

LAW AND JUSTICE IN TIMOR-LESTE



A Survey of Citizen Awareness and Attitudes Regarding Law and Justice 2008



The Asia Foundation



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**Law and Justice in Timor-Leste:
A Survey of Citizen Awareness and Attitudes Regarding Law and Justice
2008**

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Acronyms

AMP – Parliamentary Majority Alliance

ATJ – The Asia Foundation’s Access to Justice Program

AusAID – Australian Agency for International Development

COI – United Nations Commission of Inquiry

CTF - *Centro Formasaun Judisial* (Legal Training Center)

FRETILIN - Frente Revolucionária de Timor-Leste Independente

MOJ – Ministry of Justice

NGO – Non-governmental organization

INGO – International non-governmental organization

PNTL – *Policia Nacional de Timor-Leste* (National Police of Timor-Leste)

RDTL – Democratic Republic of Timor-Leste

TAF – The Asia Foundation

UN – United Nations

UNMIT – United Nations Integrated Mission in Timor-Leste

UNPOL – United Nations Police

UNTAET – United Nations Transitional Authority in East Timor

USAID – United States Agency for International Development

Contents

Preface	4
1. Executive Summary	7
1.1 Survey Context	7
1.2 Survey Findings	13
2. Justice Context	17
3. Responsibility for Law and Order	20
4. Legal Awareness	22
4.1 Language Preference	22
4.2 Information Sources about the Law	26
4.3 Legal Awareness – Courts, Lawyers, NGOs	28
5. Attitudes on Justice	32
5.1 Confidence Trends	32
5.2 Legal Assistance	36
5.3 Comfort Trends	37
6. Punishment and Impunity Trends	39
7. Gender, Law, and Justice	43
7.1 Educational Opportunities	43
7.2 Local Justice Processes	44
8. Paths to Justice	47
8.1 Frequency of Crimes & Disputes	47
8.2 Resolution of Crimes & Disputes	49
Appendix 1 : Methodology	
Appendix 2 : Demographics	
Appendix 3 : Survey Questionnaire	

Preface

Rule of law in Timor-Leste remains in a state of transition. Since Timor-Leste's official declaration of independence and promulgation of the Constitution in 2002, there have been a range of notable achievements in the formal justice sector: the penal and civil codes were drafted and adopted; court actors were trained and appointed to positions as judges, prosecutors, and public defenders; and a court of appeals and four district courts were established and operationalized. These developments have served as critical building blocks in the nation's efforts to establish the rule of law.

The impact of rule of law development initiatives in Timor-Leste remains unclear. For five years, the absence of qualified national court actors required international substitutes. Between 2003 and 2006, except in Dili, the courts functioned sporadically amidst ongoing social, economic, and political instability. In April 2006, major social unrest and armed violence between security forces disrupted daily life and brought development activities to a standstill, including those in the justice sector. The crisis added hundreds of criminal cases to the mounting backlog. By late 2007, with only minor outbreaks of violence during the presidential and parliamentary elections, the general security situation showed signs of improvement and the justice sector appeared to resume normal operations.

Then, on February 11, 2008, President José Ramos-Horta was shot and Prime Minister Xanana Gusmão's motorcade came under fire, again bringing the country to the brink of another devastating crisis. However, following this incident and the subsequent consolidation of the security forces, Timor-Leste has returned to a period of relative quiet. By December 2008 the district courts functioned regularly and almost all national court actors had taken up their posts. Against this backdrop, local justice mechanisms continued to function in parallel to, though separate from, the new formal legal system in a *de-facto* hybrid system.

To take stock of the citizenry's perceptions of their justice system in light of developments over the last four years, The Asia Foundation conducted the second nationwide survey of *Law and Justice in Timor-Leste: a Survey of Citizen Awareness and Attitudes Regarding Law and Justice* in December 2008. This survey was made possible by the generous support of the Australian Agency for International Development/Justice Facility and the U.S. Agency for International Development (USAID). As a follow-up to the earlier 2004 survey, the aim of the 2008 survey was to gather first-hand opinion from a large sample of Timorese citizens on a variety of access to justice-related issues. The survey results serve to further deepen understanding of how people seek to resolve disputes, to capture citizens' views of the informal and formal justice sectors, and to determine how perceptions of access to justice have changed over the last five years.

