, funsionáriu sira

mós dalaruma seidauk prontu atu uza. Ne'e-duni uza sistema simples ida bazeia ba sistema rede IIMS ne'e rasik no halo treinamentu ba funsionáriu tribunál sira. Ami propoin katak tribunál distritál Baucau bele serve hanesan sentru pilotu ida ba dezenvolvimentu módulu treinamentu bazeia-ba komputadór ne'ebé funsionáriu sira bele uza rasik hanesan instrumentu aprendizajen ida kona-ba sistema IIMS. Kada módulu sei hatudu manuál no instrusaun uza animasaun iha lian Tetun. Ida ne'e bele dezeña no realiza uza rekursu ne'ebé eziste iha programa *Microsoft PowerPoint*, no sira sei disponivel iha komputadór hotu-hotu iha tribunál ne'e. Bele uza ezersísiu ida ne'e hodi dezenvolve protótipu metodolojia ida ba treinamentu seluk ne'ebé Tribunál Rekursu iha interese atu hala'o iha futuru. Ita bele espera katak hosi avaliasaun kona-ba funsionáriu-nia nesesidade treinamentu iha tribunál rua ne'e, ita bele uza rezultadu avaliasaun ne'e hodi identifika prioridade sira ne'ebé relevante ba dezenvolvimentu produtu aprendizajen foun.

Komentáriu hosi funsionáriu sira iha tribunál distritál Baucau kona-ba sira-nia treinamentu utilizasaun sistema IIMS bazeia-ba komputadór indika katak jerálmente funsionáriu sira sente satisfás no iha kompeténsia. Maske nune'e, funsionáriu sira admite katak sira sei benefisia liu tan kuandu iha kontinuasaun ba treinamentu ne'ebé sira hetan ona ne'e, no mós kuandu sira bele repete treinamentu iha IIMS-nia área balun. Porezemplu, ofisiál judisiáriu ida admite katak maske nia hatene uza programa hanesan *Microsoft Word* hodi hakerek no imprime minuta hosi sesaun audiénsia nian, no inklui kopia minuta ida ba iha arkivu tribunál, nia la-hatene oinsá atu manda minuta-nia kopia eletróniku ida ba iha sistema IIMS-nia arkivu kazu.

Rekomendasaun 12: Suporta Treinamentu Funsionáriu iha Oecusse no Baucau

(i) Tenke hala'o *avaliasaun kona-ba nesesidade treinamentu* iha tribunál rua ne'e ba funsionáriu sira hotu, inklui juis sira. Avaliasaun kona-ba nesesidade treinamentu ne'e sei sai parte ida iha atividade pilotajen oioin iha tribunál rua ne'e hodi identifika areas relevante ne'ebé bele sai foku ba treinamentu treinamentu-nia prioridade iha futuru.
(ii) Dezeña no fornese programa treinamentu ida ba funsionáriu sira iha sentru pilotu rua ne'e ho objetivu atu koko no avalia utilizasaun email nu'udar instrumentu komunikasaun administrativu ba tribunál distritál sira.
(iii) Tribunál distritál Baucau tenke serve hanesan sentru pilotu ida ba dezenvolvimentu módulu treinamentu bazeia-ba komputadór ne'ebé funsionáriu sira bele uza rasik hanesan instrumentu aprendizajen ida kona-ba sistema IIMS. Kada módulu sei dezeña uza programa Microsoft PowerPoint, hatudu manuál no instrusaun uza animasaun iha lian Tetun ne'ebé se sei disponivel iha komputadór hotu-hotu iha tribunál.

AUTOMATIZASAUN

Dezenvolvimentu Sistema Jestaun Informasaun ne'ebé Integradu

Iha tinan 2014 klaran, Tribunál Rekursu konsege halo konesaun no mantén rede ne'ebé liga tribunál distritál hotu-hotu. Ohin loron Oecusse ligadu ho rede Tribunál Rekursu ida ne'e no komputadór disponivel ba juis no ofisiál judisiáriu sira atu uza. Iha sistema ida ne'e, sira hetan asesu ba rede internet no mós programa báziku sira hodi prosesa dokumentu. Funsionáriu sira hetan ona treinamentu balun maibé sira so bele uza fasilidade sira ne'e hodi kria dokumentu. Aleinde ne'e, maske ema hotu-hotu iha tribunál distritál Oecusse iha kapasidade atu uza email, funsionáriu uitoan liu mak uza email tanba prinsipalmente komunikasaun entre Tribunál Rekursu no tribunál distritál sira sei nafatin manda ba malu ho manualmente.

Baucau mós ligadu ho rede ida ne'e no kada juis no ofisiál judisiáriu hetan ona komputadór ida hodi halo servisu. Utilizadór sira iha asesu ba internet, servisu email, no IIMS-nia sistema jestaun kazu. To'o ohin loron tribunál distritál Baucau mak tribunál distritál úniku ne'ebé utiliza sistema ida ne'e, maske iha tribunál distritál Dili sistema ne'e hahú introdús ona.

Sistema IIMS ne'e sistema dokumentasaun kazu ho objetivu jerál ba tribunál distritál sira. Sistema ne'e dezenvolve iha tinan 2009 ba polísia no prokuradór uza espesialista lokál no internasionál. Tribunál Rekursu hahú dezenvolve versaun independente ba polísia no prokuradór hodi uza iha tribunál distritál iha tinan 2012. Sistema ne'e serve hanesan sistema báziku ida ba jestaun kazu no oferese kapasidade dokumentasaun kazu ne'ebé di'ak. Dadus hotu-hotu iha sistema IIMS laran marka ho termu iha lian Tetun, Inglés no mós Portugés. Materiál treinamentu nian ne'ebé fornese hosi Tribunál Rekursu (la-inklui IIMS-nia Manuál Utilizadór) mós oferese iha lian Tetun no Portugés.

Parese funsionáriu sira iha tribunál distritál Baucau uza sistema IIMS ho satisfás hodi rejistu kazu, aloka kazu ba juis, prodús notifikasaun kona-ba audiénsia, kria oráriu ba kazu, arkivu dokumentu no informasaun kona-ba kazu, no mós prodús estatístika. Sistema IIMS-nia karakterístika balu seidauk funsiona di'ak. Porezemplu sei iha difikuldade atu prodús relatóriu ne'ebé separa kazu ativu sira hosi kazu ne'ebé iha tiha ona arkivu laran, no sistema ne'e mós seidauk bele sura kazu sira ne'ebé aloka ba juis ida-idak. Hanesan parte ida hosi introdusaun kona-ba sistema ne'e iha tribunál distritál Baucau, kazu sira hosi tinan 2002 dokumenta ona iha sistema laran maske foin mak inklui de'it kazu-nia deskrisaun báziku.

Funsionáriu Tribunál Rekursu ne'ebé ami entrevista haktuir katak seidauk iha oráriu fiksu ba lansamentu sistema IIMS. Treinamentu sira ne'e hahú nanis kedas hodi benefisia funsionáriu sira iha tribunál distritál Dili no tuir planu atuál kuandu tribunál distritál Dili adopta ona sistema ne'e, sistema ne'e sei hatutan ba iha tribunál sira iha distritu Oecusse, depois Suai. Funsionáriu administrasaun IT iha Tribunál Rekursu informa katak lansamentu sistema IIMS no ninia ekipamentu sira sei realiza uza fundus hosi governu Timor-Leste no laiha apoiu finanseiru hosi doadór seluk. Parese sistema ne'e iha xanse di'ak atu sai susesu iha tribunál distritál sira no sei ajuda hadi'a tribunál-nia produtividade atu kria oráriu ba kazu no fornese informasaun kona-ba jestaun. Sei iha duvida katak sistema ne'e bele lansa lalais tanba sistema-nia programa balu iha fallansu no seidauk rezolve. Maske nune'e, sedauk klaru oinsa Tribunál Rekursu sei asegura fundus ne'ebé sufisiente iha futuru hodi halo mudansa ba sistema-nia programa bainhira problema akontese.

Tribunál-nia kapasidade atu hadi'a sira-nia efetividade iha prosedimentu kazu depende ba sira-nia abilidade atu uza teknolojia informasaun, liuliu kapasidade atu fornese informasaun estatístika hodi hadi'a jestaun rekursu. Iha relatóriu ida ne'e nia laran ami mós propoin meius balun ne'ebé IIMS bele uza hodi reokolla dadus estatístika ne'ebé di'ak liu, maibé ita bele alkansa de'it objetivu sira ne'e kuandu ita halo mudansa programasaun ba IIMS. Tribunál Rekursu presiza sustenta ninia kompromisu ba dezenvolvimentu IIMS liu hosi meius sira ne'e, no halo hanesan prioridade boot liu tanba bele fó benefísiu iha tempu naruk.

Rekomendasaun 13: Sustenta Dezenvolvimentu no Aplikasaun IIMS

Tribunál Rekursu tenke fó prioridade ba hadi'a IIMS-nia aplikasaun/programa sira, hodi hadi'a fallansu ne'ebé detekta durante lansamentu sistema no mós hatutan sistema-nia aplikasaun hodi analiza variasaun iha númeru akumulasaun kazu no mós kazu-nia rezultadu.

Informasaun Dijitál ba Tribunál Sira

Ami-nia diskusaun ho tékniku informasaun iha Tribunál Rekursu indika katak maske tribunál foka maka'as ba iha estabelesimentu infrastrutura hodi suporta oinsá sira uza sistema teknolojia informasaun ba jestaun kazu, durante ne'e sira-nia esforsu limite loos ba nesesidade báziku. Hafoin kompleta tiha prosesu komisionamentu rede nasionál iha terrenu tomak no sistema IIMS iha tribunál hotu-hotu, sei iha objetivu barak atu alkansa molok sira bele utiliza sistema-nia poténsia tomak iha tribunál sira. Daudaun ne'e sedu liu atu dehan katak objetivu sira ne'e bele alkansa iha tinan lima nia laran, maibé provavel katak objetivu sira ne'e bele alkansa iha tinan sanulu nia laran.

Tribunál sira iha nasaun dezenvolvidu komesa hakat ona ba iha faze ida ne'ebé servisu importante sira administra liu hosi komputadór de'it. Ida ne'e la'ós de'it aplika ba sistema jestaun kazu, maibé mós ba administrasaun nia aspetu hotu-hotu inklui sistema finansa, akizisaun, jestaun rekursu umanu, no mós jestaun edifísiu. Prosesu ida ne'e la'o hamutuk ho mudansa rápidu iha tribunál-nia polítika kona-ba informasaun

sira, espesialmente tanba tribunál iha objetivu atu permite públiku, nune'e públiku iha asesu ba tribunál-nia arkivu no mós servisu dijitál sira.

Tendénsia ida ne'e posivel tanba estabelese ona Rede Privadu Virtual (ka *virtual private network (VPN))* iha tribunál laran no portál públiku. VPN fornese seguransa no konfidensialidade ba juis no funsionáriu tribunál sira atu nune'e sira bele uza aplikasaun hodi maneja tribunál-nia finansa, pagamentu, rekursu umanu, jestaun kazu no sistema internál sira seluk. VPN nia disponibilidade fasilita ona tribunál hodi kria tribunál-nia arkivu versaun eletróniku para uza iha interna. Ho ida ne'e sistema sei fasilita utilizadór autorizadu ida hodi asesu tribunál-nia arkivu no nia la-presiza buka versaun papél.

Portál públiku diferente hosi VPN tanba informasaun iha portál públiku ne'e disponivel ba kualkér ema ne'ebé utiliza internet. Baibain tribunál sira iha portál públiku ne'ebé fornese informasaun atu promove tribunál-nia knaar no informasaun kona-ba kazu espesífiku ruma, porezemplu publikasaun kona-ba tribunál-nia desizaun. Baibain informasaun ne'ebé disponivel iha portál públiku ne'e rekolla diretamente hosi rede VPN no inklui de'it informasaun sira ne'ebé tribunál konsidera própriu atu publika sai. Klaru katak VPN no portál públiku ne'e la-eziste eksklusivamente ba tribunál de'it. Kuaze ajénsia governu no kompañia privadu sira iha nasaun dezenvolvidu aplika mós sistema ida ne'e. Aproximasaun ba sistema jestaun informasaun tipu ida ne'e iha governu koñesidu ho naran 'e-government' ka 'e-governu' (bele mós hanaran 'governu-eletróniku'), no iha setór justisa, aproximasaun ida ne'e koñesidu ho naran 'e-justisa'.

