

**Land Disputes under Legal Pluralism, District-Level Variation in Hybrid
Land Governance, and Divergent Outcomes in Timor-Leste, 2020s**

Young-Gil Kim

PhD

The University of York

Politics and International Relations

November 2024

Abstract

My PhD thesis pursues two research aims: first, to investigate the dynamics of land disputes under legal pluralism in Timor-Leste in the 2020s; second, to examine how land governance operates under varying relationships between formal and informal institutions.

My contributions are fourfold. First, I identify the effects of international legal layers on land disputes in a context of legal pluralism and analyse evolving forms of forum shopping. Second, I examine the relationships between formal institutional leaders (state land officials) and informal leaders (*suco* chiefs) who collaborate within hybrid land governance across Dili (the capital) and Ainaro (a rural district). Third, I describe the mechanisms of land dispute resolution under each relationship. Fourth, I assess the outcomes of these mechanisms from both top-down (institution-building) and bottom-up (user satisfaction) perspectives.

My 2023 fieldwork, using diverse methods such as participant observation, shows that international legal layers—such as neoliberal land governance reforms—create normative fractures between global and customary norms. It furthermore reveals evolving shopping forum dynamics, in which the poor *now* increasingly engage in forum shopping and forums themselves *also* shop. This study further foregrounds the cultural dimensions of land, challenges rationalist perspectives, and contributes to understanding state violence in legally plural, post-conflict contexts.

It also reveals two distinct formal–informal institutional relationships: in Dili, formal leaders dominate; in Ainaro informal leaders do. These arrangements produce *divergent outcomes*. The Dili model relies on ‘written’ mechanisms led by state officials; it ensures enforcement but places heavy burdens on the state, raising sustainability concerns. The Ainaro model relies on ‘verbal’ mechanisms led by informal leaders; it allows low-cost enforcement but yields agreements with weaker binding force. User satisfaction shows that neither model is superior, as each reflects trade-offs among key elements of effective arbitration, such as being heard and cultural fit.

Author's Declaration

I declare that this thesis is a presentation of original work and I am the sole author. This work has not previously been presented for a degree or other qualification at this University or elsewhere. All sources are acknowledged as references.

Acknowledgements

This thesis represents over five years of work, made possible by the support of key individuals, to whom I am deeply grateful. First and foremost, I would like to thank my supervisors, Professor Paul Gready and Professor Louise Haagh, for their invaluable advice, guidance, and unwavering support throughout this PhD. Their patience has been crucial to my success.

Conducting fieldwork in Timor-Leste posed significant challenges, but I was able to overcome them with the help of many individuals. I am grateful to the the Universidade Nacional Timor Lorosa'e (UNTL) graduates and students (Afonso, Aida, Jose da Costa Viegas, Jose Monis da Costa Nunes, Juvencio dos Santos, Rofino da Silva, Rosito Freitas, and Simão Zaniel Ramos, listed alphabetically), as well as Changwon Choi, the 'founder' of the UNTL-Center for Korean Studies. My special appreciation also extends to the Timorese government officers (Public Defenders, DNTP Officers, and Sub-administrators), and human rights activists at Rede ba Rai (a network of 20 organisations working on land rights issues in Timor-Leste). During my six months in Timor-Leste, I also received spiritual support from the Korean Church in Dili, and I would like to thank Dr Rev. Dae Hun Lee, and Rev. Sungwon Park.

I would also like to acknowledge several institutions that provided me with invaluable opportunities to engage, directly or indirectly, with a truly diverse range of global development issues: the Korea Army Academy at Yeongcheon, the Ministry of Foreign Affairs of Korea, the Foreign, Commonwealth & Development Office (FCDO), Korea International Cooperation Agency (KOICA), The Refuge pNan (a Christian NGO that protects and assists North Korean and international refugees seeking asylum in Korea and abroad), the World Health Organisation, the United Nations Development Programme, the Timor-Leste Studies Association (a network of researchers, scholars, and practitioners focused on Timor-Leste), the Development Studies Association (the UK-based organisation for those studying, researching, and teaching in global development), and the Development Dialogue in The Hague (an annual conference organised by PhD researchers from the International Institute of Social Studies of Erasmus University Rotterdam), to name but a few. I sincerely thank those I met there: Aram Moon, Dr Bernardo Almeida, Gayoung Moon, Hotaeg Lee, Dr June Namgoong, Dr Keon Park, Kwanghee Kim, MyungKeun Choi, Sein Kim, Soyeon Shin, Sungil Son, Yinseo Cho, and Youngsun Jung, and many others (listed alphabetically).

In the UK, I was spiritually supported by friends from London God's Vision Church (Rev. Young Joo Lee, Rev. Juyoung Park, S.J. Kwon, Sung Wook Paek, and Sunghyun Pang) and London New Malden Korean School (Dr Hyangkue Lee, Ms Bugyeong Jung, and Dr S.-Y. Lee). Although the Covid-19 pandemic limited my opportunities to make foreign friends, I was fortunate to make a few; Ms Colleen, a kind-hearted Canadian living in the UK, provided me with excellent accommodation and showed me what true kindness is. In Korea, my church friend, Mr Yedam, lifted my spirits with his beautiful praise songs.

Special thanks go to Professor Shin-Wha Lee at Korea University, who has supported me since we first met in 2005 when she was my master's supervisor. Her encouragement, particularly during difficult times, has been indispensable, and I believe such mentorship has been essential in my life.

Lastly, I would like to express my deepest gratitude to my family. Their unwavering belief in my research and constant support have been vital to my success. I thank my dad (J.-S. Kim), mum (Jessica Kwon), uncle (B.-D. Kwon), aunt (J.-H. Kwon), another uncle (Dr H.-G. Han), sister (M.-Y. Kim) and her husband (S.-H. Lee) and their children (J.-H. Lee and J.-A. Lee), cousin (Y.-M. Kim), and my late grandparents (J.-H. Kwon and J.-S. Lee). And, I sincerely thank all Timorese. I hope my suggestions can contribute to the development of Timor-Leste.

Glossary

West Timor: The western half of Timor Island, formerly occupied by the Netherlands, now part of Indonesia.

East Timor: The eastern half of Timor Island, commonly referred to as Timor-Leste (its name in Tetum or Portuguese), though the English expression is East Timor.

District, Sub-District, the *Suco*, and the *Aldeia*: Timor-Leste is divided into 14 districts, each further divided into sub-districts. Sub-districts are comprised of multiple *sucos*. The *Sucos* are further divided into the *aldeias*.

The *Suco* Council: Although 'informal' by Timorese laws and customs, the *Suco* Council includes one 'elected' *suco* chief, one administrative worker, a male representative and female one, the elected *lia na'in*, several *aldeia* chiefs, and male and female *aldeia*-level representatives. The local police also participate in the council.

The *Suco* Chief: Each *suco* elects a chief by popular vote.

The *Lia Na'in*: There are two types of *lia na'in*: traditional and elected. The elected *lia na'in* is a member of the *Suco* Council alongside the *suco* chief and others. The traditional *lia na'in* inherits their position by blood and is responsible for family matters. This inherited tradition is strong in Timor-Leste.

The *Liurai*: A traditionally recognised local king for a long time. The *lia na'in* deals with legal matters, while the *liurai* handles political matters within his jurisdiction and diplomatic relations with neighbouring *liurais*. This concept has diminished in contemporary Dili (the capital), though it remains strong in rural areas.

The *Uma Lisan*: Conceptually, the customary house (*uma*) can be divided into two forms: as a physical structure, it is referred to as the *uma lulik* (sacred house), and as a social construct, it is known as the *uma lisan* (house of origin), both of which function as fundamental units of identity (Cryan, 2015, p. 2). However, during my fieldwork, I frequently heard references only to the *uma lisan*.

The DNTP: An acronym for Timor-Leste's national land institution, the Direcção Nacional de Terras e Propriedades. Its HQs is in Dili, and it has regional offices in every district. Note that Dili has both the DNTP headquarters and a regional DNTP Dili office.

DNTP Dili Office: The DNTP's regional office in the Dili district.

DNTP Ainaro Office: The DNTP's regional office in the Ainaro district.

The *Regras Mediasaun*: At the DNTP Dili office, DNTP officers conduct mediation forums using written rules known as the *Regras Mediasaun*. Please, note that the DNTP Ainaro office does not have such written rules.

The *Akordu Mediasaun*: At the DNTP Dili office, when both parties reach a verbal agreement and proceed to sign a written agreement, this document is known as the 'Akordu Mediasaun'. Please, note that the DNTP Ainaro office rarely use such written agreements.

SNC: An acronym for Timor-Leste's recent land governance initiative, the National Cadastral System, which follows neoliberal trends such as land privatisation and registration.

SNC Document: The SNC issues numbered documents rather than land tenure certificates. The Timor-Leste government remains hesitant to issue full land tenure to its citizens, so these numbered documents are widely used as evidence of land claims.

Gazette: During Portuguese colonial rule (1704-1975), land ownership was recognised through publication in the Gazette.

The *Hak Milik*: A form of land tenure issued during the Indonesian occupation of Timor-Leste (1975-1999).

Interfet: The Australian-led multinational peacekeeping force (International Force East Timor: Interfet) began its deployment on 20 September 1999. Interfet, a UN-endorsed force with contributions from countries such as Australia, Brazil, Canada, the United Kingdom, South Korea, and many others, successfully restored peace during its five-month operation. On 23 February 2000, operational control shifted to the United Nations as stipulated in UN Resolution S/RES/1264.

UNTAET: Following the success of Interfet in stabilising Timor-Leste after the 1999 militia violence, the

UN Transitional Administration in East Timor (UNTAET) initiated a liberal peace nation-building project since then.

List of Tables, Figures, Graphs, Maps, and Pictures

Table 1: Research Aims, Questions, and Hypothesis	25
Table 2: Overview of Methods (Details can be found in Appendix 1)	27
Table 3: The Timorese Customary Land Institution by the Concept of Institution	41
Table 4: Formal Land Institutions during the Portuguese Regime	48
Table 5: How Each Forum Controlled Disputes.....	92
Table 6: Empirical Vantage Points for Exploring Land Disputes in Timor-Leste	97
Table 7: My Hypothesis Diagram	97
Table 8: Typology of Formal-Informal Institutional Relationships	105
Table 9: Indicators/Classifying Questions for Exploring Independent Variables	107
Table 10: My Hypothesis Diagram	108
Table 11: Indicators/Classifying Questions for Exploring Dependent Variables	116
Table 12: Survey Result on Whom They Prefer about Issues.....	130
Table 13: Overview of My Methods.....	136
Table 14: Key Comparative Dimensions of the Cases for Bendability and Rigidity.....	166
Table 15: Two Different Paradigms of Land Value and Sources of Legitimacy.....	168
Table 16: Formal-Informal Institutional Relationships in Dili.....	194
Table 17: Formal-Informal Institutional Relationships in Ainaro	196
Table 18: Comparison Matrix of Both Mechanisms.....	211
Table 19: Comparative Analysis of Outcomes.....	222
Figure 1: Triangulation by Prince Hamlet and Horatio (Source: I made it using AI)	25
Figure 2: Land Drawn by a Timorese National (Matadalan ba Rai – Haburas, 2010, p. 37)	79
Figure 3: ADR Spectrum (source: I made it based on the literature review, using AI).....	112
Figure 4: The Interrelationship between the Building Blocks of Research (Grix, 2002, p. 180)	121
Figure 5: Conceptualisation and Measurement – Levels and Tasks	128
Figure 6: A forum leader (the <i>lia na'in</i>) shops for a case by climbing it himself.....	171
Figure 7: A forum leader (the <i>suco</i> chief) shops for a case by descending it herself.....	172
Figure 8: Two Different Ladders (I made it using AI).....	173
Figure 9: Quantitative Mapping of DNTPs' Arbitration Characteristics	190

Graph 1: A Matrix of Everyday Land Disputes, 2020-2022	141
Graph 2: Comparing Trust Levels among <i>Suco</i> Chiefs in Dili and Ainaro	184
Map 1: The Location of Timor-Leste/East Timor on the World Stage (BBC, 2023b).....	15
Map 2: Language Diversity in Timor-Leste (Williams-van Klinken and Williams, 2015, p. 2)	30
Map 3: West Timorese Domain, and the Location of Wehali and Sonabi	36
Map 4: East Timorese Domain, and the Location of Liquiçá (Hägerdal, 2012, p. 79)	36
Map 5: The Two Districts Selected as Cases, Dili District and Ainaro District.....	130
Picture 1: Survey Papers	136
Picture 2: Field Notes.....	137
Picture 3: The DNTP Dili Office Team Measuring the Disputed Area	144
Picture 4: The Gazette (left), The <i>Hak Milik</i> (middle), The SNC Document (right)	146
Picture 5: A Location in Dili Demolished by the State	146
Picture 6: A Rural Dili Area.....	147
Picture 7: A Location in Atauró District.....	149
Picture 8 : A Location in Ainaro District	155
Picture 9 : A Local Catholic Church in Ainaro District	157
Picture 10: Their Productive Farming Land and the Local Community	160
Picture 11: One of the ‘Mediation Tables’ at the DNTP Dili Office, ...	178
Picture 12: One of the <i>Suco</i> Councils in Ainaro (left), and the DNTP Ainaro office (right)	181
Picture 13: The <i>Regras Mediasaun</i> in the DNTP Dili office.....	201
Picture 14: A Measurment Team’s Tool – Tape Line / The team is measuring a disputed area	203
Picture 15: The <i>Akordu Mediasaun</i>	204
Picture 16: Me (left), Policeman in Ainaro district (middle), and Translator (right)	206
Picture 17: Translator (left), Sub-administrator (middle), and Me (right)	208
Picture 18: Translator (left), Me(middle), and an <i>Aldeia</i> Chief (right) in Ainaro district	209

Table of Contents

Abstract	2
Author’s Declaration	3
Acknowledgements	3
Glossary	4
List of Tables, Figures, Graphs, Maps, and Pictures	6

Table of Contents	7
Chapter One: Introduction.....	15
1-1. Prologue: My expatriate struggles led me back to Timor-Leste to study land disputes.....	15
1-2. Whereupon This Inquiry Stands: The Scenes-Setting and Focus of My Thesis.....	16
1-2-1. International Legal Layers in Legal Pluralism and Forum Shopping Behaviours.....	17
1-2-2. Different Hybrid Governance Types and Their Effectiveness	20
1-2-3. Research Aims, Research Questions, and Hypothesis.....	24
1-3. An Overview of Methods.....	25
1-4. Ethical Consideration	27
1-5. Limits of My Research.....	29
1-6. Overview of the Structure	30
Chapter Two: From Confrontation to Concord between Plural Legal Orders in Timorese Land Governance History.....	33
2-1. Introduction	33
2-2. The Customary Land Institution in Timor-Leste.....	34
2-2-1. The Origins of Customary Leaders	34
2-2-2. The Content of Land Customs	37
2-2-3. The Oral Nature of the Timorese Customary Land Institution	39
2-2-4. Sub-conclusion: Oral Rules and Procedures.....	40
2-3. Portuguese Colonisation Era (1702 - 1975) and Japanese Invasion Era (1942 - 1945).....	41
2-3-1. The Portuguese Regime I : From Its Inception in 1702 to Japan's Invasion in 1942.....	42
2-3-1-(A). The 1901 Land Institution	42
2-3-1-(B). The 1914 Land Institution	44
2-3-2. The Japanese Military Regime from 1942 to 1945.....	45
2-3-3. The Portuguese Regime II: From 1945 to Indonesia's 1975 Invasion.....	46
2-3-4. Sub-conclusion: Colonial Legacies and Confrontation with Customs	48
2-4. Indonesian occupation era (1975 to 1999).....	48
2-4-1. Background of Timor-Leste in 1975.....	49
2-4-1-(A). Internal Dynamics Hindering Timor-Leste's Independence	49
2-4-1-(B). Cold War Era Begins	51
2-4-2. Indonesia Regime's Land Governance in Timor-Leste.....	52
2-4-2-(A). Emergency Period from 1976 to 1981	52
2-4-2-(B). Consolidation Period from 1982 to 1989	53
2-4-2-(C). Stabilisation Period from 1990 to 1999.....	55

2-4-3. Sub-conclusion: Indonesia's Occupation and Customary Land Disruption	56
2-5. The United Nations Transitional Administration in East Timor Era (1999 to 2002)	56
2-5-1. The Birth of UNTAET	57
2-5-1-(A). On the Way to 1999 Referendum.	57
2-5-1-(B). The Issue of Militia	58
2-5-1-(C). From Peacekeeping (Interfet) to Peacebuilding (UNTAET)	60
2-5-2. UNTAET's Liberal Peace Mission and Land Governance	61
2-5-2-(A). Experimental UNTAET mission	61
2-5-2-(B). UNTAET's Demanding Land Governance Reform	62
2-5-3. Sub-conclusion: Relying on Customary Practices in Liberal Peace Missions	64
2-6. The Era of Post-Independent Timor-Leste (2002-)	64
2-6-1. The 2006 Crisis and its Impact on Land Governance	64
2-6-2. Law No. 13/2017 and LPC as a Turning Point in Land Governance Reform	66
2-6-2-(A). Structural Weaknesses of the Pre-2017 Legal Framework	66
2-6-2-(B). Responding to the Gaps: Law No. 13/2017	68
2-6-2-(C). The Land and Property Commission: A New Avenue for Land Governance	70
2-6-2-(D). Sub-conclusion: Toward Inclusive and Pluralist Land Governance	72
2-6-3. INR and SNC: Less Bendable Land Governance Programmes in Timor-Leste	72
2-7. Conclusion: Towards More Equitable Land Governance	73
Chapter Three: Navigating Land Disputes and Hybrid Governance under Legal Pluralism	74
3-1. Introduction	74
3-2. The Landscape of Land Disputes under Legal Pluralism	75
3-2-1. International Legal Layers	76
3-2-1-(A). Rule of Law Programmes in Land Governance	76
3-2-1-(B). International Human Rights Law	81
3-2-2. Forum Shopping Dynamics	86
3-2-2-(A). Forum Shopping	86
3-2-2-(B). The Other Side of the Coin: Shopping Forums	90
3-2-2-(C). Another Context: Post-Conflict Legal Landscapes	93
3-2-3. Sub-conclusion: Empirical Vantage Points for Fieldwork in Timor-Leste	95
3-3. Conceptual and Analytical Frameworks for Formal–Informal Institutional Relations	97
3-3-1. Conceptualising Institutions in Legal Pluralism and Development Contexts	97
3-3-1-(A). Institution and the DNTP as Formal Institution	98
3-3-1-(B). Informal Institution and the <i>Suco</i> Council	99

3-3-2. Analytical Framework for DNTP– <i>Suco</i> Council Relationships.....	103
3-3-2-(A). Formal–Informal Institutional Relationship Framework.....	103
3-3-2-(B). Measuring Concepts.....	105
3-4. Governance Assessment Frameworks: Top-Down and Bottom-Up.....	107
3-4-1. Dependent Variables I: Collective Action Problems as Top-Down Outcomes.....	108
3-4-1-(A). A Political Economy of Collective Action Problems.....	108
3-4-1-(B). Why Collective Action Problems Matter	109
3-4-1-(C). Second-Order CAPs in Practice: Application to Timor-Leste	109
3-4-2. Dependent Variables II: Satisfaction in Arbitration as Bottom-Up Outcomes	111
3-4-2-(A). Rationale for Promoting ADR in Global and Developing Contexts.....	111
3-4-2-(B). Timorese Land Governance in the ADR Spectrum	111
3-4-2-(C). Assessing Arbitration: Voice, Voluntariness, Neutrality, and Control.....	113
3-4-2-(D). Beyond Procedure: Cultural Dimensions of Satisfaction in ADR.....	114
3-4-2-(E). Toward a Context-Sensitive Framework for Assessing Satisfaction.....	114
3-4-3. Sub-conclusion: Classifying Questions for Exploring Dependent Variables	115
3-5. Conclusion: Legal Pluralism and Dual-Level Assessment.....	116
Chapter Four: Methodological Pluralism Matters	118
4-1. Introduction	118
4-2. The Importance of Methodological Pluralism in Development Contexts.....	118
4-3. Methodology as Strategy and Methods as Tactics: Understanding Research Process.....	121
4-4. Positivism Methodology Tradition	122
4-4-1. The Rationale for Adopting Positivism Tradition	123
4-4-2. What Positivism Tradition Entails	124
4-4-2-(A). Empirical Evidence	124
4-4-2-(B). Objective Research	125
4-4-2-(C). Social Science and the Birth of Concept.....	126
4-4-2-(D). Concepts in Contemporary Political Science.....	127
4-4-3. Sub-conclusion: Positivism and My Empirical Strategy	128
4-5. Research Design and Case Selection.....	129
4-6. Methods.....	131
4-6-1. Research Methods for Research Question 1	131
4-6-1-(A). Documentary Research	131
4-6-1-(B). Contents Analysis	131
4-6-1-(C). Interviews	132

4-6-2. Research Methods for Research Question 2	132
4-6-2-(A). Site Visits and Interview	132
4-6-2-(B). Interviews	133
4-6-3. Research Methods for Main Question 3	133
4-6-3-(A). Participant Observation	133
4-6-3-(B). Interviews	133
4-6-3-(C). Surveys	134
4-6-4. Research Methods for Main Question 4	134
4-6-4-(A). Participant Observation and Interviews	134
4-6-4-(B). Interviews	134
4-6-5. Sub-conclusion: Summary of Methods	135
4-7. Tools to Record Empirical Data	136
4-7-1. Field Notes and Survey Papers	136
4-7-2. Photos	137
4-7-3. Voice Recording and Translation Note	137
4-8. Conclusion: Give him heedful note, For I mine eyes will rivet to his face. And, after, we will both our judgments join. In censure of his seeming	137
Chapter Five: Land Disputes and Actor Behaviours under Legal Pluralism	139
5-1. Introduction	139
5-2. Everyday Land Dispute Matrix	140
5-3. Voices from the Ground: 13 Cases of Land Disputes in Timor-Leste	142
5-3-1. Dili Case I : Community vs Community (Type 7)	143
5-3-2. Dili Case II: Individual vs Individual (Type 4)	144
5-3-3. Dili Case III: Government Project vs People's Land (Type 1)	145
5-3-4. Dili Case IV: Government Project vs People's Land (Type 1)	147
5-3-5. Dili Case V (Atauró Case): Disputes between Family/Relative Members (Type 5)	148
5-3-6. Ainaro Case I: Disputes between Individuals (Type 4)	150
5-3-7. Ainaro Case II: Disputes between Family/Relative Members (Type 5)	151
5-3-8. Ainaro Case III: Disputes between Family/Relative Members (Type 5)	152
5-3-9. Ainaro Case IV: Timorese Rights to Land vs State-claimed Land (Type 2)	153
5-3-10. Ainaro Case V: Timorese Rights to Land vs State-claimed Land (Type 2)	154
5-3-11. Ainaro Case VI: Church vs Community (Not Covered Type)	156
5-3-12. Aileu Case: Government Project vs People's Land (Type 1)	157
5-3-13. Lospalos Case: Disputes between Family/Relative Members (Type 5)	160

5-4. An Empirical Analysis of Land Dispute Dynamics under Legal Pluralism	162
5-4-1. The <i>Sistema Nacional de Cadastro</i> (SNC) Initiative and its Dual Aspects.....	163
5-4-1-(A). Negative Aspects	163
5-4-1-(B). Positive Aspects.....	163
5-4-2. Rigid Boundaries, Fractured Justice	164
5-4-3. Forum Shopping Dynamics.....	166
5-4-3-(A). Media Access and Forum Shopping in Rural Timor-Leste	166
5-4-3-(B). Reasons for Resistance and Ways of Resistance of the Poor	167
5-4-3-(C). State Violence in Plural Legal Settings.....	168
5-4-3-(D). Forum Leaders as Strategic Actors in Plural Legal Environments.....	169
5-4-3-(E). Revisiting Cummins and Leach’s Ladder Concept under Legal Pluralism	172
5-4-3-(F). Local Resistance in Ainaro under Legal Pluralism	174
5-5. Conclusion: Land Disputes, Actor Agency, and the Politics of Forum Shopping under Legal Pluralism	175
Chapter Six: DNTP-Suco Council Relationships.....	177
6-1. Introduction	177
6-2. Analytical Foundations for DNTP–Suco Council Relations.....	177
6-2-1. DNTP Officials in Arbitration Forums in Dili and Ainaro	177
6-2-1-(A). Assessing the Effectiveness of the DNTP Dili Office	178
6-2-1-(B). Assessing the Effectiveness of the DNTP and <i>Suco</i> Chiefs in Ainaro	181
6-2-2. How <i>Suco</i> Chiefs Perceive the DNTP in Dili and Ainaro	183
6-3. Analysis of DNTP-Suco Council Relations.....	184
6-3-1. Empirical Analysis of DNTP Arbitration Effectiveness	185
6-3-1-(A). Procedural Fairness	185
6-3-1-(B). Subject-matter Expertise.....	185
6-3-1-(C). Communication Competence.....	186
6-3-1-(D). Ethical Independence.....	187
6-3-1-(E). Additional Analysis of <i>Suco</i> Chiefs in Ainaro as Effective Arbitrators	188
6-3-1-(F). Sub-conclusion: Comparing DNTP Effectiveness Across Dili and Ainaro	189
6-3-2. Empirical Analysis of <i>Suco</i> Chiefs Who Converge with or Diverge from the DNTP	191
6-3-2-(A). Perceptions of the DNTP in Dili: Predominant Trust and Minority Dissent	191
6-3-2-(B). Mixed Perceptions of the DNTP in Ainaro: Trust, Doubt, and Absence	192
6-3-3. Empirical Analysis of DNTP–Suco Council relations	193
6-3-3-(A). ‘Complementary’ and ‘Accommodating’ Relationships in Dili	193

6-3-3-(B). ‘Competing’ and ‘Reverse-Complementary’ Relationships in Ainaro	194
6-4. Conclusion: Revisiting the Theory of Formal–Informal Institutional Relationships.....	198
Chapter Seven: Divergent Governance Outcomes.....	199
7-1. Introduction	199
7-2. Outcome 1: Different Types of Arbitration Mechanisms	199
7-2-1. Written Rules-based Arbitration Mechanisms in Dili	200
7-2-1-(A). An Arbitration Request Letter Arrives at the DNTP Dili Office	200
7-2-1-(B). The <i>Regras Mediasaun</i>	200
7-2-1-(C). Measuring the Disputed Area	203
7-2-1-(D). The <i>Akordu Mediasaun</i>	203
7-2-2. Verbal Arbitration Mechanisms in Ainaro	205
7-2-2-(A). The <i>Suco</i> Chief Invites the Arbitration Team	205
7-2-2-(B). Security Checks and Verbal Rules.....	205
7-2-2-(C). A ‘Team’-based Arbitration and ‘Verbal’ Agreements.....	207
7-2-3. Sub-conclusion: Different Arbitration Mechanisms between Dili and Ainaro	210
7-3. Outcome 2: Different Types of Governance Effectiveness	211
7-3-1. Outcome 2-1: Governance Effectiveness from a Top-Down Angle	212
7-3-1-(A). Arbitration in Dili: Well-Enforced but Costly to Coordinate	212
7-3-1-(B). Arbitration in Ainaro: Low-Cost Arbitration, but a Problem of Overturning.....	214
7-3-2. Outcome 2-2: Governance Effectiveness from a Bottom-Up Angle.....	216
7-3-2-(A). Governance Effectiveness from a Bottom-Up Angle in Dili.....	216
7-3-2-(B). Governance Effectiveness from a Bottom-Up Angle in Ainaro	219
7-3-3. Sub-conclusion: Outcomes Matrix	221
7-4. Overall Analysis of Governance Effectiveness	222
7-4-1. The Dili Model and Top-Down Assessment	222
7-4-2. The Ainaro Model and Top-Down Assessment	224
7-4-3. Bottom-Up Assessment of the Dili and Ainaro Governance Models	226
7-5. Conclusion: Divergent Governance Outcomes and No Singularly Dominant Model	227
Chapter Eight: Conclusion.....	228
8-1. Introduction	228
8-2. First, in what ways do international legal layers—namely, rule of law programmes in land governance and international human rights law—influence land disputes in Timor-Leste?	228
8-2-1. Key Empirical Findings	228
8-2-2. Contribution to Existing Knowledge	229

8-2-3. Future Directions in Research and Policy	230
8-3. Second, how do actors within a plural legal landscape engage in forum shopping?	231
8-3-1. Key Empirical Findings	231
8-3-2. Contribution to Existing Knowledge	232
8-3-3. Future Directions in Research and Policy	233
8-4. Third, how do relationships between the DNTP and <i>Suco</i> Councils in land governance— particularly during their collaboration in arbitration forums—vary across districts?	235
8-4-1. Key Empirical Findings	235
8-4-2. Contribution to Existing Knowledge	235
8-4-3. Future Directions in Research and Policy	236
8-5. Fourth, what impact do different types of DNTP– <i>Suco</i> Council relationships have on governance mechanisms and their effectiveness?	236
8-5-1. Key Empirical Findings	236
8-5-2. Contribution to Existing Knowledge	237
8-5-3. Future Directions in Research and Policy	238
8-6. Epilogue: <i>We</i> can thus return to ‘basics’	239
Appendices	241
Appendix 1: Detailed Methods	241
Appendix 2: Information Sheets	245
Appendix 3: Interview Consent Form	251
References	253
[Journal Articles]	253
[Books]	259
[Chapter in Edited Book]	260
[Theses]	263
[Discussion Papers, Working Papers, Conference Proceedings and Published Reports]	263
[Web Pages]	266
[Newspaper Articles]	268
[UN Resolutions]	268
[Timorese Newspapers]	268

Chapter One: Introduction

1-1. Prologue: My expatriate struggles led me back to Timor-Leste to study land disputes

While working as a foreign aid worker for approximately eight years—including over a year in Timor-Leste—I assumed a broad range of responsibilities that required close collaboration with diverse stakeholders, such as Timorese government officials, Korean researchers and technicians, among others. My duties included project design, feasibility studies (F/S), monitoring and evaluation (M&E), risk management, foreign aid budget planning, and the cultivation of partnerships with other aid agencies, including the United States Agency for International Development (USAID).



Map 1: The Location of Timor-Leste/East Timor on the World Stage (BBC, 2023b)

Among the range of tasks I undertook, a feasibility study stands out as a particularly memorable experience that left a lasting impression on me. In the early months of 2017, I was assigned to identify a suitable location for establishing a new public building in Dili, Timor-Leste. For this feasibility study, specialists from South Korea and I, guided by officials from the Timor-Leste government, managed to identify a location and a seemingly empty building. The two-to-three-storey structure initially appeared unoccupied due to its lack of windows and entry points. However, upon closer inspection, it became clear that the building had suffered

fire damage in the past and was currently inhabited by several individuals. The Timorese officials explained to me that:

The occupants do not possess any legitimate land rights, as the Timor-Leste government has never granted such rights. Nonetheless, the residents will receive compensation if the government issues a housing eviction order.

According to them, the Timorese government had not granted any rights to the residents, who were therefore considered unauthorised occupants of the property. Had South Korea's development project proceeded, would land disputes have arisen between these occupants and the government of Timor-Leste? If so, what types of governance mechanisms would have been employed to address them? These experiences during my time abroad ultimately led me back to Timor-Leste as a PhD student.

1-2. Whereupon This Inquiry Stands: The Scenes-Setting and Focus of My Thesis

Building on insights from my broader inquiries—namely, land disputes and governance in Timor-Leste—this research is organised around two central scenes. The first scene sets out how international legal layers influence land disputes and the forum-shopping behaviours of the actors involved, within a context where legal pluralism remains both pervasive and persistent. The second scene illustrates how the DNTP (a formal institution¹) and the *Suco*² Council (an informal institution³) work collaboratively to resolve land disputes, and how the nature of their relationship affects the outcomes. Each part of the study follows a consistent

¹ In this research, I conceptualise a formal institution as 'state or government organisations—with written laws, rules, and procedures—that govern various interactive behaviours of people, while being influenced to some extent by informal practices'. A more detailed explanation is provided in Section 3-3-1-(A).

² The '*suco*' is a village-level local administrative unit. Timor-Leste is divided into 14 districts. Each district comprises several sub-districts, and each sub-district typically contains between four and ten villages, each of which is known as a *suco*.

³ In this research, I regard *Suco* Councils as informal institutions. They are conceptualised as 'non-state or non-governmental organisations that are primarily characterised by oral traditions, legitimacy derived from cultural and spiritual norms, and a concentration of authority, and that govern various interactive behaviours of people while often being, to some extent, recognised by the state'. A more detailed explanation is provided in Section 3-3-1-(B).

structure comprising scene-setting, rationale, research aims, research questions, and a hypothesis.

1-2-1. International Legal Layers in Legal Pluralism and Forum Shopping Behaviours

Timor-Leste is constituted as a legally pluralistic state, in accordance with its Constitution.⁴ In other words, legal pluralism is not incidental but constitutionally designed. More importantly, these plural legal orders are further complicated by international legal layers—particularly, rule of law programmes in land governance and international human rights law. For example, the former prioritises individual land rights over customary and community land rights, while the latter promotes human rights norms, such as gender equality, over patriarchal traditions. However, both have proven ineffective, leaving room for informal institutions—such as customary practices—to continue resonating within local communities. This legally plural situation exposes the people of Timor-Leste to multiple forums, in which actors, where possible, seek out the most favourable one—a practice known as ‘forum shopping’. Each element presents three sub-scenes within the first overarching scene.

First, concerning rule of law programmes in land governance, two main divergent viewpoints emerge. Within the paradigm of Washington Consensus-style development—or what might be termed the neo-liberal wave—two key elements, namely the securing of individual land rights and the establishment of state registration, are regarded as prerequisites for economic progress, with the governance programmes viewed as the principal means of achieving these objectives (de Soto, 2011, 2000a, and 2000b). However, critics argue that such international interventions frequently transplant legal models without adequately accounting for the normative authority and cultural embeddedness of diverse socio-legal contexts, thereby exacerbating legal uncertainty (Almeida, 2021b; Glenn, 2012).

In Timor-Leste, these neo-liberal waves—such as the *Sistema Nacional de Cadastro* (SNC) programme, 2014–2019—have profoundly influenced land governance by prioritising individual property rights over communal and customary rights. Those who observed the implementation of the SNC expressed concerns that its improper execution could give rise to

⁴ For example, the Constitutional Law, Part I, Sections 2–4, states: ‘The State shall recognise and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law’.

future land disputes (Rede ba Rai, 2019; Almeida, 2021b). The year 2023, given that the land governance programme concluded in 2019 and the COVID-19 pandemic (2020–2023) has now subsided, presents a timely opportunity to follow up on these concerns. This is particularly important, as my empirically based research will demonstrate how such a programme has ‘actually’ influenced people in Timor-Leste, thereby contributing to the ongoing and contested discourse surrounding the neo-liberal wave.

I now turn to the second sub-scene: international human rights law. One of the central debates might concern whether such law should be ‘bendable’—that is, adaptable to local contexts—when applied in developing countries. This issue arises from the observation that the assumption—namely, that the importation of human rights norms will automatically lead to justice—often does not hold true. Instead, these global norms frequently interact with existing local norms such as customary practices in unexpected or ambiguous ways (Merry, 2012).

Timor-Leste’s Constitution affirms a formal commitment to international human rights instruments such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the Universal Declaration of Human Rights (UDHR), among others. However, in practice—particularly in land governance and inheritance—customary norms in Timor-Leste often continue to prevail, privileging patrilineal succession and favouring the eldest son (Cryan, 2015, p. 4). Furthermore, it has been argued that ‘little consideration was given to the interaction between such international norms and local norms’ (Grenfell, 2013, p. 215). This arguably positions Timor-Leste as a context in which two distinct normative systems coexist without being meaningfully engaged in dialogue with each other.

Given this reality, the following questions remain open to debate: Should greater international support be provided to strengthen the influence of universal norms in the vast rural areas of Timor-Leste,⁵ or should advocacy efforts reconsider their strategies for promoting international human rights law?

International parallels can offer valuable insights: if the human rights approach is ‘bendable’—as demonstrated in the case of South Africa (Claassens and Mnisi, 2009)—it

⁵ I believe this option may be ‘unfeasible’, given a series of global turmoils such as the 2008 financial crisis, the Syrian civil war in 2011, the Russo-Ukrainian War in 2014, the 2021 Myanmar coup d’état, and others.

becomes possible to reframe patriarchal customary norms in ways more closely aligned with human rights principles, such as gender equality. In such instances, the empowerment and benefit of women were realised ‘within’ the customary sphere, rather than through the outright rejection of patriarchal customs in the name of human rights. Identifying relevant cases behind this issue of bendability in Timor-Leste is important, as it will inform the need for a policy of ‘bendable human rights norms’ in rural areas, supported by analyses of what is actually happening on the ground.

Lastly, the third sub-scene is explained. International development agencies operating within the Washington Consensus-style development paradigm—such as the World Bank—often regard legal pluralism as an obstacle. At the same time, international human rights law often comes into conflict with customary norms in its pursuit of universal ideals such as gender equality. Yet, in practice, these interventions rarely displace existing non-state institutions; rather, they add an additional layer. This layering has contributed to a sense of legal uncertainty at the local level, leaving individuals unclear as to which laws—formal or informal—apply, and thereby prompting ‘forum shopping’—that is, the strategic pursuit of the most advantageous forum for dispute resolution among multiple forums (Adler and So, 2012, p. 87).

Forum shopping has been extensively studied in terms of ‘disputing parties’ who seek out favourable forums or dispute resolution mechanisms. However, it is equally important to consider the other side of the coin: ‘shopping forums’ (Lund, 2021). It refers to the idea that the forums themselves are also ‘shopping’, in the sense that different authorities or institutions compete to attract or avoid cases, increase their legitimacy, or extend their influence.

Within the context of Timor-Leste, the analytical frameworks of both ‘forum shopping’ and ‘shopping forums’ help to re-examine the important concept of ‘climbing a ladder’. As Cummins and Leach (2012, p. 97) observe, dispute resolution in Timor-Leste informally follows a hierarchical structure, metaphorically expressed as a ‘ladder’: it begins with customary institutions, seen as the lower rungs, and climbs upwards to state mechanisms, regarded as the higher rungs—a process they describe as ‘climbing a ladder’.

Revisiting the concept of ‘climbing a ladder’, originally coined by Cummins and Leach more than ‘a decade ago’, is important, as it will shed light on whether the concept still holds

‘in 2023’—thereby determining whether it is an ephemeral phenomenon or a persistent one. If the latter, it merits further academic attention. In other words, there is strong rationale for exploring whether the concept of this ‘upwards forum shopping’ still holds in Timor-Leste in the early 2020s.

The other rationale for this inquiry is that my findings will contribute to the discourse on shopping forums in the academic literature. By focusing on forum leaders—who themselves may seek to ‘climb’, ‘descend’, or ‘obstruct movement’ along a ladder—a more nuanced perspective may emerge. This, in turn, adds value to the scholarly debate on why Timorese forum leaders engage in shopping forums.

Based on the three sub-scenes and the relevant rationales, my first research aim is ‘to investigate the dynamics of land disputes under legal pluralism in Timor-Leste during the 2020s’. This can be broken down into two research questions: ‘in what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?’; and ‘how do actors within a plural legal landscape engage in forum shopping?’

1-2-2. Different Hybrid Governance Types and Their Effectiveness

Above all, I contend that an interdisciplinary approach is necessary here, as exemplified by Ferguson’s (2020) book in *The Political Economy of Collective Action, Inequality, and Development*. He emphasises the value of an interdisciplinary approach, particularly through his analogy with biology (ibid., pp. 2–4). He argues that the ‘complexity’ of political economy cannot be meaningfully analysed through anecdotal evidence or fragmented case studies alone; rather, it requires a systematic, theory-informed methodology that integrates conceptual frameworks, categorisation techniques, and cross-disciplinary theory.

Likewise, in this second central scene—focusing on different hybrid governance types and their effectiveness across two districts—an interdisciplinary approach is most appropriate, as it is complex in nature, comprising three sub-scenes, each of which can be addressed by a corresponding sub-discipline. The initial observation that the DNTP (a formal institution) and the *Suco* Council (an informal institution) collaborate in resolving land disputes or during arbitration constitutes the first sub-scene. This will be analysed using Helmke and Levitsky’s (2004) theory of formal–informal institutional relationships, which posits that the nature of

these relationships influences governance effectiveness. Next, the fact that the governance mechanism in question is arbitration⁶ within a developing country context carries dual significance, giving rise to two additional sub-scenes (the second and third sub-scenes).

I have found that the first sub-scene is particularly relevant to the academic context. Gaining a clear understanding of formal–informal institutional relationships necessitates revisiting the intellectual trajectory of institutionalism in political science. It began with Old Institutionalism, which was prominent during the 1920s and 1930s. This approach focused primarily on describing formal governmental and legal structures, and thus failed to explore how institutions shape human behaviour—a shortcoming made evident by its inability to foresee the collapse of interwar democracy (Blyth and Varghese, 1999, p. 346). Subsequently, with advances in quantitative techniques and a growing discourse around the need for political research to engage more directly with real-world concerns—such as the Vietnam War—New Institutionalism emerged. It repositioned institutions as ‘more central’ independent variables (Hall and Taylor, 1996). In other words, institutions are capable of shaping social and political outcomes, including human behaviour.⁷

In line with New Institutional theory, a central question in the context of development concerns the extent to which institutions imported from the West into developing countries

⁶ Kirk (2014, p. vi) observed that arbitration and mediation are often blended in practice in Timor-Leste, and, as my fieldwork suggests, the term ‘mediation’ is widely used in Timor-Leste. However, in this research, I adopt the term ‘arbitration’ because the decisions made by governance in which the DNTP and *Suco* Council collaborate in both Dili and Ainaro are, in effect, ‘binding’ in nature (reflecting arbitration), rather than simply facilitating a settlement (reflecting mediation). Further explanation is provided in Section 3-4-2.

⁷ Hall and Taylor identify three principal strands of New Institutionalism, each of which emphasises the ‘central’ role of institutions in shaping political, social, and economic outcomes. Historical Institutionalism views institutions as constraining choices and often locking actors into particular developmental paths. Rational Choice Institutionalism conceives of institutions as mechanisms that facilitate coordination and reduce transaction costs among rational actors. Sociological Institutionalism, by contrast, stresses how institutions shape what actors consider appropriate, thereby influencing their identities and preferences. However, it is important to note that institutions are not the only factors at play. For example, Historical Institutionalism maintains that outcomes are shaped not solely by institutions themselves, but also by the timing and sequencing of historical events, reflecting a contingent and path-dependent logic.

have shaped social and political outcomes as intended. For instance, when institutional frameworks grounded in the rule of law—such as constitutional systems incorporating checks and balances—are introduced into such contexts, to what extent have they succeeded in promoting rule-governed societies and replacing authoritarian, capricious regimes?

Evidence suggests that such formal institutions introduced into the Global South often face weak enforcement and limited stability, primarily due to the enduring influence of robust informal institutions, such as customary practices (Brinks et al., 2020). This pattern has been extensively documented across regions and over time, including in Latin America (ibid., 2020), Central Asia such as Afghanistan (van Bijlert, 2009), Southeast Asia (Scott, 1976), and Africa (Ekeh, 1975).

These findings highlight the importance of studying informal institutions (Bickford, 2007; Deininger and Binswanger, 1999), as well as formal–informal institutional relationships (Ferguson, 2020; Marc et al., 2012; Helmke & Levitsky, 2004). Even so, empirical studies on these relationships remain underexplored, particularly in fragile or conflict-affected contexts (Gready & Robins, 2014, p. 349; Marc et al., 2012, pp. 9, 89–114).

In this context, my scoping trip to Timor-Leste in October 2022 played a crucial role, as it enabled me to gain a ‘glimpse’ into the various types of relationships between the DNTP and *Suco* Councils within a governance setting in which both entities collaborate during land dispute resolution processes. In Dili, the DNTP plays the leading role, whereas in Ainaro, its involvement is largely supportive. *Suco* Councils collaborate with the DNTP—assuming a supportive role in Dili and a leading role in Ainaro. This regional variation presents a valuable sub-scene through which to examine Helmke and Levitsky’s (2004) theory of formal–informal institutional relationships, which posits that the type of relationship between formal and informal institutions serves as an independent variable, while governance outcomes act as dependent variables.

Accordingly, examining the DNTP–*Suco* Council relationship is important, as it will contribute to this underexplored field and provides a dataset through which Helmke and Levitsky’s framework can be applied. In turn, the empirical findings may also offer the potential to refine and further develop the theoretical framework.

Now, I turn to the second and third sub-scenes. As shown above, in Timor-Leste there are multiple forums. Among them, the DNTP plays a central role in land dispute resolution,

particularly in Dili (Almeida, 2020, p. 189). Given its importance, Almeida (2020, pp. 183–211) provides a detailed institutional account of the DNTP, tracing its origins, objectives, organisational structure, functions, and related aspects. However, how the DNTP handles land disputes in practice remains underexplored. Exploring how the DNTP operates is thus important, as it will firstly show us how the important land institution actually work in practice, thereby filling the gap left by Almeida (2020). Secondly, it will reveal the extent to which the DNTP and *Suco* Councils jointly address challenges such as weak enforcement—an issue that is central to institution-building in developing countries and to assessing governance from a top-down perspective. This will inform practical recommendations, such as how to enhance the capacity of forum leaders such as the DNTP officials and *suco* chiefs within the arbitration process.

In addition to assessing governance effectiveness in terms of institution-building, it is equally important to evaluate it in relation to Alternative Dispute Resolution (ADR). This is not merely because the mechanism in question is arbitration (one of the ADRs), but because ADR plays a vital role—particularly in many developing countries—where it is often preferred due to persistent challenges associated with formal legal systems. These challenges include weak or corrupt judicial institutions, where courts may be inaccessible, slow, or subject to elite manipulation, as well as a general lack of legal infrastructure, especially in post-conflict or low-income contexts. ADR mechanisms, by contrast, offer several advantages: they are typically more feasible and flexible than establishing fully functioning formal courts and tend to align more closely with local cultures, often reflecting indigenous or customary dispute resolution traditions. This, in turn, enhances legitimacy and fosters greater public trust (Sternlight, 2007, pp. 572–577).

Thus, by exploring how people experience satisfaction with arbitration in Dili and Ainaro, my research will contribute to ‘more feasible’ policy recommendations—such as how to make individuals feel more empowered within the arbitration process. Given the loss of global financial resources resulting from a series of crises—such as the 2008 financial crisis, the subsequent perceived decline of Western influence, the rise of China less inclined towards norm-based foreign aid, and the aid cuts introduced under the Donald Trump administration—this approach is more important than formality-oriented policy prescriptions, such as constructing additional courts in rural areas or appointing more judges, both of which

are costly.

Based on the three sub-scenes and the relevant rationales, my second research aim is ‘to examine how land governance operates under different formal–informal institutional relationships’. This can be broken down into two research questions: ‘how do relationships between the DNTP and *Suco* Councils in land governance—particularly during their collaboration in arbitration forums—vary across districts?’; and ‘what impact do different types of DNTP–*Suco* Council relationships have on governance mechanisms and their effectiveness?’ Grounded in Helmke and Levitsky’s causal argument (2004), these questions inform the following hypothesis: ‘Different types of relationships between the DNTP and *Suco* Councils in an arbitration forum will lead to different types of governance effectiveness’.

1-2-3. Research Aims, Research Questions, and Hypothesis

This thesis has outlined two principal scenes, each comprising three interrelated sub-scenes, to establish the contextual foundation for the study. This framing elucidates both practical and academic challenges within the field. Building upon this foundation, a rationale is developed that underscores the study’s potential academic contributions as well as its policy relevance. This rationale informs the formulation of the research aims, which subsequently give rise to specific research questions. These research aims and questions will guide the direction of my PhD thesis.

Aims	Research Questions
To investigate the dynamics of land disputes under legal pluralism in Timor-Leste during the 2020s	(1) In what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?
	(2) How do actors within a plural legal landscape engage in forum shopping?
To examine how land governance operates under different formal–informal institutional relationships	(3) How do relationships between the DNTP and <i>Suco</i> Councils in land governance—particularly during their collaboration in arbitration forums—vary across districts?
	(4) What impact do different types of DNTP– <i>Suco</i> Council relationships have on governance mechanisms and their effectiveness?

	Hypothesis
	Different types of relationships between the DNTP and <i>Suco</i> Councils in arbitration forums in the districts of Dili and Ainaro are likely to lead to varying degrees of governance effectiveness.

Table 1: Research Aims, Questions, and Hypothesis

1-3. An Overview of Methods

Hamlet said, ‘Give him heedful note, For I mine eyes will rivet to his face. And, after, we will both our judgments join. In censure of his seeming’. These lines clearly show Prince Hamlet’s struggle to find out whether his uncle Claudius—now King of Denmark, brother to the late King Hamlet, and stepfather to Prince Hamlet—was truly responsible for his father’s death. Since Hamlet can’t read Claudius’s mind, he asks his friend Horatio to help him watch Claudius during the play that Hamlet arranged to see if Claudius looks guilty. By comparing what they both observe, Hamlet hopes to reach a more reliable judgement—something like interpretive triangulation.

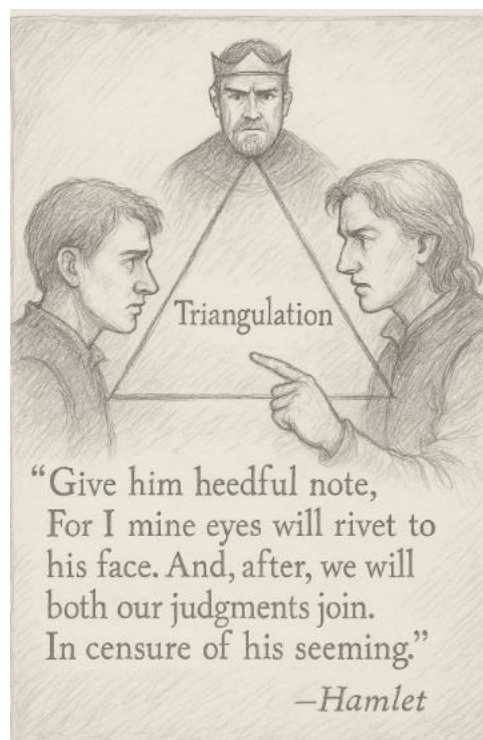


Figure 1: Triangulation by Prince Hamlet and Horatio (Source: I made it using AI)

This focus on watching behavior shows not only Hamlet’s own doubt but also a deeper issue: how hard it is to understand someone’s true thoughts or motives just by looking at their actions or listening to their words. In this way, Hamlet’s problem reflects a common concern in positivist thinking—relying on what we can observe and hear, even if that may not reveal the whole truth.

Positivist scholars argue that investigating facts in the social world is more complex than in the natural sciences, largely due to the absence of precise instruments for direct observation—such as microscopes in the natural sciences, which enable researchers to examine minute elements like blood cells (Moses and Knutsen, 2019). In the social sciences, where such tools are unavailable, researchers must adopt a range of methodological approaches to observe, interpret, and cross-verify findings: ‘triangulation’ is needed. Rather than relying on a single ‘gold standard’ technique, this tradition emphasises the use of multiple methods to enhance the validity and reliability of research. In keeping with this positivist tradition, I have made a concerted effort to employ a broad range of research methods throughout this thesis to address each of the research questions posed.

Research Questions	Methods	Methods Overview
(Main Question 1) In what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?	<u>Documentary Research</u>	Reading Five Timorese Newspapers from 2020 to 2022
	<u>Content Analysis</u>	Counting Each Category based on Documentary Research
	<u>Interviews</u>	Triangulating the Findings through Interviews with Experts
(Main Question 2) How do actors within a plural legal landscape engage in forum shopping?	<u>Site Visits</u>	Visiting Two Land Dispute Sites involving Government Eviction Attempts
	<u>Interviews</u>	Interviewing Parties Involved in Land Disputes or Arbitration Processes
(Main Question 3) How do relationships between the DNTP and <i>Suco</i> Councils in land governance—particularly when	<u>Participant Observation</u>	Participating in Arbitration Processes at the DNTP Dili Office
	<u>Interviews</u>	Interviewing DNTP Ainaro and Dili Officials, <i>Suco</i> Council Members, and Local People

both entities collaborate during arbitration forums—vary across districts?	<u>Surveys</u>	Surveying Informal Institutional Leaders, such as the <i>Suco</i> Chiefs
(Main Question 4) What impact do different types of DNTP– <i>Suco</i> Council relationships have on governance mechanisms and their effectiveness?	<u>Participant Observation</u>	Participation in Arbitration Processes at the DNTP Dili Office
	<u>Interviews</u>	Interviewing Officials at the DNTP Dili and Ainaro offices, Informal Institutional Leaders, and Parties to Land Disputes

Table 2: Overview of Methods (Details can be found in Appendix 1)

1-4. Ethical Consideration

Before embarking on fieldwork in Timor-Leste, I carefully considered four key ethical concerns relating to this thesis. The first and most complex issue stems from the country’s tumultuous history, marked by multiple regime changes—Portuguese colonisation, the Japanese invasion, Indonesian annexation—and the critical crises of 1999 and 2006. Many Timorese have often endured forced displacement without adequate compensation under each regime. As a result, discussing land issues may cause emotional distress. This constituted my primary ethical concern.

To mitigate this risk, I adopted three precautionary measures. First, I committed to suspending any interview if a participant showed visible signs of distress. Second, I conducted interviews only after consulting with Timorese nationals and relevant experts. Third, I established localised referral systems with NGOs operating in each district. For example, ‘Rede ba Rai’ in Dili, an organisation specialising in land issues, agreed to support any emotionally affected participants. In particular, Mr Ameu was especially helpful in introducing me to individuals who had been treated inhumanely by the Timorese government. He remained present throughout all the interviews, providing support both to me and to the participants. I am sincerely grateful to him. In Ainaro district, where no land-focused NGOs were available, I arranged for a respected representative of Plan International, an international NGO, to act as a referral contact in a personal capacity. These arrangements were designed to ensure that participants could access support if distress occurred during or after interviews.

The second ethical issue concerned the potential for participants—particularly land claimants—to view my research as a means of substantiating their claims. During the

transitional period (1999–2002), the United Nations Transitional Administration in East Timor (UNTAET) attempted to address the legacies of Indonesian occupation, but land issues remained unresolved. Although two state-led land registration processes followed—INR (2008–2012) and SNC (2014–2019)—many land disputes persist. The 2017 Land Law (Special Regime for the Definition of Ownership of Land) was a key legislative development, but questions remain about its implementation. In this context, my presence as a neutral researcher might have unintentionally signalled to some claimants that additional evidence could be gathered to support their cases. To avoid any such misunderstanding, I made it explicitly clear to all participants that my research was academic in nature and should not be interpreted as practical evidence for land ownership claims.

The third ethical concern related to the disclosure of specific fieldwork locations and the identification of interview participants. Given the sensitivity of land issues in Timor-Leste, such disclosures could pose risks to participants. To mitigate this, I applied strict measures to guarantee anonymity and confidentiality. All participants were assured anonymity in any reporting, and the names of individual *sucos* (villages) were pseudonymised across all research outputs. These safeguards were vital for protecting the safety and privacy of those involved, while upholding the ethical integrity of the research.

The fourth ethical consideration concerns my own attitude. Having worked for around eight years in international development, I brought with me a set of occupational perspectives shaped by dichotomous thinking: ‘developed’ versus ‘developing’, ‘good governance’ versus ‘bad governance’, ‘donors’ versus ‘recipients’, and ‘human rights observed’ versus ‘human rights violated’. At first, these binaries, along with my earlier emphasis on linear models of developmental progress, influenced my PhD work—for example, leading me to view informal and customary practices as obstacles to development. Over time, however, I came to recognise that top-down interventions by the UN or national governments are often perceived by local communities as intrusive or even coercive, and frequently fail to achieve their intended outcomes. As a result, I tried to adopt a more balanced approach, listening carefully to both formal and informal institutional actors. Consequently, my data collection draws not only on state institutions such as the DNTP, but also on civil society organisations like Rede ba Rai. I should acknowledge that it took time to understand that development programmes and projects—although grounded in ‘good’ values such as the rule of law, human rights, and

democracy—are not magic bullets. Countries in the Global South, including Timor-Leste, are not blank slates upon which such interventions can be easily imposed or effectively implemented to achieve their intended objectives.

1-5. Limits of My Research

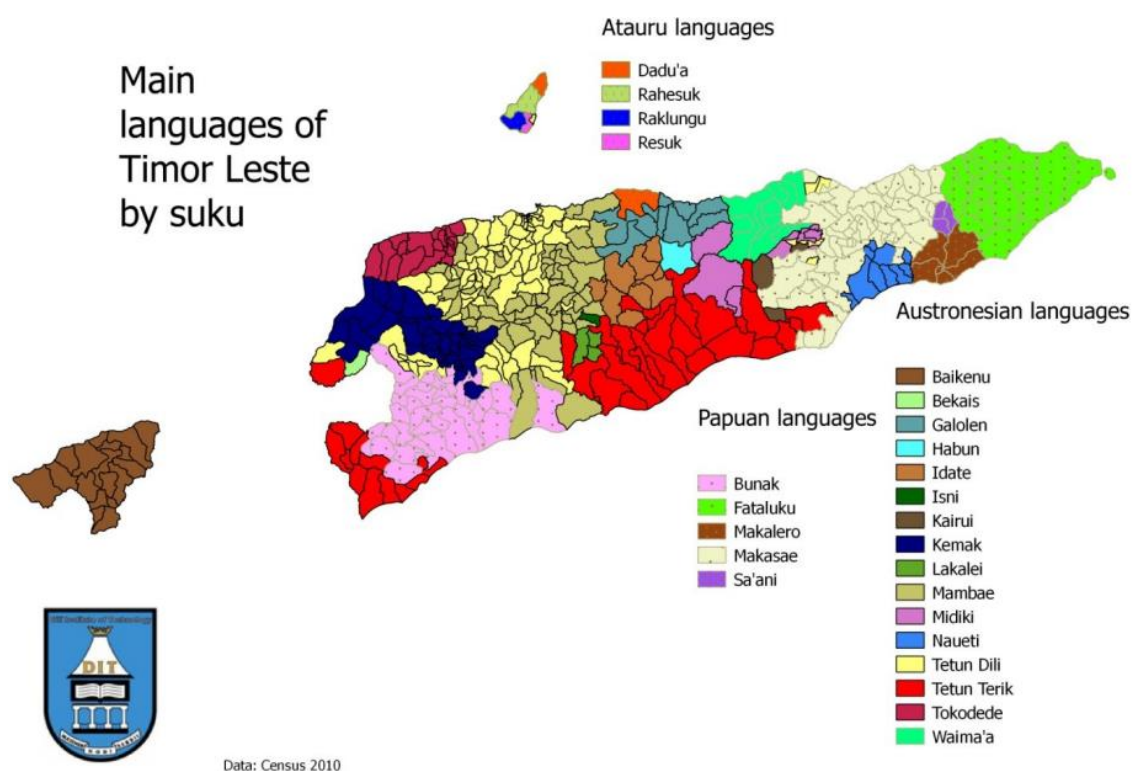
Although substantial effort has been devoted to this PhD thesis, it is inevitable that some pertinent topics and locations will remain insufficiently addressed. The complex nature of the subject, coupled with limitations in time, scope, and resources, necessitates an acknowledgment of certain constraints within the research. I will identify three key limitations and hope to address the resulting research gaps in future work.

This study focuses on the National Directorate of Land and Property (DNTP) as the primary formal land institution. Although other formal institutions, such as the courts, police, and the Land and Property Commission (LPC), also address land disputes, the focus on the DNTP rests on four grounds. First, the DNTP, particularly in Dili, is the principal authority for resolving land disputes (Almeida, 2020, p. 189). Second, including additional institutions would unnecessarily diffuse the scope of analysis. Third, the LPC, as the first formal institution specifically established to address land disputes, only commenced its operations in 2022, and thus, the available data remains insufficient to support a thesis-length analysis. Fourth, while courts and police handle many land disputes, this research is concerned specifically with land-focused institutions, leaving the role of other formal actors for future inquiry.

Next, I view the *Suco* Council, led by the *suco* chief, as an informal institution—which I conceptualise as a non-state entity grounded in oral traditions, cultural and spiritual legitimacy, and authority structures that often receive some degree of institutional recognition. According to Gauri (2009), such recognition—like Timorese Law No. 9/2016—does not erase informal characteristics such as customary legitimacy and oral processes. This concept also takes into account the traditional *lia na'in* as informal institutional leaders. While my research has partially examined a *lia na'in*-led case (such as Ainaro Case III), further investigation is warranted, as their influence remains pervasive in rural Timor-Leste to this day. Such research would also contribute to updating existing ethnographic studies.

Finally, this study involves a comparative analysis of governance in which the DNTP and *Suco* Councils collaborate during land dispute resolution in Dili and Ainaro. The comparison

draws on observations from my scoping trip in October 2022 and survey data (Almeida and Wassel, 2016, p. 23), both of which suggest a ‘strong likelihood’ of distinct relationship dynamics across the two regions. These contrasting settings provide a valuable lens through which to test Helmke and Levitsky’s theory, thereby contributing to the theory refinement. However, the findings should not be readily generalised to Timor-Leste’s other 12 districts, each characterised by its own languages and regional particularities. The uniqueness of local contexts necessitates caution when extending the study’s conclusions beyond Dili and Ainaro.



Map 2: Language Diversity in Timor-Leste (Williams-van Klinken and Williams, 2015, p. 2)

1-6. Overview of the Structure

This introductory chapter begins by explaining how my personal experience led to the identification of two central scenes. It then presents the core components of the study, including the sub-scenes under these overarching scenes, the rationale, research aims, and research questions, along with an overview of the methodology, ethical considerations, and research limitations. Together, these elements provide the foundation for understanding the scope and structure of the thesis as a whole.

Chapter Two provides the historical context of land governance in Timor-Leste, tracing the development of land institutions across five key regimes: customary, Portuguese, Indonesian, UN transitional, and post-independence. It examines the ongoing coexistence of formal and customary systems, highlighting how external institutional frameworks ultimately shifted from a confrontational to a concordant mode with the enactment of the 2017 Land Law.

Chapter Three is divided into two parts. The first part engages with the literature on legal pluralism to clarify how land disputes unfold in legally plural contexts and how actors behave within such systems. The second part draws on interdisciplinary insights to lay the conceptual groundwork for analysing DNTP–*Suco* Council relationships using Helmke and Levitsky’s (2004) typology of formal–informal institutional interactions. It also introduces the framework for assessing governance effectiveness, drawing on Ferguson’s (2020) theory of collective action problems (CAPs) from a top-down perspective, and on the Alternative Dispute Resolution (ADR) literature from a bottom-up perspective, focusing on user satisfaction.

Chapter Four outlines the research methodology employed in this study. It distinguishes between methodology and methods, presents a positivist research design, and explains the rationale for case selection in Dili and Ainaro. It further details the use of interviews, surveys, and participant observation, while also reflecting on the ethical and practical challenges of conducting fieldwork in rural and post-conflict environments.

Chapter Five examines the influence of legal pluralism on land disputes in Timor-Leste. Based on 13 case studies across five districts, this first empirical chapter addresses two core questions: how international legal frameworks—particularly, rule of law programmes in land governance and international human rights law—affect land disputes; and how actors navigate multiple forums through the practice of forum shopping, as well as how forum leaders behave within the concept of ‘shopping forums’.

Chapter Six focuses on institutional dynamics in arbitration forums, comparing how DNTP officials and *suco* chiefs interact in Dili and Ainaro. It analyses the contrasting governance arrangements in each district using Helmke and Levitsky’s typology, and reveals the existence of distinct institutional relationships across them.

Chapter Seven expands this comparison by evaluating the land governance mechanisms

in both districts. It identifies asymmetries in the mechanisms employed. The chapter then assesses outcomes under each mechanism through both a top-down lens—focused on enforcement and institutional coordination—and a bottom-up lens—focused on user satisfaction, guided by principles of good arbitration.

Chapter Eight concludes the thesis by revisiting the central research questions and summarising the key empirical findings. It outlines the study's contributions to scholarship on legal pluralism and hybrid governance, and reflects on the broader implications for development policy and future research. The thesis concludes with a personal epilogue, offering reflections on five years of doctoral research and eight years of work in foreign aid.

Chapter Two: From Confrontation to Concord between Plural Legal Orders in Timorese Land Governance History

2-1. Introduction

The 2017 Land Law (Article 3-1-a) provides: ‘Rights regarding real estate, whether customary or arising from long-term possession, that have the essential characteristics of the right of ownership, are designated in this law as informal ownership (property) rights’. Furthermore, its Article 60 stipulates that the Land and Property Commission must ‘consult with local and community authorities’.

In so doing, Timor-Leste *at last* lays a ‘practical’ foundation for establishing a legal framework of ‘concord’ between plural legal orders, moving away from an entrenched confrontational mindset. This shift arises from, and must be understood within the context of, a long and complex history of land governance in Timor-Leste, characterised by persistent tensions and repeated clashes between formally imposed legal frameworks and enduring customary systems. From the Portuguese colonial period through the Japanese occupation, Indonesian rule, and the early post-independence era, formal land institutions—while the 2002 Timorese Constitution recognises customary values, it lacked a practical framework—have consistently been in conflict with Timorese customary norms.