The current survey is the second of its kind that The Asia Foundation has conducted in Timor-Leste. In early 2004, the Foundation completed the landmark survey, *Law and Justice in East Timor: A Survey of Citizen Awareness and Attitudes Regarding Law and Justice in East Timor*. The 2004 survey, funded by USAID, assessed citizens' knowledge and attitudes regarding access to justice in both the formal and informal sectors. The 2004 survey covered 1,114

respondents from 13 districts of the country with oversamples in Baucau, Dili, and Oecusse. The initial data collection took place in December 2002. An extensive period of analysis and consultation then took place during 2003 and in January 2004 the survey report was finalized. Therefore a more exact period of time between the two surveys was six years: December 2002 to December 2008. The two Asia Foundation surveys are the only records of their kind available for longitudinal comparison of the establishment of rule of law in Timor-Leste.

The 2008 survey uses standard questions for comparability with the 2004 survey, along with contemporary questions relevant to current conditions that should be of interest to policy makers, social science researchers, and donor organizations. Many of the questions came from well-known surveys such as the East and South Asia Barometers and other Asia Foundation surveys on law and justice in Bangladesh, Cambodia, Indonesia, Mongolia, Nepal, the Philippines, and Sri Lanka. For 2008, the survey questionnaires were developed in collaboration with the Australian Justice Facility. They were first revised in-house and then sent to selected experts, stakeholders, and donors for review and suggestions. Acknowledging the intense focus on justice and security sector reform, relevant questions on issues such as impunity were added to the questionnaire. Some standard questions were rephrased to elicit clearer and more useful responses. The survey is not an institutional analysis of the courts and their regulating bodies, nor was the survey designed to gauge citizens' perceptions of international actors' contributions to the justice sector. Every effort was made to ensure that the questions asked and the information collected is actionable and relevant over time.

For the 2008 survey, a total of 1,120 interviewees were randomly selected across Timor-Leste. Design changes were made to the sampling to increase the spread of the interviews to a larger area and counter any cases of homogeneity in responses due to closely clustered samples. Additional quality control measures were built in to improve the accuracy of data collection: interview back-check personnel were deployed to review 10 percent of questionnaires conducted by the field-team. Emphasis was placed on getting a high quality national sample in order to find out more about how specific legal cases are handled. No oversamples were taken.

As in previous years, the Foundation continued its emphasis on using the survey program to help improve Timorese capacity in conducting research of this kind. Over the past two years, the Foundation's fieldwork partner, INSIGHT Consulting, has been able to build a team with the capacity to undertake large, diverse, and sensitive surveys across the country. In 2008, a total of 25 interviewers were used for data collection. For a full presentation of the sampling methodology used *please see Appendix I – Sampling Methodology*.

The Foundation's Country Representative Silas Everett managed the overall survey project, provided initial analysis, and drafted the 2008 survey report. Survey questionnaires were revised in coordination with the Australian Justice Facility's Consultant Jen Laakso. The Asia Foundation's Senior Law Advisor Erik Jensen, Law Program Director Debra Ladner and Consultant Michael Lieberman also contributed to the formulation of questions and post-survey analysis. The Foundation's Elizabeth Wharton designed and coordinated the implementation of the data collection methodology. External Consultant Meerim Kylychbekova designed the tables and drafted the analysis of the data tables. The

Foundation's Liam Chinn, Program Manager, contributed to data analysis and writing of the table text.

Following the release of this survey report, the Foundation will conduct a further series of stakeholder workshops to expand and deepen analysis relevant to law and justice reform in Timor-Leste. These efforts are intended to add to the expert commentary on the findings, including discussion of comparative trends with other countries in the region and from other data sources. The Foundation intends to make the conclusions of these consultations available to the public with the aim of providing policy-relevant recommendations for Timorese policy makers and government leaders to consider in their further efforts to strengthen rule of law in Timor-Leste.

Silas Everett
Country Representative
The Asia Foundation
Dili, Timor-Leste
April 2009

1. Executive Summary

1.1 Survey Context

The variety of public perceptions of justice in Timor-Leste reflects the complexity of building a state from domestic and imported fragments of social, political, and economic order. After the official declaration of independence in 2002, Timor-Leste's recovery has yielded notable improvements in the lives of ordinary Timorese. Yet the country continued to suffer from a number of characteristics of state fragility: a recent history of conflict; an increasing poverty rate; food insecurity; significant rural to urban migration; high unemployment in urban areas; increasing numbers of people without formal education; poor private sector growth and few new jobs created; poor road and communications infrastructure; rugged terrain and seasonal flooding; a high fertility rate; political violence; and a significant youth bulge. One of the main bright spots for the country, Timor-Leste's newly-gained oil wealth (2008 revenues estimated at US\$2.5 billion), has not translated into non-oil, private sector growth – the 80 percent of the population dependent on subsistence agriculture remains largely untouched by this bounty. In light of such pressing concerns and growing reports of official corruption, the citizens of the nation are left to hope that their elected government will soon rise to these challenges.

