

## The Lay of the Land: Land Access and Dispute Resolution in Timor-Leste<sup>1</sup>

This report examines land access, disputes,<sup>2</sup> and dispute resolution in Timor-Leste, using findings from the justice module included in an extension of the 2007 Timor-Leste Survey of Living Standards (TLSLS2) and a review of relevant social-science literature.<sup>3</sup> The extension survey (TLSLSx) revisited a nationally representative subsample of the TLSLS2 between April and October 2008.<sup>4</sup> The respondent for the justice module was randomly selected to be the household head or his/her spouse, and the TLSLSx revisited 1,716 respondents across Timor-Leste's thirteen districts.<sup>5</sup> Survey topics included: (1) access to information and decision making; (2) opinions and knowledge of the law; (3) trust and local institutions; and (4) dispute resolution. Findings from this survey have been summarized in three short briefing papers focusing on land and conflict, youth perspectives, and community trust and decision making.<sup>6</sup>

This report presents TLSLSx findings related to land and property. It begins by presenting a context for land and property in Timor-Leste, goes on to discuss East Timorese perspectives on land ownership and access, and concludes with a discussion on land disputes and their resolution. It is hoped that this report will be a valuable resource for civil servants, representatives of civil society, and donor agencies working on land and property-related issues in Timor-Leste.

### Key Findings

- There is widespread support for land titling in Timor-Leste; overall, 72 percent of survey respondents believe that land titling would reduce land-related conflict.

Some regional variation in responses was also found, with 81 percent of respondents in Region 5 (Oecusse) stating that titling would reduce disputes vs. just 58 percent in Region 2 (Ainaro, Manatutu, Manufahi). However, this variation was primarily due to the large number of respondents in Region 2 who believe that titling would both resolve and create conflicts.<sup>7</sup>

- The majority of respondents (78 percent) believe that a paper land title is a stronger claim in court than a community-recognized traditional land claim.
- Ten percent of households had experienced land-related disputes in the year prior to the survey. While the overall number of disputes was low, 40 percent of land-related

<sup>1</sup> *Justice for the Poor* (J4P) is a World Bank program that focuses on mainstreaming justice considerations and conflict management into development processes. In Timor-Leste, J4P began in July of 2008 with the generous support of AusAID.

<sup>2</sup> A note on terminology: throughout this report, terms such as "disputes," "conflict," and "trust" are used. These terms should be understood as referring to relationships between individuals and/or households, and not broader relationships between groups (that is, regional, ethnic, and so on).

<sup>3</sup> TLSLSx is a supplement to the living-standards survey implemented by the government of Timor-Leste National Statistics Directorate and the World Bank in 2007. For more information and a copy of the TLSLS statistical abstract, please visit <http://dne.mof.gov.tl/TLSLS/AboutTLSLS/index.htm>.

<sup>4</sup> For additional information related to the survey module, including a breakdown of respondents by region and district, residence (urban or rural), gender, age, and other categories, please see "Justice Module of the Timor-Leste Survey of Living Standards Extension: An Overview" available at <http://go.worldbank.org/ZRKELPETD0>.

<sup>5</sup> It should be emphasized that this report presents findings related to heads of household and their spouses, and these views are not necessarily representative of the population as a whole.

<sup>6</sup> All *Justice for the Poor* Timor-Leste reports can be accessed at [www.worldbank.org/justicefortheopoor](http://www.worldbank.org/justicefortheopoor).

<sup>7</sup> The five survey regions are: Region 1: Lautem, Baucau, Viqueque; Region 2: Ainaro, Manufahi, Manatutu; Region 3: Aileu, Dili, Ermera; Region 4: Bobonaro, Cova Lima, Liquica; and Region 5: the enclave of Oecusse.

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disputes resulted in property damage and 10 percent led to injury.

- Respondents expressed a clear preference for local and traditional authorities in resolving land- and property-related disputes. However, substantial regional variations emerged, as did urban-rural divides.
- Respondents were divided in their understandings of marital property. Approximately half of respondents believed that all marital property was under the control of the head of household, while 39 percent believed that land in the possession of one party at the start of a marriage remained personal property throughout the marriage.