This chapter begins by examining the resilience and adaptability of Timorese customary land institutions, which provide the foundation for understanding the dynamics of legal pluralism in the country. It then traces the historical confrontation between formal and customary systems, reviewing the Portuguese colonial regime (1702–1975) and the Japanese occupation (1942–1945), analysing the Indonesian occupation period (1975–1999), and examining the United Nations Transitional Administration in East Timor (1999–2002). Finally, it turns to the transformative role of Law No. 13/2017, which formally recognises both state and customary rights, embeds safeguards against forced evictions, and establishes the Land and Property Commission—the *first-ever* formally mandated institution with explicit authority to resolve land disputes.

2-2. The Customary Land Institution in Timor-Leste

An understanding of the Timorese customary land institution constitutes a crucial foundation for examining legal pluralism in contemporary Timor-Leste, as it is widely regarded to have predated Portuguese colonisation in 1702 (Fitzpatrick, 2001, pp. 136–139). This institution has exhibited remarkable resilience throughout Timor-Leste's long history.

For example, a safe drinking water project during the post-independence era succeeded only after being legitimised through customary rituals, highlighting the enduring significance of these practices in shaping development outcomes (Carroll-Bell, 2013, p. 11). Similarly, during the UN transitional administration (1999–2002), the UN's truth commission relied on customary authorities and practices to reintegrate former militias (Hohe, 2003; Babo-Soares, 2004, pp. 20–21). Even during the Indonesian occupation, customary practices such as intermarriage within origin groups persisted, strengthening kinship networks and enabling these customary structures to play a vital role in resisting the occupying regime (McWilliam, 2005).

This section examines the origins of customary leaders and the land customs they have established, analysing these within the institutional framework used in political science. Institutions are defined as the 'rules' and 'procedures' that structure social interaction by both constraining and enabling actors (Helmke and Levitsky, 2004, p. 727). As custom is considered an 'informal' institution (North, 1991, p. 97), its inherently 'oral' nature is of central importance (Helmke and Levitsky, 2004, p. 727). Accordingly, this section identifies the 'oral' rules and 'oral' procedures that underpin Timor-Leste's customary land institution.⁸

2-2-1. The Origins of Customary Leaders

'Mobility and displacement have been constituent properties of Austronesian social forms over the long histories of their spatial expansion across southeast Asia and the Pacific' (Fitzpatrick, McWilliam, and Barnes, 2016, p. 29). The fact that Timor-Leste belongs to Austronesian geography/language⁹ means that it experiences constant in-migration; therefore, its people pay special attention to 'a historical precedence' (Hägerdal, 2012, p. 65),

⁸ A more comprehensive theoretical explanation of these concepts is provided in Section 3-3-1-(B).

⁹ In terms of language, Timor-Leste mainly consists of two groups: Austronesian language group and Papuan group (Fitzpatrick, McWilliam, and Barnes, 2016, 23).

and its society develops ‘first possession norms’ for the sake of social order and harmony (Fitzpatrick et al., 2016, p. 2). In other words, identifying the first settlers or origin groups is an essential question to prevent potential conflicts arising from a continuous influx of migrants.

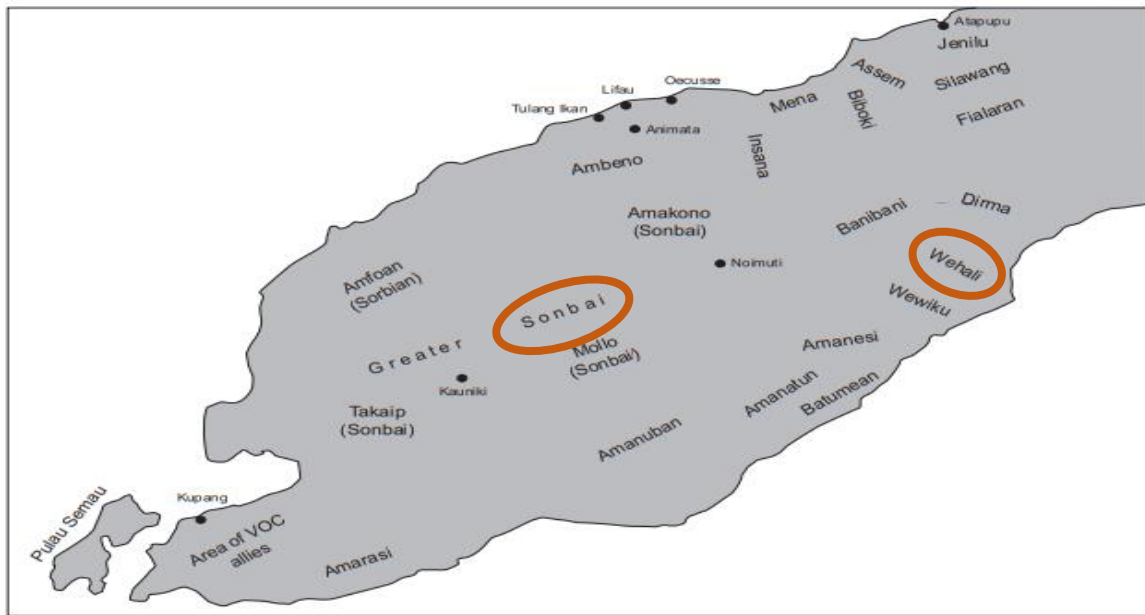
Concerning this question, ‘the *liurai* and their families and dependents’ lie at the core, as ‘a mythological tradition of the ruling elites [the *liurai*] as having been imposed onto Timorese society from the outside’ is widely acknowledged in Timorese society (Davidson, 1994, pp. 10–11). Regarding the origin of the *liurai* and Timorese elite groups, they regard ‘Wehali as the ultimate point of reference’ (Hägerdal, 2012, p. 65). I, therefore, explain the Wehali myth narrative.

Wehali, described in the Map 3, is the name of a place situated in southern Central Timor Island. According to the oral tradition on Timor Island, be it in West Timor or East Timor/Timor-Leste, in Wehali, there existed ‘the great lord of the realm, *maromak oan*’, and its literal meaning is ‘the son of God’ (Hägerdal, 2012, p. 62). The *maromak oan* is ‘the father of three sons who became the *liurai* of Wehali in Central Timor, Sonbai in West Timor, and Likusaen [Liquiçá] in East Timor’ (ibid., pp. 62–64). Those three descendant groups gradually dominated Central, West, and East areas of Timor Island, subsequently imposing their political-ritual system across the Island (ibid., pp. 60–82).

Over time, within an Austronesian context, the *liurai* groups experienced a growing influence and ascended to both political and ritual leadership. This phenomenon, in which in-migrant groups are considered influential mediators, is known as the ‘stranger king’, and it is commonly observed in Austronesian societies (Fitzpatrick et al., 2016, pp. 29–33).

Hägerdal (2012, p. 76) also emphasises the significance of the stranger king concept in the Austronesian societies context, such as Timor-Leste, as follows:

The pattern of the ‘stranger king’ myths is often similar: an ancestral dynastic figure arrives, subdues the original lord in a contest or by other means (in this case, a *marriage* [*italicised by me, in order to emphasise the importance of marriage in Timorese customs*]), is elevated to princely status, and arranges a division of the realm whereby the original inhabitants or chiefs retain particular rights with regard to the land.



given ‘tribute in the form of harvest gifts’ by his subordinates, and in exchange for that, they ritually promised ‘security, fecundity in livestock, and agricultural produce’ (Davidson, 1994, p. 125). In the following section, I elucidate the key elements of the Timorese customary institutions and their land governance system.

2-2-2. The Content of Land Customs

The term ‘custom’ corresponds to the *lisan* in Tetum, one of Timor-Leste’s official languages and its most widely spoken mother tongue. The *lisan* ‘comprises everything that is old and inherited from the ancestors’ (Hohe, 2003, p. 339). Its core principle is ‘balance’, maintained through the proper exchange of values (Kirk, 2014, p. 13; Hohe, 2003, pp. 340–341; Fitzpatrick and Barnes, 2010, pp. 228–229).

This emphasis on balance is evident in practices such as marriage. In the 1880s, Manuel Alves da Silva, a missionary, observed the *barlaque*—a dowry custom involving offerings such as buffaloes or horses—as a central mechanism for forging alliances (cited in Gunn, 1999, p. 54). Catholic missionaries and Portuguese governors attempted to abolish this practice until 1910, but failed (Kammen, 2016, p. 108). Hohe (2003, pp. 339–340) also underscores the role of the Wife Giver and Wife Taker clans, which exchange ‘male’ and ‘female’ values—fertility and strength—essential to socio-cosmic order.

When balance is broken, misfortune is believed to follow, including failed harvests, illness, or natural disasters (Babo-Soares, 2004, p. 22). Serious offences, such as murder or domestic violence, threaten social harmony and demand reconciliation (Hohe, 2003, p. 340). This process, known as the *nahe biti*—literally ‘laying down the mat’—requires disputants, guided by customary leaders, to meet with their community, mend differences, and publicly affirm renewed peace (Babo-Soares, 2004, pp. 21–23; Kirk, 2014, p. 13).

Having outlined Timorese customs in general thus far, I now narrow the focus to their land governance system. The Timorese customary land institution is mainly constituted by two elements. First, it regulates the rules of land possession. Second, it shapes the mechanisms of land dispute resolution. Both of these elements are examined in detail below.

Firstly, I begin by describing the land possession rules within the Timorese customary institution. According to Fitzpatrick, McWilliam, and Barnes (2016, p. 62), customary rules of land possession can be categorised into two types: simple and complex. The former grants

‘rights to in-migrants who engaged in clearing and cultivation’, whereas the latter grants them through ‘inter-marriage with an origin group lineage’ (ibid., p. 62).

The Timorese customary authority selected the latter to ensure the establishment of a social order or hierarchy between the origin groups and latecomers. The main reasons for this choice could be attributed to ‘the absence of a state or law’ and ‘circumstances of regular tribal warfare [continuous in-migrant situations that could potentially be hostile, within an Austronesian geographical context]’ (ibid., 2016, p. 63).

Based on the rule of inter-marriage within an origin group lineage, land possession procedures unfold as follows. Through the marriage alliance, a relationship between the origin group and the subsidiary lineage house is established. This allows the origin group to extend its jurisdiction not only in terms of legal but also ritual power. During the marriage ceremony, additional oaths and traditional contracts are orally made. These include imposing duties as a subsidiary house member, such as protecting land boundaries (ibid., pp. 114–129, 157–169, and 187–189).

A case from a village named Babulo in the district of Viqueque illustrates this rule and procedures clearly. As the jurisdiction of the origin group of Babulo expands, they delegate their jural power. This delegation is a strategic response to the challenge of handling the overly extended jurisdiction, and it also serves to alleviate pressure from in-migrant groups seeking land and other tangible resources. The delegation is made to subsidiary groups, granting them access to land. These subsidiary groups, as allegiance groups to the origin group, assume diverse duties, such as monitoring land use, overseeing natural resources, protecting land boundaries, and more (ibid., pp. 114–127).

Another case from the Fataluku language-speaking community in the district of Lautem also demonstrates the application of the same rule and a similar procedure of land possession (ibid., pp. 153–159). First, the rule of ‘inter-marriage with an origin group lineage’ operates here as well. In their traditional narratives, orally passed down through generations, the significance and centrality of the origin group in their relationships are well expressed; the origin group is regarded as ‘*ara ho pata*’, which can correspond to ‘trunk and branch’, whereas subsidiary groups are regarded as ‘*i cipi i mana*’, which means ‘fruit and flower’ (ibid., p. 157). Second, land possession procedure in the Fataluku language-speaking community is that land is ‘devolved or transferred’ from the original group to individuals who marry into the group,

and then the negotiation of their land-related duties is undertaken upon settlement (ibid. p. 157).

These two cases of Fataluku and Babulo illustrate that in the land allocation custom, the origin group holds a central position, and subsidiary groups gain access to land through marriage alliances. However, despite the increasing number of subsidiary groups over time, the ‘overarching territorial control’ remains with ‘the lord of the land [origin group]’ (ibid., p. 134).

Now, the discussion turns to the second key facet of the land institution, namely the mechanisms through which land disputes are resolved. Fitzpatrick, McWilliam, and Barnes (2016, p. 190) argue that ‘any land disputes or infractions regarding the use of land and natural resources are dealt with in the same way as a range of social offences through a process called *pil gewen* (Tetun: *nahe biti boot*)’. As a consequence, I describe a case of a land dispute addressed through the customary reconciliation mechanism in a village where the residents speak the Kemak dialect, situated in the district of Bobonaro.

In the Kemak-speaking community, land disputes are resolved through a customary gathering involving both parties, a male leader from each house, house elders, witnesses, and others familiar with the land’s history. The male leader typically presides over the process. If guilt is established, a penalty—such as the sacrifice of a pig or buffalo—is imposed according to the severity of the offence. The offender is admonished, and the animal is slaughtered, with its remains placed at the site of the transgression. If the male leader deems the matter beyond his authority, it is referred to the *lia na’in*, the customary authority for ritual and legal affairs. After hearing both sides, the *lia na’in* renders a decision, which is followed by a reconciliation ceremony marked by ritual, food, and drink (ibid., pp. 190–191).

2-2-3. The Oral Nature of the Timorese Customary Land Institution

Customary leaders in Timor-Leste have compelling reasons to preserve the oral nature of the customs they have established. These oral rules and procedures have enabled them to maintain their pre-eminent position within Timorese society and may have contributed to the endurance and continuity of these customs across successive regime changes—from Portuguese to Indonesian rule, followed by the UN administration, and ultimately to liberal democratic Timor-Leste. Their strategies of resilience may be broadly categorised into two

forms: ‘narratives of origin groups’ and ‘regular rituals’.

Origin group narratives are integral to Austronesian societies, including Timor-Leste (Bellwood et al., 1995). In *Cacavei suco* (Lautem), storytelling and ritual practice underpin resilience, with the *nuku*—the origin group—at the centre of community networks and ancestral cemeteries revered as sacred, particularly those of the earliest ancestors (Stead, 2017, pp. 30–38). In *Babulo* (Viqueque), such narratives recount ancestral itineraries, settlement histories, and communal land claims, reinforcing status and rank (Fitzpatrick et al., 2016, pp. 25–27). In *Maubara* (Liquiçá), leading families resisted Portuguese policies to protect origin stories (Kammen, 2016, p. 97). Though locally varied, these narratives, emphasising seniority, are reaffirmed through ritual, sustaining Timorese custom.

When the origin group allocates land and assigns land-related duties, such as monitoring natural resource usage, to subsidiary groups, they do so ‘through forms of ritual celebration and house group solidarity’ (Fitzpatrick et al., 2016, p. 25). These rituals take place in the *uma lulik* or sacred houses, where they are believed to make contact with ‘the spirit world’ (ibid., p. 126). In the case of the *Cacavei suco* in the district of Lautem, ‘when there is sickness or disagreement’, rituals take place in cemeteries—which are considered ‘sacred places’—of the *nuku* or the origin group (Stead, 2017, p. 35).

As for the rituals, the relevant and crucial information is exclusive to the customary authorities and is transmitted orally, ensuring that it is not shared with ordinary people. For instance, the location of the cemeteries in the *Cacavei suco* is known ‘only to the most senior *lia nain* [*lia na’in*]’ (Stead, 2017, p. 35). In the *Babulo* case, the customary authority conceals from ordinary people information, such as ‘the names of the various spirit and ancestral guardians that control access to the forest, fields, and water sources of their domain’ (Fitzpatrick et al., 2016, p. 122). This ritual is considered sacred or spiritual, and thus, a failure to observe it is believed to lead to negative outcomes (Stead, 2017, pp. 26–38; Fitzpatrick et al., 2016, p. 41, 130, and 155; Kirk, 2014, p. 13).

2-2-4. Sub-conclusion: Oral Rules and Procedures

Up to this point, the examination has focused on Timorese customs, with particular attention to their land governance. Their resilience is underpinned by two methods of cultural transmission: ‘origin group narratives’ and ‘regular rituals’, both of which are orally

transmitted and remain exclusive to customary leaders.

Customary Land Institutions	Rules	Procedures
1. Land Possession	Intermarriage with an Origin Group Lineage	Marriage Contract, Land Allocation, and Duty Assigned through Rituals
2. Land Dispute Resolution	Reconciliation	Hearing, Customary Leader Decision, Compensation, and Closing Rituals

Table 3: The Timorese Customary Land Institution by the Concept of Institution

The following sections explore the complex confrontations that arose when external authorities—including the Portuguese colonial regime, the Indonesian occupation regime, and later the United Nations transitional administration—introduced formal land institutions into Timor-Leste. These efforts frequently clashed with the country’s deeply rooted and highly resilient customary land tenure systems, generating tensions and adaptations that continue to shape land governance and social relations today.

2-3. Portuguese Colonisation Era (1702 - 1975) and Japanese Invasion Era (1942 - 1945)

The Portuguese regime introduced mainly three types of formal land laws in Timor-Leste in 1901, 1914, and 1961 (Almeida, 2020, pp. 58–63).¹⁰ During the Portuguese colonial period, Timor-Leste also experienced a brief yet brutal occupation by Japan between 1942 and 1945. Both the former, characterised by an extended period of colonisation, and the latter, marked by a short but inhumane regime, are considered to have significantly influenced the Timorese customary land institution. In this section, following a chronological sequence, I first examine the Portuguese era from its inception in 1702 until 1942, when the Japanese invasion began to undermine Portuguese authority in Timor-Leste. Next, I analyse the Japanese military occupation from 1942 to 1945. Lastly, I discuss the subsequent period from 1945 to 1975, during which the Portuguese regime regained control following Japan’s defeat in the Second World War.

¹⁰ Although the first land law to govern the Portuguese colonies, such as Timor-Leste, was approved in Lisbon in 1856, its impact was very limited (Almeida, 2020, p. 58). I thus exclude it from my research here.

2-3-1. The Portuguese Regime I : From Its Inception in 1702 to Japan's Invasion in 1942

In this section, an overview is provided of the principal initiatives undertaken by the Portuguese regime in the field of land governance in Timor-Leste, specifically in 1901 and 1914. Each of these legal developments is subsequently examined in detail within its respective subsection, with particular attention to their historical context and enduring implications.

2-3-1-(A). The 1901 Land Institution

▪ **Delayed Colonial Governance in Timor-Leste**

Although Portuguese colonisation began in 1702, effective governance by the Portuguese regime was not established in Timor-Leste until 'the late nineteenth and early twentieth century' (Hägerdal, 2012, p. 5). This can be attributed to multiple factors. First, by the 1880s, there were 'conflicting [Portuguese] government opinions over the value of the overseas provinces [such as Timor-Leste]' (Davidson, 1994, p. 21). Second, the 'twenty years of internal conflict within Portugal'—encompassing the Liberal Wars (1828–1834) and the subsequent political instability until the 1840s—meant that 'very little attention was paid to the overseas provinces during this period' (Davidson, 1994, p. 25). Third, according to Cordeiro and Santos (as cited in Almeida, 2020, p. 58), Portugal initially focused primarily on Brazil, while in Timor-Leste its interests were largely confined to 'trade and revenue,' resulting in minimal intervention in village agricultural life and only a nominal recognition of customary titles insofar as they did not conflict with tax and trade objectives (Fitzpatrick, 2001, p. 139). Fourth, until the early twentieth century, during boundary negotiations with the Netherlands, neither colonial power was able to exercise effective control over its claimed territory, facing persistent resistance from local populations (Fox, 2003, p. 16).

▪ **Portugal's Shift to More Active Colonialism**

However, this stance shifted: by the late nineteenth century, Portugal began introducing far more aggressive institutions in its colonies (Almeida, 2020, pp. 58–63; Stead, 2017, p. 128; Fitzpatrick, McWilliam, and Barnes, 2016, p. 216; Fitzpatrick, 2001, p. 139). This shift raises the question of why this change in stance occurred at that time. It can be addressed across three levels. Internationally, Portugal faced growing competition from rivals such as Britain.

After a series of disputes, Britain issued the 1890 ultimatum, forcing Portugal to withdraw from Mashona, Matabeleland (later Zimbabwe), and the Shire-Nyasa region (Malawi), where Portuguese and British interests overlapped (Davidson, 1994, pp. 27–29; Coelho, 2006, p. 1). This episode created ‘a climate of public opinion [in Portugal] that made the military campaigns of the 1890s and 1900s almost imperative’ (Davidson, 1994, p. 28). Nationally, the ‘twenty years of internal conflict within Portugal’—the Liberal Wars (1828–1834) and subsequent political instability until 1840s—caused that ‘very little attention was paid to the overseas provinces during this period’ (ibid., p. 25). Individually, Celestino da Silva, a staunch monarchist appointed as governor of Timor-Leste in 1894, sought to *restore* Portugal’s colonial prestige through strong territorial control (Davidson, 1994, pp. 22, 192, 277; Kammen, 2016, p. 97). This context explains Portugal’s shift towards a more active approach in Timor-Leste.

▪ The 1901 Land Law: Portugal’s Tool of Control

The remaining question is what constitutes a more aggressive land institution. This analysis adopts the concept of institution, whereby formal institutions are defined as ‘parchment institutions’ embodied in written laws and regulations (Carey, 2000, p. 735). As Kangas and Vestheim (2010, p. 271) argue, such institutions acquire tangible form through their administrative structures.

The first major law introduced in 1901 was the *Carta de Lei de 09 de Maio de 1901* (1901 Land Law). It distinguished between lands ‘controlled by a *liurai*’ and other lands, thereby recognising customary land. This likely served two purposes: first, to avoid rebellion following dispossession (Almeida, 2020, p. 59), and second, to allow what the colonisers regarded as ‘primitive’ communal tenure to evolve towards individual ownership (Meitzner Yoder, 2005, p. 300, cited in Almeida, 2020, p. 60).

However, the law was ultimately deployed to expand state control: first, lands outside *liurai* authority were absorbed as state land; second, shifting cultivation and hunting lands, which were widely recognised by customary leaders as their own, were seldom acknowledged (Fitzpatrick, 2001, pp. 139–140); and third, even *liurai*-controlled lands could be seized if left unused for one or five years (Almeida, 2020, p. 59). To enforce this law, Portugal established the *Comissão de Terras* (Land Commission), an administrative structure charged with managing key concessions and institutionalising land seizure in Timor-Leste (Davidson, 1994,

pp. 222, 248–249, 310–313; Kammen, 2016, p. 96).

2-3-1-(B). The 1914 Land Institution

In 1910, Portugal underwent a radical political transformation from monarchy to republic. Under the monarchy, Catholic missionaries and monarchists sought to discourage Timorese customs such as the payment of bride price and funerary sacrifices. However, the new Portuguese rulers ‘reversed’ the existing viewpoint, beginning to recognise the Timorese local customs since it could be an efficient ‘means’ to ‘regulate the local population’ (Kammen, 2016, p. 108).

In 1914, the Portuguese government introduced the *alvará indígena*, the 1914 Land Law intended to grant land titles to Timorese nationals. Upon registration, landholders would receive either usage rights (*aforamento*) or full ownership rights (*propriedade perfeita*) (Almeida, 2020, p. 60). According to Almeida’s textual analysis of the law (*ibid.*, p. 61), this law aimed to protect the vulnerable customary land rights of the Timorese, acknowledging the ‘need for state protection’. Simultaneously, the Portuguese regime regarded the Timorese customary land customs as ‘incapable of navigating “modern” formal land tenure systems’ (*ibid.*, pp. 60–61).

Despite its unarmful objectives, the law largely failed to provide formal land titles to Timorese communities for three reasons. First, access to legal information was severely limited. Most Timorese were unable to understand the law, as demonstrated by Fitzpatrick, McWilliam, and Barnes (2016, p. 224). Their argument is primarily based on empirical research conducted in the district of Ainaro. However, their insights can be applied nationwide across Timor-Leste at that time. According to Laipan and Chaniago, 90 % of Timorese by 1974 were illiterate (as cited in Gunn, 1999, p. 375). In addition, a Timorese NGO, La’o Hamutuk, argues that ‘hardly any people had the legal knowledge necessary to engage in the process to get a perfect property land title [the *propriedade perfeita*]. This helps us understand why most of the 2,843 land titles issued benefited foreigners.’ (La’o Hamutuk, 2013)

Second, eligibility requirements were restrictive. Applicants had to prove that at least half of the land was cultivated or inhabited (Fitzpatrick et al., 2016, p. 224). At the same time, the colonial administration prioritised plantation agriculture—particularly coffee—while imposing greater control over smallholder production of staple crops such as rice and maize

(Gunn, 1999, pp. 291–292). For example, in Maubara, Liquiçá, Portuguese-owned coffee plantations rapidly expanded (Kammen, 2016, p. 105). However, practices such as ‘fencing land’ were *very* unfamiliar to the Timorese, who traditionally were accustomed to the communal land concept (Fitzpatrick et al., 2016, p. 224).

Finally, in the end, the fundamental purpose of the 1914 land law cannot be separated from its role in facilitating ‘the concession of land for economic exploitation’ (Almeida, 2020, p. 62). This reveals that, notwithstanding its professed benevolence and nominal reforms to local land tenure practices, the Portuguese regime operated within a fundamentally colonialist paradigm, privileging extractive economic interests over any substantive commitment to recognising or defending the customary land rights of the Timorese population.

2-3-2. The Japanese Military Regime from 1942 to 1945

Following Japan’s attack on Pearl Harbor on 7 December 1941, Darwin—a harbour city in northern Australia—became Australia’s own ‘Pearl Harbor’ on 19 February 1942, when Japanese forces sank Allied ships in the harbour and killed hundreds of people (Kennedy, 2012). At last, an ‘intra-imperialist struggle’ between Japan, Australia, and Portugal unfolded in Timor-Leste (Gunn, 1999, pp. 352, 365).

Although Japan did not establish formal land institutions in Timor-Leste, its brief but brutal occupation inflicted profound and multifaceted damage upon both the population and the territory’s customary land institution, resulting in significant population loss, the displacement of many people, and the weakening of the customary land relations that had long underpinned Timorese society.

First, it is estimated that up to 10,000 Timorese perished during this period, largely as a result of atrocities committed by the Japanese military (Kammen, 2024). Given a pre-war population of approximately 450,000, this represents a demographic catastrophe (Gunn, 1999, p. 364).

Second, from a land governance perspective, the war precipitated significant ‘displacement’. In particular, the capital, Dili, experienced widespread depopulation as many Timorese fled to rural areas to escape Japanese military coercion and Allied aerial bombardments, which resulted in heavy civilian casualties (*ibid.*, p. 350).

Third, from the standpoint of customary land governance, the Japanese occupation caused substantial disruption to the traditional concept of the origin group. The Japanese authorities demonstrated favouritism towards village leaders, regardless of who they were, as long as they aligned themselves with Japan. For example, when senior *liurai* families in a village resisted collaboration, subordinate *liurai* families rose abruptly to prominence within their communities (Fitzpatrick et al., 2016, pp. 245–246).

By decimating the population, displacing communities, and undermining customary hierarchies, the occupation severely eroded ‘the capacity of Timorese communities to maintain customary relationships to land’ (Fitzpatrick et al., 2016, p. 39). In 1945, the war ended and Japan withdrew from Timor-Leste; however, Portugal subsequently regained control of the territory.

2-3-3. The Portuguese Regime II: From 1945 to Indonesia’s 1975 Invasion

During the Japanese military regime in Timor-Leste (1942–1945), the Portuguese administration remained in Dili and Liquiçá due to Portugal’s neutral status (Kammen, 2015, p. 109). However, once the Japanese suspected Portuguese collaboration with Australia, they disarmed the administration and subjected its officials to harsh treatment. Around 600 Portuguese were interned in a camp where ‘conditions were very bad, food scarce, and hygiene poor owing to lack of water’, resulting in numerous deaths (Gunn, 1999, pp. 343–344). Thus, although Portugal officially retained *de jure* authority, its administration was severely constrained under Japanese rule, while Australian forces actively fought the Japanese in Timor-Leste.

Around 6 August 1945, when an atomic bomb was dropped on Hiroshima in Japan, negotiations began between Japan and Portugal regarding the Japanese army’s withdrawal scheme. Australia, which had sacrificed its soldiers in Timor-Leste, proposed to London¹¹ that Australia should be the ‘only’ party that ‘would take and enforce the terms of surrender of the Japanese’, but the British government ‘rejected’ this suggestion. Ultimately, Portugal, which had administrative units in Timor-Leste, played a key role in resolving the situation with Japan, while Australia, which sent soldiers there, remained involved ‘with the assistance of the

¹¹ Since 1939, ‘Australia follows Britain’s lead and declares war on Nazi Germany’ (BBC, 2023a).

Portuguese administrator' (ibid., pp. 353–361).

Owing to this historical background, Portugal once again managed to claim its suzerainty over Timor-Leste. Even though after World War II the Third World began to assert their rights to independence and self-determination, many Timorese were not aware of this international wave in the 1950s and 1960s. For instance, the fact that Indonesia, its closest neighbouring country, 'championed full decolonization and the struggle against Western imperialism during the 1950s and early 1960s' was rarely known to Timorese. Therefore, there were no 'pan-ethnic solidarities' in Timor-Leste, unlike in Angola and Mozambique (Kammen, 2015, p. 113).

For the sake of postwar Timor recovery, Portugal initiated three types of development plans (1958-1962, 1963-1967, and 1968-1973). The first two plans encompassed sectors such as the coffee industry, native weaving, handicrafts, fishing, and more; however, these development efforts showed low performance. The third one attempted to expand the scope of development to address criticisms received during the previous two phases. It emphasised 'increasing agricultural productivity, raising the cultural, sanitary, and technical levels of the population, and expanding commerce'. Nevertheless, the postwar Portuguese regime cannot avoid blame for its lack of serious efforts and failure to address the postwar situation in Timor-Leste (Gunn, 1999, pp. 366–393).

Portugal's response to the 'growing international calls for decolonization' (Kammen, 2016, p. 111) encompassed not only development sectors but also the legal framework governing its colonies. It thus began to change 'the legal designation of colonies to overseas provinces', such as 'the land-related legislation' (Almeida, 2020, p. 61).

In this context, the 1961 Land Law, or the *Diploma Legislativo* No. 865, was applied to Timor-Leste (ibid., p. 61). It tried to abolish racially discriminatory language such as 'native', acknowledge customary land practices, grant the *aforamento* to individuals, and permit oral processes for the sake of better access.

At the culmination of this endeavour, how many formal land rights were allocated? La'o Hamutuk (2013), a Timorese non-governmental organisation, provides an estimate of '2,843'. Rod Nixon asserts that these rights encompass only 'a relatively small percentage of Timor-Leste's total area' (as cited in Almeida, 2021a, p. 135). Additionally, Sousa (2005, p. 3) contends that, in light of the Indonesian regime's issuance of around '47,000 titles' from 1975 to 1999, the number of Portuguese land titles allocated from 1901 to 1975 seems

comparatively insignificant.

2-3-4. Sub-conclusion: Colonial Legacies and Confrontation with Customs

The Portuguese initially adopted a passive approach but later sought to consolidate state power and facilitate economic exploitation through the 1901 and 1914 land laws, while the 1961 law was more oriented towards decolonisation and Timorese development. Although their impact at the time was limited, these written rules have endured and continue to shape land governance in Timor-Leste today.

	Main Themes	The 1901 & 1914 Institutions	The 1961 Institution
Written Law	Whether racially discriminatory language in stipulations existed.	<i>Indígena</i> (native)	<i>Vizinhos de Regedorias</i> (residents)
	Whether customary land practice is acknowledged.	Not Acknowledged	Acknowledged
	Whether occupation can lead to a land usage right.	Upon registration, individuals can be given the <i>aforamento</i> .	Individuals occupying on customary land over 10 years can be given the <i>aforamento</i> .
	How to Register	Written Forms	Oral processes are permitted.
	Implementing Organisation	the <i>Comissão de Terras</i> (the Land Commission)	

Table 4: Formal Land Institutions during the Portuguese Regime

By contrast, the Japanese occupation caused abrupt disruption, resulting in mass displacement, demographic loss, and the erosion of customary hierarchies. Together, these eras left a legacy of confrontation between formal land institutions and Timorese customary systems, compelling many to adapt or resist through alternative means of survival.

2-4. Indonesian occupation era (1975 to 1999)

This section is divided into two parts. First, it examines the background of Timor-Leste in 1975, a period marked by its declaration of independence which, despite initial efforts, failed to

endure, leading to Indonesia's subsequent occupation of the territory. Second, it analyses the influx of Indonesian formal land institutions into Timorese society and their detrimental impact on the Timorese customary land institution.

2-4-1. Background of Timor-Leste in 1975

Most Portuguese colonies—Angola, Cabo Verde, Guinea-Bissau, Mozambique, and São Tomé e Príncipe—proclaimed independence around 1975, and Portugal formally recognised them. However, Timor-Leste and Macau¹² were exceptions to this decolonisation wave (Feijó and Pereira, 2023, p. 217). Why was Timor-Leste unable to secure its independence? This question will be examined in the following sub-sections, considering both internal and international factors.

2-4-1-(A). Internal Dynamics Hindering Timor-Leste's Independence

The Timorese people, up until 1974-1975, were unfamiliar with 'the very idea of the nation'; however, the announcement of the 1974 Carnation Revolution 'opened the door for East Timorese to form the first political associations' (Kammen, 2016, p. 120). As a consequence, 'embryonic political parties started to form' in Timor-Leste (Gunn, 1999, p. 252).

In this context, two main parties¹³ were formed: Frente Revolucionária do Timor-Leste Independente (Fretilin¹⁴) on 20 May 1974, and União Democrática Timorense (UDT) on 11 May 1974. Fretilin was based on communism, and was supported by new types of Timorese elites such as junior level bureaucrats and teachers. UDT, on the other hand, was based on democracy and advocated for gradual independence from Portugal. It was supported by traditional leaders such as the *liurai* lineages, as well as senior administrators, land owners, and Portuguese-metizo groups (Fitzpatrick, 2001, pp. 140–141; Kammen, 2016, pp. 121–123).

Around a year later in May 1975, a local election was held by the Comissão de

¹² A Macau case is beyond my research here.

¹³ According to Babo-Soares (2003, p. 54), after the Carnation Revolution in Portugal, five political parties were formed in Portuguese Timor: UDT, Fretilin, Associação Popular Democrática Timorense (APODETI), Klibur Oan Timor Ass'wain (KOTA), and Trabalhista (the Labour Party). But the main two parties were Fretilin and UDT.

¹⁴ Its initial name was known as Associação Social Democrática Timor (ASDT).

Descolonização de Timor (the Portuguese Decolonisation Committee), and according to Helen Hill, '90 per cent of the resulting elected officials were Fretilin members or supporters' (as cited in Fitzpatrick, 2001, p. 141). Fretilin, the local election winner, soon 'embarked on their program of land reform' (Fitzpatrick, 2001, p. 141). According to Jolliffe, it tried to expropriate 'large farms' in some places (as cited in Fitzpatrick, 2001, p. 141).

In response, UDT—its members are large farm/plantation landowners, customary authorities such as the *liurai* lineage¹⁵, and others—feared the Fretilin's communist approach to land tenure reform. A civil war was thus triggered by UDT's coup on 11 August 1975 (Fitzpatrick, 2001, pp. 140–141).¹⁶ The catchphrase of UDT was the 'Movimento Revolucionário Anti-comunista', meaning anti-communist movement (Kammen, 2016, p. 123).¹⁷

During the civil war between Fretilin and UDT in 1975, the Portuguese Governor Lemos Pires 'decided to try to maintain Portugal's neutrality' (Feijó and Pereira, 2023, p. 234), while they retreated 'to the offshore island of Atauro' (BBC, 2023b). According to João Loff Barreto, Lemos Pires received a cable note from Lisbon stating that, 'You should not, at any cost, be in a position to be taken hostage' (as cited in Gunn, 1999, p. 426).

Ultimately, Fretilin succeeded in repelling the UDT coup, prompting leaders and members of the UDT and its allied parties, KOTA and Trabalhista, to flee to West Timor by September 1975. This civil conflict produced around 40,000 refugees (Babo-Soares, 2003, pp. 54–55). From West Timor, UDT, KOTA and Trabalhista appealed to Indonesia to intervene in the Timorese civil war (Fitzpatrick, 2001, p. 141). Indonesia, meanwhile, perceived a 'political vacuum' in Timor-Leste and swiftly launched a military invasion, despite Fretilin's declaration of independence on 28 November (Babo-Soares, 2003, p. 55). The Indonesian invasion took place on 7 December 1975, and Portuguese Governor Lemos Pires departed Timor-Leste the following day (Gunn, 1999, p. 394).

¹⁵ As I explained earlier in this chapter, this customary group has exclusive access to land.

¹⁶ Additionally, there is an argument that the civil war between Fretilin and UDT was caused by Indonesia's intelligence operation (Gunn, 1999, pp. 411–413; Kammen, 2016, p. 123).

¹⁷ However, Gunn (1999, p. 425) argues that 'the Western media misread' UDT's movement as anti-communist. Southgate (2019, p. 30) also points out that 'there is little evidence of actual communist intent to intervene in East Timor'.

2-4-1-(B). Cold War Era Begins

The other explanation for why the Timorese were not able to join the independence club can be found in a very cold international relations surrounding Timor-Leste. For this analysis, the timeline should be traced back to the end of World War II, and the geopolitical context should encompass not only Indonesia and Timor-Leste but also many Southeast Asian countries and Western countries like the USA.

First, since the end of World War II, Indonesia witnessed many of its neighbours, such as Vietnam, Cambodia, and Laos, falling under communist control. Suharto, an anti-communist and Indonesia's newly elected President, was determined to prevent the spread of communism in Indonesia and brutally suppressed¹⁸ any communist attempts. Furthermore, his new scheme to suppress communism, known as the New Order, was welcomed by Western countries such as the USA, Australia, and the UK. Consequently, Indonesia began to be regarded as a 'vanguard' state halting the expansion of communism, particularly by the USA (Southgate, 2019).

Second, the fact that Indonesia was regarded as the strategic asset by the USA enabled Indonesia to employ deceptive strategies. In November 1975, Portugal, Indonesia, and certain Timorese elite groups, such as Fretilin and UDT, were scheduled to discuss Timorese self-determination and independence at the Macau summit. Portugal emphasised that self-determination, based on the direct consultation of the Timorese people, should be considered. Indonesia disagreed, and Fretilin boycotted the summit, while UDT did not send its chair. Consequently, the summit was unsuccessful (Feijó and Pereira, 2023).

De facto, a year before the Macau summit, Indonesia had already reached out to the USA in July 1974. Henry Alfred Kissinger, the Secretary of State and National Security Advisor of the USA, and Suharto, the President of Indonesia, had confirmed that Indonesia could play a more active role in stabilising Southeast Asia by suppressing communism in the region. Furthermore, US-Indonesia relations remained smooth from 1966 to 1974 (Southgate, 2019, pp. 35-37).

In summary, the international environment was unfavourable for Timor-Leste. Portugal,

¹⁸ BBC news reports that 'General Suharto led bloody anti-communist purges in which hundreds of thousands of suspected leftists were killed' ('Indonesia discusses massacres that killed 500,000', 2016).

though formally committed to decolonisation and development, entered the Cold War era ill-prepared. The United States was more concerned with containing communism than supporting Timorese self-determination. Indonesia, in turn, capitalised on this Cold War logic, securing implicit backing from the United States for its intervention.

2-4-2. Indonesia Regime's Land Governance in Timor-Leste

As the two principal Timorese political parties fractured and Cold War tensions shaped the region, Indonesia invaded on 7 December 1975, ushering in a 25-year occupation. One of its key strategies to control Timor-Leste was the introduction of land institutions. Land governance during this period can be divided into three distinct phases: the emergency period (1976–1981), the consolidation period (1982–1989), and the stabilisation period (1990–1999). These phases are examined in detail below.¹⁹

2-4-2-(A). Emergency Period from 1976 to 1981

On 7 December 1975, the Indonesian army effectively and swiftly intervened in Timor-Leste, and it 'was declared the 27th province of Indonesia on 17 July 1976 despite the UN Security Council's unanimous vote for Indonesia to stop its invasion and to withdraw immediately from Timor-Leste's borders' (The Embassy of Timor-Leste in USA, 2024).

The Indonesian military operation of 1975–1976 successfully 'asserted control over most of the townships and main arterial road networks'. However, the regime soon encountered enormous resistance. What it failed to anticipate in its initial plan was 'the Fretilin resistance, well-equipped with new European weaponry abandoned by the Portuguese military'. As a result, approximately '80 per cent of East Timor still remained outside the control of Indonesian forces' (Fitzpatrick, D., McWilliam, A., and Susana, B., 2016, p. 40).

To eliminate this resistance, the Indonesian military launched a strategy in 1977 of 'forced resettlement of villages and destruction of food crops' (Fitzpatrick, 2001, p. 146). By 1978, the regime had established 'many camps', each 'typically restricted to a radius of 300

¹⁹ This categorisation is based on the analysis of a long-experienced Timorese official who is well-versed with land institutions (Fitzpatrick, D., McWilliam, A., and Susana, B., 2016, p. 229).

meters'. These cramped conditions limited food cultivation and gathering, prompting many survivors to describe them as 'concentration camps'. The camps served both to monitor 'the surrendered population' and to sever their ties with Fretilin and its military wing, Falintil. Conditions were dire: Catholic Relief Services (CRS) estimated in 1979 that 'over half the population' was detained in nearly 200 camps (Walsh, 1980, p. 20). During this period, between '200,000 and 350,000 East Timorese died' (Fitzpatrick, 2001, p. 146). In general, 'the camps were sites of great crowding, suffering and deprivation' (Fitzpatrick et al., 2016, p. 40).

By late 1979, Indonesia finally permitted the International Committee of the Red Cross (ICRC) and CRS to conduct emergency relief operations. The ICRC provided aid to 60,000 individuals across eight centres, distributing 4,200 tons of food, 60,000 blankets, hygiene items, and medicine over six months. Meanwhile, CRS supplied food to 240,000 malnourished people in 150 resettlement sites and surrounding areas. Nevertheless, CRS faced criticism, as the US government—its main donor—was also a supplier of military weapons to Indonesia (Walsh, 1980, pp. 16–21).

This resettlement policy substantially altered settlement patterns in Timor-Leste. Traditionally, Timorese communities lived in small hamlets dispersed throughout the 'mountains', but under the scheme they were compelled to relocate to roadside settlements, often concentrated along the 'coast', so as to permit closer surveillance (Fitzpatrick and Barnes, 2010). Furthermore, under martial law, through the SKEP 40 decree (surat keputusan panglima), the Indonesian military 'simply appropriated as much land as possible' with 'no compensation' and 'no attempt to identify local landowners' (Fitzpatrick et al., 2016, p. 229). By 1982, 'the Indonesian military were in complete control' (ibid., p. 229), marking the end of the emergency period. Thereafter, the Indonesian regime shifted its focus toward bureaucratic control.

2-4-2-(B). Consolidation Period from 1982 to 1989

After the invasion on 7 December 1975, Timor-Leste was officially integrated into Indonesia under Law No. 7 of 1976, which 'purported to import all Indonesian law, including the Basic Agrarian Law (BAL) and its accompanying regulations as from 16 July 1976' (Fitzpatrick, 2001, p. 145). However, the Indonesian regime relied primarily on military power to subdue the Timorese population until around 1982, delaying the practical application of the BAL.

From 1980 onwards, military-controlled land governance was gradually replaced by the Indonesian National Land Agency (Badan Pertanahan Nasional, BPN), which implemented the BAL and other related legislation in Timor-Leste (Almeida, 2020, p. 65). The BAL itself had emerged from Indonesia's post-colonial context. Under Dutch rule (1670–1900), Indonesia experienced a 'dualistic' legal system, whereby Indonesians were governed by customary law while the Dutch were subject to statutory law.

Following independence in 1949, the Indonesian government sought to abolish this legal pluralism, viewing it as an impediment to national unity and development (Fitzpatrick, 1997, p. 172). The BAL was thus conceived as a unified framework to replace colonial legal fragmentation, combining statutory law with selective recognition of customary principles (Hidayanti, Koswara, and Gunawan, 2021). However, Setyawan and Israhadi (2021) highlight how Indonesia's development priorities eroded customary land rights in Tidung and Dayak Lundayeh communities, weakening traditional mechanisms for resolving land disputes and intensifying local conflicts. In short, while the BAL aimed to harmonise customary and statutory law, in practice it *subordinated customary rights* to state-led economic development.

As resistance in Timor-Leste diminished, the Indonesian regime began applying the BAL system in 1980. Although Article 16 of the BAL recognised seven types of land rights²⁰, only three were used in Timor-Leste: permanent ownership rights (the *hak milik*), temporary usage rights (the *hak pakai*), and long-term building rights (the *hak guna bangunan*) (Fitzpatrick et al., 2016, p. 203). These legal rights were not actually grounded in the rule of law. Only Timorese individuals with money, power, or connections could obtain ownership rights, known as the *hak milik* (Almeida, 2020, p. 65).²¹ And, the *hak pakai* and *hak guna bangunan* were widely issued, thus allowing the Indonesian regime to impose time limits and retain control over land (Fitzpatrick, 2002a, p. 97).

The BPN (Badan Pertanahan Nasional: the Indonesian National Land Agency) was the key implementing organisation enforcing the BAL in Timor-Leste during the 1980s. Initially

²⁰ 1) the right of ownership (*hak milik*); 2) the right of exploitation (*hak guna usaha*); 3) the right of building (*hak guna bangunan*); 4) the right of use (*hak pakai*); 5) the right of lease (*hak sewa*); 6) the right of opening-up land (*hak membuka tanah*); and 7) the right of collecting forest product (*hak memungut hasil hutan*).

²¹ Almeida's interview data corresponds with my fieldwork conducted from January to July 2023 in Timor-Leste. During this period, I encountered a claimant who holds the *hak milik*. He stated that he managed to obtain it during the Indonesian occupation era while serving as a soldier in the Indonesian military.

operating from a small office, it eventually expanded into a full provincial office as Indonesia's 27th provincial land agency (Almeida, 2020, p. 65). Notably, the BPN served as the precursor to Timor-Leste's post-independence land agency, Directorate for Land and Property (DNTP), with many DNTP officials being former BPN staff (International Crisis Group, 2010, p. 4; Almeida, 2020, p. 188).²²

Thus, the *confrontational nature* of the BAL towards custom shaped land governance landscape during Indonesia's occupation, as it *de facto* subordinated customary rights to state-led economic development (Setyawan and Israhadi, 2021). In addition, since some former BPN employees now work as DNTP officials, the BAL's influence continues to this day.

2-4-2-(C). Stabilisation Period from 1990 to 1999

During the consolidation period, the Indonesian formal land institution, comprising the Basic Agrarian Law (BAL) and the Indonesian National Land Agency (BPN), were introduced in Timor-Leste. Various formal land titles, including the *hak milik*, *hak pakai*, and *hak guna bangunan*, began to be issued. Since 1990, despite some controversy, such as claims of unfairness, compensation was provided as the Indonesian regime implemented public works (Fitzpatrick et al., 2016, pp. 229–230).

For more effective control, the Indonesian regime had to address the legacy left by the Portuguese regime, which issued approximately 3,000 formal land titles. The BAL lacks provisions to convert the Portuguese regime-issued land titles into Indonesian ones. Consequently, a new law was deemed necessary; thus, Government Regulation 18/1991 (the 1991 conversion law) was enacted and took effect in 1991 (Almeida, 2020, p. 65; Fitzpatrick, 2001, p. 151).

However, the 1991 conversion law often converted primary land rights into secondary land rights if the owners of the primary land rights were foreigners or foreign agencies. For example, it was often the case that the *propriedade perfeita* or land ownership rights issued during the Portuguese regime were not converted into the *hak milik* (permanent ownership rights), but rather into the *hak guna bangunan* (the right of building) or *hak guna usaha* (the

²² My fieldwork also supports Almeida's viewpoint and that of the International Crisis Group. When I interviewed DNTP officials, they often recounted cases from the Indonesian occupation era, suggesting that some of them were former BPN officials.

right of exploitation) (Lopes, 2008, p. 12). In short, this conversion law turned out to be contentious because of this 'weak conversion' (Almeida, 2020, p. 65; Fitzpatrick, 2002a, p. 94).

Moreover, the Indonesian Government Regulation 18/1991 and Law No. 5/1960 'automatically' converted Portuguese land rights, such as the *propriedade perfeita* and *aforamento*, into Indonesian land rights on 1 July 1991, without requiring registration or administrative action, thus causing 'cases of Indonesian titles being issued to third parties on a property that already had an owner according to Portuguese rights system (a "propriedade perfeita" holder), while such owner was absent' (Lopes, 2008, p. 13). All of the administrative procedures such as conversion were conducted by the BPN, the Indonesian National Land Agency (Almeida, 2020, p. 65).

To sum up, during this period, the Indonesian regime enacted another law aimed at weakening the legacy of the Portuguese regime, thereby attempting to stabilise their presence in Timor-Leste. Throughout this era, many Timorese also began to serve as civil servants in the Indonesian administration (Fitzpatrick et al., 2016, pp. 229).

2-4-3. Sub-conclusion: Indonesia's Occupation and Customary Land Disruption

In 1975, internal divisions and external pressures prevented Timor-Leste from sustaining independence, ushering in the era of Indonesian rule. Indonesia initially imposed military control before shifting to administrative governance to consolidate authority. During this period, Timorese customary land institutions were 'challenged' by 'mass displacement', 'resettlement programs', and ultimately 'Indonesian land law' (Fitzpatrick et al., 2016, p. 225). These formal institutions subjected customary systems to a deep and systematic confrontation, substantially reshaping the Timorese customary land governance.

2-5. The United Nations Transitional Administration in East Timor Era (1999 to 2002)

This section has two parts: first, it explores the formation and operation of UNTAET, explaining Indonesia's withdrawal from Timor-Leste and the reasons the Timorese were unable to regain control of their land. Second, it analyses UNTAET's liberal peace nation-building efforts, focusing on the establishment of formal land institutions.

2-5-1. The Birth of UNTAET

In 1999, mounting pressure over Timorese independence forced Indonesia to withdraw, but immediate sovereignty again eluded the Timorese as control shifted to the United Nations. Despite its brevity, 1999 was a decisive year in Timor-Leste's history. This section examines the historical context leading to the referendum in which most Timorese voted for independence, the ensuing crisis sparked by pro-Indonesian militias, and the subsequent intervention of an Australia-led peacekeeping mission followed by a United Nations liberal peace nation-building initiative.

2-5-1-(A). On the Way to 1999 Referendum.

'In his first ever interview [conducted in June 1999 in Jakarta] with foreign media (CNN) after his appointment, Habibie [Indonesia's new President, the immediate successor of Suharto] surprised many by announcing a policy shift on East Timor [Timor-Leste], promising to grant a broad autonomy package to the province' (Babo-Soares, 2003, p. 60). What prompted the new president to shift Indonesia's policy toward Timor-Leste, and how was this pledge implemented? Understanding the 1999 referendum, which granted the Timorese the opportunity to determine their separation from Indonesia, necessitates a multidimensional historical analysis.

First, following student demonstrations in Indonesia, Habibie initiated political reforms, including addressing the Timorese independence issue. This move aimed to 'improve Indonesia's image abroad' (Babo-Soares, 2003, p. 60) and possibly distance himself from the legacy of the 'former dictator Soeharto [Suharto]' (ibid., p. 57). As a new leader, Habibie's behaviours could have been influenced by his own personal ambitions.

Second, since 1975, when the UN first called for an immediate cessation of hostilities and withdrawal of all forces from Timor-Leste (UN Security Council Resolution 384, 1975), it *consistently* denounced Indonesia's actions by: advocating for the recognition of the Timorese people's right to self-determination (UN Security Council Resolution 389, 1976); reiterating the demand for Indonesia's withdrawal and acknowledging the Timorese people's entitlement to self-determination (UN General Assembly Resolution 36/50, 1981); reaffirming the Timorese right to self-determination and urging Indonesia to withdraw (UN General Assembly Resolution 37/7, 1982); expressing concern about the situation in Timor-Leste and calling for

Indonesia to respect the human rights of the Timorese people (UN Security Council Resolution 50, 1983); and reiterating the call for Indonesia to withdraw and recognising the Timorese right to self-determination (UN General Assembly Resolution 38/58, 1983).

Third, individual states and prominent international figures also responded to Indonesia's human rights abuses. In 1991, Indonesian soldiers opened fire on peaceful Timorese demonstrators in Dili's Santa Cruz cemetery, killing more than 250 people—an event now known as the 1991 Santa Cruz Massacre (BBC, 2023b). British journalist Max Stahl documented the massacre, and his footage was later broadcast in the documentary *Cold Blood – The Massacre of East Timor* (1992), raising global awareness (British Universities Film & Video Council, 1992). Resistance leader Xanana Gusmão, particularly after his 1992 imprisonment, received visits from figures such as U.S. official Stanley Roth and Nelson Mandela. In addition, former Portuguese colonies criticised Indonesia's role in the Non-Aligned Movement (Babo-Soares, 2003, p. 60; Lloyd, 2003, p. 78).

Fourth, Asia became entangled in a financial crisis starting from Thailand, spreading to Malaysia, the Philippines, South Korea, and others. Indonesia was no exception (Federal Reserve History, 2013). In this context, 'arguably the autonomy concession was, in a sense, a trade-off for much needed IMF restructuring loans' (Lloyd, 2003, p. 79).

At last, Habibie's commitment was realised on 30 August 1999, driven by factors ranging from his personal motivations to the influence of the IMF-led international financial system. However, few predicted the imminent emergence of numerous militia groups in Timor-Leste.

2-5-1-(B). The Issue of Militia

On 3 September 1999 in New York, 'He [Kofi Annan] told [the UN Security] Council members that the East Timorese, turning out in massive numbers for the vote [on 30 August 1999], had expressed their will as to the Territory's future. The vote had resulted in 94,388 (21.5 per cent) in favour and 344,580 (78.5 per cent) against the proposed special autonomy [of Indonesia]' (Kofi Annan, 1999).

However, five days later, on 8 September 1999, the Washington Post had to publish gloomy news, stating that 'Indonesian soldiers and their allied militias in East Timor [Timor-Leste] pursued today what diplomats and others described as a "scorched-earth" policy in the provincial capital [Dili], blowing up bridges, looting abandoned houses, setting fire to

telecommunications facilities, hotels, the radio station and other sites, and leaving the city a smoldering ruin' (Richburg, 1999). Who were these militias, and where did they suddenly come from?

As shown above, up until 1999, Indonesian political leaders such as Habibie were preoccupied with 'the race to improve Indonesia's political image' (Babo-Soares, 2003, p. 60). However, this haste left the Indonesian armed forces not prepared to 'face a sudden change [such as orderly withdrawal from Timor-Leste]' (ibid., p. 61). Babo-Soares, however, argues that there was 'no ensuing action' by the Indonesian army due to the sudden change, thereby implying that the emergence of 'paramilitary groups' in Timor-Leste cannot be seen in a causal relationship (ibid., p. 61).

Similarly, Robinson (2001) rebuts the widespread belief among scholars that Timorese militias were meticulously organised by Indonesian security forces in 1999. Instead, he suggests that these militias have deep historical roots, originating from a time when local traditional leaders (the *liurai*) maintained their own private soldiers. This traditional practice was deemed beneficial by former regimes like the Portuguese and Japanese. In certain situations, where the regimes perceive these private soldier groups as useful subcontractors in addressing immediate security concerns, they could result in the creation of the militia groups. Moreover, he argues that individual Timorese experiences and backgrounds play a role; for instance, some individuals may have supported Indonesia due to personal losses suffered at the hands of the Fretilin, or the Timorese resistance party. These factors represent just a fraction of the complex web of influences contributing to the emergence of these militias.

The militia groups emerged in 1999, and they were numerous and widespread, neither small, sporadic, accidental, nor localised.²³ Additionally, their names such as 'Red and White' (reflecting the colours of the Indonesian flag), 'Integration', and 'Iron' signify their strong determination to remain part of Indonesia.

During this period, militia groups terrorised Timor-Leste, displacing 400,000 people internally and forcing 300,000 into West Timor as refugees (Fitzpatrick, 2002a, pp. 5–6). Their attacks on both Timorese civilians and UNAMET (United Nations Mission in East Timor,

²³ Babo-Soares (2003, p. 63) suggests that there were at least 14 militia groups across Timor-Leste, such as Oecussi, Liquiçá, Los Palos, Dili, and others.

established to organise and conduct the 1999 referendum in which the Timorese people decided between autonomy within Indonesia or independence) personnel prompted the Indonesian government to declare martial law on 7 September 1999, although it proved ineffective (Lloyd, 2003, p. 93). A subsequent UN Security Council mission to Jakarta and Dili (8–12 September) underscored the urgent humanitarian crisis, leading Indonesia's president to consent to the deployment of an international peacekeeping force (UN Security Council Resolution S/1999/976, 1999). This marked the onset of peacekeeping and peacebuilding efforts in Timor-Leste, examined in the next section.

2-5-1-(C). From Peacekeeping (Interfet) to Peacebuilding (UNTAET)

In response to the 1999 militia crisis, the UN Security Council agreed on 15 September 1999 that 'the multinational force should collectively be deployed in East Timor [Timor-Leste] until replaced as soon as possible by a United Nations peacekeeping operation' (UN Security Council Resolution S/RES/1264 – item no. 10, 1999), welcoming 'the letter²⁴ from the Minister for Foreign Affairs of Australia to the Secretary-General of 14 September 1999 (S/1999/975)'.

Therefore, the government of Australia led the multinational peacekeeping force (International Force East Timor: Interfet), which began deploying on 20 September 1999 (Reliefweb, 1999). Interfet is the UN-endorsed multinational peacekeeping force consisting of Australia, Brazil, Canada, Denmark, Egypt, Fiji, France, Germany, Ireland, Italy, Jordan, Kenya, Malaysia, New Zealand, Norway, Philippines, Portugal, Singapore, South Korea, Thailand, United Kingdom, and United States (Australian Government, 2019).

Since its inception, with a successful record of peacekeeping efforts, 'the Australian-led international military force in East Timor, Interfet, has ended its five-month peacekeeping operation in the former Indonesian territory – leaving it safe but in ruins' (BBC, 2000). On 23 February 2000, as stipulated in the UN resolution S/RES/1264 saying 'until replaced as soon as possible by a United Nations peacekeeping operation' and when UNTAET achieved full deployment²⁵, operational control of military endeavours shifted from Interfet to the United

²⁴ In this letter, it is written that 'Australia would be willing to accept the leadership of the multinational force. As the Prime Minister [of Australia] has already informed you [Kofi Annan], we are also prepared to make a substantial contribution to the force itself' (ibid., 1999).

²⁵ The mission of the UN Transitional Administration in East Timor (UNTAET) commenced on 25 October

Nations Peacekeeping Force (UN Peacekeeping News, 2000).

Until the Timorese eventually attained independence and joined the United Nations as its 191st member in 2002, self-governance was still not possible. Timor-Leste thus entered the phase of post-conflict peacebuilding, which was conducted by UNTAET from 1999 to 2002.

2-5-2. UNTAET's Liberal Peace Mission and Land Governance

On 25 October 1999, the United Nations Transitional Administration in East Timor (UNTAET) commenced its mandate, which concluded on 20 May 2002 with the formal (re)declaration²⁶ of Timor-Leste's independence. During this transitional period, UNTAET undertook extensive peacebuilding efforts. This section first examines the experimental nature of UNTAET's governance framework, followed by an analysis of its land governance reform initiatives.

2-5-2-(A). Experimental UNTAET mission

In the early 1990s, the UN's peacekeeping operations faced enormous global criticism following perceived failures in Somalia and Rwanda. These failures prompted the UN to identify ways for improvement, leading to a significant expansion in both the 'size' and 'scope' of peacekeeping operations, and during this time, the UN was establishing an interim administration in Timor-Leste (Cutillo, 2006, pp. 2–3). UNTAET, from its inception, was inherently experimental within this context.

We can see the experimental nature of UNTAET by contrasting its mandates with those of other past UN missions. On the one hand, the UNTAET mandates are: to provide security and maintain law and order throughout the territory of East Timor; to establish an effective administration; to assist in the development of civil and social services; to ensure the coordination and delivery of humanitarian assistance, rehabilitation and development assistance; to support capacity-building for self-government (UNTAET, 2001).

On the other hand, the mandates of previous missions in Somalia (United Nations Operation in Somalia 1992-93), Rwanda (United Nations Assistance Mission for Rwanda 1993-

1999 (UN, 2001), and it required several months to achieve full establishment, thereby replacing the Interfet's peacekeeping function.

²⁶ It is important to note that Timor-Leste commemorates 28 November 1975, the day of Fretilin's declaration of independence, as its Independence Day.

1996), Mozambique (United Nations Operation in Mozambique 1992-94), among others, rarely aimed to establish 'effective administration'. Instead, their primary focus typically lay on security and humanitarian assistance (UNOSOM, 2006; UNAMIR, 2005; ONUMOZ, 2004).

In short, unlike previous missions, UNTAET combined peacekeeping with peacebuilding. Scholars describe this approach as 'liberal peace' mission, which seeks to instill human rights, the rule of law, a market-oriented economy, and democracy in post-conflict societies through a structured, top-down strategy (Wallis, 2018; Paris, 2010; Mac Ginty, 2008). Among its institutional reforms, UNTAET's efforts in land governance are examined in the next section.

2-5-2-(B). UNTAET's Demanding Land Governance Reform

Goldstone (2004, p. 93) argues that land issues in post-conflict Timor-Leste were 'exceptionally complicated': first, three distinct legal systems (Indonesian, Portuguese, and traditional) competed for recognition; second, displacement affected nearly 90 percent of the population, with some internally displaced within Timor-Leste and others seeking refuge in West Timor, an Indonesian territory; and third, a resurgence of illegal occupations followed the effective Interfet peacekeeping mission.

Sergio Vieira de Mello, the UN Transitional Administrator at UNTAET, believed at that time that a formal land tenure system was important because it could attract economic investment, and so he 'tried to quickly resolve the problem [such as contradictory Portuguese and Indonesian land titles]' through 'UNTAET's Land and Property Unit [LPU]' (Gorjão, 2002, p. 327). The LPU was a main beneficiary of land governance projects, such as from the World Bank during the post-conflict peacebuilding era. For instance, the World Bank provided 'technical assistance to strengthen the service delivery of the United Nations' Transitional Administration in East Timor (UNTAET) Land and Property Unit (LPU) in land registration, cadastral survey and mapping, and land law by carrying out land and property rights studies' (World Bank, 2003).

However, LPU's land governance reform was neither based on the rule of law nor effective. First, according to Nigel Thomson (as cited in Almeida, 2020, p. 70), the LPU operated without a legal framework; instead, it functioned in an ad hoc manner, contradicting the principle of the rule of law. Liberal peace nation-building is often criticised due to 'the resulting gap between meaningful but rather abstract guidelines and their application on the

ground' (Cutillo, 2006, pp. 3–4).

Second, its attempts to reform land governance encountered 'strong opposition from the Timorese political elite', who argued that 'a subject as delicate as land rights should be left to a Timorese-elected government' (Almeida, 2021, p. 139).

Third, their three-year duty timeline was considered too short to effectively reform the land governance sector. In particular, the reform was not conducted on a blank slate; the Indonesian National Land Agency (Badan Pertanahan Nasional, BPN) operated throughout the 1980s and 1990s. Consequently, the three-year UNTAET LPU mission had an insufficient impact to eradicate the legacy of BPN's 20-year tenure (Almeida, 2020, p. 188).

Fourth, to make matters worse, when the nationwide militia groups rampaged through Timor-Leste from September to October 1999, they 'directly targeted land title offices and records', resulting in the destruction of 'approximately 80 percent of all underlying records of land in Dili', as well as outside Dili 'all land titles offices were completely burnt and destroyed'. Consequently, the LPU had to work without legitimate evidence, while dealing with fraudulent papers quite often (Fitzpatrick, 2002b, p. 8).

As a result, LPU's performance failed to meet acceptable standards. According to the World Bank evaluation report, some aspects were commended (2002, p. 31):

...Assigning of land use rights by the LPU has been an effective means of freeing up assets for productive use. The practice of delegating LPU land use decisions to District Administrators has expedited the process, and more than \$1 million has been raised through the sale of use rights on public and abandoned land this fiscal year...

However, the LPU was more frequently criticised as follows (ibid., p. 31):

...the average temporary lease is less than one year and investment by leaseholders is limited because of perceived risks to both parties in the current uncertain environment. Provisions for 20-year temporary use leases have not yet been implemented. Moreover, the LPU's authority extends only to public and abandoned land, while the large and growing body of land subject to private disputes is not covered. The land use sales are therefore only a temporary strategy and a more permanent solution is needed.

2-5-3. Sub-conclusion: Relying on Customary Practices in Liberal Peace Missions

In sum, UNTAET's top-down, liberal peace mission soon altered the trajectory of governance in Timor-Leste. The truth commission achieved relative success precisely because it drew upon customary practices that facilitated community-level reconciliation and restored social trust. By contrast, the LPU's technocratic and top-down approach—backed by actors such as the World Bank and championed by Sergio Vieira de Mello's vision of formal land tenure for attracting foreign investment—proved incapable of producing foundational change. These contrasts underscore a pressing need for concord between formal mechanisms and customary systems. The next section examines how independent Timor-Leste ultimately laid the foundation for concord between state and non-state systems in 2017.

2-6. The Era of Post-Independent Timor-Leste (2002-)

As a young nation, Timor-Leste has struggled to resolve complex land issues inherited from past regimes and the 1999 militia violence, while the 2006 crisis further destabilised governance. Over time, the legal framework was strengthened, culminating in the 2017 Land Law and the establishment of the Land and Property Commission (LPC). This marked a shift towards 'concord' between customary and state systems; however, land governance reform programmes (INR and SNC) introduced during the same period have the potential to undermine the nascent concord mindset.