1.1.1 The Security and Governance Environment

From 2002 to 2007 Timor-Leste has held five elections that international observers deemed both free and fair. The last of these elections saw localized acts of political violence followed by a relatively peaceful transition of power from one government, formed by the Frente Revolucionária de Timor-Leste Independente (FRETILIN) Party, to another, formed by a coalition, the Parliamentary Majority Alliance (AMP). Still, longstanding personal rivalries and power struggles between Timorese political elite have exacerbated the fragility of the state's nascent institutions. In April 2006 mounting tensions within the police and the national defense force erupted into pitched battles in the nation's capital of Dili. The crisis left 37 people dead and displaced close to 150,000 residents. More than 2,000 buildings were destroyed. In May 2006, an international force was mobilized and operations began to restore order. According to the report of the U.N. Commission of Inquiry (COI) on the 2006 crisis, contributing causes included the justice sector – in particular the public's growing sense of impunity for violent offenders due to case backlogs in the courts and prosecutor's office and the lack of political will to address serious crimes that occurred as far back as 1999.

On February 11, 2008, an armed band of aggrieved former soldiers and police officers, still at large from the 2006 crisis, simultaneously attacked President José Ramos-Horta, who was shot and severely wounded, and Prime Minister Xanana Gusmão, who narrowly escaped the assailants' gunfire. As a result, the government called a three-month state of siege and formed a Joint Command comprised of military and police to capture the attackers. The militants were apprehended in April 2008. The next month, shortly after his return from hospitalization, President Ramos-Horta granted pardons or sentence reductions to 94 of the

country's 179 prisoners including those convicted of crimes against humanity for crimes committed during 1999.

1.1.2 A Hybrid System of Justice: Formal and Customary Institutions

Against this tumultuous backdrop, the traditional local justice system, critical to local security and stability, has functioned in a parallel, *de-facto* hybrid system of justice. Community authorities have practiced localized versions of customary law since before Portuguese colonization 450 years ago, though it has been discouraged or suppressed at various stages in history, most recently under the Indonesian occupation. In the post-1999 referendum period, community authorities openly revived the practice of customary law.

The majority of Timorese have only used local justice mechanisms and often are unaware of other options for accessing justice. According to the 2004 survey results, the formal justice system remained largely at the periphery for most Timorese, as local justice provides quick, low-cost, and effective means to resolve disputes. The state, civil society, and donors often raise concerns that local justice mechanisms fail to uphold human rights standards, particularly women's rights, and impede other aspects of justice provision. Part of the problem lies in the fact that the jurisdictional arrangements between the local and formal justice systems remain unclear. Police often act to resolve disputes or mete out punishment without recourse to formal process. Court decisions consider restoration made previously at a local level. Local communities often seek restoration even though a matter is dealt with in court. Addressing the real gaps between the local and formal justice systems, the Ministry of Justice began the process of drafting a customary law and mediation law in the end of 2008 and began a strategic planning process that pivoted around improving access to justice. However, time and careful examination is required to determine what the likely impact of these efforts will be on people's perceptions of access to justice and how the hybrid system of justice will evolve.

Local Justice Institutions

Within the hybrid system of justice in Timor-Leste, local justice mechanisms have continued to handle almost all of the disputes arising within communities, including disputes concerning property ownership and damage, theft, land usage, domestic violence, physical and sexual assaults, paternity, and divorce. While there is considerable variance in customs and procedures, there are several shared features in the provision of local justice, such as:

1. **Layered authorities.** Cases, if unresolved, are passed from lower to higher levels of community authorities. A dispute is typically first reported to the respective family leaders, who attempt to negotiate a solution with the head of the family of the other party to the conflict. If unresolved, the next step is to involve the *aldeia* (hamlet) leaders, then the *Chefe de Aldeia* (Chief of Hamlet), then the *lia nain* (traditional elders) and other respected individuals to seek a resolution. If still not resolved, parties are authorized by the *Chefe de Suco* to refer their case to the police or court. The police also may play a role in traditional dispute resolution processes, including mediation

of domestic violence, land disputes, and dowry related issues. Parties are usually required to pay a fee for resolution of disputes at the local level.

