

THE ACCESS TO

JUSTICE, LAND AND PROPERTY

FOR SURVIVORS OF GENDER-BASED VIOLENCE
— IN TIMOR-LESTE



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The opinions, analysis and reflections presented in this report are based on the information and data collected during the research.

The photographs presented in this report are for illustrative purposes only and do not necessarily correspond to victims of gender-based violence.

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We are also deeply grateful to the Secretariat of State for Equality (SEI) for supporting our concerns and discussions about gender-based violence survivors' access to justice, land, and property. Special thanks go to His Excellency the President of the Superior Council of the Judiciary, Dr. Deolindo dos Santos, who authorized our research and allowed our team to conduct interviews within the First Instance Courts. Respectfully, we also extend gratitude to the General Public Defender, Dr. Cândia Xavier, who permitted public defenders in various municipalities to grant interviews and contribute to this study. Our heartfelt appreciation also goes to every judge and public defender who participated in this research, contributing to the reflection and process of social change to ensure women's rights.

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Finally, we express our gratitude and congratulations to the Fokupers Advocacy and Awareness team, which led this field research from July to December 2024 and supported coordination, financial matters, and the necessary steps for publishing this report. We must also express our gratitude for all Fokupers's team, including the Division for Survivors' empowerment, the shelters team, the directors, coordinators, media staff and financial and logistics team.

To everyone, thank you sincerely from Fokupers.



ABOUT FOKUPERS

THE FORUM KOMUNIKASAUN FETO TIMOR-LESTE (FOKUPERS) is a non-governmental organization established in July 1997 with an initial mission to organize and promote reproductive health activities, which later became a principal activity tied to advocating for human and women's rights. These efforts began during a particularly challenging period under the Indonesian regime. Since then, Fokupers has continued its existence with the mission of protecting and empowering female victims and survivors of gender-based violence (GBV). Accordingly, Fokupers remains steadfast in its primary mission of supporting women and children affected by patriarchal practices.

Over the years, Fokupers has achieved significant progress and contributions to improve the conditions of Timorese women. Among its initiatives, Fokupers collaborated with various organizations to establish the *Rede Feto Timor-Leste* (Women's Network of Timor-Leste), serving as the Secretariat for the women's movement. Additionally, it founded two Women's Shelters (*Uma-Mahon*), one in Dili and another in Maliana, along with a Transit House in Suai. These facilities were created to enhance temporary shelters initially set up in 1998, ensuring the well-

being of victims and providing direct assistance to affected women.

In 2002, Fokupers began leading advocacy efforts for the enactment of the Law Against Domestic Violence (*Lei Kontra Violéncia Doméstika*, LKVD) alongside civil society partners. With the law's enactment on July 10, 2010, Fokupers took part in its dissemination to communities and relevant institutions. Following the promulgation of LKVD, Fokupers initiated the *Referral Network*, which became a government reference for implementing the law across all municipalities.

Fokupers continues to explore possibilities and strategies to ensure the LKVD's implementation by providing integrated assistance to victims in Women's Houses, including counseling, legal support, health services, and protective measures. These efforts aim to help survivors recover from trauma and rebuild their lives.

Currently, Fokupers has restructured its internal divisions into three key programs: Advocacy and Awareness, Survivors' Empowerment, and Legal Assistance. These programs include training, community awareness initiatives, and advocacy to strengthen women's rights at all levels and intersections. They also provide capacity-building to empower survivors to enhance their economic conditions and advocate for their rights, dignity, and sustainable livelihoods.

This research report aims to inspire governmental decision-making and encourage partners to support gender-based violence survivors in asserting their land and property rights, often violated during divorce, separation or property disputes. We hope this report serves as evidence and a tool for advocacy, benefiting Fokupers, other NGOs, international partners, and government members addressing justice, land, and women's rights.

With hopes for meaningful reading,

Domingas Afonso Amaral
(Executive Director, Fokupers)



FOREWORD

We are truly delighted and grateful to receive the grace and blessings from above, as well as the opportunity provided by development partners OXFAM Timor-Leste and MISERIOR, in collaboration with FOKUPERS, to conduct research on: “Access to Justice, Land, and Property for Survivors of Gender-Based Violence in Timor-Leste.”

To mark International Women's Day on March 8, which is celebrated worldwide, FOKUPERS – the Women's Communication Forum of Timor-Leste wishes to commemorate this historic moment in 2025 with a Colloquium and the Launch of the Research Report: “Access to Justice, Land, and Property Rights for Survivors of Gender-Based Violence in Timor-Leste.” The research addresses a crucial issue that survivors, partners, communities, and society as a whole need to understand in order to find just solutions for those affected.

FOKUPERS has received financial support from OXFAM Timor-Leste and MISERIOR to carry out this relevant research, as it deals with two fundamental issues that are also constitutional rights. The first reason for conducting this research is to explore how FOKUPERS engages with the issue of access to justice for survivors of gender-based violence. The second reason is to highlight why FOKUPERS supports survivors in defending their rights to land and property, especially in cases where families or spouses need to divorce, separate or divide assets. These two issues are recognized as constitutional rights for both men and women in Timor-Leste under Article 16 (Universality and Equality), which states that: all citizens, whether men or women, are equal before the law and have the same rights and obligations. Second, No individual shall be discriminated based on skin color, race, civil status, gender, origin, ethnicity, language, social position, economic situation, political or ideological beliefs, religion, education, or physical or mental conditions. Additionally, Article 17 ensures equality between men and women in social, political, economic, and cultural spheres.

When addressing the issue of land and property rights, Article 54 of the Constitution of the Democratic Republic of Timor-Leste (CRDTL) states that all citizens, whether men or women, have the right to private property and land ownership. Furthermore, they have the right to transfer or distribute their property either during their lifetime or upon death, in accordance with the law. This is the core objective of FOKUPERS' research, as it seeks to address these significant legal and social challenges.

We all know that gender-based violence is a global crisis, affecting more than 70% of women and girls worldwide. In Timor-Leste, FOKUPERS has supported a significant number of survivors each year, including 216 cases of gender-based violence (GBV) in the FOKUPERS' shelter. Timor-Leste has ratified international conventions, including CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women), and has taken on the responsibility as a state to submit regular reports to the CEDAW Committee and comply with other UN legal instruments. FOKUPERS itself has played a key role in advocating for and drafting the Law Against Domestic Violence (LADV). However, violence against women and girls persists at alarming levels, making this research even more critical.

In Timor-Leste, both patrilineal and matrilineal systems influence land and property rights, but inequality remains, as men often have the final word in land distribution and decision-making within families.

We hope that FOKUPERS, together with other organizations working in this field and supporting survivors of gender-based violence, can use this study to help resolve some of these critical issues.

We also want to express our deep gratitude to OXFAM Timor-Leste and MISERIOR for their financial support, which made this research possible. Our thanks also go to the dedicated research team, led by Consultant/Main Author Miguel Antonio dos Santos Filho, along with the interview team: Maria Monaliza Marçal, Abílio António Morais Belo, Lúcia Fátima da Silva, Silverio Araújo da Silva, Natália de Jesus Cesaltino, and Domingas Afonso Amaral, for their meticulous work in producing this comprehensive and relevant research report.

We extend our appreciation to all the community leaders, civil society members, and judicial authorities from the four municipalities — Covalima, Baucau, Dili, and Oe-Cusse — who contributed their insights to this research. Finally, we acknowledge the contributions of all individuals and organizations involved, as their work plays a crucial role in shaping solutions for gender justice and social equality in Timor-Leste.

We wish continued success to all researchers, partners, and especially community leaders from the participating municipalities, for their patience, cooperation, and commitment to this study.

Best regards and wishes of excellent work to all,

Maria Domingas Fernandes Alves – Micato



PREFACE

Granting women access to land and other productive resources empowers them to lead independent lives, gain autonomy, and meet their families' needs, ultimately lifting them out of poverty and hardship. This is crucial for achieving gender equality and realizing broader human rights. It also plays a vital role in advancing the 2030 Agenda for Sustainable Development and upholding international agreements, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Timor-Leste has made significant strides in promoting gender equality, preventing violence against women and girls, empowering women economically, and increasing their participation in leadership and decision-making. These efforts are reflected in laws, policies, programs, and budgets aimed at achieving these goals. Article 54 of the Constitution of the Democratic Republic of Timor-Leste (RDTL) ensures equal rights to land and private property for both women and men. Additionally, Law No. 13/2017 establishes a Special Regime for Defining Property Titles, reinforcing women's rights to land.

Despite progress, patriarchal attitudes prevalent in society continue to restrict women's access to land and property, including both movable and immovable assets. In the matrilineal system, women's access to land and property is also limited, as decisions regarding inheritance are often made by male family members and the traditional leaders. According to the research "Access to Justice, Land, and Property for Gender-Based Violence Survivors in Timor-Leste," published by Fokupers in February 2025, survivors of gender-based violence, particularly those from both patriarchal and matrilineal systems, and those in "de facto union" monogamous *barlaqueadu* marriages, face the greatest vulnerabilities when it comes to securing land and property rights. The findings of this research provide critical data and underscore the need for collective action to advocate for changes in laws, policies, and societal attitudes. It calls for enhanced capacity building within the judiciary, *suco* (village) leaders, and other relevant

parties, to better understand and uphold women's rights to land and other productive resources.

The Secretary of State for Equality (SEI) is the government institution responsible for coordinating and advocating the integration of a gender approach across line ministries. Its goal is to ensure that laws, policies, and programs promote gender equality and prevent gender-based violence. Through the gender commitments adopted by the state, including the CEDAW recommendations and the Maubisse Declaration, these principles will be embedded in the policies, laws, programs, and budgets of relevant ministries, particularly those focused on implementing them.

By pursuing these gender commitments, the government calls for collective action, urging all entities to collaborate in supporting women, overcoming barriers, and enabling them to fully enjoy their fundamental rights, free from violence, while contributing to peacebuilding efforts.

Elvina Sousa Carvalho

(Secretary of State for Equality)



ABBREVIATIONS AND ACRONYMS

ALFeLa	Legal Assistance for Women and Children (Asistencia Legal ba Feto no Labarik)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
CEPAD	Center for Peace and Development Studies (Centro de Estudos para a Paz e o Desenvolvimento)
FOKUPERS	Forum for Communication for East Timorese Women (Forum Komunikasaun Feto Timor-Leste)
INR	Ita Nia Rai (Our Land)
JA	Jurista Advokasia (Jurist Advocacy)
JU'S	Jurídico Sosial Timor-Leste
JSMP	Judicial System Monitoring Program
LGBTQI+	Lesbian, Gay, Bisexual, Transgender, Queer, Intersex, and others
LKVD	Law Against Domestic Violence (Lei Kontra Violénsia Doméstika)
KP	Penal Code (Kódigu Penal)
KC	Civil Code (Kódigu Civil)
ONU	United Nations (Organizasaun Nasoins Unidas)
OSC	Civil Society Organization (Organizasaun Sociedade Civil)
PAN VBG	National Action Plan Against Gender-Based Violence (Plano Asaun Nasional ba Violénsia Bazeia ba Género)
PNTL	National Police of Timor-Leste (Polícia Nacional Timor-Leste)
RBR	Rede Ba Rai (Land Network)
SNC	National Land Registration System (Sistema Nacional de Cadastramento)
UPV	Vulnerable Persons Unit (Unidade de Pessoas Vulneráveis)
VBJ	Gender-Based Violence (Violénsia Bazeia ba Género)
TL-DHS	Timor-Leste Demographic Health Survey





Photo: Fokupers

TABLE OF CONTENTS

Acknowledgments	iv
About Fokupers	v
Foreword	vi
Preface	viii
Abbreviations and Acronyms.....	x
Table of Contents	xi
1. Executive Summary and Highlights	1
2. Introduction	4
3. Research Methodology and ethical considerations	6
4. Anthropological Perspectives on Land in Timor-Leste	8
5. Descent and land tenure traditionally related to gender and marriage	11
6. Data Collection and Information on Land Ownership in Timor-Leste	13
6.1 Legal Framework, Property Rights and Equality in Timor-Leste	16
6.2 Legal Pluralism and Conflict Resolution	18
6.3 Gender-Based Violence, Justice, Land and Property Disputes in Timor-Leste	19
7. Findings and analyses: empirical Approaches on Accessing Justice, Land and Property	24
7.1 Perspectives on Land Access, Use and Ownership – Dialogues with Local Authorities	28
7.2 Disputes Over Assets and Properties – Dialogues with Survivors of Gender-Based Violence	32
7.3 Women’s Access to Justice, Land, and Property – Dialogues with Legal Actors	34
8. Final remarks and key findings	39
9. Recommendations	43
10. References	45



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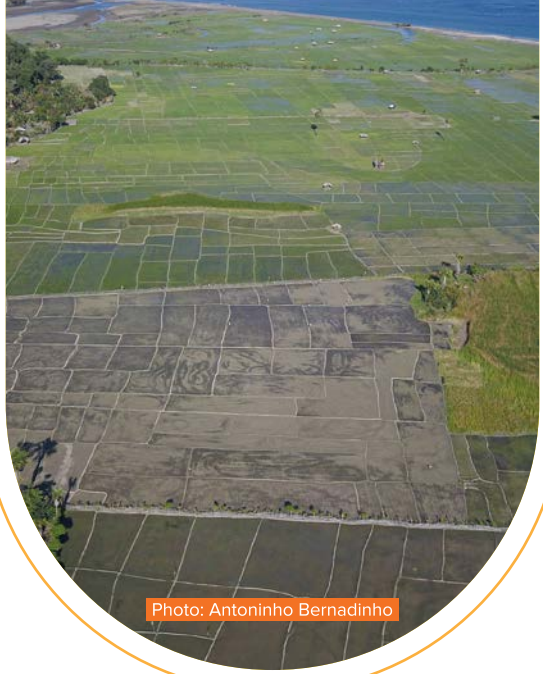


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1.

EXECUTIVE SUMMARY AND HIGHLIGHTS

For sustainable and equitable socioeconomical development, the state, civil society, and partners must strengthen efforts to ensure women's access to land and property on equal and fair terms. We emphasize that guaranteeing access to land and property with effective gender equality is an instrument for survivors' empowerment and to ensure economic stability and national development..

1

We highlight that amid progress and challenges for promoting women's rights, many issues arise, such as conflicts between established social norms and legal provisions, or between political guarantees and traditional practices that lack gender balance. Women, girls, persons with disabilities, and LGBTQI+ individuals remain particularly vulnerable. Since Timor-Leste's economy largely focuses on rural production, land is the most crucial resource for community and family survival, particularly for women, most commonly detached of formal labor positions.