2-6-1. The 2006 Crisis and its Impact on Land Governance

After gaining independence in 2002, Timor-Leste's state-building efforts were severely disrupted by the 2006 security crisis. Triggered by the dismissal of 594 soldiers alleging discrimination, the unrest escalated into violent clashes, leaving over 100 dead, displacing 150,000 people, and causing significant damage to infrastructure (OHCHR, 2006; Nautilus Institute, 2006; BBC, 2023b).

The 2006 crisis left deep and enduring consequences for Timor-Leste. Prime Minister Mari Alkatiri resigned on 26 June 2006, following mounting political pressure and accusations arising from the 2006 crisis (Kingsbury, 2007, p. 368), and in 2008 there were attempted assassinations of President Ramos-Horta and Prime Minister Xanana Gusmão (Scambary, 2009, p. 1). Among the most pressing issues was land governance, which was profoundly

affected by the crisis. The violence resulted in the loss of up to 38 lives and the destruction of 1,650 homes, while approximately 150,000 Timorese were displaced, many of whom sought refuge in government buildings, schools, churches, and makeshift camps. Dili became increasingly polarised and segregated, dotted with camps for internally displaced persons (IDPs), further deepening social divisions (van der Auweraert, 2012, pp. 16–19).

The UN's 2006 report identifies several direct causes of the crisis, all highlighting weaknesses in the rule of law. It describes fragile state institutions, including courts, police, and the army, which lacked independence and capacity. Security forces were highly politicised, with leaders prioritising personal or political interests over the enforcement of law. Legal procedures were routinely ignored, and no clear chain of command existed between the army and police. These structural failures allowed the situation to spiral into violence, with no reliable mechanisms for conflict prevention or de-escalation. In short, the UN concluded that the weak rule of law—not merely the dismissal of soldiers—was fundamental to understanding why the crisis escalated so severely (OHCHR, 2006).

In contrast, Trindade (2008) links the crisis to a deeper cultural disconnect between the modern state and Timorese society. He argues that post-independence state-building relied on imported political systems—democracy, elections, and human rights—without grounding them in local customs or community values. As a result, many Timorese viewed the state as unfamiliar or alien. Security institutions, such as the army and police, were seen as detached from society, while elected leaders lacked the spiritual legitimacy associated with traditional leaders. This disconnect fostered mistrust and social fragmentation, particularly among young people who sought identity and protection through martial arts groups. Trindade concludes that by ignoring local culture, the state was built 'on sand', lacking the foundation necessary to withstand political shocks.

Similarly, Kingsbury (2007) attributes the crisis to the absence of a social contract between the state and its citizens. He contends that state-building in Timor-Leste was excessively top-down and failed to incorporate customary authority, particularly the *lia na'in*. Ethnic, linguistic, and regional divisions—most notably the east–west divide—were insufficiently addressed in this state-building process. Consequently, the 2006 crisis exposed these underlying fractures, illustrating how fragile state institutions remained when detached

from the cultural and social structures of Timorese society.²⁷

Grenfell (2013) argues that both the rule of law and cultural factors matter, and treats them as ‘conflicting paradigms’. I would argue, however, that these dimensions are not inherently confrontational. The fragility of the rule of law—especially when tied to the marginalisation of customary practices—can be mitigated by fostering a ‘bendable’ space where liberal democratic principles and customary norms engage in dialogue. This concept of ‘bendability’, developed further in the literature review (Chapter Three), is central to effective land governance in Timor-Leste. The following sections examine two contrasting approaches: legal frameworks characterised by greater bendability (the 2017 Land Law and the LPC) and rule of law land governance programmes characterised by lesser bendability (the INR and SNC initiatives).

2-6-2. Law No. 13/2017 and LPC as a Turning Point in Land Governance Reform

This section explains the context of Law No. 13/2017. To appreciate its significance, it is necessary to understand the legal framework it sought to reform. Prior to its enactment, Timor-Leste’s formal legal framework, such as Law No. 1/2003, Law No. 10/2011, and others, was characterised by fragmentation, legal uncertainty, and limited recognition of customary and informal rights, which are widely relied upon in rural areas (Almeida, 2022, pp. 134–158). This section therefore analyses the weaknesses of the pre-2017 framework and how Law No. 13/2017 was designed to address them. Furthermore, the Law establishes the Land and Property Commission (LPC), the *first-ever* formally mandated institution to resolve land disputes—primarily those concerning original ownership—amid the persistent under-resourcing of formal dispute resolution mechanisms. The LPC will also be thus examined in this context.

2-6-2-(A). Structural Weaknesses of the Pre-2017 Legal Framework

Since achieving independence in 2002, Timor-Leste has embarked on land legislations as follows (Almeida, 2020, p. 156):

²⁷ Although the 2006 crisis scarred Timorese society, Wallis and Neves (2021, pp. 21–22) argue that political stability and democracy remain resilient, with enduring institutions, high voter turnout, and stronger local governance through *sucos* enhancing citizen engagement and signalling democratic consolidation.

- Law 1/2003 – Juridical Regime of Real Estate – Part I: Ownership over real estate;
- Decree-Law 19/2004 – Lease of State Property;
- Law 12/2005 – Juridical Regime of Real Estate – Part II: Leasing between Individuals;
- Decree-Law 6/2011 – Compensation for Eviction of State Property;
- Decree-Law 27/2011 – Ownership of Real Estate in Undisputed Cases;
- Ministerial Decree 16/2011 – Cadastral Survey;
- Ministerial Decree 23/2011;
- Law 10/2011 – Civil Code;
- Ministerial Decree 45/2016 – Cadastral Survey;
- Ministerial Decree 46/2016 – National Property Cadastre;
- Law 8/2017 – Expropriation Law;
- Law 13/2017 – Special Regime for the Determination of Ownership of Immovable Property

The legal framework governing land in Timor-Leste prior to 2017 was marked by deep structural deficiencies that undermined tenure security and equitable access to land in five key ways.

First, the system was characterised by normative fragmentation, as laws from the Portuguese colonial era, the Indonesian occupation, and the UNTAET transitional administration coexisted without harmonisation or a coherent legal hierarchy (Almeida, 2022, p. 134). This fragmentation led to ambiguity, particularly in the recognition of customary rights. For example, customary land rights were largely unrecognised under Law No. 1/2003. When acknowledged several years later (Law No. 10/2011), only a single provision (Article 1325) was included, rendering it largely inaccessible to both citizens and even legal practitioners (*ibid.*, p. 139).

Second, the eviction process was highly inhumane. Law No. 1/2003 provided no procedural safeguards—such as notice, compensation, or access to justice—for those occupying land outside the formal legal framework. Even judicial appeal was not available. Several years later, when Decree-Law No. 6/2011 attempted to rectify these inhumane provisions, it ultimately failed due to the absence of a subsequent regulatory framework. Consequently, it has been described as a ‘harsh eviction process’ (*ibid.*, p. 151).

Third, these legal weaknesses were further exacerbated by procedural dysfunction, which significantly impeded implementation. For instance, Law No. 1/2003, which aimed to facilitate land claims, failed to establish a definitive outcome and depended on follow-up legislation that was never enacted (*ibid.*, p. 145). Decree-Law No. 27/2011 later attempted to remedy some of these shortcomings; however, by the end, ‘the necessary legal framework for formalising transactions of registered land parcels was drafted but never approved’ (*ibid.*, p. 148).

Fourth, the system disproportionately excluded vulnerable groups—particularly women, rural communities, and those reliant on customary tenure—who were systematically denied legal recognition or avenues to assert their claims. For instance, Decree-Law No. 27/2011, which outlines procedures for land claims, was formulated solely for application in urban areas, with limited applicability to rural regions characterised by customary land tenure systems (*ibid.*, pp. 147–148).

Finally, the pre-2017 legal framework failed to address the historical injustices of land dispossession. It lacked mechanisms to resolve claims from displacement or confiscation during Portuguese and Indonesian rule and provided no process for restitution. Consequently, many grievances remained unresolved, perpetuating overlapping claims and deepening legal uncertainty across the country (*ibid.*, pp. 140–143). Taken together, these failures have left deep inequalities in Timor-Leste’s land governance system that remain unresolved.

2-6-2-(B). Responding to the Gaps: Law No. 13/2017

In response to these challenges, Law No. 13/2017—the Special Regime for the Definition of Ownership of Immovable Property (the 2017 Land Law)—was enacted and is considered a significant turning point in Timorese land governance. Crucially, the law explicitly recognises both formal and informal land rights, thereby acknowledging the legal pluralism embedded within Timorese society as a positive pathway—rather than treating customary land norms as obstacles to development, as if they were expected to vanish over time.

This recent shift reflects a global trend in how legal pluralism should be understood within scholarly and practitioner domains (Lund, 2012; Merry, 2012; Tamanaha, 2012; Woodman, 2012). As briefly introduced in Chapter One and explored further in the theory chapter (Chapter Three), international development agencies (IDAs) have historically viewed

non-state legal systems as impediments to development (Twining, 2012). However, this perspective has begun to shift; increasingly, well-coordinated interactions between state and non-state legal orders are regarded as more conducive to sustainable development outcomes (Sulistiawati, 2019; Jayasuriya, 2012). Against this backdrop, a closer examination of the content, legal framework, and institutional processes embedded within Law No. 13/2017 is fully justified.

First, I analyse the content of Law No. 13/2017 in terms of its substantive provisions—what the law defines, guarantees, and regulates with regard to land rights. It acknowledges a wide spectrum of entitlements, encompassing both formal rights (e.g., the *aforamento* under the Portuguese regime and the *hak milik* under the Indonesian regime) and informal rights derived from customary practice and long-term possession (Articles 2 and 3). Notably, the law introduces the category of special adverse possession, permitting individuals who have peacefully and publicly occupied land since before 31 December 1998 to formalise their claims (Article 22). It also provides protection for community ownership through the legal recognition of ‘Community Protection Zones’, designated for collective use in subsistence, cultural, and environmental contexts (Articles 24–29). Additional clauses affirm gender equality in land ownership (Article 4) and mandate protections for vulnerable groups (Article 5), signalling a broader commitment to inclusive and equitable land governance.

Second, I analyse the legal framework established by Law No. 13/2017 in terms of the overarching structure of human rights-friendly provisions. In particular, Article 77(2) states:

Evictions must be achieved under conditions that guarantee the dignity of human beings, the rights and safety of persons affected by it, as well as with respect for the principles of proportionality, appropriateness and non-discrimination.

The law also lays out conditions for the reversion of land to the state, guidelines for compensating dispossessed individuals, and mechanisms for resolving conflicting claims (such as Articles 1–3, 48, and others). Furthermore, it clearly distinguishes between land ownership rights and usage rights (Article 3), thereby establishing a hierarchy for resolving disputes. Collectively, these provisions constitute a coherent and modern legal structure that reconciles colonial legacies, customary law, and international human rights standards. As stated in its

preamble, the law seeks alignment with international legal instruments such as the Universal Declaration of Human Rights (UDHR), the International Covenant on Economic, Social and Cultural Rights (ICESC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW).

Third, I analyse the institutional processes set out in Law No. 13/2017, focusing on the processes for claiming land rights and resolving land disputes. The former is undertaken through the systematic cadastral survey and the creation of a National Property Register (Articles 30–36).

The latter provides for the availability of ‘several forums’; Article 40(2) states:

Disputed cases that are not able to be settled by negotiation between the parties, by mediation or other forms of agreement, shall be resolved by administrative decision on the basis of the regime provided in this present law or by judicial decision.

The first part of the article acknowledges alternative dispute resolution (ADR) mechanisms, such as negotiation and mediation, as available forums. The second part refers to binding ‘administrative decisions’ made by the LPC and stipulates that any such decision ‘is open to judicial challenge, with the effect of its suspension, to be made within 60 days of its notification’ (Article 66). In so doing, the 2017 Land Law establishes a legal foundation for the comprehensive resolution of complex issues that not only acknowledges legal pluralism as a positive pathway but also reinforces the rule of law.

Here, in particular, I focus on the importance of the Land and Property Commission (LPC). From 2002, for nearly two decades, there was no formally mandated institution to resolve land disputes. The LPC, established under Land Law No. 13/2017, is thus the *first* such institution, thereby providing a clear rationale for examining it. The following section therefore undertakes this analysis.

2-6-2-(C). The Land and Property Commission: A New Avenue for Land Governance

The Land and Property Commission (LPC) was established under Articles 56–66 of Law No. 13/2017 as an independent administrative body. Its principal function, in accordance with Article 56(1), is ‘the appreciation of disputed cases in the process of recognition and

attribution of first rights of ownership and other competencies attributed by law’.

On the one hand, the LPC seeks to uphold the rule of law in its administrative decision-making in the following ways. It is composed of six jurists, appointed by the Prime Minister on the recommendation of the Minister of Justice, together with three technical specialists in land and property, nominated by the Minister of Justice on the advice of the National Directorate for Land, Property, and Cadastral Services (DNTPSC) (Art. 57). The Minister of Justice also appoints the President of the Commission. Article 57(3) stipulates that members of the LPC ‘must be selected from among persons of recognised good reputation and moral and ethical integrity, in order to ensure that the exercise of their functions is performed with impartiality, integrity, competence, commitment, and accountability’. This carefully *concerted* composition seems to safeguard the rule of law: legal principles may be ensured by jurists; data produced by technical specialists may serve as objective evidence; and the good reputation of members may reinforce confidence that their proceedings are conducted ‘with impartiality, integrity, competence, commitment, and accountability’ (Art. 57(3)).

On the other hand, the LPC also appears to take local context into account. Article 60 provides that the LPC must ‘consult with local and community authorities’. This context-sensitive approach is particularly important because, as will be demonstrated in the empirical chapters, local and community authorities—such as the *suco* chief, *aldeia* chief, and others—possess detailed knowledge of local history, including land disputes. This provision thus indirectly enables the incorporation of local and customary knowledge into the Commission’s administrative decisions. As such, the LPC has the potential to create a positive and practical hybrid pathway in Timor-Leste, where plural legal orders prevail.

Although its institutional design appears to be well anchored in the needs of Timorese society, which is currently grappling with the realities of plural legal orders, my fieldwork in 2023 revealed several practical challenges that may limit its effectiveness. First, there is the issue of delayed implementation: the Commission only became operational in 2022, five years after its legal creation in 2017, which has slowed its potential impact. Second, the low case volume raises important questions about outreach, with only a handful of cases recorded in Dili and Ainaro. This suggests that public promotion may not have been sufficient to ensure broader community engagement. Third, concerns about impartiality have emerged. Although the Commission was designed to uphold the rule of law, an interviewee in Ainaro reported

that the first case in Ainaro district brought before the LPC was perceived as biased (interview, 17 March 2023). For now, it is premature to evaluate whether the LPC is on the right trajectory, as only a handful of cases have been recorded; more systematic and rich data are required.

In sum, the establishment of the LPC represents an important step in the state's broader effort to create concord mood between state and non-state legal orders. It seeks both to strengthen the rule of law, which remains notably weak in Timor-Leste (Almeida, 2022, pp. 82–85), and to serve as a constructive mechanism within its plural legal landscape, where state law coexists with deeply embedded customary norms. The search for harmonised pathways is normatively desirable (Sulistiawati, 2019; Jayasuriya, 2012) as it moves beyond the outdated paradigm that marginalises customary practices and regards state law as the sole avenue to justice (Twining, 2012). Nonetheless, further empirical research will be required to assess whether the LPC's promising potential can, in practice, be fully realised.

2-6-2-(D). Sub-conclusion: Toward Inclusive and Pluralist Land Governance

Law No. 13/2017 marks a decisive shift in Timor-Leste's land governance. It replaces a fragmented, exclusionary framework with a coherent system that recognises both formal and customary rights, introduces safeguards against forced evictions, and establishes the Land and Property Commission. By integrating customary norms and human rights standards with clear mechanisms for dispute resolution, the law establishes a strong foundation for more equitable and inclusive land governance. While challenges in implementation persist, it nonetheless marks an important step in reshaping how the state engages with its citizens over land. The crucial question, however, is whether it will ultimately fulfil its intended objectives.

2-6-3. INR and SNC: Less Bendable Land Governance Programmes in Timor-Leste²⁸

While a more bendable legal framework was still under development, a less bendable approach was simultaneously taking shape through two major land governance programmes. The first initiative was the Ita Nia Rai (INR) project, a US\$10 million programme implemented by USAID between 2008 and 2012. The second was the Sistema Nacional de Cadastro (SNC),

²⁸ The two initiatives are explained in greater detail in section 3-2-1-(A) in terms of theory, international parallel cases, and the background and content of the two initiatives. Therefore, to avoid redundancy, I only provide a brief overview here.

a Timorese–Portuguese joint venture with a budget of US\$60 million, undertaken from 2014 to 2019 (Almeida, 2021b, p. 73). Although both initiatives were presented as significant steps towards strengthening land tenure, they frequently contravened fundamental legal principles and procedures, particularly in relation to the recognition of customary land rights. Moreover, their implementation was not fully aligned with the 2017 Land Law, particularly concerning the requirement for meaningful local consultation. By prioritising rapid implementation and development objectives over legal safeguards, these programmes created enduring risks of new land disputes and eroded trust in state-led governance mechanisms (Almeida, 2021b; Rede ba Rai, 2019; Rede ba Rai, 2013).

2-7. Conclusion: Towards More Equitable Land Governance

This chapter has shown that the history of land governance in Timor-Leste reflects a persistent confrontation between imposed legal frameworks and resilient customary systems. Successive regimes—the Portuguese, the Japanese, the Indonesian, and the United Nations—disrupted customary land governance by introducing formal land institutions that conflicted with local values, leaving a legacy of fragmentation and mistrust. Yet this history also demonstrates the enduring vitality of customary land institutions, which have continued to regulate social order and provide dispute resolution, particularly across rural communities. Post-independence reforms, culminating in Law No. 13/2017 and the establishment of the Land and Property Commission, signal a shift towards a more inclusive framework that recognises both formal and customary rights while embedding safeguards for equitable governance. However, ongoing rule of law programmes in land governance—notably the SNC initiative—risk undermining these efforts, highlighting tensions between international reform agendas and Timorese traditions.

This raises key questions: will this concordant trend translate into practice, or remain rhetorical? To what extent might the neo-liberal approach threaten it? How will uncertain legal pluralism shape land disputes, and how will actors navigate mechanisms of resolution under such conditions? Anchoring these empirical questions in the literature on legal pluralism provides a firm foundation for the analysis elaborated in the following chapter.

Chapter Three: Navigating Land Disputes and Hybrid Governance under Legal Pluralism

3-1. Introduction

This literature review chapter analyses the existing scholarship on land disputes and governance in developing countries and post-conflict contexts through the lens of legal pluralism. It begins by examining the implications of legal pluralism for land disputes. Legal pluralism, understood as the coexistence of state and non-state legal systems, is increasingly regarded as a subject best approached through ‘empirical’, descriptive inquiry rather than normative frameworks that dismiss non-state orders—such as customary land practices—as impediments to development (Twining, 2012; Davies, 2010; Tamanaha, 2007). Building on this perspective, this chapter identifies ‘empirical vantage points’ for analysing the dynamics of land disputes in Timor-Leste.

While recognised in legal studies (Sulistiawati, 2019; Jayasuriya, 2012; Tamanaha, 2012; Glenn, 2012; Twining, 2012), the dynamics between state and non-state legal orders have already gained traction in political science—although they have not yet been comprehensively explored—particularly within institutionalist research. From this point onward, I adopt an interdisciplinary approach, drawing on Helmke and Levitsky’s (2004) typology of formal–informal institutional relationships. This typology provides the key analytical frameworks employed in the empirical investigation of the relationships between the DNTP and *Suco* Councils.

Lastly, to evaluate whether improved coordination between formal and informal institutions in legally plural contexts can be genuinely effective, Ferguson’s (2020) theory of collective action problems (CAPs) is applied as a top-down analytical lens. At the same time, recognising that both top-down and bottom-up perspectives are equally important in legally plural societies (van Rooij, 2012), insights from the Alternative Dispute Resolution (ADR) literature are incorporated as a bottom-up analytical lens to assess perceived satisfaction with arbitration.

3-2. The Landscape of Land Disputes under Legal Pluralism

‘The State shall recognise and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law’

The Constitutional Law, Part I, Section 2-4

‘Informal rights of ownership, originating in customary law/rights and based on long-term possession, have the essential characteristics of property rights’

The 2017 Land Law, Chapter I, Article 2.-g)

As noted above, Timor-Leste is constituted as a legally pluralistic state.²⁹ While this may appear counterintuitive, particularly to those who conceive of state-centric law as the singular or dominant legal order, ‘legal pluralism’—or the coexistence of state and non-state law—is a common feature in many developing countries.³⁰

Although rooted in colonial histories, contemporary legal pluralism in development contexts is largely shaped by the incorporation of ‘international legal layers’ into plural legal settings—comprising customary, religious, clientelist, and other normative orders established during the colonial era. International legal layers here refer to rule of law programmes in land governance implemented by international development agencies, as well as the expansion of international human rights law through the state’s accession. Both have aimed to strengthen state-centric legal systems and promote universal values, with the intent of weakening non-state normative orders.

In practice, however, the introduction of international legal layers often falls short.

²⁹ It is important to note, however, that the drafters of Timor-Leste’s Constitution were strongly influenced by international human rights law, resulting in a document that largely reflects universal legal norms. As Grenfell (2013, pp. 183–213) observes, this emphasis was primarily aimed at securing what she terms ‘external legitimacy’—that is, aligning with the expectations of the international community. In practice, however, Timor-Leste exhibits a form of ‘strong’ legal pluralism, and the transition from a plural legal landscape to one that fully conforms to international legal standards presents significant challenges (ibid., p. 213).

³⁰ For example, the Constitution of the Solomon Islands, Chapter VII, Part I, Article 75(1), states: ‘Parliament shall make provision for the application of laws, including customary laws.’ Similar provisions exist in many countries, including Indonesia, Afghanistan, Pakistan, Brazil, and others.

Rather than consolidating legal authority, it frequently adds further layers of legal forums, making ‘forum shopping’—where disputing parties select legal or institutional venues perceived to be most advantageous—increasingly feasible and widespread. The following section examines the role of international legal layers, followed by an analysis of forum shopping dynamics.

3-2-1. International Legal Layers

3-2-1-(A). Rule of Law Programmes in Land Governance

▪ Background

At its most basic level, the rule of law is understood to mean that ‘government officials and citizens are bound by and abide by the law’ (Tamanaha, 2012, p. 36). This principle appears to resonate within the development industry, as Twining (2012) notes that international development agencies (IDAs) have long regarded situations of legal pluralism—where state and non-state laws coexist without the former being clearly dominant—as obstacles to the rule of law. As Glenn (2012, p. 99) observes, the prescriptions found in rule of law programmes in land governance are deeply rooted in Western legal traditions, particularly in their emphasis on individual land rights and state-recognised tenure. These two components are regarded as fundamental preconditions for development within the Washington Consensus-oriented development community (de Soto, 2011).

This trend is not new; its origins date back to the colonial period, when authorities aimed to formalise and individualise communal land rights as part of wider economic development strategies in their colonies (Atwood, 1990, p. 659). Although some legal reforms followed in the postcolonial period, the fundamental logic persisted and was subsequently reinforced through the promotion of rule of law programmes by influential institutions such as the World Bank (Daley and Hobley, 2005, p. 10). In particular, between the 1960s and 1980s, in response to stagnant economic growth in sub-Saharan Africa—where average annual growth rates hovered around 3.4 per cent, below the 4 to 5 per cent deemed necessary to meet basic needs—land reform emerged as a key strategy for improving production efficiency and promoting private enterprise (World Bank, 1989, pp. 1–15). Since then, the individual land

titling model has been widely promoted by international development agencies across the Global South (Ho and Spoor, 2006, p. 582). A critical question, however, is whether these governance programmes actually contribute to development in practice, as their policy prescriptions suggest.

▪ Key Mechanisms and Unexpected Outcomes in Land Reform

Through which mechanisms, then, is this rule of law approach thought to foster development? The dominant logic emphasises two key mechanisms: newly created access to financial credit and enhanced land tenure security. For the former, de Soto (2000a) argues that individually registered property within the state system can be used as ‘collateral’, thereby enabling smallholders to access credit from financial institutions. For the latter, Peters (2009, p. 1318) observes that under communal land tenure systems, the risk of dispossession by dominant groups discourages investment, whereas secure individual tenure can mitigate this risk, thereby incentivising landholders to invest in and enhance the value of their land.

Now, it examines whether their ‘live experiments’ have successfully achieved their intended outcomes. First, it examines whether land governance programmes facilitated access to financial credit, drawing on key case studies. There is some positive evidence. For example, de Soto (2000a) argues that such programmes enhanced access to credit in Lima, Peru, and Feder and Feeny (1991, p. 145) similarly argue that they were effective in Thailand. However, subsequent research has challenged these findings. Calderon (2004, p. 299) argues that in Lima only 1 per cent of titled households had *de facto* obtained a mortgage. In Thailand, Leonard and Ayutthaya (2003) found no clear correlation between land titling, investment, and access to credit (as cited in Toulmin, 2009, p. 15). Even where credit is sought, the absence of effective formal financial systems often prevents property titles from being accepted as collateral (Buckley and Kalarickal, 2004, p. 22). Moreover, in places where such systems do exist, widespread informal employment restricts access to credit because many individuals are unable to provide the proof of income required by formal lenders (*ibid.*, p. 22). Even if all requirements are met, land titling and registration projects can rarely succeed because ‘the existence of a document is one thing; its legal legitimacy is another’, and this mere documentation work lacks ‘publicity’ (Gauri, 2012, p. 224).

Second, it assesses whether land tenure security was achieved as a result of the

programme. Its impact was often modest; for example, De la O Campos et al. (2023) demonstrate that the land titling programme in Nicaragua between 2002 and 2020 led to an approximate 2.8% increase in landowners' perceptions of tenure security. Conversely, a significant body of literature indicates that land tenure security is generally not problematic under customary land tenure governance. For instance, case studies in Lesotho (Pule and Thabane, 2004) and rural Burkina Faso (Sawadogo and Stamm, 2000) indicate that local populations perceive their customary tenure as 'secure'.

As a consequence, the World Bank came to recognise both the limitations of the land governance programme and the value of customary institutions in securing land tenure rights (Deininger, 2003). This shift was finally reflected in the 2013 Land Governance Assessment Framework (LGAF), which included indicators on the legal recognition of customary and communal rights (World Bank, 2013). However, Chang (2009b, p. 478) characterises the World Bank's broader attempts to move away from the Washington Consensus—as exemplified by its land governance policy in developing countries, such as the LGAF—as a form of 'defensive window dressing'.

It is especially crucial to recognise that the true unexpected outcomes do not lie in the efficacy of the prescription itself, but rather in how the transition unfolds; disrupted transitions have been documented worldwide. For example, in Niger, Benjaminsen et al. (2009) describe how customary leaders exploited the transition process: the government had initially managed the registration themselves but soon realised their capacity was limited to processing the large number of applications nationwide. Consequently, the registration task was delegated to customary leaders³¹ at each local administration. These leaders then introduced registration fees that had not previously existed. Furthermore, registration was originally meant to occur once in a lifetime, but they made it an annual requirement, resulting in increased exploitation of the local population.

In addition, the exclusion of vulnerable populations from the transition process is frequently observed in Ghana (Ubink, 2018, pp. 938–946) and Cambodia (Adler et al., 2008).

³¹ These customary leaders, commonly known as chiefs, are often referred to as 'neo-customary' leaders (Mamdani, 1996). While they held customary roles before the colonial era as customary leaders, during colonial times they were co-opted by colonial authorities and assigned 'new functions' as pseudo-government officials.

Furthermore, this transition process has frequently failed to engage with the plural legal societies of local communities, resulting either in the addition of another layer to the already complex local legal systems—such as customary, religious, clientelist, and others (Benton, 2012; van Rooij, 2012)—or in inadequate recognition of communal land rights, which are widely acknowledged by local populations (Almeida, 2022; Rede ba Rai, 2019, 2013; Tamanaha, 2012).



Figure 2: Land Drawn by a Timorese National (Matadalan ba Rai – Haburas, 2010, p. 37)

In sum, with the normative view that a single, state-centric legal system is superior, incorporating two distinct layers into one system may have been overly ambitious from the outset. For example, in Timor-Leste, the existing layer—customary land governance—is described as integral to identity in spiritual, socio-political, and cultural contexts (Rede ba Rai, 2013, p. 16). In the image above, on the far left stands the *uma lulik* (a sacred house); to the right, there are three houses constructed using traditional materials. Additionally, three chickens are depicted, symbolising the means by which local people sustain their livelihoods. This type of customary land concept is widespread in rural Timor-Leste, where 97 per cent of surveyed areas are classified as such (Nixon, 2009, p. 3).

However, the other layer—the World Bank-style land reform programme—sets its

normative benchmark equation as follows: ' $R(k, t)$ '. This conceptual equation for measuring efficacy defines R as the rent generated at time t from land development using capital k (Miceli, Sirmans, and Turnbull, 2000, p. 372). Notably, the equation leaves no room for incorporating the spiritual, socio-political, or cultural values attached to land.

▪ Two Rule of Law Programmes in Land Governance in Contemporary Timor-Leste

Since gaining independence in 2002, the Timorese government, together with international agencies, has actively implemented rule of law programmes in land governance on three separate occasions. The first attempt, Law 1/2003, proved ineffective due to a lack of follow-up legislation and technical problems (Almeida, 2021b, p. 168). Subsequently, the Timorese government launched two major land registration projects: the USAID-funded Ita Nia Rai (INR) project (2008–2012, USD 10 million) and the *Sistema Nacional de Cadastro* (SNC), a joint venture between Timorese and Portuguese firms (2014–2019, USD 60 million) (Almeida, 2021b, p. 73).

A major challenge faced by INR was low public awareness; despite efforts to communicate its mission, 39% of surveyed individuals did not know what INR does (Rede ba Rai, 2013, pp. 60–61), limiting their understanding of land laws and rights. INR also deliberately avoided registering customary land (ibid., p. 6), which may cause problems since the 2017 land law explicitly recognises customary land ownership. Furthermore, although INR sought to tackle corruption and inefficiency in Timorese land governance, these problems persist due to the programme's early termination caused by project deadlines and budget constraints (ibid., p. 65).

SNC is a more significant scheme due to its scale, and therefore its impact is expected to be greater. Rede ba Rai (2019) warns that SNC increased the likelihood of errors, highlighting various issues such as the overlooking of customary land, limited efforts to disseminate public information, and a rushed approach favouring quantity over quality, among others. Almeida (2021b) also cautions that large-scale, compulsory titling programmes can be problematic if not carefully implemented, noting that the process has often lacked transparency, involved inadequate community engagement, and excluded customary landholders, particularly women and vulnerable groups.

This rushed approach by the SNC exemplifies what the legal pluralism literature critiques

as ‘Skip Straight to Weber’—a tendency to bypass the gradual, historically contingent processes through which state authority typically evolves, and instead impose the Weberian model of centralised, rule-based, rational-legal authority as an immediate, sole solution to development challenges such as legal pluralism in developing countries (Pritchett and Woolcock, 2004). The empirical vantage point here lies in assessing the potential fallout the SNC may have caused due to its ‘skipping’ pace and insufficient consideration of the social, cultural, and political dynamics of Timorese society. With the completion of the SNC in 2019, the year 2023 presents a timely opportunity to critically assess the influence of this international layer of land governance on Timorese society, while maintaining an impartial stance on its potential benefits and drawbacks.

3-2-1-(B). International Human Rights Law

▪ **International Human Rights Frameworks and the Need for ‘Bendability’**

International human rights law, grounded in universal principles such as non-discrimination and codified in instruments like the UDHR and CEDAW, aspires to transcend cultural and national boundaries (Hathaway, 2011; Freeman, 1995). Yet, in practice, these norms are often implemented in complex, legally plural settings—particularly in developing regions—where diverse legal traditions coexist and interact (Singh, 2019; Merry, 2006; Mutua, 2001).

Levitt and Merry (2009) argue that, in plural legal settings, international human rights law can better operate through ‘vernacularisation’—the process by which global human rights standards are adapted into culturally resonant forms. This process raises a question: Should international human rights law be flexible? Kinley (2012) argues that such ‘bendability’—the capacity of rights to adjust to socio-cultural and legal particularities—is not a flaw but a practical necessity. While rigid, standardised approaches may provoke local resistance, flexible interpretations allow rights to be advanced in ways that are seen as legitimate and effective within specific contexts.

Building on this perspective, the present review examines both the strengths and limitations of a ‘bendable’ approach to human rights, with a particular focus on land governance in Southeast Asia and the broader Global South.

▪ Empirical Cases Demonstrating Opportunity

When human rights norms are adapted to align with existing cultural frameworks, they are more likely to be accepted, internalised, and sustainably implemented. First, international human rights law can bend ‘within’ the customary system, rather than seeking to eradicate it. Claassens and Mnisi (2009), drawing on the case of rural women in South Africa, demonstrate that the bendability of international human rights law is not a dilution of its authority but a prerequisite for its effective localisation. These women—particularly widows—mobilised around land rights by engaging both constitutional guarantees and evolving interpretations of customary law. Supported by the 1996 Constitution’s commitment to gender equality and with the support of legal advocacy organisations, they began to make their voices heard. However, they did not reject patriarchal custom outright, but instead reframed it to reflect their longstanding historical roles in land use and inheritance. By appealing to everyday experience and communal memory, their claims served to bridge cultural norms and human rights principles.

Another important means of advancing human rights lies in the ‘empowerment’ of local actors who actively shape how international norms are interpreted and applied—a process that Levitt and Merry (2009) describe as ‘vernacularisation’. Their analysis, focusing primarily on India, demonstrates how women’s rights activists and NGOs adapt global human rights discourses to resonate with local languages and values. Rather than relying on externally imposed legal terminology, these actors draw upon constitutional protections, religious teachings, communal norms, and cultural traditions to render human rights claims more relevant and legitimate within local contexts. For instance, instead of articulating women’s rights in individualistic terms—which may appear foreign or Western—NGOs often reframe them through notions such as family harmony or honour. This capacity to recontextualise rights reveals the critical role of local agency in advancing human rights in plural legal and cultural settings.

Finally, if international human rights law bends towards ‘soft law’, it may offer a unique opportunity. Kramer et al. (2021) illustrate how the bendability of international human rights law—operating through the soft-law framework of the Voluntary Guidelines on the Responsible Governance of Tenure (VGGT)—can foster more inclusive and responsive governance. The Côte d’Ivoire case becomes instructive in this regard, demonstrating how

the flexible, non-binding nature of the VGGT allows human rights principles to be applied in politically ‘sensitive’, legally plural contexts. In the Cavally region, land conflicts arose when smallholder farmers were expelled from classified forests, highlighting failures in both formal enforcement mechanisms and customary dispute resolution. Rather than demanding rigid legal reform, a human rights-based approach—anchored in the VGGT—enabled national actors to reinterpret tenure rights in terms of livelihood, dignity, and participation. This created space for the Côte d’Ivoire’s National Human Rights Institution (NHRI) to engage in ‘dialogue’ and advocate for reforms grounded in international norms, without directly undermining local structures.

Thus far, this review has examined a few, key cases showing how bendable human rights law can create opportunities, and how the strategy of bendability can take diverse forms. However, as will be shown, when the degree of bendability is misjudged, significant challenges may arise.

▪ Empirical Cases Demonstrating Challenges

One of the principal concerns associated with the malleability of international human rights law is the risk of normative ‘dilution’—that is, the erosion of the moral and legal clarity that underpins the universality of human rights. Engle (2011) offers a particularly incisive illustration of this phenomenon in her critique of the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), which she describes as possessing a ‘fragile architecture’. Although the Declaration ostensibly affirms the principle of Indigenous self-determination, Engle argues that it does so within a broader human rights discourse that privileges individual civil and political rights at the expense of collective entitlements. This conceptual framing renders self-determination less transformative and more amenable to state acceptance, thereby facilitating selective interpretation and implementation. In consequence, states are positioned to circumvent substantive enforcement obligations, thereby undermining the Declaration’s normative coherence and legal efficacy. The resultant ambiguity, while strategically expedient, serves to dilute the universal and emancipatory potential of the rights the instrument seeks to enshrine. Engle’s analysis thus highlights the extent to which excessive interpretive flexibility within international legal instruments may not only accommodate the interests of states, but also compromise the normative integrity and

universality that international human rights frameworks are intended to uphold.

A second significant challenge lies in the risk of ‘elite capture and patriarchal backlash’, especially when rights are localised through customary frameworks. The analysis by Doss, Summerfield, and Tsikata (2014) highlights the risks inherent in the bendable application of human rights norms, particularly in the localisation of gender-equitable land rights in Sub-Saharan Africa. Although statutory reforms have increasingly recognised women’s rights to land, these reforms are frequently implemented through customary institutions that remain dominated by male elites. Rather than acting as neutral custodians of tradition, these actors often reinterpret custom in ways that preserve their authority and marginalise women. The result is a form of strategic adaptation, in which legal reforms are selectively invoked or resisted depending on how they align with existing power structures. This flexibility enables customary systems to accommodate the appearance of reform without altering the underlying dynamics of exclusion. Consequently, rights that are meant to be universally applicable become uneven in their meaning and effect, shaped by local politics and gendered hierarchies.

The issue of ‘legal ambiguity’ further complicates bendability in plural legal systems. The LAND-at-scale (LAS) programme, implemented in countries such as Uganda, Burundi, Chad, and others aimed to strengthen women’s land rights through locally adapted strategies aligned with international norms such as CEDAW. However, a detailed evaluation of its implementation in Mozambique revealed several challenges, including entrenched cultural norms, weak institutional capacity, and a disconnect between donor objectives and community realities. Although LAS embraced flexibility, the lack of clear implementation frameworks led to inconsistencies and contested interpretations (Blankert, 2023).

Lastly, flexibility without enforcement or institutional leverage ultimately enables exclusion to persist under the guise of localisation, as evidenced in Indonesia, where Siscawati (2017) documents the continued marginalisation of women under *adat* (customary) forest tenure systems. Although national legal reforms and international donor initiatives promoted inclusive land titling, male-dominated community leadership resisted implementation. Gender norms rooted in customary practices were not only maintained but actively reinforced. The Indonesian case illustrates that flexibility in adapting rights to local contexts is ineffective without robust enforcement mechanisms, institutional leverage, and gender-

sensitive leadership. In the absence of these safeguards, reform efforts are easily neutralised by cultural resistance, revealing a core vulnerability in the bendability of rights frameworks. Thus far, both opportunity and challenge cases have been reviewed. It is important to recognise that there are also mixed cases, which will be explored next.

▪ **Empirical Cases Demonstrating Mixed Results**

In addition to clear-cut examples of opportunities or challenges, some empirical studies reveal more ambiguous outcomes in the localisation of international human rights norms. These mixed cases illustrate the dual nature of bendability: while flexibility allows rights to be adapted in culturally resonant ways, the impact often remains uneven, partial, or conditional. Such cases are valuable in understanding the middle ground, where rights are neither wholly realised nor entirely obstructed. They highlight the importance of local agency and negotiation, but also underscore the need for robust institutional frameworks to sustain rights implementation in practice.

A study by Ho, Tanyag, and Scalise (2023) in Vietnam offers a clear example of this complexity. While Vietnamese state law formally mandates joint land titling for spouses, deeply embedded Confucian norms continue to shape household and community attitudes, often resulting in resistance to implementation. Despite the legal framework, the study found that the realisation of women's land rights was not automatic but required strategic, culturally sensitive negotiation. Women often employed non-confrontational strategies, framing their claims in terms of family unity rather than individual entitlement. The case is thus mixed in nature: the legal infrastructure enabled new possibilities, but its effectiveness depended on informal, context-sensitive strategies rather than institutional enforcement.

A similar pattern emerges in Blankert's (2023) evaluation of Mozambique's LAND-at-scale programme, which aimed to integrate gender equity within customary tenure systems through village-level mapping and rights-based training. The findings were similarly inconclusive: while some women successfully gained documented land rights, others faced contestation by male relatives invoking customary rules to undermine their claims. Although the programme introduced innovative tools for localisation, the outcomes varied significantly across communities. The study emphasises that local adaptation alone is insufficient when not accompanied by sustained legal and institutional reinforcement. This case, too, illustrates

that the opportunity created by flexible rights frameworks remains vulnerable to reversal or resistance in the absence of a coherent strategy for enforcement and long-term engagement.

▪ **Timor-Leste's Constitution and Customary Norms: Tensions over Gender Equality**

Timor-Leste's Constitution establishes a formal commitment to gender equality.³² However, in practice—particularly in land governance and inheritance—customary norms continue to prevail, often privileging patrilineal succession and favouring the eldest son (Cryan, 2015, p. 4). Furthermore, it has been argued that 'little consideration was given to the interaction between such international norms and local norms' (Grenfell, 2013, p. 215).³³ This disjunction between constitutional principles and customary practices offers valuable empirical vantage points. For instance, do individuals in less powerful positions—such as daughters or younger brothers—invoke human rights norms to assert their claims against the eldest brother? When the state legal system, aligned with human rights norms, penetrates the customary sphere, how do customary authorities respond? The forum shopping literature provides fairly good answers.

3-2-2. Forum Shopping Dynamics

3-2-2-(A). Forum Shopping

▪ **Forum Shopping from Above**

As discussed above, international development agencies have often treated legal pluralism as a problem to be overcome. Similarly, international human rights laws have often come into conflict with customary norms in the aspirational pursuit of universal values, such as equality irrespective of race, gender, religion, and other social categories. However, in practice, they have often been unable to displace existing non-state legal systems, such as customary

³² Article 17 of the Constitution of the Democratic Republic of Timor-Leste states: 'Women and men shall have the same rights and duties in all areas of family, cultural, social, economic and political life'.

³³ Grenfell (2013) argues that, although some initiatives—such as the Timor-Leste Commission for Reception, Truth and Reconciliation, as well as the *Tara Bandu*—serve as examples of hybrid attempts, such interaction is generally absent across Timor-Leste.

practices, instead adding yet another layer at the local level—enabling the interaction, rather than mere coexistence, of international and existing legal orders.

This has, in turn, exacerbated legal uncertainty in localities. Such uncertainty leaves individuals and groups confused about which laws apply and fosters opportunism; in other words, actors engage in ‘forum shopping’ to pursue the most advantageous legal regime (Adler and So, 2012, p. 87). Here, forum shopping can be defined as a situation in which ‘disputants have a choice between different institutions and they base their choice on what they hope the outcome of the dispute will be, however vague or ill-founded their expectations might be’ (Lund, 2021, p. 414).

In this situation, power-holders have more options than their weaker counterparts. A case from Cambodia illustrates this dynamic effectively (Adler et al., 2008). While the 2001 Land Law establishes formal legal basis of land titling, government officials’ discretionary power and clientelist practices persist. Power-holders strategically navigate between formal legal and administrative clientelist forums to legitimise their land claims. Conversely, the powerless—often lacking money, formal legal knowledge, and awareness of officials’ engagement in clientelist practices—are systematically excluded, particularly vulnerable groups such as indigenous peoples, urban slum residents, and those residing on marginal lands. Consequently, power-holders benefit from forum shopping, while the powerless are unable to do so.

In Timor-Leste, Kirk (2014, pp. 14–15) observed that ‘only the very wealthy prefer to go straight to courts, where they can afford better representation or pay fines to avoid community sanctions’, whereas the poor ‘are reluctant to forum shop’ due to the costs associated with customary reconciliation ceremonies, travel costs to find better forums, and lost earnings from missing a day’s work. In the context of Timor-Leste, forum shopping appears to favour power-holders at the expense of the powerless in dispute resolution cases.

▪ **Forum Shopping from Below**

Kirk’s empirical research (2014) provides valuable evidence related to forum shopping, showing that power-holders in Timor-Leste have more options than their weaker counterparts. However, as Sage and Woolcock (2012, p. 11) note, even in poor, remote areas people often access the Internet, watch television, and use mobile phones to identify forums that may work

in their favour; consequently, Kirk's early 2010s fieldwork may now be revisited. All things considered, this offers a crucial empirical vantage point for 2020s Timor-Leste: whether the powerless remain reluctant to 'shop forums' although they might have access to the Internet and other resources which could encourage them to seek out forums willing to listen.

This vantage point leads us to consider forum shopping from below—that is, how the powerless navigate and utilise plural legal settings. Whilst the Cambodia case illustrates how power-holders take advantage of forum shopping, it also demonstrates how the powerless engage in it (Adler et al., 2008). In particular, their strategies diverge significantly from those of their more powerful counterparts. Vulnerable groups, particularly in rural Cambodia, were frequently excluded from land titling initiatives; success was typically limited to cases where registration fees could be paid or where support was granted by government officials wielding discretionary power. In response to this exclusion, the poor relied on political and extra-legal means, such as collective action, appeals to influential officials, and engagement with the media and NGOs. I would thus like to explore what the pattern of forum shopping from below in Timor-Leste might look like.

One notable phenomenon among them is that the poor often turn to 'collective action', frequently supported by non-governmental organisations (NGOs). For example, in Thailand during the early 1990s, large-scale development projects—such as dam construction—were implemented without providing adequate compensation to affected communities, many of whom were forcibly displaced. In response, marginalised groups were extensively mobilised and supported by Thai NGOs. In Timor-Leste, residents in a few areas of Dili, the capital city, faced an eviction crisis as the government implemented development initiatives, which prompted them to undertake collective action with support from NGOs (Stead, 2015).

This raises important questions: what are the key drivers of collective action among the poor? Rationalists might suggest that the pursuit of economic compensation is a key motivating factor. However, in the case of urban Dili (Stead, 2015), not only was economic compensation important, but being respected as an 'East Timorese citizen' also proved crucial. In the rural district of Oecusse, the lack of recognition for 'a locus for spiritual practice' was considered a major source of grievance towards a development project, alongside broader concerns about displacement, marginalisation, lack of representation, and the erosion of longstanding community structures that had sustained the Meto people for generations (Rose,

2016). International parallels reveal similar patterns. For example, Joshi's (2020) study of Cambodia demonstrates that economic concerns are not the sole incentive; indigenous communities agreed to resolve a land conflict with a multinational corporation only after their customary norm—requiring respect for the 'spirit mountains' in the disputed area—was formally acknowledged.

These examples suggest that, beyond economic compensation, factors such as respect for local customary norms can be significant drivers of collective action in land disputes. Are such land disputes—stemming from the disregard of intangible aspects such as human dignity and cultural norms—still ongoing in Timor-Leste, 2023?

▪ **State Violence in Contexts of Legal Pluralism and Timor-Leste**

The discussion now turns to another notable phenomenon: the state's violent response to collective action by the poor. Legal pluralism is a globally pervasive phenomenon; however, a key distinction between developed and developing states lies in the presence of meta-rules (Lund, 2012). These meta-rules provide clear hierarchical frameworks for resolving conflicts among competing norms or legal orders. In many developing contexts, such frameworks are absent, posing significant challenges to governance—particularly in relation to property rights such as land tenure.

In such settings, 'state quality' is continuously shaped and assessed by local populations. In other words, state institutions function not only as forums but also as active 'actors'—whose very existence must be demonstrated (ibid., pp. 200–201).³⁴ In this context, 'the state may respond violently to collective action' (Adler and So, 2012, p. 89). Tamanaha (2007, pp. 390–396) explains that legal pluralism in developing country contexts often reveals the fragility of state legitimacy. This fragility can prompt coercive or even violent state responses as governments attempt to reassert their authority and defend their monopoly over law.

With regard to Timorese land governance, 'evictions are often conducted at dawn, without any prior warning about the date and time, and with the use of force and destruction of property' (Almeida, 2022, p. 175). This could serve as a criterion for how the state of Timor-

³⁴ Lund also argues that state quality is a test not only for the state itself but for other forms of non-state institutions within legal pluralism.

Leste perceives itself amid legal pluralism. In 2023, does the state still resort to state violence?

3-2-2-(B). The Other Side of the Coin: Shopping Forums

▪ Shopping Forums

Lund (2021) emphasises that the concept of ‘shopping forums’ provides a valuable perspective for examining not only how litigants strategically choose between available legal forums, but also how these forums themselves engage in strategic behaviour. This perspective highlights that forums are not merely neutral arbiters of disputes, but political actors with vested interests. The origins of this concept can be traced back to von Benda-Beckmann’s case study of a Minangkabau village in West Sumatra, Indonesia (1981). This seminal work will therefore be elaborated upon in the following section.

▪ Shopping Forums Case I: The Fishpond of Batu Panjang Case in Indonesia

A land dispute, known as the Fishpond of Batu Panjang case, unfolded in a Minangkabau village in the 1970s in West Sumatra, Indonesia—a region characterised by overlapping legal orders, including matrilineal customary law (*adat*), Islamic influences, and state institutions such as the courts, police, and local administration. In this context, ancestral land (*tanah pusaka*) is inherited through the female line but managed by male sub-lineage heads (*mamak kepala waris*), while customary authority is exercised through a layered governance structure involving lineage leaders, *adat* functionaries, and the *Adat* Council.

The case arose when competing claims over a fishpond emerged between sub-lineages (*kaum*) of the same matrilineal clan (*suku*). The dispute illustrates both forum shopping by disputants and shopping forums by institutions. On the one hand, disputing parties navigated between village-level forums—including the Lineage Council, *Adat* Council, and informal village mediators—and considered escalating the matter to the state courts. On the other hand, each forum actively sought to assert jurisdiction, using disputes to reinforce its own political authority and social legitimacy.

The Lineage Council, composed of *kaum* leaders such as the *mamak kepala waris*, played a central gatekeeping role. These actors controlled access to genealogical records and customary validation. When bypassed, they withheld cooperation, thereby obstructing

attempts—particularly by women or junior members of the lineage—to seek redress in formal courts. They also enforced procedural orthodoxy, frequently invoking technical objections to prevent escalation.

The Village *Adat* Council exercised a more indirect but authoritative role. Although it rarely resolved disputes conclusively, it functioned as a supervisory body, capable of validating or delegitimising decisions taken by lower forums. It intervened particularly when consensus was elusive or when village functionaries were seen to be acting in self-interest, thus safeguarding *adat* integrity and maintaining balance among competing *kaum*.

Village mediation mechanisms, often led by informal elders and *adat*-oriented figures, sought to de-escalate tensions and promote reconciliation. These actors framed disputes procedurally rather than substantively, appealing to local norms of harmony and collective decision-making. In doing so, they sometimes discouraged marginalised actors—especially women—from pursuing formal claims by emphasising unity over entitlement.

Though state courts represented the highest formal legal authority, they often deferred jurisdiction to village forums if local procedures had not been fully exhausted. Courts also relied heavily on village elites for essential land histories and genealogical evidence, reinforcing their dependence on customary structures and further embedding the state legal system within village politics.

Crucially, the Fishpond of Batu Panjang case shows that disputes are resolved not simply through legal rules—formal or informal—but through the strategic use and governance of forums. ‘Forum shopping’ reflects how disputants navigate multiple venues to advance their claims, while ‘shopping forums’ reveals how forums/institutions seek to protect their own interests and assert legitimacy.

Forum	Shopping Strategies	Reasons for Shopping
Lineage Council	- Withheld genealogical information - Refused to represent women - Challenged jurisdiction - Delegitimised court processes	Preserve male control and restrict women’s agency
Village <i>Adat</i> Council	- Avoided direct resolution - Validated/delegitimised other decisions - Intervened to check manipulation	Uphold <i>adat</i> integrity and balance power among the <i>kaum</i>

Village Mediation	- Delayed escalation - Emphasised harmony/unanimity - Framed disputes procedurally - Discouraged formal claims	Preserve village harmony retain informal control
State Courts	- Deferred cases back to village - Relied on <i>adat</i> testimony - Rejected improperly filed claims	Avoid case backlog; protect procedural legitimacy; retain authority

Table 5: How Each Forum Controlled Disputes

▪ Shopping Forums Case II: The *Nari Adalat* Case in India

On the other hand, certain forums may strategically engage in promoting women's rights. Merry (2012) illustrates this through the example of the *Nari Adalat*—a women's court³⁵ established in India in the mid-1990s to advance women's human rights—which managed to gain prominence within a plural legal environment.

In Gujarat, where the *Nari Adalat* emerged as a new forum, a range of formal and informal forums coexist, including the *panchayats* (community courts), the police, family and neighbourhood customary practices, and state courts. The *Nari Adalat* strategically focuses on morally unambiguous cases, particularly those involving gender-based domestic violence, where swift and tangible outcomes are attainable. Unlike other forums—which are often neutral or passive in cases of gender-based domestic violence and rarely staffed by women—the *Nari Adalat* consists of women volunteers who, although not formal judges, derive their legitimacy from international human rights law, despite the legal terms being vernacularised. They actively seek to hold abusive husbands accountable, thereby strengthening the forum's credibility. For example, gender-based violence trials often took place publicly before village audiences, where women judges and attendees would sternly rebuke the husband.

As its efforts gained attention and proved effective in addressing domestic abuse, more local women came to recognise the *Nari Adalat* as the most credible forum (ibid., pp. 73–80). Ultimately, it became 'one option within a legally plural world' (ibid., p. 79). This case clearly demonstrates how forums actively seek cases that reinforce their legitimacy and affirm their public authority.

³⁵ Although it is labelled a 'court', it is not part of the formal legal system.

▪ **Shopping Forums and Revisiting the ‘Climbing a Ladder’ Concept in Timor-Leste**

As demonstrated in the cases of India and Indonesia above, certain forums actively seek out—or deliberately avoid—specific types of disputes. In short, forums also shop for cases in dynamic ways. The ‘shopping forums’ perspective offers a fresh lens on the ‘climbing a ladder’ concept in Timor-Leste. As Cummins and Leach (2012, p. 97) observe, dispute resolution in Timor-Leste informally follows a hierarchical structure, beginning with customary institutions seen as the lower rungs and progressing to state mechanisms regarded as the higher rungs—a process they describe as ‘climbing a ladder’. However, when forums are understood as active agents, as suggested by the ‘shopping forums’ literature, the conventional view that only disputing parties climb a ladder can be revisited. By focusing on forum leaders who can also shop, a more nuanced perspective emerges: are these leaders themselves attempting to climb, descend, or block the ladder—and if so, why?

3-2-2-(C). Another Context: Post-Conflict Legal Landscapes

▪ **Post-Conflict Sovereignty and Legal Pluralism**

Sage and Woolcock (2012, p. 1) contend that legal pluralism can function as either a source of opportunity or a challenge in countries characterised by low income or affected by conflict. Timor-Leste exemplifies both conditions, having undergone significant upheaval during the 1999 militia violence and the 2006 confrontation between military and police forces. This section reviews post-conflict literature to examine how post-conflict dynamics continue to influence land disputes over time. A common theme in this literature is the concept of ‘unclear sovereignty’, where the state’s failure to maintain exclusive authority over multiple legal systems results in overlapping claims. In such contexts, sovereignty may be formally recognised, yet it departs significantly from the classical Westphalian model established in 1648. This theme is exemplified in the post-conflict context of Afghanistan, as the following case demonstrates.

Kühn (2008, p. 317) argues that Afghanistan as a newly formed state had to rely on ‘international funding’ and ‘political and economic patronage networks so as to stabilise its position’, while co-opting those within these networks by ‘offering them money and posts’. This stands in contrast to the conventional notion of a sovereign state—one that is able to

collect taxes and exercise monopolised authority across its territory. van Bijlert (2009) similarly contends that state-building based on Western values and the Weberian model cannot be quickly realised, as post-conflict Afghanistan was not a 'clean slate', thereby characterising the process of institution-building as the construction of 'imaginary institutions'. It is therefore not coincidental that the two-decade-long state-building efforts collapsed with the return of the Taliban regime shortly after the withdrawal of US forces in 2021.

▪ **Empirical Cases of Unclear Sovereignty and Land Disputes**

How, then, does the post-conflict nature—or the presence of unclear sovereignty—contribute to land disputes? A case study from Gudele, a local area near Juba in South Sudan, offers valuable insight into these dynamics. Since 1994, a portion of north-western Gudele has been owned by the Sisters of the Sacred Heart, a small local community of nuns. However, when they sought to sell part of this land, they discovered that approximately 1,000 families of informal settlers were occupying it. These settlers, with significant support from non-governmental organisations, portrayed themselves as vulnerable victims of war (Badiey, 2013, p. 72). This case demonstrates that the conflicting claims between the nuns' land rights, recognised under the former Sudanese regime, and those of internally displaced persons (IDPs), legitimised by the current South Sudanese government, reflect the competing legal orders that typify post-conflict settings and underscore the persistence of unclear sovereignty in these contexts.

Veit's (2008, p. 304) case study of post-conflict D.R. Congo also illustrates this nature: despite the 2005 UN Security Council sanctions facilitating a disarmament programme, the Ituri district—one of the country's rural regions—'continues to resemble a mosaic of actors and agencies [such as the UN peacekeeping force, a reconstructed Congolese state, and non-state combatants] competing for influence and authority', thus rendering the post-conflict space susceptible to 'notoriously unstable power balances' (ibid., p. 305). In the absence of clear meta-rules—stemming from weak sovereignty—each entity follows its own rules and competes to expand its legitimacy.

▪ **War Veterans, Land Disputes, and Post-Conflict Settings**

After the 1991 turmoil ended, Timor-Leste gained independence in 2002 and has since

experienced various forms of development, including increased investment. As a result, land lease contracts and evictions from state land have become key tasks aimed at attracting investors, usually foreigners. While the Department of Administration of Immovable Property of the State fulfils a supervisory role, the DNTSC³⁶ is tasked with the practical implementation of these processes (Almeida, 2022, pp. 173–174).

Almeida notes that the DNTSC's eviction efforts are often compromised when the individuals targeted are 'war veterans' (ibid., p. 174). Having observed that war veterans or those who fought for Timor-Leste's independence from the Indonesian regime are highly respected figures within Timorese society, he explains this in terms of 'arbitrariness', whereby 'factors such as who the occupants are, the political position and contacts of the future tenants, and the budget and calendar of the project to be implemented on land' are given greater consideration than the rule of law (ibid., pp. 81, 232).

At this point, I would like to add value by asking: why does this apparent arbitrariness persist? Why are the social status and popularity of war veterans prioritised over the rule of law? An analysis of international parallels may assist in interpreting this phenomenon within the broader context of post-conflict settings. The strength of this approach lies in its capacity to facilitate a comparative analysis of post-conflict statehood, revealing how shared logics—such as the moral authority of powerful non-state actors—cut across geographically and historically distinct contexts. The selective enforcement of law stems not only from institutional weaknesses but also from 'ongoing', negotiated power relations embedded in the aftermath of conflict. The Timorese case, when viewed through the comparative lens of post-conflict governance, demonstrates that the projection of state authority is not only weak, selective, or arbitrary—but it is also contested, relational, and continually renegotiated. Such patterns suggest that what appears to be 'arbitrariness' in land governance can be structured by deeper post-conflict dynamics.

3-2-3. Sub-conclusion: Empirical Vantage Points for Fieldwork in Timor-Leste

This chapter draws upon eight empirical vantage points to deepen the understanding of legal

³⁶ By the time of my fieldwork in 2023, the DNTSC had already been subdivided into the DNTSC and the SC (Serviços de Cadastro or Cadastral Services).

pluralism and governance in Timor-Leste. It first examines the consequences of the Special National Commission's (SNC) rapid implementation, demonstrating how its disregard for socio-cultural and political dynamics exposes significant gaps in land governance. It then considers the interactions between competing normative orders, including the ways in which customary authorities respond to constitutional–customary conflicts and how marginal actors, such as daughters or younger brothers, assert human rights within customary hierarchies. The analysis further explores forum shopping, questioning whether marginalised individuals remain reluctant to pursue alternative legal avenues, and assessing how cultural norms, state violence, and the strategies of forum leaders shape such practices. In addition, forum leaders are also analysed in terms of shopping forums. Finally, it addresses the contestation of state sovereignty through the influence of powerful non-state actors, such as war veterans.

No.	Empirical Vantage Points in Timor-Leste	Contributions to Existing Scholarship
1	- The fallout of the SNC's rapid implementation and its neglect of Timor-Leste's socio-cultural and political dynamics	Rule of Law in Land Governance
2	- Interactions between competing normative orders in everyday life - Customary authority responses to constitutional–customary conflicts - Human rights claims by marginal actors such as daughters or younger brothers within customary hierarchies	Bendable Human Rights Norms
3	- Whether marginalised individuals remain hesitant to engage in forum shopping, even now that internet access and other resources might enable them to seek more receptive avenues.	Forum Shopping
4	- The dynamics of forum shopping from below in Timor-Leste	Forum Shopping
5	- Whether key drivers, such as cultural norms, of collective action by the poor in Timor-Leste is still ongoing	Forum Shopping
6	- Whether state violence is ongoing in Timor-Leste	Forum Shopping
7	- How forum leaders position themselves within hierarchical ladders, and the motivations behind their strategies	Shopping Forums

8	- In what ways is state sovereignty in Timor-Leste contested through interactions with politically powerful non-state actors such as war veterans	Post-Conflict States
---	---	----------------------

Table 6: Empirical Vantage Points for Exploring Land Disputes in Timor-Leste

3-3. Conceptual and Analytical Frameworks for Formal–Informal Institutional Relations

In this section, I pursue two objectives. First, I outline key conceptual frameworks—namely, formal and informal institutions—which will serve as the foundation for the subsequent analysis. Second, I present an analytical framework for understanding the relationship between these two types of institutions. By addressing these objectives, I aim to clarify the independent variable, as detailed below:

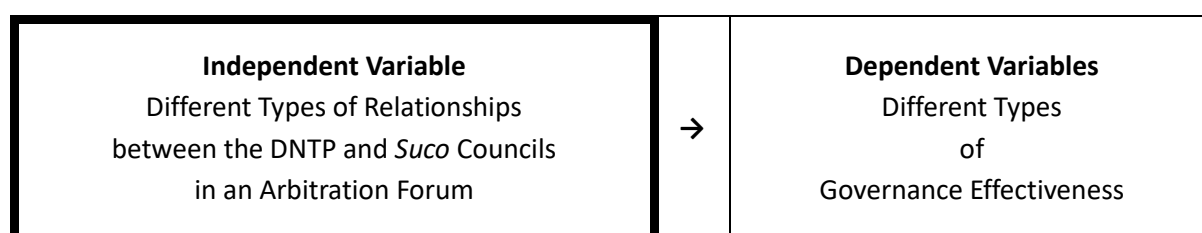


Table 7: My Hypothesis Diagram

3-3-1. Conceptualising Institutions in Legal Pluralism and Development Contexts

As Lund (2006) argues, within the context of legal pluralism and developing countries, the distinction between ‘formal’ and ‘informal’ land institutions is often both analytically misleading and empirically inaccurate. Rather than being clearly delineated, public authority is exercised by a wide array of overlapping, competing, and hybrid institutions—some sanctioned by the state, others not—that operate in a ‘twilight zone’ between state and society, or between formality and informality.

On the one hand, formal institutions themselves may often diverge from a strictly rule of law-based model, instead assuming hybrid forms in which informal practices, to some extent, infiltrate formal structures. For example, the state may recognise customary courts as formal (Woodman, 2012); government policies are often implemented through informal mechanisms in local areas (von Trotha, 1996); and bureaucracies may be compromised by

clientelist practices (Adler et al., 2008), to name but a few. On the other hand, as Lund (2006) notes, such contexts complicate efforts to determine whether informal institutions operate purely outside formal structures.

I will therefore take these two dimensions into account. In so doing, I aim to achieve a more nuanced understanding of institutions within the context of Timor-Leste, particularly as shaped by its status as a developing country and the broader dynamics of legal pluralism.

3-3-1-(A). Institution and the DNTP as Formal Institution

Institutions may be defined as ‘rules and procedures that structure social interaction by constraining and enabling actors’ behavior’ (Helmke and Levitsky, 2004, p. 727). According to Kangas and Vestheim (2010, p. 271), an institution in its abstract form is made tangible through its social and empirical manifestation. I therefore consider concrete organisations such as the Direcção Nacional de Terras e Propriedades (DNTP) and the *Suco* Council, in my research context, to be realisations of this institutional concept.

The concept of an institution is commonly divided into two categories: formal and informal. North (1991, p. 97) argues that ‘[t]hey [institutions] consist of both informal constraints (sanctions, taboos, customs, traditions, and codes of conduct), and formal rules (constitutions, laws, property rights)’. As North suggests, formal institutions are frequently associated with the state, while informal institutions are generally understood to exist outside of it. Carey (2000, p. 735) defines formal institutions as ‘parchment institutions’ because they are ‘written down somewhere as laws, regulations, constitutions, treaties, and so forth’. Bousard (2000), as cited in Helmke and Levitsky (2004, p. 727), similarly argues that rules enforced by the state or government can be categorised as formal institutions.

However, in contexts characterised by legal pluralism and in developing countries, formal institutions are often influenced by informal practices. As Adler et al. (2008) observe in rural Cambodia, clientelism is pervasive within the bureaucracy. Similarly, von Benda-Beckmann (1981) notes that in rural Indonesia, state legal systems are frequently affected by local, customary norms. All of this illustrates that many parts of developing countries exist in a ‘twilight zone,’ as Lund (2006) argues. In a similar vein, the DNTP—although established by law and therefore is categorised as a formal institution according to North (1991), Carey (2000), and Bousard (2000)—may also be subject to informal influences. For example, there

is strong path dependency of informal practice: many Timorese continue to turn to the DNTP for dispute resolution, particularly in Dili, even though it has not been explicitly mandated to adjudicate such cases since 2003 (Almeida, 2020, p. 189).