2. **Collective justice.** Families, rather than individuals, are held responsible for identifying solutions to a dispute. Local justice providers try to maintain peaceful relations and overall harmony in their community, rather than only trying to establish fault. Settlements often entail payment of compensation, but also include oral or written oaths to undertake community service and to not repeat the offense. The rationale for compensation includes the need to maintain balance in the ancestral social order – where the perpetrator makes offerings to the victim’s family and reconciles with the victim.
3. **Dialogue and oral transmission emphasized.** In local justice processes parties provide their version of events, then community leaders arbitrate or decide the remedy and craft the agreement. Cases, the proceedings, and agreements are not routinely catalogued by local justice providers.
4. **Social sanction as means for enforcement.** The effectiveness of an agreement depends on the degree of social pressure exerted by decision makers and the degree of community consensus that such an agreement is necessary. Agreements are sealed by symbolic, public acts of reconciliation that include ceremonial drinking or eating. The enforcement of settlements is reinforced by beliefs that the ancestors punish broken agreements through various means, such as disease, death, or crop failure. Agreements and sanctions do not consider nor always comply with international human rights standards.

Murder cases are usually sent directly to the formal justice system – a practice which started during the Portuguese colonial era – without an attempt by local leaders to arbitrate. Other serious physical assaults against the person (which may include rape) are sometimes sent directly to the formal system. However, in all other cases, until local efforts have failed to produce a resolution, disputants are heavily influenced by community authorities to adhere to local justice procedures. Failure to use the local justice system can result in sanction, such as a fine imposed by *suco* and/or Aldeia Chiefs.

The Formal Justice System

The formal justice system in Timor-Leste was designed by the UN in consultation with the country’s elite. The legitimate sources of law include the Constitution of the Republic, laws emanating from the National Parliament and the Government of the Republic, and the regulations and other legislative instruments of UNTAET. Indonesian laws, as long as they are not repealed, are permitted to supplement the above-listed sources of law, and finally international law and customary law are applied in certain forums.

Since the last Asia Foundation Law and Justice Survey was conducted in 2004, there have been notable changes in the formal justice sector, such as the increased functioning of the courts, the promulgation and enactment of organic laws, development of case management

systems, training of courts actors, and their official appointments as judges, prosecutors, and public defenders.

The Court of Appeal, established under UNTAET Regulation, continues to act as the highest court of appeal for criminal and civil cases (although the Constitution stipulates the yet-to-be-established Supreme Court of Justice as the highest court in the land). Four district courts in Dili, Baucau, Oecusse, and Suai Districts were established by UNTAET in 2000 and they continue to serve as courts of first instance.

From 2003 to 2008, all district courts except Dili have functioned irregularly, although with gradual improvement. While the district courts were able to complete 2,208 of the 2,972 cases (Figure 1) filed during this period, public access to the courts and by extension, the police in the prosecution of crimes, has been restricted. There are a number of reasons for the inconsistent functioning of the courts, including: (a) the decision to send national judges out of country for a year to Portugal, while no new judges were sworn in to replace them; (b) the mandate for national judges to attend a two-year training program before being able to serve in the courts; and (c) national and international judges and prosecutors frequent refusal to work outside of Dili (particularly in Oecusse and Suai) due to the lack of accommodation and facilities to support their work. As a result, court backlogs and pending cases have mounted.

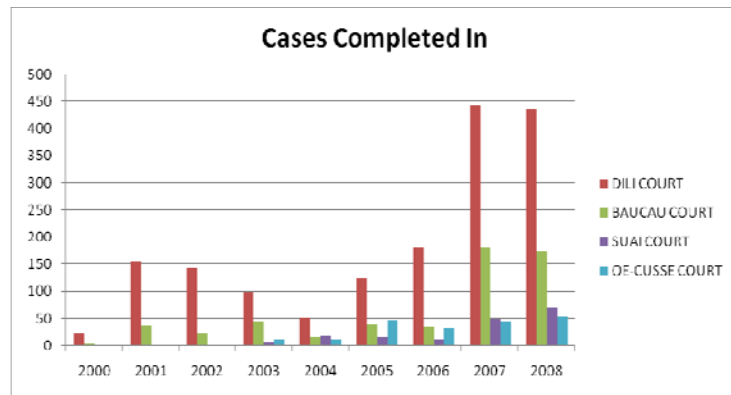


Figure 1

Impediments to Justice

2003 –Decree law imposes a 10 percent non-refundable fee of the damages being sought as well as administrative fees and \$75 case registration fee – an insurmountable sum for half of the country’s citizens earning less than half a dollar a day.