## The Context of Land Access and Use in Timor-Leste

Land is an important feature in the daily lives of Timorese, representing both an ancestral legacy and the primary source of income for the majority of the population.<sup>8</sup> Land ownership in Timor-Leste is dominated by customary norms, particularly outside of urban and peri-urban centers.<sup>9</sup> Customary ownership takes a variety of forms, and can differ between communities. Communal or common property ownership exists, particularly in areas used for food-crop cultivation and around water points.<sup>10</sup> However, most customary groups in Timor-Leste also have heritable individual- or family-use rights to land such as residential, garden, and plantation plots.<sup>11</sup> Finally, ritualized prohibitions to access and use (referred to as *tara bandu*) are maintained on some areas of land.

During the final century of Portuguese colonization, the period of Japanese occupation during World War II, and especially the quarter century of Indonesian occupation, large numbers of East Timorese experienced displacement from their ancestral lands as a result of state co-optation or strategic relocation.<sup>12</sup> Following Timor-Leste's historic vote for independence in 1999, an estimated 83 percent of the population was displaced as a result of militia-perpetrated violence, and the majority of land and property records were destroyed.<sup>13</sup> An outbreak of violence in 2006–07, stemming in part from existing land and property disputes, led to the displacement (or redisplacement) of an additional 10 percent of the population.

This history has contributed to continuing confusion over land and property ownership in Timor-Leste, as customary rights, colonial Portuguese land titles, Indonesian titles, and nontraditional long-term land occupation compete for primacy. Since independence in May 2002, there has been a significant delay in establishing a formal land administration in the nation, partly due to uncertainties in land ownership and the time taken for state actors to understand and respond to the complexities of customary ownership systems. However,

significant progress has been made since 2009. The government of Timor-Leste, with the support of the U.S. Agency for International Development (USAID), has launched a land registration program in district centers and peri-urban areas, which has led to the registration of over 10,000 claims in seven districts.<sup>14</sup> A transitional land law<sup>15</sup> has been socialized throughout Timor-Leste, and was recently approved by the Council of Ministers; consideration by Parliament is expected in mid-2010. This law aims to establish a regime for the identification and regulation of land ownership, including the ordering of competing claims. It also provides a starting point for the legal recognition and protection of community land rights. In recognition of the importance of ongoing discussions on land and property in Timor-Leste, this report is intended to provide the government and other actors in Timor-Leste's land sector with data on Timorese perspectives on land ownership and the value of titling, as well as information on the prevalence and resolution of disputes over land and property.

## Perspectives on Land Ownership and Access

### Land Titling

As noted above, the Timor-Leste government is currently undertaking a land registration program (known as *Ita Nia Rai*) in district centers and peri-urban areas of Timor-Leste. Through this program, as a precursor to land titling, the government is identifying and registering areas of uncontested land owner-

<sup>8</sup> According to 2007 TLSLS data, approximately 73 percent of Timorese, and 80 percent of poor Timorese, depend on agriculture for their livelihood. Timor-Leste, Directorate of National Statistics and World Bank, "Timor-Leste: Poverty in a Young Nation" (Dili, Timor-Leste: Directorate of National Statistics, 2008), <http://pascal.iseg.utl.pt/~cesa/TL-Poverty-in-a-young-nation-25-Nov-2008.pdf>. Accessed June 2010.

<sup>9</sup> Rod Nixon, "Challenges for Managing State Agricultural Land and Promoting Post-Subsistence Primary Industry Development in East Timor," in *Crisis in Timor-Leste: Understanding the Past, Imagining the Future*, ed. Dennis Shoemsmith (Darwin: CDU Press, 2007). Note that according to 2005 data, only about 3 percent of rural land in Timor-Leste appears to have been alienated from customary tenure, meaning that customary systems of authority predominate in approximately 97 percent of the land. See Rod Nixon, "Non-Customary Primary Industry Land Survey: Landholdings and Management Considerations," USAID/ARD Inc. Research Report (Washington, DC: USAID, 2005), [http://pdf.usaid.gov/pdf\\_docs/Pnade790.pdf](http://pdf.usaid.gov/pdf_docs/Pnade790.pdf). Accessed June 2010.

<sup>10</sup> Daniel Fitzpatrick, Andrew McWilliam, and Susana Barnes, "Policy Notes on Customary Land in Timor-Leste," *East Timor Law Journal* (2008).

<sup>11</sup> *Ibid.* Note that these individual or familial use rights often do not translate to a right to sell the land to those outside of the community.