All things considered, I define formal institution as ‘states/government organisations—which have written laws, rules, and procedures—that govern various interactive behaviours of people, with some extent affected by informal practices’. Based on this, I regard the Timorese governmental land institution—Direcção Nacional de Terras e Propriedades (DNTP)—as a formal institution in my analysis.

3-3-1-(B). Informal Institution and the *Suco* Council

It is commonly argued that, outside the state, an institution is typically regarded as informal. Boussard (2000) contends that rules operating beyond the sphere of the state or government, particularly within civil society, may be categorised as informal institutions (as cited in Helmke and Levitsky, 2004, p. 727). Pejovich (1999, p. 166) defines informal institutions as ‘traditions, customs, moral values, religious beliefs, and all other norms of behaviour that have passed the test of time’. Similarly, Helmke and Levitsky describe informal institutions as ‘socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels’ (2004, p. 727). Yet, once again, the contexts of legal pluralism and developing countries prompt a reconsideration of how informal institutions are conceptualised. To address this, I will examine three key themes in this subsection. First, how informal institutions are ‘suddenly’ recognised by the state as formal. Second, how informality can be identified without being obscured by the ‘clothing’ of formal recognition. Third, how the *Suco* Council in Timor-Leste exemplifies this process.

▪ Cases of Informal Institutions Recognised by the State as Formal

Many customary institutions may suddenly acquire formal status through a decision made by the state. Woodman (2012) identifies two main types of recognition by the state. First, ‘normative recognition’ refers to the state’s acknowledgement that people, in practice, rely on and adhere to multiple legal orders. Second, ‘institutional recognition’ involves more active engagement by the state in formally acknowledging and incorporating non-state legal orders; for example, this may include legislative reform, the official recognition of traditional leaders,

or the creation of hybrid courts.

In contemporary development contexts, institutional recognition of previously informal institutions is often observed. For instance, von Trotha (1996) argues that precolonial authority in Africa was transformed into modern, state-recognised chieftaincy through processes of reshaping and regulation by colonial and postcolonial regimes. Similarly, Faundez (2012, pp. 190–191) highlights community courts in Mozambique, once informal and led by traditional leaders, which were formally recognised by Decree 15/2000 as part of the public administration. A comparable development occurred in Indonesia, where the *Adat* Council—long operating informally—was granted ‘binding authority’ under Law No. 22/1999 and Government Regulation No. 72/2005 (Gauri, 2009).

In this context, an important question arises: If an institution was initially informal but has since been formally recognised by the state, should it continue to be classified as informal, or should it be suddenly regarded as a formal institution? This question can be meaningfully addressed through Gauri’s case study (2009).

▪ **Gauri’s Three Characteristics for Informality Assessment and Informal Institution**

Although the *Adat* Council received ‘institutional recognition’ from the Indonesian state—initially through Law No. 22/1999 and subsequently under Regulation No. 72/2005—Gauri (2009) continues to regard it as ‘informal’. In assessing whether such institutions should be classified as formal or informal, Gauri (*ibid.*, pp. 6–9) outlines three key characteristics that typically define local-level informal institutions.

First, local-level informal institutions are generally less codified and more flexible than their formal counterparts, drawing heavily on ‘oral’ traditions and exhibiting significant local variation. Rooted in community practices rather than state structures, these systems are more adaptable and subject to change. Gauri notes that even within a single village, a change in leadership can lead to alterations in customary law. While this fluidity allows informal justice to align closely with social dynamics, it also complicates efforts to ensure consistency and accountability.

Second, local-level informal institutions derive their legitimacy not from impersonal legal frameworks, but from their embeddedness in religious beliefs, cultural norms, and communal values. Justice, in this context, is not solely a matter of resolving disputes between

individuals but of restoring broader social and cosmic harmony. Violations of customary norms are often viewed as disturbances to both spiritual and societal order, and the mechanisms for redress frequently involve collective sanctions or symbolic forms of reconciliation.

Third, local-level informal institutions such as the *Adat* Council tend to lack the separation between judicial, political, and economic powers that is a hallmark of formal legal systems. Local adjudicators—typically chiefs, elders, or religious figures—often perform overlapping roles: they make rules, settle disputes, and manage community resources. As a result, decisions are made not by neutral third parties, but by individuals embedded in the same networks of local authority, which may give rise to partiality, favouritism, or conflicts of interest. Whereas formal legal systems at least aspire to judicial independence, this concentration of roles is a structural feature of many informal institutions.

In short, Gauri portrays the *Adat* Council as grounded in local flexibility and oral tradition, legitimacy derived from cultural and spiritual norms, and a concentration of authority whereby local leaders—such as elders, chiefs, and religious figures—simultaneously make rules, settle disputes, and manage community resources. Despite recent formal recognition by the state, it aligns more closely with Gauri’s conception of a ‘primarily’ informal institution.³⁷

Accordingly, informal institutions refer to ‘non-state or non-governmental organisations that are primarily characterised by oral traditions, legitimacy derived from cultural and spiritual norms, and a concentration of authority, and that govern various interactive behaviours of people while often being, to some extent, recognised by the state’. I believe this concept captures the true nature of the *Suco* Council in Timor-Leste and provides criteria to assess the extent to which it remains informal, despite its institutional recognition by the Timorese government in 2016.

▪ **The *Suco* Council in Timor-Leste as ‘Primarily’ Informal Institution**

Thus far, I have demonstrated that categorising informal institutions in legally plural settings

³⁷ ‘Primarily’ informal institution is my own analytical formulation, justified on the basis of Gauri’s discussion. Although he does not use this exact term, it effectively captures the hybrid nature of institutions that retain predominantly informal characteristics despite having received recent formal recognition.

cannot be reduced to a simple binary of state versus non-state. Instead, Gauri's approach (2009), along with examples of institutional recognition from around the world (Faundez, 2012; von Trotha, 1996), offers a more nuanced and useful analytical lens. Rather than focusing solely on legal status, it is more constructive to consider three key characteristics: local flexibility and oral tradition, legitimacy derived from cultural and spiritual norms, and a concentration of authority (Gauri, 2009, pp. 6–9).

To assess whether the *Suco* Council in Timor-Leste should be considered formal or informal, it is necessary to briefly examine its institutional trajectory—from non-recognition to formal recognition. First, Article 2(3) of Law No. 3/2009 (on Community Leadership and Their Election) does not formally recognise the *Suco* Council as a state institution, stating: 'Community leaders [the *suco* chief and members of the *Suco* Council] are not included in the Public Administration, and their decisions are not binding upon the State'. Although *suco* leaders participated in local governance, their status remained informal. Thus, Wallis and Neves (2021, p. 23), who analysed these local institutions during this period, argue that 'sucos and aldeias were recognised merely as administrative divisions, rather than as formal institutions, and therefore had no formal institutional avenues to influence central government decision-making or to receive government resources'.

Second, with the enactment of Law No. 9/2016 (on Municipal Power and Administrative Decentralisation), the *Suco* Council was explicitly recognised as a 'formal' institution. Article 3(1) states that '*Sucos* are public legal entities of an associative nature, formed on the basis of historical, cultural, and traditional circumstances, whose members are connected by family ties or traditional bonds within a defined geographical area'. Furthermore, Articles 9 to 18 regulate its composition, mandate, procedures, and competencies in detail—demonstrating that the Council is institutionally structured and legally recognised.

Just as in international parallels such as the *Adat* Council analysed by Gauri (2009), I regard that the *Suco* Council as a 'primarily' informal institution, despite receiving formal institutional recognition in 2016. First, as will be demonstrated in the empirical chapters of my PhD thesis that follow, *Suco* Councils, particularly in Ainaro, primarily rely on 'oral' decision-making processes. Second, the legitimacy of the *suco* chief quite often derives from the customary sphere: *liurai* families, who have represented the customary ruling class in Timorese history for centuries, frequently stand in *suco* chief elections and are commonly

elected by popular vote. Alternatively, when a candidate from an ordinary family is elected, the newly elected *suco* chief typically requires acknowledgement or endorsement by local customary leaders (Wigglesworth, 2013, pp. 569–570; Cummins and Leach, 2012; Wallis, 2012, p. 746; Cummins, 2011, pp. 89–91). In addition, ‘the rule of *customary law*, and not the rule of law, remains for most disputes’ at the level of the *suco* (Grenfell, 2013, p. 243; italics in original).

Third, a concentration of authority is affirmed in Articles 9 to 18 of the 2016 Law, which assign the *Suco* Council responsibilities across three ‘broad’ categories: governance (including dispute resolution), development planning, and cultural/community advisory functions. All things considered, I regard the *Suco* Council as an informal institution.

3-3-2. Analytical Framework for DNTP–*Suco* Council Relationships

Thus far, I have defined formal and informal institutions, classifying the DNTP as formal and the *Suco* Council as informal. This subsection applies Helmke and Levitsky’s (2004) Formal–Informal Institutional Relationship Framework to analyse their interaction, followed by a discussion of the concepts and indicators used for empirical analysis.

3-3-2-(A). Formal–Informal Institutional Relationship Framework

According to the analytical framework established by Helmke and Levitsky (2004), there are four types of formal-informal institutional relationships: complementary, substitutive, accommodating, and competing. First, a ‘complementary’ relationship arises when effective formal institutions align with informal ones that pursue similar or identical goals. In such cases, the resolution process tends to be constructive, as informal institutions address issues that fall outside the remit of formal structures (ibid., p. 728). For example, in Indonesia’s Saree community, successful collaboration between customary leaders and the local government led to the formalisation of revised customary institutions, thereby empowering local leaders to tackle challenges such as illegal logging. In contrast, the Sukamulia community, where such collaboration was absent, experienced difficulties in resource management. This comparison highlights the important role of customary leaders in reinforcing formal rules (Marc et al., 2012, pp. 90–95).

Second, an ‘accommodating’ relationship occurs when effective formal institutions

interact with informal institutions that pursue differing goals (Helmke and Levitsky, 2004, p. 729). A Timorese case may help to illustrate this dynamic. The *tara bandu* is a customary practice in Timor-Leste involving ritual and community agreements to ban or regulate certain behaviours—particularly those related to natural resource use (such as tree cutting, fishing, or livestock grazing) and social conduct (such as violence or land disputes) (Ide et al., 2021, p. 110). It was recognised for its effectiveness—such as in preserving natural resources during droughts—by the Timorese government and international organisations, who later actively engaged in the *tara bandu*, providing material support and requesting modifications to align it with bureaucratic procedures, albeit with only a superficial understanding of the practice. The state even constrained key elements of the *tara bandu* process, such as limiting the number of animals that could be sacrificed during specific life-cycle rituals. As one local resident remarked (ibid., p. 114):

It makes us sad, ashamed and angry. We increasingly have to hide out in the coffee forests to carry out ritual sacrifices that exceed those allowed under the *tara bandu* law. If we get caught, we risk being locked up and fined.

His remark clearly illustrates how the integration of the *tara bandu* into law—with modifications that favoured state officials—overlooked its true nature. Consequently, customary leaders and rural residents continued to adhere to the original *tara bandu* in practice, while only superficially complying with the formalised version (ibid., pp. 112–114). In this way, in an accommodating relationship, formal institutions remain stable because informal institutional leaders such as customary leaders do not openly challenge them, even though they do not consider them legitimate.

Third, a ‘substitutive’ relationship occurs when the ‘formal rules are not routinely enforced’ because the ‘state structures are weak or lack authority’, and informal institutions ‘seek outcomes compatible with formal rules and procedures’ (ibid., p. 729). Eisenstadt (2003) presents a case of a substitutive formal-informal institutional relationship in Mexico. In this context, an informal institution known as the ‘*concertaciones*’ played a crucial role in resolving post-election disputes. This occurred because the ‘formal institutions of electoral dispute resolution (such as the electoral courts) lacked credibility and were frequently

bypassed’ during the transitional period towards a democratic regime from the 1990s to 2000s (as cited in Helmke and Levitsky, 2004, p. 729). Eisenstadt (2003, p. 26) further explains that until ‘formalistic “window dressing” institutions created by authoritarians to disguise their continued imposition of control’ become ‘credible electoral institutions built by consensus and routinely legitimated by all political actors’, the informal institutions have a substitutive role.

Fourth, a ‘competing’ relationship occurs when an ineffective formal institution interacts with informal institutions that do not agree with the goals of the formal institution. In this institutional setting, people are initially confused but ultimately choose either formal or informal rules, thus violating the other (Helmke and Levitsky, 2004, p. 729). Helmke and Levitsky argue that a competing formal-informal institutional relationship can often be found ‘in postcolonial contexts in which formal institutions were imposed on indigenous rules and authority structures’ (ibid., p.729). Robert Price (1975) identified that in postcolonial Ghana, government officials ‘would pay a significant social cost (such as a loss of standing in the community) if they ignored kinship group norms that obliged them to provide jobs and other favours to their families and villages’ (as cited in Helmke and Levitsky, 2004, p. 729).

Informal Institution’s Goal with Formal One	‘Effective’ Formal Institution	‘Ineffective’ Formal Institution
‘Convergent’	Complementary	Substitutive
‘Divergent’	Accommodating	Competing

Table 8: Typology of Formal-Informal Institutional Relationships
(Helmke and Levitsky, 2004, p. 728)

3-3-2-(B). Measuring Concepts

In line with the positivist methodological tradition (Adcock and Collier, 2001), I operationalise the concepts of ‘effectiveness/ineffectiveness’ and ‘convergence/divergence’ to categorise relationships. This process involves three steps: background concept, systematised concept, and indicators—which are ultimately used for measuring concepts empirically.

First, in order to explore background concepts, or ‘the broad constellation of meanings

and understandings associated with a given concept' (ibid., p. 521), I refer to the Cambridge Dictionary, which defines them as follows (Cambridge University Press, n.d., *effective, ineffective, convergent, divergent*):

Effective: 'getting the result that you want';

Ineffective: 'not producing the effects or results that are wanted';

Convergent: 'coming closer together';

Divergent: 'different or becoming different from something else'.

Second, these background concepts are converted into systematised concepts, or 'a concept used by a given scholar or group of scholarship' (ibid., p. 531). Helmke and Levitsky's systematised concept of 'effectiveness' is defined as 'the extent to which rules and procedures that exist on paper are enforced and complied with in practice' (2004, p. 728). 'Convergence' is conceptualised as 'whether following informal rules produces a substantively similar or different result from that expected from a strict and exclusive adherence to formal rules' (ibid., p. 728).

Third, it is now necessary to operationalise these systematised concepts within my research context. This process involves two key tasks: assessing whether the DNTP functions as an effective arbitration institution, and determining whether the *Suco* Council aligns with the DNTP's arbitration practices.

To address the first task, I draw on ADR literature identifying four core qualities of an effective arbitrator: 'procedural fairness', 'subject-matter expertise', 'communicative competence', and 'ethical independence'. Procedural fairness is most widely emphasised. Tyler (2003) and Hollander-Blumoff and Tyler (2011) argue that perceptions of fairness significantly shape acceptance of arbitral outcomes. Subject-matter expertise is also key. Menkel-Meadow (2015, p. 5) and Singh (2022, p. 10) stress arbitration's strength in appointing decision-makers with relevant expertise, enhancing both judgement quality and procedural efficiency. And, communicative competence further underpins legitimacy. As noted by Menkel-Meadow (2015), Nolan-Haley (2010), and Alberts et al. (2005), clear and respectful communication is essential to fairness and trust in the process. Finally, ethical independence is critical. Sternlight (2007) warns of repeat-player bias, where arbitrators may unconsciously

favour frequent appointing parties—a concern linked by Hollander-Blumoff and Tyler (2011) to perceived legitimacy. These will be examined through interviews and participant observation with DNTP officials.

To address the second task, I will conduct a survey to assess whether informal institutional leaders—namely the *suco* chief, *aldeia* chief, *lia na'in*, and other *Suco* Council members—accept the arbitration process and outcomes as managed by the DNTP official. If they do, the case is classified as ‘convergent’; if not, it is considered ‘divergent’. In contexts where formal institutions are weak, as may be observed in rural areas such as Ainaro, questions may arise regarding the DNTP’s limited role in the arbitration process.

Independent Variables		
Concept	Systematised Concept	Indicators (Classifying Questions)
Effective/ Ineffective	The extent to which rules and procedures that exist on paper are enforced and complied with in practice	Whether the DNTP have the following four qualities: procedural fairness, subject-matter expertise, communicative competence, and ethical independence.
Converge /Diverge	Whether following informal rules produces a substantively similar or different result from that expected from a strict and exclusive adherence to formal rules	- Whether informal institutional leaders—namely the <i>suco</i> chief, the <i>aldeia</i> chief, the <i>lia na'in</i>, and other <i>Suco</i> Council members—accept the situation as managed by the DNTP officer - In the case of a weak formal institution, as may be observed in Ainaro—a rural area—questions could arise regarding the DNTP’s limited involvement, such as providing technical consultation during the arbitration process.

Table 9: Indicators/Classifying Questions for Exploring Independent Variables

3-4. Governance Assessment Frameworks: Top-Down and Bottom-Up

This section addresses two primary objectives. First, it introduces a top-down analytical framework for examining the assessment of governance outcomes. Second, it presents a bottom-up framework, recognising that both approaches are of equal importance within the

context of legal pluralism (van Rooij, 2012)³⁸. Together, these perspectives allow governance effectiveness to be explored in two ways: from a top-down angle, where the focus is on whether institution-building is progressing appropriately; and from a bottom-up perspective, which considers the extent to which people are satisfied with the arbitration services provided.

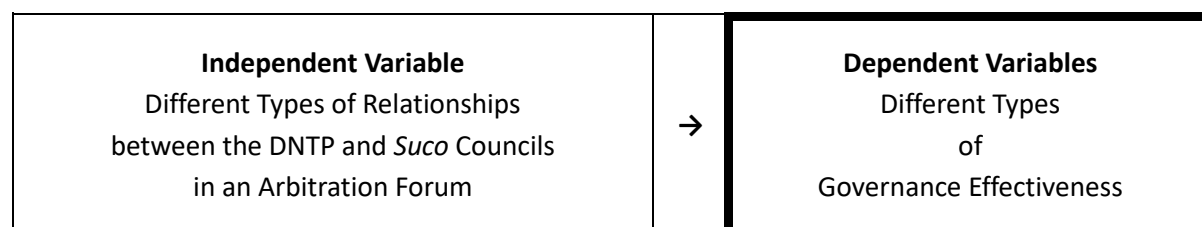


Table 10: My Hypothesis Diagram

3-4-1. Dependent Variables I: Collective Action Problems as Top-Down Outcomes

Helmke and Levitsky (2004) suggest that interactions between formal and informal institutions—particularly when complementary—may positively influence outcomes. While their typology yields valuable insights, it provides limited direction on how to assess the effectiveness of such complementarities in practice. The absence of normative benchmarks presents a challenge for drawing causal or correlational inferences about institutional performance. I therefore turn to Ferguson (2020), who addresses this gap by offering normative benchmarks, arguing that the extent to which collective action problems (CAPs) are overcome can serve as a meaningful standard for evaluating institutional effectiveness.

3-4-1-(A). A Political Economy of Collective Action Problems

Ferguson (2020) presents a comprehensive framework for understanding institutional development through the lens of collective-action problems (CAPs). Central to his thesis is the argument that successful political and economic development depends not merely on the existence of formal institutions, but on a society's capacity to resolve a range of CAPs that

³⁸ van Rooij (2012) argues that when donor agencies acknowledge the reality of legal pluralism—rather than disregarding customary and informal institutions or viewing them merely as obstacles to development—bottom-up strategies that emphasise local participation and community-based dispute resolution can more effectively address the limitations of orthodox, top-down, state-centred rule of law programmes and yield positive outcomes.

shape how such institutions emerge, operate, and evolve. Rejecting the assumption that institutions are static or that importing ‘best practices’ leads to universally positive outcomes, Ferguson conceptualises institutions as dynamic responses—often partial, contested, or evolving—to specific CAPs. He frames institutional analysis in terms of whether diverse actors are able to cooperate in a credible and sustainable manner.

3-4-1-(B). Why Collective Action Problems Matter

Ferguson (2020) underscores that the existence of formal institutions or state law does not, in itself, guarantee their effectiveness. What matters is whether ‘multiple actors’ involved in governance, operating under ‘shared rules’, are able to cooperate to make these institutions function in practice. The gap between institutional form and performance is best understood through the lens of collective action problems (CAPs). Institutions may be well-designed on paper, but if actors fail to act collectively—due to mistrust, short-termism, or misaligned interests—they are unlikely to deliver their intended outcomes.

To explore this dynamic further, Ferguson introduces a critical distinction between first-order and second-order CAPs. The former refers to problems involved in the initial creation of institutions or ‘shared rules’. The latter, by contrast, concerns the more practical task of maintaining, enforcing, and coordinating those institutions ‘over’ time. This distinction is vital, as institutional fragility often arises not from initial design, but from an inability to address second-order CAPs.

Finally, CAPs are shaped by underlying power relations, credibility constraints, and contextual variation. Ferguson emphasises that powerful actors may subvert or resist institutional rules that limit their discretion, thereby undermining collective commitment. Rather than treating institutions as abstract models to be evaluated solely by their formal characteristics, Ferguson argues that their quality should be assessed according to their capacity to address the CAPs they confront.

3-4-1-(C). Second-Order CAPs in Practice: Application to Timor-Leste

This study applies Ferguson’s framework to the context of land governance in Timor-Leste, where the DNTP collaborates with *Suco* Councils, with particular attention to second-order collective-action problems (CAPs). Timor-Leste presents an ideal empirical setting in which to

examine these challenges, for two main reasons.

First, the involvement of multiple actors in land governance—most notably the DNTP and *Suco* Councils, with Dili adopting a more formalised institutional model and Ainaro relying on more informal arrangements—constitutes a valuable context in which to examine the coordination and enforcement dynamics that are central to Ferguson’s theory of collective-action problems (CAPs). Ferguson contends that developmental CAPs are inherently multifaceted, encompassing challenges such as the provision of public goods, the enforcement of agreements, inter-actor coordination, and the sustenance of accountability and legitimacy. Crucially, no single actor—whether a central state authority or a local institution—possesses the capacity to address these complex and overlapping demands in isolation. The effective resolution of CAPs thus necessitates multi-actor governance arrangements, whereby diverse institutions, each with distinct but complementary capacities, engage collaboratively to resolve both first-order CAPs (such as establishing shared rules) and second-order CAPs (such as maintaining those rules through credible enforcement and sustained coordination over time).

Second, the fact that land governance in both Dili and Ainaro is underpinned by shared rules—codified in written form in Dili and maintained through verbal agreement in Ainaro³⁹—indicates that first-order collective-action problems (CAPs), namely the challenge of establishing shared institutional rules (whether as statutory laws, operational procedures, or implementing bodies), have been addressed to some extent. This resolution provides a foundational basis for examining second-order CAPs: specifically, how such agreements are enforced credibly by the relevant authorities and how coordination is sustained among institutional actors over time.

Ferguson offers a clear basis for operationalising these enquiries. Enforcement refers to whether, once rules are agreed upon, all actors comply and refrain from opportunistic violations. Coordination concerns the capacity of multiple actors to align their actions consistently and to maintain institutional processes over time, even amidst changing circumstances. Given that the governance model examined in this research functions as a

³⁹ I will provide evidence for each case: in Dili, there are written rules of arbitration, while in Ainaro, the rules are verbal. This will be discussed in Chapter Six.

form of ‘arbitration’, this study adopts the following operational questions to assess second-order CAPs in Timor-Leste’s land governance: Are the arbitration rules and decisions respected by both parties?, and Are the costs of maintaining the arbitration forum adequately shared among authorities?

3-4-2. Dependent Variables II: Satisfaction in Arbitration as Bottom-Up Outcomes

3-4-2-(A). Rationale for Promoting ADR in Global and Developing Contexts

In recent decades, Alternative Dispute Resolution (ADR) has become a key mechanism for managing legal disputes worldwide, offering faster, more accessible, and less adversarial alternatives to formal litigation (Stipanowich, 2004; Menkel-Meadow, 2015; Singh, 2022). In particular, as international organisations such as USAID have promoted ADR to advance justice and strengthen the rule of law in developing countries, where litigation is often expensive, inaccessible to rural populations, and at times compromised by corruption (Sternlight, 2007, pp. 572–577), it has received increasing attention.

3-4-2-(B). Timorese Land Governance in the ADR Spectrum

Within the spectrum of Alternative Dispute Resolution—comprising negotiation, mediation, and arbitration—the land governance system involving collaboration between the DNTP and *Suco* Councils more closely resembles arbitration. However, it also incorporates certain elements of mediation at the local level (Kirk, 2014, p. vi). It is therefore essential to examine both concepts in order to justify the categorisation of this hybrid model of governance.

Arbitration is a quasi-judicial process in which a neutral third party renders a ‘binding’ decision based on evidence and legal reasoning (Cooley, 1986; Kar et al., 2023). It offers finality, enforceability, and is often favoured for its procedural clarity and the technical expertise of arbitrators (Singh, 2022). However, concerns have been raised about its formal and sometimes disempowering nature, particularly when participation is not voluntary or when arbitrators exert complete authority (Edwards, 1986; Stipanowich, 2004). Repeat-player dynamics and the lack of transparency in private arbitration may also challenge perceptions of neutrality and fairness (Shamir, 2003; Sternlight, 2005).

In contrast, mediation is an informal, non-adjudicative process that prioritises dialogue,

mutual understanding, and party autonomy. Mediators facilitate communication but do not impose outcomes, allowing disputants to retain significant control over both the process and resolution (Nolan-Haley, 2012; Alberts et al., 2005). Empirical studies confirm that facilitative mediation—where parties are encouraged to share narratives and explore mutual interests—yields higher satisfaction, especially due to its emphasis on voice, respect, and emotional safety (Hedeen, 2004; Hollander-Blumoff & Tyler, 2011). While mediation may lack the decisiveness of arbitration, it is praised for preserving relationships, being culturally adaptable, and allowing for personalised, interest-based solutions (Shamir, 2003; Vancluysen & Ingelaere, 2020).

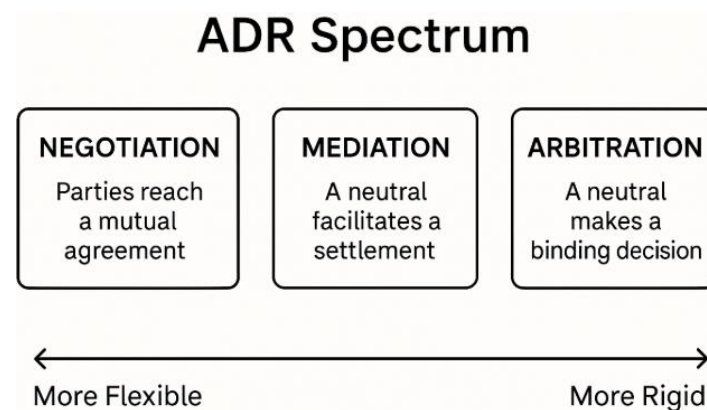


Figure 3: ADR Spectrum (source: I made it based on the literature review, using AI)

Overall, while arbitration is better suited for cases requiring enforceability and legal finality, mediation is generally preferred where satisfaction, empowerment, and collaborative resolution are the primary goals. Scholars such as Stipanowich (2004) and Menkel-Meadow (2015) argue that rather than positioning these mechanisms in opposition, hybrid approaches or context-specific applications can better align ADR practices with user needs and systemic fairness. Based on the comparison, I regard the land governance in my research context as more akin to arbitration because decisions are made by a neutral authority, the outcomes generally appear final and binding, and the people involved have less control over the process compared to mediation.

3-4-2-(C). Assessing Arbitration: Voice, Voluntariness, Neutrality, and Control

Yet, assessing the effectiveness of arbitration remains complex—particularly in non-Western or hybrid systems shaped by overlapping legal, cultural, and political norms. Scholars increasingly stress that effectiveness lies less in outcomes than in perceptions of ‘procedural justice’ (Tyler, 2006 and 2003). This review therefore highlights key insights into how satisfaction with ADR—especially arbitration—is evaluated within local dispute resolution systems.

First, in terms of ‘voice’, arbitration allows disputants to present evidence and arguments, but decision-making power remains largely with the arbitrator, limiting parties’ influence on outcomes (Kar et al., 2023; Shestowsky, 2004). Thus, voice is being heard can be an important assessment factor.

Second, Edwards (1986) emphasises that user satisfaction with arbitration is unlikely if the process is not freely chosen. ‘Voluntariness’ is central to the legitimacy of arbitration—if parties feel coerced, even a fair or efficient outcome may not be perceived as just. He argues that arbitration often becomes compulsory through standardised agreement forms, such as standard-form contracts. In such instances, parties may not provide genuine consent but instead feel compelled to accept a pre-designed arbitration process and outcomes, thereby undermining the foundational principle of voluntary participation.

Third, the perceived ‘neutrality’ of arbitrators is a cornerstone of procedural justice and plays a critical role in shaping the legitimacy of arbitration outcomes. However, as Shamir (2003) and Tyler (2006) caution, this neutrality is often vulnerable to systemic challenges—particularly in contexts where repeat-player dynamics are present. In such cases, arbitrators may be selected repeatedly by the same actors, leading to concerns about unconscious bias or preferential treatment.

Fourth, regarding ‘control’, arbitration places substantial authority in the hands of a third-party decision-maker, reducing the collaborative, participatory aspects often valued in mediation (Cooley, 1986; Kar et al., 2023). Thus, while arbitration can deliver enforceable outcomes efficiently, its design and application must be critically assessed through the lens of procedural justice to ensure satisfaction.

3-4-2-(D). Beyond Procedure: Cultural Dimensions of Satisfaction in ADR

While procedural justice theory offers a practical framework for understanding ADR user satisfaction, it should be acknowledged that the ways in which disputants perceive justice are also shaped by local cultural contexts. In many non-Western or transitional societies, where formal legal systems may be regarded as remote, individuals favor local or customary ADR mechanisms that commonly reflect local community values (Shamir, 2003).

For example, Vancluyse and Ingelaere (2020) document that South Sudanese refugees in Uganda often prefer community-based dispute resolution forums led by refugee leaders or elders. These informal settings are culturally familiar, linguistically accessible, and procedurally flexible, thereby fostering greater trust and satisfaction. However, the authors also caution that such forums may perpetuate existing inequalities, including patriarchal norms and the marginalisation of youth voices. Accordingly, local satisfaction is highly context-dependent, requiring a delicate balance between procedural accessibility and underlying power dynamics.

Kar et al. (2023) also underscore that satisfaction in ADR is not solely derived from procedural fairness or the quality of outcomes, but is deeply influenced by cultural resonance, emotional safety, and shared social meaning. In such contexts, satisfaction tends to increase when the resolution process aligns with local identities and symbolic notions of justice—even when these diverge from formal legal standards.

These examples illustrate that evaluating satisfaction with arbitration in the local contexts of developing countries requires a nuanced appreciation of community norms, expectations, and historical experiences of authority, rather than relying solely on standardized procedural metrics.

3-4-2-(E). Toward a Context-Sensitive Framework for Assessing Satisfaction

Building upon the reviewed literature, it becomes evident that satisfaction with arbitration should be assessed using multidimensional criteria rooted in procedural justice and sensitive to contextual factors. The following guiding questions are used to support a grounded and nuanced evaluation:⁴⁰

⁴⁰ Please note that this review identifies seven criteria. However, the criteria of ‘Durability and Enforcement’—whether the agreement is well observed in the long term—and ‘Transparency’—whether decisions are communicated clearly and agreed upon, either publicly or in writing—are excluded from this

Voice: Did the disputants feel they were heard and had the opportunity to express their perspectives?

Voluntariness: Was participation in arbitration freely chosen and clearly understood?

Neutrality: Was the arbitrator perceived as impartial and fair by all parties?

Control: Did participants feel they had any degree of influence over the process or its outcome?

Cultural Fit: Did the process align with the community's values, norms, and expectations?

These questions examine both procedural justice and the ways in which satisfaction is interpreted and evaluated across culturally diverse and institutionally complex settings, offering a more context-sensitive framework for analysis.

3-4-3. Sub-conclusion: Classifying Questions for Exploring Dependent Variables

Taking into consideration the multiple dimensions discussed—combining procedural justice with cultural fit—the following set of guiding questions has been developed to systematically classify and differentiate the key dependent variables within this study:

Dependent Variables		
Concepts	Systematised Concepts	Indicators (Classifying Questions)
Institutional Outcomes in terms of Top-Down	Enforcement	Are the arbitration rules and agreement respected by both parties?
	Coordination	Are the costs of opening and maintaining the arbitration forum properly covered?

analysis, as they explicitly overlap with the CAPs analysis.

Institutional Outcomes in terms of Bottom-Up	Procedural Justice in Culturally Embedded Contexts	Voice: Did the disputants feel they were heard and had the opportunity to express their perspectives? Voluntariness: Was participation in arbitration freely chosen and clearly understood? Neutrality: Was the arbitrator perceived as impartial and fair by all parties? Control: Did participants feel they had any degree of influence over the process or its outcome? Cultural Fit: Did the process align with the community's values, norms, and expectations?
--	--	--

Table 11: Indicators/Classifying Questions for Exploring Dependent Variables

3-5. Conclusion: Legal Pluralism and Dual-Level Assessment

This chapter has brought together key bodies of literature on legal pluralism, institutionalism—particularly the analytical frameworks concerning formal–informal institutional relationships and collective action problems (CAPs)—and alternative dispute resolution (ADR) in the context of developing countries. It began by examining how international legal layers—such as rule of law programmes in land governance and human rights norms—interact with local normative systems, often producing complex institutional landscapes. By engaging with concepts like forum shopping, shopping forums, and post-conflict legal ambiguity, the chapter highlighted how both state and non-state actors strategically navigate overlapping legal orders. These dynamics can be situated within the specific empirical setting of Timor-Leste, where the interplay between the DNTP (as a formal institution) and *Suco* Councils (as primarily informal) emerges as a focal point for understanding institutional hybridity and governance outcomes, thereby facilitating the examination of formal–informal institutional relationships theory.

Additionally, this literature review chapter introduced a multi-dimensional framework for assessing governance effectiveness from both top-down (CAPs) and bottom-up (ADR) perspectives. Together, these conceptual tools establish a foundation for the empirical work that follows, and prompt the reader to reflect on how institutions function not just in form, but in practice.

Finally, this chapter highlights the challenges of conducting research within complex institutional environments—often referred to as ‘twilight zones’—where formal and informal systems overlap. It raises key questions not only about how institutions are defined and categorised but also about the methodological approaches appropriate for studying them in such complex contexts. These reflections serve as a transition to the following chapter, which outlines the methodological framework of this study. That chapter will explain not only the rationale behind the selection of specific methods—such as interviews and surveys—but also their positioning within a positivist tradition of inquiry. It will further elaborate on the development of context-sensitive and ethically grounded empirical strategies tailored to the fieldwork in Timor-Leste.

Chapter Four: Methodological Pluralism Matters

4-1. Introduction

Hamlet said, ‘Give him heedful note, For I mine eyes will rivet to his face. And, after, we will both our judgments join. In censure of his seeming.’⁴¹ These lines expose Hamlet’s inner turmoil as he tries to determine whether Claudius—now King, and both his uncle and stepfather—was indeed responsible for his father’s death. Unable to access Claudius’s thoughts directly—and finding his behaviour too ‘complex’ to interpret alone—Hamlet enlists Horatio’s help to observe him during the play, hoping that their concerted interpretations will yield a more reliable judgement, which I would consider a form of ‘triangulation’.

Hamlet’s approach offers a compelling analogy for today’s development community, where scholars and practitioners grapple with ‘complex’ realities. To work effectively in such contexts, I would argue that triangulation—or more broadly, methodological pluralism—is essential. Yet this very complexity often drives the search for a silver bullet. When I began my PhD in 2020, much of the development field leaned towards Randomised Controlled Trials (RCTs), particularly after Abhijit Banerjee, Esther Duflo, and Michael Kremer received the 2019 Nobel Prize for demonstrating aid effectiveness through RCTs. Although the laureates might not have intended RCTs to be viewed as a silver bullet, their influence led many—including myself—to regard them in that way.

Early in my PhD, I realised that Randomised Controlled Trials (RCTs) were ill-suited to my governance-related questions. This chapter thus begins by challenging the often overly celebrated status of RCTs. I then outline the underlying logic of inquiry—‘methodology’—that links research questions to appropriate methods and forms of data. Working within a positivist methodological tradition, I proceed to detail my research design, case selection, methods, and the ethical considerations essential to conducting research in development contexts.

4-2. The Importance of Methodological Pluralism in Development Contexts

Since Abhijit Banerjee, Esther Duflo, and Michael Kremer received the Nobel Prize in Economic

⁴¹ I really appreciate Dr Hyangue Lee, who bought me this book—*Hamlet* (Shakespeare, 1996), one of the greatest works by Shakespeare.

Sciences in 2019 for showcasing the effectiveness of aid through Randomised Controlled Trials (RCTs), the international development sector has witnessed a significant turn towards the adoption of RCTs. Kim (2016) notes that this method has increasingly been applied beyond public health⁴² and education initiatives. However, method-driven research often misleads us, as evidenced by the fact that certain areas—such as development evaluation, electoral behaviour analysis, and others—are over-researched, while important questions that cannot be addressed by a particular method are left ‘aside’ (Mahoney and Thelen, 2015, pp. 9–10). I would argue that methodological pluralism is more important than the pursuit of a single ‘perfect’ method. I will refer to the relevant literature as follows.

Riddell (2009) raises concerns that challenge the foundational assumptions underpinning RCT-based approaches. His arguments can be grouped into two overarching themes. First, he highlights the limitations of narrowly targeted interventions in capturing the complexity of development, emphasising the need to address broader structural, institutional, and cross-sectoral dynamics often overlooked by RCTs. Second, he draws attention to the difficulties of delivering aid in fragile states—contexts characterised by limited institutional capacity, political instability, or security concerns—where the strict control conditions and extended timeframes required for RCTs are frequently unfeasible. In doing so, Riddell raises important questions regarding the practical relevance and contextual applicability of RCTs in precisely those settings where development challenges are most acute.

In addition, Kremer et al. (2009) cast doubt on whether narrowly targeted interventions—such as deworming initiatives typically employed in RCTs—can provide universal or standardised solutions. They reject an over-reliance on universal best practices, advocating instead for lesson learning that values context sensitivity and adaptability over rigid experimental models. Furthermore, they caution against the exclusive reliance on experimental methods, calling for ‘methodological pluralism’. This perspective supports a more flexible analytical toolkit—one that incorporates qualitative insights, comparative

⁴² My initial intuition is that Randomised Controlled Trials (RCTs) are particularly well suited to public health interventions, given their origins in medical science. A method long established in clinical research is now being applied to development contexts closely linked to medicine, such as public health aid projects, so it is unsurprising that it appears effective in these settings. While this section critically assesses the excessive acclaim surrounding RCTs, it does not detract from my acknowledgement of the Nobel Laureates’ significant contributions.

approaches, and iterative learning—areas in which RCTs are often considered limited.

In particular, regarding the critique of universalism and standardisation, both Jones et al. (2015) and Ferguson (2020, p. 292) offer conceptually aligned perspectives. On the one hand, Jones et al. (2015) critique the assumption of universality and replicability across contexts, which overlooks the political, cultural, and institutional factors that shape development outcomes. In contrast, they argue that Mixed Methods Research (MMR) enables context-sensitive analysis that accommodates local complexity and variation. In addition, they highlight the mismatch between the linear logic of RCTs and the non-linear, iterative nature of development, arguing that MMR better supports adaptive learning. They also critique RCTs' epistemological limits, which often exclude local or indigenous knowledge. In contrast, MMR embraces methodological pluralism and ethical engagement. All inform my method selection throughout this PhD research.

On the other hand, Ferguson (2020, p. 292) offers a conceptual critique of RCTs, drawing on the work of Cartwright and Hardie (2012) to argue that while RCTs may demonstrate a policy's success in *one context*, they offer limited insight into whether it will work *elsewhere*. This is because RCTs often fail to account for the complex social, institutional, and political conditions—what Cartwright and Hardie term the 'supporting conditions'—required for causal relationships to operate effectively. Ferguson illustrates this with the example of the Tamil Nadu Integrated Nutrition Project, which succeeded in India but failed when replicated in Bangladesh, demonstrating that causes function within specific configurations of contextual factors. In contrast, Ferguson's theory of Collective Action Problems (CAPs) provides a strong conceptual foundation for addressing what RCTs overlook, such as my second research aim: 'To examine how land governance operates under different formal–informal institutional relationships'. CAPs theory focuses on dynamics across varied contexts, such as weak enforcement 'by' authorities and poor coordination 'within' authorities. To understand how governance functions or how these 'collective action problems' are overcome in practice, I adopt a Mixed Methods Research (MMR) approach—including interviews, observation, and surveys. In this way, CAPs theory informs both the theoretical and methodological framework of my PhD thesis.

In summary, each method has its own strengths and limitations, but their effectiveness depends on the broader methodological approach guiding their use. Rather than searching

for a silver bullet, researchers should prioritise the underlying logic of inquiry—the methodology—that connects research questions with appropriate tools and forms of data. This rationale underpins my use of MMR—such as interviews, participant observation, and surveys—framed within a coherent methodological framework. Therefore, it is essential to clarify the methodology, which will be outlined in the following section.

4-3. Methodology as Strategy and Methods as Tactics: Understanding Research Process

My discussion begins with an examination of methodology rather than methods. Understanding the distinction between methodology and methods is crucial because selecting appropriate methods is essential for employing the most suitable research approaches, and this is possible only after understanding the differences between methodology and methods. Despite its importance, this issue is rarely examined (Grix, 2002, p. 180). It is common to observe the application of specific research methods, such as surveys, without a thorough assessment of their appropriateness for data collection. For this discussion, I reference Grix (2002).

As articulated by him, ‘the building blocks of research’ encompass ontology, epistemology, methodology, methods, and sources. First, it is important to know that ‘[o]ntology is the starting point of all research, after which one’s epistemological and methodological positions logically follow’ (ibid., p. 177). Blaikie characterises ontology as involving ‘claims about what exists, what it looks like, what units make it up and how these units interact with each other’, while epistemology pertains to ‘claims about how what is assumed to exist can be known’ (as cited in Grix, 2002, p. 177). In sum, ontology is concerned with ‘[w]hat exists?’ or ‘[w]hat is the nature of the social world?’ whereas epistemology is concerned with ‘[w]hat sort of knowledge of it is possible?’ or ‘[h]ow can we know about it?’ (Halperin and Heath, 2017, p. 26).

Ontology		Epistemology		Methodology		Methods		Sources
What’s out there to know?	→	What and how can we know about it?	→	How can we go about acquiring that knowledge?	→	Which precise procedures can we use to acquire it?	→	Which data can we collect?

Figure 4: The Interrelationship between the Building Blocks of Research (Grix, 2002, p. 180)

Second, I expound upon the notions of methodology and methods. Diverse endeavours have been undertaken to proffer definitions of methodology. Sartori, for instance, characterises it as ‘a concern with the logical structure and procedure of scientific enquiry’ (1970, p. 1033). Kenneth Waltz regards methodology as analogous to strategy and methods as analogous to tactics, as follows (as cited in Moses and Knutsen, 2019, p. 3):

they [students] have been much concerned with methods and little concerned with the logic of their use. This reverses the proper priority of concern, for once a methodology is adopted the choice of methods becomes merely a tactical matter. It makes no sense to start the journey that is to bring us to an understanding of a phenomenon without asking which methodological routes might possibly lead there.

In addition, Grix defines methodology in a more detailed way, saying (2002, p. 179):

[m]ethodology is concerned with the logic of scientific inquiry; in particular with investigating the potentialities and limitations of particular techniques or procedures. The term pertains to the science and study of methods and the assumptions about the ways in which knowledge is produced.

Through this conceptual juxtaposition, it becomes evident that methodology serves as the foundational framework for research, encompassing the selection of methods within its scope.

Consequently, the establishment of methodology precedes the judicious selection of methods. I intend to apply this systematic approach to my own research, elucidating the process by which suitable methods are chosen in alignment with the chosen methodology. Before delving into the specifics of method selection, it is therefore imperative to expound upon the methodological tradition I plan to adopt in my research—‘positivism’.

4-4. Positivism Methodology Tradition

According to Moses and Knutsen (2019), there are two predominant methodological

traditions in social science: positivism⁴³ and constructivism⁴⁴. These traditions diverge in their epistemological foundations, methodological approaches, and overarching research objectives. In the context of this research, I align with the positivist tradition, selecting its methodological framework in preference to that of constructivism. I will therefore clarify why I adopt this tradition, and what it entails—the importance of empirical evidence, research objectivity, and the role of concepts, by reviewing its long history from Galileo Galilei (1564–1642) to contemporary political scientists such as Robert Adcock and David Collier.⁴⁵

4-4-1. The Rationale for Adopting Positivism Tradition

This research adopts a positivist methodological tradition, grounded in the belief that empirical investigation can uncover objective patterns and causal relationships within the social world. The positivist approach is particularly well-suited to the nature of the research questions posed in this study, each of which seeks to explore observable phenomena, identify regularities, and examine the effects of institutional arrangements on governance outcomes.

The first research question, which addresses the influence of international legal layers—specifically rule of law programmes and international human rights frameworks—invites analysis of external interventions and their ‘observable’ impacts. A positivist lens enables the identification of causal mechanisms and patterns of influence that may emerge across multiple cases or contexts.

The second question examines how actors navigate a plural legal landscape through forum shopping. This behaviour can be empirically traced by analysing actor preferences (forum shopping) and institutional choices (shopping forums). In other words, grounded in

⁴³ They assert that the terms ‘naturalism’, ‘positivism’, ‘empiricism’, and ‘behaviouralism’ are employed to describe the same fundamental methodological stance. They advocate for the use of ‘naturalism’ due to its perceived neutrality (2019, p. 7). However, in the field of political science, ‘positivism’ is the more commonly accepted term. Consequently, I have chosen to adopt the term ‘positivism’ in this PhD thesis.

⁴⁴ They argue that the term ‘constructivism’ is also known as ‘interpretivism’, ‘Gadamer’s hermeneutics’, ‘Habermas’s Critical Theory’, ‘French deconstructionists’, and ‘post-structuralists’ (ibid., p. 9).

⁴⁵ My research purpose does not pertain to political philosophy. Given my lack of specialisation in philosophy, I summarise insights from Moses and Knutsen’s book, *Ways of Knowing: Competing Methodologies in Social and Political Research* (2019). For a more in-depth exploration, please refer to the aforementioned book.

the positivist tradition, this study seeks to uncover these ‘patterns’.

The third question focuses on the relationships between the DNTP and *Suco* Councils, particularly within arbitration forums. The positivist tradition informs my analysis, helping to ‘measure key concepts’—such as effective and ineffective formal institutions, and convergent and divergent informal institutions—as applied to the cases of the Dili and Ainaro districts.

The final question seeks to examine the impact of these institutional relationships on governance mechanisms and their effectiveness. This requires the identification of empirically ‘observable outcomes’—such as dispute resolution mechanisms linked to formality-inclined and informality-inclined governance, the degree of enforcement by authorities and coordination within authorities and levels of perceived legitimacy among local populations.

In sum, such approaches are rooted in the positivist tradition, culminating in Adcock and Collier’s emphasis on concept measurement (2001). With a clear understanding of the positivist paradigm, I believe that my four research questions can be effectively addressed. This forms the rationale for my adoption of positivism.

4-4-2. What Positivism Tradition Entails

This section expounds upon the positivist tradition by reviewing its relevant history. This tradition has three key characteristics. First, proponents of this philosophical foundation regard empirical evidence as important. Second, they believe that social phenomena can be researched as objectively as natural phenomena. Third, concepts play key roles.

4-4-2-(A). Empirical Evidence

Galileo Galilei (1564–1642) assumed a pioneering role in the progression of the natural science. Galilei challenged the prevailing Aristotelian knowledge upon which Church scholarship rested during his time ‘by observing the moon with newly-invented apparatus [telescope]’. His observations revealed mountain-like structures on the moon’s surface, in stark contrast to the Aristotelian belief that the moon was a perfectly spherical and smooth celestial body.

Isaac Newton (1642–1727) furthered our understanding by deducing that ‘bodies attract each other according to a constant principle’, building upon the empirical evidence gathered by Galileo and Kepler. These pioneering scientists embraced the method of induction,

placing significant emphasis on empirical evidence and meticulous ‘observation’ (Moses and Knutsen, 2019, p. 15, italicised by the authors).

In regard to the method of induction, Sir Francis Bacon (1561–1626) is widely regarded as a central figure in its development. Bacon argued that scientific knowledge should be grounded in empirical observation rather than abstract reasoning alone. He emphasised two key principles: first, that only direct observation can provide reliable statements about the world, and second, that true knowledge must be derived from these observational statements (ibid., p. 18). He was particularly critical of the deductive method, likening it to a spider spinning its web entirely from within—closed and self-referential. In his view, deduction, without grounding in observation, could not yield genuinely new knowledge (ibid., p. 18). However, Bacon also acknowledged a critical limitation of the inductive method: the tools used to observe the world—namely human senses and reasoning—are themselves imperfect and prone to distortion. Although induction plays a crucial role in scientific inquiry, it can be undermined by cognitive biases and sensory limitations (ibid., p. 16).

This emphasis on empirical evidence is echoed by figures such as Galileo Galilei, whose work with the telescope revealed the Moon’s uneven surface, challenging the long-held belief that it was perfectly smooth and spherical. Such discoveries highlight the importance of reliable instruments in uncovering the true nature of the physical world, reinforcing Bacon’s call for observation-based science.

4-4-2-(B). Objective Research

However, whether or not ‘human sense’ is objective is an important question. Regarding this, we can refer to John Locke (1632–1704), David Hume (1711–1776), and René Descartes (1596–1650). They already discussed this critical issue.

First, Locke stressed ‘sense perception’, and thus insisted that people can gain knowledge through their sense, and then process it ‘according to the established rule of logic’ (ibid., p. 19–20). In saying so, Locke was in line with Bacon, who thought that induction was important, but could be often biased—people have their own way of seeing the world, to some extent.

Second, based on Locke’s idea that human sense is not perfect, Hume started to wonder if the induction method could lead to a causation argument. Human experience can be diverse

and the human capacity to make sense of the world is limited; thus induction methods cannot be used to make generalisations. Rather than being preoccupied with uncovering causation, scientists 'should identify and map factual correlations—that is, correlations among facts that are directly observable by human sense' (ibid., p. 22).

Third, although Descartes was not sure that human sense is objective and trustworthy, he concurred with Locke and Bacon that human sense is the main channel to obtain knowledge (ibid., p. 26). However, Descartes is more innovative than others; he argues that geometry and algebra help arguments to be processed mathematically, and through this process, people can arrive at the truth. This method of Descartes is known as 'testable hypotheses' (ibid., p. 28).

Great thinkers such as John Locke, David Hume, and René Descartes played a foundational role in shaping what we now recognise as the naturalist methodology within the natural sciences. Their philosophical contributions laid the groundwork for empirical investigation and rational inquiry, enabling humanity to make remarkable advancements. As a result, we have landed on the Moon, sent spacecraft to Mars, and developed treatments for diseases that were once considered incurable. This raises a profound question: can the naturalist methodology be effectively applied to the social world as well? If so, we might be able to prevent wars, foster eternal peace, and cultivate a more just and prosperous global society.

4-4-2-(C). Social Science and the Birth of Concept

Whether social scientists can take advantage of the methodologies used in the natural sciences is an important question. As mentioned above, if this is the case, we may be able to identify mechanisms that could lead to either wars or peace. In my research context, this approach may be able to help me discover more effective formal-informal institutional relationships, which can lead to better outcomes.

This issue has already been discussed by Auguste Comte (1798–1857) and Émile Durkheim (1858–1917). First, Comte, who coined the term sociology, divided knowledge in the social world into two types: fact-based and value-based. These are a developed version of Hume's dual types of knowledge (fact and value). Comte, then, insisted that fact-based knowledge is empirically obtainable whereas value-based knowledge is not, and therefore it

is to be treated outside science. Fact-based knowledge in the social world can ‘accumulate until it slowly arrives at general statements and fundamental insights’ just like natural science does (ibid., p. 28).

Second, Émile Durkheim (1858–1917) developed Comte’s idea into ‘more rigorous, empirically grounded scientific methods’ with a special emphasis on ‘social fact’, or ‘things that are independent of, and constrain, individuals’ (ibid., p. 29). To Durkheim, ‘concepts’ should be crucial. Social facts such as freedom, democracy and so on are invisible or intuitively uncaptured (or intuitively well-captured but in an incorrect way) so we need to ‘turn away from all preconceptions and turn attention toward the fact’; therefore we can conduct scientific discussion based on concepts that ‘correspond to phenomena in the Real world’ (ibid., p. 30). As we follow Durkheim and Comte, then we can gain observable data with a refined concept. The next section will explore how contemporary political scientists develop the idea of concepts and take advantage of them.

4-4-2-(D). Concepts in Contemporary Political Science

In accordance with positivism and its emphasis on concepts, today’s scholars in this line also attempt to develop what the concepts should be. In this chapter, I reference the work of Robert Adcock and David Collier (2001).

They begin their research with the question, ‘Do the observations meaningfully capture the ideas contained in the concepts?’ (ibid., p. 529). They argue that, in order for concept measurement to be considered valid, ‘operationalization and the scoring of cases adequately reflect the concept the researcher seeks to measure’ (ibid., p. 529).

The process begins with a ‘background concept’, a term that is commonly used in everyday language. However, such concepts are often vague and lack analytical precision, requiring further refinement. This leads to ‘conceptualisation’, the process through which a background concept is transformed into a ‘systematized concept’. Once conceptualised, the concept is ready to be measured, but one additional step is necessary: ‘operationalization’. In this step, researchers identify key indicators—used either to assign numerical scores in quantitative research or to classify cases in qualitative research. In my case study, I conceptualised and operationalised key concepts such as effective and ineffective formal institutions, convergent and divergent informal institutions, enforcement and coordination of

second-order collective action problems, and good arbitration. The detailed process is outlined in the literature review chapter, and my approach is qualitative.

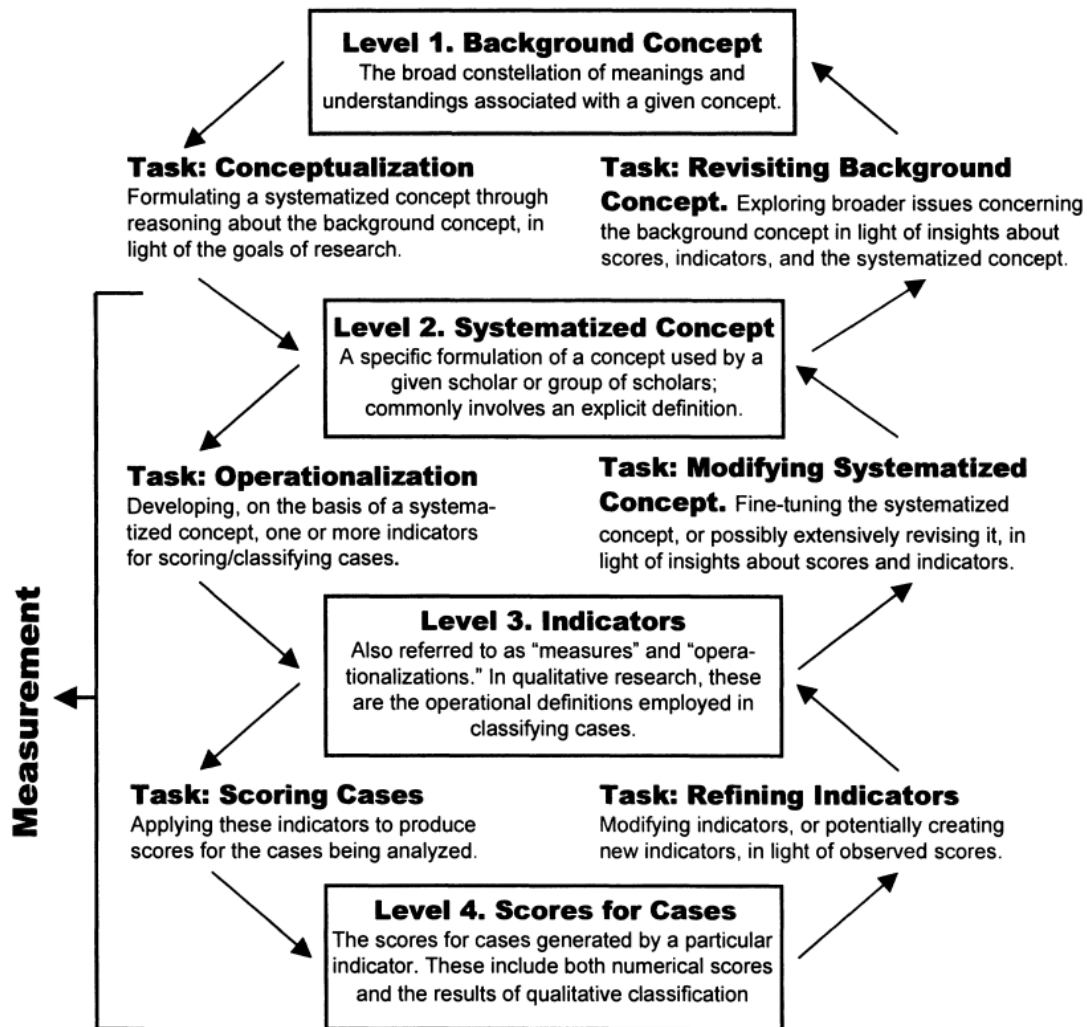


Figure 5: Conceptualisation and Measurement – Levels and Tasks

4-4-3. Sub-conclusion: Positivism and My Empirical Strategy

In summary, I have outlined key developments in the philosophy of science—from Galileo to Durkheim and contemporary thinkers—with a particular focus on naturalism. Naturalist social scientists, also known as positivists, believe that the social world—like the natural world—follows objective patterns and causes, which can be studied through observation and tested using evidence-based methods. Aligned with this view, I approach my research in Timor-Leste with the aim of examining the influence of legal pluralism on land disputes, the dynamics of

land governance involving collaboration between the DNTP and *Suco* Councils, arbitration mechanisms, and broader governance outcomes. Before turning to the discussion of ‘method’, I will outline my research design and case selection rationale, which together provide the contextual foundation for the application of the chosen method.

4-5. Research Design and Case Selection

My research design aims to test my hypothesis: ‘Different types of relationships between the DNTP and *Suco* Councils in arbitration forums in the districts of Dili and Ainaro are likely to lead to varying degrees of governance effectiveness’. The research design thus exhibits two fundamental characteristics. First, it adopts a ‘cross-sectional’ approach, focusing on current relationships. Second, it is inherently ‘comparative’, examining relationship types and governance effectiveness in the districts of Dili and Ainaro. This research design is intended to establish a sharply contrasting context in which different types of institutional relationships are likely to emerge. The following literature informed the rationale for adopting this approach.

Initially, when the DNTP deals with land disputes, they usually work with informal institutional leaders (Meitzner Yoder, 2003, p. 23). The fact that they work together means each entity forms a certain type of relationships. Next, the DNTP Dili office and the other offices are quite different in terms of their functionality; the Dili office is much higher functional whereas other districts is not as effective as in Dili (Almeida, 2020, p. 206). Lastly, in accordance with the findings from the ‘Survey on Access to Land, Tenure Security and Land Conflicts in Timor-Leste’ (Almeida and Wassel, 2016, p. 23), residents of Ainaro district exhibit a distinct preference for informal institutional leaders—‘Customary Leader’ (the *lia na’in* and the *liurai*), ‘Suku chief’ (the *suco* chief: the leader within the *Suco* Council), and ‘Aldeia chief’ (the *aldeia* chief: the leader within *aldeia*⁴⁶ as well as a member of the *Suco* Council) – over formal institutional leaders (the DNTP). This preference is visually illustrated in the figure presented below.

⁴⁶ A *suco* comprises multiple *aldeias*.

	Family	Aldeia chief	Suku chief	Customary Leader	Community members	DNTP	PNTL	Lawyer	Courts
DILI	42%	83%	83%	35%	13%	30%	18%	6%	26%
AINARO	75%	92%	91%	94%	24%	20%	46%	10%	19%
ERMERA	73%	94%	87%	79%	15%	10%	16%	1%	14%

Table 12: Survey Result on Whom They Prefer about Issues

(Almeida and Wassel, 2016, p. 23)

Therefore, comparing land governance in which the DNTP and *Suco* Councils collaborate between the districts of Dili and Ainaro could provide a valuable case for testing whether formal–informal institutional relationships lead to different types of institutional outcomes. My scoping trip to Timor-Leste in October 2023 reinforced the rationale for further exploration of this issue, as I observed—albeit at a superficial level due to the limited time available (around a week)—that different types of relationships and arbitration mechanisms exist. In Dili, DNTP officials may hold more authority than informal institutional leaders, such as *suco* chiefs, whereas in Ainaro, these power dynamics may be reversed.



Map 5: The Two Districts Selected as Cases, Dili District and Ainaro District

(Maps of World, 2012)

4-6. Methods

In this research, I pose four research questions. For each question, I selected the most appropriate methods, including documentary research, content analysis, interviews, surveys, site visits to land dispute locations, and participant observation. In this section, I elaborate on the selected methods and explain how each aligns with the corresponding research questions.

4-6-1. Research Methods for Research Question 1

This section explains the research methods used to answer my research question 1: ‘In what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?’ These methods include documentary research, content analysis, and interviews.

4-6-1-(A). Documentary Research

My initial research method entails documentary research, wherein both myself and my research assistants⁴⁷ conducted a comprehensive review of all articles pertaining to land disputes from 2020 to 2022, with the aim of identifying any emerging trends. We read 5 major newspapers – *The Dili Weekly*, *The Independente*, *The Jornal Nacional Diario*, *Suara Timor Lorosae*, and *The Timor Post*. Through our review of five types of Timorese newspapers from 2020 to 2022, we found that land disputes in Timor-Leste are often influenced by legal pluralism. For example, Type 1 (Government Project vs. People’s Land) refers to situations in which the Timorese government initiates development projects, but local residents reject compensation and choose to remain—often citing reasons such as customary norms.

4-6-1-(B). Contents Analysis

Based on the results of the documentary research, I aimed to identify which type of land dispute is most common and which is less significant. To achieve this, I employed the content analysis method, which involves quantitatively counting each category. This descriptive statistical analysis allowed me to identify both the most and least contentious types of land disputes. The empirical data will be graphically presented in bar charts.

⁴⁷ I deeply thank my research assistants who helped me translate Tetum-written newspapers into English.

4-6-1-(C). Interviews

For triangulation, I conducted interviews with experts who could corroborate or refine the findings from the documentary research. First, I held discussions with three employees at the DNTP office in Dili and one employee at the DNTP office in Ainaro. I asked them to cross-check my findings and to provide additional cases not covered by the Timorese press.

Second, I extended my interviews to include a law clerk with extensive experience spanning several years, not only within the Dili Court but also in the Baucau Court.⁴⁸ His in-depth experience allowed for a more comprehensive understanding of land dispute cases, providing a national perspective rather than being limited solely to Dili cases.

Third, I consulted with two public defenders, a private lawyer, and a human rights activist working for Rede ba Rai (a network of 20 NGOs focusing on land rights issues in Timor-Leste). Their collective insights, drawn from extensive practical experience, provided valuable perspectives on the complex landscape of land disputes in Timor-Leste.

4-6-2. Research Methods for Research Question 2

This section explains the research methods used to answer my research question 2: ‘How do actors within a plural legal landscape engage in forum shopping, navigating among diverse forums to pursue their claims?’ These methods include site visits and interview, and interviews.

4-6-2-(A). Site Visits and Interview

Site visits to two locations enabled me to meet with community members in a rural area where the Timorese government had attempted coercive evictions. A field rich in fertile land provided insight into why locals wished to remain there—not only for its agricultural value but also due to customary and ritual ties. Interviews with around ten residents—conducted with support from Rede ba Rai—revealed how people in the area were able to engage in forum shopping.

⁴⁸ Timor-Leste possesses a limited number of judicial institutions, specifically comprising only four courts. Consequently, gathering practical experiences from an individual who works not only in Dili but also in Baucau courts can be deemed particularly valuable.

4-6-2-(B). Interviews

First, to understand how the local population in Dili and Ainaro navigate dispute resolution forums, I conducted interviews with locals. I asked why they brought their cases to governance in which the DNTP and *Suco* Councils collaborate, and what types of forums they considered before doing so. These interviews revealed how and why people navigate between different forums. Second, I interviewed forum leaders, such as *suco* chiefs and traditional *lia na'in*, to explore why they often take an active role rather than acting as neutral, passive arbiters. This helped me understand the phenomenon of shopping forums in Timor-Leste.

4-6-3. Research Methods for Main Question 3

This section explains research methods to answer my main question 3, 'How do relationships between the DNTP and *Suco* Councils in land governance—particularly when both entities collaborate during arbitration forums—vary across districts?'

4-6-3-(A). Participant Observation

I participated in approximately ten arbitration sessions at the DNTP office in Dili. This approach, based on participant observation, enabled me to directly examine how DNTP arbitrators operate in practice. My observations focused on several key questions: Do they follow written rules? Are these rules applied consistently—for instance, by ensuring equal opportunities for both parties and for women? These and other guiding questions shaped my observational focus. Further details are provided in Appendix 1.