2003 –The Court of Appeals rules that Portuguese laws applied immediately as the subsidiary law of Timor-Leste. The law is unclear to ordinary citizens and legal professionals could not be certain which law governed. The parliament reversed the ruling, per the law VII/2003 noted below.

2004 –The Court of Appeals issues a directive to prioritize criminal cases over civil cases, thus restricting the type of legal assistance citizens would seek.

2005 – All National Court actors are failed on post-training examination at the Legal Training Center. They are required to attend another two years of training before being deployed to the courts.

2006 – Few in number, international judges implement the new criminal procedure code, in the absence of national judges, which requires a panel of three judges to hear any case involving serious crimes with penalties of five years or more imprisonment.

As of June 2006, 28 Timorese judicial actors (11 judges, 9 prosecutors, and 8 public defenders) were trained, selected, sworn and ready to be posted at the Dili and other district courts. However, the April–May 2006 crisis proved to be another barrier for the consistent operation of all district courts and the Court of Appeal, with some district courts resuming functionality only at the end of September 2006. Consequently, the backlog of cases increased, particularly in the Dili District Court, as new criminal cases were generated as a result of the unrest.

In June 2007 the first class of judicial actors began to work without the supervision of an international counterpart. However, with few trained national judicial actors, the justice sector remained dependent on international judges and prosecutors. The district courts had a combined backlog of over 1,000 cases. As of mid-2007 the district courts outside Dili were not functioning regularly and the Dili District Court was under serious pressure to hear new cases emerging from the unrest.

Despite these stumbling blocks, 2008 saw improvements in relation to the functioning of the District Courts in Baucau, Suai and Oecusse. Trials for both criminal and civil cases began being conducted more regularly in the districts and efforts were underway to address case backlogs. However, inadequate accommodation and court facilities for court actors as well as the lack of court actors have remained problematic. The Public Defenders were still frequently absent from the districts, affecting mostly Oecusse and Suai courts, and at times the Baucau court. Legal aid organizations in all non-Dili districts continued to handle most cases in their jurisdiction because of the unavailability of the Public Defenders and the absence of other private lawyers. The Oecusse Court lacked a Public Defender for the entire month of August 2008.

By the end of 2008 there was a total of 37 national court actors (13 national judges, 13 prosecutors, and 11 public defenders) and twelve international (5 judges, 3 prosecutors and 4 public defenders). Eighteen individuals began attending the third course at the Judicial Training Centre (*Centro Formasaun Judisial*, CTF) including a small number of private lawyers. The number of court actors is routinely considered to be insufficient to meet the current caseload. Court actors complained over too few Public Defenders and court clerks to conduct normal court proceedings. The Office of the General Prosecutor faced a backlog of over 4,700 cases, many of which were poorly prepared by the police due to lack of legal knowledge, poor investigatory skills, a dearth of translation resources, and lack of transport funds for investigations.

Legal Aid Services

Community civil society organizations provided *pro-bono* legal aid services to bridge the gap between citizens, local justice mechanisms, and the formal justice system as early as 2000. By 2003, a total of ten legal aid organizations were in existence. They operated on modest budgets with severe human resource constraints. Most of these organizations provided a

combination of legal information, counseling, representation in select cases, and legal advocacy on certain issues. There was little communication or coordination among legal service organizations. With rare exception, most legal service providers focused their efforts in Dili, with minimal outreach to districts and rural communities.

Within a few years the reach of legal aid services spread, as legal aid organizations increasingly conducted mobile legal clinics in remote areas. The importance of legal aid organizations was heightened in 2005 during the absence of court actors who were barred from practice until completing their retraining; at that time legal aid organizations offered the only viable legal representation to the public in the country. In 2008, legal aid organizations continued to provide legal representation in the absence of public defenders, especially in the courts of Suai and Oecusse.