<sup>12</sup> Daniel Fitzpatrick, "Mediating Land Conflict in East Timor," in *Making Land Work*, vol. 2 (Canberra: AusAID, 2008), [http://www.usaid.gov.au/publications/pdf/MLW\\_VolumeTwo\\_CaseStudy\\_9.pdf](http://www.usaid.gov.au/publications/pdf/MLW_VolumeTwo_CaseStudy_9.pdf). Accessed June 2010.

<sup>13</sup> *Ibid.*

<sup>14</sup> The project was piloted in Manatutu and Liquica districts. Data collection in Manatutu has been completed, with collection in Liquica expected to follow shortly. The program is now active in Aileu, Baucau, Bobonaro, Oecusse, and Dili. A public information effort is ongoing in advance of a launch in Lautem district. For more information on the *Ita Nia Rai* program, see [www.itanirai.tl](http://www.itanirai.tl).

<sup>15</sup> Known formally as the Special Regime for Determination of Ownership of Immovable Property.

ship (either by individuals, groups, or legal entities), as well as registering and attempting to resolve disputed ownership and boundary claims. With this in mind, the TLSLSx survey posed several questions on the perceived value of land titling.

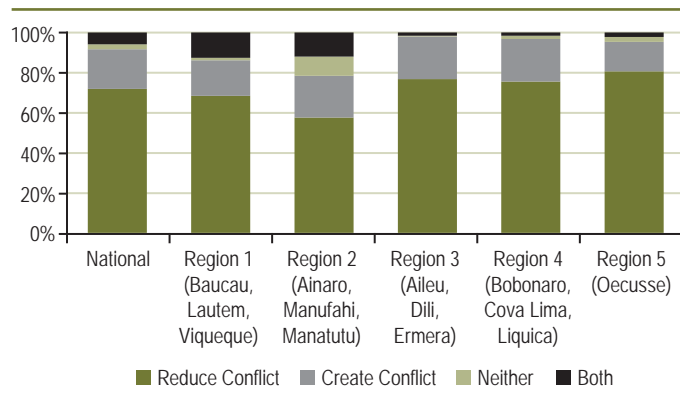
The survey found strong support for a land titling program in Timor-Leste. There was widespread belief that an official land title was more valuable than a traditional land claim when pursuing a claim in court.<sup>16, 17</sup> Additionally, 72 percent<sup>18</sup> of respondents indicated that land titling would help to reduce disputes over land and property.<sup>19</sup> There was little variation in support for titling across gender, education level, type of employment, or marital status. Furthermore, though one would predict stronger support for land titling in urban areas, where tenure is generally seen as less secure, there was surprisingly little variation between urban and rural respondents.<sup>20</sup> There does, however, appear to be a trend of younger households being more in favor of the land titling process than older populations, with 79 percent of youth believing that land titling could potentially reduce disputes, compared with only 70 percent of respondents over the age of 60.<sup>21</sup> Also, while only 16 percent of youth thought titling could lead to an increase in conflict, a substantial minority over 60, 28 percent, believed that additional conflict might emerge with a titling regime.<sup>22</sup> Some regional variation in responses was also found, with 81 percent of respondents in Region 5 (Oecusse) stating that titling would reduce disputes vs. just 58 percent in Region 2 (Ainaro, Manatutu, Manufahi).<sup>23</sup> However, as shown in the chart below, this variation was primarily due to the higher degree of ambivalence in Region 2, where more respondents believed that titling had the potential to both resolve and create conflicts. Overall, the reasons behind both the regional disparities and the lack of urban-rural variation require further exploration.

While this data shows support for titling, and though studies conducted in Timor-Leste have concluded that in some instances (particularly in rural areas), land titling could be beneficial,<sup>24</sup> experience from nations with similarly strong systems of customary land management suggest caution in extending a land titling system into rural areas, where boundaries between villages are strongly contested and wider political areas tend to demarcate sites of past conflict and lingering, possibly unresolved enmity.<sup>25</sup> Additionally, titling has the potential to disenfranchise weaker members of the community, particularly women, and there is also great uncertainty about the capacity of the Timor-Leste state to administer a titling program covering the entire country.