Maske tribunál iha Timor-Leste seidauk to'o iha pontu ida ne'ebé sira bele halo-tuir aplikasaun sira ne'e ho efetivu, sira tenke komesa ona agora hodi la'o ba iha diresaun no destinu ne'ebé hanesan. Ami-nia rekomendasaun iha relatóriu ida ne'e sobre utilizasaun email hanesan instrumentu jestaun, ida ne'e ezemplu faze ida ba iha diresaun no destinu ne'e (favór haree rekomendasaun 12). Iha mós objetivu seluk ne'ebé tenke alkansa espesialmente tanba iha expetativa katak Tribunál Supremu sei harii iha tinan hirak tuir mai. Klaru katak Tribunál Supremu foun ida sei tenta atu adopta mudansa foun iha sistema teknolojia informasaun ne'ebé tribunál superiór sira iha nasaun seluk adopta ona. Partikulármente, Tribunál Rekursu sei hakarak atu kria sítiu ida ne'ebé publika informasaun utíl la'ós de'it ba juis no funsionáriu tribunál sira, maibé mós ba públiku tomak. Tribunál Supremu mós karik sei hakarak atu simu relatóriu eletróniku kona-ba lala'ok tribunál ki'ik sira hotu, no nia mós hakarak atu adopta uza komputadór ba halo administrasaun servisu báziku no tribunál-nia funsaun jerál, inklui arkivu eletróniku ba kazu sira, video-konferénsia, fatin armazén no jestaun ba audiénsia-nia gravasaun audio no mós tribunál-nia dokumentu sia seluk.

Ba objetivu ida ne'e, ami rekomenda ba Tribunál Rekursu atu dezenvolve neineik ninia rede tribunál no sistema IIMS hodi inklui komponente portál informasaun ida ne'ebé disponivel ba tribunál-nia funsionáriu ida-idak; no mós ba públiku maibé limitadu liu hosi tribunál-nia portál informasaun. Portál ida hanesan ne'e, kuandu estabelese iha daudaun ida ne'e, bele inklui ligasaun ba materiál eletróniku kona-ba lei sira iha Timor-Leste, relatóriu públiku kona-ba sistema judisiál, relatóriu estatístika ne'ebé aprovadu atu fó-sai ba públiku, no Tribunál Rekursu-nia desizaun ne'ebé aprovadu atu publika sai tanba konsidera hanesan iha interese públiku. Komponente interna VPN iha portál ne'e bele inklui materiál treinamentu ba funsionáriu sira, no inklui materiál sira ne'ebé CFJ publika, memorandu ofisiál kona-ba jestaun tribunál, no informasaun seluk ne'ebé fasilita administrasaun tribunál.

Rekomendasaun 14: Informasaun On-line ba Tribunál Sira

Atu dezenvolve sistema teknolojia informasaun ba tribunál distritál sira, Tribunál Rekursu tenke promove dezenvolvimentu Rede Virtuál Privadu ka VPN ida no portál públiku ida hodi fasilita di'ak introdusaun teknolojia foun iha administrasaun tribunál; no mós hanesan meius ida atu uza teknolojia iha prosesu dezenvolvimentu ba tribunál-nia funsionáriu sira no mós atu fornese informasaun ba públiku.

Prosedimentu-nia Gravasaun Audio

Durante ami-nia vizita badak iha tribunál distritál Dili, ami aprende katak tribunál iha planu atu esperimenta uza gravadór audio iha prosedimentu tribunál. Iha ne'ebé iha salaun tribunál ida ho ekipamentu atu grava prosedimentu uza mikrofone no prodús gravasaun iha kasete. Ami hetan informasaun katak intensaun uza

kasete ne'e atu bele rona fila-fali bainhira halo transkrisaun ba buat ne'ebé mensiona iha salaun tribunál laran. Maske sesaun audiénsia balu gravadu ona ho meius ida ne'e, seidauk iha asaun atu halo transkrisaun ba kazu sira ne'e. Klaru katak sira-nia planu sei dezenvolve hela no ami hetan sujestaun katak karik bele utiliza aplikasaun eletróniku ida ne'ebé bele rekoñese ema-nia lian hodi bele halo transkrisaun kazu ho efetivu.

Maske gravadór lian aplika ona iha tribunál barak, dala barak sira la-utiliza aplikasaun ne'ebé rekoñese ema-nia lian tanba baibain aplikasaun ne'e difisil atu prodús loloos ema-nia lian automatikamente sein asisténsia hosi ema atu halo revizaun no hadi'a produsaun ne'e. Aléinde ne'e Tetun mak lingua ne'ebé maioria ema ko'alia durante sesaun audiénsia, entaun difisil ba aplikasaun eletróniku atu lee lian Tetun tanba daudaun ne'e seidauk eziste aplikasaun ruma ne'ebé iha kapasidade atu rekoñese lingua Tetun.

Aleinde ne'e, tribunál primária instánsia nivel báziku ladún utiliza gravadór lian para prodús transkrisaun tanba bele hasa'e kustu no presiza esforsu barak liu kompara ho hakerek minuta ho liman. Minuta ne'e tipikamente sumáriu kona-ba buat sira ne'ebé mensiona iha salaun tribunál laran no fasil ba ema ne'ebé hakerek minuta atu prodús fali ba formatu dijitál. Kuandu uza gravadór, prosesu atu halo transkrisaun gravadór ne'e bele han tempu naruk liu no mós fasil atu hetan erru tanba karik ema ne'ebé halo transkrisaun la-marka prezensa durante sesaun audiénsia. Ne'e-duni, maske gravadór la-presiza ema-nia supervizaun barak, prosesu transkrisaun presiza esforsu barak kompara ho sistema manuál ne'ebé daudaun ne'e eziste.

Tribunál sira iha nasaun seluk ne'ebé uza sistema gravasaun simplesmente ultrapasa ona problema sira ne'ebé assosiadu ho produsaun transkrisaun atravez hosi hamenus nesesidade para prodús transkrisaun. Atu alkansa ida ne'e sira adopta regra ne'ebé autoriza prodús transkrisaun bainhira iha apelu, ka bainhira juis husu transkrisaun tanba razaun espesífiku, ka bainhira parte ida hakarak hetan transkrisaun no sei kobre kustu produsaun. Iha maioria parte, tribunál se la-halo produsaun ba transkrisaun ne'e maibé gravasaun ne'e sei rai iha arkivu laran atu nune'e disponivel ba transkrisaun se tribunál presiza iha futuru. Ho sistema ida hanesan ne'e, tribunál bele redús esforsu ne'ebé presiza atu grava prosedimentu tribunál, no fasilita funsionáriu para prodús sumáriu minuta ho kualidade di'ak kona-ba buat sira ne'ebé akontese iha tribunál laran.

Risku ba tribunál distritál Dili mak ne'e, kuandu tribunál hahú halo gravasaun ba prosedimentu sira depois tenta atu transkreve kasete sira ne'e, entaun nia bele aumenta tan de'it servisu todan no gastu sira ne'ebé la-garante kualidade di'ak ba prosedimentu kazu. Aproximasaun di'ak liu mak dezenvolve meius ida atu trata gravasaun ne'e hanesan dokumentu ofisiál kona-ba prosedimentu atu nune'e bainhira tribunál presiza fila fali gravasaun ne'e, tribunál hein rona de'it gravasaun ne'e, la-presiza lee sai.

Rekomendasaun 15: Gravasaun Audio ba Prosedimentu Sira iha Tribunál Distritál

Ami rekomenda katak kuandu tribunál distritál tenta atu aplika gravasaun iha prosedimentu sira, tribunál tenke buka meius hodi hamenus ninia nesesidade ba transkrisaun. Sujestaun kona-ba gia atu uza gravadór inklui hanesan tuirmai ne'e:

(a) Gravasaun ne'e prinsipalmente tenke uza de'it hanesan meius ida hodi prodús sumáriu minuta kona-ba prosedimentu tribunál, la'ós hanesan transkrisaun verbatim/literál, ka liafuan tomak ne'ebé temi iha prosedimentu laran.
(b) Sei la-prodús tanskrisaun literál anaunsér iha apelu ba tribunál-nia desizaun relasiona ho kazu krime no mós kuandu tribunál rekursu presiza transkrisaun ne'e.
(c) Sei la-prodús transkrisaun literál iha kazu sivíl anaunsér parte ida hato'o pedidu no parte ne'e prontu atu kobre kustu produsaun.
(d) Sei la emite transkrisaun literál kuandu ofisiál judisiáriu seidauk halo verifikasaun ba transkrisaun-nia kualidade, no kuandu juis ne'ebé prezide kazu ne'e seidauk sertifika transkrisaun ne'e.

EKSTENSAUN NO JESTAUN FASILIDADE

Dezafiu boot ida ba judisiáriu iha Timor-Leste mak ninia nesesidade atu hasa'e imajen di'ak iha komunidade nia leet no asegura rekoñesimentu ba ninia papél nu'udar protejedór ba Konstituisaun no direitu sidadaun nian. Meius konvensionál ida atu alkansa ida ne'e mak liu hosi harii uma tribunál ne'ebé la'ós de'it funsiona hanesan fatin atu rezolve disputa, maibé mós hanesan símbolu dignidade no podér judisiáriu nu'udar estadu-nia instrumentu para fornese no mantén justisa. Aleinde objetivu simbóliku ida ne'e, uma tribunál mós bele funsiona hanesan sentru servisu no ema sira ne'ebé iha nesesidade, sira bele utiliza tribunál ho konfortavel iha ambiente ne'ebé respeita igualdade entre ema hotu-hotu iha lei-nia okos.

Ami-nia vizita ba tribunál iha distritu Oecusse no Baucau lori objetivu atu entrevista pesoál tribunál sira, no mós atu haree kondisaun no utilidade iha uma tribunál sira ne'e rasik nu'udar símbolu no mós nu'udar sentru servisu.