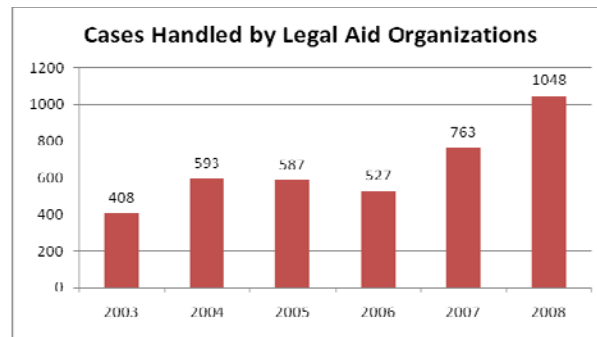


Figure 2

Today, the capacity and effectiveness of legal aid organizations has increased. Based on statistics available to The Asia Foundation through its Access to Justice program, more than 3,600 cases have been handled through free legal aid service provision since 2003. Approximately 40 out of the country's 90 private lawyers specialize in legal aid services. However, still only approximately half of the country is covered with adequate levels of service by the less than ten legal aid service providers. The typical legal aid organization provides legal representation in matters before the district courts as well as advocacy and mediation services to disadvantaged or vulnerable Timorese persons covering a particular region. Legal aid service providers handle cases across the spectrum of civil and criminal cases. Client engagements range from one-off advisory consultations to the provision of ongoing assistance and representation. Some legal aid organizations run community education and paralegal programs. However, legal aid organizations still lack standardized case management systems and have minimal skills in preparing evidence and making applications to the courts. Most private lawyers have had little informal – let alone formal – training in the RDTL Criminal and Civil Procedures Codes.

Formalization of the role of private lawyers and legal aid service providers has run parallel to making legal aid services more relevant to citizens. In 2002, The Asia Foundation began the USAID-funded Access to Justice program, which focused on strengthening the practice of legal aid service providers and building consensus on guidelines for legal aid service providers. Civil society organizations (CSOs) engaged in legal advocacy moved away from legal aid services to increasing levels of specialization in particular legal areas, for example the Judicial System Monitoring Program (JSMP), which later formed its Women's Justice, Legal Research, and Victim Support Services Units. In 2003, ASF (Advocates San Frontières) began work on establishing a paralegal network and collaborating with the Lawyers' Association of Timor-Leste, AATL).

1.2 Survey Findings

The 2008 survey results reveal a population feeling far more secure than they did in 2006, with a diverse range of opinions and perceptions on other key issues of justice and the law, such as who is responsible for making the rules that govern peoples' lives. Yet they hold a considerable consensus on other critical topics. The traditional justice system remains far and away the favored mode of dispute settlement across most segments of the citizenry. At the same time, the formal system also appears an attractive option, even if only in theory. Attitudes on gender have, disappointingly, taken a turn for the worse, with fewer Timorese across both genders recognizing women's rights to participate fully in the customary mediation process and less people categorically disapproving of gender violence. Views of police and security are also notable; despite widespread perceptions of frequent police misuse of force, confidence in and the perceived efficacy of the police forces are surprisingly high. These findings are but a few of the many interesting insights obtained from the survey. A more complete overview of key findings is below, followed by the complete survey results.

Key Findings

1.2.1 Confidence in the Formal and Local Justice Systems

- Confidence in the fairness of both traditional and formal justice remains high, but has dropped slightly in the past five years. Confidence in local justice mechanisms fell from 94 percent in 2004 to 85 percent in 2008; confidence in the formal justice system fell from 81 percent in 2004 percent to 77 percent in 2008.
- The most commonly cited factors for lack of confidence in the formal court system include that it is not effective at resolving problems (31%), takes too much time or costs too much (15%), or does not find the truth (11%). On the other hand, the most commonly cited factors for confidence in the formal justice systems are: courts have capacity to provide justice (56%), find the truth (21%), and apply decisions based on rule of law (11%).
- The 2008 survey results suggest the general public is comfortable bringing problems to local justice mechanisms and the formal court system. Eight percent more respondents report being more comfortable with the local justice mechanisms than with the formal court system (92.7% compared to 84.4%).
- Compared to 2004 results, respondents in the 2008 survey hold more positive attitudes for the formal courts to play a larger role at the community level. Eighty-five percent of 2008 survey respondents say they would want an official from the formal court system to come to their area to help settle disputes compared to 10 percent who say they would not. In the 2004 survey, in response to the same

question, 54 percent of respondents said they would and 41 percent said they would not.