4-6-3-(B). Interviews

In Ainaro, where the number of land dispute cases is comparatively lower than in Dili, I did not have the opportunity to directly observe a land dispute arbitration session. Therefore, I interviewed as many different types of entities as possible, including an employee at the DNTP Ainaro office, two *suco* chiefs, one *aldeia* chief, one *lia na'in*, one sub-administrator, and five individuals involved in land disputes. The data from these interviews, which triangulated with each other, provided insights into the land governance in Ainaro.

4-6-3-(C). Surveys

To assess whether the outcomes between formal and informal institutions are convergent or divergent, I administered surveys and conducted casual interviews. In Dili, I surveyed all 31 *suco* chiefs, and followed this with one-on-one interviews with nine *suco* chiefs, three *aldeia* chiefs, five administrative personnel, and one female representative from the *Suco* Councils. This method informed me of how the informal sector leaders think about DNTP's arbitration. In Ainaro, I surveyed all 21 *suco* chiefs and conducted interviews with 2 *suco* chiefs, 1 *aldeia* chief, 1 sub-administrator, 1 police officer, and 1 traditional *lia na'in* who also serves as the *aldeia* chief.

4-6-4. Research Methods for Main Question 4

My last main question is 'What impact do different types of DNTP–*Suco* Council relationships have on governance mechanisms and their effectiveness?' On the one hand, in order to describe the mechanisms, I used methods of participant observation in the DNTP Dili Office, and interviews with a DNTP Ainaro officer, informal institutional leaders, and parties to land disputes in Ainaro district. On the other hand, to observe institutional outcomes, I conducted interviews with the parties involved in land disputes in both districts, as well as forum leaders.

4-6-4-(A). Participant Observation and Interviews

In Dili, I participated in arbitration sessions at the DNTP office. This method of participant observation allowed me to directly observe its arbitration mechanism. For instance, the staff provided me with a document outlining the written rules of the arbitration process. Interviews with parties involved in land disputes also helped me understand their level of satisfaction with the arbitration.

4-6-4-(B). Interviews

In Ainaro district, I interviewed an official at the DNTP office, asking him to describe the arbitration mechanism in place. To triangulate the narrative data, I also interviewed informal institutional leaders—such as *suco* chiefs, who typically sit at the arbitration table—as well as parties involved in land disputes, using the same set of questions. These interviews revealed that verbal mechanisms are commonly used in Ainaro. Additionally, interviews with disputing

parties provided insights into their level of satisfaction with the arbitration process.

4-6-5. Sub-conclusion: Summary of Methods

In summary, I employed a range of methods in line with my positivist stance, which holds that social phenomena can be observed and underlying regularities identified. Recognising that human senses are less precise than scientific instruments, I relied on careful conceptualisation and triangulation to enhance accuracy. Accordingly, I used multiple methods to observe and analyse the phenomena under study. This section connects to that approach and briefly outlines the key elements of my research strategy.

Research Questions	Methods	Methods Overview
(Main Question 1) In what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?	<u>Documentary Research</u>	Reading Five Timorese Newspapers from 2020 to 2022
	<u>Content Analysis</u>	Counting Each Category based on Documentary Research
	<u>Interviews</u>	Triangulating the Findings through Interviews with Experts
(Main Question 2) How do actors within a plural legal landscape engage in forum shopping?	<u>Site Visits</u>	Visiting Two Land Dispute Sites involving Government Eviction Attempts
	<u>Interviews</u>	Interviewing Parties Involved in Land Disputes or Arbitration Processes
(Main Question 3) How do relationships between the DNTP and <i>Suco</i> Councils in land governance—particularly when both entities collaborate during arbitration forums—vary across districts?	<u>Participant Observation</u>	Participating in Arbitration Processes at the DNTP Dili Office
	<u>Interviews</u>	Interviewing DNTP Ainaro and Dili Officials, <i>Suco</i> Council Members, and Local People
	<u>Surveys</u>	Surveying Informal Institutional Leaders, such as the <i>Suco</i> Chiefs
(Main Question 4) What impact do different types of	<u>Participant Observation</u>	Participation in Arbitration Processes at the DNTP Dili Office

DNTP– <i>Suco</i> Council relationships have on governance mechanisms and their effectiveness?	<u>Interviews</u>	Interviewing Officials at the DNTP Dili and Ainaro offices, Informal Institutional Leaders, and Parties to Land Disputes
--	-------------------	--

Table 13: Overview of My Methods

4-7. Tools to Record Empirical Data

In this section, I will outline the methods used to record empirical data. I employed a voice recording application for real-time capture of interviews and discussions, alongside notes for translation and detailed note-taking during fieldwork. Survey papers provided structured data collection. These tools ensured easy access to raw data, allowing for efficient review and verification throughout the research.

4-7-1. Field Notes and Survey Papers

Although participants generally agreed to interviews, they sometimes felt uncomfortable during the process. In these cases, I quickly stopped the voice recording to show that their comfort and well-being were my priorities. I then focused on listening attentively and used only my fieldnotes to document their responses and insights. For surveys, participants' written answers on the survey forms were the main source of data collection.

The image shows three survey papers with handwritten responses in Indonesian. The papers are titled 'Survey Dili' and 'Survey Ainaro'. They contain sections for personal information, consent, and answers to specific questions about land disputes and family roles. The responses are handwritten in blue ink.

Survey Dili

1. What is this role name? *1. 1st*

2. What is this role name and your name, please? *2. 1st*

3. Is there a 'this role' (name) family? *3. Yes*

4. Can you please provide the following information?

the role name	to the role
1st	<i>1st</i>
2nd	<i>2nd</i>
3rd	<i>3rd</i>
4th	<i>4th</i>
5th	<i>5th</i>

5. (the role name from 1)

(1) Why were you able to be the role name?

a. because of the role name *1st*

b. because of the role name *2nd*

c. because of the role name *3rd*

(2) Is it easier to give your role name?

Yes

Survey Ainaro

1. What is this role name? *1. 1st*

2. What is this role name and your name, please? *2. 1st*

3. Is there a 'this role' (name) family? *3. Yes*

4. Can you please provide the following information?

the role name	to the role
1st	<i>1st</i>
2nd	<i>2nd</i>
3rd	<i>3rd</i>
4th	<i>4th</i>
5th	<i>5th</i>

5. (the role name from 1)

(1) Why were you able to be the role name?

a. because of the role name *1st*

b. because of the role name *2nd*

c. because of the role name *3rd*

(2) Is it easier to give your role name?

Yes

Consent Form for Participants

This is a consent form for you concerning my PhD project, Formal-Institutional Relationships and Diverse Ways of Problem Solving in a Post-Conflict Era: Case Study of Land Disputes in Timor-Leste.

I, *[Name]*, a Young Gil PhD student at the University of York, the UK, am conducting a research project on Formal-Institutional Relationships and Diverse Ways of Problem Solving in a Post-Conflict Era: Case Study of Land Disputes in Timor-Leste.

Have you read, or has someone read to you, the 'Information Sheet' about the project?

Yes ☒ No ☐

Do you understand what the project is about, and what taking part involves in this interview?

Yes ☒ No ☐

Do you understand this interview will be recorded and you can choose interview place?

Yes ☒ No ☐

Do you understand that the information you provide may be used anonymously in future research?

Yes ☒ No ☐

Do you know that if you decide to take part and later change your mind, you can leave the project up to one month after your interview without giving a reason?

Yes ☒ No ☐

Would you like to take part in the project, 'Formal-Institutional Relationships Addressing a Problem of Competing Claims to Land in Dili and Ainaro District, Timor-Leste'?

Yes ☒ No ☐

Would you like to take part in the presentation seminar on my analysis result?

Yes ☒ No ☐

If yes, is it okay to record your interview, and would you like to receive an interview transcript?

Yes ☒ No ☐

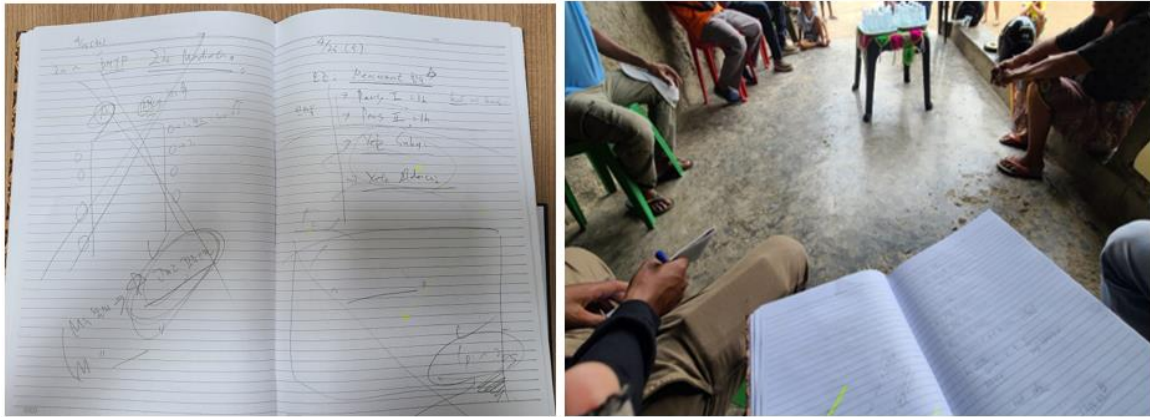
Please write your name here (in BLOCK letters): *[Name]*

Please sign your name here: *[Signature]*

Interviewer's name: *[Name]*

Date: *June 2024*

Picture 1: Survey Papers



Picture 2: Field Notes

4-7-2. Photos

I found it essential to capture certain moments through photography, as they were significant within the context of critical land disputes, such as eviction sites. During these instances, I took photographs with the intention of incorporating these visual records into the empirical chapters of my research.

4-7-3. Voice Recording and Translation Note

In my fieldwork, particularly during interviews, voice recording tools were extensively employed. I consistently collaborated with my research assistants, who are Timorese nationals. Their role encompassed translating between Tetum and English, and voice recording proved to be an invaluable tool for ensuring precise and accurate translations.

4-8. Conclusion: Give him heedful note, For I mine eyes will rivet to his face. And, after, we will both our judgments join. In censure of his seeming

Positivists argue that the social sciences can uncover laws and regularities similar to those in the natural sciences, but it is important to recognise key differences. Unlike natural sciences, the social sciences lack sophisticated laboratory equipment, such as microscopes, which enable precise empirical investigation. As a result, social scientists often rely on incomplete human perception and interpretation.

My doctoral thesis therefore makes use of a multi-method approach. Documentary research provides a broad overview, while interviews with experts serve to validate and

deepen the dataset. Participant observation, interviews, surveys, and site visits each contributed to my understanding and reinforced one another through triangulation, thereby enhancing the overall quality of the data. To ensure balanced viewpoints, I received significant support from *both* a government agency (the DNTP) *and* a leading NGO (Rede ba Rai).⁴⁹ By combining these top-down and bottom-up perspectives, my research offers a more balanced view.

I did my best to collect reliable data; however, I want readers of this PhD thesis to recognise that no social science method can capture social facts with complete certainty. At present—and likely for the foreseeable future—no tool exists that can directly access the human mind. Claiming that any single method is a gold standard is overly ambitious. In reality, there is no such thing as a silver bullet, panacea, or universal solution. In this regard, I empathise with Hamlet’s struggle to uncover the truth, reflected in his lines:

Give him heedful note, For I mine eyes will rivet to his face. And, after, we will both our judgments join. In censure of his seeming.

⁴⁹ I thank my supervisors, Prof. Paul Gready and Prof. Louise Haagh, for encouraging me to engage with *both* government *and* NGO actors during the later stages of my fieldwork. Without their guidance, I might have gathered data solely from the government side.

Chapter Five: Land Disputes and Actor Behaviours under Legal Pluralism

5-1. Introduction

‘This area is traditionally significant to us; it is land that our community has owned for a long time. Here, we have the *uma lisan*⁵⁰, and there are traditions and cultural practices that we must preserve. Thus, we were willing to offer other areas to the government, excluding the farming land that encompasses the *uma lisan*’. An interviewee said in Aileu district, 7 July 2023.

This statement, voiced by a community member resisting eviction in Aileu district, captures the deeply embedded meaning of land in Timor-Leste. Land is not simply a commodity—it is a sacred inheritance, a site of ritual, identity, and intergenerational belonging. Yet, as this chapter reveals, these powerful local attachments often stand in tension with the logic of formal legal systems, externally designed rule of law programmes, and state-led development projects. At the heart of these tensions lies the condition of legal pluralism: a complex landscape in which customary law, state legislation, and international norms overlap and, at times, come into explicit or implicit conflict.

This chapter empirically investigates how legal pluralism shapes the dynamics of land disputes in Timor-Leste in the 2020s. Specifically, it addresses two interrelated research questions: First, in what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes? Second, how do actors within a plural legal landscape engage in forum shopping?

The chapter unfolds in three main parts. The first section constructs a typology of land disputes through a content analysis of five national newspapers and extensive consultations with Timorese experts. This process results in the ‘Everyday Land Dispute Matrix’, which identifies the most prevalent types of land conflicts and provides a systematic foundation for the case selection. The second section presents ‘13 case studies’ from five districts, each

⁵⁰ Conceptually, the customary house (*uma*) can be divided into two forms: as a physical structure, it is referred to as the *uma lulik* (sacred house), and as a social construct, it is known as the *uma lisan* (house of origin), both of which function as fundamental units of identity (Cryan, 2015, p. 2). However, during my fieldwork, I frequently heard references only to the *uma lisan*.

illuminating the lived experience of legal pluralism through different dispute types. These cases are primarily described based on field observations, organised under six dominant themes from the matrix. Finally, the third section analyses these cases thematically, exploring how rule of law programmes in land governance and international human rights law shape local contestation, and how strategic forum shopping unfolds across legal, customary, and institutional arenas.

5-2. Everyday Land Dispute Matrix

As Boone (2014, p. 77) argues, ‘We do not know how many disputes, injuries (physical or otherwise), or deaths have been caused by land-related conflict in Africa over time,’ exploring land disputes proved to be particularly challenging. First, during visits to numerous *Suco* Councils—which play a central role in addressing issues such as land disputes at the *suco* level⁵¹—it became apparent that formal written records were seldom available, despite claims by *suco* chiefs that they were overwhelmed with a substantial number of dispute cases.⁵² Second, when visiting the DNTP Dili office, an official stated, ‘The DNTP Dili office usually receives more than 1,000 cases per year’.⁵³ After closely observing the arbitrator’s work alongside him for four months, I came to believe that he and his assistant—the only two employees—were indeed struggling. He was not exaggerating, even if the figure of 1,000 may have been rhetorical.

Such a complex situation might have led to incorrect case selection. Although any case in Timor-Leste could reflect legal pluralism, without clear selection criteria, the exploration of cases would be disconnected from the everyday struggles Timorese people face in asserting their land rights. To identify the most prevalent types of land disputes encountered by ordinary Timorese, I began by analysing five national newspapers—such as *The Timor Post*—published between 2020 and 2022. And then, a content analysis was conducted to develop a draft matrix of land dispute types.

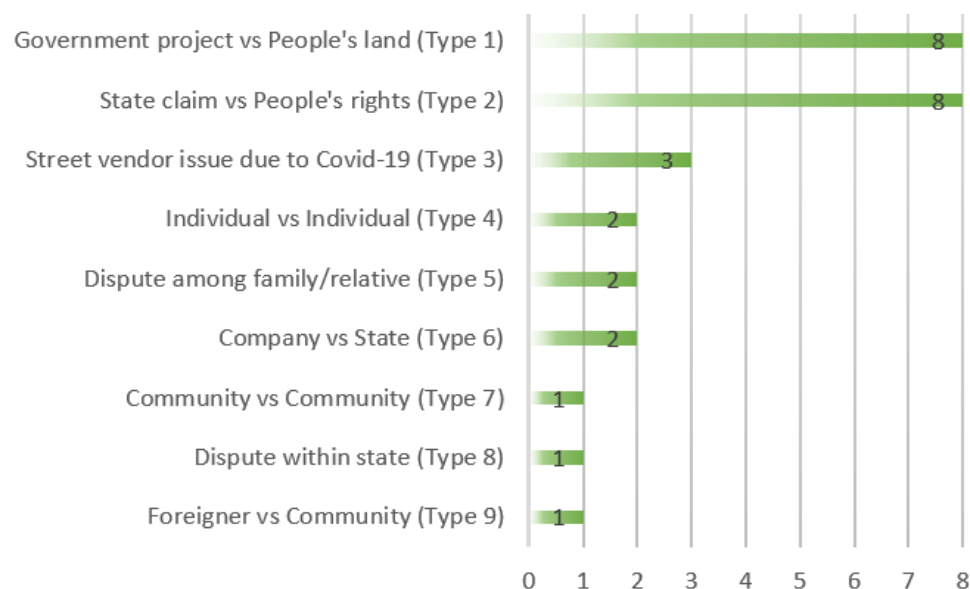
Based on this matrix, I consulted key informants, including government officials, NGO

⁵¹ Timor-Leste is divided into 14 districts. Each district is further divided into several sub-districts. Each sub-district is comprised of multiple *suco*(s). The *suco* is further divided into several *aldeia*(s).

⁵² Field visits were conducted to 30 of the 31 *Suco* Councils in Dili, and to 2 of the 21 *Suco* Councils in Ainaro.

⁵³ Interview with a mediator in DNTP Dili Office on 6 June 2023

workers, public and private lawyers, a law clerk, and *Suco* Council members including *suco* chiefs, *aldeia* chiefs, elected *lia na'in*, youth representative, and others, in order to cross-check whether the findings from the content analysis accurately reflected the reality on the ground. These consultations enabled me to develop an 'everyday land dispute matrix', which identified nine types of land disputes considered prevalent in daily life. Among them, the consultations particularly pointed me towards five types of cases that were considered more worthwhile. Given the limited timeframe of PhD fieldwork, I was unable to cover all issues and therefore strategically selected the most important ones. Additionally, a rare type of case emerged; although it is not included in the matrix, it is explained in the case descriptions and subsequent analysis. As a result, my 13 cases fall into six distinct types.



Graph 1: A Matrix of Everyday Land Disputes, 2020-2022

*The numbers at the end of each bar indicate how many times the type was mentioned in the Timorese press.

Terms and contexts related to each dispute type are briefly explained. Types 1 and 2 are the most commonly mentioned. Type 1 (Government Project vs. People's Land) refers to situations where the Timorese government initiates projects, but local residents reject compensation and choose to remain for various reasons. Type 2 involves individuals' rights to land versus state-claimed land. They contest their rights to the land, leading to ongoing disputes with the Timorese government, which often seeks eviction.

Type 3 relates to merchants prohibited from selling goods within their stores due to

COVID-19 restrictions, resulting in street vending where authorities do not permit such activities. Type 4 involves conflicts between individuals and neighbors due to land-related issues, often stemming from ignorance about land ownership. Type 5 encompasses intra-family disputes over inheritance-related land matters, where tensions often escalate into violent confrontations due to conflicts between constitutional rights and customary norms. Type 6 deals with companies violating land laws, prompting government investigations.

Types 7, 8, and 9 are mentioned only once, yet they remain significant. Type 7 pertains to conflicts between neighbouring communities over overlapping territorial boundaries. Type 8 addresses land disputes in the capital, Dili, where government ministries clash over land use schemes. Type 9 concerns situations where foreign nationals attempt to acquire land despite legal restrictions, sometimes with the unwitting assistance of Timorese nationals.

It is important to acknowledge the limitations of this analysis. First, my fieldwork was conducted in the post-COVID-19 period, which means that issues relating to street vendors arising from the pandemic (Type 3) are excluded. Second, as my research primarily focuses on people's lived experiences at the grassroots level, disputes between companies and the state (Type 6), as well as intra-governmental disputes (Type 8), are not addressed. Third, although disputes between foreign individuals and local communities (Type 9) may be significant, they are extremely rare and, therefore, not explored.

My qualitative analysis of 13 cases thus focuses on six themes—Types 1, 2, 4, 5, 7, and one additional type not identified through the newspaper or consultation analysis. Each case serves to illustrate the influence of legal pluralism.

5-3. Voices from the Ground: 13 Cases of Land Disputes in Timor-Leste

In this section, I provide detailed cases of the landscape of land disputes in contemporary Timor-Leste by describing six types of land disputes through 13 case studies. I aimed to avoid bias by including as many districts as possible. Given the six-month fieldwork period, I could not cover cases from every district. I managed to examine five districts – Dili, Ainaro, Aileu, Atauró, and Lospalos – out of a total of 14 districts in Timor-Leste.

5-3-1. Dili Case I : Community vs Community (Type 7)⁵⁴

I want to begin with Type 7 because it illustrates how rule of law programmes in land governance might harm local people. Approximately 30 years ago, Party A, a family displaced due to Indonesian oppression, sought a place to live in the territory of Party B, another family. Both parties endured the harsh conditions of the brutal Indonesian occupation regime at the time, fostering a sense of neighbourly solidarity. During this period, Party B sold a parcel of land measuring 6m x 9m to Party A.

Although Timor-Leste gained independence in 2002, Party A did not return to their original home. Instead, they extended their territory beyond the agreed 6m x 9m. In 2014, agents from the SNC visited the area and conducted a brief survey for individual land titling and formal registration. In their rushed process, they only heard Party A's account of the situation, as Party B was absent at the time of the survey. This led to the issuance of a document stating that the 50m x 19m area belonged to Party A (the IDPs), not Party B (the original owner).

Party B, being illiterate, could not fully comprehend the implications of the document, causing confusion regarding the ownership boundaries. This SNC numbering document is officially not a proof of land rights ownership; it simply means that SNC agents visited an area and conducted a survey there, assigning survey numbers.

More recently, Party A accelerated the construction of another house nearby. Furthermore, following the passing of Party B's familial leader (father), Party A asserted that the disputed and extended area had actually been sold by the deceased father of Party B. The widow, a member of Party B, insisted that she never heard about this from her husband, which prompted her to bring this case to the DNTP Dili office.

⁵⁴ Based on my field observation (boundary measurement and a mediation session) in Dili on 26 April 2023, along with interviews, as well as participatory observation in the mediation session at the DNTP Dili office on 1 June 2023, I completed this section.



Picture 3: The DNTF Dili Office Team Measuring the Disputed Area

5-3-2. Dili Case II: Individual vs Individual (Type 4)⁵⁵

Here is another case where a rule of law programme in land governance influences land governance—this time, however, in a positive way. In a location in Dili, Party A (a woman) has held ancestral land for generations. During both the Portuguese colonial period and the Indonesian occupation era, her ancestors' tenure was not documented in written form. However, following Timorese independence and the initiation of the SNC programme, an SNC agent visited Party A's house, conducted a survey, and provided a document.

Some time later, Party A sold a portion of her land, measuring 20m x 15m, to Party B, one of her neighbours. Party B, in turn, sold a portion of the land to Party C. Party A later realised that Party C had extended into the area of Party A's territory. Upon noticing this encroachment, Party A attempted to halt Party C's activities. Despite Party A's efforts to stop them, Party C persisted in extending their occupation onto Party A's land.

Party A continuously requested Party C to cease their activities, but Party C refused and continued the illegal occupation of Party A's land. Consequently, Party A brought this case to the DNTF Dili office. The DNTF Dili office conducted two mediation sessions and decided that Party A is the rightful owner based on the SNC document. An agreement was then signed between Party A and Party B.

⁵⁵ For this case study, I interviewed Party A and the *aldeia* chief in Dili on 27 April 2023. Unfortunately, I could not manage to meet with Party B.

5-3-3. Dili Case III: Government Project vs People's Land (Type 1)⁵⁶

During the implementation of infrastructure projects like road expansion by the Timorese government, it is commonly noted that such initiatives are accompanied by acts of government violence. I encountered a case in Dili where a Timorese government ministry⁵⁷ is causing their citizens to suffer.

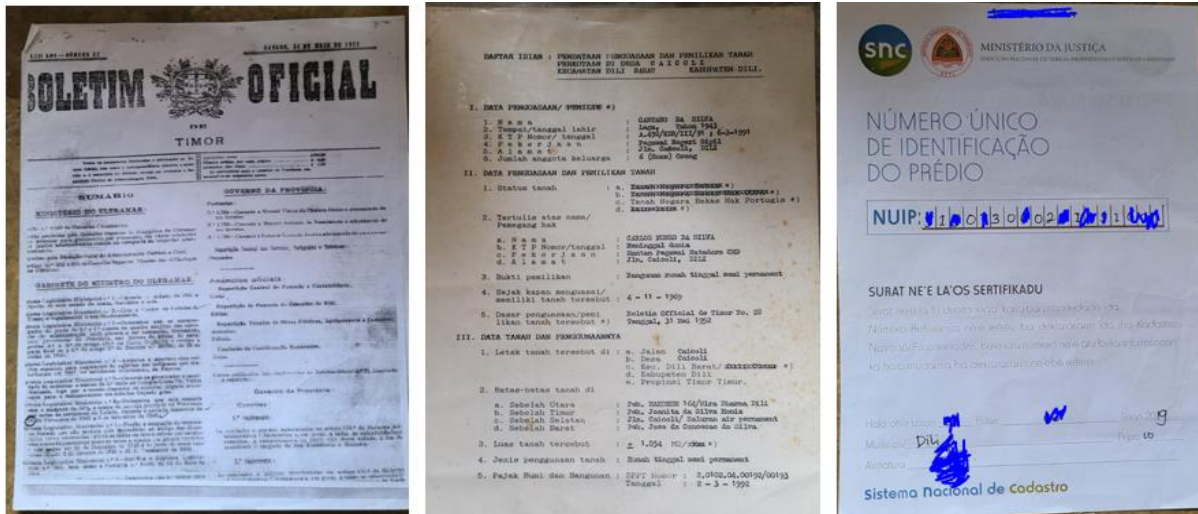
This case began in 2011 and is still ongoing as of 2023. It is currently being heard in the High Court, despite the local residents having won the case in a lower court with the support of Rede ba Rai. Both the residents and Rede ba Rai have been engaged in a legal struggle against the state within the formal judicial system for over a decade. When I initially asked how they knew that Rede ba Rai was contributing to the pursuit of land justice, one interviewee responded, 'Here in Dili, Rede ba Rai is famous; they are good'.

I also asked Mr Ameu, a human rights activist at Rede ba Rai, what he did, and he said, 'We first investigate whether the case is legitimate or not; we only take legitimate cases, and we do everything for our clients. We become their friends, advocates, and we go together to court, parliament, or anywhere we need to fight, even on the streets, if the case is legitimate'.

Next, I was able to listen to the case. The affected area is home to 30 households, and one local resident has lived there for over 100 years, making it possible that he has retained three different types of land ownership rights—a gazette which recognises their presence (from the Portuguese colonisation era), the *hak milik* (land ownership rights certificate granted by the Indonesian regime), and the SNC survey document (the survey numbering document issued by the Timorese government through the SNC). According to the 2017 Land Law of Timor-Leste, all of these are 'acknowledged'.

⁵⁶ For this case study, I interviewed with a victim as well as the *aldeia* chief there, and resorted to field observation on 9 June 2023. In addition, for better understanding I consulted with a human rights activist at Rede ba Rai several times.

⁵⁷ After careful consideration, I have decided not to disclose the specific government ministry involved in this case. This decision was made due to the sensitivity of the situation, which includes forced eviction, severe human rights violations, and so on.



Picture 4: The Gazette (left), The *Hak Milik* (middle), The SNC Document (right)

In 2010, a Timorese government ministry decided to extend their building and subsequently their territory. According to the law, they need prior consultation with the affected community and need to provide compensation. But the result was quite opposite.



Picture 5: A Location in Dili Demolished by the State

A local resident I interviewed said that:

We felt ignored. When we, comprising 30 households, were working outside, leaving our houses empty, the government team suddenly came to our territory and took measurements. One day, out of blue at 5 am in the early morning, they barged onto our land using guns and a forklift...Since then, we were willing to cooperate with the government; however, they did not want to compensate us...

5-3-4. Dili Case IV: Government Project vs People's Land (Type 1)⁵⁸

The Dili district serves as the capital of Timor-Leste; however, some areas are categorised as rural Dili. In comparison to urban Dili, this area is located far from central Dili and is surrounded by mountains and farmland.

The picture 6 shows that the area is surrounded by mountains. In 2011, in this area, a company, along with law enforcement employees, some government ministries, as well as the neocustomary institutional leaders (the *suco* chief and *aldeia* chief), came together and took measurements there without any notification. At that time, they insisted that they were researching.



Picture 6: A Rural Dili Area

However, 10 years later, in 2021, the company suddenly tried to establish a big building where the local people's farmland is located, as well as the *uma lisan* being very nearby. The company promised that they would compensate; but due to this, a community comprised of

⁵⁸ For this case study, I interviewed a human rights activist from Rede ba Rai several times, and victims on 16 June 2023 in the Dili district.

97 households is now divided into two groups: roughly half received the money and leave their territory, and the other refused to accept it. I asked two parties (Party A and Party B) why you would not welcome the company's compensation, and they stated that:

The area has been inherited for a long time from our ancestors, and it includes a place where traditional rituals are performed. For example, when there is no rain, a rain-making ceremony is conducted by the *lia na'in*⁵⁹. Additionally, there is the *uma lisan*, and around it, the graves of our ancestors are buried. This area is considered sacred from both a traditional and cultural perspective. Also, if we move with the compensation money, where do we go? How can we bring hundreds of chickens, hens, pigs, and cows into a new place?

I developed insight into why relocating proves challenging for specific local farmers. In addition to tending to crops, they also manage a significant number of livestock, including 'hundreds' of chickens, hens, pigs, and cows. Technically, transferring such a large number of living creatures to a new area is not feasible. Compensation is not the final resolution for these farmers either. Moreover, I encountered the *uma lisan* which serves as a cultural element inhibiting both relocation and compensation. This suggests the need for further investigation into similar situations.

I also recognised that this case was being handled by Rede ba Rai, who, at this time, acted as a third-party mediator, functioning as a mediation forum. This NGO is not only playing an advocacy role but also serving as a mediating forum. Mr Ameu showed me a draft agreement between the community and the company.

5-3-5. Dili Case V (Atauró Case): Disputes between Family/Relative Members (Type 5)⁶⁰

The pattern mentioned above, in which forum leaders themselves also 'shop' for cases, is

⁵⁹ Please note that the *lia na'in* exist in two types: the traditional *lia na'in*, whose title is inherited by blood, and the elected *lia na'in*, who is a member of the *Suco* Council. The role of rain-making falls to the traditional *lia na'in*.

⁶⁰ This section is based on my field observations of the DNTP Dili office's boundary measurement process on Atauro Island on 6 June 2023. It includes casual interviews with Parties A and B and DNTP team on that date. It is also based on my participant observations during the mediation session at the DNTP Dili office

likewise observed in the Atauro district. Atauro Island is located nearby the Dili district and used to belong to it. However, in 2023, when I embarked on my fieldwork in Timor-Leste, it became an independent district.

Party A (who is the uncle in this case) worked for the Indonesian administration during the Indonesian occupation era. It gave him the opportunity to receive seven different types of land tenure certificates, known as the *hak milik*. When I interviewed him, he was willing to open his backpack and showed my research assistants and me that he has seven types of the *hak milik*. After showing them to us, he, with genuine care, put his documents back into his backpack. I felt that he treated the documents as treasures. The seven documents indicate that he possesses a ‘vast’ territory on the island.



Picture 7: A Location in Atauro District⁶¹

After Timor-Leste gained independence in 2002, he and his wife moved to the Dili district, leaving their land vacant. Party B (Party A's nephew) is the *lia na'in* in that area and has many cousins. One of his cousins, unaware of the historical background of the vacant land, observed the empty land, began cultivating crops on it, and eventually granted land usage

on 31 May 2023 and interviews with Parties A and B on the same date.

⁶¹ In the middle, there is an old man wearing a backpack. In his backpack, there are 7 different types of the *hak milik*, or land tenure certificates granted by the Indonesian regime.

rights to a foreign company. He is referred to as Party C.

Party A visited his territory on the Atauró district in 2006, four years after coming to the Dili district, and discovered that his land was occupied by Party C. Party B, who is the *lia na'in* there and also the nephew of Party A as well as the uncle to Party C, attempted to address this family matter as a forum leader. However, from 2006 to 2023, the issue remained unresolved.

Thanks to the DNTP Dili office's three times mediation endeavours in 2023, Party A and C decided to reconcile. The disputed territory is now reclaimed to Party A due to the *hak milik* he has, and Party C agreed. Here, I once again observed that climbing or descending a ladder can be initiated by a forum leader. In this instance, it was the *lia na'in* who brought the land dispute case to the formal sector—the DNTP Dili office. Party B (the *lia na'in*), during in my interview, said:

We are happy because finally, our family is reconciled. DNTP's mediation was good.

Thanks to their efforts, everything was resolved. We are more than happy. However, this is a family matter! It still is a shame to bring it to the DNTP!

5-3-6. Ainaro Case I: Disputes between Individuals (Type 4)⁶²

Party B stated that he had purchased the land from Party A's brother; however, the original seller passed away in 2003. Since the time of purchase, Party B has not developed the land. When he later decided to construct a house on the property in early 2023, Party A requested that he provide road access for her family, as the proposed building site would obstruct their ability to pass through.

According to Party A, the origin of the conflict lies in a past land transaction, in which her brother had sold the land to Party B. Yet for nearly twenty years, the land remained undeveloped. Once Party B commenced building and blocked access to the road in early 2023, Party A demanded that a pathway be opened. When Party B refused, she brought the case to the *suco* chief for arbitration.

The arbitration process involved three actors: the *suco* chief (as facilitator), a DNTP

⁶² I completed this case description based on interviews with Party A and B on 11 May 2023 in Ainaro district.

official (responsible for measuring the disputed area), and the police (to provide security). Party A expressed satisfaction with the outcome, as Party B ultimately agreed to grant road access. The case was resolved verbally, without a written agreement.

Party A considers the matter closed and is not seeking further action. She reported being satisfied with the resolution and assigned it a score of 5 out of 5. Although both parties had exchanged insults during the dispute, she felt that the arbitration had successfully brought the conflict to an end.

Party B, however, remained dissatisfied. He alleged that Party A had encroached upon approximately three metres of his land, despite his claim of legal ownership through a written transaction agreement. While he outwardly accepted the decision, he admitted doing so partly due to the prevailing political context—specifically, to avoid further conflict during the national election campaign. He stated that he may revisit the case in the future. As a result of his dissatisfaction and the perception that the ‘outcome’ did not reflect his interests, Party B rated the arbitration process 1 out of 5.

5-3-7. Ainaro Case II: Disputes between Family/Relative Members (Type 5)⁶³

In early 2023, a land dispute emerged in one part of Ainaro, involving two long-standing residents, Party A and Party B, who are related and have known each other for decades. Although Party A had been residing on the disputed land since 2005, tensions escalated when Party A’s children began clearing grass on the plot claimed by Party A—an act which prompted Party B to intervene and halt their activity. What began as a minor disagreement soon developed into a heated verbal exchange, with both parties trading accusations and insults.

Frustrated by the confrontation, Party A decided to refer the matter to the *suco* chief, initiating a community-based arbitration process. The village authorities responded promptly by convening an arbitration session at the *Suco* Council. Those present included the *suco* chief, the *lia na’in*, the *aldeia* chief, and police officers.

During the proceedings, Party A presented a land purchase contract as evidence of ownership. When asked whether Party B had any supporting documents, he was unable to provide any. In the absence of legal documentation, his claim to the land could not be

⁶³ I completed this case description based on interviews with Party A and B on 16 May 2023 in Ainaro district.

validated. Nevertheless, Party B expressed his desire to use the land to build a house where the children of both families could live whilst attending secondary school—just as Party A and Party B had done in their youth. He proposed this through a verbal declaration, insisting he had no intention of encroaching on Party A’s rights. However, Party A declined the proposal.

The arbitration concluded with a decision that Party B would be given three months to vacate the land. Although the decision was clearly stated by the *suco* chief, no formal agreement was signed, as Party B refused to endorse the outcome, citing dissatisfaction with the process.

From Party A’s point of view, the arbitration was a success. He valued the peaceful, community-based approach to conflict resolution and rated the process a full 5 out of 5. He believed that resolving the issue through local mechanisms helped to preserve peace and prevent further escalation. Party B, however, left the process feeling disappointed. He felt the dispute should have been addressed within the family, in the presence of the *lia na’in*, rather than through the *Suco* Council. He also reported feeling pressured by the *suco* chief to accept a resolution with which he did not fully agree. As a result, he gave the process a score of 3 out of 5, believing that his concerns—particularly regarding educational support for the children—were not sufficiently considered.

Ultimately, the resolution of the dispute now rests on Party B’s willingness to abide by the verbal agreement. Relations between the two parties remain fragile, and the potential for long-term reconciliation largely depends on Party B’s future actions.

5-3-8. Ainaro Case III: Disputes between Family/Relative Members (Type 5)⁶⁴

This case is brief but important, as it offers fresh insights into forum shopping—particularly the idea that ‘forum leaders’ themselves ‘also shop’ for cases. Recently, Party A had a dispute with his uncle over inherited land, as both had different ideas about the boundary. Initially, he approached the *Suco* Council, but the *suco* chief, after listening to his case, stated that: ‘This is a *family matter*; I will turn the case back to the *lia na’in*!’.

Consequently, the case ‘descended’ to a lower level of the ladder—namely, *lia na’in*-led

⁶⁴ I completed this case description based on interviews with the *suco* chief, the *lia na’in*, and Party A on 15 May 2023 in the Ainaro district. Unfortunately, I was not able to meet Party B, but those three people gave me fairly objective narratives.

customary governance. The *lia na'in* accordingly tried to reconcile both parties. The *Suco Council* members, such as the *suco* chief, *aldeia* chief, and others, acted as witnesses, and they prepared an agreement document where both parties signed it.

I asked both the *suco* chief and the *lia na'in* whether the DNTP Ainaro office was involved because the issue related to land, and the DNTP routinely marks boundaries using GPS-based measurements—a practice that has become institutionalised over time, shaped by earlier administrative choices. Nonetheless, this task lacks explicit grounding in any statutory provision. They alike said, 'It was not necessary to call; if the *Suco Council* has the ability to solve it, then the DNTP is not needed'.

5-3-9. Ainaro Case IV: Timorese Rights to Land vs State-claimed Land (Type 2)⁶⁵

This case pertains to a type of land dispute that emerges when the state, with limited power in rural areas, confronts stronger local customary leaders. According to a *liurai* I interviewed,⁶⁶ many years ago, in the 1970s or beyond, there were two types of *liurai* families in an area of Ainaro district: the tais white *liurai* and tais black *liurai* – the 'tais' means a traditional handwoven fabric that holds significant cultural and social importance in Timor-Leste. When the black *liurai* and his family settled there, they occupied some Indonesian government land.

Following Timor-Leste's independence in 2002, in accordance with the Timor-Leste Land Law of 2003, the ownership of this former regime-claimed land was by default deemed to belong to the Timor-Leste government. Consequently, DNTPSC Ainaro office, a precursor to DNTP, undertook a survey of the land.

Upon learning of the newly-born government's activity (the head of the black *liurai* family happened to be in Dili at the time of the survey in the Ainaro district), he forcefully

⁶⁵ Due to warnings similar to those in Ainaro Case I, I refrained from meeting the sons of the late local strong man, known as the 'black' *liurai*, in Ainaro district, as they were expected to react aggressively to questions about land disputes. I therefore relied solely on the DNTP official's account. To maintain objectivity, I repeated the same questions during my main fieldwork (17 March and 9 May 2023) and a scoping trip (13 October 2022). On the same date, I also met another *liurai*, recognised as a local strong man and traditional authority. Engaging with both formal and informal leaders supported a more balanced account of the case.

⁶⁶ When I interviewed him on 13 October 2022, I realised that he had his own notes filled with detailed information about events in his town. His narrative is not solely based on memory but on these detailed notes.

entered the DNTPSC office and resorted to violence, causing injury to one of the staff members. The DNTPSC subsequently escalated the matter to the court, although the court limited its jurisdiction to the act of violence itself, not land issues.

In the meantime, the perpetrator passed away due to old age, and the court attempted to initiate a reconciliation process between the perpetrator's children and the employee of DNTPSC. Regarding the court's decision, an officer from the DNTP Ainaro office, whom I interviewed, told me that:

The final resolution of disputes in court did not properly address the land ownership issue but mostly attempted reconciliation instead. The court's ultimate law enforcement did not result in the return of the entire territory but only 'half' of it. Although the leader of the black *liurai* has passed away, their family still holds a strong influence in the area, where their presence is recognised as local kingship. Therefore, it is challenging for me to enforce land laws there. I suspect that this influence of local strong men is implicitly reflected in the local court's decision.

In the Timorese newspaper analysis, type 2 is, to some extent, connected to this background.⁶⁷ There is another case in the Ainaro district where these issues – the single sovereignty issue and the local resilience issue – have caused tension in relation to land. I will explain this case in the following section.

5-3-10. Ainaro Case V: Timorese Rights to Land vs State-claimed Land (Type 2)⁶⁸

In a region of the Ainaro district, I encountered a key post-conflict characteristic: weak state sovereignty, resulting from the presence of strong non-state actors. During the Indonesian occupation, Timorese people resisted the oppressive regime, with some arming themselves

⁶⁷ Such problems often also arise due to ignorance; local people see empty land and start using it, only to later discover that it belongs to the government.

⁶⁸ I gathered information for this case through interviews with an officer at DNTP Ainaro office on 17 March and 9 May 2023, during my main fieldwork, and on 13 October 2022, during my scoping trip. Due to warnings about the risks of interviewing veterans about land disputes, especially for foreigners like me, I relied on narrative data from a single person at DNTP Ainaro office. Establishing mutual trust through multiple meetings, I believe that he provided me with a reliable narrative, and I am grateful to him.

with weapons such as arrows and machetes. These individuals are known as *Veteranus*, or veterans.



Picture 8 : A Location in Ainaro District

These veterans, now regarded as national heroes, likely strategically hid in remote, bushy areas, capitalising on terrain advantages for the Timorese while posing challenges for the Indonesian army. As depicted in the picture above, the Ainaro district is mountainous, and the road conditions remain poor to this day.

During that period, some of them moved to an area in the Ainaro district and established there an independent army base. Thanks to the *veteranus*, peace and independence finally came to Timor-Leste in 2002. Consequently, the DNTPSC needed to reclaim that area and bring it back under government jurisdiction in accordance with the 2003 Land Law. However, the DNTPSC team encountered strong resistance there. An officer from the DNTP Ainaro office, whom I interviewed, recounted:

When my team and I approached the national heroes, they redirected their arrows and machetes, which were used to battle the Indonesian security forces, towards us. We didn't even have a chance to get close. So, we had to ask for help from the police. However, the veterans, who were well respected both in that area and nationally, became more

resilient and got angrier, and tensions escalated. We, along with the police, had no choice but to retreat. The very weapons once battling the Indonesian army are now confronting us...

5-3-11. Ainaro Case VI: Church vs Community (Not Covered Type)⁶⁹

During the Indonesian occupation from 1975 to 1999, numerous families were displaced internally. Eventually, they settled in an area whose land ownership was vested in a local Catholic church. During those challenging times, when everyone grappled with severe hardship, the priests and leaders of the Catholic church graciously granted them the use of a portion of their land.

Timor-Leste gained independence in 2002, and it led to the departure of Indonesian security forces and pro-Indonesian Timorese militias from Timor-Leste. Some of the militias were reintegrated into Timorese society. Although a brief civil war between Timorese soldiers and police occurred in 2006, by 2023, it is widely acknowledged that Timor-Leste has finally attained a state of lasting peace, including Ainaro district.

Recently, the priests and leaders of the Catholic church have initiated a shift in their stance. Given the prevailing peace, they contend that it is time for the IDPs to return to their original homes. However, the community residing in the area staunchly resists leaving. This case illustrates that even in the context of an era of peace in Timorese society, IDPs are often unwilling to return to their hometowns of origin. It is also shown in Dili Case I. In short, although a society enters into a post-conflict era, IDPs are usually unwilling to return to their hometowns, increasing the possibility of land disputes.

⁶⁹ For this case study, I interviewed an officer at the DNTP Ainaro office because meeting with the affected community members was deemed too risky. Neither my Timorese research assistant nor I wanted to take this risk. To ensure a more objective narrative, I met with the officer several times and asked the same questions two to three times. I appreciate his patience. This description is primarily based on interviews conducted on 9 May 2023 during my main fieldwork and on 13 October 2022 during my scoping trip.



Picture 9 : A Local Catholic Church in Ainaro District

5-3-12. Aileu Case: Government Project vs People's Land (Type 1)⁷⁰

Just like in Dili Case IV, I once again had an opportunity to inquire about the *uma lisan* – is it really important to them? With the guidance of a human rights activist at Rede ba Rai, my research assistant and I were able to reach a location in Aileu district where significant local resistance and brutal government eviction attempts occurred recently.

Several years back, a Timorese government ministry put forth a proposal for a large-scale project in an area of Aileu district, requiring ample space. However, the selected site encompassed expansive farmland and the *uma lisan*. This led the local community to decline compensation and oppose vacating their ancestral land, which has housed a community settlement for generations. This raised questions about the significance of this land and the *uma lisan*. Party A, one of the affected individuals and a resident I interviewed, shed light on the matter, stating:

This area is traditionally significant to us; it is land that our community has owned for a long time. Here, we have the *uma lisan*, and there are traditions and cultural practices that we must preserve. Thus, we were willing to offer other areas to the government, excluding the farming land that encompasses the *uma lisan*.

⁷⁰ For this case study, I interviewed a human rights activist at Rede ba Rai several times, and victims on 7 July 2023 in Aileu district.

I kept asking what tradition or culture they had to preserve, and Party B (the second interviewee) said that:

Once a year, during the harvest season, we offer crops such as corn on the altar and sprinkle coconut water. It is a ritual of gratitude to nature for allowing us sustenance. Failure to perform this ritual is believed to bring bad harvests, incur the wrath of nature, lead to illness, and ultimately result in death. We have witnessed actual instances of accidents or deaths in the vicinity due to the neglect of this ritual.

Party C (the third interviewee) also said that:

Yes, our culture and tradition are very important. I also witnessed a car accident; I believe that because they ignored observing the ritual, the accident happened to them.

After listening to their explanation of why their culture and tradition are so important, I realised that their belief in the *uma lisan* is very strong. Their initial responses all revolved around it.

Next, I moved to another question: 'Aside from the *uma lisan*, was there another reason why your community did not like to give this designated land to the government?' In response to this question, Party B quickly answered to me that (italicised by me):

And the land in this area is very productive. It is the land our ancestors sought and settled on after a long period of searching. Given the extensive time they spent searching for this productive land, it proves that nothing is more productive than here. Even if we were to cultivate crops in other areas, we are not sure if there are lands where crops grow well.

I appeared to have adequate information on the *uma lisan* and its significance, so I transitioned to another key issue: the rule of law. According to Article 77, Eviction 1 of the 2017 Land Laws, it states the following:

1. Situations of eviction allowed for by force of the application of the presnet law, will be regulated by decree-law.

2. Evictions must be achieved under conditions that guarantee the dignity of human beings, the rights and safety of persons affected by it, as well as with respect for the principles of proportionality, appropriateness and non-discrimination.

I thus asked if the state respected human rights principles during the eviction, and all 10 people said, 'we never saw or heard such a thing', and Party D⁷¹ said, trying to calm down, that:

They even stripped me off, and I felt very humiliated, as a woman. Men in uniform just came and showed me a document which I did not understand, and enforced me and us to sign, and we refused, we were beaten, we had to be imprisoned for a while...

Before departing, I asked the community members how they knew about the existence of Rede ba Rai, given that this location is far from central Dili and is considered a rural area. One person told me that:

After we were treated badly by the state and felt really down, one day I happened to see Rede ba Rai standing up for poor people on Rádio e Televisão Timor-Leste (RTTL), the national TV channel. They showed their contact number, so I called them. They came here and genuinely helped us. I'm really grateful to them.

I asked Mr Ameu what he did for them. He explained that:

We researched and gathered evidence, such as accounts of local people being violently treated, including pictures and hospital records. We gathered in front of the Timorese parliament and marched. We also had some connections with politicians, which allowed us to arrange meetings with lawmakers and high-ranking officials. We managed even to the Prime Minister's office, where some farmers knelt down, begging not to be evicted from the area. We also arranged press conferences a few times.

⁷¹ She was severely beaten by 'drunk' law enforcement men (she told me that they were not policemen, although they were in uniform), and her father was also severely beaten and he died from the injuries.



Picture 10: Their Productive Farming Land and the Local Community

5-3-13. Lospalos Case: Disputes between Family/Relative Members (Type 5)⁷²

According to the Everyday Land Dispute Matrix analysis, disputes between family or relative members (Type 5) are one of the prominent types of land disputes in contemporary Timor-Leste. Additionally, an experienced mediator with over a decade of involvement at the DNTP Dili office remarked that:⁷³

Most recent land disputes, such as those in 2021 and 2022, primarily involve families or close relatives. In the past, during the Portuguese and Indonesian periods, I rarely heard instances of such disputes among families or close relatives. It is a relatively new phenomenon, particularly since 2001, 2002, and 2003 onward... If inherited land presents

⁷² For this Lospalos district case, I interviewed a court clerk on 11 July 2023. Later, I cross-checked the accuracy of this narrative by speaking with individuals who were born and raised in this area.

⁷³ Interview on 4 April 2023

an unfair division of land size among siblings, then sons and daughters who perceive this inequality often file individual cases with the DNTP...

I came to realise that this type of land dispute now appears to emerge in contemporary Timor-Lest. However, finding a pertinent case proved to be quite challenging. Eventually, I managed to have a meeting⁷⁴ with a law clerk, who is currently employed at the Dili court and previously worked at the Baucau court. Having worked as a law clerk for more than a decade, he is acquainted with numerous cases, and among them is the one I sought to learn about: Disputes between Family/Relative Members.

When I worked for the Baucau court⁷⁵, I precisely handled what you're asking about. In Timor-Leste, we have social norms that family matters should be resolved under the *uma lisan*. It implies that the *lia na'in* should address them, and local people should respect them; otherwise, nature will curse them.

He continued talking:

In a location of the Lospalos district, there were older brother and younger sister. After their parents died, they had a dispute over land ownership. It was because the *lia na'in* in that area decided that the former had ownership. According to Timorese tradition (excluding some regions), it is generally desirable for land ownership to be inherited by males. Therefore, the *lia na'in* made the decision accordingly.

I understood that this inheritance dispute was addressed within the lower rungs of a ladder concept (Cummins and Leach, 2012). Additionally, I aimed to empirically validate whether the concept of 'climbing a ladder' was applicable in practice in 2023. In essence, if the younger sister was dissatisfied with the decision made by the *lia na'in*, could she escalate the case to a higher level of institution such as a court?

Therefore, I inquired once again whether the younger sister was content with the

⁷⁴ I am truly grateful to one of my research assistants for their assistance in this matter.

⁷⁵ Timor-Leste has 14 districts, and there are only 4 regional courts: Dili, Baucau, Suai, and Oe-cussi.

decision or not, and if not, whether she pursued the matter to a higher level of institution such as a court. And he responded:

The younger sister, discontented with this, sought resolution through legal means and so transferred the case to the Baucau court. All Timorese should respect the *lia na'in*'s decisions if they are to do with family matters. However, if any party is dissatisfied with the decision, according to the Timorese law, it can be transferred to the formal sector, such as the court. And in this case, the Baucau court favoured the younger sister.

At this point, I interpreted his words as implying that the *lia na'in* are also Timorese citizens under Timorese law; therefore, they should adhere to this legal system. In this system, customary, informal institutions operate at a lower level, while formal institutions operate at a higher level with greater and wider legitimacy. Thus, I came to understand that the 'climbing a ladder' concept still applies in rural areas. Consequently, I was on the verge of concluding our interview. However, this was not the end of the story. He continued to emphasise:

After winning the case, some time later, she got sick and died. The local *lia na'in* very quickly declared this as 'the curse of nature' in front of the local community, and promptly conducted a ceremony to reclaim the land for the older brother. The court also acknowledged her death, thereby granting the right to her older brother.

Essentially, they awaited opportunities to overturn court decisions while outwardly appearing to comply. The hierarchy outlined in the ladder model is not genuinely upheld by the customary leaders. I further encountered similar cases where family matters were not handled under the *uma lisan* by the hands of the *lia na'in*, thus discontent was emerging.

5-4. An Empirical Analysis of Land Dispute Dynamics under Legal Pluralism

In this section, I analyse the empirical data in relation to the first two research questions. First, in what ways do international legal layers—particularly, rule of law programmes in land governance (Section 5.4.1) and international human rights law (Section 5.4.2)—influence land disputes in Timor-Leste? Second, how do actors within a plural legal landscape engage in forum shopping (Section 5.4.3)?

5-4-1. The *Sistema Nacional de Cadastro* (SNC) Initiative and its Dual Aspects

5-4-1-(A). Negative Aspects

The concerns raised by Almeida (2021b) and Rede ba Rai (2019) regarding the SNC's rapid, target-driven implementation are clearly reflected in Dili Case I. The exclusion of residents from the cadastral mapping process—Party A were unaware that it was taking place—led to inter-community disputes. This negative outcome underscores how limited institutional capacity—especially the failure to meaningfully engage local communities—can critically undermine land governance efforts. Similar consequences have been observed in Ghana (Ubink, 2018) and Niger (Benjaminsen et al., 2009), where under-resourced bureaucracies and top-down implementation strategies have exacerbated legal uncertainty.

Dili Case I also exemplifies what Pritchett and Woolcock (2004) describe as the 'Skip Straight to Weber' problem: the imposition of externally designed, Western-style rational-legal reforms in developing countries, without adequate consideration of existing institutional, cultural, or customary frameworks, can result in significant harm to local populations.

Moreover, widespread academic critique suggests that land titling rarely improves credit access without strong institutional support. Toulmin (2009) observes that such reforms often fail under weak governance, while Calderon (2004) found that only 1% of Peruvian households used land titles to obtain mortgages. Buckley and Kalarickal (2004) cite fragile banking systems as a key obstacle. In Timor-Leste, such discussions are largely absent. The SNC issued documents with only numerical identifiers, lacking legal recognition for use as collateral. Interviews confirmed that stakeholders did not associate SNC documents with credit or collateral functions, suggesting that these aims were either never integrated into the programme or, at the very least, not actively promoted.

5-4-1-(B). Positive Aspects

Gauri (2012) notes that the existence of a document is one thing; its legitimacy is another—and that legitimacy is conferred through how documents are interpreted and used in practice. Dili Case II illustrates this dynamic. A woman used her SNC-issued document to assert a land claim. Crucially, the DNTP Dili office also recognised the document as partial evidence of land

rights. Although the SNC document is merely a numbered identification paper—indicating that a land survey had taken place—its use by both the claimant and the state institution demonstrates how such a document can acquire social legitimacy through practice. In this way, Dili Case II illustrates how ‘legitimacy’ is established through the interpretation and practical application of a ‘mere document’. This is particularly significant in a context where gender equality remains limited, as women are commonly disadvantaged across nearly all sectors (World Economic Forum, 2019). Had she taken the case to a customary land dispute resolution mechanism, she might well have lost.

5-4-2. Rigid Boundaries, Fractured Justice

International human rights law (IHRL), such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Universal Declaration of Human Rights (UDHR), guarantees women’s equal rights to property, inheritance, and participation in decision-making. In line with these universal values, Timor-Leste’s Constitution affirms a formal commitment to gender equality (Cryan, 2015, p. 4). Yet in practice, customary institutions—particularly those regulating land—continue to prioritise patrilineal inheritance and male authority, generating persistent tensions between international legal norms and locally embedded cultural practices. Empirical data from the Matrix of Everyday Land Disputes (2020–2022), along with interviews conducted with DNTP officials (4 April 2023), reveal a notable rise in intra-family inheritance disputes (Type 5), particularly those involving daughters and younger brothers, since the early 2000s.

Although beyond Timor-Leste—such as in South Africa—rural women have, in the midst of similar conflicts, creatively reframed patriarchal custom in line with constitutional gender rights (Claassens and Mnisi, 2009), the situation appears markedly different in Timor-Leste. The South African example suggests that human rights norms were sufficiently ‘bendable’ to infiltrate the customary sphere and effect change from ‘within’.

In contrast, Lospalos Case highlights a daughter asserting her legal rights in a court to directly ‘challenge’ patriarchal land custom. This may suggest that there is limited space in Timor-Leste for human rights norms to meaningfully have conversation with customary practice. Such a ‘rigid’ context can produce two outcomes. First, Timorese women are not empowered to reinterpret custom from ‘within’, and must instead rely on the formal legal

system in the hope of reclaiming their rights. Second, customary leaders may outwardly accept a court's decision while 'patiently awaiting' a more opportune moment to 'overturn' it.

This dynamic reflects what Doss, Summerfield, and Tsikata (2014) describe as 'patriarchal backlash'—the strategic resistance and reassertion of male-dominated power structures in response to efforts aimed at advancing gender-equitable rights, particularly through customary institutions—yet it assumes a distinct form in Timor-Leste. In Lospalos Case, the customary leaders initially accepted the formal court's ruling in favour of the younger sister, signalling a temporary compliance with constitutional norms. However, following her death, they 'immediately' claimed her passing was the result of a 'curse of nature'—a spiritual punishment for transgressing customary norms—and used this narrative to restore the land to the elder brother.

This form of backlash differs from the overt and strategic repackaging of human rights language often observed elsewhere to reinforce male privilege. Instead, it operates as a form of covert resistance: a calculated pretence of compliance that allows formal decisions to stand temporarily, only to be opportunistically overturned when circumstances permit.

Moreover, while scholars such as Engle (2011) warn of the dangers of excessive flexibility—which risks eroding the normative foundations of international human rights law—Lospalos Case illustrates a contrasting threat. Rather than producing any genuine reconciliation between the constitutional principle of gender equality and the customary rule of male inheritance, the two normative systems remain rigidly divided. Decisions rendered in the formal legal sphere are quietly nullified within the customary domain, resulting not in normative compromise but in a state of normative fracture, where parallel legal orders operate in unresolved conflict. This dynamic underscores the profound challenges of enforcing gender equality within plural legal systems.

Dimension	South Africa Case (Claassens & Mnisi, 2009)	Lospalos Case in Timor-Leste (My case in this thesis)
Human Rights Bendability	Flexible reconciliation 'within' custom	A rigid legal–customary divide: law occupies the higher rung, custom the lower, in a hierarchical ladder

Agency of Women	Empowered within custom: internal reinterpretation by women as a pathway to gender justice	Formal court challenge by women
Response of Customary Leaders	Engage in normative dialogue	Superficial compliance, followed by opportunistic reversal
System Outcome	Normative ‘bending’ & synthesis	Normative ‘fracture’ and parallel conflict
Possible Risk to Human Rights Norms	Human rights norms dilution through over-bendability such as strategic repackaging of the norms by male customary leaders	Ineffectiveness due to rigidity such as covert spiritual narrative, post-compliance reversal

Table 14: Key Comparative Dimensions of the Cases for Bendability and Rigidity

5-4-3. Forum Shopping Dynamics

5-4-3-(A). Media Access and Forum Shopping in Rural Timor-Leste

Kirk (2014, pp. 14–15) observed that, during the early 2010s in Timor-Leste, impoverished citizens generally refrained from engaging in forum shopping, primarily due to limitations in time and financial resources. However, Sage and Woolcock (2012, p. 11) contend that the proliferation of communication technologies—such as mobile phones, television, and the Internet—has enabled even geographically isolated communities to identify and access alternative avenues for justice. While Kirk’s analysis remains foundational, the sociotechnical context of Timor-Leste in the 2020s arguably presents new possibilities.

Aileu Case exemplifies this shift. Initially, local residents resisted a state-led eviction effort in the absence of legal assistance or support from civil society organisations. The pivotal moment arose unexpectedly: while watching national television, a resident happened upon a segment featuring Rede ba Rai—a non-governmental organisation advocating for land rights—broadcast on Rádio e Televisão Timor-Leste (RTTL), which included a contact number. Motivated by this incidental exposure, the community reached out, prompting the organisation to intervene and offer advocacy support.

This case suggests that contemporary engagement with legal pluralism may be driven less by affluence or formal legal knowledge, and more by access to media. In contrast to the constraints identified by Kirk, the Aileu example lends empirical support to Sage and

Woolcock's evolving thesis, illustrating how improved access to information has reconfigured the means through which marginalised groups engage with justice mechanisms. More significantly, it introduces a novel insight: that merely accidental encounters with information can act as catalysts for justice-seeking behaviour, thereby reshaping the agency of rural communities in meaningful and often unexpected ways.

5-4-3-(B). Reasons for Resistance and Ways of Resistance of the Poor

Another major contribution of my empirical analysis is its challenge to rationalist and utilitarian models of land governance. Much international development policy conceptualises land primarily as an economic asset governed by market logic (de Soto, 2000a; Miceli, Sirmans & Turnbull, 2000). By contrast, my fieldwork in Timor-Leste demonstrates that land is not merely a commodity; it is deeply embedded in cultural identity, spiritual belief, and customary authority—an understanding strongly articulated by the NGO Rede ba Rai.

This divergence is evident in Aileu Case and Dili IV Case. In both, communities resisted eviction not over compensation but because state interventions disregarded the cultural and spiritual significance of the *uma lisan*. More than a physical structure, the *uma lisan* is regarded as a sacred entity capable of bringing blessings or misfortune. Resistance, therefore, arose from moral and spiritual obligations rather than economic concerns.

These findings echo broader regional patterns. Joshi (2020) shows that in Cambodia, indigenous resistance to land expropriation persisted until sacred 'spirit mountains' were formally recognised as part of land rights. Similarly, Stead (2015) notes that in urban Dili, land disputes were framed less as economic conflicts and more as moral claims for 'respect' and 'recognition'. Together, these cases demonstrate that economic rationality alone cannot explain resistance to displacement.

A further insight concerns how marginalised groups mobilise under legal pluralism, where no clear hierarchy of norms exists. When formal legal avenues are blocked, the poor turn to informal strategies: grassroots organising, NGO alliances, appeals to officials, and media advocacy (Adler et al., 2008; Baker, 2000). Aileu Case mirrors this trajectory, evolving into coordinated mobilisation combining NGO support, media engagement, and pressure on state actors.

In sum, these findings challenge dominant economic paradigms in land policy by

foregrounding the cultural and spiritual significance of land and highlighting collective mobilisation as the principal pathway through which the rural poor pursue land justice in plural legal orders.

Dimension	Rationalist/Utilitarian Model	Customary/Cultural Model
Land Value	Land as economic asset subject to market forces (de Soto, 2000a; Miceli et al., 2000)	Land as customary/cultural and moral entity (Rede ba Rai, 2019)
Source of Legitimacy	State-issued title (The Washington Consensus)	- Customs/culture: ▪ The ‘Spirit Mountain’ in rural Cambodia (Joshi, 2020) ▪ The <i>Uma Lisan</i> in rural Timor-Leste (my cases here) - Morality: - Urban slum dwellers in Dili, Timor-Leste (Stead, 2015)

Table 15: Two Different Paradigms of Land Value and Sources of Legitimacy

5-4-3-(C). State Violence in Plural Legal Settings

This section examines how the empirical material from Dili Case III and Aileu Case illustrates the dynamics of state coercion under conditions of legal pluralism and contested legitimacy. Drawing on Tamanaha’s (2007) argument that fragile state legitimacy often provokes coercive strategies aimed at reaffirming state authority, these cases reveal how the Timorese state confronts rival normative orders—particularly those rooted in customary or overlapping legal claims—with violence, rather than legal engagement.

In Aileu, the state’s plan to implement a development project directly conflicted with entrenched customary and spiritual claims to land centred around the *uma lisan*—the sacred ancestral house that structures ritual life and agricultural cosmology. Community members refused compensation not primarily because it was inadequate, but because ancestral obligations and fear of spiritual sanction were perceived as ‘much more binding’. If we follow Tamanaha (2007), the state’s response—characterised by violent eviction, forced signatures, imprisonment, and the public humiliation of a woman—was not merely a bureaucratic excess,

but a calculated attempt to dismantle a competing normative authority, thereby reaffirming state authority.

Dili Case III presents a similar configuration of legal pluralism. The affected resident held layered formal legal documentation from the Portuguese, Indonesian, and Timorese regimes—each formally recognised under Timor-Leste’s 2017 Land Law. Despite this legal backing, the state carried out a pre-dawn eviction using armed personnel and heavy machinery, without prior notice or adherence to legal procedures. If we follow Tamanaha (2007), this coercive response may reflect the state’s anxiety over competing sources of land legitimacy. Although these sources are formally acknowledged by the state itself, when residents regard them as ‘much more legitimate’ than the state’s current development directives, the state seeks to reaffirm authority through coercive means.

These cases reveal a consistent pattern: the state bypasses legal process not due to institutional weakness alone, but as a strategic assertion of authority in the face of competing legal orders. Violence, in this sense, is not merely a symptom of fragile governance, but a deliberate instrument of statecraft aimed at reaffirming sovereignty where no overarching legal hierarchy exists. As Lund (2012) notes, in the absence of meta-rules governing legal legitimacy, conflict becomes a space where the state reasserts itself through force rather than negotiation. It underscores the importance of recognising how customary and plural legal orders are not simply ignored but strategically suppressed, particularly when they challenge the symbolic and functional authority of the state.