### Gender and Access to Land

Section 54 of the Constitution of Timor-Leste guarantees all citizens the right to property,<sup>26</sup> and the draft Civil Code includes provisions protecting women's inheritance rights.<sup>27</sup> However, the reach of the formal justice system, and by extension the protections it offers, is still limited in Timor-Leste,

**Chart 1: Potential Impact of Land Titling in Timor-Leste**



and most property rights are thus subject to the authority of customary systems. Timor-Leste is home to both patrilineal and matrilineal customary land-tenure systems, with matrilineal systems common in Bobonaro, Cova Lima, Manatutu, and Manufahi districts, and patrilineal systems predominating in the remaining districts. While generally, land inheritance patterns in matrilineal areas favor women and girls and those in patrilineal areas favor men and boys, land inheritance and use are subject to various exceptions and negotiations.<sup>28</sup> For example, unmarried women in patrilineal societies may be permitted to inherit or to hold a life interest in property,

<sup>16</sup> The two options were: "When pursuing a land claim in the court system, the strongest claim is an official paper land title," and "When pursuing a land claim in the court system, an official paper land title is not regarded as a stronger claim than a community-recognized traditional land claim." Respondents could also select "neither" or "both," though these responses were discouraged.

<sup>17</sup> A 2004 survey by the East Timor Land Law Project found that just 15 percent of rural and 33 percent of urban respondents were aware of a land claims process. Despite the generally low awareness, the same survey found that respondents generally saw official state claims as valuable. See East Timor Land Law Program "Report on Research Findings, Policy Options and Recommendations for a Law on Land Rights and Title Restitution" (Burlington, VT: ARD, Inc., July 2004), <http://www.laohamutuk.org/Oil/LNG/Refs/020ARDLandRights.pdf>. Accessed June 2010.

<sup>18</sup> Ninety-five percent confidence interval (C.I.) (68.1–75.0).

<sup>19</sup> The two options were: "A process of land titling would help to draw definite boundaries, and reduce conflict in the community," and "A land titling process would cause more problems than it solves by stirring up old problems and offering the opportunity to steal land with fake claims." Respondents could also select "neither" or "both," though these responses were discouraged.

<sup>20</sup> Sixty-nine percent of urban and 73 percent of rural respondents believed that titles could reduce conflict, while 27 percent of urban and 18 percent of rural respondents saw the potential for increased conflict with titles.

<sup>21</sup> This difference, however, is not statistically significant (t-stat = 1.39), likely due to the relatively small sample size. Please see the statistical abstract for more details.

<sup>22</sup> This difference is statistically significant at the 5 percent level (t-stat = 2.32).

<sup>23</sup> This difference is statistically significant at the 95 percent confidence level (t-stat = 3.07).

<sup>24</sup> Fitzpatrick et al., "Policy Notes on Customary Land in Timor-Leste."

<sup>25</sup> Andrew McWilliam, "Meto Disputes and Peacemaking: Cultural Notes on Conflict and its Resolution in West Timor," *The Asia Pacific Journal of Anthropology* 8 no. 1 (2007): 75–91.

<sup>26</sup> Government of Timor-Leste, Constitution of the Democratic Republic of Timor-Leste.

<sup>27</sup> Timor-Leste, Secretary of State for the Promotion of Equality, "Goodbye Conflict and Welcome Development" (Written Statement, Development Partners Meeting, April 7, 2010).

<sup>28</sup> Pyone MyatThu, Steffanie Scott, and Kimberly P. Van Niel, "Gendered Access to Customary Land in East Timor," *GeoJournal*, 69 no. 4 (2007): 239–255.

and societies with active marriage-exchange practices often link inheritance to the completion of *barlaque*<sup>29</sup> payments.<sup>30</sup> Thus, gender aspects of property rights under customary law cannot accurately be determined solely by examining patterns of matrilineal or patrilineal descent.

The substantial variations in land inheritance and marital property throughout the country are reflected in the survey data. When asked about control of property within a marriage according to the law, approximately half of respondents indicated that property was controlled by the (usually male) head of household, while 39 percent believed it to be retained by the original owner.<sup>31</sup> There were also considerable differences according to residence (urban vs. rural) and region. The majority (54 percent) of respondents in urban areas believed that land remained under the control of the original owner during a marriage; just 35 percent of rural residents believed this, though an additional 10 percent responded “both.”<sup>32</sup> The starkest differences emerged between regions, perhaps reflecting localized patterns of land management and control. In Region 2 (Ainaro, Manatutu, Manufahi), just 31 percent of respondents indicated that marital property was controlled solely by the household head; in contrast, 68 percent of respondents from Region 4 (Bobonaro, Cova Lima, Liquica) believed this.<sup>33</sup> The chart below presents beliefs about control of marital property, disaggregated by both region and residence.