- The 2008 survey, suggests mixed views on the primary source of law in the country, with a leaning towards traditional leaders. When asked the question, “*Who is responsible for making the rules that govern people’s lives?*”, respondents say the *aldeia* (21%) and *suco* chiefs (21%) are most responsible for making the rules that govern people’s lives, followed by parliament (14%) and government (13%).
- The most commonly cited factors for having confidence in local justice mechanisms are disputes are resolved according to custom and tradition (45%) and the effective settlement of problems (34%). The most commonly cited factor for lack of confidence in local justice is that it lacks neutrality and (people) do not trust it (53%).

1.2.2 Attitudes on Gender

- Attitudes condoning domestic violence have worsened over the last five years. In the 2004 survey 75 percent of respondents said a man who hit his wife is categorically wrong. In the 2008 survey, only 34 percent felt this way.
- Attitudes towards women’s access to justice have become less accepting over the last five years. In the 2008 survey 58 percent of Timorese disapprove of women speaking on their own behalf in local dispute/*adat* processes compared to 25 percent in the 2004 survey. Interestingly, roughly equal numbers of women and men disapprove of women speaking for themselves in the local justice/*adat* process in both surveys.

1.2.3 Legal Knowledge and Awareness

- The 2008 survey results indicate a persistent lack of knowledge about the formal justice system. Thirty-nine percent of the voting age national public say they have not heard of a court. Fifty-eight percent of respondents say they have not heard of a public prosecutor. Fifty-four percent of respondents say they have not heard of a lawyer. Thirty-one percent of respondents do not feel they could get enough information about the law if they needed it.
- The 2008 survey results suggest that those with less formal education have lower levels of legal knowledge and that the gender gap is widening. Eighty-four percent of those completing secondary education have heard of the courts compared to only 40 percent of those with no formal schooling. In the 2004 survey, 24 percent of women had no formal education compared to 28 percent of men. In the 2008 survey this gap has grown significantly - 51 percent of women say they have had no formal schooling compared to 36 percent of men.

- Basic awareness of the formal system remains low, and even more so for women. In the 2008 survey, 46 percent of women say they have not heard of a court compared to 31 percent of men. Fifty-eight percent of women say they have not heard of a lawyer compared to 50 percent of men. Sixty-one percent of women say they have not heard of a public prosecutor compared to 54 percent of men.
- Community leaders continue to play a minor role in providing information about the law compared to broadcast media. In 2008, 38 percent of respondents say radio is their primary source of information about the law, followed by television (24%) and the *aldeia* chief (11%). In 2004, 40 percent say radio is their primary source of information about the law, followed by television (16%), and the village chief (9%).

1.2.4 Language

- By a significant margin, Tetum is the preferred language for oral communication (62%) and written materials (52%). Another 34 percent identify some type of local dialect as their preferred spoken language. Very few people selected either Portuguese (1%) or Bahasa Indonesia (2%) as their preferred language for oral communication. As for written communications, Tetum is the preferred language (52.4%). Tetum is the most widely used language among all respondents, but it is especially popular for those under the age of 25 (68%).
- Of respondents who say they had been to court, 31 percent say the proceedings were not conducted in their preferred language. Furthermore, 29 percent of respondents say they did not understand the legal procedures while in court. Respondents were three times more likely to say they understood the procedures in court if the court proceedings were conducted in their preferred language.

1.2.5 Accessibility of the Formal System

- Availability of the courts and lawyers remains limited. Eleven percent of all respondents in the 2008 survey indicate they or their family have used the court in the last six years compared to 9 percent in 2004.¹ In the 2008 survey 58 percent of respondents say they have heard of a court, yet of this group, 60 percent of respondents say they do not have a court house in close enough proximity to use if necessary. Of the 41 percent who had heard of a lawyer, 80 percent say they do not have lawyers available in their area.
- Seventy-eight percent of all respondents say they think the formal justice system is designed to help people like themselves, though they also believe it is beset by serious inadequacies. Only about half of respondents (51%) think that the formal laws are adequate to address disputes and other problems that people experience in their everyday lives. Two out of three respondents believe that the RDTL

¹ 18 percent of all respondents who say they had heard of a court say they have used the court.

constitution's promise that "Justice shall not be denied for insufficient economic means" is NOT being upheld.