Tuirmai ne'e mak ami nia observasaun esensiál ne'ebé ami halo:

- Uma rua ne'e tuan ona no tuir dezeñu Indonézia nian. Kada uma tribunál ida iha salaun ba julgamentu ne'ebé hamriik iha klaran no iha sorin-sorin hamriik sala administrativu. Kada tribunál mós iha eskada besik odamatan boot no mós iha odamatan sorin, maibé laiha dalan ne'ebé adekuadu ba kadeira-roda.
- Tribunál iha Oecusse ne'e iha andár rua. Andár leten funsiona hanesan akomodasaun (hela-fatin) ba juis rezidente no mós juis vizitante sira. Tanba baibain iha de'it juis na'in ida, entaun fasilidade ne'e parese boot liu.
- Tribunál iha Baucau ne'e edifísiu boot ida de'it maibé inklui edifísiu andár rua ne'ebé funsiona hanesan edifísiu ba juis balu. Kontrário ho Oecusse, Baucau iha juis rezidente na'in haat ne'ebé tenke utiliza akomodasaun governu nian iha estrada sorin ne'ebé inklui mós sala tribunál adisionál rua.
- Oecusse laiha liu kuadru ba públiku, eseitu iha tribunál nia oin. Tribunál Oecusse laiha kuadru ba notísia, eseitu kuadru ida hamriik besik eskada boot ne'ebé funsiona hanesan fatin atu anunsia vaga servisu ba públiku.
- Baucau iha kuadru ba públiku ho númeru mínimu, maibé uza kuadru mutin iha besik entrada hodi hakerek informasaun kona-ba audiénsia kazu. Baucau mós iha kuadru ba notísia maibé funsiona de'it hanesan fatin hodi anunsia vaga servisu ba públiku. Iha salaun ne'ebé públiku bele vizita bainhira sira trata asuntu ofisiál, porezemplu hanesan Edifísiu Sentrál, laiha espasu ba públiku atu tuur ka hamriik ho konfortavel. Parese iha Baucau laiha espasu edifísiu ne'ebé mamuk.
- Tribunál rua ne'e laiha espasu klaru ba públiku atu halo inkéritu no laiha espasu ba ema ho nesesidade espesiál, porezemplu sira laiha espasu ba testemuña ne'ebé presiza separadu hosi arguidu durante prosesu audiénsia. Iha tribunál rua ne'e, espasu públiku ne'ebé ema bele utiliza mak iha li'ur besik odamatan boot, imediatamente besik salaun tribunál.
- Edifísiu rua ne'e jerálmente iha kondisaun ne'ebé ladún di'ak. Iha Oecusse edifísiu-nia-kakuluk ko'ak, tanba ita bele haree noda iha kakuluk-laran hosi entrada. Edifísiu ne'e mós presiza pinta foun, li'ur no laran. Maibé edifísiu rua ne'e mós hotu, laiha sasán dezorganizadu.
- Oecusse iha rai luan iha edifísiu-nia oin no mós iha kotuk, no bele sai hanesan espasu kuandu presiza aumenta edifísiu iha futuru, porezemplu edifísiu adisionál iha sorin-sorin. Hosi informasaun ne'ebé ami hetan mensiona katak iha ona planu atu aumenta edifísiu foun iha Baucau, no servisu sei hahú iha tinan 2015.
- Tribunál rua ne'e utiliza fasilidade ár-kondisionadu iha salaun laran no mós iha juis no funsionáriu nia edifísiu sira, maibé area seluk iha edifísiu laran laiha ár-kondisionadu.
- Tribunál rua ne'e instala ona sistema rede komputadór no sistema ne'e funsiona.
- Salaun tribunál iha edifísiu ida-idak iha espasu sufisiente, moos no ár-kondisionadu. Ida-idak iha bandeira serimoniál Timor-Leste maibé laiha krista, insignia, ka brazaun armas iha juis-nia kadeira kotuk ne'ebé komún iha tribunál sira iha nasaun seluk.

Jerálmente, tribunál rua ne'e nia dezeña no jestaun esensialmente atu atende nesesidade mínimu hosi juis no funsionáriu sira atu sira bele prosesa servisu administrasaun tribunál nian no hala'o audiénsia. Laiha

evidénsia ne'ebé hatudu katak tribunál rua ne'e atu dezenvolve servisu ba públiku porezemplu hanesan fatin ba inkéritu no informasaun, fatin separadu ba advogadu no ninia kliente sira, ka fatin ne'ebé bele oferese espasu konfortavel ba vizitante vulneravel sira hanesan vítima violénsia doméstika. Defisiénsia iha edifísiu-nia dezeñu difikulta ita atu hanoin oinsá bele hadi'a edifísiu ne'e, maibé sira la taka-dalan kedas ba hadi'ak hotu-hotu, até iha Baucau ne'ebé sei hamamuk fatin ne'e bainhira edifísiu foun hahú ninia konstrusaun. Tuirmai ne'e ezemplu fasilidade sira ne'ebé bele inklui hodi hadi'a edifísiu ida-idak nia funsaun, hadi'a fornesimentu servisu ba públiku, no fasilita promosaun valór no papél judisiáriu nian. Ideia sira ne'e adopta hosi prátika komum ne'ebé tribunál sira halo iha nasaun seluk.

Kuadru ba Públiku
Tribunál ida-idak bele benefisia liu tan kuandu instala tiha kuadru hodi publika informasaun ba públiku ka vizitante sira ne'ebé la-koñese di'ak edifísiu tribunál ne'e, porezemplu hanesan arguidu, vítima no testemuña. Kuadru informasaun ne'e tenke instala kedas iha entrada primeiru no inklui kuadru estrutura hodi indika tribunál nian naran, juis administradór-nia naran, sekretária judisiál-nia naran, no lista salaun sira ne'ebé eziste iha edifísiu oin-oin, porezemplu hanesan seksaun ba kazu krime ka seksaun ba kazu sivíl, tradutór-nia edifísiu, fatin-hein, soe-bee fatin, no fatin atu halo inkéritu jerál.

Kuadru Notísia no Notísia Tribunál
Kada tribunál tenke instala kuadru mutin ida ho kuadru notísia ida iha sorin. Kuadru mutin ne'e sei utiliza iha loron audiénsia atu indika katak kazu atu hahú ona, ka audiénsia la'o hela. Kuadru notísia tenke hatudu lista prosedimentu sira iha loron ne'e, loron tuirmai, no mós loron seluk ne'ebé iha ona lista. Kuadru notísia ne'e mós bele utiliza hodi publika dokumentu tribunál sira seluk hanesan informasaun kona-ba tribunál movel ne'ebé mai daudaun, ka informasaun kona-ba sesaun regulár ba tribunál koletivu.

Linguajen ba Dokumentu no Kuadru Informasaun
Bainhira tau kuadru públiku no kuadru notísia, tenke konsidera katak ema balu laiha kbiit atu kompriende Portugés ka Tetun. Ne'e-duni tenke uza no inklui lingua rua ne'e hotu, no se posivel, uza mós lingua lokál, no ba vizitante sira ne'ebé analfabetu, tenke konsidera uza imajen, karik posivel. Aleinde ne'e, tribunál-nia edifísiu tenke koko prodús folletu ba vizitante sira, hanesan vítima no testemuña.

Fatin-Hein
Konsidera katak Oecusse no Baucau esperiénsia númeru kazu violénsia doméstika ne'ebé boot liu, tribunál rua ne'e tenke harii fatin-hein dedikadu atu asegura katak arguidu sei la-haree vítima ka testemuña bainhira sira to'o iha tribunál. Bele dezeña no dedika fila fali kuartu mamuk sira ba efeitu espesiál ida ne'e, ka kuandu laiha kuartu mamuk, bele utiliza espasu iha li'ur atu nune'e vizitante sira bele hein to'o tempu tribunál presiza sira tama iha sala laran.

Defensór Públiku no Prokuradór
Tribunál tenke disponivel ba defensór públiku no prokuradór atu sira bele uza hodi hasoru-malu, ka halo enkontru privadu, ho sira-nia kliente ka testemuña. Tenke dedika kuartu ruma ba efeitu ida ne'e no kuartu sira ne'e tenke iha naran atu nune'e fasil ba vizitante sira atu buka-hetan defensór públiku ka prokuradór-nia fatin.

Inisiativa ba Estensaun
Tribunál-nia juis administradór tenke konsidera harii grupu konsulta ba utilizadór tribunál sira no programa atividade ho objetivu atu mantén konesaun entre tribunál ho utilizadór sira no promove tribunál-nia knaar no servisu sira ne'ebé tribunál oferese. Grupu konsulta utilizadór tribunál ne'e grupu ida ne'ebé reprezenta stakeholder sira (porezemplu: prokuradór, defensór públiku, polísia no lider komunitáriu) no sira iha enkontru regulár ho juis administradór. Enkontru grupu utilizadór ne'e diskute problema pratikál sira ne'ebé afeta utilizasaun jestaun fasilidade tribunál, no servisu ne'ebé tribunál oferese ba vizitante sira. Grupu utilizadór ne'e bele mós dezenvolve no promove tribunál-nia atividade estensaun, hanesan organiza loron tribunál nakloke hodi fasilita vizita hosi grupu estudante, no mós bele organiza eventu ne'ebé hanesan assosiadu ho sesaun tribunál movel.

Loron tribunál nakloke mak loron ida ne'ebé tribunál konvida públiku hodi mai aprende kona-ba tribunál-nia lala'ok no husu pergunta jerál kona-ba servisu saida de'it mak disponivel ba sira ne'ebé sei sai hanesan utilizadór. Loron tribunál nakloke mós bele serve hanesan eventu média nian hodi promove tribunál, porezemplu juis bele partisipa iha diálogu iha rádiu ka ko'alia iha igreja ka eventu públiku seluk.

Grupu utilizadór-nia knaar mak atu halo peskiza ba utilizadór tribunál hodi determina opiniaun públiku kona-ba tribunál no esplora ideia hodi hadi'a tribunál-nia servisu iha nivel lokál. Membru grupu utilizadór sira bele estuda hosi sira-nia inkéritu rasik, assosiadu, ka ema seluk, hodi identifika kestaun oioin. Sira mós bele serve hanesan grupu ida hodi introdús peskiza grupu utilizadór no eskema komentáriu, no ezemplu hosi tipu ne'ebé ami propoin sei introdús iha Oecusse no Baucau durante pilotajen hodi hatudu valór hosi peskiza utilizadór.

Parese klaru hosi ami-nia avaliasaun katak ideia atu uza jestaun tribunál hanesan forsa ida ba tribunál-nia programa estensaun, ideia ne'e sei foun iha Timor-Leste. Esperiénsia hosi sistema tribunál seluk hatudu katak meius di'ak liu atu hatene se tribunál serve duni utilizadór sira-nia nesesidade ka lae mak husu diretamente ba sira liu hosi peskiza. Kona-ba ida ne'e ami propoin atu tribunál iha distritu Oecusse no Baucau, ida-idak hala'o peskiza hodi identifika loloos oinsá sira halo mudansa di'ak. Rezultadu hosi peskiza ne'e bele uza hodi dezenvolve modelu ida para maneja tribunál-nia kuadru públiku, utilizasaun espasu, servisu informasaun no atividade estensaun. Meius ida atu to'o iha ne'ebá mak liu hosi Peskiza ba Vizitante Tribunál, ne'ebé iha objetivu atu entrevista vizitante sira iha loron dezignadu hodi rekolla informasaun kona-ba tansá sira mai vizita no sira alkansa objetivu hosi sira-nia vizita ka lae. Liu hosi peskiza ne'e ita mós bele estuda vizitante sira-nia persepsaun kona-ba tribunál-nia fasilidade sira hanesan hein-fatin no soe-bee fatin.

Rekomendasaun 16: Dezenvolve Modelu ida Ba Jestaun Tribunál no Estensaun

Tribunál distritál Oecusse no Baucau tenke hala'o Peskiza Vizitante Tribunál atu nune'e bele dezenvolve modelu di'ak ida ba jestaun tribunál no atividade estensaun. Rezultadu hosi peskiza ne'e bele uza hodi konfirma ejijénsia ba hadi'a tribunál-nia servisu no suporta dezenvolvimentu inisiativa seluk ba estensaun, porezemplu hanesan harii grupu utilizadór tribunál, atividade ba loron tribunál nakloke, no atividade espesiál ne'ebé sei realiza ho sesaun tribunál movel.

ACCESS TO JUSTICE BRIEF
COURT FUNCTIONALITY IN TIMOR-LESTE
Functional Assessment of the Oecusse and Baucau District Courts

Summary of Assessment Findings and Recommendations
September 2014

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Counterpart International, Inc. (Counterpart) was awarded funding in 2013 from USAID Timor-Leste to implement the four-year **Ba Distrito project (the project)** with the goal of increasing institutional and human capacity at local levels to deliver basic services as part of wider vision of improved decentralized governance and inclusive access to justice in Timor-Leste. In relation to the last of these, the project aims to support government to develop and implement a legal aid framework, increase capacity and outreach of legal aid organizations and services, support the creation and dissemination of legal information, and strengthen the functionality of districts court and justice sector institutions.

This brief is based on a report written by Barry Walsh who was contracted by the project to undertake a functional assessment of the district courts in Oecusse and Baucau with support from the project's Access to Justice team: Fausto Belo Ximenes, Maria Veronika N. M. Da Costa and Carlos Miguel. Mr. Walsh conducted a desk review of published materials, followed by a program of interviews with court personnel and other stakeholders in Oecusse, Baucau and Dili. The assessment focused on judicial and staff needs, workloads, facilities, budget management, automation, public information and transparency, and access to justice. This brief summarizes the essential findings and recommendations developed by Barry Walsh in consultation with the team and Chief of Party, Carolyn Tanner. In framing the recommendations, we have attempted to address the question of what needs to be done to advance the general functional effectiveness of courts, rather than what the Ba Distrito project is able to do. The precise nature of Ba Distrito's activities is yet a matter for discussion and negotiation between project representatives, the Court of Appeal, and USAID.