Some cultural and traditional aspects (*adat, lisan, kultura*) remain significant obstacles to ensure some of women's rights. Land as a material resource is often exclusively inherited by men, depriving women of their rightful claims.

This report gathers evidence to advocate for policies reinforcing women's rights to land and property, including amendments to the Civil Code to recognize de facto unions and guarantee rights to property division. It also suggests awareness campaigns to promote women's rights to equal access to land and property and awareness initiatives for local leaders (village chiefs, community leaders, and traditional authorities like *lia na'in*).

Through various interviews, radical narratives emerged, prohibiting women from inheriting land on equal terms with their male siblings, which could be considered a violation of their constitutional rights to inheritance. In other cases, women are deprived of land and housing rights or see their belongings destroyed, situations that figure as economic violence under the Law Against Domestic Violence (Article 2, Clause "d"). To understand actions and



Photo: Oxfam iha Timor-Leste

behaviors such the ones forementioned is important to broader the recognition of the right of all women to access land and property.

Our research identified that women's land ownership rights are often limited by informal agreements and significant personal discretion. Even in matrilineal systems, access to land can be unequal, as family men and *lia na'in* decide which women will inherit and how much land they will receive. However, some interviewees indicated that, depending on negotiations or if women are the sole children, they might inherit family land and property. This personalization of relationships creates legal and economic uncertainty.

Women labeled as "problematic" or "troublesome" (*la di'ak*) may face the risk of losing property rights based on subjective criteria, overshadowing legal guarantees. Many women believe they have no property rights after separating from their husbands or partners, revealing a lack of awareness of their rights in a context of relative legal insecurity. The legal inequality extends to possible outcomes in

traditional justice systems, often diverging from state laws.

Our research also found greater acceptance of equal inheritance rights in matrilineal areas (e.g., Covalima and Manatuto) compared to patrilineal areas (e.g., Lautém and Oecusse). In municipalities like Baucau, Viqueque, and Manufahi, respondents showed more cautious or moderate views, acknowledging that social transformations could enable parents to leave property to daughters as to sons. We cannot prove this observation with quantitative data, but we can ask more questions: is this related to the awareness raising activities of organizations and institutions in these municipalities? Or do the two cultural parts (*kaben sai* and *kaben tama*) in a municipality make it easier to balance social perspectives? Would the perspective-balance mentioned be related to the availability of the courts, public defender's and/or prosecution office?

This insight reveals that "democracy" or "modernity" enables changes in property rights, challenging the justification of inequality as a cultural inevitability. Many local actors, including *lia na'in*, recognized women's potential as landowners if their parents permitted it. As we understand that, culture (*kultura*) is not necessarily responsible for inequality in land ownership, although it does establish gender power unbalance, we also understand that collective efforts are needed to reorient some collective perceptions towards the promotion of a more egalitarian and just society.

Our research also revealed a general claim that many people do not have knowledge about their civil rights or about how institutions such as the Public Defender's Office or the Courts works. Legal actors end up using part of the procedural rites to explain how the legal process works, which demonstrates that there is a dimension of legal pedagogy by the State so that people understand what they are going through and how the justice system is organized.

Our research also identified a serious gap in the Civil Code and Civil Procedural Code, which do not define *de facto* unions in Timor-Leste. Legal actors stated that, since there were no registered marriages, there was great difficulty in proving unions, proving the right to division of assets and promoting fair compensation to the parties, when applicable.

The actors interviewed also stated that in addition to the difficulty in managing cases, there were also complications related to limited human resources and the number of judges that were not sufficient for the volume of civil and criminal cases. Also, the separation between criminal and civil cases prevented compensation from being determined in the civil sphere for women victims of domestic violence. One



Photo: Antoninho Bernadinho

judge, however, mentioned that compensations could be instituted ex officio, that is, not provided for in the codes and subject to the judge's personal concerns with the parties.

Faced with so many obstacles to access to justice, the judges and defenders interviewed understood that the greatest challenge was to establish agreements to share assets between people who did not have any legally recognized marriage regime, referring once again to the gap in the Civil Code.

The observations contained here allow us to argue that access to justice, land and property for women, especially for victims of gender-based violence, is conditioned by legal gaps in the Civil Code, but also by the idiosyncrasies of the legal system and traditional justice, and is also restricted by social norms that challenge the institution of equal access to land and property. There are, therefore, many challenges to overcoming the models of personal and subjective relationships that perpetuate legal instability for men and women, but which end up affecting women the most, and especially those already affected by gender-based violence.



2. INTRODUCTION

Since its inception in 1997, Fokupers has been dedicated to assisting women in Timor-Leste who have experienced gender-based violence, including domestic and sexual violence, ensuring their rights are upheld. In recent years, Fokupers has identified a pattern: many women, after enduring domestic violence, find themselves in highly vulnerable situations. Some lack stable housing, some are denied land inheritance, or are abandoned by partners and family members.

4

In response, Fokupers has mobilized discussions regarding women survivors' access to justice, land, and property. In July 2024, Fokupers hosted a roundtable discussion on this topic, attended by key figures such as the Secretary of State for Equality, Ms. Elvina Sousa Carvalho; the National Secretary for Land and Property, Mr. Jaime Lopes; the General Public Defender, Dr. Cândia Xavier; and the representative from the NGO *Jurista Advokasia*, Dr. Adelia Meluk de Jesus Lobo. Alongside them, various governmental and non-governmental organizations participated, offering valuable contributions to the discussion on land and property rights for Timorese women.

Following this event, and with support from Oxfam Timor-Leste, Misereor, and other partners, Fokupers intensified efforts to understand the challenges Timorese women face in accessing justice and securing land, property, and assets. This led to a research initiative conducted by Fokupers' team from July to December 2024.

The objectives of this research are:

- understand the barriers that GBV survivors face in accessing land and property in equal conditions.
- understand the role of the legal structure in survivors' access to land and property and understand the challenges to this legal structure.

The main questions for this research are:

- How do cultural, legal and economic factors affect/contribute to the barriers women survivors of GBV face in accessing land and property?
- what is the role of land law and relevant policies in supporting women survivors' access to land and property?

This report is the culmination of that research. It documents and organizes data to reinforce advocacy efforts by Fokupers and civil society for women's rights to justice, land, and property in Timor-Leste. Recognizing the diverse experiences of women, the research focused on the realities of survivors of gender-based violence. Given the varying circumstances of educated women, wealthy elites, rural women, elderly women, veterans, girls, and urban women, an intersectional perspective was deemed necessary. This ensures decision-makers consider all individuals affected by gender inequality, prioritizing those demonstrably harmed by gender-based violence.

According to Fokupers, many women who are abandoned or suffer other forms of violence also suffer from the loss or deprivation of movable and immovable property and assets. We consider property to be the right to possess, to have for oneself, not only for one's own use, but to be able to dispose of an asset with economic value for use and exchange (Marx, 2023). Owning property is a right of all citizens, recognized by the Constitution of the Democratic Republic of Timor-Leste (RDTL) in its article 54. Owning property allows individuals to enjoy other rights, for example, owning a motorcycle or a car, which allows people to drive/ride to health or education services, but also to places of work and leisure. Owning a residence guarantees the right to decent housing, just as owning land grants the right to agricultural production for subsistence or to generate income. In a context of a liberal economy such as that of Timor-Leste, access to property allows access to various social and human rights. When we talk about property, therefore, we are talking about different kinds of immovables (land, plots of land, plantations, gardens, houses, buildings, etc.), but also about movable property (cars, motorcycles, household furniture, tools or work instruments, etc.).

Over the years of providing assistance and care to victims and survivors, Fokupers has identified that many women, after being abandoned or after suffering physical aggression (or other forms of gender-based violence), were deprived of these assets, because their partners or ex-partners sold or destroyed them. In other cases, situations of vulnerability for many women arose because the women did not receive any inheritance from their family and, subsequently, lived in a situation of dependence on other people, usually relatives or acquaintances. Based on this experience, Fokupers has mobilized discussions to reinforce and guarantee women's rights to justice in cases of gender-based violence, to land ownership and to ownership of movable and immovable property.



Photo: Fokupers

3.

RESEARCH METHODOLOGY AND ETHICAL CONSIDERATIONS



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6

From July to December 2024, Fokupers conducted this study using a mixed-methods approach. Quantitative data, sourced from the Demographic and Health Survey (DHS) and the National Directorate of Land and Property, were analyzed by the research team. However, the primary focus was qualitative, emphasizing dialogues and observations.

This research covered 9 municipalities: Lautém, Baucau, Viqueque, Manatuto, Díli, Manufahi, Bobonaro, Covalima and Oecusse. Our first criteria were to select municipalities with District Courts of First Instance and Public Defender's Offices (Díli, Baucau, Covalima and Oecusse); then, we prioritized municipalities that had both matrilineal/*kaben-tama* and patrilineal/*kaben-sai* systems (Manufahi, Viqueque, Manatuto, Covalima and Bobonaro); To complete, we also selected two municipalities that only have patrilineal descent systems and that people identify as having strong culture and traditions (Lautém and Oecusse).

Interviews were conducted with 45 individuals, including:

- 12 village or hamlet chiefs (*chefe de suco* or *chefe de aldeia*),
- 9 traditional leaders (*lia na'in*),
- 3 NGO focal points in municipalities outside Dili,
- 6 community or youth leaders,
- 5 NGO or shelter coordinators for survivors of gender-based violence, and
- 3 judges and 4 public defenders.

Two focus groups were held, each comprising 12 women survivors of gender-based violence, totaling 24 participants. These sessions were conducted in Dili and Maliana, with women from various municipalities, born in regions with patrilineal and matrilineal traditions.

A desk review of 13 documents and statistical data related to gender, justice, and land rights in Timor-Leste was conducted. This review included materials from governmental and non-governmental organizations.

Bibliographic research on gender relations, violence, power, and access to justice and land was also consulted. Anthropological, cultural studies, social sciences, and legal literature provided context and deepened the understanding of cultural elements raised during interviews and focus groups.

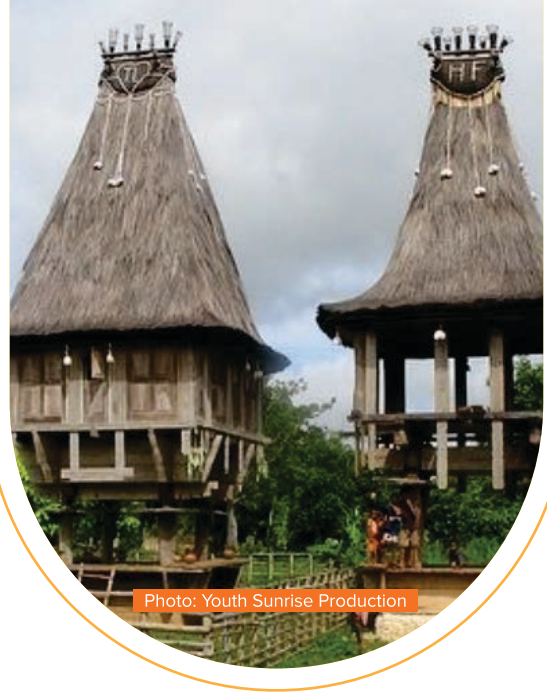
This research, like any other, has its limits and potential. Among the limitations, the time and other available resources limited us carrying out a qualitative in-depth study to understand the issues that interested us. It was not possible to establish quantitative data collection instruments, as we would not have some resources for their analysis. However, even without the indication of statistical trends or quantitative data on access to justice, land and property, we trust that the data and analyses contained herein are reliable and help to understand the reality and challenges of many women victims of gender-based violence in accessing justice and ownership of land and movable and immovable property. The evidence presented here is ethnographic in nature and can contribute to raising awareness among key actors and to advocacy with decision-makers at the state level.

Based on the evidence and analyses presented, this report presents some recommendations based on suggestions from the people participating in the research and the discussions held at the validation meeting for this report, held on December 12, 2024, organized by Fokupers.

All the people who participated in this research, as well as their statements reproduced below, are anonymized. All the names of the survivors presented are fictitious. To guarantee the anonymity of the judges and defenders interviewed, the use of acronyms was adopted to distinguish their statements. As mentioned above, 3 judges and 4 public defenders were interviewed in different district courts and in different district public defenders' offices, to whom no reference or mention is made. To guarantee distinction and anonymity, throughout the report these people are referred to as J1, J2 and J3 for the judges and D1, D2, D3 and D4 for the public defenders.

To preserve the anonymity of the suco chiefs, chiefs and village chiefs, lia na'in, community or youth leaders, coordinators and focal points of NGOs, only their titles and the municipalities where they work were adopted. The age of the interviewees is reproduced throughout the report in order to demonstrate the difference in age range and the possible correlations between longevity and the experiences or perspectives of the interviewees.

This research followed ethical criteria of granting oral authorization from all participants, who were previously informed that their contributions would be included in this final report and that their identities would be preserved. For Fokupers it is fundamental that we keep a sensible approach for the survivors of gender-based violence that shared their stories with us, guaranteeing that their identities would be preserved.



4. ANTHROPOLOGICAL PERSPECTIVES ON LAND IN TIMOR-LESTE

The territory of the Democratic Republic of Timor-Leste, of approximately 15,007 km², is located in Southeast Asia, on the island of Timor, and shares land borders with Indonesia. Timor-Leste has a population of approximately 1,340,434 inhabitants, according to data from the census carried out in 2022¹. According to that survey, the majority of the country's population is concentrated in rural areas, with approximately 36.8% of the inhabitants living in cities. In absolute numbers, this means that rural areas are home to a population of approximately 847,682 people, while urban areas are home to approximately 492,752 people. These data refer to the scenario with the highest population growth among Southeast Asian countries: the current number is a birth rate of 1.8 per year, which still represents a drop in relation to the numbers from previous years in the country (2.4 in 2010 and 5.3 in 2004) (Timor-Leste, 2022).

As a country with the majority of the population living in rural areas, Timor-Leste demonstrates a reality in which land is the main means of subsistence and production of/for material and symbolic life. Especially in rural areas of East Timor, plantations and livestock are largely intended for family consumption, which marks the characteristic of a subsistence economy (Narciso and Henriques, 2010). At the same time, it is from the land that significant elements for cultural, symbolic and spiritual life come from, as indicated by several researchers who have dedicated decades of their time to understanding the East Timorese context.