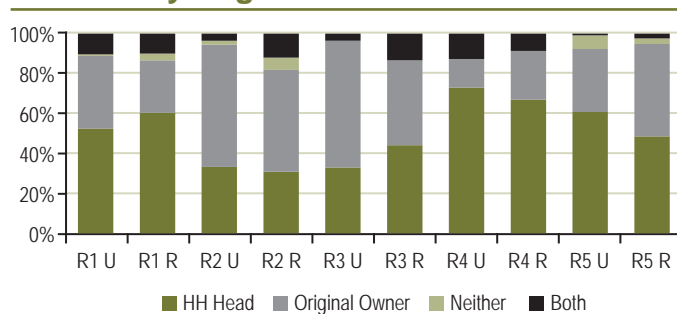
## Land Disputes and Dispute Resolution

### Land Disputes in Timor-Leste

In recent years, numerous books and articles have discussed the complexity and volume of land disputes in Timor-Leste.<sup>34</sup> A history of displacement, overlapping titles, and lack of legal clarity contribute to land-related disputes. Conflict may arise when certain groups claim overarching stewardship of rights to agricultural farm lands; their claim may be contested by other groups who “opened” or “tamed” the land by clearing the site (and undertaking the necessary rituals associated with taming the land). Areas of agricultural resettlement programs are more prone to land and natural-resource conflict. Additionally, ethnic tensions, land and property disputes, and arson during the 2006–07 crisis resulted in the displacement of over 100,000 people and shifted the demographics of some urban neighborhoods. While most of the displaced have now returned to their communities or been resettled, many of the property disputes stemming from or aggravated by the crisis remain unresolved.

Interestingly, despite the attention given to land and property disputes in Timor-Leste, the TLSLSx survey found a relatively low incidence of land-related disputes: just 10 percent<sup>35</sup> of respondents reported experiencing a land-related dispute between January 2007 and the fielding of the sur-

**Chart 2: Land Ownership within Marriage, by Region and Residence**



Source: Regions are as follows: Region 1 (Baucau, Lautem, Viqueque), Region 2 (Ainaro, Manatutu, Manufahi), Region 3 (Aileu, Dili, Ermera), Region 4 (Bobonaro, Cova Lima, Liquica), and Region 5 (Oecusse).

Note: R1U = Region 1, Urban; R1R = Region 1, Rural, and so forth.

vey in early 2008.<sup>36</sup> This is consistent with findings from the *Ita Nia Rai* program—as of March 8, 2010, the program had collected over 10,000 claims, approximately 8 percent of which were disputed.<sup>37</sup> While the low overall number of land disputes prevents region-by-region comparisons, there was a statistically significant difference in the percentage of the population experiencing a land dispute in the lowest-dispute area (Region 2 [Ainaro, Manatutu, Manufahi]—5 percent experienced disputes) and the highest (Region 4 [Bobonaro, Cova Lima, Liquica]—16 percent experienced disputes).<sup>38</sup> While it is difficult to identify the contributing factors to the higher relative number of disputes in Region 2 vs. Region 4, there are interesting parallels to the findings of a 2004 Land Law Program study that found that several *sucos* in Bobonaro, Cova Lima, and Liquica were subject to a higher-than-

<sup>29</sup> The practice of gift exchange upon marriage between wife-giver and wife-taker groups is often referred to as “bride price.”

<sup>30</sup> Thu et al., “Gendered Access to Customary Land.”

<sup>31</sup> The question asked that respondents choose the response closest to their own view: “According to national law, all household property is under the control of the head of the household,” or “According to national law, property acquired by the man or woman prior to marriage remains under their personal control throughout the marriage.” “Neither” and “both” were available, but discouraged, options. In this case, 2 percent of respondents answered “neither,” while 9 percent selected “both.”

<sup>32</sup> The difference between urban and rural percentages is statistically significant at the 1 percent level (t-stat = 3.07).

<sup>33</sup> In both regions, a high number of respondents—11 percent in Region 2 and 9 percent in Region 4—answered “both.” The difference between the two regions in respondents indicating solely the household head is statistically significant (t-stat = 6.58).