5-4-3-(D). Forum Leaders as Strategic Actors in Plural Legal Environments

This section examines how forums in Timor-Leste do not merely receive disputes but actively shape their course—initiating, escalating, or deflecting them to reinforce their own legitimacy. Drawing on the ‘shopping forums’ perspective (Lund, 2021; Merry, 2012; Lund, 2006, p. 676; von Benda-Beckmann, 1981), the analysis moves beyond viewing disputants as the sole navigators of legal terrain and instead considers how forums themselves act strategically within a plural legal environment. This approach reframes dispute resolution not simply as a process of forum selection by litigants, but as a negotiation of authority in which forum leaders are key political actors.

As highlighted in previous literature, disputants often move between forums to

maximise the chances of a favourable outcome—an idea well captured by the ‘climbing a ladder’ concept (Cummins and Leach, 2012). However, when we consider that forums themselves may actively seek to attract, retain, or repel certain types of cases, a more dynamic picture emerges. Just as the *Nari Adalat* in India strategically targeted morally clear cases to bolster its authority (Merry, 2012), and the *Adat* Council in West Sumatra exerted gatekeeping power over which disputes reached the courts (von Benda-Beckmann, 1981), forums in Timor-Leste appear to shop for cases in ways that preserve their social legitimacy or limit institutional exposure. The following cases from Atauró and Ainaro illustrate how forum leaders in Timor-Leste strategically navigate dispute trajectories—sometimes by escalating matters to formal institutions, and other times by suppressing or redirecting them within customary structures.

▪ **Atauró Case: Forum Leaders as Upward Navigators**

Atauró case provides a compelling example of how forum leaders themselves can act as legal navigators. Traditionally, forum shopping has been understood as a litigant-driven practice, whereby individuals or parties strategically move between legal or institutional forums to secure favourable outcomes. More recent developments—such as Lund’s (2021) notion of shopping forums—expand this view by examining how forums themselves compete for legitimacy and authority.

In this case, Party B, who served as a *lia na’in*, had handled the dispute for nearly two decades. However, upon realising that he could no longer manage it, he played a central role in escalating the unresolved intra-family land dispute to a formal state institution, the DNTP. Notably, it was not the disputing parties (Party A or Party C) who initiated this shift. As the *lia na’in* remarked in an interview, ‘It is still a shame to bring it to the DNTP!’, indicating that he had not abandoned cultural norms even during the DNTP-led dispute resolution process.

This case challenges the assumption that forum navigation is exclusively driven by claimants. Rather, it demonstrates that forum leaders also act strategically. In this instance, the primary aim of the *lia na’in*’s shopping behaviour was to restore familial harmony—one of the core customary norms in Timorese society. In doing so, the *lia na’in* engages with state institutions not in opposition to custom, but as part of a considered effort to fulfil his customary role in preserving social cohesion.



Figure 6: A forum leader (the *lia na'in*) shops for a case by climbing it himself
(I made it using AI)

▪ **Ainaro Case III: Forum Leaders as Gatekeepers of Which Disputes Enter the Customary Arena**

Ainaro Case III also offers a valuable example of forum shopping in practice. In this instance, the forum leader—the *suco* chief—acted as a gatekeeper by strategically deflecting a land dispute downwards, away from the *Suco* Council and into lower customary channels. This gatekeeping move reflects broader dynamics observed in von Benda-Beckmann’s (1981) landmark study of legal pluralism in a Minangkabau village, where both customary and formal institutions sought to deflect disputes in order to safeguard customary norms, manage social tensions, and preserve institutional boundaries. Such gatekeeping behaviour highlights how local forum leaders manoeuvre the jurisdictional reach of competing legal forums, each possessing its own gatekeeping discretion.

In Ainaro, a disagreement over inherited land boundaries led Party A to bring the matter before the *Suco* Council. However, the *suco* chief categorised the dispute as a ‘family matter’ and referred it to the *lia na'in*. If we follow von Benda-Beckmann’s analysis (1981), this act of downward referral was not merely procedural, but strategic. As in the Fishpond of Batu Panjang case in West Sumatra—where customary forums actively obstructed or delayed formal legal escalation—the Ainaro case likewise involved the deliberate containment of the dispute within the customary sphere. In both contexts, forum leaders acted not as passive intermediaries, but as gatekeepers of legitimacy—selectively permitting or blocking access to

forums based on political and normative considerations.

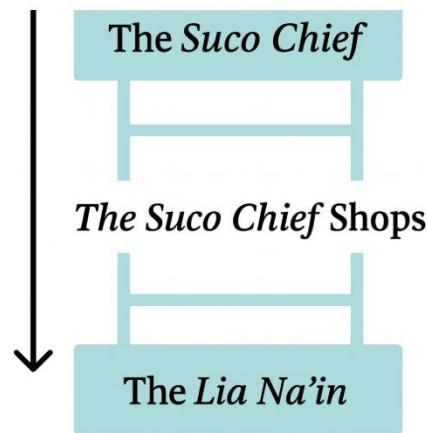


Figure 7: A forum leader (the *suco* chief) shops for a case by descending it herself
(I made it using AI)

5-4-3-(E). Revisiting Cummins and Leach’s Ladder Concept under Legal Pluralism

The concept of ‘climbing a ladder’, as introduced by Cummins and Leach (2012, p. 97), refers to the process by which disputants in Timor-Leste navigate a sequence of legal forums—progressing from customary mechanisms to formal state institutions—in pursuit of dispute resolution. Under legal pluralism, the presence of local legal diversity is frequently witnessed (Griffiths, 1986), and my fieldwork in two regions, Dili and Ainaro, indicates that this ladder concept is not uniformly applied. Rather, each region exhibits a distinct manifestation of legal pluralism, even though the overarching concept of ‘climbing a ladder’ remains widely acknowledged.

In Ainaro, the DNTP does not occupy a clearly defined position within the hierarchical ladder. Instead, the *suco* chief takes the lead in resolving disputes, while the DNTP plays a secondary, supportive role. Rather than viewing the DNTP as a higher authority to which disputes are escalated, locals in Ainaro regard the *Suco* Councils as the primary locus of authority for land dispute resolution, with cases typically escalating from lower rungs such as the *lia na’in* and the *aldeia* chief.

In contrast, in Dili, the DNTP occupies an intermediary position between *Suco* Councils and formal institutions such as the Land Commission and the courts. The ladder in Dili more

closely aligns with the conventional logic of forum shopping. This reflects a state-integrated model of legal pluralism, in which customary forums are not displaced but are nested within a broader system that ultimately privileges state authority.

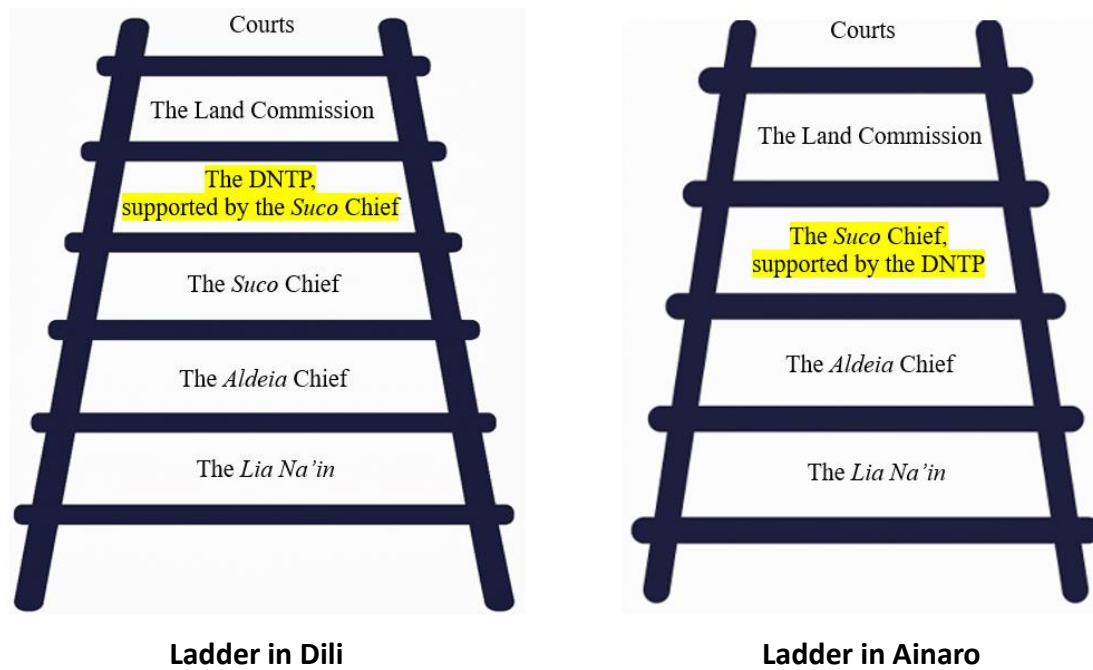


Figure 8: Two Different Ladders (I made it using AI)

These differences align with the broader insight that there are no universally accepted meta-rules dictating which forum might take precedence in legally plural settings, particularly in developing countries (Lund, 2021). In such contexts, diverse legal traditions may coexist and interact in complex ways (Singh, 2019; Isa, 2014; Merry, 2006; Mutua, 2001). As shown in the historical background chapter, in Ainaro, the DNTF is perceived as the successor to the Indonesian-era BPN (Almeida, 2020, p. 188; Fitzpatrick et al., 2016, p. 229). Furthermore, Ainaro is the district where Prime Minister Xanana Gusmão spent many years directing the resistance movement (Timor-Leste Government, 2012). In contrast, Dili, as the capital city, is home to international development agencies and is the first target for major development projects. These contextual differences shape how local actors engage with the DNTF in Dili and Ainaro, resulting in distinct forms of legal pluralism and different types of ladders.

In short, by juxtaposing Dili and Ainaro, this subsection reveals that legal pluralism in Timor-Leste is not only multi-layered—it is also multi-configured, with its structure actively

shaped by those who manage it on the ground. These dynamics may give rise to different types of legal ladders in Dili and Ainaro.

5-4-3-(F). Local Resistance in Ainaro under Legal Pluralism

This section examines how legal pluralism in post-conflict Ainaro district not only reflects multiple coexisting legal orders but reveals how authority, resistance, and legitimacy are deeply contested and locally redefined. Drawing on insights from single sovereignty theory (Badié, 2008; Kühn, 2008) and the concept of local resilience (Baaz and Lilja, 2014; Heathershaw, 2008), the analysis shows that legal authority in Ainaro is not monopolised by the state, but negotiated across customary, religious, historical, and symbolic registers. In doing so, the section shifts the focus away from a purely institutional account of legal pluralism toward one centred on post-conflict layers of authority and legitimacy.

For example, Ainaro Case IV highlights the enduring authority of a *liurai* family—descendants of pre-colonial local kings—whose legitimacy continues to shape land governance. In a local land boundary dispute, the court’s ruling failed to fully resolve the issue, as the *liurai*’s opinion continued to carry more weight among community members. Despite occupying the highest rung of the legal ladder, the state judiciary struggled to enforce its decision. This reflects what Badié (2008) refers to as the problem of ‘single sovereignty’ in post-conflict contexts, where state institutions often lack both the symbolic and practical legitimacy to exercise uncontested authority—particularly in areas historically governed by customary elites, even if formal legal frameworks suggest otherwise.

Ainaro Case V presents a similar dynamic. However, in this instance, resistance to state-led development did not come from customary leaders but rather from ‘veterans’ of the national independence struggle. For these individuals, the post-2002 Timorese state is not yet fully distinct from the Indonesian regime that preceded it. Their mistrust underscores how historical trauma and symbolic associations continue to shape contemporary perceptions of legal authority. The veterans refused to comply with directives from the DNTP office in Ainaro, questioning the legitimacy of institutions they associate with past repression. This case extends the concept of legal pluralism by introducing a form of resistance shaped not by customary allegiance but by historical-political identity.

Ainaro Case VI illustrates how post-conflict peace can generate new forms of legal

dispute. With the return of internally displaced persons (IDPs), tensions have arisen between long-term settlers and those encouraged to return by Church-led initiatives. While the Church invokes moral and religious authority to mediate these disputes, many IDPs resist returning, arguing that their decades of residence have established meaningful social and economic ties to their current land. This case demonstrates that peace can give rise to overlapping legal claims—moral, religious, and historical—none of which align neatly with formal state law. It further shows that legal pluralism is not static, but is instead dynamically reconfigured as societies transition from conflict to reconstruction.

Taken together, these cases reveal that legal pluralism in Ainaro cannot be fully understood solely through the lens of coexisting legal orders; rather, the post-conflict nature of the setting must be considered to more accurately capture the dynamics at play. This analysis contributes a new dimension to legal pluralism theory by demonstrating that, first, sovereignty is multi-sourced—courts, churches, customary authorities, and veterans all exercise varying degrees of legitimacy depending on the context. Second, local resistance is layered, grounded in cultural inheritance (*liurai*), historical trauma (veterans), or post-conflict transformation (IDPs). Third, post-conflict peace reshapes legal authority—rather than stabilising the legal order, peace can generate new disputes and unsettle established hierarchies.

5-5. Conclusion: Land Disputes, Actor Agency, and the Politics of Forum Shopping under Legal Pluralism

This chapter has traced the dynamics of land disputes in Timor-Leste through three key components: the Everyday Land Dispute Matrix, 13 empirical case studies, and thematic analysis. The matrix identified prevalent dispute types grounded in grassroots realities, setting the stage for a typology-driven inquiry. The case studies revealed how each type of dispute unfolds across five districts, illustrating the lived experience of legal pluralism through diverse patterns of contestation. The final analysis brought together several core findings: the dual nature of the SNC initiative as both exclusionary and legitimising; the conflict between constitutional human rights and entrenched patrilineal customs, often culminating in normative fractures rather than synthesis; the evolution of forum shopping from elite, resource-driven strategies to media-enabled rural mobilisation; the moral and spiritual

significance of land in local cosmologies, which defies merely economic rationality; and the strategic agency of forum leaders who reshape forums to protect their legitimacy. These findings collectively reveal that legal pluralism in Timor-Leste is actively configured by actors in diverse local settings.

In short, the Timorese cases—alongside international parallels such as the South African case, the Indonesian case, and others—demonstrate that a space shaped by legal pluralism is a dynamic field of interaction. Its outcomes, whether enabling or obstructive, depend on the ‘actors’ involved and their capacity to navigate overlapping legal systems. These empirical insights raise a broader question: how should land dispute resolution mechanisms be understood within the framework of legal pluralism, where multiple authorities interact? This framing opens a wider inquiry into the functioning of hybrid governance arrangements. Building on this foundation, in the next chapter I will explore ‘land governance in which the DNTP and the *Suco* Council collaborate’. By comparing the operational relationships in Dili and Ainaro, the chapter investigates how these institutional arrangements influence land governance outcomes across plural legal terrains.

Chapter Six: DNTP-Suco Council Relationships

6-1. Introduction

‘In Ainaro, it is *different*. At the *suco* level, the *suco* chief leads the mediation [arbitration] process. When mediation [arbitration] occurs at the *Suco* Council, the *suco* chief invites DNTP officials and the post-administrator’—a DNTP official, Ainaro (interview, 9 May 2023, italicised by me).

This statement highlights a ‘striking reversal’ of conventional institutional roles: in Ainaro, it is informal institutional leaders—not state officials—who initiate and oversee governance forums such as arbitration. This stands in ‘sharp contrast’ to Dili, where DNTP officials preside over arbitration forums. The governance pattern observed in Ainaro challenges dominant assumptions about governance in developing states, which often presume that formal institutions, although weak, nonetheless retain *de jure* authority in processes such as arbitration.

This chapter draws on Helmke and Levitsky’s (2004) analytical framework of formal–informal institutional relationships to examine how DNTP officials and *suco* chiefs interact in arbitration. It first compares their respective roles, along with *suco* chiefs’ perceptions of the DNTP, in both Dili and Ainaro, and then uses these observations to analyse the nature of institutional relationships across the two contexts.

6-2. Analytical Foundations for DNTP–Suco Council Relations

In this section, I describe the types of relationships between formal institutional leaders (DNTP officials) and informal institutional leaders (*suco* chiefs) in both Dili and Ainaro. Toward the end, I elucidate how this relationship—treated as the independent variable in my hypothesis—manifests in practice, providing foundational empirical data for the theoretical categorisation presented in the analysis section of this chapter.

6-2-1. DNTP Officials in Arbitration Forums in Dili and Ainaro

This section evaluates the effectiveness of the DNTP offices in Dili and Ainaro in arbitrating land disputes. Effectiveness is assessed using four key indicators drawn from the literature on Alternative Dispute Resolution (ADR): procedural fairness (Tyler, 2003; Hollander-Blumoff &

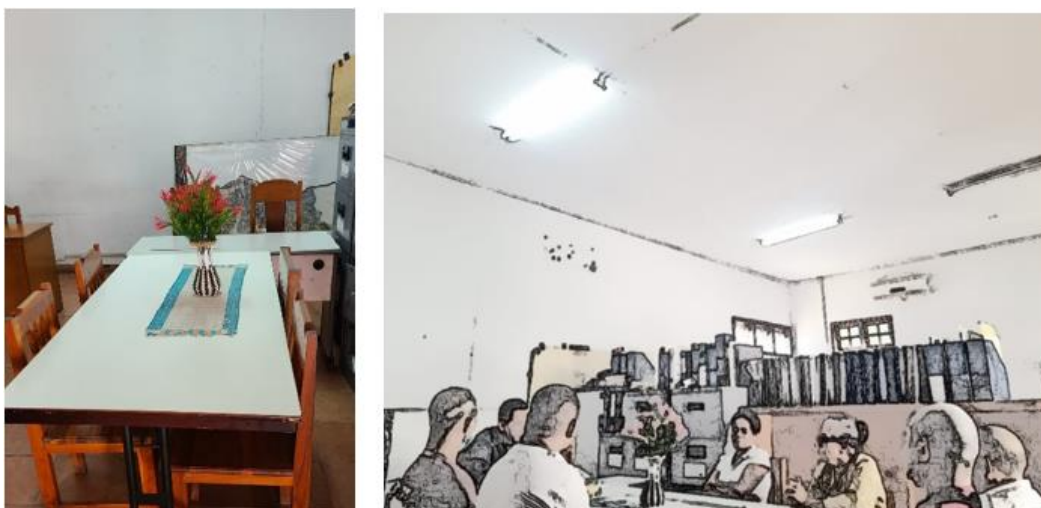
Tyler, 2011), subject-matter expertise (Menkel-Meadow, 2015; Singh, 2022), communicative competence (Nolan-Haley, 2010), and ethical independence (Sternlight, 2007). The analysis begins with the DNTP office in Dili, followed by a comparative examination of the office in Ainaro.

6-2-1-(A). Assessing the Effectiveness of the DNTP Dili Office

▪ Procedural Fairness

One official at the DNTP Dili office remarked: ‘There is no small or big case; all are equal in weight’ (interview, 12 April 2023). In saying so, he demonstrated a clear commitment to the non-hierarchical handling of disputes. This approach signals a commitment to procedural fairness, treating all cases uniformly regardless of type.

Moreover, as observed in Dili Case II, a DNTP arbitrator provided equal opportunities for both parties to speak. In Dili Case I, I noted a ‘deliberate effort’ on the part of the arbitrator to ensure that women were given the opportunity to contribute meaningfully to the discussion. Sessions were opened with a clear attempt to establish balance and mutual respect: ‘The arbitrator provided equal opportunities for both parties to speak’ (Fieldnotes, Dili Case II, 26 April 2023).



Picture 11: One of the ‘Mediation Tables’ at the DNTP Dili Office,
with Disputing Parties Present

▪ Subject-Matter Expertise

In Timor-Leste, where land conflicts often intersect with colonial legacies, customary claims, and post-conflict settlement, subject-matter expertise is indispensable. In other words, a deep ‘contextual’ understanding is essential.

At the DNTP Dili office, arbitrators actively sought ‘contextual’ insight, primarily by consulting *suco* council members such as the *suco* chief, *aldeia* chief, and others. One official explained the rationale for involving them: ‘They are very familiar with the community, its history... and when some individuals bring issues directly to the DNTP... we write to the *suco* chief to verify claims’ (Interview, Official B, 12 April 2023).

This triangulation strategy—rather than sole reliance on documentation—appears to mitigate the limitations of Timor-Leste’s fragmented land records, many of which were destroyed during the 2006 crisis, thereby enabling more informed, expertise-based decisions in such contexts.

Arbitrators also adopt a ‘sequenced’ approach to gathering evidence. For example, Official B said that ‘[Pre-arbitration sessions] are scheduled on the same day but at different times... to gather information, context, and content before scheduling the mediation [arbitration]’ (Interview, 21 March 2023). This structured process underscores their procedural diligence. Yet, the limits of expertise are acknowledged as one official said that:⁷⁶

If the land in question is privately owned, it is much more difficult to resolve disputes.

Private land poses significantly more challenges compared to state land, which is generally clearer in terms of resolution.

He explained two different categories of land disputes: those involving state land and those involving private land. He ‘frankly’ noted that disputes on state land are easier to resolve, while those on private land are more difficult to handle. In accordance with this narrative data, he is not completely confident in what he does; rather, he often seems confused. I therefore conclude that his expertise is generally sound, though occasionally limited.

⁷⁶ Interview with him on 4 April 2023 at DNTP Dili office

▪ Communicative Competence

At the DNTP Dili office, I observed several instances where arbitrators demonstrated effective communicative strategies. For example, in arbitration forums held on 26 April and 1 June 2023, the arbitrator made explicit appeals to local leaders (*suco* chiefs and *aldeia* chiefs) to uphold procedural respect: ‘The *suco* chief and *aldeia* chief must ensure that both parties respect each other’ (Field Observation, 26 April 2023). This coordination with them created collective moral pressure on participants, reinforcing a respectful atmosphere in the arbitration forum.

Moreover, the arbitrator took time to explain the measurement process and relevant land laws to all parties, adjusting tone and terminology to match the participants’ level of understanding. This clarity enabled both ‘literate’ and ‘less formally educated individuals’ to follow the process and its implications, avoiding exclusion through legal jargon—as observed in Dili Case I.

Notably, the arbitrator made a ‘deliberate’ effort to include women’s voices. No women were interrupted or dismissed, and their participation was facilitated through pauses and follow-up questions: ‘Let’s hear from her first—she may know something from before’ (Field Observation, Dili Case I).

▪ Ethical Independence

In an interview on 12 April 2023, an official at the DNTP Dili office explained that the local governance system—led by the *suco* chief or *lia-na’in*—is susceptible to bias. In saying this, the DNTP arbitrator appeared to be aware of the concern, emphasising the importance of avoiding favouritism. In practice, I observed on several occasions that DNTP arbitrators refrained from overtly aligning themselves with either party.

Nonetheless, the DNTP’s ethical standing often becomes ambiguous when the state is a party to land disputes, particularly in cases involving ‘eviction’. In Dili Case III, the land rights NGO Rede ba Rai criticised the DNTP for operating in tacit alliance with enforcement agencies (Rede ba Rai interview, 30 June 2023). Although DNTP officials did not directly carry out the evictions, their institutional proximity to state actors—such as the police—arguably compromised their perceived neutrality.

6-2-1-(B). Assessing the Effectiveness of the DNTP and *Suco* Chiefs in Ainaro

As a ‘weak’ formal institution, the DNTP Ainaro office will be examined in its role as an arbitrator, for conceptual comparison with the DNTP Dili office, which functions as a stronger formal institution. Given that governance such as arbitration in Ainaro is primarily carried out by *suco* chiefs, their role as principal arbitrators will also be included in the analysis.



Picture 12: One of the *Suco* Councils in Ainaro (left), and the DNTP Ainaro office (right)

▪ Procedural Fairness

The DNTP Ainaro office is less involved in day-to-day arbitration. Cases are often dealt with without meaningful participation from the DNTP. In contrast, *suco* chiefs in Ainaro were observed to play a central role in ensuring accessible arbitration forums. In Ainaro Case I and Case II, for instance, community members initiated the process directly with the *Suco* Council, ‘bypassing’ the DNTP entirely. As one *suco* chief remarked, ‘If the *Suco* Council has the ability to solve it, then the DNTP is not needed’ (interview, 30 March 2023), this embeddedness may compromise procedural fairness. In Ainaro Case II, Party B reported feeling ‘forced to accept the decision... by the *suco* chief’ (interview, 16 May 2023).

▪ Subject-Matter Expertise

The DNTP Ainaro office possesses legal-technical expertise. In a meeting with a DNTP official on 17 March 2023, he explained that, in 2023, the Land Commission began handling land disputes. He had recently forwarded a case to the Commission but later lodged a complaint about its decision, deeming it unfair. His confidence, shaped by more than twenty years of experience in Ainaro’s land governance, suggests that he has greater expertise than the Land

Commission, which he believes does not fully understand the local context. In Ainaro, the DNTF official's local knowledge and experience likely provide greater practical expertise.

However, the application of this knowledge is severely constrained in Ainaro. For example, in Ainaro Case III, DNTF surveyors were confronted by armed veterans who had previously fought against the Indonesian regime and were forced to retreat, illustrating that his expertise can be rendered ineffective in the face of entrenched local, non-state entities. In general, the DNTF's expertise is limited in its reach as well.

Conversely, the subject-matter expertise of the *suco* chief in Ainaro is not only well-developed but also broadly applied. This strength is clearly demonstrated in Ainaro Case I, where the *suco* chief, upon recognising the dispute as a family matter, strategically referred the case to the *lia na'in*—a customary authority responsible for familial affairs. Her decision reflects a high level of contextual insight and domain-specific expertise.

▪ Communicative Competence

Empirical data suggests that while the DNTF Ainaro office possesses technical confidence, its communicative function is passive or subordinate in local arbitration contexts. As demonstrated in Ainaro Case I and several narrative accounts, the DNTF's role was 'strictly technical', focusing on land measurement rather than facilitating dialogue. The main arbitration role was led by the *suco* chief, with the DNTF contributing little to guiding the discussion or ensuring equitable participation. However, this does not imply that the DNTF Ainaro office lacks communicative competence.

In contrast, *suco* chiefs partially exhibit communicative competence in culturally embedded settings. While verbal protocols and *suco* chiefs promote inclusive dialogue—such as prohibiting insults and enforcing turn-taking (Interview with a police officer, 10 May 2023)—and make efforts to involve multiple parties in arbitration (Narrative interviews, 11–16 May 2023), this ideal is unevenly realised. In Ainaro Case I, Party A expressed satisfaction with the verbal resolution and rated the process highly, indicating a perception of fairness and respectful engagement. However, Party B reported only feigned agreement, citing political timing and unresolved grievances, suggesting that the appearance of consensus masked deeper discontent. Similarly, in Ainaro Case II, Party A viewed the process positively and appreciated the inclusive environment at the *Suco* Council, while Party B felt pressured by the

suco chief and dissatisfied with the outcome—highlighting an ‘asymmetry’ in communicative experience.

▪ Ethical Independence

The DNTP’s ethical independence is complicated by its affiliation with the state. In Ainaro Case III, its attempt to survey land occupied by the ‘Black *Liurai* family’ was perceived not as impartial administration, but as political intrusion. Although the DNTP did not initiate violence, its alignment with land recovery missions clashed with the non-state local authority. In such contexts, ethical independence is compromised not by favoritism, but by association with the local non-state authority’s perspective on state sovereignty.

On the other hand, *suco* chiefs, while locally respected, may struggle with neutrality. Their proximity to disputants—sometimes as kin or political affiliates—raises concerns of favouritism. Nevertheless, the community rarely questions the legitimacy of *suco*-led decisions, due to entrenched respect for the institutions.

6-2-2. How *Suco* Chiefs Perceive the DNTP in Dili and Ainaro

‘Let us see who will die first. If anyone lies, he or she will die first. For this, I am willing to dig into my dead husband’s tomb, open it, and see who is lying’, Party A suddenly became angry and said so.⁷⁷ As soon as a DNTP Dili official heard this, he intervened, saying ‘Calm down and do not talk about these secret and religious things. Just stay calm and discuss the problem with a solution’. Soon after that, the *aldeia* chief supported him, saying, ‘Both parties should calm down and discuss solutions to the problem’.

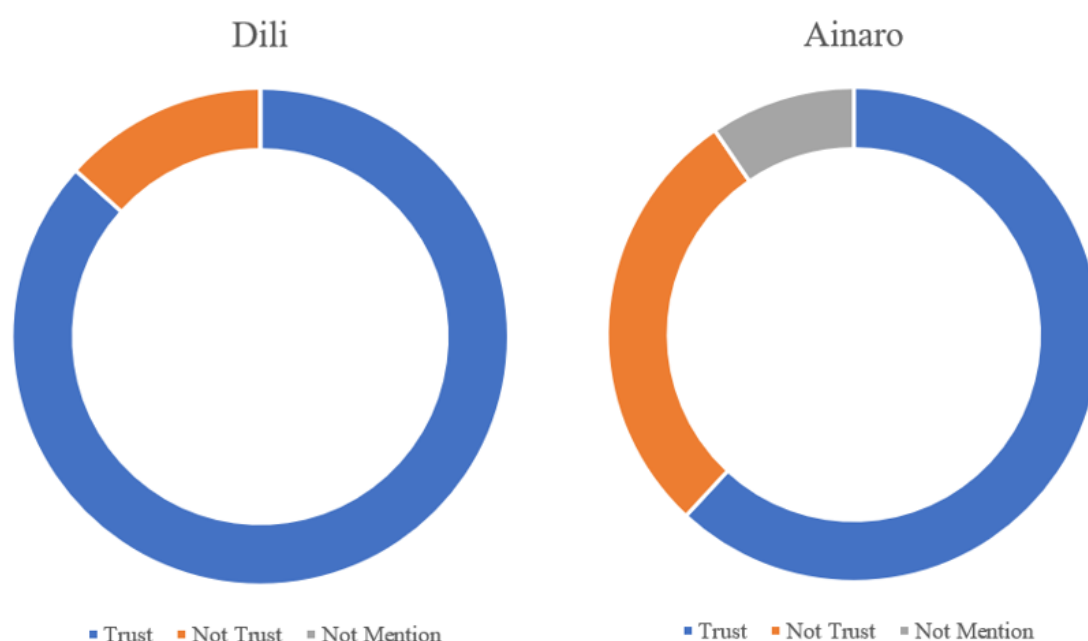
I frequently observed that both the *suco* chiefs and *aldeia* chiefs attempted to support the DNTP official during the arbitration sessions. Are these supportive behaviours unique to a certain *suco*, or do they represent a general trend across the Dili district, which comprises 31 *sucos*? To investigate this question, I conducted a survey asking, ‘Do you trust the DNTP?’⁷⁸ This dichotomous quantitative survey revealed how the *suco* chiefs in Dili and Ainaro perceive

⁷⁷ Based on my field notes (1 June 2023)

⁷⁸ Fieldwork in Timor-Leste as a foreigner was demanding, and one of the main challenges was language. In order to obtain more reliable data during the survey, I was consistently accompanied by Timorese students, who provided full explanations of the concept of trust in the DNTP in vernacular languages.

the DNTP.

In Dili, among the 30 individuals⁷⁹ I surveyed and interviewed, ⁸⁰ 26 respondents (87%) stated that they trusted the DNTP, while 4 respondents (13%) indicated that they did not. In contrast, in Ainaro, only 62% of respondents expressed trust in the DNTP. Whereas just 13% of respondents in Dili reported distrust, this figure rose to 29% in Ainaro—more than double. And, in Ainaro, 9% of interviewees did not specify whether they trusted the DNTP or not.



Graph 2: Comparing Trust Levels among *Suco* Chiefs in Dili and Ainaro

6-3. Analysis of DNTP-*Suco* Council Relations

Building on empirical data—such as the DNTP’s effectiveness as an arbitrator and *suco* chiefs’ perspectives on the DNTP—I will categorise the types of DNTP–*Suco* Council relationships. First, I analyse whether the DNTP functions as an effective or ineffective arbitrator. Second, I assess the extent to which *suco* chiefs converge with or diverge from the DNTP. Third, I categorise the nature of DNTP–*Suco* Council relationships.

⁷⁹ Dili comprises 31 *sucos*. One *suco* chief declined my interview. Therefore, I surveyed and interviewed only 30 *suco* chiefs. In cases where a *suco* chief was unavailable, I met other members of the *Suco* Councils, such as the *aldeia* chiefs, women representatives, administrative members, and others.

⁸⁰ The surveys and relevant interviews were conducted on 19, 21 and 23 June 2023.

6-3-1. Empirical Analysis of DNTP Arbitration Effectiveness

6-3-1-(A). Procedural Fairness

In terms of procedural fairness, the DNTP Dili office presents a structured and formally impartial model. As one official noted, ‘There is no small or big case, all are equal in weight’ (Interview, 12 April 2023), encapsulating the office’s egalitarian orientation. Equal voice was consistently observed across cases. In Dili Case II, both parties were offered ample opportunity to speak, and in Dili Case I, ‘deliberate’ efforts were made to include women in the discussion. These practices clearly align with Tyler’s (2003) emphasis on perceived fairness in arbitral procedures.

By contrast, the DNTP Ainaro office plays a more peripheral role. In Ainaro Case I and II, disputes were handled directly by the *suco* council with minimal DNTP involvement. Officials confirmed that the DNTP is ‘invited’ by the *suco* chief and does not initiate forums. As such, procedural frameworks are *suco* level community-driven and vary by case.

6-3-1-(B). Subject-matter Expertise

The existing literature emphasises subject-matter expertise as a key attribute of an effective arbitrator. For example, Menkel-Meadow (2015, p. 5) and Singh (2022, p. 10) stress that arbitration’s strength lies in appointing decision-makers who possess specialised knowledge of the relevant legal and contextual issues.

DNTP officials in Dili rely on the input of local leaders such as the *suco* chief who are deeply familiar with community history and territorial narratives. *Suco* and *aldeia* chiefs are consulted during pre-mediation sessions to collect ‘contextual’ information in advance. This process of triangulating between legal frameworks and contextual insight illustrates a hybrid approach to expertise—one that draws strength from institutional collaboration but also signals some reliance on informal actors to fill knowledge gaps.

However, the DNTP office in Dili shows a moderate level of subject knowledge. One official showed an awareness of how complex land disputes can be in Timor-Leste, especially when it comes to telling the difference between state-owned and private land. He noted that disputes over private land are harder to resolve, showing some hesitation and uncertainty within the institution when dealing with these less clear-cut cases.

In contrast, the DNTP official in Ainaro, despite lacking procedural authority to lead arbitration forums, exhibited a ‘strong’ sense of confidence and legal fluency. He openly challenged the Land Commission’s decision in a recent dispute, suggesting that his grasp of the legal and contextual dimensions surpassed that of a higher-level formal institution.

Unlike in Dili, the Ainaro official’s subject-matter expertise does not rely heavily on community leaders for validation or support. Rather, it is rooted in long-term experience and a strong command of both legal texts and local case history. Therefore, although structurally constrained, the DNTP Ainaro official reflects a higher degree of autonomous expertise, in line with scholarly expectations of effective arbitration.

6-3-1-(C). Communication Competence

Scholarly literature consistently identifies communicative competence as a defining attribute of an effective arbitrator. Menkel-Meadow (2015), Nolan-Haley (2010), and Alberts et al. (2005) argue that clarity, respectfulness, and culturally sensitive communication are essential for promoting fairness, building trust, and legitimising the arbitration process. Effective communication not only facilitates understanding between parties but also enhances the perceived impartiality and procedural legitimacy of the arbitrator.

According to this framework, the DNTP arbitrator in Dili exemplifies strong communicative competence. During observed arbitration forums, he effectively asserted leadership at the table while also fostering collaboration with local actors. In one instance, he called upon the *suco* chief and *aldeia* chief to help maintain a respectful atmosphere—a request that was met with active cooperation. His approach combined neutrality with procedural authority, delivering instructions in culturally appropriate terms that facilitated mutual understanding and de-escalated tension.

What stood out was not only the arbitrator’s verbal clarity, but also his emotional intelligence in managing potentially volatile exchanges. His ability to maintain procedural order while promoting inclusion and respectful dialogue reflected a deep understanding of both interpersonal dynamics and institutional norms. These observations affirm the DNTP Dili office’s alignment with the scholarly standards of communicative competence in arbitration.

By contrast, the DNTP official in Ainaro does not lead arbitration forums and thus plays only a secondary, technical role in communication. Arbitration responsibilities lie with the

suco chief, while the DNTP official contributes primarily through legal clarifications and assistance with land measurements. This decentralised leadership model fragments the communicative process and limits the DNTP's ability to influence the tone, direction, or structure of dialogue.

Although the official's narrative reflects a strong sense of legal confidence and familiarity with procedural norms, his marginal voice during the arbitration process hinders the practical application of communicative competence. Unlike in Dili, where DNTP officials actively manage and guide the discussion, the Ainaro context leaves little space for the DNTP to shape the communicative dynamics of arbitration. As such, the office's contribution to this key dimension of effectiveness remains constrained.

6-3-1-(D). Ethical Independence

Ethical independence is widely recognised in the literature as a foundational quality of a competent arbitrator. Arbitrators must not only refrain from favouritism and coercion but also remain vigilant against structural or informal biases. Sternlight (2007) warns of 'repeat-player bias', where arbitrators may unconsciously favour parties who frequently engage their services, undermining perceptions of fairness. Similarly, Hollander-Blumoff and Tyler (2011) argue that the legitimacy of arbitration is inextricably tied to perceptions of impartiality, especially where social or economic hierarchies exist. Upholding neutrality and consistency in applying legal norms is thus central to maintaining institutional integrity and public trust.

In line with these normative expectations, DNTP officials in Dili showed a 'marked commitment' to ethical independence. Both interviews and direct observation revealed that the officials in Dili consistently provided equal speaking time to all parties and took deliberate steps to amplify marginalised voices, including those of women—a gesture that challenges entrenched gender-based customs. One official also acknowledged the risk of informal influence, noting that local actors may favour the wealthy or politically connected, and expressed a clear intention to counteract such tendencies in the DNTP Dili office. The Dili office's approach therefore aligns closely with the literature's emphasis on impartiality and reinforces the DNTP's credibility as a formal arbitrator.

In Ainaro, the DNTP official also displayed a strong sense of ethical independence, though under more constrained institutional conditions. His public criticism of the Land

Commission—based on a perceived lack of fairness—signalled a willingness to hold even formal bodies accountable. In a separate case involving a *liurai* family, he insisted on applying state law rather than deferring to customary authority, despite community resistance. Notably, he escalated the matter to the courts after a physical confrontation, thereby reaffirming a commitment to legal consistency.

Although the DNTP Ainaro office does not open and lead arbitration forums and operates within a system dominated by the *suco* chief, the official's decisions reflect personal ethical resolve and a strong adherence to rule of law principles. While the institutional context may limit the visibility and impact of this ethical stance, it nonetheless demonstrates that individual officials can uphold professional standards even when institutional support is weak or inconsistent.

6-3-1-(E). Additional Analysis of *Suco* Chiefs in Ainaro as Effective Arbitrators

In my research, the primary analytical framework is the formal–informal institutional relationship, as outlined by Helmke and Levitsky (2004), and the main comparison is between the DNTP Dili office and the Ainaro office. Accordingly, the DNTP Ainaro office is considered a weak formal institution, with many of its functions delegated to the *Suco* Council. Thus, in the Ainaro context, it is also important to assess whether the *suco* chief acts as an effective arbitrator, although this is not the primary focus of my research.

First, *suco* chiefs in Ainaro demonstrate high accessibility and are deeply embedded in the local community, enabling the swift mobilisation of forums that reflect culturally familiar practices. This mirrors the core principles of community mediation⁸¹, which, as Hedeon (2004) argues, values informal and participatory processes over adversarial legal procedures.

Second, *suco* chiefs routinely navigate between customary norms and state-imposed governance obligations, often with an intuitive understanding of social boundaries. In Ainaro Case I, a *suco* chief correctly referred a dispute to the *lia na'in*, recognising that the issue required a customary resolution. This reflects what Shamir (2003) describes as contextual expertise rooted in cultural familiarity, not legal codification.

⁸¹ Here, I also refer to the mediation literature because, as Kirk (2014, p. vi) observed in Timor-Leste, arbitration and mediation are often blended in practice.

Third, *suco* chiefs are often skilled oral communicators. However, their communicative strength can also become a tool of persuasive dominance, particularly in settings marked by power imbalances. According to Alberts et al. (2005), disputant satisfaction tends to decline when individuals feel overpowered, even if the outcomes appear substantively fair. This issue of satisfaction will be further explored in Chapter 7.

Fourth, *suco* chiefs enjoy high trust due to their moral and symbolic authority. However, as Vancluysen and Ingelaere (2020) argue, such embeddedness—while essential to legitimacy—can also blur the boundary between impartial facilitation and social obligation, especially where kinship and political ties are involved. As Hedeem (2004) notes, concerns about ethical independence frequently arise when community mediators lack structural insulation or formal oversight. While *suco* chiefs may act in good faith, the absence of external accountability mechanisms raises legitimate concerns about impartiality, especially in high-stakes or politically sensitive disputes.

6-3-1-(F). Sub-conclusion: Comparing DNTP Effectiveness Across Dili and Ainaro

Based on the four key indicators of effective arbitration—procedural fairness, subject-matter expertise, communicative competence, and ethical independence—a comparative assessment of the DNTP Dili and Ainaro offices reveals notable differences in institutional performance.

The DNTP Dili office demonstrates strong performance across all four dimensions, achieving a near-perfect score of 3.75 out of 4. It upholds procedural fairness (1.00) through the use of structured, written processes that reflect formal institutional design—providing consistency, transparency, and predictability to disputants. Its officials possess high subject-matter expertise. However, certain issues—such as private land disputes—often prove more complex and challenging to resolve (0.75). In observed forums, Dili officials also exhibited notable communicative competence (1.00)—asserting verbal leadership while facilitating inclusive participation, aligning with ADR ideals of participatory resolution (Hedeem, 2004). Although not completely insulated from political perception, the Dili office maintains a moderate-to-high level of ethical independence (0.75), aided by its institutional distance from local kinship and political networks.

In contrast, the DNTP Ainaro office reflects a more constrained and hybrid model of

arbitration, with an overall score of 1.50 out of 4. Its procedural fairness score is low (0.25) due to limited institutional capacity and the frequent delegation of arbitration responsibilities to *suco* chiefs. However, subject-matter expertise is relatively high (0.75)—Ainaro officials are knowledgeable in land law and administrative frameworks, even if they often lack opportunities to apply this knowledge directly. In terms of communicative competence (0.25), the Ainaro staff were observed to be passive in arbitration settings, suggesting uncertainty in role definition and reduced effectiveness in facilitating dialogue. Finally, the office demonstrates the arbitrator’s expertise and strong faith in the rule of law—even criticising the Land Commission’s favouritism. However, the lack of opportunity to lead arbitration forums prevents it from achieving a perfect score, resulting in a rating of 0.75.

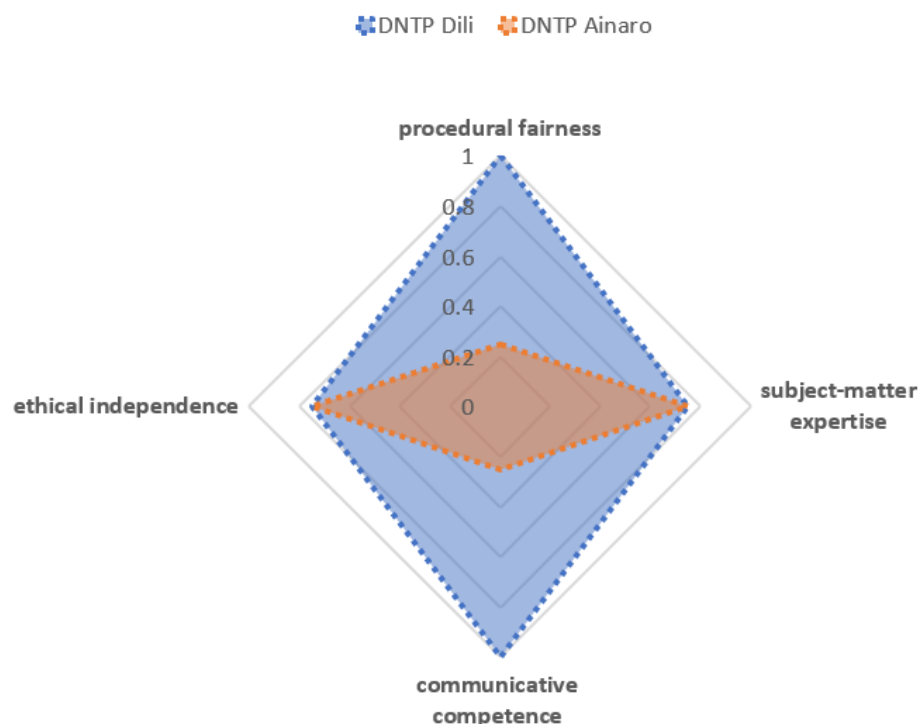


Figure 9: Quantitative Mapping of DNTPs’ Arbitration Characteristics

These findings suggest that while the DNTP Dili office functions more robustly as an arbitration institution overall, the Ainaro office’s effectiveness is more circumscribed and context-dependent, heavily influenced by informal institutional dynamics. However, it is important to note that the fact that the DNTP Ainaro office is a weak formal institution does not imply that land governance—where the DNTP and the *Suco* Council collaborate in

Ainaro—is ineffective, nor does the fact that the DNTP Dili office is a strong formal institution imply that land governance—where the DNTP and the *Suco* Council collaborate in Dili—is effective. A more comprehensive assessment will be explored further in Chapter Seven.

6-3-2. Empirical Analysis of *Suco* Chiefs Who Converge with or Diverge from the DNTP

In Section 6-2-2, I described the extent to which *suco* chiefs align with the goals of the DNTP. At the level of operational concepts, it is generally observed that formal and informal institutional goals in Dili are convergent, whereas in Ainaro, they appear divergent. In this analysis section, I will examine the underlying dynamics that explain these patterns. Specifically, I will provide a detailed interpretation of the survey statistics from Dili and Ainaro.

6-3-2-(A). Perceptions of the DNTP in Dili: Predominant Trust and Minority Dissent

In Dili, I interviewed the 26 respondents who said ‘yes’ and found that there are three reasons why they said so. First, it was prominently noted that many *suco* chiefs or other members of the *Suco* Council believe the DNTP is legally empowered to mediate land disputes. Therefore, they trust the DNTP in a normative way, as illustrated by statements such as: ‘They have a right to resolve land disputes’, ‘They have the authority to make decisions about land dispute cases’, ‘We must bring it to the DNTP office’, ‘Because, based on the law, they have the power to solve those cases’, and ‘According to the law, the DNTP is empowered to handle land disputes’, to name but a few. Second, among the 30 respondents, 12 people explained that they trust the DNTP because its process is ‘fair’ and ‘transparent’. Third, some respondents suggested that the reason they trust the DNTP is their capability, stating, for example, ‘The DNTP has detailed information about the land data around the capital of Dili’ and ‘They have documents about the land data’. In brief, 87% of the *suco* chiefs in Dili view the DNTP as reliable, pointing to DNTP’s legal standing⁸², fair and transparent mediation mechanisms, and competent skills.

Although these views may represent the general trend among the *suco* chiefs in Dili, I also aim to explore why minority opinions exist, particularly since only 13% (4 people)

⁸² However, it is important to note that there is no law explicitly granting DNTP mediation authority. It has been a long-standing perception among the people that DNTP holds such legal empowerment.

indicated that they ‘do not trust the DNTP’. This is important because examining these dissenting opinions can provide insights into improving institution-building in the future. Among them, two interviewees shared their perspectives on the DNTP. An interviewee said:⁸³

We recently resolved 5 cases at our *aldeia* level, and sent 10 cases to the DNTP. Unfortunately, the DNTP did not handle these 10 cases, so we had to take them to court. I think the DNTP is not capable enough. Also, I am concerned about corruption in court because sometimes they favour one party over another.

The other interviewee criticised DNTP’s arbitration mechanisms, stating⁸⁴, ‘DNTP officials had already made all the decisions, and after that they called us [the *suco* chief and the *aldeia* chief]. Why do they invite us?’. He laughed cynically.

Despite these small divergent opinions, it has been generally observed that the majority of *suco* chiefs in Dili align with the decision-making of DNTP Dili officials. The informal institutional leaders place their trust in the formal institution. Now, I will analyse survey data obtained in Ainaro: How do *suco* chiefs in Ainaro district perceive the DNTP?

6-3-2-(B). Mixed Perceptions of the DNTP in Ainaro: Trust, Doubt, and Absence

In Ainaro, I observed that it is the *suco* chief, rather than a DNTP official, who opens and leads arbitration forums. Moreover, DNTP officials are not often invited to participate in these sessions. Are such exclusionary practices unique to a few *sucos*, or do they reflect a broader trend across the Ainaro district, which comprises 21 *sucos*? To investigate this, I conducted a survey asking, ‘Do you trust the DNTP?’

While the survey provided useful statistical insight, it offered limited understanding of the reasons underpinning respondents’ answers. To complement the quantitative data, I conducted informal follow-up interviews in Dili, asking questions such as, ‘Why do you think that way?’ In Ainaro, due to time constraints within the scope of a single PhD research project, I delegated the interviewing task to a local survey agent—a UNTL student born in Ainaro. Many *suco* chiefs offered brief justifications, which were recorded as notes within the survey

⁸³ Interview on 23 June 2023

⁸⁴ Interview on 21 June 2023

responses.

Understanding both perspectives—why some *suco* chiefs trust the DNTP and why others do not—is crucial to developing a balanced and nuanced analysis.

First, 13 respondents (62%) who answered ‘yes’ predominantly cited two reasons: the DNTP’s effectiveness and its adherence to the rule of law. Illustrative responses include: ‘The DNTP identified land certificates’, ‘The DNTP tried to find evidence and proceed according to the law’, ‘The DNTP helped us understand land dispute issues more clearly’, ‘The DNTP resolved land disputes in our *suco*’, ‘The DNTP resolved land border issues here’, ‘The DNTP resolved all five land disputes here’, ‘The DNTP resolved issues between one *aldeia* and another’, and ‘The DNTP resolved land disputes according to the law, with evidence and documents’.

Second, six respondents (29%) expressed distrust in the DNTP. Their reasoning was nearly uniform: they believed that disputes could be adequately resolved by local figures such as the *suco* chief, *aldeia* chief, or a family *lia na’in*, without external intervention.

Third, two respondents (9%) did not indicate a clear opinion. One *suco* chief reported never having seen DNTP officials in his *suco*, while the other had encountered them only once. As such, both respondents noted they lacked sufficient experience to assess the DNTP’s performance.⁸⁵

6-3-3. Empirical Analysis of DNTP–*Suco* Council relations

6-3-3-(A). ‘Complementary’ and ‘Accommodating’ Relationships in Dili

I analyse all empirical data in Dili through the lens of existing theoretical frameworks (Helmke and Levitsky, 2004) and find that the primary formal–informal institutional relationship in governance, in which the DNTP and the *Suco* Council collaborate, aligns with the category of ‘complementary’. This characterisation rests on two key dimensions: effectiveness and convergence. In my research, a formal institution is operationally conceptualised as an effective arbitrator if a DNTP officer demonstrates: (1) procedural fairness, (2) subject-matter

⁸⁵ I also suspect that, given Ainaro district is a vast and mountainous area with poor road infrastructure, travelling to rural towns in Ainaro could be very challenging for DNTP Ainaro officers.

expertise, (3) communicative competence, and (4) ethical independence. I explored the four indicators through participant observations and interviews.

In terms of convergence between the formal and informal institutional leaders, survey results from the *suco* chiefs and other informal institutional leaders in Dili district indicated a higher level of trust in the DNTP, with 87% (26 out of 30) expressing trust in the DNTP's arbitration processes and decision. This demonstrates a broad consensus supporting the DNTP's role, despite some minor dissenting views.

In conclusion, 87% of Dili of land governance in which the DNTP and *Suco* Council collaborate can be categorised as 'complementary', whilst 13% can be accommodating.

Informal Institution's Goal with Formal One	'Effective' Formal Institution	'Ineffective' Formal Institution	
		with de jure power	without de jure power
'Convergent'	<u>Complementary</u>	Substitutive	Reverse- Complementary
'Divergent'	<u>Accommodating</u>	Competing	

*Complementary (87% in Dili) and Accommodating (13% in Dili)

Table 16: Formal-Informal Institutional Relationships in Dili

6-3-3-(B). 'Competing' and 'Reverse-Complementary' Relationships in Ainaro

In analysing the relationships between DNTP officials and *suco* chiefs in Ainaro district, it was necessary to query the existing framework of formal-informal institutional relationships proposed by Helmke and Levitsky (2004), as there was a discrepancy between the framework and my observations. I have two critical points.

My first critical observation on the existing literature is that, despite acknowledging the importance of informal institutions and their relationships with formal ones, many studies still rely on existing paradigms that assume formal institutions possess, at minimum, *de jure* power or authority to open a forum. Existing research often thus focuses on why formal institutions fail to exert *de facto* power, implicitly assuming that *de jure* authority is inherently vested in

formal institutions. This tendency often leads to research on weak formal institutions.⁸⁶

For example, in ‘window dressing institutions’, ‘power holders adopt them [formal institutions] not in pursuit of the ends for which they are designed, but rather in search of international or domestic legitimacy’, and ‘power holders have an interest in keeping them on the books but no interest in enforcing them’ (Levitsky and Murillo, 2009, p. 120). Second, ‘forbearance’ institution means that state officials, possessing the institutional capacity to exert power, choose politically not to enforce a law, thereby relinquishing their enforcement rights (Holland, 2006). Third, in ‘non-punitive sanction-embedded institutions’, state officials could ‘impose sanctions for noncompliance, but these sanctions (e.g., a minuscule fine) are so low...[they provide a] meaningless incentive for actors to change their behaviour’ (Brinks, Levitsky, and Murillo, 2020, p. 16). And fourth, there is an ‘aspirational law institution’. It can be defined as law which ‘project[s] a vision of an ideal and future democratic, inclusive, and egalitarian social order’, therefore ‘immediate effects’ or ‘to activate them overnight’ cannot be predicted (Htun and Jensenius, 2020, p. 142).

The main assumption behind all implies that formal institutions have at least *de jure* power. However, as observed in Ainaro, opening a forum does not necessarily depend on the formal institutional leaders such as the DNTP officer, the sub-administrator, or the policeman, but on the informal institutional leaders—the *suco* chiefs. This reality should be properly reflected in the existing conceptual framework (Helmke and Levitsky, 2004) and so the framework should be ‘refined’. At this stage, I suggest that the concept of ineffectiveness can be subdivided into two categories: ‘with’ *de jure* power and ‘without’ *de jure* power.

My second critical point is that the role of formal institutions should be diversified according to their functions. Therefore, the assessment of the effectiveness of formal institutions should be tailored accordingly. In my case, the function of the formal institution (the DNTP) is to arbitrate. Effective arbitrators and effective law enforcers, in general terms, should be treated separately. As explained in the literature review and throughout this chapter, an effective arbitrator is expected to fulfil four key sub-roles: the ability to ensure procedural fairness, subject-matter expertise, communicative competence, and ethical independence.

⁸⁶ Here, I provide only four types of weak formal institutions. However, there are more types, such as ‘symbolic institutions’ (Brinks et al., 2020).

As I qualitatively assessed, the DNTP Ainaro office is generally less effective than the DNTP Dili office. However, analysing the situation in Ainaro requires me to take one additional step: unlike in Dili, where the DNTP official mostly single-handedly plays the role of arbitrator, in Ainaro there is an ‘arbitration team’ consisting of various entities, such as the *suco* chief, *aldeia* chief, the DNTP officials, sub-administrator, police, and others. As briefly shown here and detailed in the next empirical chapter, although a DNTP Ainaro official is not an effective arbitrator on his own, the arbitration team as a whole complements each other.

As a consequence, even though the DNTP Ainaro officials alone cannot be considered an effective arbitrator, the other team members complement the arbitration tasks. Now, I term this ‘reverse-complementary’: informally, the forum is opened, and then formal sector leaders such as the sub-administrator, DNTP officials, and police complement it with their respective expertise. In other words, it is formal institutional leaders who complement informal institutional leaders.

I have found that DNTP-*Suco* Council relations in Ainaro are classified into two distinct types: ‘competing’ and the novel relationship I termed ‘reverse-complementary’. The former refers to ineffective formal institutional leaders who do not share goals with their informal counterparts. The latter refers to ineffective formal institutional leaders who lack *de jure* power but share goals with informal institutional leaders.

Here, this new type of ‘reverse-complementary relationships’ is distinct from the type of substitutive relationships in the existing theory (Helmke and Levitsky, 2004). Substitutive relationships present a scenario where a formal institution opens a forum but lacks the capacity to exert *de facto* power, thus informal institutional leaders play substitutive roles.

Informal Institution’s Goal with Formal One	‘Effective’ Formal Institution	‘Ineffective’ Formal Institution	
		‘with’ <i>de jure</i> power	‘without’ <i>de jure</i> power
‘Convergent’	Complementary	Substitutive	<u>Reverse- Complementary</u>
‘Divergent’	Accommodating	<u>Competing</u>	

*Reverse-complementary (60% in Ainaro) and Competing (40% in Ainaro)

Table 17: Formal-Informal Institutional Relationships in Ainaro

The ‘reverse-complementarity’ phenomena, markedly different from those in Dili as well as which cannot be situated in the existing framework, led me to pose a key question: ‘why the *suco* chiefs in Ainaro open and lead the arbitration forum?’

An interview with a Timorese lawyer can be referred to as a possible answer.⁸⁷ According to him, in Dili—where residents have migrated from across Timor-Leste—*suco* chiefs are generally less familiar with the individuals in their communities. In contrast, Ainaro has experienced less population movement, enabling *suco* chiefs to develop closer relationships with residents and maintain deeper knowledge of local dynamics. As a result, *suco* chiefs and other local leaders in Ainaro are often more familiar with the history and context of land disputes than officials at the DNTP Ainaro office. This makes it more contextually appropriate for residents to entrust such cases to *suco* chiefs. However, given that DNTP officials in Ainaro have also worked in the district for over a decade, the dominance of the *suco* chief in leading arbitration forums cannot be fully explained by local familiarity alone.

I thus propose another possible explanation based on the historical context. Ainaro played a pivotal role during the difficult period of Indonesian occupation in Timor-Leste, acting as a sanctuary for mountain-based guerrilla resistance forces. Notably, former guerrilla leader and current (in the year of 2024) Prime Minister Xanana Gusmão spent many years directing the resistance from Ainaro district (Timor-Leste Government, 2012). The DNTP took over from the Indonesian National Land Agency (Badan Pertanahan Nasional: BPN), with many current DNTP staff being former BPN employees (International Crisis Group, 2010, p. 4). Almeida (2020, p. 188) also emphasises that their experience with BPN significantly influenced their professional development. During this period, various formal land tenures, such as the *hak milik*, *hak pakai*, and *hak guna bangunan*, were introduced. Although the Indonesian regime provided compensation during public works projects during this era, there were perceptions of unfairness among the local population (Fitzpatrick et al., 2016, pp. 229-230). These potential factors help explain the current dynamics of *suco* chief-led arbitration rather than those of the DNTP.

⁸⁷ Interview with him on 1 June 2023

6-4. Conclusion: Revisiting the Theory of Formal–Informal Institutional Relationships

This chapter has offered a comparative analysis of formal–informal institutional relationships in land dispute resolution in Timor-Leste, using DNTP–*Suco* Council interactions in Dili and Ainaro as case studies. Drawing on four indicators of effective arbitration—procedural fairness, subject-matter expertise, communicative competence, and ethical independence—it has shown that the DNTP Dili office largely meets the criteria of a capable arbitrator. This effectiveness, coupled with widespread trust among *suco* chiefs, supports a broadly complementary relationship. In contrast, the DNTP Ainaro office, while demonstrating high expertise and ethical awareness, lacked procedural fairness and communicative competence. The survey findings further revealed a significant divergence in perceptions: 87% of *suco* chiefs in Dili expressed trust in the DNTP, compared to only 62% in Ainaro, where 29% reported distrust. These dynamics indicate that DNTP–*Suco* Council relations in Ainaro fall into two distinct patterns—‘reverse-complementary’ and ‘competing’; the former challenges prevailing typologies and calls for theoretical refinement.

More broadly, this chapter questions the assumption that formal institutions inherently hold *de jure* power. The emergence of reverse-complementary relationships highlights the importance of context—local power relations, historical legacies, and embedded norms—in shaping institutional effectiveness. These findings call for more adaptive frameworks to understand hybrid governance in legal pluralism settings. The next chapter builds on this analysis by examining how these different relationship types—particularly ‘complementary’ and ‘reverse-complementary’—affect governance outcomes. While complementary models are often idealised in theory, reverse-complementarity presents a novel and underexplored configuration; both merit sustained empirical attention.⁸⁸

⁸⁸ Moreover, the competing model is already well established in the literature, whereas accommodating cases will be explored further in future research due to the time constraints of a single PhD project.

Chapter Seven: Divergent Governance Outcomes

7-1. Introduction

On the one hand, an official at the DNTP Dili office stated, ‘I have only one assistant...just the two of us leading the mediation [arbitration]...yes, we do have written rules called the *Regras Mediasaun...*’ and ‘The DNTP Dili office usually receives more than 1,000 cases per year’ (Interview, 4 April 2023 and 6 June 2023). On the other hand, in Ainaro, a police officer said that ‘no written rules were in place...but verbal rules do exist for example, authorities shall not force any party to accept the mediation [arbitration] result’ (Interview, 11 May 2023).

These quotes illustrate the deep asymmetries in land governance across Dili and Ainaro. The governance model in Dili is more formally structured—featuring written procedures, which are typically considered a defining element of formal institutions in political science—yet it is burdened by an overwhelming caseload and limited staffing. In contrast, the governance model in Ainaro is more informally structured, relying on verbal rules—a key characteristic of informal institutions in political science. Nevertheless, it continues to adhere to democratic principles. These regional differences suggest the need to look beyond questions of institutional capacity alone, such as institutional weakness. Instead, this chapter situates these contrasts within broader debates that seek a more nuanced understanding of governance and its effects, from both top-down and bottom-up perspectives.

The chapter thus consists of two parts. First, it examines the types of arbitration mechanisms (Outcome 1) in Dili and Ainaro, with particular attention to how written and verbal rule systems function, who initiates and leads forums, and the role of authority in shaping each mechanism. Second, it assesses governance effectiveness from two angles: a top-down one (Outcome 2-1), which considers enforcement and coordination (drawing on Ferguson’s second-order CAPs framework), and a bottom-up one (Outcome 2-2), which evaluates user satisfaction through procedural justice criteria derived from the Alternative Dispute Resolution (ADR) literature. Together, I will offer a comparative analysis of how formal and informal institutional dynamics influence governance effectiveness.

7-2. Outcome 1: Different Types of Arbitration Mechanisms

This section examines subregional variations in land dispute arbitration mechanisms between

Dili and Ainaro. In Dili, arbitrations typically involve written procedures, whereas in Ainaro, verbal procedures are more commonly preferred. These differences will be examined in detail.

7-2-1. Written Rules-based Arbitration Mechanisms in Dili

In Dili's land governance system, the DNTP and *Suco* Councils collaborate mostly in a complementary manner. As outlined in the previous chapter, DNTP officials, as formal actors, retain primary authority over the arbitration process, which typically follows four formalised stages. First, the DNTP reviews the request letter and conducts separate preliminary hearings with each party. Second, it convenes an arbitration forum and presents the *Regras Mediasaun* (written mediation/arbitration rules). Third, a technical team visits the disputed site to conduct land measurements. Finally, the *Akordu Mediasaun* (mediation/arbitration agreement) is formalised through written signatures by both parties, concluding the process.

7-2-1-(A). An Arbitration Request Letter Arrives at the DNTP Dili Office

The *suco* chiefs usually refer the cases to the DNTP Dili office when faced with complex disputes.⁸⁹ However, who can bring a case to the DNTP Dili office seems flexible, as shown in Dili Case II: the party involved in a land dispute brought her case directly to the DNTP, 'bypassing' the existing process of seeking resolution from the *aldeia* chief and *suco* chief.⁹⁰ Once the DNTP Dili office receives the case, the next step is to review the letter and summon all parties (A and B) on the same day but at different times.⁹¹ Once the DNTP Dili office completes the review of letters and hearings from both sides at different times, the next step is to convene all relevant parties.

7-2-1-(B). The *Regras Mediasaun*

When all the stakeholders enter the DNTP Dili office building, the relevant parties are seated at a table. A DNTP arbitrator⁹² explains the *Regras Mediasaun*.

⁸⁹ Interview with a DNTP Dili officer on 4 April 2023; casual interviews with several *suco* chiefs in Dili on 18, 19, and 23 April 2023.

⁹⁰ In doing so, she broke with the current land governance concept of the 'climbing a ladder'.