The United States Government, through **USAID**, works in partnership with the Government of Timor-Leste to support broad-based and effective development. Since 2001, USAID has provided over $253 million in development assistance to Timor-Leste, and USAID provided over $12 million to improve the lives of people in Timor-Leste in 2013. USAID supports Timor-Leste in its efforts to build a more prosperous, healthy, and democratic country through programs that foster inclusive and sustainable economic growth, especially in the agriculture sector; improve the health of the Timorese people, particularly women and children; and strengthen the foundations of good governance – all areas which are highlighted in Timor-Leste's Strategic Development Plan 2013-2030.

Counterpart International is a global development organization that empowers people and communities to implement innovative and enduring solutions to social, economic, and environmental challenges. For 50 years, Counterpart has been forging partnerships with communities in need to address complex problems related to economic development, food security and nutrition, and building effective governance and institutions. For more information visit www.Counterpart.org

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OVERVIEW: THE JUSTICE SYSTEM IN TIMOR-LESTE

The current court system is based on the system that was instituted by the United Nations Transitional Administration in East Timor (UNTAET) in 2000[1] and consists of the Court of Appeal and four district courts in Dili, Baucau, Suai, and Oecusse. The Dili District Court covers the districts of Dili, Aileu, Ermera and Liquica; Baucau District Court has jurisdiction over the districts of Baucau, Lautem, Viqueque and Manatuto; and Suai District Court covers Covalima, Manufahi, Ainaro and Bobonaro districts. Oecusse District Court covers the Oecusse enclave. The UNTAET regulations also provided for the establishment of district courts in Lospalos, Viqueque, Same, Maliana and Ermera, although none of these have yet been established. Although the Constitution of Timor-Leste provides for the establishment of a Supreme Court, along with various administrative courts and military courts, these too have yet been established.

The Constitution provides that the president of the Supreme Court presides over the Superior Council for the Judiciary, the body responsible for appointment, transfer, discipline and promotion of judges established in the law on the Statute of Judicial Magistracy[2]. In practice this role is discharged by the president of the Court of Appeal pending the establishment of a Supreme Court. Effectively, the president of the Court of Appeal heads the judiciary. The staff of the Court of Appeal assist the president in the administration of all courts.

Compared with the courts, there is a similar governance structure for both the Office of Prosecutions Service and the Office of Public Defenders. The Constitution provides for the establishment of a prosecution service and a Superior Council for Prosecution Services, which is responsible for the appointment, transfer, promotion and discipline of prosecutors. The Public Prosecution Service was established in 2005[3].

The Office of the Public Defender (OPD), under the Ministry of Justice (MoJ), is the entity responsible for providing full and free-of-charge legal, judicial and extra-judicial assistance to citizens with insufficient economic means[4]. The OPD was originally established during the period of UNTAET to represent defendants before the Special Panels for Serious Crimes in the Dili District Court[5]. From 2005 onwards, however, the OPD's mandate was extended to provide nation-wide legal aid. The Superior Council of Public Defender governs the appointment, transfer, promotion and discipline of public defenders.

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[1] UNTAET Regulation No. 2001/25 amending UNTAET Regulation No. 2000/11 on the Organization of Court in East Timor
[2] Law No. 11/2004 amending Law No. 8/2002 on Statute of Judicial Magistracy
[3] Law No. 14/2005 on the Statute of the Public Prosecution Service
[4] Article 16 of Decree-Law 12/2008, of 30/4 (Organic Statute of the MoJ)
[5] Office of Public Defender "Bringing Justice Close to the People, UNMIT/Serious Crime Investigation Team (SCIT)

Judges, prosecutors and public defenders are appointed at the entry level, all senior positions being filled only by promotion from the lower ranks. Each is thus a career service and new recruits can only be appointed at the entry level after undergoing a period of full time training provided by the Legal Training Center (LTC), which is a division of the MoJ. There are no other institutions or processes concerned with judicial training.

The judiciary itself remains small – 25 judges in total to serve a population of up to 1.2 million people[6], which is a ratio of one judge for approximately every 40,000 people in Timor-Leste. We understand that currently there are 12 judge candidates undergoing training at LTC and they are expected to be eligible for appointment as probationary judges third-class by early 2015. Judge numbers are complemented by 25 prosecutors and 20 Timorese public defenders. Judges in Timor-Leste have a total of 131 support staff, including 60 judicial officers – professional staff who are trained via the LTC[7] who serve in the positions of superior secretary, secretary, court clerk, assistant clerk and diligence officers. Total numbers of civil servants and judicial officers together amount to a ratio of five staff on average for each judge[8]. In courts of developed countries, it would be common for the ratio to be in the order of one judge to 10 or more support staff. According to the Courts Staffing Profile and Annual Work Plan for 2014, a total of 144 additional court personnel are expected to be recruited by 2018, more than doubling the current number.

A noteworthy feature of the judicial career path is that although judges and prosecutors undergo joint training at the LTC and are appointed in similar ways, their careers do not overlap. Unlike some European systems, serving judges are not appointed to prosecutorial positions, nor are serving prosecutors appointed to judicial positions. The same applies to public defenders. These differences are also reflected in approved pay scales for magistrates, which ensures that judges are paid more than prosecutors, and prosecutors more than defenders. The allocation of places to LTC graduates is determined by the final examination score of each candidate, with the strongest candidates being admitted for judicial appointment, the next strongest for prosecutor appointment and the remainder for appointment as public defenders.

Administrative decisions affecting the administration of courts are made with the authority of the president of the Court of Appeal. A Council of Coordination for Justice was established under the Organic Law of the Ministry of Justice in 2008[9]. The Council is the advisory body on matters of justice and law. It is composed of the Minister of Justice, who presides, the President of the Court of Appeal, the Attorney General's Office, the Public Defender General, a representative of private lawyers. In 2009 the Council assisted the Ministry of Justice in developing a Justice Sector Strategic Plan (JSSP) for Timor-Leste 2011-2030[10]. Progress in achieving JSSP goals has been slow due to limitations on funding support available from the Government of Timor-Leste and donors. Neither the Council of Coordination for Justice nor the Court of Appeal publishes annual reports on their activities as far as they may concern the administration of justice. It would seem that judicial policy to date, in the short time since Timorese have taken over judicial positions previously filled by international judges, has been focused principally and necessarily on developing core services and basic capacities, such as providing working courts within the districts.

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[6] CIA World Fact Book: https://www.cia.gov/library/publications/the-world-factbook/geos/tt.html, accessed August 2014. "Population: 1,201,542;
country comparison to the world: 160; note: other estimates range as low as 800,000 (July 2014 est.)"

[7] Judicial officers are appointed pursuant to Government Decree No. 27/2009 on Juridical Regime of the Employees of Justice and the Services of the General offices of the Tribunals, the Prosecutor General and Public.

[8] This ratio is calculated by dividing the number of all staff on the payroll of the courts by the number of judges. It does not indicate the number of personal staff available to each judge.

[9] Article 18 of Decree-Law 12/2008.

[10] Justice Sector Strategic Plan for Timor-Leste 2011-2030, Approved by the Council for the Coordination of Justice, Dili, 12th February 201, at pages 14 and 31.

The language used in court records is Portuguese, which is one of the two official languages of Timor-Leste, the other being the more widely used Tetum. This policy has resulted in there being a much smaller pool of candidates for judicial appointment than there would be if Tetum was also used. All candidates for appointment as a judge, prosecutor or defender must pass examinations offered only in Portuguese, producing low numbers of qualified judges. It has also resulted in Timor-Leste courts remaining at least partially dependent on the availability of international judges to boost their numbers even today. Currently 12% of judges are not Timorese.

JUDICIAL AND STAFF RESOURCES IN OECUSSE AND BAUCAU

There are four judges in Baucau and one judge in Oecusse. A strength of the courts in Oecusse and Baucau is that, in addition to judges, the current establishment includes significant numbers of judicial officers who have graduated from the LTC. Oecusse has five judicial officers, two interpreters, an IT officer and a driver. Baucau has 13 judicial officers, two interpreters, an IT officer, two cleaners and a gardener. Expectations among existing personnel of the two district courts is that when further judges are appointed to those courts by early in 2015, there will be similar numbers of additional judicial officers also appointed. In these circumstances it is difficult to see a problem of there being insufficient numbers of support staff in future.

A key question is whether there will be sufficient funding for staffing and other needs of the judiciary in Oecusse and Baucau. Budgetary estimates processes for the 2015-16 fiscal year were under preparation at the time of interviews with court officials. These discussions revealed that the Court of Appeal is seeking government funds on behalf of all courts and to cover all planned operational activities. These include, we were told, information technology services, mobile courts and additional salary costs to cover appointments of new graduate judges and judicial officers. It was suggested that although the final appropriations have not yet been decided by the government, the Court of Appeal was confident of most of its expanding needs being funded.

JUDICIAL WORKLOAD AND DELAY REDUCTION IN OECUSSE AND BAUCAU

Caseload

Caseload statistics are not routinely reported by the Court of Appeal, but information about officially collected figures were readily provided on request by the relevant judicial secretary at Oecusse and Baucau. The official figures, however, are limited to counts each month of newly opened cases, closed cases and pending cases at the end of the month. Based on those figures and information provided by judicial secretaries, we have compiled a statistical analysis of caseloads at Oecusse and Baucau for 2013, as shown in the following tables.

Oecusse – Civil & Criminal Cases in 2013		
Incoming	133	11 on average per month
Ratio of civil to criminal	11%	
Finalized	190	16 on average per month
Pending	34	
Clearance rate	143%	
Pending to finalized ratio	18%	

Only 11% of cases in Oecusse were civil cases in 2013, which is a surprisingly small proportion by international standards, even in an economically underdeveloped country. Counting all case types together,

during that year the court finalized 43% more cases (190) than were newly registered (133). In other countries that use clearance rates in measuring case processing, this represents a clearance rate of 143% over the year[11], meaning that cases were being finalized 43% faster than the rate of incoming cases. On average 11 new cases were registered each month, and 16 were disposed. This means that in a typical week the single judge at Oecusse, supplemented by occasional collective hearings of three judges, was able to process 16 cases a month. The pending caseload at the end of 2013 was only 18% of the volume of cases finalized in that year (i.e. 34 cases pending as against 190 finalized), which is a small number of cases, given the rate at which cases are finalized.

Baucau – Civil and Criminal Cases	**In 2013**	On average per month	**In 2012**	On average per month
Incoming	437	36	241	20
Ratio of civil to criminal	14%		14%	
Finalized	165	14	125	10
Pending	676		404	
Clearance rate	38%		52%	
Pending to finalized ratio	410%		323%	

In contrast to the 11% of Oecusse cases that were civil cases, Baucau recorded that 14% of its cases were civil in 2013, still a relatively small proportion. And while 437 cases were newly registered in the year, only 165 were finalized, amounting to a clearance rate of only 38%. On average 36 new cases were registered each month and 14 were finalized. This means that in a typical week the judges at Baucau were together only able to process an average of less than four cases. Furthermore, pending caseloads at the end of 2013 were over four times greater than the number of cases finalized during the year, a high number compared with the rate at which cases are finalized.

We were also able to gain access to statistics for 2012 in Baucau, indicating that new case registrations were significantly less than in 2013. But when comparable figures in 2012 are examined, average case disposals per month in 2012 were still only 10 cases, i.e. less than three cases finalized per week.

These figures give no indication of the types of criminal cases or the types of civil cases being processed in Oecusse and Baucau. We know from our interviews and from reports of the Judicial System Monitoring Programme (JSMP), however, that a large proportion of criminal cases at both centers relate to domestic violence offences. Furthermore, JSMP reports indicate that in most criminal cases, including domestic violence, the defendant confesses to the offence in court, reducing the time required to hear each case. Interviews with court staff at both courts confirmed this trend.