<sup>34</sup> See for example: Daniel Fitzpatrick, *Land Claims in East Timor* (Marricksville, NSW: Southwood Press, 2002); Integrated Regional Information Networks (IRIN), “Timor-Leste: Settling Age-Old Land Disputes,” IRIN, October 31, 2008, <http://www.unhcr.org/refworld/docid/4917f25cc.html>. Accessed June 2010; and Andrew Harrington, “Ethnicity, Violence and Land Disputes in Timor-Leste,” *East Timor Law Journal* (2007), [http://www.easttimorlawjournal.org/ARTICLES/2007/ethnicity\\_violence\\_land\\_property\\_disputes\\_timor\\_lest\\_e\\_harrington.html](http://www.easttimorlawjournal.org/ARTICLES/2007/ethnicity_violence_land_property_disputes_timor_lest_e_harrington.html). Accessed June 2010.

<sup>35</sup> Ninety-five percent C.I. (7.7–13.0).

<sup>36</sup> The question was: “Have you or anyone in your household experienced a dispute with land in the past year?”

<sup>37</sup> Note, however, that *Ita Nia Rai* is being implemented only in urban and peri-urban areas, whereas the TLSLSx survey was also fielded in rural areas.

<sup>38</sup> Ninety-five percent C.I.s: Region 1 (1.1–13.9), Region 2 (1.5–8.2), Region 3 (7.6–16.5), Region 4 (9.6–21.7), Region 5 (3.0–13.0).

average number of land claims.<sup>39</sup> In contrast, no *sucos* in Ainaro, Manatutu, or Manufahi experienced higher-than-average claims. However, because the TLSLSx data cannot be examined with confidence at the subdistrict or *suco* level, it is not possible with this data to determine if there is a link between high claim and high conflict *sucos*.

One would expect that urban and peri-urban areas, where customary systems are weaker, recent conflict-related displacement was higher, and groups from across Timor-Leste coexist, would experience a higher rate of land-related conflict. Surprisingly, however, urban and rural residents reported approximately similar numbers of disputes, though there was some variation within districts.<sup>40</sup> The reasons for this finding are unclear and would merit further study. Also, though the reported number of property disputes is quite low, the survey showed the potential for violence and property damage associated with these clashes. Nationally, 40 percent of reported land disputes resulted in property damage, and 10 percent involved injuries.<sup>41</sup>

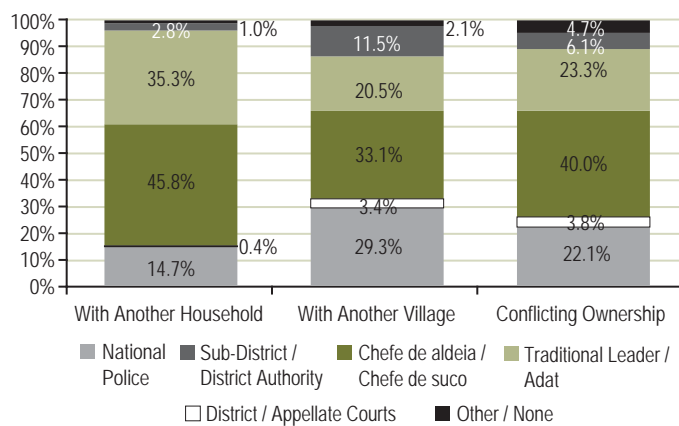
### Land-Dispute Resolution

Land disputes in Timor-Leste are entwined with local political and cultural contexts, as well as livelihoods, and are thus resistant to the win-lose models often used in formal legal adjudication.<sup>42</sup> Timor-Leste's complex history of colonization and forced resettlement has also created a situation where determining the validity and primacy of competing land claims is extremely difficult. TLSLSx respondents showed a clear preference for local and traditional authorities in resolving land-related disputes, though substantial minorities believed that disputes were best resolved through the police or subdistrict authorities.<sup>43</sup> This is consistent with the findings of previous studies on land- and property-dispute resolution in Timor-Leste.<sup>44</sup>

As depicted in the chart above, when asked about three hypothetical dispute types related to land (property-boundary disputes between individuals, property-boundary disputes between villages, and conflicting claims over land ownership), the majority of respondents preferred to seek help from village and traditional leaders. However, respondents would engage formal institutions (particularly police and subdistrict authorities) in more serious or difficult-to-resolve property disputes. It is worth noting that subdistrict authorities, while civil servants, have commonly been ritual leaders in Timor-Leste, and thus it is difficult to discern whether communities are approaching them due to their ritual or state roles.