In East Timor, land is, par excellence, the material on which the social imaginary about material and spiritual subsistence is based (Traube, 1986; Narciso and Henriques, 2010; Ospina, 2019). It is from the land that the population, mostly concentrated in rural areas, derives its sustenance. It is on the land and also from

1. Available at https://timor-leste.unfpa.org/sites/default/files/pub-pdf/censuspreliminaryresults2022_4.pdf, last access at September 2024.

it that the practices represented as being part of the culture (*kultura*), indispensable for the reproduction of the populations, are carried out. Based on the matrilineal and patrilineal descent regimes in the country, land inheritance is defined in two possibilities, being passed to and by women (matrilineal systems, such as that described by David Hicks (2004)) and to and by men (patrilineal systems, such as that described by Elizabeth Traube (1986)). Even though they have adapted to changes and migrations, many Timorese communities that value culture (*kultura, adat, lisan*) maintain a sacred and ancestral relationship with the land, as they understand it as the place of origin of life, communities and fertility (McWilliam and Traube, 2011). Reuter (2006), for example, states that it is through the land that people establish a connection with the spiritual dimension of life, which gives it a unique importance in the social and collective experience.

As these studies have indicated, land is understood in Timor-Leste as a place of origin, of connection with ancestors and of valuing the history, identity and belonging of a community (Traube, 1986; Reuter, 2006, McWilliam and Traube, 2011). In this way, a strong perception, cosmology or philosophy is produced that the earth is something alive and/or that it has guardian spirits or owner spirits, called *rai nain*. Different communities in different places point to the existence of these spirits as guardians or owners of sacred places or mountains, as well as being the lords of the lands where people are born and where the dead are buried, and also the living spirits of the forests (*ai laran*) where, in fact, a space of resistance to the Indonesian occupation was created (McWilliam and Traube, 2011: 11). Ritual life is also very much marked by the intermediation with the spirits of the land, to whom sacrifices are offered, from whom permission is requested to perform rituals, to build buildings such as houses and public infrastructure, and with whom one communicates, just as one does with ancestors through the *hamulak* (Traube, 1986; Hicks, 2004; Gomes, 2023). In view of these local perspectives, land needs to be recognized as something with profound value, not just economic value of use or exchange (Marx, 2023), but rather as an element with spiritual and sacred value. Thus, it is necessary to consider that the economic character of land, as a valuable resource and even as a commodity that can be sold, bought or even rented, must be understood alongside a cosmology or an ecology of life (Silva, Palmer and Cunha, 2023), something broader, connected to the economic as well as sociocultural, spiritual and political dimensions. Understanding land as part of the economy and economic ecology of life (Ibid.) also means understanding how people perceive or imagine the relationship between human beings and the environment in which they live (Bovensiepen, 2011). For many people, the land is endowed not only with spirits and life, but also with agency, which allows it and its spirits to cause conflict, problems, illness and even death (Bovensiepen, 2011), especially in the case of sacred lands, called *rai lulik*. *Rai lulik* or *rai lisan* is what is referred to as the basis for family bonding, it is the basis of cultural rituals and ceremonies, it is the basis of *lisan* (lineages and groups of blood and spiritual descent), always connected to common ancestors (*beiala*), which has been indicated as the root of many socialities in East Timor (Cryan, 2019).

Indicating that a place is *rai lulik* reveals this expression of connection between the land and the sacred, referring to a spatiality that is generally protected by the aforementioned *rai na'in*, landowners, guardians or lords who protect a place. The category *lulik* in this specific context can represent something sacred, valuable, that must be preserved, but it also implies actions or behaviors of subjects that are prohibited, that must be avoided and that are potentially dangerous (Bovensiepen, 2011). Saying, for example, that something is *lulik* can refer to a prohibition (*bandu*), but it can also be something that, if obeyed and correctly observed, brings benefits to human beings, such as the protection that one receives by correctly participating in a ritual (*lia*), by eating sacrificial meat (*nan lulik*) in a ritual, etc. The notion of *lulik* is, therefore, something very relevant to understanding how social life of land occurs in contemporary Timor-Leste. Some research has indicated that *lulik* is the central value that guides people's rationality, ways of thinking and acting, indicating what would be correct, what would be appropriate, what would be prohibited, dangerous or what should be avoided (McWilliam, Palmer and Shepherd, 2014). As a philosophy



Photo: Youth Sunrise Production

or system of thought, the land descent regime is often indicated as something *lulik*, as a tradition left by ancestors (*beiala*) and that cannot be broken. James Fox (2011: 255) points out that this type of tradition or value plays a fundamental role in the construction of people's consciousness, but also in local forms of governing life. In other words, land inheritance regimes play a fundamental role in regulating life in the terms in which it occurs, being deeply valued by many people, which must be taken into account to understand the social life of the land from a socio-anthropological perspective. One expression of this delicate correlation between land and the sacred (*lulik*) is that rituals, many of them associated with land (births, the delivery of newborns' umbilical cords, *ritual* bloodletting, funerals, harvest rituals such as *saubatar*) are seen by people as responsible for maintaining the fertility of the land and, consequently, of the lives and people who depend on the land (Traube, 1986; McWilliam and Traube, 2011). For these reasons, systems of land use, tenure and inheritance are both complex and delicate in the context of post-conflict and post-colonial Timor-Leste.

Land use, possession and descent/inheritance are things that do not confuse. The use of land, often communal, especially due to the ancestral ownership of sacred houses (a *lisan*), expands to ritual use and spiritual connection with certain places by diverse groups, who often address them as *rai lulik* (Yoder, 2011). Demands for land ownership, on the other hand, are usually made based on the establishment of plantations, animal husbandry and the work that human beings invest in a certain location (*ibid.*). People may demand ownership of land, for example, because over generations they and their ancestors established vegetable gardens and derived their livelihood from them. However, land use is also permitted under terms in which a person or group has a portion of land without necessarily being able to claim ownership rights over it, acting under regimes of joint use or land use concessions (Yoder, 2011). Finally, land ownership is usually only claimed when criteria are defined to delimit a property, for example, the construction of a house, fencing of the land, the installation of irrigation, the cultivation of fruit trees etc. (Yoder, 2011: 208). This shows that people can live and use the land in different ways without necessarily being able to claim rights over certain territories.

These questions are certainly preliminary and provide a brief introduction to the topic of the semantics of land and the different possibilities for its use, possession and descent. The questions regarding land regulation, which are still open, will be mentioned but not discussed in depth, given the complexity of the issue after different titling regimes and migrations established in the territory (more forced or more voluntary) at different historical moments, as indicated in works by McWilliam and Traube (2011) and Carlos Oviedo Ospina (2019). For this research, it is more relevant to understand gender dynamics for possession of and access to land and other movable and immovable property and assets.



Photo: Nug Katjasungkana | FORTILOS

5. DESCENT AND LAND TENURE TRADITIONALLY RELATED TO GENDER AND MARRIAGE



Photo: Youth Sunrise Production

In East Timor, there are two descent systems, which involves land ownership and people's belonging to lisan, things that are closely related. These are the matrilineal and patrilineal systems, which vary according to the municipality and so that within some municipalities both systems coexist, generally varying from suco to suco. There is no consensus, but matrilineal systems are often referred to as *kaben-tama* (the man married to a woman being the one who joins her family – her *umane* – on her land) and patrilineal systems as *kaben-sai* (in which women join the land of their husband's family). In places where the *kaben-tama* system

exists, men do not – by tradition – have the right to possess land, as it is passed on as an inheritance from the mother to the daughters, while the opposite occurs in the *kaben-sai* system, in which land is inherited from the fathers to the sons. The literature indicates that, in general, this division establishes that groups speaking the Bunaq, Tetum-Terik and Galoli languages are those that adopt the matrilineal descent system, inhabiting the municipalities of Bobonaro, Covalima, Manufahi, Viqueque and Manatuto (Narciso et. al., 2012; Fokupers, 2012). In the other municipalities, the patrilineal descent system is established primarily (Lautém, Baucau, Aileu, Ainaro, Dili, Liquiçá, Ermera and Oe-Cusse²).

Traditionally, these arrangements define that land inheritance is passed on by women, from maternal descent (matrilineal lineages, Kaben-Tama systems, Bunaq, Tetum-Terik and Galoli groups), or by men (patrilineal lineages, Kaben-Sai systems, groups speaking other languages) in a mutually exclusive manner. This means that those who hold possession of the land are either men or women, passing it on through traditionally defined inheritance to their descendants (male children in patrilineal systems or female children in matrilineal systems).

These arrangements of descent and land inheritance are usually very clear to people when they begin to negotiate their unions between families. In general, there is a social expectation – which is confirmed in a significant part of the marital unions, but which is not fulfilled in all of them – that marriages take place with the consent of the family groups and through which some type of matrimonial benefit is established, even if symbolic, generally referred to as *barlake* or *hafolin* (Silva, 2010; 2017). In negotiations about *barlake*, issues such as the offer of goods to be exchanged between families are clarified, but also about the descendants of the children, the place of residence of the spouses and the ownership of goods and land inheritance.

The *barlake* refers to a set of goods offered by the man's family to the woman's family in the universe of matrimonial exchanges (Silva, 2010: 210), which has as its principle to symbolically consolidate the commitment and the relationship of alliance between families, through the goods exchanged in recognition of the value or wealth of the bride³. The meaning of the relationships established between groups after marriage is of great relevance, as it dictates the debts and obligations of one group in relation to the other in a two-way path.

This type of relationship is potentially a relationship between Houses, since marriages are established in exogamous way. As indicated by Barnes (2011) and Nogueira da Silva (2019), people in Timor-Leste are potentially members of a sacred House (*uma lisan*), so that when marital arrangements are established, this is not done between individuals driven simply by their passions or autonomous desires, but rather with the consent of the moral entities that bring them together, that is, their Houses and families. The relevance of highlighting this aspect is due to its role in reproducing relational criteria for organizing marriages and the agency of groups and families, with regard to the continuity of life flows, reproduction, the descent of assets and inheritance, but also the couples' residence regimes. This is a complex issue permeated by many details. But the most important thing for this research is to highlight that, within patrilineal and matrilineal systems, land is passed as an inheritance through the paternal or maternal line of descent and that, to establish these agreements between families, unions are established not only between fiancés, but between families, commonly through *barlake*.

It is important to emphasize that according to the traditional perspective there is no equal right to land inheritance between men and women, because only one party inherits land and family property according to tradition. This is a challenge to the value of gender equality, especially to the aspect of GBV survivors as the most vulnerable people.

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2. Some people interviewed in Oecusse stated that in the suco Cunha and in the suco Lalisuc the matrilineal descent system (*kaben-tama*) was also established in some families, but this was limited to a small number of family groups (*lisan*). Although the people interviewed stated that it was a matrilineal system in those places, the controversies suggest that it was a patrilineal system with uxori-local residence, that is, men get married and go to reside on their wives' family lands (in Cunha and Lalisuc), but the descent of the land would still occur through the paternal lineage, indicating that the male children of a couple hold ownership of the land that is their father's right. This hypothesis is based on the fact that some people interviewed said that there was the *kaben-tama* system (the man moves to the woman's family land), but that women would not have the right to title of the land. In other words, men would move to live on their wives' land of residence, but their male children would have the right to inherit their father's land of origin.
 3. *Bride-price* or *bride-wealth* as referred in the anthropological literature about kinship and marriage prestation, or as *folin/hafolin* (value, to give value) in Tetum.



Photo: Oxfam iha Timor-Leste

6. DATA COLLECTION AND INFORMATION ON LAND OWNERSHIP IN TIMOR-LESTE

There are many challenges regarding the institutionalization of land, property and real estate ownership records in Timor-Leste (Ospina, 2019), an issue that is not new (Ospina, 2019). Since 2011, when the Development Plan for the Justice Sector of Timor-Leste (2011-2030) was published, the land issue was indicated as one of the priorities for the Ministry of Justice and the Judiciary System. Among the measures identified as most necessary were: the concern to complete and approve legislation regarding the regularization of land ownership in Timor-Leste; the need to conduct a systematic register survey of land parcels; the need to create an autonomous state-body with sufficient resources and administrative and financial autonomy, which would guarantee effective management of the registers and the State's assets, as well as the process of regularization and land disputes; and to create a single database that would incorporate the information necessary for the purposes of registering, regularizing and recording property and property taxation⁴.

To a certain extent, all of the expectations mentioned above have been met. The Land Law (Law No. 13/2017) was enacted in 2017, which provides provisions on land regulation and ownership, as well as the National Land Registration System (SNC) (between 2014 and 2019) and the National Land and Property Directorate and the Land and Property Commission, which conducted the SNC registration process, were established within the Ministry of Justice. However, the database for consultation on the land and property registry is not available.

The lack of public access to the data registered in the SNC is the first challenge in this regard, as it makes it impossible to know precisely what is public land (of the State), what is *rai lulik*, what is communal land or protection zones, what is private

4. Available at https://mj.gov.tl/files/JSSP_PORTUGUESE.pdf. Last access at November 2024.

land and to whom it belongs, etc. Despite conflicts and disputes over land, Nixon (2009) indicates that only 3% of rural areas have been used for purposes other than ritual uses (*rai lisan*).

Analyzing the results of the National Land Registration System (SNC) and monitoring the implementation of the procedure that took place between 2014 and 2019, the Rede Ba Rai (2019) published, in its report, some concerns regarding the gaps and flaws of the Registration System. The NGO identified that the way in which the registration was carried out could lead to some conflicts and disputes, in addition to exacerbating inequalities.

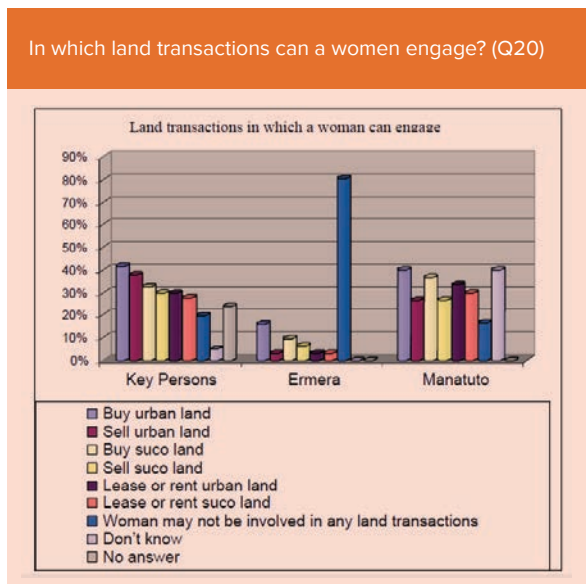
One of the limitations of the SNC is that it was initiated before the publication of the Land Law (Law No. 13/2017), which implies that the Registration took place without being guided by the law and by some of its criteria established therein, for example, the possibility of regulating communal lands and *rai lulik*. According to the SNC, the declared lands should have an owner or a couple who claimed the right of possession over the land, asking the question about who would be the “head of the family” to indicate who would be the owner of the land. As it is usual for men to declare themselves the “head of the family”, the lands ended up being indicated as the exclusive property of men in most cases (Rede Ba Rai, 2019: 6).