Interviews with court staff also indicate that, in cases where a criminal defendant fails to appear at a hearing, the court will adjourn the case until the defendant is found or the court gives up trying to find them. These cases will be counted as part of the court's pending caseload until the defendant is found, which in most cases is seldom because of the absence of procedures and resources for finding absconders. Thus a significant proportion of pending caseload counts includes these cases. Pending criminal caseloads in Baucau have grown gradually from six in 2000 to 221 in 2011, then to 314 in 2012 and finally 559 in 2013. It seems

[11] A clearance rate is used by courts in Anglophone and European court systems to compare the rate of cases finalized with the rate of cases being newly registered over the same period. It is calculated by dividing finalized cases by new cases and then multiplying the answer by 100 to produce a percentage.

likely that a large proportion of these cases cannot be processed by the courts, as the defendants are unlikely ever to appear in court. We learned that after proceedings have been commenced, finding criminal defendants in Timor-Leste is not officially considered to be the responsibility of the prosecutor or the police, but the courts themselves; and there are no special resources under the courts' control for chasing and apprehending defendants who do not answer a court notification.

Another area of uncertainty flows from the fact that no statistical information is collected on the age of cases, i.e. the time taken from the date the case is initially registered to the date it is finalized and closed after a court determination. Interviews with court officials suggest that most cases can ordinarily be processed within the range of only three to six months when the defendant appears in court.

The available figures suggest some anomalies that can only be resolved by closer study. For example, although Baucau currently has four judges, average disposals per judge are low compared with average disposal for the lone judge in Oecusse. However, even in Oecusse, average rates of case disposals seem low when taking into account that few cases are likely to involve an extended hearing. All persons interviewed indicated that most cases can be scheduled for a hearing of no more than half a day and hearings longer than a day are rare. It was also indicated that cases do not generally get adjourned unless the defendant fails to appear.

Even if one looks only at rates of new case filings, without considering disposal rates, there is still a question about how large future caseloads are likely to be. The figures we have for 2013 indicate that on average there are 36 new cases per month in Baucau, which averages at 12 new cases a month for each of the four judges currently at that center. The equivalent figure in Oecusse was 11 per month, although we have figures to indicate that that rate has risen significantly in Oecusse during 2014.

The figures we have seen, and the information provided during our interviews, indicate that higher quality statistical information will be needed before it is possible to draw clear conclusions about options for improving case management.

Here are examples of questions that further analysis can help answer:

- Why are civil caseloads so low in comparison with criminal cases?
- Why are most criminal cases domestic violence cases?
- Why are there apparently high rates of confessions in criminal matters?
- What proportion of pending caseloads is made up of criminal cases where the defendant has absconded and is unlikely ever to be found?
- How might the caseloads of judges be calculated in ways that will help determine how many judges are needed at each district court location? What is a reasonable caseload of a judge in a typical month?
- What is an acceptable period of delay in processing the average case? If most cases are processed in three to six months, is that considered to be acceptable?
- In what circumstances should mobile courts be conducted if the ages of pending cases that might be heard by a mobile court are within an acceptable range?

Delay Reduction

Our examination of the trends in case management at Oecusse and Baucau did not disclose a significant delay problem, essentially because information about the age of cases is not collected. But this conclusion is also reinforced by the anecdotal feedback from those we interviewed indicating that most cases are finalized within a period of three to six months and that most cases processed by both district courts relate to domestic violence, cases in which defendants typically confess to the offence in court. Baucau, of course, is carrying high numbers of pending cases. But it also has low rates of case finalizations, suggesting that any delays are not so much due to the volume of new cases being registered, but to problems in achieving optimal levels of judicial productivity. The causes of this are not explained by routine court statistics.

STATISTICAL REPORTING AND COURT FUNCTIONALITY

Statistical reporting provides important management information necessary to understanding and improving district court functionality. For the district courts to be able to collect useful statistics on case management and delay reduction, they will need to collect more than they presently do; and they will need to modify how pending cases are to be counted.

Absconded Defendant Cases

It was found that in a criminal case where a defendant cannot be found to answer a charge, the case will be counted indefinitely as a pending case. This obscures the significance of pending caseload counts in indicating the extent of case backlogs. It is likely a large percentage of pending cases are incapable of being processed by a court, regardless of how many judges may be available. In other countries, absconded defendant cases are treated as closed cases for the purpose of counting pending cases. This is because, for practical purposes, they have ceased to be cases the court is capable of processing to finality. Unless absconded defendant cases are at least separately counted, then it is difficult to persuasively use pending caseload counts as a justification for a claim that there are insufficient numbers of judges available.

Recommendation 1 : Accounting for Absconded Defendant Cases

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, monthly counts of pending cases in those courts should be divided into the categories of 'active pending' and 'inactive pending'. Generally, an active pending case is one where the case has been scheduled for a future hearing date or is expected to be scheduled for hearing as soon as the court has available time. Inactive cases are those where the court has ceased attempting to notify a defendant of a hearing, or where the court has indefinitely postponed the allocation of a future hearing date for reasons other than the lack of an available judge.

Mobile Courts

Under a program funded by United Nations Development Program (UNDP), mobile courts have been trialled from Dili and Suai District Courts and have only just begun in Baucau. A mobile court is essentially a circuit court of the type used in Anglophone court systems (such as the US, UK, Canada and Australia). A circuit court judge will travel away from the judge's normal base to other locations to hear cases. The mobile court concept has allowed visits of this kind in a range of mostly remote locations with the out-of-pocket costs being covered by UNDP. The use of mobile courts has been lauded as a means of not only bringing justice closer to the community, but also as a way of addressing case backlogs. As Baucau experiments with using mobile courts, there will be opportunities for it to reduce its pending caseloads, especially if it proves that the current problem of evidently low productivity is due to the court's inability to process cases that originate from a remote location.

It is likely that mobile courts will prove to be useful in Timor-Leste because of the still significant practical and financial barriers to establishing new permanent district courts. Caseloads in most areas still appear to be too small to justify establishing a permanent court presence. Mobile courts offer the option of extending services without the cost of new permanent court facilities. On the other hand, there are costs associated with sustaining each mobile court session, estimated by UNDP to be in the order of $2,500 to $3,000 per scheduled sitting; and there is not yet an indication from UNDP as to whether it will be funding this initiative beyond the current fiscal year.

It is also uncertain whether, if mobile courts are eventually funded by the government, there will be sufficient capacity for regular mobile sittings in the future. Consequently, for as long as mobile courts continue to be funded by UNDP or other donors, there would be value in collecting statistics on the success of mobile courts in processing caseloads. In Baucau, in particular, there is an opportunity to evaluate whether mobile courts can contribute significantly to increasing judicial productivity at that center, i.e. by increasing average case finalisations per available judge. There is also a corresponding opportunity to evaluate whether

mobile courts have a measurable impact on improved access to justice for rural victims and disputants, and whether the use of mobile courts can be correlated with increased in use of courts.

Recommendation 2: Statistics on Mobile Courts

For the purpose of developing improved statistical reporting in Baucau District Court, monthly reporting of court statistics should include a special report on cases heard and finalized via a mobile court session and the general impact on caseloads arising from those districts. In addition, reports on mobile court sessions should also include information about meetings and other events in which mobile court judges participated that were aimed at increasing awareness of the role of the judiciary within the communities visited.

Ageing the Caseload

There is a need to collect information about the age of cases, i.e. the elapsed time since a case was first registered with the court – including pending cases at the end of each month and at the time each case is finalized. This can be done by calculating the number of days from the time a case is newly registered and dividing it by seven to determine its age in calendar weeks. In Oecusse and Baucau, this can be done manually as each case is finalized. At present rates there will be fewer than 20 to 30 cases finalized each month at both centers, so that calculating the age in weeks of each will not be onerous, especially in Baucau, which already has the use of an electronic case management system. For pending cases, age can also be calculated manually in Oecusse, because the numbers are generally small; and by using the Integrated Information Management System in Baucau, where the numbers are greater.

Recommendation 3: Ageing Cases

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, modify monthly statistical reports in those courts to include a list of the age in weeks of each case finalized in the month and the age of each case still pending.

Extent of Backlog

The district courts statistical system treats pending cases as being synonymous with backlogged cases. But in many other countries there is a clear difference between those terms. In Anglophone systems, a case is considered to be backlogged or delayed only when its age is older than an acceptable period of delay. A case newly registered a week ago, for example, would today be considered pending, but not delayed. In order to know whether a case is backlogged, however, it is necessary to define a period in which the age of a case is considered to be within an accepted norm. If it is older than that norm, it is considered delayed or backlogged. In Australia and the US, an accepted norm is determined by the adoption of what is called a timeliness standard. If a case is older than the standard and still pending, it is considered to be backlogged or delayed. Here is the definition of the Australian timeliness standard for courts that are functionally equivalent to the district courts of Timor-Leste:

- no more than 10% of pending cases are to be more than six months old; and
- no pending cases are to be more than 12 months old.

Australian courts, however, typically have very large caseloads, which is the reason why their timeliness standards allow more time for case finalization than might be considered desirable. Taking into account present caseloads and capacities in Timor-Leste, the timeliness standard could be aimed at processing 90% of cases in three months and 100% of cases in six months.

Recommendation 4: Pilot the Use of a Timeliness Standard

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, adopt the following timeliness standard, i.e. in calculating the proportion of pending cases in those courts that will be considered to be backlogged or delayed cases:

- no more than 10% of active pending cases are to be more than three months old; and
- no active pending cases are to be more than six months old.

Rates of Case Adjournment

Feedback we were given in our interviews with court personnel indicated that the need for a court to adjourn a case hearing is uncommon. In other countries, high rates of case adjournments are a common cause of backlogs. In the knowledge that a district court judge is usually able to hear two cases a day where the cases relate to domestic violence (the dominant case type), it seems anomalous that there are significant pending caseloads, unless some cases are adjourned. We believe that over the period of a statistical study, there will be value in measuring the instances of case adjournments and the kinds of reasons given when an adjournment occurs.

Recommendation 5: Measuring Rates of Case Adjournment

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, include in monthly statistical reports a count of the number of instances where a case is adjourned and the reasons for the adjournment.

Accounting for Available Judge Days

Our analysis of caseloads of Oecusse and Baucau above reveals anomalous results when comparing the average rate of cases finalized per judge. We believe that the anomaly may be explained by uncertainty about how many judges have been available to dispose of cases. If a judge is absent from duty on leave or due to illness, the impact of the absence on case finalisation rates will not be discernible. To allow for these errors of interpretation, the monthly statistics submitted by each district court should count available judge days at the center during the month.

An available judge day is a day on which a judge is on duty and available to hear a case, whether or not that judge actually had cases to hear on that day. If there are three judges on duty to hear cases on a day, then that day would be counted as three judge days. Days on which a judge took leave would not be counted. Using this methodology, judicial productivity of a court center would be calculated by dividing the number of available judge days by the number of court calendar working days in the month. The result would be an average number of full time judges at the center in the month. The number of cases finalized in the month would then be divided by the number of full time judges to produce an average number of cases finalized per judge. This kind of calculation would allow for the fact that despite the number of judges attached to a district court center, their capacity to finalize cases may be much lower.

Recommendation 6: Available Judge Days

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, monthly statistical reports should include a count of actual available judge days in that month and the number of court working days in the month to allow calculation of the rate of average case finalizations per judge.

Hearing Durations

Interviews with court staff suggest that the duration of most case hearings typically take no more than half a day and that it is routine for each judge to schedule up to two hearings per day. When cases take longer, or are adjourned, however, it can delay other cases and increase workloads. We recommend that a statistical analysis of Oecusse and Baucau should include an attempt to identify instances where a hearing duration exceeds its scheduled duration, i.e. typically half a day or a day. This kind of data can help explain why some cases can take longer to process and it will also reveal how often hearing durations exceed expected durations.