The role of the police in land-dispute resolution is perhaps surprising; however, other research has found that the police often take on adjudication and mediation functions that would normally rest with courts or conflict-mediation entities.<sup>45</sup> This could reflect respondents' past experience that local and traditional authorities are underequipped to resolve intervillage or

Chart 3: Authorities Resolving Land Disputes



Source: Respondents were asked where they would take hypothetical disputes where (a) your household is experiencing a property boundary dispute with another household; (b) your village is experiencing a boundary dispute with another village, which involves part of the land on which you farm; and (c) someone is claiming ownership over your land.

complicated land disputes.<sup>46</sup> Communities may be seeking a neutral mediator, who comes from outside the disputing communities, in order to resolve the dispute fairly. It may also reflect the potential for land disputes to lead to property destruction and violence, as described in the preceding subsection.

While respondents were most likely to take interhousehold boundary disputes to nonstate authorities,<sup>47</sup> considerable differences within and between regions emerged. For example, the percentage of respondents indicating that they would approach a nonstate actor for assistance in resolv-

<sup>39</sup> Based on an evaluation of the number of land claims submitted to the Directorate of Land and Property by early 2004. East Timor Land Law Program, "Land Rights and Title Restitution."

<sup>40</sup> Given the small sample of reported disputes, however, these differences are not statistically reliable.

<sup>41</sup> Ninety-five percent C.I.s: Property Damage (27.8–52.0) and Injury (0.0–20.5).

<sup>42</sup> Fitzpatrick, "Mediating Land Conflict in East Timor."

<sup>43</sup> Respondents were able to identify multiple fora for dispute resolution. Throughout this section, the data depicts the first forum identified by the respondent.

<sup>44</sup> East Timor Land Law Program, "Land Rights and Title Restitution."

<sup>45</sup> Fitzpatrick, "Policy Notes on Customary Land."

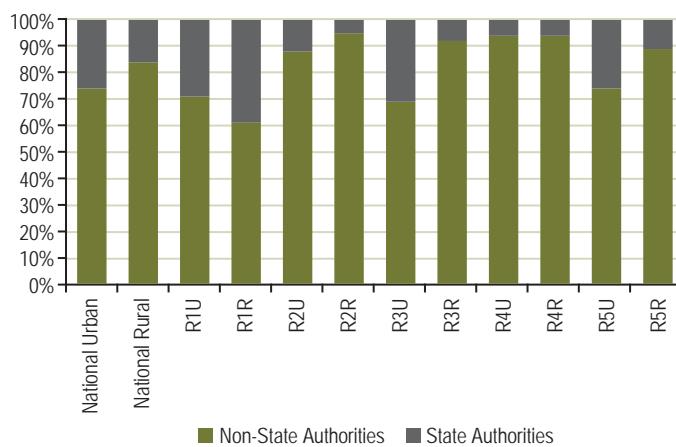
<sup>46</sup> While land boundaries, inheritance practices, and dispute-resolution rituals are often known and well accepted within communities, variations in practice exist between communities. Dispute resolution thus becomes less effective as disputes move beyond village borders. For more on this, see, for example, Dionisio Babo-Soares, "Nahe Biti: The Philosophy and Process of Grassroots Reconciliation (and Justice) in East Timor," *The Asia-Pacific Journal of Anthropology* 5 no. 1 (2004): 15–33; and Rod Nixon, "The Crisis of Governance in New Subsistence States," *Journal of Contemporary Asia* 36 (2006): 75–101.