Another limitation of the SCN is that the registration was not carried out in a manner consistent with the concept of *rai lisan* or *rai lulik*, nor with the concept of community property or communal protection area, because it did not recognize the possibility of registering communal lands, but rather only those owned by individuals or couples (joint property) (Ibid.). Anything that would not fit into this category may have been registered as “public lands”, therefore belonging to the State (Rede Ba Rai, 2019). It is important to emphasize that this is an estimate, since the SNC data are not yet publicly accessible to know the scope of this issue.

Another limitation of the way the Land Cadaster was carried out has to do with land ownership between men and women. According to the RBR survey, of the 10,652 registration requests made in nine municipalities, 64% were made exclusively by men who claimed to be the sole owners of the territories, in contrast to requests made exclusively by women, which amounted to only 22% of the total (Rede Ba Rai, 2019). One of the limitations of the available data has to do with access to information regarding requests for joint ownership of land, which is estimated to be less than 2% (Ibid.).

According to the Rede Ba Rai's assessment, the Registration process has great potential to weaken women's rights to be formal owners and titleholders of land and, therefore, to exercise rights over the land. Since men are more often those registered as landowners, in the future, they will be the ones who will be able to dispose of this asset for sale, for example, which may be done without the consent of their partner (Rede Ba Rai, 2019: 93). This is a scenario that cannot be ignored, since the imbalance of power is a striking feature of gender relations in the East Timorese context (Silva, 2017). In this regard, a survey by Urresta and Nixon (2004: 39) indicated that in some localities, many people considered that women should not have voice in matters concerning land use, including in possible sales. When asked whether women should be involved in decisions about transactions involving land (renting, selling, donating, etc.), around 80% of respondents in the municipality of Ermera (of patrilineal descent) said that women should

not be involved in this type of decision, while in the municipality of Manatuto (with both matrilineal and patrilineal descent), the responses regarding women's involvement in such issues were much more balanced. The graph reproduced from the authors' survey reveals the statistical trends in the responses.



Supporting this trend that land ownership and decision-making such as land sales tend to be unilateral, in our research, during an interview with a community leader and focal point of an NGO in the municipality of Manufahi, one respondent stated that land was very important, but since only men had full rights over the land, only they could decide whether to sell it or not. In his own words, he told us:

“The importance of land lies in its use for farming, for rice fields, and for sell. But to sell land is only for the men, it is the men who decide because they hold all the rights.” (Community leader, Manufahi, 42 years old).

Thoughts of this type, associated with the results of the SNC – which may have led people to register land mainly in the name of men and not as joint property (Rede Ba Rai, 2019) –, may produce conflicts over land ownership in the future, especially in cases where there is no clarity about the regimes for sharing or separating assets established in marital unions (for example in traditional marriages or de facto unions).

According to data from the Land and Property Commission, as of June 2024 there were 303 cases of disputes over land and property in Timor-Leste, 236 of which were in Dili alone and the rest divided between all other municipalities⁵. Between May 2022 and April 2023, 167 new cases were registered, presented directly to the Land and Property Commission for consideration by the Arbitration Panel. What the Commission disclosed is that of the 303 cases, 73 disputes were private cases (between common parties or between citizens, for example) and 83 cases were disputes between citizens and the State. Of these cases, 86 had already been resolved, and 12 more were in the process of being concluded by the Commission's Arbitration Panel in 2024. All data is available on the Land and Property Commission's website⁶. What is not clear, however, is how many of these disputes are between spouses or between siblings, in which cases gender can be an important aspect of disputes (as we explore later in this report).

It is important to highlight that the land registration program carried out prior to the SNC (2014-2019), and which was called the Ita Nia Rai - INR (Our Land) program, presented a very large disparity between land demands made exclusively by men, exclusively by women, and joint demands between men and women. The INR data recorded 14,411 land demands, of which 13% were made by couples, while of the 10,652 demands recorded by the SNC, only 1.6% were registered by couples (Rede Ba Rai, 2019: 98). Again, the guiding question about “who was the head of the family” to register land ownership may have influenced the responses about possession, but the most relevant thing is to consider the implications of this for the future and for women's right to dispose of land ownership.

A research report prepared by the Center for Peace and Development Studies (CEPAD, 2014)⁷ indicated that the possibility of some women registering joint land with their husbands depended on their ability to negotiate and create bonds and relationships with their own or their husbands' family members. This allows us to think about a relational regime, which depends on the affinities between women and the groups to which they are linked, more than on the validity of a legal regime of legal guarantees. This is relatively worrying, since some women, if they do not develop good relationships and affinity with their groups or with their husbands' groups, may find themselves deprived of their rights. This characteristic indicates the prevalence of a relevant degree of personality in relationships, very characteristic of a society strongly based on bonds of solidarity and mutual dependence (Silva and Simião, 2016; Santos Filho, 2020), which can surpass the legal determinations of legal isonomy, that is, legal equality for all citizens, including in access to rights.

5. Available at <https://mj.gov.tl/files/ctp/KAZU%20REGISTO.pdf>. Last access November 2024.

6. Available at <https://mj.gov.tl/files/ctp/RELATORIU%20FINAL.pdf>. Last access November 2024.

7. Available at https://asiapacific.unwomen.org/sites/default/files/Field%20Office%20ESEAAsia/Docs/Publications/2015/01/CEPAD%20A2J%20research%20report_English_to%20print.pdf. Accessed November 2024.

6.1 LEGAL FRAMEWORK, PROPERTY RIGHTS AND EQUALITY IN TIMOR-LESTE

The Republic of Timor-Leste (RDTL), as a democratic state, has enacted a significant legal and institutional framework that guarantees equal rights and conditions for a dignified life to all its citizens. According to the RDTL Constitution, equal rights and duties between men and women are guaranteed in articles 16 and 17. The Constitution also establishes in article 54 that all persons have the right to private property. In addition to these guarantees, Law No. 13/2017 defines the Special Regime for Defining Ownership of land and property, which seeks to regularize the distribution and ownership of real estate, with the aim of promoting national social and economic development with peace and conflict reduction. Article 2, paragraph “i” of the aforementioned Law defines women and other persons as members of vulnerable groups, which means that:



Photo: Fokupers

“A “vulnerable group” is a group of people who, because of issues related to their ethnicity, religion, provenance, social condition, gender, sexual orientation, age, physical or mental incapacity, are in an easier position to be violated in their rights as citizens” (Timor-Leste, 2017)⁸

Law 13/2017 also presents a specific concern with equal rights between men and women in its article 4, as can be seen below:

“The right to ownership of immovable property shall be guaranteed on equal terms to men and women, and any form of discrimination in the ownership, access, management, administration, enjoyment, transfer or disposition of immovable property shall be prohibited” (Timor-Leste, 2017).

Along with institutional efforts to guarantee women’s rights and equality among citizens, the East Timorese State has also enacted and signed other mechanisms, such as the Law Against Domestic Violence (Law No. 7/2010); became a signatory member of the United Nations CEDAW; and adopted United Nations Resolution 1325 (which deals with women’s rights in the promotion of peace and national security), to name a few examples. Even so, the effort to eradicate violence and gender inequality is an ongoing concern for political agents of the State and civil society. The issue of women’s access to justice, land and property continues to challenge many of these efforts, although there are definitions already present in the Civil Code of the RDTL, for example.

The Civil Code of the RDTL⁹, approved by Law 10/2011, reinforces the constitutional provision for equal rights and duties, establishing guidelines and standards for the recognition of property, marriage regimes, property ownership regimes individually and jointly, and the types of inheritance, donation and possession that make up the way in which people can manage their movable and immovable property, and how they should divide it in cases of divorce and separation.

8. The translation has been made freely by the author since there is no translation to English language of the document referred.

9. The writing of the Civil Code of Timor-Leste is – in many of its parts – the same of the Civil Code of Portugal (from 1966).



Photo: Antoninho Bernadinho

According to the Civil Code in its article 1475, three types of marriages are recognized: Catholic marriage, civil marriage and monogamous barlaqued marriage (formed by means of a *barlake*). In turn, articles 1559 and 1560 define the equality of rights and duties between spouses, who are jointly responsible for the conduct of family life and guided by the interests of the family property. The entire Chapter IX (Effects of marriage on the persons and assets of the spouses), which covers articles 1559 to 1675, deals with aspects related to marriage and the rights and duties of the parties.

In terms of possession of property upon marriage, the Civil Code recognizes the general community property regime, which encompasses the assets owned by the parties prior to their union, as well as future assets (acquired after the union); the regime of community of acquired property, in which what was acquired from the union of the couple is considered common possession and any assets acquired previously are excluded; and the regime of separation of assets, in which the assets are indicated as individual possession of each of the parties, with no community of possession.

As for divorce, the Civil Code establishes between articles 1664 and 1675 that divorce by mutual consent, in which the parties agree to the dissolution of the union, and contentious divorce, in which the court and the judge are called to seal the dissolution of a marriage, are recognized. Just as with the separation of persons, the separation of assets can also occur in a contentious manner or by mutual agreement.

In view of the available legal provisions, there is no regulation, guideline or even provision in the civil code for what is called de facto unions by East Timorese citizens. De facto unions are those in which a couple often lives together under conditions analogous to marriage, without there being, however, a formal contractual relationship that is a marriage, one of the three recognized under East Timorese law. For this reason, many of the unions that occur in East Timor exist without any type of formal or legal coverage, although they are very frequent, without the consent of the Catholic Church, without civil registration by the State, or without the agreement and community proof of the *barlake*. This scenario ends up relegating many people to a legal limbo, that is, a context in which there seems to be few ways to seek their rights, especially for women, who are generally more vulnerable in the context of marital unions.

6.2 LEGAL PLURALISM AND CONFLICT RESOLUTION

Although the East Timorese State has its own legal framework, some of the people's concrete experiences differ significantly from the legal provisions, requiring the attention of decision-makers and organized civil society. The country is marked by a context of legal pluralism, which means that different legal norms or regimes of rights, norms and social rules apply, originating from different moral sources (Hohe and Nixon, 2003; Geertz, 1997).

The history of East Timor, from Portuguese colonization (1514-1975), through the Indonesian occupation (1975-1999) and the period of the United Nations Transitional Administration (UNTAET) (1999-2002), is characterized by the coexistence of multiple moral, ethical and rights regimes, causing, for example, norms of legal (or positive) law to coexist with norms of customary or consuetudinary law (Ibid.).

The Portuguese colonial structures that were established in the territory were not initially concerned with interfering in local cosmologies and legal systems, as Hohe and Nixon shows (2003: 26). The scenario in which the majority of the population demonstrates greater adherence to local forms of conflict management has continued even after the country's independence in 2002, which is revealed in many narratives that people tend to trust traditional justice or *adat* more than in judicial institutions. The context of legal pluralism concerns precisely this coexistence between state justice (positive law) and customary law. In the state justice system, for example, there is great relevance in the way it focuses on individuals who form the parties in conflict, in an attempt to find those responsible and hold them accountable, while at the same time seeking to "repair" only the other party. This basis differs from the most varied local dispute resolution complexes in the country, which consider the subjects in conflict as members of larger groups, which (the subjects) must resume good terms in their relationships as a way of guaranteeing the perpetuation of relations between the groups (Simião, 2006, 2007).

Customary law is very concerned with the maintenance of family relationships and the interests of groups (*uma lisan* or *lisan*) and bases conflict mediation on the oral elucidation of conflicts and on exchanges between family groups, which are usually connected by relationships such as *barlake* (Ibid.). This characteristic needs to be taken into account, because in many cases such as domestic violence, divorce and property disputes, the parties in conflict tend to seek traditional justice to perform *nahe biti bo'ot* or *tesí lia*, local ceremonies for managing disputes. Although the law determines that criminal cases, such as domestic violence, are administered exclusively by the judicial spheres, it is known that cases of this type are still brought to the attention of local authorities and local leaders who refer the cases for scrutiny by local conflict management complexes before filing complaints with the police or formal representations with the Public Prosecutor's Office. This characteristic must be taken into account for an adequate understanding of the dynamics in the search for justice and the results that this brings to the parties in conflict, especially to women.

The context of legal pluralism is what makes the norms that defines legal equality (including in access to land and property) coexists with the traditional norms of land inheritance by matrilineal and patrilineal systems, with all their consequences and characteristics in terms of inequalities and hierarchies. This is another conjunctural element that needs to be considered, as they appear as elements that make up the various conflicts and disputes over land, property and the right to real estate and property in cases of disputes involving women who are victims of gender-based violence, as we will see.

Following the feminist perspective, we can observe that although there are many legal guarantees, with the definition of equal rights between women and men to own land according to the Constitution of the RDTL and Law 13/2017, there are still challenges, because traditional norms are very strong and of higher value than the law in the minds of many people. We know that legal norms determine equality of access and ownership of movable and immovable property, but, because the context of legal pluralism, there is also many challenges to ensure the right to own land on equal terms between men and women.

6.3 GENDER-BASED VIOLENCE, JUSTICE AND LAND AND PROPERTY DISPUTES IN TIMOR-LESTE

Since its independence and even during the consolidation of the democratic State, Timor-Leste still has a serious issue to eradicate, namely, gender-based violence. Gender-based violence or gender violence is that which occurs due to social markers that differentiate people by their male and female roles, based on sexual differentiation and which, based on inequality of power, makes people of the female gender more susceptible to suffering physical, sexual, psychological or economic violence, according to the definition of the Law Against Domestic Violence (Law No. 7/2010).

According to data from the Demographic and Health Survey of Timor-Leste (Timor-Leste, 2016), the perspective that the use of physical force can be a way to correct people's behavior persists in the country. In one of the inquires, people indicated whether there would be reasons for a man to beat his wife: 74% of women and 53% of men aged 15-49 who responded to the survey indicated at least one reason for a woman to be beaten by her husband (Timor-Leste, 2016, 269). These percentages have already decreased in relation to previous editions of the survey, but they are still worrying. In the 2009/2010 Demographic Survey, 86% of women and 81% of men confirmed that there would be at least one justification for domestic violence against women.