Recommendation 7: Duration of Hearings

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, monthly statistical reports should include a count of case hearings in the month that exceed a duration of half a day and a separate count of hearings that could not be finished in a day.

Case Outcomes

Official court statistics do not reveal in any statistical sense the kinds of outcomes of cases when they are finalized. It is known from interviews and from JSMP reports, for example, that in most domestic violence cases the defendant confesses and that, correspondingly, acquittals are rare. We can also glean from the same sources that there is a range of penalties imposed in such cases, but that suspended sentences on conditions of good behaviour are by far the most common. Analyzing features of case outcomes can assist courts in assessing the likely effect that rising caseloads of different kinds will have on a court's ability to process them. Thus capturing statistical information about case outcomes can help in the management of caseloads. It can also help identify the impact of court decisions in terms of rates of imprisonments and durations of prison sentences. We recommend that in connection with a statistical assessment of cases in Oecusse and Baucau, there should be collection of details of case outcomes including: whether there was a confession, whether the case was withdrawn or resulted in an acquittal; and the type of penalty imposed and its duration. An aim of studying case outcomes should include an assessment of the value of collecting similar information more systematically in future, such as by using computerized court case tracking systems to gather this information in all cases. Attachment 6 offers suggested enhancements to the IIMS that would permit collection of data on case outcomes and other features of case processing.

Recommendation 8: Case Outcomes Statistics

For the purpose of developing improved statistical reporting in Oecusse and Baucau District Courts, analyses of case processing should include statistical profiles of case outcomes, such as instances of confessions, acquittals and the types of penalties imposed.

LAW AND PROCEDURAL ISSUES

Courtroom Procedure

The law and procedure inherited at the time of independence and during UN administration has essentially been modeled on that of the Portugal justice system. The system is nominally inquisitorial with judges sitting alone determining criminal cases where the maximum penalty that may be imposed is less than five years and civil cases where the maximum compensation allowable is below $5000. Criminal offenses where the maximum penalty exceeds five years and civil cases where the maximum allowable compensation exceeds $5000 are tried by a panel of three judges, known as collective courts. Unlike some European systems, the role of judge and prosecutor is distinct, with adjudicative processes for both criminal and civil cases being essentially similar to that of common law system courts.

The Use of Portuguese in Courtrooms

The policy of using only Portuguese as the language of court records has had some impact on courtroom procedure. The oral language most commonly used in courts is Tetum, except where the judge is not a native speaker of Tetum (usually an international judge). While documents on the court record will almost exclusively be in Portuguese, in practice the judge will address counsel and witnesses in Tetum. What may be said in the courtroom in Tetum is recorded in official minutes by a judicial officer appointed as note taker. That officer typically takes notes in his or her native language of Tetum, which he or she will later translate into Portuguese for the purpose of the official record. Likewise, a judge will announce a decision in court in Tetum, but then formally record the orders in Portuguese. Thus, while Portuguese has been a significant barrier for appointment as a judge, prosecutor or defender, it is less of a constraint to the workings of court personnel in the courtroom. It seems that court personnel, all of whom are trained in at least basic Portuguese, encounter few practical difficulties in this arrangement, although a general concern among staff is the need to improve their proficiencies in producing official court documents in Portuguese. What remains a problem is that often a defendant or witness speaks neither Tetum nor Portuguese, but only a local language. In both Oecusse and Baucau, local languages are widely used and Tetum is not understood in many communities. Consequently, the Oecusse and Baucau courts need to provide full time staff to interpret from a third language into Tetum during hearings. There is little budget for this and it is often not possible, which poses a significant obstacle to the delivery of fair and effective justice services.

THE IMPACT OF COURTS ON DETERRENCE AND RESOLUTION OF CRIME

Based on information we have gathered via interviews and by examining court statistical reports, it seems that the judges and staff at both Oecusse and Baucau are readily able to administer cases filed in those courts. However, despite a lack of significant caseload management problems, there is good reason to doubt that courts have much impact on the ways that most crime and major civil disputes are resolved.

One factor giving rise to this doubt is that those we interviewed confirmed that the largest component of cases processed by the courts are domestic violence prosecutions which, under the Law Against Domestic Violence[12], police are now compelled to report to the prosecutor, who in turn are compelled to refer to the courts where there is a case to answer. But for these kinds of cases, the caseloads at Oecusse and Baucau would probably be miniscule. This feature of current caseloads suggests that if other types of public crimes were also mandated to be referred to the courts that too would result in rising rates of new criminal cases in areas other than domestic violence. In the absence of such emphatic legislative directives, perhaps some public crimes are otherwise not being pursued by police and prosecutors with comparable vigor.

Available case statistics indicate a very conspicuous imbalance of domestic violence cases, as compared with other public crimes. There are no official records of the breakdown of court case types available, but there are figures produced by the JSMP, which deploys monitoring staff to attend courts and record details of case outcomes. It is likely that JSMP would be gathering data about most cases passing through the courts. In its 2014 report, it offers the data shown in Attachment 4 for all cases it monitored across Timor-Leste in 2013. These figures indicate that nationwide, 52% of criminal cases were in relation to domestic violence, 6% were in relation to sexual assault offences, 28% were for homicides and crimes against the person, and 14% for property and regulatory offences. In other words, domestic violence cases were more prevalent than all other criminal cases combined. For a country of up to 1.2 million people, there were very low rates of prosecutions for motor vehicle offences (such as speeding causing death), street assault offences, gun offences, drug offences or economic crimes. This raises a question of whether police are faithfully reporting serious public

[12] Law No. 7/2010

crimes to the prosecutor in cases where the law does not explicitly direct them to. While it is known that prosecutors are empowered to negotiate the resolution of minor infractions or misdemeanours without referring them to courts, this power does not extend to public crimes.

It was also suggested in some of our consultations that low volumes of cases in the courts reflect the fact that the population is small, that traditional justice practices deal with most serious disputes, and that economic development is yet to give rise to disputes commonly associated with big cities, such as commercial litigation, financial crimes and crimes related to drugs, guns and trade in general. However, other countries with strong traditional justice practices and low levels of economic development do not usually benefit from low rates of serious crime. Arguably most other countries in comparable circumstances would suffer from generally high rates of violent crime because of high unemployment and other effects of low economic development.

A more probable explanation for the dearth of criminal cases may be that PNTL, the national police, are not formally processing reports of crimes and possibly not reporting arrests. It has been suggested in some of our discussions that some police resort to beating offenders or imposing other summary punishments in lieu of formally charging offenders. There is no data that we can find on actual rates of crime, however, that may be used to validate this hypothesis.

It may be that the courts have not had time to reflect on the question of whether their contribution to the maintenance of social peace and justice is having a significant impact, compared with traditional justice processes. With the exception of domestic violence cases, where the courts are now effectively mandated to supervise the resolution of those cases, the impact is evidently highly significant. But for other kinds of cases, there is an open question as to whether the courts have much impact at all. We believe that there is a knowledge gap that prevents reaching a settled conclusion on this question. If it proves to be true that all crimes that should properly be referred to the courts, are in fact being referred, then it can be said that the courts are fulfilling their proper role and probably serve as a deterrent to crime. On the other hand, should it be demonstrated that either unresolved crimes are not being reported to the police, or that the police are not acting on reports they receive, then it places in doubt the role of courts as keepers of peace and defenders of civil rights. Thus we propose that these alternatives need to be tested by the courts by undertaking a household survey of perceptions of crime.

A range of surveys have been conducted on justice systems in Timor-Leste which aim at assessing the contribution of traditional dispute resolution mechanisms and confidence in the formal justice system. But the results have been equivocal about actual rates of crime, indicating instead respondents' opinions on how effectively they expect a complaint is likely to be dealt with by the different institutions. We have not seen any data to date on respondents' experiences of actual crimes as victims', or as members of a victim's family, and the processes actually pursued by police and others in those cases. Such questions in a survey are likely to reveal whether there is a gap either in the propensity of citizens to report crimes, or in the propensity of police to act upon them.

Recommendation 9: Household Survey of Perceptions of Crime

As a means of assessing the impact of courts of justice on the deterrence of crime and the satisfactory resolution of complaints about crimes, the courts of Timor-Leste should undertake a household survey to ascertain whether there are gaps between the actual incidence of crimes and the reporting and their subsequent prosecution. This survey should be conducted with the active support of the national police and the Office of Prosecutions.

DOMESTIC VIOLENCE CASE OUTCOMES

The legislative scheme introduced by the Law Against Domestic Violence includes the aim of ensuring that the criminal courts independently assess the guilt of those accused of domestic violence and that appropriate punishments are set and enforced. This aim seems to be generally fulfilled, as indicated in reports of JSMP. However, JSMP reports also reveal questions about the consistency of sentencing decisions, suggesting that the availability of different statutory offences of domestic violence, each carrying differing maximum penalties, makes it difficult to ensure consistency. JSMP reports also reveal high rates of domestic violence cases in which the defendant confesses. This gives rise to the question of whether the defendant who confesses has had adequate independent legal advice. Sometimes it may be that although a defendant admits to domestic violence, there will be an issue about the severity or regularity of the violence, which can have an impact on the sentence that may be imposed. It is unclear whether these kinds of distinctions, which if disputed may benefit an accused offender, are considered by the public defender as possible case defences.

Our interviews with public defenders and others indicated that the workloads of the Office of Public Defender are large in all localities. Not only does the defender agree to represent almost all criminal defendants in court, a defender will also carry a caseload of disputes that are not the subject of court proceedings. These include civil disputes argued within the traditional justice system and misdemeanour criminal cases (i.e. private crimes), which a prosecutor is empowered to settle directly between the offender and the victim. In those cases, the prosecutor will notify the public defender of the case and allow the defender to participate in the negotiation process.

The result of this broad role of the public defender is that representing criminal defendants in court amounts to less than half of their overall caseloads. Defenders are so busy, we have been told, that they seldom have time to meet their clients before the hearing day in court. The implication of this is to raise doubt that public defenders have time to carefully assess the charges made in domestic violence cases or the validity of any confession the defendant is claimed to have made. If this is the pattern of representation generally provided for defendants, then it suggests there are few checks on the quality of a prosecutor's case. If a prosecutor elects to use an inappropriate charge and the defendant confesses to it, then the judge has little incentive to review the appropriateness of the charge. On the other hand, if the defendant refuses to confess to an inappropriate charge, the prosecutor is put to the burden of proving the charge or preferring other charges.

Other feedback received from JSMP, which is the only available source of information about the outcomes of domestic violence cases, is that there is a concern that some court decisions are too lenient. The large majority of penalties imposed by courts in domestic violence cases involve releasing the offender on a suspended sentence, and only seldom involving compensation orders. In some cases, we were told, courts have punished second offenders who have breached their earlier release on good behaviour with a new order for release on good behaviour.

The adequacy of systems for prosecuting domestic violence cases is yet to be evaluated formally. Given that domestic violence cases now dominate court caseloads, especially in Oecusse and Baucau, it would be timely to consider how consistently the courts are processing them and whether court orders are significantly altering outcomes reached at the level of traditional justice. We understand that in almost every case where a defendant confesses, there is likely to have already been an earlier negotiated agreement reached between the offender and the victim's family via traditional justice processes. Thus we recommend that the courts evaluate case outcomes in criminal cases, including domestic violence, to validate expectations that courts apply consistency and adequacy in sentencing. This can be done by a one-off evaluation pilot exercise. It can also be advanced by altering case management systems in the court to record data about domestic violence case outcomes that can be used to undertake future evaluations.

Recommendation 10: Evaluating Court Outcomes in Domestic Violence Cases

(a) The courts in Oecusse and Baucau should undertake an evaluation of case outcomes in domestic violence cases with a view to assessing the consistency and adequacy of court orders, having regard to the seriousness of the case and the nature of any agreement reached via traditional justice system processes.
(b) Changes should be made to the design of computerized case management systems in courts (IIMS) to permit the system to collect data about case outcomes, such as penalties imposed, whether a defendant confessed to the case and whether the court penalty is given after a private agreement is reached between the offender and the victim. Suggested data fields to be added to IIMS are listed in Attachment 6.