<sup>47</sup> Nonstate authorities refers to *chefes aldeia/suco*, traditional leaders/*adat*, direct negotiations, and a very limited number of "nothing" (where respondents indicated that they would not take the dispute to any forum). State/formal authorities include all types of police, courts, lawyer/paralegal, judges, the Provedor, subdistrict and district authorities, and the Land and Property Directorate. Note that this distinction is the authors' and does not indicate that communities themselves view these officials as state or nonstate authorities. In the survey, respondents were asked to indicate the actor specifically, not state or nonstate actors generically. For more on this, please see Timor-Leste Land Law Program, "Report on Research Findings and Policy Recommendations for a Legal Framework for Land Dispute Mediation" (Burlington, VT: ARD, Inc., Feb. 2004), [http://www.jsmp.minihub.org/Traditional%20Justice/Reports/LLP\\_Mediation%20Report/LLPMediationReportEnglish.pdf](http://www.jsmp.minihub.org/Traditional%20Justice/Reports/LLP_Mediation%20Report/LLPMediationReportEnglish.pdf). Accessed June 2010.

ing an interhousehold boundary dispute ranged from a low of 60 percent in rural parts of Region 1 (Baucau, Lautem, Viqueque) to a high of 95 percent in rural areas of Region 2 (Ainaro, Manatutu, Manufahi). The chart below provides additional detail.

While regional differences were most pronounced for boundary disputes within villages, some differences also emerged in responses regarding resolution of intervillage boundary disputes and conflicting ownership claims. For example, while there was little urban-rural difference on resolution fora for intervillage disputes overall (55 percent and 54 percent identified nonstate authorities, respectively), there was a 29 percentage point difference between urban and rural respondents in Region 1 (with 65 percent of urban respondents and 36 percent of rural respondents identifying nonstate actors).<sup>48</sup> An urban-rural difference was also evident on responses regarding dispute-resolution fora for conflicting ownership claims; nationally, 69 percent of urban respondents indicated that they would seek help through nonstate actors, compared with 50 percent of rural respondents.<sup>49</sup> Across all dispute categories, urban respondents in Region 3, the region that includes Dili, were among the most likely to report that they would bring land-related disputes to formal authorities.<sup>50</sup> The reasons for these findings are unclear, and in some cases, such as the stronger preference for nonstate authorities among urban respondents in Region 1, counterintuitive. At a regional level of disaggregation, it is difficult to determine precisely why these differences emerge, and further study may be warranted.

**Chart 4: Regional variation in Nonstate Authorities and Boundary Dispute**



Note: R1U = Region 1 Urban; R1R = Region 1 Rural, and so forth.

## Conclusions

Solidifying property rights and resolving land and property-related disputes continue to be significant challenges in Timor-Leste. As large numbers of youth migrate to overcrowded cities, investors seek land for economic activities, and the country's population continues to expand, putting strain on communities reliant on subsistence agriculture, it will become increasingly important to clarify and protect both individual- and community-ownership claims. However, substantial variations both within and between regions on issues such as land titling, gender, and land-dispute resolution reveal the difficulty of establishing appropriate systems that are relevant and accepted throughout the country, without resorting to microregulation of the various systems. While Timorese by and large seek the assistance of local and traditional authorities in resolving land and property disputes, and consider these authorities to be fair and effective arbiters, there is considerable support for additional protections from the formal legal system. Despite a weak and often physically distant court system, respondents recognize a role for external authorities (most often the police, and occasionally subdistrict and district authorities) in helping to resolve competing claims. The effectiveness of the government's current efforts to register peri-urban and urban land and pass a transitional land law, and the extent to which these steps are taken in cooperation with communities, will help to shape the future of land and property access, private sector investment, and stability in Timor-Leste.

<sup>48</sup> This is statistically significant at the 1 percent level (t-stat = 3.08).

<sup>49</sup> This is statistically significant at the 1 percent level (t-stat = 3.53).

<sup>50</sup> Thirty-one percent (95 percent C.I. [22.9–38.2]) identified state actors for interhousehold boundary disputes, 52 percent (43.8–60.5) for intervillage boundary disputes, and 59 percent (50.9–67.4) for conflicting ownership claims.

### What is Justice for the Poor?

Justice for the Poor (J4P) is a global research and development program aimed at informing, designing and supporting pro-poor approaches to justice reform. It is an approach to justice reform which:

- Sees justice from the perspective of the poor/marginalized
- Is grounded in social and cultural contexts
- Recognizes the importance of demand in building equitable justice systems
- Understands justice as a cross-sectoral issue

Justice for the Poor in Timor-Leste is part of the AusAID-World Bank collaboration on the East-Asia and Pacific Justice for the Poor Initiative. This Initiative includes work in Solomon Islands, Vanuatu, Papua New Guinea, Timor-Leste and Indonesia, as well as regional thematic activities.

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