Part of this result is based on the social perception that domestic tasks, for example, are activities exclusive to women and that, if they fail to perform them, they could suffer corrective physical aggression. Social expectations about women's behavior, which can culminate in domestic violence – in the event of failure to respond to such demands – are necessarily linked to gender, which is strongly operative in the East Timorese context (Silva, 2017).

Data from a survey conducted by the Asia Foundation in Timor-Leste, through the Nabilan program, indicate that 59% of Timorese women aged 15-59 have suffered physical or sexual violence from an intimate partner (Nabilan, 2022: 2). These data confirm that the reproduction of domestic violence in its different forms is an issue of great relevance, since it affects most women in the country.

Violence experienced by married women perpetrated by their husbands/partners in each municipality	
Baucau	25%
Viqueque	26%
Dili	29%
Manatuto	30%
Aileu	33%
Lautem	38%
Bobonaro	39%
Ainaro	46%
Covalima	51%
Liquiçá	51%
Manufahi	52%
Ermera	58%
Oe-Cusse	65%

(Timor-Leste, 2016: 303).

Furthermore, it is important to consider the mechanisms that women use in their search for justice after suffering domestic violence. Among the respondents to the demographic census who suffered physical violence, 92% stated that they sought help first within their own families, not (initially) turning to local authorities, the police or the State justice system (Timor-Leste, 2016: 305). This indicates, first, that underreporting tends to be high and, second, that the expectations, trust or faith that people place in the State apparatuses for promoting justice are not a priority for victims (Nabilan, 2022).

Various studies have indicated that part of the lack of trust of many women in the state justice system may be related to some characteristics of the judicial process, such as its slowness, the difficulty victims have in understanding legal procedures, the multiple stages that sometimes revictimize women, and the results that may give the impression that “no punishments are applied” to the defendants (Fokupers, 2022; UNDP, 2022; Nabilan, 2022; Santos Filho, 2022, 2023). This is a major concern, which has mobilized several agents from civil society and the justice system itself in Timor-Leste, interested in improving people's experience, especially victims, within the state justice system.

In addition to physical, sexual and psychological violence, it is also essential to address economic violence, also provided for in the Law Against Domestic Violence in its article 2 (Timor-Leste, 2010). Economic violence is defined as any conduct that constitutes retention, subtraction, partial or total destruction of personal objects, work instruments, impediment to working inside or outside the home, personal documents, assets, values and rights or economic resources, including those intended to satisfy personal and household needs (Timor-Leste, 2010).

In several cases accompanied by Fokupers over the last few years, women report suffering not only from physical, psychological and sexual aggression, but also from the behavior of their partners and ex-partners that involves the theft/subtraction of their assets (sale or destruction) and the deprivation of their financial resources. In some cases, when they find themselves having to separate or divorce, many women are faced with the denial of their right to enjoy the assets and property to which they would be entitled (land, house, movable or immovable property, cars, motorcycles and money). The combination of physical, psychological and sexual violence, abandonment and economic violence becomes a problem that demands the attention of the government and society.

The cases below indicate that, often, problems related to assets and property (houses, land, furniture, motorcycles, etc.) begin with combinations between relational aspects of marital coexistence, people's personalities and social gender norms that directly affect the lives of many women. These interconnections, although based on gender, which is a marker that permeates the lives of most women, do not act alone or in the same way in the lives of all women. The concept of intersectionality, coined by the American Kimberlé Crenshaw, is useful for understanding that gender accompanies other markers, such as ethnicity, social class, and age. We understand that in the East Timorese context, experiences of violence suffered by women based on their gender can also constitute a relevant marker that contributes to the deprivation of their rights, since – as explored below – many women in situations of great vulnerability believe that they have no rights, especially after being physical attacked and/or abandoned by their partners.

Some case studies are quite significant of the different ways in which East Timorese women may find themselves confronted with the violation of their rights to property, use, or residence in land. All case studies were collected within the scope of this research and previous research, carried out in 2022, in which Fokupers (2022) analyzed the access and satisfaction of East Timorese women with the application of the Law Against Domestic Violence (Law No. 7/2010).

CASE I

Maria, 39 years old, born in Timor-Leste, Tetum-Terik speaker, currently works as an employee. Maria tells a story about her relationship with the family of her late husband and about the property and access to the things she got during her lifetime with her partner.

“In December, I formed a household and went to live with a man and his family in their traditional land. In March, my husband’s mother offered us a piece of land and we both built together a house with a size of 6x8m. In August, the construction was completed and we both started living in the house. We both used to work.

In December the next year, my husband had an accident, resulting in his death. It was hard to get back on my feet. The situation was more difficult when my husband was not by my side, because the situation began to change, living alone without anyone to support me.

When I met a man who promised love and wanted to marry me the family of my late husband starting from his mother, father, uncles, etc. did not agree I married another man. My late husband's family did not accept a man with me, but they want me to engage with the deceased's younger brother so that wealth such as motorcycle and the house would not go to others.

I did not agree with the family's wishes, so day and night I was threatened, intimidated, insulted. They said if I dare to marry another man and live in that house they would destroy the house. Every day they hurled jokes and threats at me.

Feeling hurt by people's words and threats, I decided to leave the house, but I went to meet my mother-in-law and said: I'm going to live with my sister in another village.

I tried to approach a lawyer to explain my situation. He told me that the problem was that we built the house on inheritance land, which according to the lawyer I have no right to the land.

I recognize that I have no rights to the land, but I want to ask for my rights to the house I built with my late husband. I need them to give me back the money I spent on the house.

I demand my right to house expenses, so that his family can payback what I spend on building that house. Thankfully there is a law that can ensure and give back my right to the expenses”.

Maria's case reflects well the context in which many women's disputes may not be exclusively over land ownership, but also over other properties, such as a house built with her resources together with those of her deceased partner. In this case, as in many others, Maria had established a de facto union with him and, in order to remain living on those lands, her deceased partner's relatives demanded that she marry her brother-in-law. The situation is quite delicate and involves expectations that, to maintain material resources (house, money and motorcycle), people should also remain in that family, in this case Maria. It is important to highlight that Maria was a victim of gender-based violence, because being threatened because her will to get married to another man being blocked it is something gender-oriented. We will see that, in the next case, Marta presented us with a similar narrative, although she was formally married with barlake.

CASE II

Marta, was 39 years old when she was abandoned by her ex-husband and her own brother. Marta married a man and at that time, the two families sat down together and defined her *barlake* amount. When the man's family paid the full amount to Marta's family, they decided to move to his land and the children would grow up there. When Marta and her husband separated, the children stay living with their father, according to the man's custom and the agreements of the families.

When Marta returned to her hometown, her brother gave her a place to stay in his house, because their parents had already died. Martha could not afford to build a house on her own, nor did she have the support of her ex-husband or her own brother. Because she left her husband's home empty-handed and did not receive support from her own family to inherit or to build a house on her own, Marta's situation was a very sad example, although the kind of happens often. If Martha could use her right to inherit land, she could sell part of her land to build a house or rent it out to earn money and so on. However, because her brother was the sole owner of the land, Marta's situation was very difficult.

Marta's case was accepted by Fokupers as a case of abandonment by her brother, as the only person she could count on. In her case, the *barlake* regime of her marriage did not guarantee that, upon their separation, she would have access to any compensation, which meant that she had to receive support from Fokupers. Situations like this demonstrate the vulnerability of many women who, with or without formal institutional support (from the State or the Church) or from culture (*adat*), can find themselves in a vulnerable situation if they do not have the support or solidarity of their relatives or if they do not have relatives to count on (Santos Filho, 2020).



CASE III

Graça was a woman who married Amélio decades before our research. They were from the same municipality and followed the custom that defines that a woman leaves her land and goes to live in a man's land after marrying. When Graça's husband died, even though they had been married for a long time and even though Graça has had 7 children, the man's family made many demands on her.

Because the land where Graça lived belongs to the deceased family, they say that Graça has no right to the land nor to the fields and animals they raised there. The man's family said that Graça, to live in that house and land, had to marry her brother-in-law, the deceased's brother. Because she did not accept this, Graça was beaten by her nephew and had to run from her home to a shelter. The house she built when they got married, she had to leave.

According to traditional justice mediation, they decided that Graça could stay there, even if she did not marry the deceased's brother, but Graça still had no right to possess the land and her house, for example, if she wanted to sell her house to live elsewhere, the man's family did not authorize.

According to the legal provisions presented above, Graça would have the right to dispose of that house as she wished, since it was built by her and her husband. Likewise, under a civil marriage regime, Graça should have owned the animals that she raised with her husband year after year. However, in the traditional justice (*nahe biti bo'ot*),

it was determined that she would not need to marry her husband's brother, and could live in that house, but without the right to own property, just to live and use.

These cases are, respectively, cases of economic violence committed against Maria, abandonment committed against Marta, and domestic violence (physical aggression) committed against Graça. All of them demonstrate that, even in marriage or *de facto* unions, many women do not have institutional support or mechanisms to defend their rights to ownership of their home and other assets (the cases of Maria and Graça) or to inheritance of land (the case of Marta). Other cases of this type will be presented below, demonstrating a variety of possibilities for depriving women of their assets and properties. Our interest is to gather more evidence regarding cases of this type to contrast with what traditional leaders and authorities say, as well as operators of state law in the municipalities of Timor-Leste. To this end, we conducted a series of interviews and focus groups discussion, which yielded interesting data and evidence, which we will now present.





7. FINDINGS AND ANALYSES: EMPIRICAL APPROACHES ON ACCESSING JUSTICE, LAND AND PROPERTY

For the purposes of our research, we understand that access to justice refers to people's ability to demand the protection of their rights and interests in the formal sphere of the State or in local forms of conflict management (CEPAD, 2014). However, it is necessary to understand that, given the scenario of legal pluralism in Timor-Leste, in cases of gender-based violence, the State is, par excellence, the institution responsible for the individual rights of women, in contrast to local forms of conflict resolution that, in general, are primarily concerned with the well-being of family groups and their relationships (Santos Filho, 2023). Furthermore, since these are crimes, cases of domestic violence (as well as other expressions of gender-based violence) must be referred to state mechanisms for processing (Timor-Leste, 2010). As mentioned above, many women seek local conflict management mechanisms, the traditional justice system, to mediate cases involving threats to their rights, whether in cases of domestic violence, violence followed by the desire for separation (divorce), and separation or division of their assets. In our interviews with different authorities and local leaders in the various municipalities of the country, this theme was recurrent.

The village chiefs, for example, play an important role in maintaining harmony and peace in social relations at the local level, and are often the first to be called upon in more serious cases. A village chief in Baucau told us about the steps he usually takes in cases of gender-based violence, including domestic violence. According to the chief, about women who are victims of violence:

“We still refer them to the referral network. In the shelter with partners, then on to the continuation of legal processes. If she runs away from home we also do a chronology of her case to see if it comes from psychological pressure, comes from physical aggression that she received, if she feels insecure, etc. So like it or not we have to secure her. We coordinate with the police of the village and with the VPU’s to secure her. From all this, then we write a letter to MSSJ to provide the victim’s primary needs, if possible helps her with food and things that she needs” (Chief of suco, Baucau, 33 years old).

In addition to supporting victims in referring them to the Reference Network, other local authorities also indicate that they can conduct mediation processes in cases of divorce and separation of assets, as long as they do not involve crimes (e.g. domestic violence), highlighting that in cases where an agreement is not reached between the parties in dispute, it is necessary for the case to be referred to the competent authorities.

“The suco and aldeia chiefs can help mediate. For example, how do we divide land and property, then we can help. There are also problems we solve, we mediate if they can really be together, and there are also some we mediate but with no result, so we refer back to the competent authorities” (Chief of Suco, Covalima, 45 years old).

These two statements highlight the importance and progress achieved through the various awareness-raising and sensitization activities on gender-based violence and women’s rights that many NGOs, such as Fokupers and government institutions, have been involved in carrying out. It is necessary to consider this progress and highlight these conducts and procedures as positive results of the collective and decentralized effort to prevent domestic violence and protect women and other vulnerable persons.

Despite this notable progress, other respondents to our survey also indicated that doubts persist and that there is a lack of clear information about the correct procedures for assisting women in situations of gender-based violence. Two community leaders, one of whom is the focal point of an NGO in a region far from the center of Baucau, reported that they did not know exactly what to do to help women affected by gender-based violence. An excerpt from one of the narratives clarifies the scenario.

“We have a real lack of information about this. Therefore, when violence within the household happens we do not know where to take them to get proper attention and solve the problem” (Community leadership, Baucau, 30 years old).

This highlight the progress and challenges in awareness-raising about the steps on promoting access to justice for women who are victims of gender-based violence. It is clear that there is a need to intensify the dissemination of information so that everyone knows what paths to take to guarantee women’s rights and end gender-based violence.



Photo: Fokupers



Photo: Fokupers



Photo: Fokupers

In the search for justice, it was clear that efforts to maintain the family together no matter what were very common and that different interviewees indicated that this exists, through efforts to maintain the union of couples, both among traditional leaders (*lia na'in*) and local authorities (suco chiefs). The statements below express this quite well.

“If two people want to separate we look closely to know what the problem is. The two families sit together to resolve to get them back together” (Lia na'in, Baucau, 58 years old).

“According to culture, we call the elders of the two families to sit together to see and decide how to solve the problem. Sometimes the customary elders decide to bring them back together or to separate” (Suco Chief, Covalima, 45 years old).

The place of *kultura* or tradition is seen as something that interferes with the desire to maintain relationships, which may conflict with the individual interests of some parties who already wish to separate. These efforts to maintain relationships are represented as a type of prohibition or something forbidden, since *kultura* – from some local perspectives – promotes a strong union between family groups, as a *lia na'in* told us.

“If they both want to separate so that happen according to their wishes. But some parents don't want their children to separate. This is because according to culture families cannot be divided because they are tied by culture” (Lia na'in, Lautém, 62 years old).

As previously indicated and already well-established in the literature on the East Timorese context, the place of *kultura*, *lisan* or *lulik* guides people's rationality and practice in their daily lives, acting as values that are important in life and that operate as resources for governance and guidance for life (McWilliam, Palmer, Shepherd, 2014; Silva, 2014; Fernandes, 2020). For many people in communities in the interior of the country, it is preferable to seek local justice, in which the parties in conflict sit together and discuss their problems in search of mutual accountability or compensation (Simião, 2006, 2007). The narrative of an interview makes this very clear.

“We look after the work of public agents, but we cannot run away from culture because it is in the first place. After the culture, then we go to the public agents” (NGO focal point, Viqueque, 46 years old).