⁹¹ Interview with a DNTP Dili officer on 21 March 2023

⁹² While the official title is 'mediation facilitator', the role is more accurately described in legal terms as an

MINISTÉRIO DA JUSTIÇA
Secretaria de Estado das Terras e Propriedades
Direcção Nacional de Terras, Propriedades e Serviços Cadastrais,
Direcção de Terras, Propriedades e Serviços Cadastrais Distrito Dili

REGRAS MEDIASAUN

Mediasaun laós prosesu obrigatōriu, maibe voluntariu tamba ne'e, presiza ambiente koperatīvu no komunikasaun nebe efektīvu husi parte disputante sira. Normas ida ne'e sei regula parte hot-hotu iha prosesu mediasaun nia laran;

Loron Quinta Feira Data 7 / 11 / 2019 : Fatin: DTPSC. MD

- Disputantes principais iha prosesu mediasaun ida ne'e maka;
Sr/a [Redacted] hanesan Parte I/Claim A
Sr/a I hanesan Parte II/Claim B
- Disputante sira bele lori membru familia ka sasin, maximu ema nain rua [2]; liu husi ida ne'e sei la admite
- Marka prezensa iha fatin tuir horas nebe determina ona;
- Disputantes no Sasin sira tenki hatu'o informasaun nebe loós, klaru no iha responsabilidade;
- Respeita no rona malu bainhira ema seluk koalia hodi labele korta, no labele hatudo liman ba malu;
- Respeita sasin sira bainhira hatu'o informasaun;
- Labale uza liafun insulta nebe afeta ema nia sentimentu no koalia ho lian nebe ema bele kompriende;
- Konsentra ba problema original kona ba rai, no labele lori problema seluk tama iha prosesu mediasaun;
- Karik iha disputantes ka sasin feto, foó mos tempo atu uza nia direitu hodi koalia;
- La uza violensia ka ameasa malu iha prosesu mediasaun nia laran;
- Labele lori sasan kroát, no labele hemu tua lanu durante prosesu mediasaun hala'o;
- Parte hot-hotu tenki kontribui no kopera hodi buka solusaun ba problema;
- Parte rua prontu atu asina akordu bainhira hetan solusaun;
- Karik la hetan solusaun iha prosesu Mediasaun durante dala 3, propriedade ne'e sei kontinua rezista iha baze de dadus nudar "parsela ka baliza disputada" no ekipa sei la organiza tan mediasaun ba disputa ida ne'e;
- Akordu Prosesu Mediasaun ida ne'e, iha kbi'it legal tuir Código Civil nebe sei mensiona iha Akordu Mediasaun.
- Rekomendasaun ikus, disputante sira bele refere kazu ida ne'e ba tribunal tuir disputante sira nia hanoin.

Ami disputantes sira nebe asina iha okos, iha konsiensia tomak no prontu atu kumpri regras ida ne'e hanesan mata dalan durante prosesu mediasaun hala'o.

DISPUTANTES

Parte – I/Claim A Sasin Claim A 1 <u>[Signature]</u> 2 <u>[Signature]</u>	Parte – II/Claim B Sasin Claim B 1 <u>[Signature]</u> 2 <u>[Signature]</u>
---	--

FASILITADOR MEDIASAUN

[Signature]

Picture 13: The *Regras Mediasaun* in the DNTP Dili office

Upon reviewing the 16 written rules, it is evident that both parties are required to sign the document as evidence of their agreement to the rules at the DNTP Dili office. Additionally, the arbitrator, known as the *Fasilitador Mediasaun*, must 'also' sign to confirm the

'arbitrator'.

mediation/arbitration rules. I present the 16 rules, translated into English, as follows:

1. The main disputants in this mediation process are: X is Party I/or Claimant A, and Y is Party I/or Claimant B
2. The disputants can bring family members or friends, up to two people, who will not be admitted without their consent.
3. Attend the meeting at the designated time.
4. The disputants and their companions must provide accurate and clear information and take responsibility for it.
5. Respect and listen to each other when someone is speaking; not interrupt and refrain from pointing fingers at each other.
6. Respect companions/friends when they provide information.
7. Do not use insulting language that affects someone's feelings and speak in a way that others can understand.
8. Focus on the original problem related to the land and not bring up other issues during the mediation process.
9. If there are female disputants or companions, they should also be given time to speak and exercise their right to do so.
10. Do not use violence or threaten each other during the mediation process.
11. Do not bring food and drinks or consume them during the mediation process.
12. All parties involved must contribute and cooperate to find a solution to the problem.
13. Both parties must be ready to sign an agreement when a solution is reached.
14. If a solution is not reached during the mediation process within 3 times, the property dispute will continue to be addressed through other means.
15. The mediation agreement will have legal value according to the Civil Code mentioned in the mediation agreement.
16. As a final recommendation, the disputants may refer the case to the court according to their decision.

With the 16 rules in place, mediation/arbitration begins. After one or two sessions, both sides typically begin to consider reaching an agreement. Subsequently, a DNTP measurement team goes to the disputed area.

7-2-1-(C). Measuring the Disputed Area

Upon reaching a preliminary agreement, the next step involves deploying a measurement team to the disputed area. The team conducts precise land measurements, delineates boundaries, and determines which area rightfully belongs to each party. The GPS data is then entered into their SNC system.



Picture 14: A Measurement Team's Tool – Tape Line / The team is measuring a disputed area

7-2-1-(D). The *Akordu Mediasaun*

During the final stage of the mediation/arbitration process, the parties reach a verbal agreement, which is then formalised through the signing of a written document referred to as the *Akordu Mediasaun* (mediation agreement). Each party must sign the agreement document. Although the general term is the *Akordu Mediasaun*, it is important to note that the title of the agreement varies depending on the nature of the dispute being handled. For instance, if the mediation/arbitration process pertains to border issues between communities, the agreement is titled the *Akordu Baliza Rai*, which translates to land boundary agreement.



MINISTÉRIO DA
JUSTIÇA

SECRETÁRIO DE ESTADO DAS TERRAS E PROPRIEDADES

DIREÇÃO GERAL DAS TERRAS E PROPRIEDADES

Direção de Terras, Propriedades e Serviços Cadastrais

Município de Dili

Av: Bispo de Medeiros Balide Dili, telf.: +670 77305741

AKORDU MEDIASAUN

Iha loron Kinta Feira, dia, 18 de Agosto de 2022, fatin iha Edifisiu DTPSC Municipio Dili, hala'o prosesu Mediasaun ba Rai ho Uma Privado, entre partes nebe naran sei temí tuir mai ne, kona-ba rai Parcela ida nebe maka localizada iha: Aldeia Rio de Janeiro, Suco Bairro Pite, Posto Administrativo Dom Aleixo, Município Dili.

A. Partes

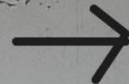
Parte I:

Naran Kompletu : [redacted] ceto
No. Eleitor : [redacted] 84
Nacionalidade : Timorense
Pozisaun : Proprietária/Nain ba Rai no Uma
Hela fatin iha : [redacted], Suco Fatuhada

Parte II:

Naran Kompletu : [redacted] rreto
No. BI : [redacted] 02287
Nacionalidade : Timorense
Pozisaun : Okupante
Hela fatin iha : [redacted], Suco Bairro Pite

sign →



84

L

M

Picture 15: The Akordu Mediasaun

Signing this document indicates that the land dispute has been resolved. So far, I have described the mediation/arbitration mechanism within the land governance system of Dili, where the DNTP and Suco Council collaborate through complementary relational dynamics. Next, I will explain the arbitration mechanism in Ainaro.

7-2-2. Verbal Arbitration Mechanisms in Ainaro

In the land governance system of Ainaro, where the DNTP and *Suco* Council collaborate, a reverse-complementary relationship between formal and informal institutions is typically observed, as outlined in the previous chapter. Within this arrangement, *suco* chiefs, as informal institutional actors, retain primary control over the arbitration process. The governance mechanism generally consists of three stages, each reflecting a high degree of informality. It begins with the *suco* chief receiving a case from the *aldeia* chief and inviting members of the arbitration team to the *Suco* Council. Next, the police conduct a security check and explain the arbitration rules ‘verbally’. Finally, the *suco* chief, supported by the team, leads the arbitration forum, and the case is resolved through a ‘verbal’ agreement.

7-2-2-(A). The *Suco* Chief Invites the Arbitration Team

First, when the *suco* chief receives a case from the *aldeia* chief,⁹³ all members of the arbitration team are invited to participate in an arbitration forum, typically held in the *Suco* Council. A DNTP official in Ainaro explained that: ‘If the case is then passed from the *aldeia* chief to the *Suco* Council, the *suco* chief invites all relevant entities, such as DNTP officials, police, sub-administrator’.⁹⁴ In other words, in Ainaro, it is the *suco* chief who calls the arbitration team to the forum; this is quite the reverse in Dili, where the DNTP calls the *suco* chiefs to the forum. According to my interview with a policeman in Ainaro district on 11 May 2023, before an arbitration forum begins, the police carries out a security check to ensure that knives or swords are not brought in, once all the members have gathered at the *Suco* Council.

7-2-2-(B). Security Checks and Verbal Rules

When parties involved in land disputes come to the *Suco* Council, then police officers⁹⁵ start security check. I inquired about the process of conducting a security check to the police officer, and the officer provided me with the following information:⁹⁶

⁹³ I see that the concept of climbing a ladder works here, from the *aldeia* chief to the *suco* chief.

⁹⁴ Interview with a DNTP officer on 17 March and 9 May 2023.

⁹⁵ Usually, three police officers – one government police officer known as the *Ofisial Polisia Suku* (OPS) and two civilian police officers known as the *Konsellu Polisiamentu Komunitáriu* (KPK) – participate. However, this arrangement appears to be flexible.

⁹⁶ Interview on 11 May 2023.

The role of the local police is to guarantee security during the mediation [arbitration] process... and they [policemen] should speak politely... The mediation [arbitration] process is led by the *suco* chief... Before starting the mediation [arbitration] process, the police should conduct a security check to ensure that the parties do not bring knives or swords. This is to prevent violence and ensure that no one falls asleep during the mediation [arbitration]. The local police shall participate in and assist with the mediation [arbitration] session. Policewomen have to check the women among the parties, and policemen have to check the men.

Having heard these pseudo-rules, such as ‘no one falls asleep during the mediation [arbitration]’, I wanted to know if there are arbitration rules analogous to the 16 written rules of the DNTP Dili office. Consequently, I inquired to determine whether any written rules exist within the arbitration team in Ainaro.



Picture 16: Me (left), Policeman in Ainaro district (middle), and Translator (right)

This inquiry is crucial, as the presence of written rules is a key criterion for an institution to be considered formal.⁹⁷ The police officer indicated that ‘no written rules were in place’.

⁹⁷ According to North (1991, p. 97), formal institutions mean ‘formal rules (constitutions, laws, property

However, he emphasised that the ‘verbal rules’ do exist; consequently, the officer provided the following 7 verbal rules:

1. Security checks shall be conducted by police officers. Policewomen shall inspect the female parties, while policemen shall inspect the male parties
2. Parties shall be seated at a specified distance from one another.
3. Authorities shall not force any party to accept the mediation [arbitration] result.
4. Party A shall remain silent while party B speaks. During the mediation [arbitration] process, no one shall insult each other.
5. The health condition of both parties shall be asked by police officers.
6. Authorities shall avoid favouring any party and shall remain neutral and transparent.
7. When parties speak, police or authorities shall record their opinions, analyse them, and provide a solution.

Following the completion of the security check and the verbal explanation of the rules, the arbitration forum begins.

7-2-2-(C). A ‘Team’-based Arbitration and ‘Verbal’ Agreements

Once the security check is completed and the environment is deemed safe, the arbitration forum begins, with each member fulfilling their ‘designated role’. Given that the sub-administrator holds the highest position within the local administrative unit, it appeared to me that they were best suited to assume the role of principal arbitrator. At the district level, the administrator holds overall authority. Each district comprises sub-districts, which are led by sub-administrators. Below them are lower-level positions, including *suco* chiefs and *aldeia* chiefs.

Consequently, I questioned the sub-administrator about whether the *suco* chief truly leads the arbitration forums, despite the presence of a sub-administrator on the team. He responded that ‘Normally the *suco* chief leads the mediation [arbitration] process’. I further inquired about the role of the sub-administrator on the team. He told me that:⁹⁸

rights)’. Carey (2000, p. 735) defines formal institutions as ‘parchment institutions’ because they ‘are written down somewhere as laws, regulations, constitutions, treaties, and so forth’.

⁹⁸ Interview with him on 5 May 2023

At this moment, there is no proper law to regulate land disputes. The role of the administrator participating in the mediation [arbitration] at the *suco* is to assist in the mediation [arbitration] process. Sub-administrators try to convince and motivate the parties involved [to reach an agreement]

The sub-administrator's role within the arbitration team appears to be that of facilitating agreement between the parties. As the sub-administrator acknowledges, in Ainaro, the *suco* chief's centrality is very prominent. When I inquired about the reason for not bringing land dispute cases to the DNTP Ainaro office, an employee at the DNTP responded, 'If we receive a land dispute case that did not come via the *Suco* Council, we forward it to the *suco* chief because people in Ainaro do not trust us'.⁹⁹



Picture 17: Translator (left), Sub-administrator (middle), and Me (right)

Next, I was curious about the perspective of the *aldeia* chief, as a member of the *Suco* Council. I managed to meet with an *aldeia* chief. He was very kind and knew the process of dispute resolution at the *aldeia* level and *suco* level as well. He emphasised that:¹⁰⁰

⁹⁹ Informal interview on 9 May 2023

¹⁰⁰ Interview on 11 May 2023.

Yes, the *suco* chief's role is to mediate [arbitrate]. However, the *aldeia* chief should first talk with the parties. I, the *aldeia* chief, usually work with the *lia na'in* and the police at the *aldeia* level. Only if it is not resolved do I transfer it to the *Suco* Council. In the *suco* level, I talk about local history...

In accordance with his narrative data, I once again observed the phenomena of the 'climbing a ladder' concept. Cases are initially addressed at *aldeia* level and, if unresolved, are escalated to *suco* level.¹⁰¹ And if it is climbed up in the upper level or the *Suco* Council, then his role is to explain local history.



Picture 18: Translator (left), Me(middle), and an *Aldeia* Chief (right) in Ainaro district

Next, I explored the role of the DNTP. According to the interview with the sub-administrator on 15 May 2023, he told us that 'The DNTP has extensive knowledge of the land law and so can explain it to the parties'. The DNTP official also explained that the role of the DNTP in the arbitration team is as follows:¹⁰²

¹⁰¹ For detailed data and analysis, please refer to Chapter 5 of this PhD thesis.

¹⁰² Interview with him on 9 May 2023. He also mentioned that in the DNTP Ainaro office, there have been no human resources for the mediation department for more than a year due to budget issues at its

When the problem is resolved in the *Suco* Council, the DNTP is invited to measure the borders... In Ainaro, people do not usually transfer cases to the DNTP office because they believe that the DNTP is not fair in its decision-making... They think solving problems at the *suco* is fairer because the people and the *Suco* Council observe the situation directly... Additionally, there is a perception that the DNTP staff were associated with the Indonesian occupation, leading people to believe that they can manipulate decisions based on the certification (right to use)...

Also, according to Ainaro Case I, it was affirmed that a DNTP official participated in the arbitration in order to measure the border. Given all the data, the role of DNTP officials in the arbitration team is limited to two tasks: measuring the disputed border and consulting on legal matters. Leading the arbitration table rests within the *suco* chiefs in Ainaro.¹⁰³

In sum, police officers ensure that the process is carried out peacefully. The sub-administrator often participates in the arbitration to encourage both parties to reach an agreement. Staff from the DNTP Ainaro office provide technical support, including measuring the disputed land and explaining relevant land laws. The *aldeia* chief explains local historical knowledge. Following this collective arbitration process, a verbal agreement is usually reached.

7-2-3. Sub-conclusion: Different Arbitration Mechanisms between Dili and Ainaro

To summarise, both the DNTP Dili and DNTP Ainaro offices operate under the DNTP headquarters structure and are involved in resolving land disputes through arbitration. However, their governance attributes differ significantly. In Dili, formal institutional leaders or DNTP officials play a more prominent role in arbitration, and so the formal nature—particularly written processes—shapes the governance style in Dili. In contrast, in Ainaro, informal institutional leaders or *suco* chiefs assume a more significant role, and so the informal nature—especially verbal processes—guides the governance style in Ainaro.

headquarters.

¹⁰³ Interviewing the sub-administrator clarified why the *suco* chief, rather than the police or sub-administrator, handles land dispute mediation. The sub-administrator explained, 'The *suco* chief understands the population and the case details – whether it involves private, cultural, state, or abandoned land – better than we do. Both the *suco* chief and the council are well-informed in this area'.

Criteria	Dili Model	Ainaro Model
(1) Who opens an arbitration forum?	DNTP Officials	The <i>Suco</i> Chiefs
(2) Who leads an arbitration forum?	DNTP Officials	The <i>Suco</i> Chiefs (However, many other arbitration roles are fulfilled by entities such as the DNTP, the sub-administrator, and police)
(3) Are there written rules?	Yes (It is called the <i>Regras Mediasaun</i>)	No (But, verbal rules exist)
(4) Do both parties agree in writing?	Yes (It is called the <i>Akordu Mediasaun</i>)	No (But sometimes, yes)

Table 18: Comparison Matrix of Both Mechanisms

7-3. Outcome 2: Different Types of Governance Effectiveness

So far, I have shown in the previous chapter that different types of formal-informal institutional relationships exist between the DNTP Dili office and Ainaro office, and I have discussed how arbitration mechanisms vary between these two settings earlier in this chapter. My final question is: What impact do these interactions have on outcomes? In the context of my research, outcomes refer to governance effectiveness from both top-down and bottom-up angles.

For the former, if we know a rigorous theoretical framework, such as *normative benchmarks* for institution-building, we will be able to assess whether institutional outcomes are being achieved as expected.¹⁰⁴ In this context, Ferguson's 2nd-order CAPs (Collective Action Problems) framework (2020) is especially relevant to my research; he contends that whether or not 2nd-order CAPs are overcome could offer compelling evidence of effective institution-building. Accordingly, this study will examine two key concepts, enforcement and

¹⁰⁴ Moreover, by employing this approach, there is potential to make a significant contribution to the testing and refinement of theoretical frameworks. Through the analysis of empirical data, this research can provide valuable insights into the validity of the normative benchmarks for institution-building as proposed by Ferguson (2020). Ultimately, my data may either corroborate or challenge Ferguson's.

coordination, in DNTP Dili Office and DNTP Ainaro Office.

For the latter, in order to know how much people are satisfied with arbitration in Dili and Ainaro, I refer to Alternative Dispute Resolution (ADR) literature. Recent scholarship on ADR argue that if arbitration guarantees five criteria-voice, voluntariness, neutrality, cultural fit, and control, user satisfaction is more likely to enhance. Accordingly, I will examine user satisfaction in Dili and Ainaro through the five key points.

7-3-1. Outcome 2-1: Governance Effectiveness from a Top-Down Angle

In this section, I assess how effectively the DNTP Dili office arbitrates land disputes and whether it manages the costs of the arbitration forum appropriately. This assessment highlights the DNTP Dili office ensures the enforcement of arbitration agreements. However, a key challenge has emerged: the DNTP Dili office bears the excessively high arbitration costs.

7-3-1-(A). Arbitration in Dili: Well-Enforced but Costly to Coordinate

According to Ferguson (2020), institution-building is considered to be on the right track if laws or agreements among diverse entities are well enforced. In the context of the operational concept of effective arbitration in Dili, I assess whether the *Regras Mediasaun* (written rules) are well observed and whether the *Akordu Mediasuan* (written agreement) is respected.

Concerning the *Regras Mediasaun*, DNTP Dili officials' opinions are very positive. One of the officials at the DNTP Dili office said: 'The arbitrator has rules. These are written rules that help everyone in the room understand the rules of the game'.¹⁰⁵ My participant observation provided opportunities to see whether the parties involved in land disputes understood the rules and behaved accordingly. For example, as shown in Dili Case III (Atauro Case), although tension between the parties was escalating during the forum, neither party broke the rules. Following the DNTP official's intervention, one party, who had insulted and threatened to kill the other, eventually apologised, and the other party accepted the apology. I also participated in two separate arbitration forums on 25 April and 30 May 2023. In both instances, although the contentious parties did not reach a resolution, they made concerted efforts to adhere to the established rules, resulting in both cases being forwarded to court.

¹⁰⁵ Interview with him on 21 March 2023

Regarding the *Akordu Mediasuan*, an official at the DNTP Dili office appears to be well aware of the importance of written agreements, as demonstrated by counterfactual examples in the *aldeia* or *suco*-level mediation mechanisms. He explained that:¹⁰⁶

But often the solution [at the *aldeia* or *suco* level] is not accompanied by a written statement. They do not necessarily have a written record that the case is resolved, reconciled, and signed by the parties. Often, the part involving the signing of the agreement document is missing. This may leave room for future disputes regarding the same land problem. Consequently, [when the case is referred to the DNTP] the DNTP shall go through the entire process again before mediation.

Through my conversation with him, I observed that he believes the written agreement is very important for resolving disputes. An interview with another official at the DNTP Dili office provided a more practical reason for having such a system. He told me that:¹⁰⁷

If the draft [the written agreement draft] is prepared by the DNTP, the title is the *Akordu Mediasuan*, with the *suco* chief as the witness. If the draft is prepared by the *suco* chief, the title is the *Akordu Dame* (peace agreement), with the DNTP as the witness. These two documents will automatically become strong evidence and valid documents against the same issue or persons, as the problem is considered resolved. If any future problems arise from the same person or issue, we will automatically kick them out.

In other words, whenever individuals came back with the same issue, aiming to challenge the existing arbitration agreement, their attempts were effectively thwarted.

Now, I will explain the second aspect of the 2nd-order CAPs: Ferguson (2020) suggests that institution-building is also considered to be on the right track if ‘coordination’ is efficient. In the context of my research, at the operational concept level, I explore that: ‘Are the costs of opening and maintaining the arbitration forum properly covered?’

As shown in my empirical Chapter One, the DNTP Dili office typically receives over 1,000

¹⁰⁶ Interview with him on 21 March 2023

¹⁰⁷ Interview with him on 12 April 2023

cases per year.¹⁰⁸ Does this number represent a heavy burden or a reasonable mission? In this regard, an official at the DNTP Dili office told me:¹⁰⁹

There used to be two mediators [arbitrators], me and another official, but he has moved to Same district¹¹⁰. Now, I am alone and I have only one assistant...just the two of us leading the mediation [arbitration] ... Regularly, we receive numerous calls from the *suco* chiefs and *aldeia* chiefs.

It seems clear that an arbitrator and an assistant arbitrator are struggling to handle roughly a thousand cases per year. Is this coordination in this context proper? I would answer that the costs of opening and maintaining nearly 1,000 mediation forums per year impose a 'heavy burden' on the DNTP Dili office.

In summary, concerning 'coordination', the other aspect of the 2nd-order CAPs, the DNTP Dili office covers an excessive portion of the arbitration costs. This situation does not constitute efficient coordination.

7-3-1-(B). Arbitration in Ainaro: Low-Cost Arbitration, but a Problem of Overturning

In this section, I will initially address the 'coordination' aspect: 'Are the costs of opening and maintaining the arbitration forum properly covered?' As I have outlined, the *suco* chief opens and leads the arbitration forum in Ainaro. Formal institutional leaders, including the sub-administrator, DNTP officials, and police, assist the forum by fulfilling complementary roles. I have termed this formal-informal institutional relationship as 'reverse-complementary.' I found that this arrangement can positively impact institutional outcomes.

All the entities in Ainaro believe that this team-based arbitration is good. The sub-administrator, in an interview with him on 15 May 2023, told me that he would give a perfect score (5/5) to this team arbitration mechanism in Ainaro because each entity plays a proper role. For example, he mentioned that 'the *suco* chief knows the population living in the *suco*

¹⁰⁸ Interview with a mediator in the DNTP Dili Office on 6 June 2023

¹⁰⁹ Interview with him on 4 April 2023

¹¹⁰ Timor-Leste is divided into 14 districts, with Same (/sa:-me/) being one of them. Each district has a DNTP regional office, such as the DNTP Dili office and DNTP Ainaro office, to name a few.

better’, and that ‘for now, there is no proper law to regulate land disputes, so my role is to encourage the parties to accept each other’, while the police ‘guarantee security during the arbitration process’.

A policeman, in an interview with him on 11 May 2023, also mentioned that he thinks the arbitration mechanism led by the team is ‘good’ and would give it a score of 4 or 5 (out of 5), explaining that ‘many people can give collective ideas, and I believe it is very important’. Additionally, a *suco* chief, in an interview with her on 15 May 2023, views this Ainaro model as ‘fair’, saying that ‘If only one person resolves the issue, it could be biased and lack impartiality’. In short, with regard to ‘coordination’—one of the aspects of second-order CAPs—the even distribution of coordination costs among entities appears to be well-managed in Ainaro, thereby making low-cost arbitration possible.

Although coordination is well managed in the Ainaro model, the verbal arbitration rules and agreements often result in inefficient enforcement. The verbal rules often lead to ‘misunderstandings during the mediation [arbitration] process’ according to a policeman in Ainaro.¹¹¹ He told us that this is a ‘weakness’ of the verbal rule system. In addition, this verbal agreement could often lead to rather low enforcement. For instance, in Ainaro Case I, one party who lost the case in the arbitration forum said that:¹¹²

I am still complaining and will continue to do so. At the moment, I am pretending to accept things due to the political party campaign period. However, once the election season is over, I will...

Even so, the verbal nature of the Ainaro model should not be overly criticised, as though it were inherently inferior to written rules. For example, verbal rule no. 1 states: ‘Policewomen shall inspect the female parties, while policemen shall inspect the male parties’. In other words, gender sensitivity is embedded within this verbal rules. Rule no. 3 ensures that ‘Authorities shall not force any party to accept the mediation [arbitration] result.’ Similarly, rule no. 6 affirms that ‘Authorities shall avoid favouring any party and shall remain neutral’—to name but a few. Key principles of arbitration are clearly upheld in these ‘verbal’ rules.

¹¹¹ Interview with him on 11 May 2023

¹¹² Interview with the party on 11 May 2023

7-3-2. Outcome 2-2: Governance Effectiveness from a Bottom-Up Angle

This section explores how arbitration satisfaction is experienced in Dili and Ainaro from a bottom-up perspective. In other words, it examines how disputants perceive and assess their satisfaction with arbitration in each district. While traditionally measured by outcomes or framed in terms of distributive justice, recent scholarship has reconceptualised satisfaction through a ‘procedural justice’ paradigm — emphasising how people are treated over the outcomes they receive. Accordingly, parties’ satisfaction is assessed using five procedural justice criteria: voice, voluntariness, neutrality, cultural fit, and control. A comparative analysis of six land dispute cases—three from Dili and three from Ainaro—reveals subregional variation in how participants perceive and experience satisfaction.

7-3-2-(A). Governance Effectiveness from a Bottom-Up Angle in Dili

▪ **Voice and Cultural Fit**

The extent to which individuals feel their voice has been genuinely heard plays a critical role in shaping perceptions of fairness within Alternative Dispute Resolution (ADR) processes. Equally important is whether the arbitration process aligns with the community’s values, norms, and expectations. Dili Cases I and III offer vivid illustrations of these principles in practice.

In Dili Case I, an elderly woman from Party A expressed long-standing concerns about land encroachment by Party B. The arbitrator permitted her to speak at length in the presence of community members. Her satisfaction, as noted in follow-up interviews, did not stem from the formal outcome (which had not yet been delivered), but from the sense that her personal history had been ‘heard’. Remarkably, even her declaration that she would exhume her deceased husband’s tomb—as part of a ritual intended to discern truth from falsehood—was attentively heard and taken seriously in front of all community members. Although I did not explore this with anyone due to the sensitivity of the matter, it is possible that her ‘desperate voice’ *influenced* Party B, who subsequently agreed to compensate.

This case supports Tyler’s (2006) theory of procedural justice, which posits that perceptions of fairness are shaped not only by outcomes, but by the extent to which individuals are afforded the opportunity to express themselves and have their voice treated

with dignity. Dili Case I not only affirms Tyler's model but also extends it. As Shamir (2003) observes, particularly in non-Western and post-conflict settings, 'voice' may assume forms that are symbolic, emotional, and deeply embedded within ritual practices. In this instance, the ritualised element of the woman's testimony—linked to her deceased husband—might have functioned as a culturally resonant mechanism for recognition and perceived justice. It illustrates how procedural justice may be 'co-produced' through symbolic affirmation, rather than through bureaucratic fairness alone.

This cultural-fit dimension is also vividly demonstrated in Dili Case III. Here, procedural justice was reflected not only in decision-making but in the arbitrator's attentiveness to local 'cultural expectations'. Confronted with decades of intra-family tension and conflicting narratives, the arbitrator preserved procedural balance by allowing both parties to express their grievances, facilitating an apology, and avoiding punitive tones. When Party C raised concerns about past threats and demanded recognition, the arbitrator invited Party A to respond — yet did so without taking sides. The statement, 'make it short, Party C has decided that this land will be handed over to you [Party A]', marked a pivotal moment that led to what participants described as 'we are reconciled again'¹¹³—a development considered highly significant within Timorese culture, akin to 'entering a peaceful relationship again' (Hohe and Nixon, 2003, p. 22). This approach exemplifies Shamir's (2003) argument that mediation and arbitration processes must be compatible with community norms.

▪ **Voluntariness**

Was participation in arbitration freely chosen? This question is crucial in assessing satisfaction with arbitration processes. Dili Case III confirms this conventional concern.

In this case, the dispute had remained unresolved for over two decades and culminated in arbitration at the DNTP Dili office only after intra-family negotiations had failed. Both disputing parties (Party A and Party C), along with the *lia na'in* (Party B), agreed to pursue arbitration, suggesting a degree of voluntary engagement. However, Party B later expressed reluctance and frustration that a 'family matter' had to be taken to a state institution. His

¹¹³ I, as a human being rather than a researcher, was also deeply moved when all the parties embraced and wept together following the successful arbitration.

statement—‘this should have been resolved inside the *uma lisan*’—reflects what may be interpreted as an *involuntary departure* from the cultural norm of resolving disputes within the extended family.

This case affirms existing arguments that voluntariness is a condition for legitimacy and satisfaction, and that ADR loses its meaning when it is experienced as imposed (Edwards, 1986), or when it becomes quasi-voluntary, particularly when parties feel constrained by a lack of meaningful alternatives (Sternlight, 2005; 2007). While all parties—A, B, and C—expressed satisfaction with the arbitration outcome, Party B appeared somewhat detached from the overall sense of contentment.

▪ **Neutrality**

Neutrality is a cornerstone of procedural justice theory and a key determinant of perceived satisfaction in arbitration. Individuals are more likely to accept and comply with dispute outcomes when they perceive the arbitrator as neutral (Hollander-Blumoff & Tyler, 2011; Tyler, 2006; 2003). Dili Case I demonstrates that neutrality is understood not only in bureaucratic terms, but also as a more ‘active’ approach aimed at achieving a fairer arbitration process.

In this case, perceptions of neutrality within the Timorese government were initially compromised due to procedural flaws in a previous state-led land survey. Party A had been excluded from that process, and the resulting issuance of the SNC document was based solely on Party B’s claims. This exclusion significantly undermined Party A’s trust in institutional fairness.

However, during the DNTP-led arbitration, the arbitrator adopted a ‘corrective’ approach by acknowledging the flaws in the earlier documentation and creating space for both parties to present their narratives. Party B’s subsequent admission—that Party A had indeed been excluded from the earlier survey—served to validate the arbitrator’s intervention. It was ultimately agreed that Party B was to compensate Party A.

This case illustrates that neutrality involves not only maintaining a neutral stance ‘within’ the arbitration forum, but also taking a more active role—such as addressing prior flaws that may have compromised the neutrality of the process. Such an interpretation of neutrality entails visible institutional accountability and contributes to the re-establishment of governmental legitimacy in the eyes of the disputants.

▪ **Control**

Whether participants feel they have any degree of influence over the process or its outcome is central to perceptions of fairness within Alternative Dispute Resolution (ADR) mechanisms such as mediation and arbitration. Dili Case II illustrates this dynamic particularly well. In this case, Party A's proactive engagement demonstrated a notable degree of procedural ownership. Her satisfaction was likely shaped not only by the evidentiary strength of the SNC document, but also by her strategic navigation of the process—bypassing the *Suco* Council, asserting legal claims through documentary evidence, and bringing the *aldeia* chief who was both familiar with the dispute and sympathetic to her claims. These actions suggest that she was able to exert meaningful influence over the arbitration process.

As Shestowsky (2004) argues, disputants' perceptions of fairness in ADR are significantly shaped by the degree of control they feel over both the procedure and the outcome. This perspective is also echoed by Alberts et al. (2005) and Menkel-Meadow (2015), who emphasise that procedural ownership—especially through informed engagement and the ability to shape the process—enhances both user satisfaction and the perceived legitimacy of the resolution.

7-3-2-(B). Governance Effectiveness from a Bottom-Up Angle in Ainaro

▪ **Voluntariness—Control, and Vocie—Control—Cultural Fit**

Voluntariness and control are deeply interconnected, as illustrated by Ainaro Case I. When disputants feel they have freely consented to participate in arbitration, they are also more likely to perceive themselves as having meaningful influence over both the process and the outcome. Conversely, where voluntariness is diminished, so too is the sense of control—thereby undermining satisfaction with the dispute resolution process.

In Ainaro Case I, Party B revealed that he accepted the verbal agreement not out of genuine consent, but rather to avoid further conflict during a politically sensitive period. As he explained, 'due to the period of political party campaign', he chose not to escalate the issue. This situational constraint meant there was no genuine freedom to shape the arbitration process, nor did Party B feel empowered to challenge the terms of the agreement. Crucially, the absence of a written agreement—a common phenomenon in Ainaro—left him with the

impression that the matter had not been conclusively settled. This has fostered an expectation that he may seek to reopen the dispute under a new *suco* leadership once the election has concluded.

According to Tyler (2006) and Edwards (1986), true voluntariness is central to perceptions of procedural justice. When a party feels compelled by external forces—be they social, political, or institutional—the legitimacy of the outcome is compromised, even if the surface appearance suggests a resolution. In this instance, Party B's acceptance was motivated more by a desire to avoid causing problems during a politically sensitive period than by genuine agreement. As such, his low voluntariness reflects deep dissatisfaction.

In Ainaro Case II, Party B's experience illustrates how voice, control, and cultural fit influence the degree of satisfaction. He stated that he was pressured by the authority of the *suco* chief to accept a decision with which he did not agree. This rigid atmosphere contributed to a lack of opportunity to be meaningfully heard; for instance, his view that the dispute ought to have been resolved through customary mechanisms led by the *lia na'in*, rather than through *suco* chief-led arbitration—given that it was a family matter—was ultimately disregarded.

These dynamics affirm longstanding concerns in the literature: Edwards (1986) cautions that imposed arbitration can undermine justice; Shestowsky (2004) demonstrates that satisfaction is positively associated with both procedural and outcome control; and Shamir (2003) emphasises that the legitimacy of dispute resolution processes depends on their alignment with local norms and cultural expectations.

▪ **Neutrality**

Unlike Ainaro Case II,¹¹⁴ Ainaro Case III demonstrates a clear sense of the *suco* chief's neutrality. However, in this instance, the meaning of neutrality extends beyond the conventional definition confined to the arbitration forum; the *suco* chief acts as a neutral authority within the broader village community. Upon recognising that the dispute concerned family matters, the *suco* chief promptly referred the case to the *lia na'in*, while she and her

¹¹⁴ Please note that Ainaro Cases II and III took place in different locations and were therefore overseen by different *suco* chiefs.

council members remained as observers, thereby ensuring that they did not exert influence over the process.

Therefore, this case offers a ‘fresh’ perspective on neutrality in arbitration. As Shamir (2003) and Vancluysen and Ingelaere (2020) argue, dispute resolution mechanisms that align with local cultural norms are more likely to be perceived as neutral and legitimate. However, neutrality is not necessarily limited to the conduct of the arbitrator ‘within’ the forum, but instead encompasses their embeddedness within local norms and social legitimacy—extending beyond the forum itself. This ‘broader’ understanding is particularly important in the context of legally plural societies such as Timor-Leste, where disputing parties often navigate between multiple forums in search of favourable outcomes. Neutral forum leaders or arbitrators handle cases appropriately—either by treating the dispute themselves or by referring it to a more suitable forum—thus contributing to local justice and harmony, as well as strengthening the perception of neutrality in the eyes of all participants.

Furthermore, this case offers a nuanced contribution to the theory of the ‘shopping forum’. Von Benda-Beckmann (1981) coined the term to describe how local institutions—such as village councils, *adat* leaders, and courts—compete for cases not necessarily to resolve disputes fairly, but to expand their political influence. This concept was intended as a critique of institutions acting in self-interested ways. In this regard, Lund (2021) argues that institutions are not neutral arbiters but actors with their own agendas. While this observation holds true, my case prompts a further question: might the trajectory of such agendas be positive, depending on the intentions of forum leaders? If the motivation behind forum leaders’ ‘shopping’ lies in their commitment to maintaining neutrality within the local community—rather than in self-interest such as expanding political influence—it becomes possible to secure justice in ways that are locally meaningful.

7-3-3. Sub-conclusion: Outcomes Matrix

The analysis presented thus far has explored the key dimensions of the issue in detail. To consolidate and illustrate the main findings, they are summarised in the following figure, which captures the central dynamics identified through the preceding discussion.

Outcomes			Dili	Ainaro
Outcome 1	Different Types of Arbitration Mechanisms		DNTP-led, with written processes	<i>Suco</i> chiefs-led, with verbal processes
Outcome 2-1	Governance Effectiveness from a Top-down Angle	Enforcement	Good Enforcement	Low Cost Enforcement
		Coordination	Overy Burdened by the DNTP	Properly Shared by the Arbitration Team
Outcome 2-2	Governance Effectiveness from a Bottom-up Angle	Voice	High	Mixed
		Voluntariness	Generally present, with minor tensions	Often limited; shaped by external constraints
		Neutrality	Assertive, corrective institutional neutrality	Culturally-embedded neutrality in Case III only
		Cultural Fit	Culturally embedded	Mixed
		Control	Evident procedural agency	Minimal; often top-down and externally steered

Table 19: Comparative Analysis of Outcomes

7-4. Overall Analysis of Governance Effectiveness

This chapter has focused on three types of outcomes: arbitration mechanisms, governance effectiveness from a top-down angle, and governance effectiveness from a bottom-up angle. I finally provide an overall analysis of these three forms of governance outcomes.

7-4-1. The Dili Model and Top-Down Assessment

The land governance in Dili in which the DNTP and *Suco* Council collaborate in ‘complementary’ manner operates according to established ‘wirtten’ rules and agreements, and this Dili model contributes to institution-building through three main avenues: predictable arbitration forums, ensuring gender equality through rules-based arbitration, and effectively addressing enforcement challenges.

First, the arbitration forum opens as expected. According to the established rules, or the *Regras Mediasaun*, the DNTP Dili office receives a request letter, listens to both parties

separately, and arbitrates up to three times. This systemic approach helps the office maintain neutrality, avoiding favouritism towards any party and preventing the escalation of conflicts. This effectiveness is evident when compared to a counterfactual case observed by my research assistant. He recounted an incident in which he went to the *suco* chief's office in a village to conduct a survey. Upon arrival, he discovered two angry communities there, seeking the chief's arbitration for a land dispute. When the *suco* chief returned from his home after lunch and saw the agitated groups waiting for him without any prior notice, he panicked from a distance and ran back home immediately.¹¹⁵ Ferguson (2020, p. 35) argues that capricious enforcement could weaken institution-building. The rules-based mechanism in the DNTP Dili office strengthens institution-building by operating as expected.

Second, the written rules-based arbitration at the DNTP Dili office also ensures gender equality, which is often overlooked in Timorese society. The rule No. 9—which states that if there are female disputants or companions, they should also be given time to speak and exercise their right to do so—actively encourages women to participate. During my direct observations, both in the field and in the office, I confirmed that this rule was being observed, allowing women to speak freely. This is a crucial aspect of the mediation process, as it provides a platform for women to have a voice in dispute resolution. It also demonstrates that the DNTP Dili office's commitment to gender equality in the Dili community.

Third, I observed that the DNTP Dili office overcomes enforcement issues in two ways: through a complementary relationship between the DNTP and informal institutional leaders such as the *suco* chiefs, as well as the *Akordu Mediasuan*. The complementary relationship helps ensure that the arbitration agreement is less likely to be undermined. In the field (specifically in Dili Case I) and during the arbitration forum (in Atauró Case), I noticed that insulting language and gestures¹¹⁶ were used in both cases. When heated emotions arose during the forum, the arbitrator promptly intervened, with support from the *suco* chief and *aldeia* chief, who made efforts to mitigate the situation. The timely intervention of the arbitrator was crucial in ensuring that the arbitration process proceeded smoothly and achieved its intended purpose. Through this concerted effort, the arbitration forums are

¹¹⁵ Casual interview with my research assistant on 19 April 2023.

¹¹⁶ On 26 April 2023, my research assistant provided an explanation of the matter but declined to give a detailed account, including the specific harsh words used.

successfully brought to completion.

The written arbitration rules, or the *Akordu Mediasuan*, also plays a crucial role in honouring the agreement, as well as preventing attempts to overturn them. According to Ferguson (2020, pp. 33-37), honouring agreements, a key issue in 2nd-order CAPs, is often challenged by attempts to overturn them, and organisations [such as the DNTP in my research context] serve as ‘conduits’ where honouring agreements is tested. At the DNTP Dili office, they utilise a system for providing the written agreements. This is a robust tool for honouring the agreement, as well as thwarting any attempts to overturn it.

7-4-2. The Ainaro Model and Top-Down Assessment

The land governance in Ainaro in which the DNTP and *Suco* Council collaborate in ‘reverse-complementary’ manner operates according to verbal rules and agreements, and this Ainaro model contributes to institution-building through ‘low-cost enforcement’. Unlike in Dili, where a DNTP official handles over 1,000 cases per year with limited support from *suco* chiefs, arbitration in Ainaro involves a more distributed cost-sharing model among various entities. The *suco* chief opens and leads the arbitration forum, the sub-administrator encourages the parties to reach an agreement, the police explain the arbitration rules and ensure security, the DNTP provides technical assistance—such as measuring disputed land and explaining relevant laws—and the *aldeia* chief contributes by offering local dispute histories. This collaborative approach supports the sustainability of land governance in Ainaro.

Despite this positive aspect, Timorese liberal peace nation-builders¹¹⁷—such as the public defenders I interviewed¹¹⁸—argued that *suco* chief-led governance in rural areas like

¹¹⁷ After six months of carefully observing Timorese society, I came to recognise the presence of liberal peace nation-builders—a term I coined to describe actors who are strongly aligned with liberal peace tenets such as the rule of law, human rights, and democracy.

¹¹⁸ I sincerely thank the two public defenders at the Ministry of Justice in Timor-Leste for granting me interviews with them. Through these discussions, I was able to confirm that there are individuals who are strongly committed to upholding the rule of law in Timor-Leste. Ultimately, Timor-Leste should build its institutions on the rule of law; however, it should also be recognised that institution-building takes time. Until that day arrives, people living in local, rural areas deserve access to legal services. If the state cannot provide them, who will? Is an alternative legal service, such as the *suco* chief-led arbitration mechanism, necessarily considered an obstacle to institution-building?

Ainaro is not based on law—therefore not recommended—but rather on culture. Their concerns are understandable. As I explored in Ainaro, the *suco* chief-led arbitration mechanism has three defects: 1) verbal rules often lead to misunderstandings among the parties during the arbitration forum; 2) although verbal rules uphold liberal democratic principles, such as not enforcing agreements, they are often not observed in practice; and 3) verbal agreements may leave room for future rounds of discussion on the same issue.

Even so, I need to raise an important question: is the *suco* chief-led arbitration forum necessarily considered an obstacle to institution-building? Although verbal agreements are less likely to be observed in practice than written ones, the verbal rules clearly uphold key arbitration principles. For example, the verbal rule No. 1 ensures gender sensitivity by stating, ‘Policewomen shall inspect the female parties, while policemen shall inspect the male parties’. The rule No. 3 upholds a good arbitration principle by declaring, ‘Authorities shall not force any party to accept the mediation result’. Another important principle is also found in the rule No. 6, which says, ‘Authorities shall avoid favouring any party and shall remain neutral and transparent’. They well reflect Ferguson’s insight on informal institutions (2020, p. 34):

Informal institutions, notably social norms, not only designate desired and prohibited behaviors, they often achieve relatively low-cost enforcement through the combined influence of internalization and an understood potential of somewhat unspecified social sanctions for violation.

In other words, the verbal rules in Ainaro are comparable to the *Regras Mediasaun* used in Dili. According to an official at the DNTP Ainaro office, interviewed on 9 May 2023, the office has been facing significant challenges due to a lack of government funding, which has left it without a regional director for over a year. Given current economic conditions, it is unlikely that the Timorese economy will improve dramatically in the near future—at least not to the extent that the government budget would become sufficient to appoint a regional director for the DNTP Ainaro office. I would therefore argue that the *suco* chief-led arbitration mechanism in Ainaro currently offers a relatively ‘low-cost enforcement’, underpinned by reasonably sound arbitration principles such as neutrality, non-enforcement of decisions, gender sensitivity, and others.

7-4-3. Bottom-Up Assessment of the Dili and Ainaro Governance Models

Finally, I present an empirical analysis of arbitration satisfaction in Dili and Ainaro across five procedural justice dimensions: voice, cultural fit, voluntariness, neutrality, and control. Findings show key similarities and divergences in procedural experience.

First, voice and cultural fit. In Dili, participants frequently reported satisfaction stemming from the opportunity to express themselves fully and in culturally meaningful ways. In Dili Case I, an elderly woman's ritualised testimony was heard attentively, reinforcing her sense of recognition. Similarly, Dili Case III (Atauro Case) demonstrated alignment with local reconciliation norms, with outcomes described as 'we are reconciled again'. By contrast, Ainaro cases showed weaker alignment with community norms. In Ainaro Case II, a disputant's call for customary resolution via the *lia na'in* was overridden by the *suco* chief, undermining perceptions of fairness. Only in Ainaro Case III did cultural fit and voice converge, when the *suco* chief referred the matter to the *lia na'in*.

Second, voluntariness in Dili appeared conditional but intact. In Dili Case III, all parties formally agreed to arbitration, despite one party was to some extent reluctant. However, engagement was not perceived as coercive. In Ainaro, voluntariness was compromised. In Ainaro Case I, a party accepted a verbal agreement to avoid escalating tensions during a political campaign, rather than out of genuine consent. This diminished sense of agency was mirrored in Case II, where the *suco* chief's directive left one party feeling imposed upon.

Third, the Dili model emphasised corrective neutrality. In Dili Case I, the arbitrator acknowledged flaws in earlier state-led documentation and 'rebalanced' the process, enhancing perceptions of institutional fairness. In Ainaro, neutrality was interpreted through culturally appropriate withdrawal. In Case III, the *suco* chief refrained from adjudicating and deferred to the *lia na'in*, suggesting that 'forum shopping' can function positively in plural legal societies, depending on the forum leader's motivation. However, other cases showed concerns over dominant roles played by the *suco* chief, diminishing trust in neutrality.

Fourth, disputants in Dili exercised greater procedural agency. Dili Case II highlighted a party who bypassed village authorities, asserted documentary claims, and brought supportive witnesses—actively shaping the process and its terms. Ainaro participants reported limited control. In both Ainaro Case I and II, outcomes were accepted under constraint or pressure, and decisions were largely steered by the *suco* chief, reducing the sense of ownership over

the arbitration process.

7-5. Conclusion: Divergent Governance Outcomes and No Singularly Dominant Model

This chapter has examined three interrelated governance outcomes: the types of arbitration mechanisms, governance effectiveness from a top-down angle, and governance effectiveness from a bottom-up angle, across the two districts of Dili and Ainaro. It has demonstrated that, while governance in Dili operates through a DNTP-led model underpinned by written procedures within a ‘complementary’ institutional arrangement, governance in Ainaro operates through a *suco* chief-led model underpinned by verbal norms within a ‘reverse-complementary’ institutional arrangement. From a top-down perspective, the Dili governance model exhibits strong enforcement capacity but is constrained by a disproportionately high coordination burden. In contrast, the Ainaro governance model benefits from distributed cost-sharing and low-cost enforcement, though at the expense of consistent implementation. Bottom-up experiences also diverge: Dili’s formal procedures broadly align with procedural justice criteria—particularly voice, cultural fit, and procedural agency—whereas outcomes in Ainaro vary significantly, depending on the conduct and motivations of *suco* chiefs. Collectively, these findings shed light on the complex interplay between formal and informal institutions, and their distinct contributions to legitimacy, efficiency, and user satisfaction in the governance of land disputes.

In closing all the empirical chapters, this chapter demonstrates Helmke and Levitsky’s causal claim that formal–informal institutional relationships shape outcomes, but not necessarily in the way they expected. To this end, I formulated a hypothesis. The independent variable was examined in Chapter Six, which explored how formal–informal institutional relationships in land governance may be defined and differentiated through the roles and interactions of the DNTP and *Suco* Councils in Dili and Ainaro. The dependent variable was addressed in this chapter, illustrating that, under different institutional relationships, arbitration mechanisms and governance effectiveness diverge. The final chapter synthesises these insights, together with those from the first empirical chapter, and considers their broader theoretical and policy implications.

Chapter Eight: Conclusion

8-1. Introduction

At the outset of my research, I posed the following four research questions:

First, in what ways do international legal layers—namely, rule of law programmes in land governance and international human rights law—influence land disputes in Timor-Leste?

Second, how do actors within a plural legal landscape engage in forum shopping?

Third, how do relationships between the DNTP and *Suco* Councils in land governance—particularly when both entities collaborate during arbitration forums—vary across districts?

Fourth, what impact do different types of DNTP–*Suco* Council relationships have on governance mechanisms and their effectiveness?

Each empirical chapter has demonstrated how these questions were addressed. In this concluding chapter, I present the key empirical findings, outline their contribution to existing knowledge, and reflect on how the discussion may inform future research and policy development—following the sequence of the four research questions. This thesis, the product of five years of research, concludes with an epilogue offering my own personal reflections.

8-2. First, in what ways do international legal layers—namely, rule of law programmes in land governance and international human rights law—influence land disputes in Timor-Leste?

8-2-1. Key Empirical Findings

My thesis began by examining how international legal layers—specifically, rule of law programmes and international human rights law—influence land disputes in Timor-Leste. Across the empirical cases, the impact of these legal layers has been shaped less by their

formal content and more by the ways in which they are interpreted, contested, or resisted within plural legal settings.

First, the rule of law programme—the SNC—proved difficult to implement. In Dili Case I, the state’s land survey process was characterised by haste and inconsistency, contributing to the emergence of land disputes. By contrast, Dili Case II demonstrates how, despite the SNC document lacking formal legal recognition, it has come to function as *de facto* evidence of land ownership—both for the DNTP and within the community—thereby reinforcing its perceived legitimacy. These cases suggest that the role of the state in land reform remains of considerable importance.

Second, the anticipated economic function of these titles—namely, their use as collateral for loans—failed to materialise. Contrary to de Soto’s theory of ‘dead capital’, interviewees across various sites made no explicit or implicit reference to the SNC documents as bearing financial value. This outcome reflects the extent to which the SNC lacked the clear and coherent objectives that comparable programmes purport to deliver in international contexts.

Third, international human rights law—particularly norms concerning gender equality—played an ambiguous role. In theory, these norms are embedded within the Constitution and should therefore hold higher normative authority than other legal frameworks. Yet, in practice, they encountered stiff but silent resistance from customary systems. Lospalos Case highlighted a disjuncture: a court victory for gender-equal inheritance was later recast as spiritually illegitimate, with opponents invoking ancestral displeasure. This pattern—where formal legal success is later reversed through symbolic or spiritual idioms—reveals what this study terms ‘normative fracture’: a condition in which competing legal norms coexist without integration.

8-2-2. Contribution to Existing Knowledge

Addressing the first research question yields four contributions to ongoing debates on legal pluralism, land governance, and international law in development contexts.

First, the SNC’s hasty implementation created considerable potential for land disputes, as evidenced in Dili Case I. This finding affirms existing critiques of the ‘Skip Straight to Weber’ approach, which refers to the imposition of formal legality without the gradual development

of social legitimacy or the institutional foundations necessary for that legality to function meaningfully (Pritchett & Woolcock, 2004).

Second, Gauri (2012) argues that the mere existence of a document does not guarantee its legitimacy; rather, legitimacy is conferred through its interpretation and use in practice. Dili Case II exemplifies this: a woman asserted her land claim using an SNC-issued document, which the DNTP Dili office accepted as partial evidence of land rights. Though the SNC document is simply a numbered record of a land survey, its recognition by both claimant and institution demonstrates how legitimacy can emerge through practical engagement.

Third, this thesis contributes to the literature on the bendability of international human rights norms. Whilst existing scholarship has often highlighted the risks of excessive bendability—for example, the potential normative dilution identified by Engle (2011)—the empirical findings from Timor-Leste introduce a complementary concern: that of ‘rigid bendability’. This refers to scenarios in which international and customary norms are allowed to coexist but remain compartmentalised. Such rigidity may also produce disempowering effects, as evidenced in gendered land disputes where formal legal claims may succeed in court, yet fail to secure recognition or enforcement within village or familial spheres.

Fourth, this thesis provides scope for rethinking effective vernacularisation. Rather than simply enshrining human rights principles within constitutional or legal texts, effective vernacularisation requires strategic negotiation and sustained institutional support, as illustrated by the case of the *Nari Adalat* in India (Merry, 2012). In contexts where such processes are absent—as observed in Lospalos, Timor-Leste—human rights norms may be negotiated in everyday life in ways that reinforce patriarchal structures (Doss et al., 2014).

8-2-3. Future Directions in Research and Policy

The preceding discussion of empirical findings and analysis points to three avenues for future research or policy engagement.

First, my data from Dili Case I—which critiques the rushed implementation of the SNC—reinforces the argument against what Pritchett and Woolcock (2004) famously term the ‘Skip Straight to Weber’ approach. It invites reflection on the time required for societies to perceive formal institutions as legitimate; in short, Rome was not built in a day.

Second, the concept of ‘normative fracture’—the non-integration of coexisting legal

norms—has important theoretical and policy implications. A comparison between my case from Lospalos and the South African example (Claassens & Mnisi, 2009) illustrates that a ‘bendable’ approach to human rights proves more effective in legally plural societies. In Lospalos, the absence of such bendability resulted in a rigid and disrupted sequence: a daughter who claimed land through the courts faced customary backlash, including a curse ritual, and following her death, a local declaration in favour of her brother. By contrast, in rural South Africa, women’s associations engaged local patriarchal leaders through sustained negotiation, gradually securing land rights from ‘within’ customary structures. In that context, bendability enabled mutual recognition and more harmonious outcomes. Future research and policy in Timor-Leste should thus explore pathways for engaging international human rights with customary norms through negotiated, context-sensitive strategies, rather than rigid, top-down impositions.

Third, a comparison between my case from Lospalos and the example of the *Nari Adalat* in India (Merry, 2012) highlights the important role of intermediary institutions in facilitating effective vernacularisation within legally plural societies. In the former, a woman relied solely on constitutional provisions, without any intermediary institutional support. In the latter, an intermediary institution—the *Nari Adalat*—enabled local women to access justice more effectively by providing sustained support and resources. Such institutions should be established where they are absent, and supported through long-term institutional investment. As noted in the preceding policy recommendations, it is also crucial that these intermediary institutions adopt a ‘bendable’ approach in the early stages of vernacularising international norms.

8-3. Second, how do actors within a plural legal landscape engage in forum shopping?

8-3-1. Key Empirical Findings

This section has emphasised that actors navigating Timor-Leste’s plural legal landscape engage in diverse and evolving forms of forum shopping—that is, the strategic use of multiple legal and quasi-legal avenues to resolve land disputes.

First, Aileu Case demonstrates that even poor rural residents can access legal forums, enabled not by wealth but through incidental media exposure and rapid mobilisation via an

NGO. In this instance, access to a television programme inadvertently initiated a successful chain of legal and social action, suggesting that connectivity and mobilisation capacity are emerging variables in forum shopping—rather than economic means alone.

Second, my empirical data revealed that resistance is often framed not in terms of legal entitlement or economic compensation, but through appeals to ‘respect’, ‘recognition’, and, more significantly, ‘cultural identity’. For example, communities invoked sacred obligations tied to the *uma lisan* as moral grounds for rejecting state-sanctioned evictions, as evidenced in both Aileu Case and Dili Case IV.

Third, in the context of legal pluralism—where state authority is not fully established and no clear meta-rules exist—state legitimacy is frequently contested, and the state often resorts to coercion. Both Aileu Case and Dili Case IV illustrate this pattern: violence becomes a strategic response to competing legal claims, particularly when such claims challenge the symbolic authority of the state. In such cases, legal pluralism becomes a site of contested sovereignty, where force substitutes for legitimacy.

Additionally, this thesis offers an important corrective to one-dimensional interpretations of forum shopping by introducing the concept of ‘shopping forums’—where forums themselves compete for cases in order to solidify their own legitimacy. In Atauró, a *lia na’in* (customary forum leader) referred a longstanding dispute to the DNTP in order to preserve his authority as a mediator committed to family harmony. In Ainaro, a *suco* chief redirected cases downwards to respect customary norms. These examples reveal that forum leaders are strategic actors, not neutral arbiters.

8-3-2. Contribution to Existing Knowledge

This study makes four important contributions to the understanding of legal pluralism and forum shopping.

First, it updates Kirk’s observation (2014) that only wealthier individuals could afford to shop for forums in Timor-Leste. While elites continue to exercise disproportionate power to navigate and manipulate legal forums, poorer individuals also engage strategically—particularly when supported by NGOs or catalysed by new forms of media in contemporary Timor-Leste.

Second, this thesis contributes to existing knowledge on ‘shopping forums’. Building on

the work of Lund (2021) and von Benda-Beckmann (1981), it demonstrates that forums are not merely passive venues selected by disputing parties, but ‘active agents’ that strategically select or shape cases to advance their institutional interests. While disputants may attempt to ‘climb a ladder’, they are often blocked or redirected—as evidenced in Ainaro Case III. In other instances, such as Dili Case III (Atauró Case), it was not the disputing party but the forum leader who ‘climbed a ladder’. Both examples illustrate the phenomenon of ‘shopping forums’.

Third, this thesis challenges the rationalist conception of land embedded in much of the legal reform literature by foregrounding its cultural dimensions. Whereas de Soto (2000a; 2000b) and Miceli et al. (2000) frame land primarily as an economic asset, my data demonstrate that land is also experienced as a customary, moral, and symbolic entity. This perspective aligns with the work of Rede ba Rai (2019), Joshi (2020), and Stead (2015), who emphasise the enduring cultural and ethical significance of land.

Fourth, this section contributes to the literature on how states reaffirm authority in legally plural and post-conflict settings. In contexts such as Timor-Leste, where state and non-state legal orders coexist, the state’s assertion of authority often extends beyond legal recognition into *performative* and *coercive acts*, including eviction practices and public enforcement. These findings resonate with scholarship that views the state not as a fixed institutional actor, but as one that must ‘continuously’ assert and reproduce its legitimacy (Lund, 2012; Tamanaha, 2007).

8-3-3. Future Directions in Research and Policy

The preceding discussion of empirical findings and analysis points to four avenues for future research or policy engagement.

First, human rights practitioners should consider how media and technology are reshaping legal agency among the poor in developing countries. Aileu Case illustrates that even incidental exposure to information can prompt mobilisation. In particular, the advent of artificial intelligence (AI) presents unprecedented opportunities for human rights NGOs to enhance their advocacy efforts. For example, AI can more effectively identify highly successful advocacy cases across the globe. As a result, even NGOs operating in marginalised areas—provided they have internet access—can significantly improve their strategies and tactics.

Second, the phenomenon of shopping forums—where forum leaders, such as *suco*

chiefs, strategically select cases—warrants deeper comparative analysis. Under what conditions are forum leaders incentivised to admit a case, thereby allowing it to remain on their rung of the ladder? Conversely, when are they disincentivised from welcoming its progression to that same rung? More specifically, what factors—such as *suco* chiefs' educational background, views on state-building and development, political positioning, and other contextual variables—influence their engagement in shopping forums? Such inquiries could also serve to refine the 'climbing a ladder' concept in Timor-Leste (Cummins and Leach, 2012, p. 97).

Third, development policy efforts must acknowledge the symbolic power struggles inherent in legally plural contexts. Legal reform is unlikely to succeed where formal institutions are perceived as illegitimate or externally imposed. Effective policy must be culturally resonant and contextually grounded, recognising the complex interplay between law, memory, and identity. My cases from Timor-Leste consistently affirm that Timorese customs must be respected. Where such respect is absent, resistance tends to emerge, thereby creating even more complex situations that the state often seeks to avoid.

Fourth, in contexts of legal pluralism, the state competes for legitimacy with other normative orders and often resorts to coercive measures. I suggest that two distinct strategies are commonly employed to reaffirm state authority in contexts where its legitimacy is weak during land reform processes. On the one hand, as evidenced in many developing countries, the state may rely on forceful measures—such as coercive evictions—while outsourcing key functions of land reform to external agencies aligned with the Washington Consensus.

On the other hand, as demonstrated by the experiences of small, rich European countries (SRECs) during the nineteenth and twentieth centuries, the state can adopt a more constructive role in land reform, thereby strengthening its legitimacy. For example, where the state channels resources into smallholder education—as in nineteenth-century Holland (Chang, 2009a, pp. 87–88); implements state-run credit schemes, as in nineteenth-century Denmark and Norway or present-day India (Chang, 2009b, pp. 496–497; Sejersted, 1992, p. 70); or establishes state-run loan programmes, as Denmark did (Warming, 1923, pp. 501–507)—greater equity and prosperity may be achieved (Chang, 2009a; 2009b). This SREC model could serve as a valuable reference point for developing countries today.

8-4. Third, how do relationships between the DNTP and *Suco* Councils in land governance—particularly during their collaboration in arbitration forums—vary across districts?

8-4-1. Key Empirical Findings

This thesis has examined the complex dynamics of formal–informal institutional relationships in land governance through a comparative study of DNTP–*Suco* Council collaboration in Dili and Ainaro. Employing Helmke and Levitsky’s (2004) analytical framework, the research has generated several significant empirical findings that offer grounded insights into the realities of hybrid governance in Timor-Leste.

In Dili, the findings indicate that the DNTP functions as an effective arbitrator. Empirical evidence demonstrated that DNTP officials largely met the four key criteria of effective arbitration: procedural fairness, subject-matter expertise, communicative competence, and ethical independence. This assessment was further corroborated by survey data, with 87% of *suco* leaders in Dili expressing trust in the DNTP’s arbitration processes. Such widespread acceptance reflects a complementary relationship between formal and informal institutions. The remaining 13% of cases exhibited accommodating relationships, in which *suco* chiefs acknowledged the role of the DNTP, albeit with some restrained discontent.

In Ainaro, by contrast, the institutional landscape was markedly different. DNTP officials were generally less effective across the same evaluative dimensions and, more crucially, the DNTP lacked even *de jure* authority to convene arbitration forums. Instead, *suco* chiefs—informal institutional leaders—initiated and presided over arbitration, with formal actors such as DNTP officials, police, and sub-administrators participating in a complementary capacity. This configuration led to the identification of a novel relationship pattern: a ‘reverse-complementary’ relationship, in which informal institutions assume leadership while formal institutions provide technical or procedural support. Fieldwork revealed that 60% of cases in Ainaro conformed to this reverse-complementary model, while 40% were characterised by competing relationships, where institutional goals diverged and mutual distrust prevailed.

8-4-2. Contribution to Existing Knowledge

The primary theoretical contribution of this section lies in the introduction of a new category—‘reverse-complementary relationships’—to the study of formal–informal

institutional dynamics. This challenges a core assumption in Helmke and Levitsky's (2004) widely adopted typology, which presumes that formal institutions inherently possess at least *de jure* authority, even when lacking *de facto* capacity. By contrast, empirical findings from Ainaro demonstrate that informal institutions—particularly the *Suco* Council and its leader, the *suco* chief—act as the initiating and coordinating authorities in land dispute resolution, with formal actors, such as DNTP officials, becoming involved only after forums led by *suco* chiefs have been convened. This field-based evidence contrasts with the state-centric orientation of institutional theory prevalent in much of the political science and development literature (e.g., Brinks et al., 2020; Levitsky and Murillo, 2009; North, 1990).

8-4-3. Future Directions in Research and Policy

The preceding discussion of empirical findings and analysis points to a key avenue for future research. The relatively weaker legitimacy of the DNTP in Ainaro may be linked to two historical factors: its institutional lineage from the Indonesian National Land Agency, established during the occupation (Almeida, 2020; Fitzpatrick et al., 2016), and Ainaro's symbolic role as a centre of resistance led by Prime Minister Xanana Gusmão (Timor-Leste Government, 2012). These factors are noted only briefly here, as the research design of this thesis is cross-sectional. While this allows for an explanation of the types of institutional relationships observed 'today', it cannot fully account for *why* such relationships developed in Ainaro. A longitudinal study—tracing, for instance, why the DNTP remains institutionally weak in Ainaro or, conversely, why residents in Dili continue to utilise the DNTP for dispute resolution despite its lack of a formal adjudicatory mandate since 2003—would significantly enhance our understanding of the emergence of these contrasting patterns of local governance.

8-5. Fourth, what impact do different types of DNTP–*Suco* Council relationships have on governance mechanisms and their effectiveness?

8-5-1. Key Empirical Findings

This final thematic inquiry addressed the complex terrain of institutional effectiveness in land dispute governance, examining how hybrid arrangements between formal and informal

institutions—specifically the DNTP and *Suco* Councils—function in practice. It assessed governance outcomes from both top-down (institutional coordination and enforcement) and bottom-up (disputant satisfaction) perspectives.