TRAINING OF COURT PROFESSIONALS AND STAFF

All staff we spoke to in Oecusse and Baucau indicated their desire to have better training. This suggests that although LTC provided adequate preparatory training, there is still a gap in meeting continuing training needs of staff as well as judges.

Continuing Judicial Education

Although empowered to provide ongoing training for magistrates, lawyers and judicial offers, the LTC is primarily geared and funded toward giving pre-qualification training and facilitating the examination of candidates for entry level appointments. Its resources are of course limited and are prioritized for this primary role, with the result that training of serving judges, prosecutors, defenders and staff will seldom occur and then usually only with funding offered by donors. At present there is no program of annual judges' conferences, special topical seminars for judges, or processes for developing special publications for the guidance of serving judges. When these sorts of things have been done in Timor-Leste in the past, they have invariably been one-off events funded by donors. Clearly, at this stage of the development of the judiciary of Timor-Leste, there is a need to introduce and regularize systems for continuing judicial development.

Successful programs for continuing development of judges in other countries is almost always via institutional arrangements that distinguish judges from other office holders. The dominant model in Europe and in Anglophone countries is the concept of a judicial academy which is usually controlled by the judiciary and which limits its activities to developing judges, staff and prosecutors (where the prosecutor cadre is considered part of the judiciary), leaving the continuing education of other classes of lawyers to other institutions, such as ministries of justice.

In whatever way the system might be structured in Timor-Leste, based on the most effective international practices, there will be a need for special arrangements for continuing educational needs of judges. If this need is to be met by the LTC, then there would be high value in it establishing a special curriculum or division dedicated to judicial training. Given that prosecutors are not part of the judicial career path in Timor-Leste, this special curriculum need only apply to judges and may be fostered under the auspices of the Superior Council of the Judiciary as a function that would be facilitative of the Council's interest in developing judges for promotion.

Our recommendation is that in order to stimulate the gradual development of a judicial academy in Timor-Leste, the Court of Appeal should initiate the establishment of a committee of three or four judges to be known as the Judicial Education Committee, who will act as an expert panel in advising on the development of continuing education programs for judges. Once established, that committee should be asked to propose a program of regular judges' conferences and a curriculum for scheduling seminars for judges on special legal topics.

We recommend that the committee should also be asked to act as an editorial expert panel to draft and publish a District Courts Judges' Benchbook, as has been done in many other countries. A Benchbook is a compilation of information about the law and recommended procedural practices offered by experienced

judges for the benefit of judges who are newly appointed. It also offers advice about techniques for conducting hearings and making sentencing decisions. Judges in those countries that have developed Benchbook consider them to be invaluable guides, especially in the early phases of their careers.

Recommendation 11: Continuing Judicial Education and Development

The Court of Appeal should initiate the establishment of a committee of judges to be known as the Judicial Education Committee, who will act as an expert panel in advising on the development of continuing education programs for serving judges. Once established, that committee should be asked to propose a program of regular judges' conferences and a curriculum for scheduling seminars for judges on special legal topics. The committee should also be asked to act as an editorial expert panel to draft and publish a District Court Judges' Benchbook.

Continuing Training and Development for Court Staff

Our interviews with staff in Oecusse and Baucau revealed a range of needs for further training or support. These included judicial officers, who are responsible for case management, interpreters, and newly appointed information technology technicians. In Baucau, where the IIMS computer database is already in use, staff was keen for additional training to support them in using computers. There is also interest among judicial officers in both Baucau and Oecusse in continuing training in Portuguese and in criminal and civil procedure codes to supplement the initial training they received at the LTC.

To date there has been no systematic process applied to assess training needs of court staff in Oecusse and Baucau. A number of the staff at both courts have been appointed in only the last 12 months and have relocated from Dili. It is likely there are significant differences in background and individual needs. So it seems that the time is right to undertake an assessment and use the results to develop proposals for specific training programs. Our recommendation is that a training needs assessment be conducted within the two courts for all personnel, including the judges, as part of a range of pilot activities in those courts and as a guideline for developing the foundation for a long-term, continuing legal education professional development curriculum. We also suggest that two areas can be developed immediately as learning exercises that are likely to benefit court staff – in the use of email and in the use of the IIMS computer database.

Using Official Email

The first area is in the use of email as a tool for court administration. In neither court is official email used as a substitute for writing, printing and delivering paper memos. While court case documents generally cannot be validly sent using email, there is a whole range of communications and administrative correspondence that can be produced and sent by email instead of on paper. At present both Oecusse and Baucau has the technical capacity for all staff to communicate with each other by email and with the Court of Appeal in Dili. There is already a system of official email addresses available for all staff of the courts, although we are told by Court of Appeal IT staff that generally the system is not yet used. We recommend that a training program be designed and provided to staff in the two pilot centers aimed at trialling and evaluating the use of email as a tool of administrative communication for district courts.

Continuing Integrated Information Management System Training

Another factor that may impede understanding of the IIMS is the fact that the IIMS user manual, which is over 1,000 pages long, is available in Portuguese, but not in Tetum, further handicapping the ease with which court staff can have their skills in using the system reinforced. Our recommendation is that, rather than pursue the translation of a long document that may not be readily used by court staff, a simpler system be used to extend IIMS training to staff using the IIMS network itself. We propose that Baucau be used as a test center for the development of computer based training modules that can be used by staff as self-directed learning tools for IIMS. Using standard features of Microsoft PowerPoint software, each module would be an animated instruction manual, and incorporating voice over instruction in Tetum, that would be available to access on any desktop computer in the court. This exercise will be used to develop a prototype methodology

for the design of other computer based training modules that the Court of Appeal may use for future training programs. It can be expected, of course, that the completion of a training needs assessment of all staff in both course can be used to identify the topical priorities for developing new self-directed learning products.

Feedback on the training provided to staff to date in the use of the IIMS computer database in Baucau indicated general levels of satisfaction and competency. However, staff admitted that they would still benefit from follow-up training and for repeat training in certain areas of IIMS operation. One judicial officer admitted, for example, that although she knows how to type and print courtroom hearing minutes using word processing and attaching a copy to the court file, she did not know how to upload a soft copy of the minutes to the electronic IIMS case file.

Recommendation 12: Supporting Staff Training in Oecusse and Baucau

(i) A *training needs assessment* should be conducted within the two courts for all personnel, including judges, as part of a range of pilot activities in those courts, to identify the topical areas in which future training courses priorities can be focused.
(ii) A training program be designed and provided to staff in the two pilot centers aimed at trialing and evaluating the *use of email* as a tool of administrative communication for district courts.
(iii) Baucau District Court should be used as a test center for the development of computer based training modules that can be used by staff as self-directed learning tools for the IIMS computer database. Each module, to be designed using standard features of Microsoft PowerPoint, would be an animated instruction manual with voice over instruction in Tetum that would be available to access on any desktop computer in the court.

AUTOMATION

Integrated Information Management System Development

As at mid-2014, the Court had succeeded in connecting and maintaining a network linking each of the district courts. Oecusse is now connected to the Court of Appeal network and PCs are available for the use of the judge and each judicial officer in the courthouse. There is access to the internet and basic word processing and spreadsheet software. The staff has had some training, but is yet to use the facilities they have for much more than word processing. Also, although each person at Oecusse District Court has the capacity to use email, very few do, chiefly because official communications with the Court of Appeal and other district courts continue to be by hand delivered, paper memoranda.

Baucau is also connected to the network and desktop computers have been provided for the use of each judge and judicial officer. Users have access to the internet, email services and, the IIMS case management system. So far Baucau is the only district court to be using this system, although the Dili District Court is now in the early stages of introducing it.

The IIMS is a general purpose case tracking system for the district courts. The system was developed in 2009 for the police and prosecutors using local and international experts. The Court of Appeal began to develop an independent version of the police and prosecutor system for use in district courts in 2012. It was developed as a basic case management system, offering a good case tracking capability. All data fields in IIMS are labelled in Tetum and English as well as Portuguese. Training materials provided by the Court of Appeal (excluding the IIMS User Manual) are also offered in Tetum as well as in Portuguese.

It appears that the staff at Baucau is using the IIMS satisfactorily in registering cases, allocating cases to judges, producing notifications for hearing, case scheduling, recording case outcomes, storing documents and case event information, and producing statistics. There are a few features of the system which do not yet

work as intended. For example, there are difficulties in producing reports that distinguish archived cases from active cases and the system is not yet capable of counting cases allocated to each judge. As part of the introduction of the system to Baucau, all case records going back to 2002 are recorded in the system, although limited to basic descriptive information about cases already archived.

According to Court of Appeal staff we interviewed, the process of rolling out IIMS is not yet subject to firm timetables. Training has started for the benefit of staff at Dili District Court and present plans are that, once Dili adopts the system, it will be extended to the district courts in Oecusse, then Suai. IT administration staff of the Court of Appeal advise that the rollout of IIMS and associated hardware is proceeding using GoTL funds and without financial support from donors. It appears that the system has generally good prospects of being successfully installed in each district court and should contribute to improved productivity in the scheduling of cases and in providing management information. However, there is some doubt that the rollout program will be swift, given that non-critical faults in the software have already been reported and are yet to be remedied. It is not yet clear that the Court of Appeal will be able to secure sufficient funds in future to undertake regular software design changes in response to problems as they emerge.

The capacity of the courts to improve their effectiveness in case processing is dependent on their ability to use information technology, particularly in providing statistical information for better resource management. Elsewhere in this report we have proposed ways in which improved statistical information can be gathered using IIMS. But many of those improvements can only be achieved if programming changes are made to IIMS. The Court of Appeal needs to sustain its commitment to developing IIMS in these ways as a high priority because of the likely long term benefits such a commitment will bring.

Recommendation 13: Sustaining IIMS Development and Use

The Court of Appeal should give priority to the gradual improvement of IIMS software, both in terms of fixing faults detected during the rollout program and for the purpose of expanding its use in analyzing trends in caseloads and case outcomes.

Online Information for Courts

Our discussions with information technology staff of the Court of Appeal indicated that while they have understandably been focused on establishing the infrastructure for using information technology for court management, this has been confined to date to meeting basic needs. After completing the commissioning of a nationwide-wide area network and extending IIMS to all courts, however, there will still be many goals to be pursued in order to utilize the full potential for using information technology in courts. It is too early to expect much of this potential to be achieved within the next five years. But it is likely that much could be achieved within ten years.

Courts in developed economies are now moving to a point where key business processes are administered purely by the use of computerized systems. This applies not only to case management systems, but also to almost all aspects of administration – financial systems, procurement, human resource management, even building management. This process has been advancing in tandem with relatively rapid change in the information policies of courts; that is, with policies aimed at giving the general public access to a wider range of court records and online services.

These trends have been made possible by the establishment within a court of a virtual private network and with public web portals. A virtual private network (VPN) is a networked website environment which is available only to authorized users within an organisation. A VPN provides security and confidentiality features to allow judges and court staff to use software for managing court finances, payroll, human resources, case management and other internal systems. The availability of a VPN has enabled courts to create electronic versions of court records for internal use, thus allowing any authorized user to access a court record without the need to find the paper file. It also allows court personnel to securely carry out most of their official activities without the need to use paper.

A public web portal differs from a VPN in that all of the information provided is available to any user of the internet. Courts will usually have public web portals to provide information to promote the role of the courts and information about specific cases, e.g. by publishing court decisions. Usually the data available on a public web portal is extracted directly from the court's VPN for any category of information that the court deems appropriate for publication. The use of VPNs and public web portals is, of course, not unique to courts of justice, but is a basic feature of virtually all government agencies and private corporations in advanced economies. This approach to information management in government is widely described as 'e-government', and in the context of courts, this approach is sometimes referred to as 'e-justice'.