In some communities, even in cases of domestic violence, traditional justice is used, as different authorities and leaders told us, explaining that in the event of domestic violence, followed by the couple's desire to separate, the procedure is that the woman, if proven to be the victim of the situation, remains with the house, the goods inside the house and custody of the children:

“Here we deal with this type of case. If physical violence is the fault of the man, then the woman takes all things including children in the separation process. Like if a woman is the one that made the mistake, she will leave without carrying things nor children” (Chefe de Suco, Viqueque, 41 years old).

“If they finally decide to end their relationship and to split, so we make the traditional mediation (nahe biti bo’ot) so that the two families sit together to talk about what makes them split. If the man is wrong, then the woman keeps the house and takes the things including the child. Like men, if woman is wrong, then men are the ones who carry the children and everything” (Lia na’in, Viqueque, 72 years old).

“According to culture will be heard from both parties (women and men). When they separate, the man has no right to anything, the man leaves with his body, the woman has the right to the house, land and children” (Lia na’in, Bobonaro, 60 years old).

In situations like these, although local authorities believe they are helping women who are victims of domestic violence by forcing men to leave their homes without the right to their residence or property, it is clear that if a woman is considered the part responsible for the family problems, she may be the one forced to leave the home without any right to claim property or financial compensation. This clash of paradigms, very characteristic of East Timorese legal pluralism, presents a legal risk for the parties, as it can threaten the rights and obligations of both men and women before the law.

In cases where mediations for any type of problem are carried out in traditional justice, the characteristic persists that compensation is made and exchanged between families carried out, which makes some women uncomfortable with the results of the mediations, as they are not the ones who receive the compensation. A woman, a focal point for an NGO in Viqueque, shared her experience observing the mediation of cases of this type.

“The elders make the mediation process, then decide who is right and wrong, but some go to formal justice. In traditional justice when each part compensate for each-other, is not the victim who gets the goods, but the family who gets it, we (women) still at our own luck” (NGO Focal Point, Viqueque, 46 years old).

A suco chief interviewed confirmed some difficulties in trying to resolve cases of gender-based violence and separation with property disputes through traditional justice. In his words, ensuring access to justice for women in these situations is a challenging task, which causes some to give up and ultimately resort to state justice.

“We try to find a solution and peace, but often women cannot stand the suffering, and they ask to be taken to court, so we took them to the police. In some cases, we took them to the shelter and PRADET to find a safe place” (Chief of suco, Bobonaro, 57 years old).

Access to justice is indeed a very complex and sensitive topic when it comes to gender-based violence in Timor-Leste. As mentioned above, reports from many NGOs have indicated low adherence, low trust and low satisfaction of many women with the justice system and with the way cases of gender-based violence are processed and judged (UNDP, 2022; Fokupers, 2022). Although some women feel supported by the changes in their partners’ behavior, others reported that this kind of change does not occur, and that even after their husbands have been convicted of the crime of domestic violence, the aggressions continue to occur (Fokupers, 2022). At the same time, many women also express dissatisfaction with the fact that they do not receive any type of compensation when resorting to traditional justice, as reported by our interviewee in Viqueque.

7.1 PERSPECTIVES ON LAND ACCESS, USE AND OWNERSHIP – DIALOGUES WITH LOCAL AUTHORITIES

Our research participants highlighted the importance of land for social life in its different forms. We begin this section with a speech by a suco chief who summarizes the theme:

“Land is a resource that never dies. Land is also the source of human life because everything we need for consumption comes from the land” (Chief of suco, Lautém, 36 years old).

Although it is common knowledge that land is central to the most essential activities of life, the local controversy over land ownership is significant. Aware of the legal framework and the democratic context, which guarantees equal access, use and the possibility of owning land for all, men and women without distinction, the people interviewed presented some significant disagreements between the right to possession or to get formal title and the right to use land. In different interviews, the respondents stated that women would have a “right to land”, but only to use, live off the land and get a living from it, not to claim ownership over land, something that had already been indicated to a certain extent by the research carried out by CEPAD (2014: 58). Some people were even quite emphatic in saying that women would have the right to use the land but would not be the owners of the land (*na'in ba rai*), which occurred in places where patrilineal systems of descent prevailed. Even so, the issue was not a closed case, so it may be useful to analyze some of the participants' statements.

All the interviewees, including village chiefs, *lia na'in*, community leaders or NGO focal points, reinforced the nature of both patrilineal and matrilineal norms in each location. This narrative reinforcement allows us to understand how the issue of distribution and access to land continues to be a topic inescapably associated with beliefs and values about local traditions or culture. Among the people in patrilineal systems, one participant drew attention when he described that only men would have the right not only to land ownership, but also to all types of property.

28



“To give title to land is only for men because men have all the rights to land and to all property” (Chief of cuco, Baucau, 33 years old).

Similar perspectives were also presented among people from matrilineal systems, although the statements were made in a more measured manner.

“In our culture, it often happens that only women own the land because they reproduce live in this house” (Lia na'in, Manatuto, 65 years old).

“In bunaq lisan [culture/tradition] is the woman who owns the land. Documents register the woman's name. Inherited land such as farms or fields are used by men only, but only women own the land” (Chief of village, Bobonaro, 35 years old).



The different perspectives and disagreements on land ownership indicate that, in the case of inheritance, only men or only women could receive ownership of the land from their parents, observing the system of descent adopted in each location. However, the more restrictive perspectives on inheritance and land ownership have been

questioned by others who, locally, seek to adapt people's cultural practices to the new arrangements of the East Timorese legal framework. This demonstrates a certain level of change in social repertoire that only men or only women can be landowners.

Among the perspectives most inclined towards a radical defense of descent and land ownership according to traditions, we can highlight statements such as:

“According to Lospalos culture, to continue the right of inheritance from grandparents, women can also get land for living. But it is for use, not to own the land. To distribute the land inheritance, only men have the right to obtain land titles and to give them to their sons. From the culture of the past until now, men are the owners of the land, women can only use it and not become the owners” (Chief of village, Lautém, 36 years old).

“Our wealth such as a motorcycle or some money and land and all the documents I will hand over to my son before I die. But on the other hand if I want to give some wealth such as a motorcycle or money, women can also get, but not the land. In our culture, only men own the land because they have all the rights to the inheritance that we have and they are the owners of the house” (Lia na'in, Lautém, 56 years old).

“According to culture we can give [land] if when in the family there are only women. But if there is man, then it cannot because men have full rights to land and family property. [...] Since the time of our ancestors, culture has been like this. We are also following and to change it is difficult” (Lia na'in, Lautém, 62 years old).

“There is no real title to the land so far, but the title of the land belongs to the man because he is considered the owner of the house. Title to land comes from the generation or descendants of the ancestors. men have the right to land, whether bought or inherited. Land is an inheritance that is passed down from generation to generation” (Chief of Suco, Bobonaro, 52 years old).

As these men's statements indicated, some people see the impossibility of women becoming landowners more radically, based on traditional discourse, which would be difficult to change. Other people impose various condition to women's right to own property such as houses, cars or money, while for others, not even these would be owned by women, but rather by their male descendants. On the other hand, some perspectives already seem to be more balanced, suggesting that if there were no male children to inherit the land, a woman could assume the inheritance of this property. In any case, some people interviewed stated that it would be both difficult and dangerous to change the system of descent from land, indicating the depth and solidity of the beliefs referenced, as in the following excerpt.

“Bunaq lisan still hold the customs of the ancestors that the land will belong only to women. If you violate the rules of culture, the consequences will come on the end. The community is afraid to discuss or divide land not according to the cultural way that has been established since ancient times” (Chief of suco, Bobonaro, 35 years old).

While from some perspectives there was a very strong expectation of maintaining tradition, others indicated greater possibilities for change, flexibility and negotiability. The ideology that land was left by grandparents (ancestors) and that it is a cultural norm to reproduce the passage through the male or female line could change, because as some interviewees stated, culture does not “close the path” (*taka dalan*) for men and women to own land. The statements reproduced below demonstrate

that, for many people interviewed, including local authorities and community leaders, cultural or traditional determination can, in fact, be modified and transformed by time and by the political changes that the country has undergone in the “modern” or “democratic”.

“According to our custom, women can be the owners of land and property. So, our son married a woman and he goes after the woman who possess the goods. But now the country is modern, women and men are all our children, the things that we get they have the right to share equally, but before it was not: the land and the things that we had must be shared only with daughters” (Chief of Suco, Covalima, 45 years old).

“In the old days, only men had the right to own land and women could not, but now in modern times women and men also have the right to land as their parents give them” (Lia na'in, Baucau, 58 years old).

“In our culture only men can be the owners of land but if we think about the women we can give a piece of land to our daughters” (Community leadership, Baucau, 33 years old).

“In our culture only our sons can own land, but thinking of our daughters we can give them a piece of land so they can build a house and farm according to the decision of the family” (Community leadership, Baucau, 30 years old).

“In the past, only women owned land, but now the law says that women and men have the same rights so women and men can own land” (Lia na'in, Covalima, 49 years old).

This perspective that, with historical-political changes, cultural changes and changes in traditional norms can also occur, continues to share space with other perspectives that consider that some changes can be made in relation to land use, but without granting the right to property to subjects other than those who are traditionally heirs to the land. In Oecusse, for example, a lia na'in stated that it is common for parents who have more wealth or more land to give their daughters one or two heads of cattle, goats, or poultry that will be exclusively theirs so that they have some resource (rikusoin) to take to their husband's house when they move. Other parents would allow them and their husbands to reside on their properties, “giving them pieces of land”, but with the proviso that the owner of the land would necessarily be one of their daughters' brothers, a man indeed.

The possibilities of concessions that would allow the use or possession of land, depending on each case, also occurred in matrilineal contexts.

“If a mother wants to give land to her sons, she must ask the women. According to culture it could not, but because today's changes if a mother wants to give land to the son she can but must have acceptance from the daughters” (Lia na'in, Covalima, 49 years old).

Although in many speeches some people claimed that culture could not be changed, or that it would be very difficult to do so, in many others it is noted that negotiations, concessions and transformations are established. This shows that culture is not necessarily a legitimate justification for unequal access to rights. For example, among people interviewed in Baucau, Covalima and Manufahi (as we will see), there were different reasons why women could own and hold land, whether due to social transformations, when a couple only had daughters or when by mutual agreement with a brother, for example.

“Women can also become owners of land if their parents die and there are no male sons, so women can also have the right to land. She also has the right to obtain land title when her brother and parents give authorization so” (Lia na'in, Manufahi, 63 years old).

Although the existence of a cultural or traditional determination is very relevant, there is also a very present negotiation dimension that is possible depending on the interests and dispositions of the subjects at stake.

It is important to emphasize that cases of land disputes that are driven by gender aspects do not occur exclusively between spouses. Cases between siblings are also driven by gender issues, since according to local values and perspectives, only one of the two genders could have possession of the land. In one case that occurred in Manatuto, in an area where the matrilineal system prevails, a brother established a rice plantation on land that would belong to his sister, which generated a conflict, as we can see below.

“A sister and a brother who fight over land... They fought each because of a ricefield, because the mother offered the land to her daughter, and the boy started to cultivate in the land. After the problem we managed to resolve and make an agreement: now the brother is running the field, after next year harvest, he’ll give it back to his sister.” (Chief of suco, Manatuto, 50 years old).

The case was narrated by the aforementioned chief, a village chief, and a lia na’in from that municipality. The case is indicative of several other events and possibilities of disputes mentioned by other interviewees, who often stated that only a part (most commonly men) would have full rights to land ownership.



Photo: Fokupers

In any case, even in matrilineal systems, decisions could be made by men, including decisions about which women would own the land. In different interviews, we heard from participants that the decision about which portions of land would be guaranteed to older or younger sisters was made by the *lia na’in* and other men in the family, indicating that even in cases of matrilineal descent, a significant part of the decision-making was the responsibility of men.

“Women have the right to land title, but the decision to give title comes from men or families and lia na’in” (Lia na’in, Bobonaro, 60 years old).

“The woman is the owner of the land, but all decisions come from the males. Because when something happen in the lisan are the men who makes decisions and manages the culture” (Lia na’in, Manatuto, 56 years old).




Photo: Fokupers

This reinforces analytical perspectives that have indicated that even in matrilineal systems, gender imbalance is established in order to organize relationships based on decisions centered on men (Silva, 2017).

7.2 DISPUTES OVER ASSETS AND PROPERTIES – DIALOGUES WITH SURVIVORS OF GENDER-BASED VIOLENCE

Just as there are controversies and disagreements regarding land ownership, there are many conflicts involving the separation of couples and the separation of assets. In cases of disputes over various properties such as money in bank accounts, motorcycles, cars, livestock, jointly acquired land or even houses, that is, movable and immovable property and various assets, many women run the risk of being left completely dispossessed. Fokupers' experience in providing shelter for women affected by gender-based violence indicates that this occurs with some frequency, which becomes a cause for concern.

Proving that this is not a dilemma identified only by Fokupers, the coordinator of an NGO based in Manufahi expressed her concern about what can happen to a woman when a couple separates.

 *“In my experience, some women who have decided to divorce have not receive anything from their husbands. The best way is us (NGOs) to allow these women to process cases according to formal justice to regain their right to property”* (NGO Coordinator, Manufahi, 36 years old).

For this research, two focus groups were conducted with 24 women from different municipalities sheltered by Fokupers (at different times, before and during the field research) in Dili and Maliana. The various accounts of the participants summarized a common issue: the threat of deprivation or the actual deprivation of goods and material resources that should, by law, be divided fairly when separation or divorce is instituted between the parties.

In one case, a survivor named Joana said she married a man from Lolotoe, part of Kemak. They worked together, built a house on the man's land, but, when they decided to separate, he threw Joana away like she was nothing. At that moment Joana had nowhere to go, no home, felt that she had no right to the house she helped build. When she talked to her own family to return home, the family did not receive her well, so she was very poor and had to live in a shelter.

In another case, a survivor named Isabel from Atambua (Indonesia) went to Timor to live with a man from Maliana. In the man's family's land (they are the bunaq part), the women from the family have the right to the land, not the man whom Isabel married. The survivor and her husband built the house together. They opened a restaurant and worked together every day. During this time Isabel cooked, and her partner managed the restaurant. A few years later, they decided to separate, so because she had no right to the land, the family wanted her to leave the house and all things behind, but she did not agree with that, so Isabel suffered violence from her ex-husband and his family.

Difficult situation for survivors of gender-based violence in both matrilineal and patrilineal socialites happens. For example, in one case, a survivor named Teresa owned the land (on matrilineal community) and took a man to live with her. They built a house together and at the time of separation, the man wanted the money that he used to build the house back. Because Teresa did not have the means to pay her ex-husband he hit in and destroyed everything in the house. She lost all her household goods and had to live in very difficult conditions after that.