From a top-down perspective, empirical findings from Dili and Ainaro reveal two divergent yet functionally resilient governance models. In Dili, the DNTP-led arbitration system is rule-based and formalised, supported by clearly defined ‘written’ procedures—such as the *Regras Mediasaun* and *Akordu Mediasuan*—as well as by the complementary roles played by *suco* chiefs. This governance model succeeds in terms of predictability, neutrality, and enforcement, offering procedural equity through mechanisms such as gender-sensitive rule enforcement. However, it is vulnerable to bureaucratic overload, raising concerns about its long-term sustainability.

In Ainaro, although the *suco* chief-led governance model relies heavily on informal mechanisms, such as ‘verbal’ rules, these rules broadly align with democratic norms. Alongside clearly shared responsibilities among diverse actors, they contribute to coordination and compliance. However, the effectiveness of this model is largely contingent upon the motivations and procedural sensibilities of individual *suco* chiefs; as such, its performance may vary from one *suco* to another.

From a bottom-up perspective, disputant experiences were mixed. In Dili, participants reported procedural satisfaction as a result of being heard, treated fairly, and involved in the outcome. This reflects Tom Tyler’s principles of procedural justice: voice, neutrality, and control. In Ainaro, satisfaction was more uneven. While some forums respected cultural fit and participant voice, others were characterised by coercion or reduced agency, particularly where verbal rules were inconsistently applied.

8-5-2. Contribution to Existing Knowledge

This research makes three key contributions to debates on hybrid governance, legal pluralism, and institutional performance evaluation.

First, it proposes an innovative dual-lens assessment—combining top-down metrics, such as enforcement and coordination (drawing on Ferguson’s CAPs framework), with bottom-up indicators, including user satisfaction (informed by ADR and procedural justice literature). This multidimensional evaluation approach enables a more holistic understanding of

governance performance within legally plural contexts.

Second, it operationalises Ferguson’s theory of second-order collective action problems (CAPs) through empirical application in Dili and Ainaro. The findings demonstrate that while the Dili model addresses CAPs through written, rule-based predictability, the Ainaro model relies on shared responsibilities and verbal—yet democratic—social norms. By illustrating that the means by which CAPs are addressed vary across two districts within a single nation, this research affirms Ferguson’s central argument: institutional effectiveness cannot be assessed solely in terms of formal architecture; rather, it must be understood as an ongoing process, shaped by how CAPs are navigated in practice.

Third, the empirical findings suggest that, although procedural justice principles such as voice and neutrality are broadly resonant, their realisation is highly contingent upon local institutional practices and power dynamics. In this regard, the research not only affirms the relevance of procedural justice theory, but also calls for a more context-sensitive and critically reflective application of ADR frameworks within legally pluralistic settings.

8-5-3. Future Directions in Research and Policy

The preceding discussion of empirical findings and analysis points to two key avenues for future research or policy engagement.

In Dili, the DNTP is currently significantly overburdened. Although a small number of arbitrators in the DNTP’s Dili office demonstrate strong capabilities, persistent understaffing raises concerns about the long-term sustainability of its operations. Two policy recommendations thus emerge. First, the DNTP’s Dili office should be significantly strengthened. Capacity-building initiatives—such as introducing efficient case-recording systems and recruiting additional arbitrators—could help to alleviate the existing workload. Second, as the Land and Property Commission commenced operations in 2023, public awareness campaigns should be launched to promote this governance mechanism more broadly across Timorese society.

In Ainaro, the role of *suco* chiefs has proven to be particularly significant. Similar dynamics are likely to exist in other districts such as Bobonaro, Aileu, Lospalos, Lautem, Oecusse, and beyond. In these contexts, future research should investigate how *suco* chiefs exercise authority within each *suco* in each district, how they manage land disputes, and

which social norms underpin local dispute resolution practices. Addressing these questions would deepen our understanding of land governance in Timor-Leste.

8-6. Epilogue: We can thus return to ‘basics’

I commenced this PhD thesis with a prologue that guided me towards two core issues: land disputes and governance in Timor-Leste. Across the chapters that followed, I progressively refined these broad enquiries into specific research questions, which I then sought to address through sustained analysis. Beyond the analytical contributions of this work, I would also like to offer, in this epilogue, three *personal* recommendations—framed from the dual perspective of a development scholar and an aid worker. Speaking as though from within the donor community and the broader field of development studies, I adopt the collective pronoun *we* to reflect this shared positionality.

First, we should recognise that many areas targeted for development projects are not blank slates. Land, in particular, constitutes a domain of legal pluralism, where multiple normative orders—such as customary and religious systems—persist alongside, and often in tension with, state law. These legal orders do not simply vanish with the imposition of statutory frameworks. Without a nuanced understanding of such *enduring* legal pluralism, development programmes are unlikely to achieve their intended outcomes. Indeed, such interventions may inadvertently generate discomfort among all stakeholders: local communities may remain uncertain about the objectives of external engagement; customary or informal authorities may perceive these efforts as threats to their established legitimacy; foreign aid workers may become frustrated by the limited impact—as I myself once did; and the state may ultimately resort to coercive measures, such as forced evictions, in an effort to reaffirm its legitimacy in the eyes of the population.

Second, having understood that the targeted areas are already embedded with diverse informal institutions, we should then acknowledge that informal institutional leaders are important actors and partners in development processes. The success of development initiatives is unlikely without the active cooperation of informal authorities. Conversely, when the social norms they generate align with development objectives, such alignment can facilitate more sustainable and cost-effective outcomes. For example, in Ainaro, verbal rules reflect democratic values, enabling low-cost enforcement. However, this presents a structural

dilemma: official development assistance (ODA) typically permits engagement only through formal channels, thereby limiting direct support to informal sectors. One way to address this constraint is through NGOs, which often act as implementing partners for ODA programmes. As ‘intermediaries’, they can engage with informal authorities and help create *bendable* spaces for culturally sensitive dialogue on issues such as human rights.

We can thus return to the *basics*: within the term official development assistance (ODA), the operative word, I would argue, is *assistance*. In other words, whether in state-building, peacebuilding, governance reform, or any form of development in developing countries such as Timor-Leste, these processes should be led by their hands—not by foreign actors. Timorese-led NGOs could help us adopt such an assisting role. More broadly, if Timorese individuals—whether in government, NGOs (and I particularly hope to see more Timorese-led NGOs), the UN, or the private sector—take the lead in development efforts and those efforts succeed, they will *gain* essential experience in how to foster development. Even in failure, lessons in adaptation and resilience will be *internalised*, gradually strengthening their *own* capacity. Conversely, if foreign actors dominate these processes, the knowledge and experience will accrue to them rather than to the Timorese. This presents a significant challenge: foreign actors eventually depart when their contracts end.

Acemoglu and Robinson (2012) emphasise a *virtuous circle* in the development process, whereby inclusive political institutions create incentives for inclusive economic institutions, which in turn reinforce and sustain more equitable and peaceful outcomes that are broadly shared and from which no one is systematically excluded. Similarly, I proposed above a different form of virtuous circle in the current development context: if Timorese actors take the lead in the development process and foreign aid agencies remain in an assisting role, an alternative virtuous circle may emerge. I sincerely hope—and pray—that the Timorese will play a central role in their country’s future, and I would be honoured to assist them in contributing to its development.

Appendices

Appendix 1: Detailed Methods

Research Questions	Methods	Overview
(Main Question 1) In what ways do international legal layers—particularly, rule of law programmes in land governance and international human rights law—influence land disputes?	<u>Documentary Research</u>	Reading Five Timorese Newspapers from 2020 to 2022
	<u>Content Analysis</u>	Counting Each Category based on Documentary Research
	<u>Interviews</u>	Triangulating the Findings through Interviews with Experts

■ I and my research assistants read five types of Timorese newspapers: 1) *The Dili Weekly*, 2) *The Independente*, 3) *The Jornal Nacional Diario*, 4) *Suara Timor Lorosae*, and 5) *The Timor Post*

■ We read them from 15 January to 15 March 2023 (2 months).

■ After reading them, I conducted content analysis and categorise each types.

■ I crosschecked my data, interviewing with nine experts: three employees at the land institution's Dili office and one employee at its Ainaro office, a law clerk in Dili court (currently and Baucau court (used to), two public defenders in Dili, a private lawyer in Dili, and a human rights activist at Rede ba Rai, with the following questions:

- Are the issues of legitimacy concerning the competing claims of Portuguese-born land rights, Indonesian-born land rights, and Timorese traditional land rights still prevalent in Timor-Leste today?

- Among types 1 to 9, which one is relatively new?, Which type is the most common?, Which type do you think is the most important, and why?

Research Questions	Methods	Overview
(Main Question 2) How do actors within a plural legal landscape engage in forum shopping?	<u>Site-visits</u>	Visiting Two Land Dispute Sites involving Government Eviction Attempts
	<u>Interviews</u>	Interviewing Parties Involved in Land Disputes or Arbitration Processes

■ I and my research assistants interviewed with 14 parties in 8 different cases, with the

following questions:

- Open-ended questions centred around ‘who’.
- Open-ended questions centred around ‘when’.
- Open-ended questions centred around ‘where’.
- Open-ended questions centred around ‘what’.
- Open-ended questions centred around ‘how’.
- Open-ended questions centred around ‘why’.

■ I also crosschecked my data, interviewing with nine experts: three employees at the land institution’s Dili office and one employee at its Ainaro office, a law clerk in Dili court (currently) and Baucau court (used to), two public defenders in Dili, a private lawyer in Dili, and a human rights activist at Rede ba Rai, with the same questions above.

Research Questions	Methods	Overview
(Main Question 3) How do relationships between the DNTF and <i>Suco</i> Councils in land governance—particularly when both entities collaborate during arbitration forums—vary across districts?	<u>Participant Observation</u>	Participating in Arbitration Processes at the DNTF Dili Office
	<u>Interviews</u>	Interviewing DNTF Ainaro and Dili Officials, <i>Suco</i> Council Members, and Local People
	<u>Surveys</u>	Surveying Informal Institutional Leaders, such as the <i>Suco</i> Chiefs

■ (Formal Institution) I interviewed with three employees at the DNTF Dili office, and one employee at the DNTF Ainaro office, with the following questions:

- General descriptions of the organisation.
- How did the 2017 land law empower the land institution (DNTF)?
- General overview of the land dispute mediation mechanism (open-ended question).
- What is the role of employees at the DNTF?
- Why do informal institutional leaders, such as the *suco* chiefs and *aldeia* chiefs, participate in the mediation mechanism?
- What is the role of informal leaders in the mediation mechanism?
- Do they respect you?
- What if they do not respect your authority and this mechanism?
- Where does the mediation process take place?

- Who leads the process?
 - Does the *suco* chief bring the case to DNTP?
 - (Dili) If the DNTP calls informal leaders such as the *suco* chiefs, are they willing to attend the mediation session?
 - (Ainaro) If the *suco* chiefs call the DNTP employees, are they willing to visit the *Suco* Councils?
- (Informal Institution) I surveyed with all 31 *suco* chiefs in Dili and all 21 *suco* chiefs in Ainaro, and in some cases I interviewed with some of them: (Dili) nine *suco* chiefs, three *aldeia* chiefs, five administrative personnel, and one female representative from the *Suco* Councils. (Ainaro) two *suco* chiefs, one *aldeia* chief, one sub-administrator, one police officer, and one traditional *lia na'in* who also holds the role of an *aldeia* chief, with the following questions:
- (Common) How much do you trust the DNTP?
 - (Dili) How many times have you recently transferred land dispute cases to the DNTP?
 - (Dili) Have you attended the DNTP's mediation process?
 - (Ainaro) How many times have you recently invited the DNTP into your *Suco* Council to mediate land disputes?
 - (Ainaro) Have you invited the DNTP into your *Suco* Council for land dispute mediation?

Research Questions	Methods	Overview
(Main Question 4) What impact do different types of DNTP– <i>Suco</i> Council relationships have on governance mechanisms and their effectiveness?	<u>Participant Observation</u>	Participation in Arbitration Processes at the DNTP Dili Office
	<u>Interviews</u>	Interviewing Officials at the DNTP Dili and Ainaro offices, Informal Institutional Leaders, and Parties to Land Disputes

- (In Dili) I attended around 10 arbitration sessions, with the following observation points:
- Do they have written rules?
 - Do they observe the rules, such as giving equal opportunities to both sides and women?
 - Do the DNTP employees have a balanced viewpoint?
 - When any parties are upset, are the DNTP employees effectively handling the situation?
 - Do parties generally abide by the rules and the DNTP employees' arbitration process?
 - How long does it take?
 - How many times do the arbitration sessions take place?
 - What is the main role of the DNTP employees?

- What is the role of informal institutional leaders such as the *suco* chiefs?
- (In Ainaro) I interviewed with two *suco* chiefs, one *aldeia* chief, one *lia nain*, one sub-administrator, one police, and five parties involved in land disputes within Ainaro district, with the following questions:
 - Do they have written rules? If not, do they have oral rules?
 - Do they observe the oral rules?
 - Who leads the arbitration process?
 - Where is the arbitration held?
 - Why do the DNTP employees go to the *Suco* Council rather than calling the *suco* chiefs into the DNTP office?
 - Why do so many entities – the *suco* chiefs, the *aldeia* chiefs, the *lia na'in*, police, sub-administrators, and so on – work together?
 - What is each entity's role?
 - Do parties generally abide by the rules and the explanations provided by the police during the pre-mediation session?
 - How long does the arbitration process take?
 - How many times do the arbitration sessions take place?
 - What happens if arbitration fails?
- (In both districts) I and my research assistants interviewed with 14 parties in 8 different cases, with the following questions:
 - Open-ended questions centred around whether the mediation was fair.
 - Open-ended questions centred around how much they were satisfied with the mediation.
 - Open-ended questions centred around whether they have intentions to overturn the decision next round if possible.

Appendix 2: Information Sheets

2-1. Participant Information Sheet for interview (three types of institutional leaders)

Background

I am Young-Gil Kim, PhD student at the University of York, the UK. I would like to invite you to take part in the following research project, 'Formal-Informal Institutional Relationships and Diverse Ways of Problem Solving in a Post-Conflict Era: Case Study of Land Disputes in Timor-Leste'. Please note that only finished cases of land disputes are treated during this interview. Before agreeing to take part, please read this information sheet carefully and let us know if anything is unclear or you would like further information.

What is the purpose of the study?

First, I want to know the relationship types between formal institutions (NDLPCS) and informal institutions (the *Suco* Council and the *lia na'in*). Second, I want to know how the relationship types could affect the processes of addressing the problem of competing claims to land in this *Suco*. Third, I want to know how the outcomes of their problem solving are assessed in this *Suco*.

Why have I been invited to take part?

You have been invited to take part due to three reasons. First, I would like to know your opinion on the formal-informal institutional relationships. Second, I want to know how the problem was processed; for example, did the NDLPCS make a cooperative framework with the informal institutions? Third, I want to know how you assess the outcome; was it a satisfying solution?

Before you decide whether to take part, it is important for you to understand why the research is being conducted and what it will involve. Please take time to read the following information carefully. Ask if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Do I have to take part?

No, participation is optional. If you do decide to take part, you will be given a copy of this information sheet for your records and will be asked to complete a participant information form. If you change your mind, you will be able to withdraw your participation for one month after the interview without having to provide a reason. In addition, you are welcome to receive

a copy of interview transcript.

Who is the Timorese nationals beside you, and are they reliable?

They are my interpreters. They help me interpret your language into English. I carefully hired them in conjunction with the Universidade Nacional Timor Lorosa'e in Dili and Youth Camp in Ainaro. My interpreters signed the contract with me stipulating non-disclosure of what they learned during interview. They also help me understand culturally sensitive issues in Timor-Leste.

On what basis will you process my data?

Under the General Data Protection Regulation (GDPR), the University has to identify a legal basis for processing personal data and, where appropriate, an additional condition for processing special category data.

In line with our charter which states that we advance learning and knowledge by teaching and research, the University processes personal data for research purposes under Article 6 (1) (e) of the GDPR:

Processing is necessary for the performance of a task carried out in the public interest

Special category data is processed under Article 9 (2) (j):

Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes

Research will only be undertaken where ethical approval has been obtained, where there is a clear public interest and where appropriate safeguards have been put in place to protect data. In line with ethical expectations and in order to comply with common law duty of confidentiality, we will seek your consent to participate where appropriate. This consent will not, however, be our legal basis for processing your data under the GDPR.

How will you use my data?

Data will be processed for the purposes outlined in this notice.

Will you share my data with 3rd parties?

No.

How will you keep my data secure?

The University will put in place appropriate technical and organisational measures to protect your personal data and/or special category data.

Information will be treated confidentiality and shared on a need-to-know basis only. The

University is committed to the principle of data protection by design and default and will collect the minimum amount of data necessary for the project. In addition, we will anonymise or pseudonymise data wherever possible.

Will you transfer my data internationally?

Possibly. The University's cloud storage solution is provided by Google which means that data can be located at any of Google's globally spread data centres. The University has data protection compliant arrangements in place with this provider. For further information see, <https://www.york.ac.uk/it-services/google/policy/privacy/>.

Will I be identified in any research outputs?

No. It is going to be totally anonymised or pseudonymised.

How long will you keep my data?

Data will be retained in line with legal requirements or where there is a business need. Retention timeframes will be determined in line with the University's Records Retention Schedule.

What rights do I have in relation to my data?

Under the GDPR, you have a general right of access to your data, a right to rectification, erasure, restriction, objection or portability. You also have a right to withdrawal. Please note, not all rights apply where data is processed purely for research purposes. For further information see,

<https://www.york.ac.uk/recordsmanagement/generaldataprotectionregulation/individualsrights/>

Questions or concerns

If you have any questions about this participant information sheet or concerns about how your data is being processed, please contact me in the first instance. If you are still dissatisfied, please contact the University's Acting Data Protection Officer at dataprotection@york.ac.uk.

Right to complain

If you are unhappy with the way in which the University has handled your personal data, you have a right to complain to the Information Commissioner's Office. For information on reporting a concern to the Information Commissioner's Office, see www.ico.org.uk/concerns. Or you can directly email me (yk800@york.ac.uk) or my supervisor Prof. Paul Gready (paul.gready@york.ac.uk).

2-2. Participant Information Sheet for interview (parties to the land problem)

Background

I am Young-Gil Kim, PhD student at the University of York, the UK. I would like to invite you to take part in the following research project, 'Formal-Informal Institutional Relationships and Diverse Ways of Problem Solving in a Post-Conflict Era: Case Study of Land Disputes in Timor-Leste'. Please note that only finished cases of land disputes are treated during this interview. Before agreeing to take part, please read this information sheet carefully and let us know if anything is unclear or you would like further information.

What is the purpose of the study?

First, I want to know the relationship types between the formal institution (NDLPCS) and other informal institutions (the *Suco* Council and the *lia na'in*). Second, I want to know how the relationship types could affect the processes of addressing the problem of competing claims to land in this *Suco*. Third, I want to know how the outcomes of their problem solving are assessed in this *Suco*.

Why have I been invited to take part?

You have been invited to take part because I want to know how you assess the process and outcome; how would you describe the process in your community?, and was it satisfying solution? I want your perception and experience of land disputes in terms of the institutional relationships, processes and outcomes.

Before you decide whether to take part, it is important for you to understand why the research is being conducted and what it will involve. Please take time to read the following information carefully. Ask if there is anything that is not clear or if you would like more information. Take time to decide whether or not you wish to take part.

Do I have to take part?

No, participation is optional. If you do decide to take part, you will be given a copy of this information sheet for your records and will be asked to complete a participant information form. If you change your mind, you will be able to withdraw your participation for a month after the interview without having to provide a reason. In addition, you are welcome to receive a copy of interview result data.

Who is the Timorese nationals beside you, and are they reliable?

They are my interpreters. They help me interpret your language into English. I carefully hired

them in conjunction with the National University of Timor-Leste in Dili and Youth Camp in Ainaro. My interpreters signed the contract with me stipulating non-disclosure of what they learned during interview. They also help me understand culturally sensitive issues in Timor-Leste.

On what basis will you process my data?

Under the General Data Protection Regulation (GDPR), the University has to identify a legal basis for processing personal data and, where appropriate, an additional condition for processing special category data.

In line with our charter which states that we advance learning and knowledge by teaching and research, the University processes personal data for research purposes under Article 6 (1) (e) of the GDPR:

Processing is necessary for the performance of a task carried out in the public interest

Special category data is processed under Article 9 (2) (j):

Processing is necessary for archiving purposes in the public interest, or scientific and historical research purposes or statistical purposes

Research will only be undertaken where ethical approval has been obtained, where there is a clear public interest and where appropriate safeguards have been put in place to protect data. In line with ethical expectations and in order to comply with common law duty of confidentiality, we will seek your consent to participate where appropriate. This consent will not, however, be our legal basis for processing your data under the GDPR.

How will you use my data?

Data will be processed for the purposes outlined in this notice.

Will you share my data with 3rd parties?

No.

How will you keep my data secure?

The University will put in place appropriate technical and organisational measures to protect your personal data and/or special category data.

Information will be treated confidentiality and shared on a need-to-know basis only. The University is committed to the principle of data protection by design and default and will collect the minimum amount of data necessary for the project. In addition, we will anonymise or pseudonymise data wherever possible.

Will you transfer my data internationally?

Possibly. The University's cloud storage solution is provided by Google which means that data can be located at any of Google's globally spread data centres. The University has data protection compliant arrangements in place with this provider. For further information see, <https://www.york.ac.uk/it-services/google/policy/privacy/>.

Will I be identified in any research outputs?

No. It is going to be totally anonymised or pseudonymised.

How long will you keep my data?

Data will be retained in line with legal requirements or where there is a business need. Retention timeframes will be determined in line with the University's Records Retention Schedule.

What rights do I have in relation to my data?

Under the GDPR, you have a general right of access to your data, a right to rectification, erasure, restriction, objection or portability. You also have a right to withdrawal. Please note, not all rights apply where data is processed purely for research purposes. For further information see,

<https://www.york.ac.uk/recordsmanagement/generaldataprotectionregulation/individualsrights/>.

Questions or concerns

If you have any questions about this participant information sheet or concerns about how your data is being processed, please contact me in the first instance. If you are still dissatisfied, please contact the University's Acting Data Protection Officer at dataprotection@york.ac.uk. If you are so much distressed due to during this interview, referral options will be provided. I can introduce someone in Rede ba Rai in Dili, and Plan international in Ainaro.

Right to complain

If you are unhappy with the way in which the University has handled your personal data, you have a right to complain to the Information Commissioner's Office. For information on reporting a concern to the Information Commissioner's Office, see www.ico.org.uk/concerns. Or you can directly email me (yk800@york.ac.uk) or my supervisor Prof. Paul Gready (paul.gready@york.ac.uk).

Appendix 3: Interview Consent Form

This is consent form for you concerning my PhD project, 'Formal-Informal Institutional Relationships and Diverse Ways of Problem Solving in a Post-Conflict Era: Case Study of Land Disputes in Timor-Leste'

Young-Gil, PhD student at the University of York, the UK

-

Have you read, or has someone read to you, the 'Information Sheet' about the project?

Yes ☐ No ☐

Do you understand what the project is about, and what taking part involves in this interview?

Yes ☐ No ☐

Do you understand this interview will be recorded and you can choose interview place?

Yes ☐ No ☐

Do you understand that the information you provide may be used anonymously in future research

Yes ☐ No ☐

Do you know that if you decide to take part and later change your mind, you can leave the project up to one month after your interview without giving a reason?

Yes ☐ No ☐

Would you like to take part in the project, 'Formal-Informal Institutional Relationships: Addressing a Problem of Competing Claims to Land in Dili and Ainaro District, Timor-Leste'

Yes ☐ No ☐

Would you like to take part in the presentation seminar on my analysis result?

Yes ☐ No ☐

If yes, is it okay to record your interview, and would you like to receive an interview transcript?

Yes ☐ No ☐

Please write your name here (in BLOCK letters): _____

Please sign your name here: _____

Interviewer's name: _____

Date: _____

References

[Journal Articles]

- Adcock, R. and Collier, D. (2001) 'Measurement validity: a shared standard for qualitative and quantitative research', *American Political Science Review*, 95(3), pp. 529–546.
- Alberts, J.K., Heisterkamp, B.L. and McPhee, R.M. (2005) 'Disputant perceptions of and satisfaction with a community mediation program', *International Journal of Conflict Management*, 16(3), pp. 218–244.
- Almeida, B. (2021a) 'The law and its limits: land grievances, wicked problems, and transitional justice in Timor-Leste', *International Journal of Transitional Justice*, 15(1), pp. 128–147.
- Atwood, D.A. (1990). 'Land registration in Africa: the impact on agricultural production', *World Development*, 18(5), pp. 659–671.
- Baaz, M. and Lilja, M. (2014) 'Understanding hybrid democracy in Cambodia: the nexus between liberal democracy, the state, civil society, and a "politics of presence"', *Asian Politics & Policy*, 6(1), pp. 5–24.
- Babo-Soares, D. (2004) 'Nahe biti: the philosophy and process of grassroots reconciliation (and justice) in East Timor', *The Asia Pacific Journal of Anthropology*, 5(1), pp. 15–33.
- Badiey, N. (2013) 'The strategic instrumentalization of land tenure in "state-building": the case of Juba, South Sudan', *Africa*, 83(1), pp. 57–77.
- Baker, C. (2000) 'Thailand's Assembly of the Poor: Background, drama, reaction', *South East Asia Research*, 8(1), pp. 5–29.
- Benjaminsen, T.A., Holden, S., Lund, C. and Sjaastad, E. (2009) 'Formalisation of land rights: some empirical evidence from Mali, Niger and South Africa', *Land Use Policy*, 26(1), pp. 28–35.
- Bickford, L. (2007) 'Unofficial truth projects', *Human Rights Quarterly*, 29(4), pp. 994–1035.
- Blyth, M.M. and Varghese, R. (1999) 'The state of the discipline in American political science: be careful what you wish for?', *British Journal of Politics and International Relations*, 1(3), pp. 345–365.
- Calderon, J. (2004) 'The formalisation of property in Peru 2001–2002: the case of Lima', *Habitat International*, 28, pp. 289–300.
- Carey, J.M. (2000) 'Parchment, equilibria, and institutions', *Comparative Political Studies*, 33(6), pp. 735–761.
- Chang, H.-J. (2009b) 'Rethinking public policy in agriculture: lessons from history, distant and recent', *The Journal of Peasant Studies*, 36(3), pp. 477–515.
- Claassens, A. and Mnisi, S. (2009) 'Rural women redefining land rights in the context of living

- customary law', *South African Journal on Human Rights*, 25(3), pp. 491–516.
- Cooley, J.W. (1986) 'Arbitration vs. mediation – explaining the differences', *Judicature*, 69(5), pp. 263–269.
- Cummins, D. (2011) 'The problem of gender quotas: women's representatives on Timor-Leste's suku councils', *Development in Practice*, 21(1), pp. 85–95.
- Cummins, D. and Leach, M. (2012) 'Democracy old and new: the interaction of modern and traditional authority in East Timorese local government', *Asian Politics & Policy*, 4(1), pp. 89–104.
- De la O Campos, A.P., Edouard, F. and Salvago, M.R. (2023) 'Effects of land titling on household tenure security and investments: evidence from Nicaragua', *Land Use Policy*, 126, pp. 1–10.
- de Soto, H. (2000a) 'Taking land from the poor, giving to the rich', *Watershed: People's Forum on Ecology*, 8(2), pp. 14–25.
- de Soto, H. (2011) 'This land is your land: a conversation with Hernando de Soto', *World Policy Journal*, 28(2), pp. 35–40.
- Deininger, K. and Binswanger, H. (1999) 'The evolution of the World Bank's land policy: principles, experience, and future challenges', *The World Bank Research Observer*, 14(2), pp. 247–276.
- Doss, C., Summerfield, G. and Tsikata, D. (2014) 'Land, gender, and food security', *Feminist Economics*, 20(1), pp. 1–23. <https://doi.org/10.1080/13545701.2014.895021>
- Edwards, H.T. (1986) 'Alternative dispute resolution: panacea or anathema?', *Harvard Law Review*, 99(3), pp. 668–684.
- Eisenstadt, T. (2003) 'Thinking outside the (ballot) box: informal electoral institutions and Mexico's political opening', *Latin American Politics and Society*, 45(1), pp. 25–54.
- Ekeh, P.P. (1975) 'Colonialism and the two publics in Africa: a theoretical statement', *Comparative Studies in Society and History*, 17(1), pp. 91–112.
- Engle, K. (2011) 'On fragile architecture: the UN declaration on the rights of indigenous peoples in the context of human rights', *European Journal of International Law*, 22(1), pp. 141–163.
- Feder, G. and Feeny, D. (1991) 'Land tenure and property rights: theory and implications for development policy', *The World Bank Economic Review*, 5(1), pp. 135–153.
- Feijó, R.G. and Pereira, Z. (2023) 'Decolonization without self-determination?: Portuguese perspectives on Indonesia's involvement with Timor (1974–1975)', *Bijdragen tot de taal-, land- en volkenkunde*, 179(2), pp. 216–245.
- Fitzpatrick, D. (1997) 'Disputes and pluralism in modern Indonesian land law', *Yale Journal of International Law*, 22(1), pp. 170–212.
- Fitzpatrick, D. (2001) 'Land claims in East Timor: a preliminary assessment', *Australian Journal of Asian Law*, 3(2), pp. 135–166.

- Fitzpatrick, D. and Barnes, S. (2010) 'The relative resilience of property: first possession and order without law in East Timor', *Law & Society Review*, 44(2), pp. 205–238.
- Freeman, M. (1995) 'Human rights, democracy and "Asian values"', *The Pacific Review*, 8(3), pp. 249–263.
- Goldstone, A. (2004) 'UNTAET with hindsight: the peculiarities of politics in an incomplete state', *Global Governance: A Review of Multilateralism and International Organizations*, 10(1), pp. 83–98.
- Gorjão, P. (2002) 'The legacy and lessons of the United Nations Transitional Administration in East Timor', *Contemporary Southeast Asia*, 24(2), pp. 313–336.
- Gready, P. and Robins, S. (2014) 'From transitional to transformative justice: a new agenda for practice', *International Journal of Transitional Justice*, 8(3), pp. 339–361.
- Grenfell, L. (2006) 'Legal pluralism and the rule of law in Timor-Leste', *Leiden Journal of International Law*, 19, pp. 305–337.
- Griffiths, J. (1986) 'What is legal pluralism?', *The Journal of Legal Pluralism and Unofficial Law*, 18(24), pp. 1–55.
- Grix, G. (2002) 'Introducing students to the generic terminology of social research', *Politics*, 22(3), pp. 175–186.
- Hall, P.A. and Taylor, R.C.R. (1996) 'Political science and the three new institutionalisms', *Political Studies*, 44(5), pp. 936–957.
- Hathaway, O. (2011) 'International delegation and state sovereignty', *Law and Contemporary Problems*, 71(1), pp. 115–149.
- Helmke, G. and Levitsky, S. (2004) 'Informal institutions and comparative politics: a research agenda', *Perspectives on Politics*, 2(4), pp. 725–740.
- Hidayanti, S., Koswara, I. and Gunawan, Y. (2021) 'The land legal system in Indonesia and land rights according to the Basic Agrarian Law (UUPA)', *Legal Brief*, 11(1), pp. 366–378.
- Ho, P. and Spoor, M. (2006) 'Whose land? The political economy of land titling in transitional economies', *Land Use Policy*, 23(4), pp. 580–587.
- Ho, S., Tanyag, M. and Scalise, E. (2023) 'Women's land rights, gendered epistemic tensions, and the need for a feminist approach to land administration', *Land Use Policy*, 132, p. 106648. <https://doi.org/10.1016/j.landusepol.2023.106648>
- Hohe, T. (2003) 'Justice without judiciary in East Timor', *Conflict, Security & Development*, 3(3), pp. 335–357.
- Holland, A.C. (2016) 'Forbearance', *American Political Science Review*, 110(2), pp. 232–246.
- Hollander-Blumoff, R. and Tyler, T.R. (2011) 'Procedural justice and the rule of law: fostering legitimacy in alternative dispute resolution', *Journal of Dispute Resolution*, 2011(1), pp. 1–20.

- Ide, T., Palmer, L.R. and Barnett, J. (2021) 'Environmental peacebuilding from below: customary approaches in Timor-Leste', *International Affairs*, 97(1), pp. 103–117.
- Joshi, S. (2020) 'Contesting land grabs, negotiating statehood: the politics of international accountability mechanisms and land disputes in rural Cambodia', *Third World Quarterly*, 41(9), pp. 1615–1633.
- Kangas, A. and Vestheim, G. (2010) 'Institutionalism, cultural institutions and cultural policy in the Nordic countries', *Nordisk Kulturpolitisk Tidsskrift*, 13(2), pp. 267–286.
- Kar, A., Kuanr, S. & Mishra, Y. (2023) 'Arbitration vs mediation – the better option?', *Indian Journal of Law and Legal Research*, 5, pp.1–14.
- Kingsbury, D. (2007) 'Timor-Leste: the harsh reality after independence', *Southeast Asian Affairs*, 2007(1), pp. 363–377.
- Kramer, A.K., Klümper, F., Müller, A. and Thornberry, F. (2021) 'Strengthening accountability for responsible land governance: linking governance of tenure to human rights', *Sustainability*, 13(19), p. 11113.
- Kühn, F.P. (2008) 'Aid, opium, and the state of rents in Afghanistan: competition, cooperation, or cohabitation?', *Journal of Intervention and Statebuilding*, 2(3), pp. 309–327.
- Levitsky, S. and Murillo, M.V. (2009) 'Variation in institutional strength', *The Annual Review of Political Science*, 12(1), pp. 115–133.
- Levitt, P. and Merry, S.E. (2009) 'Vernacularization on the ground: local uses of global women's rights in Peru, China, India and the United States', *Global Networks*, 9(4), pp. 441–461. <https://doi.org/10.1111/j.1471-0374.2009.00263.x>
- Lund, C. (2006) 'Twilight institutions: an introduction', *Development and Change*, 37(4), pp. 673–684.
- Lund, C. (2021) 'Forum shopping and shopping forums: another 40-year anniversary', *The Journal of Legal Pluralism and Unofficial Law*, 53(3), pp. 414–418.
- Mac Ginty, R. (2008) 'Indigenous peace-making versus the liberal peace', *Journal of Nordic International Studies Association*, 43(2), pp. 139–163.
- McWilliam, A. (2005) 'Houses of resistance in East Timor: structuring sociality in the new nation', *Anthropological Forum*, 15(1), pp. 27–44.
- Merry, S.E. (2006) 'Transnational human rights and local activism: mapping the middle', *American Anthropologist*, 108(1), pp. 38–51.
- Miceli, T.J., Sirmans, C.F. and Turnbull, G.K. (2000) 'The dynamic effects of land title systems', *Journal of Urban Economics*, 47(3), pp. 370–389.
- Mutua, M. (2001) 'Savages, victims, and saviours: the metaphor of human rights', *Harvard International Law Journal*, 42(1), pp. 201–245.

- Nolan-Haley, J. (2012) 'Mediation: the "new arbitration"', *Harvard Negotiation Law Review*, 17, pp. 61–96.
- North, D.C. (1991) 'Institutions', *The Journal of Economic Perspectives*, 5(1), pp. 97–112.
- Nugroho Setyawan and Israhadi, E. (2021) 'Implementation of basic agrarian law no. 5/1960 in indigenous land disputes in Malinau district', *EAI Endorsed Transactions on Energy Web*, 8(35). doi: <https://doi.org/10.4108/eai.6-3-2021.2306466>.
- Paris, R. (2010) 'Saving liberal peacebuilding', *Review of International Studies*, 36, pp. 337–365.
- Pejovich, S. (1999) 'The effect of the interaction of formal and informal institutions on social stability and economic development', *Journal of Markets and Morality*, 2(2), pp. 164–181.
- Peters, P.E. (2009) 'Challenges in land tenure and land reform in Africa: anthropological contributions', *World Development*, 37(8), pp. 1317–1325.
- Pritchett, L. and Woolcock, M. (2004) 'Solutions when the solution is the problem: arraying the disarray in development', *World Development*, 32(2), pp. 191–212.
- Pule, N. and Thabane, M. (2004) 'Lesotho's land tenure regimes: experiences of rural communities and the calls for land reform', *Journal of Modern African Studies*, 42(2), pp. 282–303.
- Robinson, G. (2001) 'People's war: militias in East Timor and Indonesia', *South East Asia Research*, 9(3), pp. 271–318.
- Rose, M. (2016) 'ZEESM: destructive "development" in Timor's special economic zone', *In Brief*, 2016(4).
- Sartori, G. (1970) 'Concept misinformation in comparative politics', *American Political Science Review*, 64(4), pp. 1033–1053.
- Sawadogo, J-P. and Stamm, V. (2000) 'Local perceptions of indigenous tenure systems: views of peasants, women and dignitaries in a rural province of Burkina Faso', *Journal of Modern African Studies*, 38(2), pp. 279–294.
- Sejersted, F. (1992) 'A Theory of Economic and Technological Development in Norway in the Nineteenth Century', *Scandinavian Economic History Review*, 40(1), pp. 40–75.
- Shestowsky, D. (2004) 'Procedural preferences in alternative dispute resolution: a closer, modern look at an old idea', *Psychology, Public Policy, and Law*, 10(3), pp. 211–249.
- Singh, A. (2022) 'Mediation vs. arbitration vs. litigation', *Indian Journal of Integrated Research in Law*, 2(2), pp.1–17.
- Singh, D. (2019) 'The management of legal pluralism and human rights in decentralized Afghanistan', *The Journal of Legal Pluralism and Unofficial Law*, 51(3), pp. 350–380.
- Stead, V. (2015) 'Homeland, territory, property: contesting land, state, and nation in urban Timor-Leste', *Political Geography*, 45, pp. 79–89.
- Sternlight, J.R. (2005) 'Creeping mandatory arbitration: is it just?', *Stanford Law Review*, 57(5), pp.

1631–1703.

- Sternlight, J.R. (2007) 'Is alternative dispute resolution consistent with the rule of law? lessons from abroad', *DePaul Law Review*, 56(2), pp. 569–592.
- Stipanowich, T.J. (2004) 'ADR and the vanishing trial: the growth and impact of "alternative dispute resolution"', *Journal of Empirical Legal Studies*, 1(3), pp. 843–912.
- Sulistiawati, L.Y. (2019) 'Legal pluralism in *adat* land conflict resolution: a case study of eastern Indonesia', *Korea Legislation Research Institute Journal of Law and Legislation*, 9(2), pp. 157–190.
- Toulmin, C. (2009) 'Securing land and property rights in sub-Saharan Africa: the role of local institutions', *Land Use Policy*, 26(1), pp. 10–19.
- Tyler, T.R. (2003) 'Procedural justice, legitimacy, and the effective rule of law', *Crime and Justice*, 30(1), pp. 283–357.
- Ubink, J. (2018) 'Customary legal empowerment in Namibia and Ghana? lessons about access, power and participation in non-state justice systems', *Development and Change*, 49(4), pp. 930–950.
- van Rooij, B. (2012) 'Bringing justice to the poor: bottom-up legal development cooperation', *Hague Journal on the Rule of Law*, 4(2), pp. 286–318.
- Vancluysen, S. and Ingelaere, B. (2020) 'Conflict resolution as cultural brokerage: how refugee leaders mediate disputes in Uganda's refugee settlements', *Journal of Refugee Studies*, 33(2), pp. 299–315.
- Veit, A. (2008) 'Figuration of uncertainty: armed groups and "humanitarian" military intervention in Ituri (DR Congo)', *Journal of Intervention and Statebuilding*, 2(3), pp. 291–307.
- von Benda-Beckmann, K. (1981) 'Forum shopping and shopping forums: dispute processing in a Minangkabau Village in West Sumatra', *The Journal of Legal Pluralism and Unofficial Law*, 13(19), pp. 117–159.
- von Trotha, T. (1996) 'From administrative to civil chieftaincy', *The Journal of Legal Pluralism and Unofficial Law*, 28(37–38), pp. 79–107.
- Wallis, J. (2012) 'A liberal-local hybrid peace project in action? the increasing engagement between the local and liberal in Timor-Leste', *Review of International Studies*, 38, pp. 735–761.
- Wallis, J. and Neves, G. (2021) 'Evaluating the legacy of state-building in Timor-Leste', *Asian Journal of Peacebuilding*, 9(1), pp. 19–40.
- Walsh, P. (1980) 'The politics of aid to East Timor', *Development Dossier*, 1. Australia Council for Overseas Aid, pp. 16–21.
- Warming, J. (1923) 'Danish Agriculture with Special Reference to Cooperation', *Quarterly Journal of Economics*, 37(3), pp. 491–509.

Wigglesworth, A. (2013) 'Community leadership and gender equality: experiences of representation in local governance in Timor-Leste', *Asian Politics and Policy*, 5(4), pp. 567–584.

[Books]

Acemoglu, D. and Robinson, J.A. (2012) *Why nations fail: the origins of power, prosperity and poverty*. London: Profile Books.

Almeida, B. (2022) *A sociolegal analysis of formal land tenure systems: learning from the political, legal and institutional struggles of Timor-Leste*. Oxon: Routledge.

Boone, C. (2014) *Property and political order in Africa: land rights and the structure of politics*. New York: Cambridge University Press.

Brinks, D.M., Levitsky, S. and Murillo, M.V. (2020) *The politics of institutional weakness in Latin America*. Cambridge: Cambridge University Press.

Cutillo, A. (2006) *International assistance to countries emerging from conflict: a review of fifteen years of interventions and the future of peacebuilding*. New York: International Peace Academy.

de Soto, H. (2000b) *The mystery of capital: why capitalism triumphs in the West and fails everywhere else*. New York: Basic Books.

Deininger, K.W. (2003) *Land policies for growth and poverty reduction*. A World Bank policy research report. Washington, DC : World Bank Group.

Ferguson, W.D. (2020) *The political economy of collective action, inequality, and development*. Stanford, CA: Stanford University Press.

Fitzpatrick, D. (2002a) *Land claims in East Timor*. Canberra: Asia Pacific Press.

Fitzpatrick, D., McWilliam, A. and Susana, B. (2016) *Property and social resilience in times of conflict*. London: Routledge.

Grenfell, L. (2013) *Promoting the rule of law in post-conflict states*. Cambridge: Cambridge University Press. pp. 3–13 and 181–264.

Gunn, G.C. (1999) *Timor Loro Sae*. Hong Kong: Livros Do Oriente.

Hägerdal, H. (2012) *Lords of the land, lords of the sea*. Leiden: BRILL. pp. 1–82.

Halperin, S. and Heath, O. (2017) *Political Research Methods and Practical Skills*. 2nd edn. Oxford: Oxford University Press.

Kammen, D. (2016) *Three centuries of conflict in East Timor*. Singapore: NUS Press. pp. 96–142

Mamdani, M. (1996) *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism*. Princeton, NJ: Princeton University Press.

Marc, A., Willman, A., Aslam, G., Rebosio, M. and Balasuriya, K. (2012) *Societal dynamics and fragility: engaging societies in responding to fragile situations*. Washington, DC: World Bank.

- <https://doi.org/10.1596/978-0-8213-9656-8>. pp. 1–10 and 89–114.
- Matadalan ba Rai – Haburas. (2010) *Community Voices on the Land: Results of the Consultation by Matadalan ba Rai*. Dili: Matadalan ba Rai – Haburas Foundation, UNDP, Trocaire and Oxfam. p. 37.
- Moses, J.W. and Knutsen, T.L. (2019) *Ways of knowing: competing methodologies in social and political research*. 3rd edn. London: Red Globe Press.
- Rede ba Rai. (2013) *Land registration and land justice in Timor-Leste: culture, power and justice*. Dili: Rede ba Rai.
- Rede ba Rai. (2019) *Land registration in Timor-Leste: impact analysis on the national cadastral system (SNC)*. Dili: Rede ba Rai.
- Scott, J.C. (1976) *The moral economy of the peasant: rebellion and subsistence in Southeast Asia*. New Haven: Yale University Press.
- Shakespeare, W. (1996) *Hamlet*. Ware: Wordsworth Classics.
- Southgate, L. (2019) *ASEAN resistance to sovereignty violation: interests, balancing and the role of the vanguard state*. Bristol: Bristol University Press, pp. 25–70.
- Stead, V. (2017) *Becoming landowners: entanglements of custom and modernity in Papua New Guinea and Timor-Leste*. Honolulu: University of Hawaii Press. pp. 26–48 and 126–151.
- Tyler, T.R. (2006) *Why people obey the law* (2nd ed.). Princeton New Jersey: Princeton University Press.
- World Bank. (1989) *Sub-Saharan Africa: from crisis to sustainable growth: a long-term perspective study*. Washington, DC: World Bank. pp. 1–15.

[Chapter in Edited Book]

- Adler, D. and So, S. (2012) 'Toward equity in development when the law is not the law', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 83–92.
- Babo-Soares, D. (2003) 'Political developments leading to the referendum', in Fox, J.J. and Babo-Soares, D. (eds.) *Out of the ashes: destruction and reconstruction of East Timor*. Canberra: ANU E Press, pp. 53–73.
- Bellwood, P., Fox, James J., and Tryon, D. (1995) 'The Austronesians in history: common origins and diverse transformations', in Bellwood, P., Fox, James J., and Tryon, D. (eds.) *The Austronesians: historical and comparative perspectives*. Canberra: ANU E Press, pp. 1–16.
- Benton, L. (2012) 'Historical perspectives on legal pluralism', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 18–33.

- Chang, H.-J. (2009a) 'Under-explored treasure troves of development lessons: lessons from the histories of small rich European countries', in Kremer, M., van Lieshout, P. and Went, R. (eds.) *Doing good or doing better: development policies in a globalising world*. Amsterdam: Amsterdam University Press, pp. 81–106.
- Davies, M. (2010) 'Legal pluralism', in Cane, P. and Kritzer, H.M. (eds.) *The oxford handbook of empirical legal research*. Oxford: Oxford University Press, pp. 805–827.
- Faundez, J. (2012) 'Legal pluralism and international development agencies: state building or legal reform', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 177–196.
- Fox, J.J. (2003) 'Tracing the path, recounting the past: historical perspectives on Timor', in Fox, J.J. and Babo-Soares, D. (eds.) *Out of the ashes: destruction and reconstruction of East Timor*. Canberra: ANU E Press, pp. 1–27.
- Gauri, V. (2012) 'The publicity "defect" of customary law', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 215–227.
- Glenn, H.P. (2012) 'Sustainable diversity in Law', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in Dialogue*. Cambridge: Cambridge University Press, pp. 95–111.
- Htun, M and Jensenius, F.R. (2020) 'Aspirational laws as weak institutions: legislation to combat violence against women in Mexico', In: Brinks DM, Levitsky S, Murillo MV. (eds.) *The politics of institutional weakness in Latin America*. Cambridge University Press, pp. 141–160.
- Jayasuriya, K. (2012) 'Institutional hybrids and the rule of law as a regulatory project', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 145–161.
- Jones, N.A., Perezniето, P. and Presler-Marshall, E. (2015) 'How Does Mixed Methods Research Add Value to Our Understanding of Development?', in Hesse-Biber, S.N. and Johnson, R.B. (eds.) *The Oxford Handbook of Multimethod and Mixed Methods Research Inquiry*. Oxford: Oxford University Press, pp. 486–500.
- Kim, B.-Y. (2016) 'Escape from Big Debates in International Development – Focused on Impact Evaluation Approach', in Park, J.H. (ed.) *World Politics Series 24: World Politics of Development Cooperation*. Seoul: Sapyoung, pp. 153–183. (In Korean).
- Kinley, D. (2012) 'Bendable rules: the development implications of human rights pluralism', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 50–65.

- Kremer, M., van Lieshout, P. and Went, R. (2009) 'Towards Development Policies Based on Lesson Learning: An Introduction', in Kremer, M., van Lieshout, P. and Went, R. (eds.) *Doing Good or Doing Better: Development Policies in a Globalising World*. Amsterdam: Amsterdam University Press, pp. 15–26.
- Lloyd, G.J. (2003) 'Diplomacy on East Timor: Indonesia, the United Nations and the international community', in Fox, J.J. and Babo-Soares, D. (eds.) *Out of the ashes: destruction and reconstruction of East Timor*. Canberra: ANU E Press, pp. 74–98.
- Lund, C. (2012) 'Access to property and citizenship: marginalization in a context of legal pluralism', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 197–214.
- Mahoney, J. and Thelen, K. (2015) 'Comparative-historical analysis in contemporary political science' in Mahoney, J. and Thelen, K. (eds.) *Advances in Comparative Historical Analysis*. Cambridge: Cambridge University Press. pp. 3–38
- Merry, S.E. (2012) 'Legal pluralism and legal culture', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 66–82.
- Riddell, R.C. (2009) 'Development Policies in a Globalising World', in Kremer, M., van Lieshout, P. and Went, R. (eds.) *Doing Good or Doing Better: Development Policies in a Globalising World*. Amsterdam: Amsterdam University Press, pp. 47–79.
- Sage, C. and Woolcock, M. (2012) 'Legal pluralism and development policy', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 1–17.
- Tamanaha, B.Z. (2012) 'The rule of law and legal pluralism in development', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 34–49.
- Trindade, J. (2008) 'Reconciling conflicting paradigms: an East Timorese vision of the ideal state', in Mearns, D. (ed.) *Democratic governance in Timor-Leste: reconciling the local and the national*. Darwin: Charles Darwin University, pp. 160–180.
- Twining, W. (2012) 'Legal pluralism', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 112–128.
- van Bijlert, M. (2009) 'Imaginary institutions: state-building in Afghanistan', in Kremer, M., van Lieshout, P. and Went, R. (eds.) *Doing good or doing better: development policies in a globalising world*. Amsterdam: Amsterdam University Press, pp. 157–175.

- Wallis, J. (2018) 'Is there still a place for liberal peacebuilding?', in Wallis, J., Kent, L., Forsyth, M., Dinnen, S. and Bose, S. (eds.) *Hybridity on the ground in peacebuilding and development*. Canberra: ANU Press, pp. 83–98.
- Woodman, G.R. (2012) 'The development "problem" of legal pluralism', in Tamanaha, B.Z., Sage, C. and Woolcock, M. (eds.) *Legal pluralism and development: scholars and practitioners in dialogue*. Cambridge: Cambridge University Press, pp. 129–144.

[Theses]

- Almeida, B. (2020) *Building land tenure systems: the political, legal, and institutional struggles of Timor-Leste*. PhD thesis. Leiden University.
- Blankert, A.M.G. (2023) *Towards gender equality: strengthening women's land rights and access to justice - Insights from the LAND-at-scale program*. Master's thesis. Utrecht University.
- Davidson, K.G. (1994) *The Portuguese colonisation of Timor: the final state, 1850–1912*. PhD thesis. University of New South Wales.
- Yoder, L.S.M. (2005) *Custom, codification, collaboration: integrating the legacies of land and forest authorities in Oecusse enclave, East Timor*. PhD thesis. Yale University. (This source was cited second-hand.)

[Discussion Papers, Working Papers, Conference Proceedings and Published Reports]

- Adler, D., Porter, D. and Woolcock, M. (2008) 'Legal pluralism and equity: some reflections on land reform in Cambodia', *Justice for the Poor*, 2(2), Washington, DC: World Bank.
- Almeida, B. (2021b) 'Faulty assumptions and misconceptions about land registration', in Barnes, S. and Meitzner Yoder, L.S. (eds.) *Land tenure in Timor-Leste: between resilient custom and the resurgent state*. Lisboa: TLSA PT 2020, pp. 69–77.
- Almeida, B. and Wassel, T. (2016) *Survey on access to land, tenure security and land conflict in Timor-Leste*. Van Vollenhoven Institute for Law at Leiden Law School and The Asia Foundation.
- Boussard, C. (2000) 'Towards democratic consolidation: The role of informal institutions. Illustrations from Guatemala and Honduras', *Latin American Studies Association (LASA) Conference*. Miami, 16–18 March. Also presented at *European Consortium for Political Research (ECPR)*. Copenhagen, 14–19 April.
- Buckley, R. and Kalarickal, J. (2004) 'Shelter strategies for the urban poor: idiosyncratic and successful, but hardly mysterious'. Policy Research Working Paper 3427. Washington, DC: World Bank.

- Carroll-Bell, S. (2013) 'Re-imagining development in Timor-Leste', *People and the Planet 2013 Conference Proceedings*. Melbourne, 2–4 July. Melbourne: Global Cities Research Institute, RMIT University, pp. 1–17.
- Cryan, M. (2015) 'Dispossession and impoverishment in Timor-Leste: potential impacts of the Suai supply base', SSGM Discussion Paper 2015/15. Canberra: State, Society and Governance in Melanesia Program, Australian National University.
- Cummins, D. (2011) *Legitimacy, governance and local-level politics in Timor-Leste*. University of Queensland Grant Report.
- Daley, E. and Hobley, M. (2005) *Land: changing contexts, changing relationships, changing rights*. DFID.
- Fitzpatrick, D. (2002b) 'Land policy in post-conflict circumstances: some lessons from East Timor'. *UNHCR Working Paper* No. 58. Geneva: UNHCR.
- Gauri, V. (2009) 'How do local-level legal institutions promote development?' *Policy Research Working Paper* 5108. Washington, DC: World Bank. Available at: <http://hdl.handle.net/10986/18109> (Accessed: 26 May 2025).
- Hohe, T. and Nixon, R. (2003) *Reconciling Justice: 'Traditional' Law and State Judiciary in East Timor Final Report*. Available at: <https://gsdrc.org/document-library/reconciling-justice-traditional-law-and-state-judiciary-in-east-timor/> (Accessed: 10 March 2021).
- Kirk, T. (2014) 'Legal aid lawyers and paralegals: promoting access to justice and negotiating hybridity in Timor-Leste'. Justice and Security Research Programme, London School of Economics and Political Science (LSE). *JSRP Paper* 14. Available at: <https://assets.publishing.service.gov.uk/media/57a089eded915d622c000477/JSRP-Paper-14.pdf> (Accessed: 26 May 2025).
- Lopes, I. (2008) *Technical framework for a transitional land law for East Timor*. USAID/ARD Strengthening Property Rights in Timor-Leste.
- Meitzner Yoder, L.S. (2003) 'Custom and Conflict: The Uses and Limitations of Traditional Systems in Addressing Rural Land Disputes in East Timor'. *Discussion paper prepared for regional workshop Land Policy and Administration for Pro-Poor Rural Growth*, Dili.
- Menkel-Meadow, C.J. (2015) 'Mediation, arbitration, and alternative dispute resolution (ADR)', UC Irvine School of Law Research Paper No. 2015-59. International Encyclopedia of the Social and Behavioral Sciences, Elsevier. Available at: <https://ssrn.com/abstract=2608140> [Accessed 5 Jul. 2025].
- Nixon, R. (2009) 'Contracts, land tenure and rural development in Timor-Leste', *Justice for the Poor*, 3(3), Washington, DC: World Bank.

- OHCHR. (2006) *Report of the independent special commission of inquiry for Timor-Leste*. United Nations, 2 October 2006.
- Scambary, J. (2009) 'Groups, gangs and armed violence in Timor-Leste', *Issue Brief* No. 2. Geneva: Small Arms Survey. Available at: <https://doi.org/10.13140/RG.2.2.22256.25606> [Accessed 26 Jul. 2025].
- Shamir, Y. (2003) *Alternative dispute resolution approaches and their application*, Technical documents in hydrology: PC-CP series, 7. Paris: UNESCO. Available at: <https://unesdoc.unesco.org/ark:/48223/pf0000133287> [Accessed 5 Jul. 2025].
- Siscawati, M. (2017) 'Gender and forest tenure reform in Indonesia', Working Paper 258. Bogor, Indonesia: CIFOR. DOI: 10.17528/cifor/007572
- Sousa, P.X. de (2005) 'East Timor, land management – a long way to go, but we have started', in *FIG Conference 2005*, January 2005, Bangkok.
- Tamanaha, B.Z. (2007) 'Understanding legal pluralism: past to present, local to global', *Sydney Law Review*, 29. St John's Legal Studies Research Paper No. 07-0080. Available at: <https://ssrn.com/abstract=1010105> [Accessed 26 May 2025].
- van der Auweraert, P. (2012) *Ending the 2006 internal displacement crisis in Timor-Leste: between humanitarian aid and transitional justice*. Geneva: International Organization for Migration (IOM). Migration Research Series No. 44. ISBN 978-92-9068-641-5. Available at: <https://publications.iom.int/books/mrs-no-44-ending-2006-internal-displacement-crisis-timor-leste-between-humanitarian-aid-and> (Accessed: 4 July 2025).
- World Bank. (2002) *East Timor policy challenges for a new nation country economic memorandum*. Report No. 23285-TP. Available at: <https://documents1.worldbank.org/curated/en/568311468764665250/pdf/East-Timor-Policy-challenges-for-a-new-nation-country-economic-memorandum.pdf> (Accessed: 26 February 2024).
- World Bank. (2003) *Project evaluation paper*. Report Number: ICRR11600. Available at: <https://documents1.worldbank.org/curated/en/778001474632892368/pdf/000020051-20140612083914.pdf> (Accessed: 26 February 2024).
- World Bank. (2013) *Land governance assessment framework: implementation manual for assessing governance in the land sector*. Available at: <https://thedocs.worldbank.org/en/doc/a91b90185037e5f11e9f99a989ac11dd-0050062013/original/LGAF-Manual-Oct-2013.pdf> (Accessed: 26 February 2024).

[Web Pages]

Australian Government. (2019) *Interfeet:history in focus*. Available at:

<https://anzacportal.dva.gov.au/resources/interfet-history-focus> (Accessed: 10 June 2022).

BBC. (2023a) *Australia country profile*. Available at: <https://www.bbc.co.uk/news/world-asia-15674351> (Accessed: 16 March 2024).

BBC. (2023b) *East Timor country profile*. Available at: <https://www.bbc.co.uk/news/world-asia-pacific-14919009> (Accessed: 16 February 2024).

British universities film & video council. (1992) *Indonesia: in cold blood*. Available at:

<http://bufvc.ac.uk/dvdfind/index.php/title/10515> (Accessed: 23 February 2024).

Cambridge University Press. (n.d.) *Convergent*. Cambridge Dictionary. Available at:

<https://dictionary.cambridge.org/dictionary/english/convergent> (Accessed: 24 June 2025).

Cambridge University Press. (n.d.) *Divergent*. Cambridge Dictionary. Available at:

<https://dictionary.cambridge.org/dictionary/english/divergent> (Accessed: 24 June 2025).

Cambridge University Press. (n.d.) *Effective*. Cambridge Dictionary. Available at:

<https://dictionary.cambridge.org/dictionary/english/effective> (Accessed: 24 June 2025).

Cambridge University Press. (n.d.) *Ineffective*. Cambridge Dictionary. Available at:

<https://dictionary.cambridge.org/dictionary/english/ineffective> (Accessed: 24 June 2025).

Coelho, T.P. (2006) *Lord Salisbury's 1890 ultimatum to Portugal and Anglo-Portuguese relations*.

Available at: https://public.mml.ox.ac.uk/files/windsor/6_pintocoelho.pdf (Accessed: 20 March 2024).

Federal reserve history. (2013) *Asian financial crisis*. Available at:

<https://www.federalreservehistory.org/essays/asian-financial-crisis> (Accessed: 23 March 2024).

International Crisis Group. (2010) *Managing land conflict in Timor-Leste. Policy Briefing - Asia Briefing*

N°110. Available at: <https://www.crisisgroup.org/asia/south-east-asia/timor-leste/managing-land-conflict-timor-leste> (Accessed: 19 February 2024).

Kammen, D. (2014) *Population loss in Portuguese Timor during WW2 revisited. News Mandala*.

Available at: <https://www.newmandala.org/population-loss-in-portuguese-timor-during-ww2-revisited/> (Accessed: 25 August 2025).

Kofi Annan. (1999) *Press statement by UN secretary general*. Available at:

<https://web.archive.org/web/20080216085739/http://www.un.org:80/peace/etimor99/etimor.htm> (Accessed: 26 February 2024).

La'o Hamutuk. (2013) *Whom will the land laws empower?* Available at:

<https://www.laohamutuk.org/Bulletin/2013/Jul/bulletinv13n1en.html> (Accessed: 16 February

2024).

Maps of World. (2012) *Timor-Leste Political Map*. Available at: <https://www.mapsofworld.com/timor-leste/timor-leste-political-map.html> (Accessed: 5 August 2023).

Nautilus Institute. (2006) *Timor's political crisis in 2006*. Available at: <https://nautilus.org/publications/books/australian-forces-abroad/east-timor/timors-political-crisis-in-2006/> (Accessed: 26 July 2025).

ONUMOZ. (2004) *ONUMOZ Mandate*. Available at: https://web.archive.org/web/20040812224907/http://www.un.org/Depts/dpko/dpko/co_mission/onumozM.htm (Accessed: 27 February 2024).

Reliefweb. (1999) *Australian peacekeeping East Timor update*. Available at: <https://reliefweb.int/report/timor-leste/australian-peacekeeping-east-timor-update-20-sep-1999> (Accessed: 26 February 2024).

The Embassy of Timor-Leste in USA. (2024) *Country Profile – A Brief History*. Available at: <http://www.timorlesteembassy.org/index.php?page=country-profile> (Accessed: 17 February 2024).

Timor-Leste Government. (2012) *East Timor is Divided into 13 Administrative Districts*. Available at: <http://www.easttimorgovernment.com/districts.htm> (Accessed: 22 June 2021).

UN Peacekeeping News. (2000) *Interfet security force in East Timor officially replaced by UN*. Available at: <https://peacekeeping.un.org/en/mission/past/etimor/news/N230200a.html> (Accessed: 26 February 2024).

UNAMIR. (2005) *UNAMIR mandate*. Available at: https://web.archive.org/web/20050517010412/http://www.un.org/Depts/dpko/dpko/co_mission/unamirM.htm (Accessed: 27 February 2024).

UNOSOM. (2006) *UNOSOM mandate*. Available at: https://web.archive.org/web/20060922002314/http://www.un.org/Depts/dpko/dpko/co_mission/unosom1mandate.html (Accessed: 27 February 2024).

UNTAET. (2001) *UNTAET mandate*. Available at: <https://peacekeeping.un.org/sites/default/files/past/etimor/UntaetM.htm> (Accessed: 16 February 2024).

van der Auweraert, P. (2012) *Ending the 2006 internal displacement crisis in Timor-Leste*. Available at: <https://www.un-ilibrary.org/content/books/9789210559188c004> (Accessed: 11 February 2022).

Williams-van Klinken, C. and Williams, R. (2015) *Mapping the mother tongue in Timor-Leste: who spoke what where in 2010?* Available at:

[https://www.researchgate.net/publication/320946685 Mapping the mother tongue in Timor-Leste Who spoke what where in 2010](https://www.researchgate.net/publication/320946685_Mapping_the_mother_tongue_in_Timor-Leste_Who_spoke_what_where_in_2010) (Accessed: 26 February 2024).

World Economic Forum. (2019) *Global gender gap report 2020*. Available at:

<https://www.weforum.org/publications/gender-gap-2020-report-100-years-pay-equality/> (Accessed: 12 January 2025).

[Newspaper Articles]

BBC. (2000) 'Interfet leaves East Timor', *BBC News*, 26 February. Available at:

<http://news.bbc.co.uk/1/hi/world/asia-pacific/653277.stm> (Accessed: 26 February 2024).

BBC. (2016) 'Indonesia discusses massacres that killed 500,000', *BBC News*, 23 March. Available at:

<https://www.bbc.co.uk/news/world-asia-36076069> (Accessed: 23 March 2024).

Kennedy, D. (2012) 'Darwin, 1942: remembering Australia's "Pearl Harbor"', *BBC News*, 19 February.

Available at: <https://www.bbc.com/news/magazine-17073472> (Accessed: 23 August 2025).

Richburg, K.B. (1999) 'Indonesian soldiers rampage in E. Timor city', *The Washington Post*, 9

September, p. A1. Available at: [https://www.washingtonpost.com/wp-](https://www.washingtonpost.com/wp-srv/inatl/longterm/indonesia/stories/timor090999.htm)

[srv/inatl/longterm/indonesia/stories/timor090999.htm](https://www.washingtonpost.com/wp-srv/inatl/longterm/indonesia/stories/timor090999.htm) (Accessed: 26 February 2024).

[UN Resolutions]

United Nations Security Council (UNSC) Res 384 (22 December 1975) UN Doc S/RES/384.

United Nations Security Council (UNSC) Res 389 (22 April 1976) UN Doc S/RES/389.

United Nations General Assembly (UNGA) Res 36/50 (24 November 1981) UN Doc A/RES/36/50.

United Nations General Assembly (UNGA) Res 37/7 (28 October 1982) UN Doc A/RES/37/7.

United Nations Security Council (UNSC) Res 50 (29 May 1983) UN Doc S/RES/50.

United Nations General Assembly (UNGA) Res 38/58 (13 December 1983) UN Doc A/RES/38/58.

United Nations Security Council (UNSC) Res S/1999/976 (15 September 1999) UN Doc S/1999/976.

United Nations Security Council (UNSC) Res 1264 (15 September 1999) UN Doc S/RES/1264.

[Timorese Newspapers]

Suara Timor Lorosae, 2020-2022

The Dili Weekly, 2020-2022

The Independente, 2020-2022

The Jornal Nacional Diario, 2020-2022

The Timor Post, 2020-2022