While Timor-Leste courts have not yet reached the point of being able to effectively emulate these kinds of advances, they ought to start now to pursue similar directions. Our recommendation in this report concerning increased use of email as a management tool is an example of one step in that direction (see recommendation 12). There are also others that may be pursued, particularly given the expectation that the new Supreme Court will be established within the next few years. A new Supreme Court will almost certainly seek to adopt similar reforms in the use of technology that superior courts in other countries have already pursued. In particular, it is likely to want to establish a website containing information of use, not only to judges and court staff, but to the general public as well. It is also likely to want to be able to receive electronically compiled performance reports from all the lower courts. And it will wish to advance the use of computers for administering basic services and functions of courts in general, including electronic case filing, video conferencing, storage and management of court hearing sound recordings and other court records.

To those ends, we recommend that the Court of Appeal pursue the gradual development of its court networks and the IIMS to include an information portal component to be available respectively to court personnel; and also, in a limited form, to the public via a court information portal. Such a portal, if established today, might include links to all online versions of legislation of Timor-Leste, public reports about the court system, statistical reports of the courts that may be approved for public release, and decisions of the Court of Appeal that are approved for publication as matters of public interest. The internal VPN component of the portal may contain staff training materials, including materials published by the LTC, official memoranda on court management, and other information to assist in court administration.

Recommendation 14: Online Information for Courts

In developing information technology systems for district courts, the Court of Appeal should advance development of both an internal virtual private network (VPN) and a public web portal to facilitate the introduction of new technology in court administration; and as a means of using technology for development of its staff and providing information to the public.

Sound Recording of Court Proceedings

During our brief visit to the Dili District Court, we learned that there was a plan to experiment with the use of sound recording of court proceedings in that center. One courtroom is equipped with devices that can produce a cassette tape recording using microphones placed in the courtroom. We were told that the intention was to use the tape later to prepare transcript of what was said in court. It seems that although some hearings are recorded in this way, no steps have yet been taken to prepare transcript of cases. Evidently their plans are still under development and it was suggested to us that an effective way of producing transcript might be by using voice recognition software.

While sound recording is widely used in other court systems, it is rare for voice recognition software to be used, usually because available software is seldom useful in producing accurate transcript without a high level of human editing. Also, as the dominant oral language in court hearings is usually Tetum, it is unlikely there would be any existing software capable of recognizing that language.

It is also rare for basic level trial courts to use sound recordings to produce transcript without increasing the cost and effort required compared with the system of recording minutes in handwriting. Minutes are typically

summaries of what is said in court and can be readily typed afterwards by the person who prepares the handwritten minutes. When sound recording is used, however, the process of producing transcript will take much longer and is more prone to errors as transcript may be produced by a person who was not in court during the hearing. Thus while sound recording can be done with little human supervision, the production of transcript afterwards can require more effort compared with the current system of taking minutes.

Courts in other countries that use sound recording systems have overcome the problems associated with transcript production by simply reducing the instances in which it is necessary to produce a transcript. This is done by adopting rules requiring transcript to be produced only when there is an appeal, or when the judge asks for a transcript for special reasons, or when a party asks for a transcript and agrees to pay the cost of producing it – in all other instances, no transcript is produced, but the sound tape itself will be kept as the record (so that it is available for transcript production if needed in future). By adopting a system such as this, a court can reduce the effort required to record court proceedings, allowing staff in the courtroom to produce only highly summarized minutes of what occurred.

A risk for the Dili District Court is that, if it embarks on recording its courtroom proceedings, and then attempts to transcribe all that is said on the tapes, then it will be burdening itself with a very high additional workload and expense which may add little to the quality of case processing. A better approach is to develop ways in which the sound recording itself can be treated as the official record of the proceedings so that, if there is ever a need to know what was said in court, it can be listened to, rather than read.

Recommendation 15: Sound Recording of Courtroom Proceedings in District Courts

It is recommended that, if district courts pursue the use of sound recording of courtroom proceedings, ways should be developed to avoid the need to produce transcript in most cases. Suggested guidelines for the use of sound recording may include:

(a) Recordings should be used primarily as a means of producing summarized minutes of court proceedings, rather than verbatim transcripts (i.e. full text of what was said).
(b) Verbatim transcripts should not be produced unless the decision in the case is the subject of an appeal in a criminal case and where the appeal court requires it.
(c) Verbatim transcripts should not be produced in civil cases except at the request of a party to the case and then only when that party agrees to pay the cost of producing the transcript.
(d) A verbatim transcript should not be issued until it has been checked for accuracy by a judicial officer and certified by the judge who presided in the case.

OUTREACH AND FACILITIES MANAGEMENT

An important challenge for the Timor-Leste judiciary is the need to raise its profile in the eyes of the community and secure recognition of its role as the protector of the Constitution and the rights of citizens. A conventional means of doing this is through courthouse buildings, which serve not only as venues for the hearing of disputes, but also as symbols of the dignity and power of the judiciary as an instrument of the state in providing and enforcing justice. As well as this symbolic purpose, courthouses have a utilitarian purpose as service centers, where people who need to use the courts can do so with maximum convenience and comfort, in an environment that respects equality of all before the law.

Our visits to the courthouses at Oecusse and Baucau were aimed at interviewing the personnel of the courts, but also viewing the condition and utility of the court buildings themselves as symbols and as service centers.

Here are some essential observations we made:

- Both buildings are old and of Indonesian design. Each has a single courtroom placed in the center of the building and flanked by wings containing administrative offices. Each is also stepped at the front entrance and at other points, having no ramps suitable for wheelchairs.
- Oecusse is a double storey building with the upper levels providing office accommodation for the resident judge and visiting judges. As most of the time there is only a resident judge, facilities in Oecusse look spacious for the court's needs.
- Baucau is a single level building, but includes an adjacent double story annex for some judges' offices. In contrast to Oecusse, Baucau has four resident judges who have had to make use of government office accommodation across the road from the courthouse where there are also two additional courtrooms.
- Oecusse has no public signage at all, except at the front of the court building. It has no noticeboard, except for a freestanding board at the front steps, which is used only to display civil service job vacancy notices.
- Baucau has minimal public signage, but uses a whiteboard in its foyer to write information about court hearings. It too has a noticeboard which appears to be used only for civil service job vacancy notices. Within rooms that members of the public might visit for official purposes, such as the Central Office, there is no room for visitors to sit or stand in comfort. There appears to be no unused office space in Baucau.
- Both courts lack an identified area for public inquiries and places for people likely to have special needs, such as witnesses who need to be separated from defendants attending hearings. The only designated public waiting areas in both courts are outside at the front of the court, or immediately outside the courtroom or inside the courtroom.
- Both buildings are generally in a poor state of maintenance. Oecusse clearly has a leaking roof, indicated by large ceiling staining above the central foyer. It also needs repainting, both inside and out. Each building, however, is clean and free of clutter.
- Oecusse has a large area of land both at the front of the courthouse and behind, allowing room for future expansion, such as additional wings. We were told that plans are advanced for a new courthouse to be built at Baucau, with work likely to start as soon as 2015.
- Both courts have air conditioning in courtrooms and in offices of judges and staff. Other areas of each building, however, are not air conditioned.
- Both buildings have installed networked computer systems that work.
- The courtrooms in each building are spacious, air conditioned and clean. Each has a ceremonial flag of Timor-Leste, but neither has a crest, insignia or coat of arms set behind the judge's bench as is common in courts in many other countries.

In general, both courthouses are designed and managed essentially to meet the minimal needs of judges and staff in processing court paperwork and conducting hearings. There is no evidence in either building of efforts to develop public services, such as inquiries and information desks, dedicated facilities for lawyers and their clients, or facilities for the comfort of vulnerable visitors, such as victims of domestic violence. The design shortcomings of the building themselves, put constraints on what might be done to improve them, but they do not prevent improvements altogether, even in the case of Baucau, where the building is expected to be vacated when the new courthouse is built. Here are examples of things that could be done to improve the functionality of each building, enhance service to the public and facilitate the promotion of the role and value of the judiciary. These ideas draw on practices that are widespread in courts in other parts of the world.

Public Signage

Each courthouse could benefit from the installation of signage for the information of visitors who are not familiar with the building, such as defendants, victims and witnesses. Signage ought to begin with a directory board immediately inside the front foyer which indicates the name of the court, the name of the judge administrator, the name of the judicial secretary and a listing of the room locations of different offices, such as the civil section/ criminal section, interpreters' offices, designated waiting areas, public toilets and places where general inquiries can be made.

Court Notices and Notice Boards
Each courthouse should display a whiteboard and an adjoining noticeboard. The whiteboard should be used on the day of a court hearing to indicate the case about to begin or the hearing in progress. The noticeboard should display the printed court list for the day, the following day and any other future days where a list can be produced. It may also be used to post other court documents, such as information about impending mobile courts or scheduled sittings of collective courts.

The Languages of Documents and Signage
In placing signage and notice boards, allowance should be made for the possibility that visitors may not be able to read Portuguese or Tetum. Both languages should be used and, if possible, local languages; and, for the sake of illiterate visitors, pictorial signage should be used wherever possible. Similarly, the court office should endeavour to produce brochures and forms for the use of court visitors to provide information about court procedures and the rights and facilities for court visitors, such as victims and witnesses.

Waiting Areas
Given that both Oecusse and Baucau have very high rates of domestic violence cases, each should have dedicated waiting areas that will ensure that defendants do not face victims or witnesses when they arrive at the courthouse. This can be done by redesignating vacant rooms for these kinds of special purposes or, if there are no vacant rooms, even utilising places outside in the courthouse grounds where visitors can wait until required to enter the courtroom.

Public Defenders and Prosecutors
The courthouse should be available, as far as possible, for the use of public defenders and prosecutors that each can use to meet clients or witnesses in privacy. Rooms should be set aside for this purpose and those rooms should be sign posted so that visitors can more readily find the defender or prosecutor.

Outreach Initiatives
The judge administrator of the court should consider establishing a court user consultation group and a program of activities aimed at keeping the judiciary in contact with court users and promoting the role of courts and services they provide. A court user consultation group is a collection of representatives of the key stakeholders (for example: prosecution, public defender, police and leaders of community groups) who regularly meet with the judge administrator. User group meetings are used to discuss practical problems affecting the use and management of the court building and the services provided to those who visit. The user group can also be used to develop and promote court outreach events, such as visits to the court by school groups, by conducting court open days and scheduling similar events in association with mobile court sessions.

An open day is a day on which the judiciary invites the public to attend the court building to learn about how the court works and to ask general questions about services available to those may become court users. Open days can also be used as media events to promote the courts, such as by judges participating in radio broadcast talk shows or speaking at church functions and other public events.

A role of a court user consultation group is to survey court users to ascertain public opinion about the court and draw out ideas for improving court services at the local level. Court user group members can draw from their own inquiries or associates and others they represent to identify issues of concern. They can also act as a group to introduce court user surveys and feedback schemes, an example of which we are proposing be introduced in Oecusse and Baucau on a pilot basis as a demonstration of the value of user surveying in general.

It seems clear from our assessment that the notion of using courthouse management as a driver of court outreach programs is still novel in Timor-Leste. Experience in other court systems indicates that the most

effective way of ascertaining whether courthouses are adequately serving the needs of their users is to ask them, i.e. by undertaking a survey to find out. Thus we propose that the district courts in Oecusse and Baucau each undertake a survey to identify precisely how they may make improvements. The survey results should be used to develop a model for managing the court in terms of signage, uses of space, information services and outreach activities. One method of doing this is to administer a Courthouse Visitor Survey, which aims to interview court visitors on a designated day to obtain information about why they are visiting and whether they satisfactorily achieved their purpose in visiting. A survey is also useful for gauging visitor opinion about the adequacy of court facilities, such as waiting areas and public toilets.

Recommendation 16: Developing a Model for Courthouse Management and Outreach

As a means of developing a model for improved courthouse management and local outreach activities, the district courts at Oecusse and Baucau should undertake a Courthouse Visitor Survey. The results of the survey may be used to validate the need to make improvements to court building services and to support the development of other initiatives for outreach, such as the establishment of a court users' group, open day activities and special activities to be conducted in association with mobile court sessions.

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