In another case, a couple had just started to live together when decided to buy a larger motorcycle. Because it was too expensive, the woman named Carolina used credit from the Merci Corps program to buy the motorcycle. Less than a year later, Carolina's husband ran away with the motorcycle and Carolina lost her property that she had bought with her program credit.

During the Focus Group Discussion, some survivors said that they did not understand their rights, their contribution to building a household and to receive compensation or seek justice during the hardships they faced when they decided to separate. Another issue is that they are all in de facto union with their partners, there is no marriage regime stated.

In the case of another survivor, she and her ex-husband (although they were in a de facto union) bought a house together, including furniture, a motorcycle, raised animals such as pigs and sheep. During their problems and discussions of separating, the man sold everything, including animals and motorcycle. At the time of separation, they had to sell the house and divide the money, but the woman had lost all the things that she had been entitled to. For example, about the pigs, she fed it every day, gave it water until it grew up, but in the end, the man sold it and she did not get any money. This is not aligned with the definitions of the Civil Code that all decisions about the property of the couple must be in the interests of the couple, not of one part only. It means that women also have the space to decide about things that are built together with their husbands.

In another case, a survivor named Ofélia married a man and moved in with him in his house. Then, they bought a motorcycle, household items, and saved money together. When they decided to separate, the survivor ran away from the house empty-handed, because she thought that because the man built the house, then the survivor had no rights. Ofélia, like some survivors, thinks that as a woman who works only in the house or sells food, and does not work outside, she has no right to share things fairly, which is not true.

Even in cases of de facto unions or in cases where both the land and the house in which a couple lives already existed prior to their union, what is acquired later (such as cars, motorcycles or money) can count as divisible assets. It is necessary to reinforce the perspective that even with domestic work, women effectively contribute to the domestic economy, after all, domestic work provides support for the material life of the household, as it is what feeds, wear, maintains health and hygiene care and is as important as the work done to obtain income (Federici, 2019; Cunha 2017). Reinforcing the fundamental nature of domestic work is as important as highlighting that it is the collaboration of men and women that guarantees the reproduction of family life where men and women are available (Cunha and Bessa, 2023).

Regarding work in rural areas, there are several references that indicate the existence of a social division of labor based on gender, assigning men a significant part of the work of preparing the land for planting (Hicks, 2004, p. 60), assisted by women who also work in planting and harvesting (Cunha, 2017; Cunha and Bessa, 2023). Likewise, many women who are responsible for generating income in their families, through the sale of food or activities in bazaars, do not understand their activities as “labor” and, therefore, thought they had not contributed to the construction or maintenance of the house and domestic life (Santos Filho, 2025). Therefore, the thinking of many women that they would not have the right to the house where they lived, the goods acquired or any financial-material compensation is a resource that keeps them from accessing justice, land and property. This may, in fact, be related to the common sense that, because they have only established de facto unions with their partners, these women would not have rights in the division of assets, which is a complex issue and indicates a relevant legal-awareness gap. In any case, this perspective of a supposed lack of rights was indicated both by women participating in the focus groups and by other interviews.



“About land women do not dare to speak their rights, they themselves are afraid because the male family always blame them and kick them out” (Chief of Suco, Bobonaro, 57 years old).

7.3 WOMEN'S ACCESS TO JUSTICE, LAND, AND PROPERTY – DIALOGUES WITH LEGAL ACTORS

The issue of access to justice, land and property is directly linked to people's rights, especially the right to equal treatment guided by the principle of legal equality. The conversations with legal actors, especially Public Defenders and Judges of the Courts of First Instance, reinforced some aspects of the application of legal doctrines, but also brought some reflections mobilized by the women participating in the Focus Groups and by the authorities and local leaders interviewed. Perhaps most importantly, during the conversations with the legal authorities, many new elements emerged, leading the discussion and taking our research in a more productive direction.

As one might expect, all the people interviewed who were part of the justice sector – three judges (identified as J1, J2 and J3) and four public defenders (identified as D1, D2, D3 and D4) – reinforced the principle of equality when conducting the procedures that are their responsibility in the judicial sphere or in the mediation of cases.

Some legal actors emphasized that the principle of matrilineal or patrilineal descent could guide their conduction of the audiences when establishing divorces in which one of the parties had assets originated by inheritance, but that in the division of the inheritance between siblings, both men and women should receive equal shares of the land (D1, J3). As a public defender and one of the judges pointed out, the law in Timor-Leste recognizes customary law and its values, but the constitutional and Civil Code determination that the division of the inheritance must be done without gender discrimination is imperative, so legal agents should be guided by this criterion. One of the interviewees stated that

“Because of the strong patrilineal culture, many women do not know that they have rights. They think 'women have no rights, no rights to land', but this is not true. Women have rights. This must change, this mindset or mentality, especially women's mentality about their rights” (D1).

34

As mentioned previously, culture or traditions are not mere customs valued by people, but rather ways of orienting the world and guiding the relationships and practices of individuals, including what they understand to be their rights or duties. The place of conflict between legal determinations and values, which guide the practices of legal actors, and culture, which is fundamental to local social life, appeared in the perceptions of another public defender interviewed.

“We can't focus on culture; we have to follow the law. Timorese culture says that women have no rights, only men, but not true. The law gives equal rights to everyone, and the law is above culture” (J3).

As discussed below, many of the legal actors interviewed advocated for the implementation of collective efforts to change the way people think about men's and women's rights, especially with regard to land and property rights. Among the most common suggestions was to conduct awareness-raising and consciousness-raising campaigns on women's and men's civil rights, guided by the value of equality. In the words of one of the interviewees:

“Culture... this is a big obstacle. People are attached to their culture, so we have to explain that we have to follow the law. Not just the court, not just the public defenders. We all have to work together to change people's mentality” (D1).

The role of culture as an element that guides people's rationality is something that several interviewees highlighted, along with the lack of knowledge and reliable information regarding the role of the competent spheres (Public Defender's Office and Courts) and their attributions. This meant that such spaces had a pedagogical dimension, which taught people, in the course of legal proceedings, about the country's legal framework. Other researches has indicated that people's learning about the legal aspects of the State and

positive law has been mediated through legal pedagogies (Santos Filho, 2019), in which agents of local elites (such as NGOs, but possibly also of the state government) mediate information and act as brokers so that the population can understand and act in the state-legal sphere and defend their rights. There is also a pedagogical dimension or legal pedagogy that occurs within the courts and public defenders' offices, in which public agents claim to use part of the hearing time to ensure that the people involved understands the procedures adopted, have a minimal understanding of the legal requirements, the rights that each party has, etc. (D1, D2, D3; D4).

“We often have to explain about their rights, about the function of the public defender’s office because people do not know. They don't know about their rights. They often have to get clarification about the division of property and inheritance because they follow culture only” (D1).

“We always have to explain that divorce has consequences because they do not know the legal process and the process of dividing all the property” (D2).

“Socialization of information is not enough. Information to the people is not enough. They don't know their rights; they don't know about legal procedures. People catch each other or marry without knowing the regime of separation of property, not knowing the regime of marriage, not knowing what a de facto union is. They come [to court] not knowing that the de facto union does not give the right to claim the property” (J3).

One of the legal actors interviewed told us about a case in Oecusse, in which a woman, after the death of her husband, was deprived of all the property that belonged to the deceased. The relatives of the deceased went to his house and seized all the property of the deceased, including the motorcycle and personal items, selling everything immediately. The woman in question did not know that she was entitled to those assets and did not know, either, that she would have to gather evidence of their union to plead restitution of the occurrence in court.

Also as indicated above, many people came to the public defender’s office or the courts without knowing for sure what kind of union they had and what would be the appropriate procedure to proceed with the separation of persons and property. As defined in the civil code, only unions established by civil registration, Catholic marriage or the monogamous barlaqueado regime are considered marriages. For example, as highlighted by an interviewed judge:

“This is a flaw in the law, because most unions between people are de facto unions, without any established marriage regime, and this - in the case of patrilineal communities - is a great challenge for women, because at the time of separation they cannot demand to stay on land that is not theirs, nor in the house that was built there, nor will they have support for the man’s family” (J2).

This implies that de facto unions, as a gap not established in the Civil Code or the Code of Civil Procedure, strength the lack of knowledge of people’s rights and duties, especially when people do not know if they have rights to what was acquired or produced in common during the couple's union.



Photo: Fokupers

This situation implies a difference that some public defenders said they had to explain to the parties in conflict, who confused divorce and separation (fahe malu). Divorce is established when a marriage takes place and can be done by mutual consent or contentiously (with the intervention of the judge). In the divorce process, the criteria provided for in the Civil Code and the Code of Civil Procedure are established, which also apply to cases of separation. However, in the case of de facto unions, not provided for in the relevant codes, only the separation of those who lived in a situation similar to that of the spouses is instituted, without a well-established protocol for the separation of assets that, consequently, do not exist within a legally supported regime. One of the judges interviewed expressed the issue quite well.

“De facto union is not established in the Civil Code or in the Code of Civil Procedure. It is difficult to process these cases because how to distribute the goods? They do not enter the legal regime. Not barlaqued, not Catholic, not civil, so how to do it? The law determines that property must be divided according to the general regime of communion, or separation or acquired goods according to marriage church, barlaqued or civil. Now, looking at the proofs of the situations, how to share the goods? The law still does not allow the division of property in a de facto union because there is no nuptial agreement” (J3).

However, there is an observation to be made based on what is common to see in the legal procedure, since notaries do not perform civil marriages, nor do they register barlake marriages, which makes life especially difficult for people who are not Catholic and, in general, all those who do not have the resources to formalize their unions in the traditional (barlake) or religious sphere¹⁰.

Another challenge in cases of separation of assets between people with de facto union is the difficulty in gathering legitimate evidence of their union, in the same way that some legal actors say that it is difficult to prove the acquisition of assets, which compromises their subsequent distribution (D1, D2, J2). One of the interviewees suggested a review or amendment to the Civil Code to include de facto unions as a legal relationship regime, which could increase women's access to land and property (J2).

Since the cases involve separation of assets in de facto unions, they cannot be processed following well-established guidelines and protocols, making the cases even more susceptible to concessions in agreements and mediations, since the public defenders strive to convince the parties to divide equitably what was acquired during the unions and considering, among other things, parental authority, the provision of alimony, etc.

Regarding the division of assets, two public defenders and a judge stated that, often, the parties come to the Public Defender's Office or the Court with a resolution already reached in traditional justice (through the nahe biti bo'ot), and only needing the ratification of the already consolidated decision (D2, D3, J1). It is common for the parties in conflict to choose to seek traditional justice as the first means of resolving disputes, as narrated by some of the people interviewed and as already reported in previous research (Simião, 2006; 2007). It is worth noting that in the so-called traditional justice, the dissolution of unions and mediation processes (including separation of assets) are always associated with families. However, the nahe biti bo'ot operate in an idiosyncratic manner, more concerned – frequently – with the interests of families and with the maintenance of local values and traditions than with the individual rights of the subjects, even if constitutionally defined. This needs to be taken into account, since in these agreements, even if the groups are on good terms, women's legal rights to inheritance or access to property and material resources may be disregarded in local forms of conflict management.

The legal procedures for dividing property are also very complex. In cases where the couple has children, it is often suggested that the person who has custody of the children also keeps the motorcycle or car, if the parties only have one means of transportation. Similarly, a judge stated that the person who has custody of the children ends up keeping the house and also the furniture of the residence (J1, D2). Divisions of this type are always very complex, but when made by mutual agreement, they are indicated by judges as satisfactory to the parties (in their personal perception).

10. On that matter, see the research report published by Jurídico Social Timor-Leste (JUs) in partnership with the Ministry of Justice. Available at <https://www.jus.tl/projects>, accessed January 2025.

Other scenarios are far from being this peaceful. In the most serious and dramatic cases of property disputes, a couple who builds a house on a territory inherited by the man, for example, could represent significant losses for the woman if they separate. A judge puts the situation in the following terms:

“In general, women are seen as foreigners in men’s land. When divorced, it is impossible for women to live in houses built on other people’s land because social coexistence is no longer possible. It’s challenging. We try to ensure that the man will compensate the woman for helping to build the house (J1).

The difficulty in reaching agreements for the separation of assets and people in cases where this is possible is also a concern due to the slowness of the proceedings, which can last for more than a year. Observations obtained from NGOs dedicated to monitoring the judicial system indicate that there are cases that take more than 2 years to be processed. The reasons for this slowness lie in two characteristics indicated by the judges interviewed: the first is the very configuration of the conflict, since people are fighting over their assets, so they tend not to want to give up anything, as highlighted by a public defender (D3); the other reason has to do with the limitations of the justice sector in dealing with so many cases.

A judge explained that in cases of contentious divorce there is a specific complication because the person who does not want to separate generally does not want the other party to keep any of the assets that belonged to the couple, claiming unilateral possession of the assets. In his words:

“Each comes with its own ego, comes with its own private interest, so this makes them fight each other until they cause problems, so it is very difficult to reach an agreement” (J1).

The difficulty in reaching agreements, especially in the litigious sphere, is also combined with the lack of human resources in the courts, mainly the low number of judges, which is too small for so many civil cases (J1, J2, J3). One of the judges interviewed (in November 2024) mentioned that the hearing and trial schedule was already full until 2025 and that they had already started filling the trial and hearing schedule for 2026 (J2) in that court.

The functioning of the justice system is certainly a delicate topic, which mobilizes many demands for the recognition (Cardoso, 2008) of rights already established and defined in the laws, but also for the recognition of interests that, even in dialogue with universalist perspectives of human rights, are sometimes not provided for in the current legal codes. One such example is the demand from some political agents and members of NGOs who, during the interviews for this research, expressed an interest in seeing victims of domestic violence, when they decided to divorce or separate, compensated in the civil sphere for their condition as injured parties in a criminal case. One possibility for compensation would be to grant a greater share of the shared assets to women, whenever they had suffered domestic violence.

One of the judges interviewed stated that he had heard from a woman in a contentious divorce hearing that she would like to be compensated for having suffered domestic violence (J1). He understood, however, that it was not up to that instance (civil) to take into consideration what should be processed in the criminal sphere. As all three judges reinforced during the interviews, cases of domestic violence and divorce/separation should be processed and judged separately (J1, J2, J3).

When domestic violence trials occur, the judges interviewed stated that they follow the protocols in force in the Code of Criminal Procedure, which includes observing whether it is a case of simple or serious physical harm, whether or not the defendant is a first offender, what his background is, etc., and then proceeding to impose a warning, fine, suspended prison sentence or, finally, an effective prison sentence. Compensation, however, is not imposed, as often the defendants' own economic situation does not allow this to be done (D2).

Therefore, even if the same woman files a criminal complaint of domestic violence and a petition for a divorce, the cases will be heard and processed separately. The imposition of compensation or the division of assets established in a way that favors the victim can be done unofficially, as one judge stated, that is, the judge could take the violence suffered by the woman into consideration, but it is neither a common practice nor a rule, since there is no guideline that instructs judges to do so (J3).

When the same question (regarding compensation for victims of domestic violence) was presented to public defenders, the answers also varied. One of them stated that the Public Defender's Office did not have the authority to impose sanctions or fines on either party, but that if an assaulted woman wanted to get a divorce and keep possession of the house and property acquired by the couple, it was possible to refer the case to the *nahe biti bo'ot* (traditional justice system), since there the elders (*katuas*) and the *lia na'in* could decide that the man, after assaulting the woman, should be deprived of her property and removed from the house, if his guilt or responsibility (*sala*) for the problem that occurred was proven (D2). This possibility had already been presented by a village chief and a *lia na'in* in the municipality of Viqueque, regarding the processes of separation of property and people, as indicated in the section on access to justice.

All of these questions are quite complex, for which we do not have easy answers. Access to justice, land and property by women, especially survivors of gender-based violence, appears to be highly conditioned by a series of variables, such as local negotiations, practices carried out unofficially, in addition to obstacles in legal procedures and gaps in the State's legal framework. Given this scenario, it is necessary to reflect on and propose strategies that deepen knowledge about the causes of the problems and the strategies to overcome them.



8. FINAL REMARKS AND KEY FINDINGS



We consider that for sustainable and just social development, the State, civil society and partners must strengthen efforts to ensure women's equal access to land and property. Fokupers and other partners consider as a major advance adopted by the government of Timor-Leste the institution of the National Plan of Action on Gender-based Violence (PAV-VBG) through the Secretariat for Equality, as also the adoption of the Gender Sensitive Budget (GSB) as a strategic political approach to integrate gender perspectives in the plan and cycle of the General State Budget (OJE) through National Parliament Resolution n.o 12/2010; Timor-Leste as a country has become a signatory to the CEDAW convention and UN Resolution 1325; Timor-Leste has approved and

implemented the Law Against Domestic Violence; The Constitution of the RDTL defines equality between women and men, including the right to own land and others.

Between progress and challenges arise many issues, such as conflicts between established social norms and legal provisions, as well as between political guarantees and some parts of the tradition of gender imbalance that makes women, girls, people with disability and LGBTQI+ very vulnerable. The issue of women's access to justice, land and property becomes even more challenging in the context of patrilineal norms (marriage), because the loss of access to the right to own land and property, so women have less chance to invest in the economic aspect and become an entrepreneur, for example. Because the economy in Timor-Leste has so far focused on rural production, land has become the most important asset for the survival of communities and families, especially for potential women.

However, some aspects of a very strong culture or tradition (*adat*) remain something to deal with and try to overcome. Timor-Leste's culture, often referred to as a set of practices and beliefs associated with the way the ancestors lived or believed that was good and right, still be seen by part of the population as the right way to live, make decisions and use resources. Therefore, land as a material resource is often the inheritance of men only, which deprives women of the right to own and inherit land.

This research report sought to understand the characteristics, advances and challenges in women's access to justice, both state and customary justice, with respect to access, use and possession of movable and immovable property. This report gathers evidence for advocacy for policies that strengthen women's right to land and property, such as through amendments to the Civil Code that recognize *de facto* unions and guarantee rights in the division of property; Similarly, awareness-raising actions on women's rights to equal access and inherit to land and property can be articulated, as well as awareness-raising of local authorities and leaders (*suco* chiefs, village chiefs, community leaders, etc.) as also people in urban and rural/isolated areas.

When analyzing the various interviews, we note that the most radical discourses that prohibit women from inheriting land and property on equal terms with their male brothers could be considered a violation of their constitutional right to property. In other cases, when women are deprived of the right to own land and housing or when their property is destroyed, situations of economic violence arise in terms of the Law Against Domestic Violence (article 2). Both the deprivation of women of the right to inherit land and the attitudes of economic violence are ways of violating women's rights because of their gender markers. One of the results of this unequal access to certain resources is the reproduction of a political and social condition of subalternity for many women, based solely on gender, that implies in the deprivation and dispossession, causing economic instability.

Our research identified that women's right to possession is often limited to a few agreements or a high level of personality and informality. With the exception of places where a matrilineal descent regime is established (in the regions where Bunaq, Tetum-Terik and Galoli are spoken), land inheritance is defined exclusively by male possession. Even in matrilineal systems, access to land can be unequal, so that it is also the men of the family and the *lia na'in* who commonly decide which women will inherit the land and the amount of land they will inherit.

However, some interviewees indicated that, depending on certain negotiations or if there are only daughters, women can inherit the family's land and property. Some interviewees said that if the family "considered" or "thought" about their daughters, they could leave some assets to them, but this depended on each family and was not a rule. This brings a high level of personalization to relationships, as no single guideline is followed, making the inheritance process dependent on affectional relationships and particular, personal or subjective interests. We then observe a situation of legal uncertainty and legal inequality in access to land and property, which depends on the families' willingness to grant access to land. This is even more serious because in the case of women who are indicated as "problematic", "troublemakers" or "bad" (*feto la di'ak*), their right to property can be stripped based on a subjective criterion, which overrides their legal guarantees. The rights of both men and women to acquire ownership of land and property are limited by agreements established within families (intra-family) and by matrilineal or patrilineal descent

systems. This means that many women are guided only by these criteria, confusing themselves or being unaware of their civil rights to property on an equal base with their male brothers. This type of thinking about the deprivation of the right to land ownership leads many women to believe that they have no right to any property when they separate from their husbands or partner within de facto union, which reveals a lack of awareness of their rights within a scenario of relative legal uncertainty.

We have also noted situations of violations of this type of right in cases of women who become widows, since if they are not aware of their rights, they are at the mercy of social norms that violate legal guarantees, such as the right to receive compensation for the assets acquired during a union or to continue to enjoy these assets that are theirs by right. Not only in cases of death of their husbands, but also in cases of divorce, many women are victims of deprivation of assets that are sold or destroyed by their partners, who refuse to establish a fair division of goods.

The scenario of effective right inequality according to the standards adopted by the State's laws extends to the possible outcomes of the resolution of some cases in traditional justice. As stated by different actors interviewed, it is possible that in cases where it is identified that the separation of a couple occurred due to the fault (sala) of one of the parties, as a penalty (fó sala) the local authorities (lia na'in) may determine that one of the parties, whether the man or the woman, must leave the house without being able to take any assets or without the right to claim custody of the children. This type of definition, if not agreed upon, may violate the property rights of both men and women. This is not a value judgment, nor does it mean that decisions made in court will always be satisfactory to the parties, because as already indicated regarding the application of the Law Against Domestic Violence, many women are also not satisfied with the decisions made in court (Fokupers, 2022; UNDP, 2022). This is, in fact, a very complex issue.

During the research, we also noted that there was greater acceptance of equal rights to land inheritance in the interviews conducted in matrilineal areas (Covalima and Manatuto, for example), than in patrilineal parties (Lautém and Oecusse). In municipalities such as Baucau, Viqueque and Manufahi, the people interviewed seemed to be more balanced or thoughtful in relation to land inheritance, recognizing that thanks to the scenario of social transformation, if parents wanted to, they could leave inheritance or property to their daughters and sons, depending on various considerations. As mentioned before, more research needs to be done to understand why in some areas seems easier to overcome such strong tendencies in comparison to others where people seem to be less kin to change some cultural norms (as in Lautém and Oecusse, as indicated by the interviewees there).

The research also highlighted that many people recognize that the transformations brought about by the era of "democracy" or "modernity" allowed some changes in property rights over land and other movable and immovable property. This characteristic demonstrates that culture or tradition, as the basis of rationality and norms that guide life, is susceptible to change according to the perspectives of local actors themselves. This brings up an important reflection that inequality is not justified by culture, as some of the lia na'in themselves recognized that women could own land and immovable property if their parents authorized it so. This shows that it is, to a large extent, a question of awareness and sensitization for equal rights and opportunities.

To the extent that we understand that it is not necessarily culture (kultura) that is responsible for inequality in land ownership although it establishes gender-power unbalance, we also understand that collective efforts are needed to reorient some collective perceptions towards the promotion of a more egalitarian and just society.

Our research also revealed a general claim that many people are not aware of their civil rights or how institutions such as the Public Defender's Office or the Courts work. Understanding this is essential in a democratic state governed by the rule of law. All of the judges and defenders interviewed emphasized that during mediations, hearings, and even in the trials of cases, it is necessary to explain people's rights and duties, as well as how the law works and guarantees. Legal actors also use part of the procedural rites to explain how the legal process works, which shows that although there may be delays, especially in litigious cases, there is a dimension of legal pedagogy by the State so that people understand what they are going through and how the justice system is organized. In the State's pedagogical efforts, legal

actors need to reinforce that the right to inheritance equally between men and women is a legal norm, not a concession made by the parties.

Our research also identified a serious gap in the Civil Code and Civil Procedure Code, which failed to define de facto unions in East Timor. Few of the women who received Fokupers services were formally married under one of the regimes recognized by East Timorese law. Most of them were only in de facto unions with their partners, although those unions could last for many years. Legal actors stated that, since there were no registered marriages, it was very difficult to prove the unions, prove the right to division of assets and promote fair compensation for the parties, when applicable. This challenge was also something that made it difficult for some cases to be administered by the State justice system, even by the Public Defender's Office, as the parties rarely reached agreements. Was also common that the cases were administered by traditional justice and their results only registered by the Public Defender's Office or competent Court. The people interviewed also stated that in addition to the difficulty in managing cases, there were also complications related to limited human resources and the number of judges that were not sufficient for the volume of civil and criminal cases.

The separation between criminal and civil cases also meant that it was not possible to determine compensation in the civil sphere for women who were victims of domestic violence. One judge, however, mentioned that some advantages could be established in the division of assets to improve the living conditions of women, who are generally more vulnerable. This type of conduct is *ex officio*, that is, it is not provided for in the codes or doctrines and is conditioned by the judge's personal concerns with the parties.

Given so many obstacles to access to justice, the judges and public defenders interviewed understood that the greatest challenge was to establish agreements for the division of assets between people who did not have a legally recognized marital regime, once again referring to the gap in the Civil Code.

All these observations allow us to argue that access to justice, land and property for women, especially for victims of gender-based violence, is conditioned by legal gaps in the Civil Code and the Code of Civil Procedure, but also by the idiosyncrasies of the legal system and the traditional justice, and is also restricted by social/traditional norms that challenges the institution of equal division of property. There are, therefore, many challenges to overcoming the models of personality and subjectivity in relationships that perpetuate right instability for men and women, but which end up affecting women the most, and especially those who already suffered gender-based violence. Anyhow, it is important to emphasize that guaranteeing access to land and property with effective gender equality is an instrument for survivors' empowerment and to ensure economic stability and national development, which demand efforts of awareness in local and national levels.



9.

RECOMMENDATIONS



A collective effort is recommended to organize actions that disseminate public and clear information about the constitutional guarantee of equal treatment and equal rights.

It is recommended to expand awareness-raising strategies focused on the right to inheritance of land and movable and immovable property on equal terms between men and women.

It is recommended to promote public discussion sessions on how NGOs, government agencies and grassroots community organizations can support survivors of gender-based violence to access land and property rights.

It is recommended to expand awareness-raising strategies on civil rights, marriage regimes, and property sharing and separation regimes for the entire population, especially the youngest people.

It is recommended that Fokupers coordinate and prepare a proposal for a pilot project to grant land to economically active women in vulnerable situations.

It is recommended that Fokupers advocate with decision makers for women to become priority in the ownership of house aiding programs as the uma kbtit laek.

It is directly recommended to Fokupers to conduct specific research focused on comparative research in the international context on the recognition of the de facto union regime and the rights of women in these unions. With this research, Fokupers can lead the advocacy process for amendments and changes to the Civil Code and the Civil Procedure Code.

The Ministry of Justice is recommended to:

- Coordinate and promote discussions on amendments and changes to the Civil Code to include legal provisions on de facto union with the necessary measures.
- Establish the regulations and registration number for monogamous barlaqued marriages to happen, so that they can be registered at the country's notaries.
- Create conditions so that civil marriages can occur without the requirement of previous Catholic marriage, respecting religious diversity.
- Ensure that young people receive information and guidance on the marriage regime according to the legal framework of Timor-Leste, so that they can know their duties and obligations as spouses related to the right to inheritance and ownership of land and property.
- Strengthen the awareness strategy for legal actors in the state justice system, to increase their ability and sensitivity to the conditions and needs of GBV survivors, especially related to the distribution of property, money and child support. Awareness strategies can also strengthen their commitment to decisions that will be taken based on available or unavailable evidence, such as proof of the timing of the de facto union and proof of the expenses of the couple during the building of their assets and wealth.
- Coordinate and ensure that there will be socialization at national, suco and hamlet levels on the legal framework for crimes related to GBV and civil cases; on equal rights to property and on the marriage regime and the sharing or separation of property and heritage.

The Secretary of State for Equality is recommended to:

- Coordinate with the Ministry of State Administration and ensure training projects for suco chiefs and suco delegates in all suco in Timor-Leste on equal access to land and inheritance of goods and properties. We suggest that within the framework of this program, suco chiefs and delegates will make a commitment to become multipliers for village chiefs within their own suco.
- Monitor the implementation of the Maubisse Declaration and publish monitoring results. According to the document, 50% of rural women must receive information from socialization activities, and 20% must receive land titles until the validity period of the declaration ends, so it is important to monitor and publish this information.

The National Directorate of Land and Property (Direção Nacional de Terras e Propriedades) is recommended to

- Coordinate and implement awareness-raising activities in communities so that women can be aware of their rights to land including the laws that protect them from inheritance and marital property.
- Publish and make available data to the public on the registry and results of the National Land Cadaster System.
- Coordinate and implement with SEI a pilot program to provide pieces of public land to Women's Community Cooperatives so that they can manage and do business so that they can become agents of economic transformation.
- Coordinate and implement with partners land sharing programs for potentially vulnerable women.
- Ensure that women are prioritized for housing programs and must be prioritized for land titles.

9.

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