1.2.6 Impunity and the Rule of Law

- Local justice mechanisms are widely perceived to be primarily responsible for the maintenance of law and order – a view which has increased in popularity in the past five years. In 2004, when asked, "*who is responsible for law and order in your community?*" 81 percent of respondents' first choice was "Community Leader, Elders and *Suco* Chiefs" compared to 89 percent who gave the same response in the 2008 survey.
- Fifty-four percent of respondents say people in their area take justice into their own hands if a serious problem or large dispute is not resolved. Nearly 80 percent of the time respondents say they either fight, threaten, damage property, commit arson, steal, or defame. Fighting (30%), defaming (31.3%), and threatening (10%) are by far the most common modes of recourse residents take. Damaging or taking another's property (6.3%), committing arson (0.5%), and stealing (1.9 %) were other similar responses. About 14 percent of the time they resolve through family dialogue. Surprisingly, survey respondents stated that less than 1 percent of cases people make compensation through *adat*.
- The 2008 survey results suggest that most Timorese do not support impunity or pardons for serious crimes. Ninety percent of respondents say that they do not think that there are times when a person who commits a serious crime like murder should be able to 'avoid punishment' or be free from 'compensating' the victim.
- The 2008 survey results suggest high police approval ratings in maintaining security. Ninety-four percent of respondents say that the police are very or somewhat effective (73% say "very effective" and 21% say "somewhat effective"). At the same time, while 96 percent of respondents say they had not personally experienced police abusing their power (e.g., a police officer threatens or hits you or takes your property) over the past two years, 47 percent say the law protecting accused criminals from being beaten by the police is NOT being followed in their area.

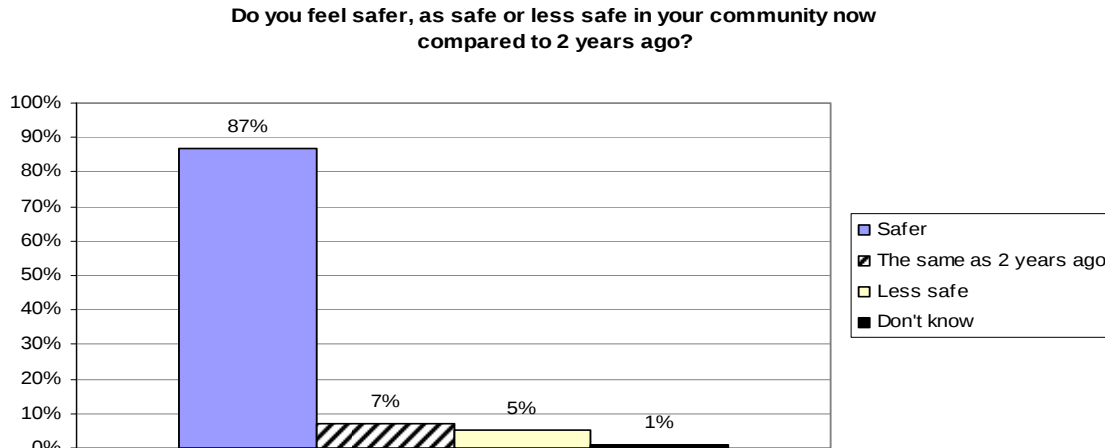
2. Justice Context

The outbreak of violence erupting in early 2006 caused a profound deterioration of the security environment with Dili and other parts of the country in flames. The crisis left dozens dead and close to 150,000 people displaced. In May 2006, a 1,542 person strong international force was deployed and restored order. Internal security was later entrusted to a United Nations police force (UNPOL); and an International Stabilization Force made up of 920 Australian and New Zealand troops assumed control of security. As a result of their operations and arrests, hundreds of criminal cases were added to the existing backlog of cases in the courts and prosecutor's office, yet the courts at this time barely functioned.

Although the 2007 presidential and parliamentary elections saw localized outbursts of violence, they were quickly contained and security gradually began to improve further. Posting only a slight increase from 2007, UNMIT's 2008 crime records contain 3094 incidents (UNMIT believes that the real crime rate dropped while crime reporting increased), with assault, public disorder and domestic disputes topping the list.

This positive trend has continued, with the major exception being the events on February 11, 2008 when the President of the Republic and Prime Minister were victims of separate, but linked armed assaults. The government swiftly took advantage of the attacks to consolidate the security forces and induce the surrender of the armed militants, thus addressing one of the major factors for the 2006 instability. By the end of 2008, the four district courts functioned regularly.

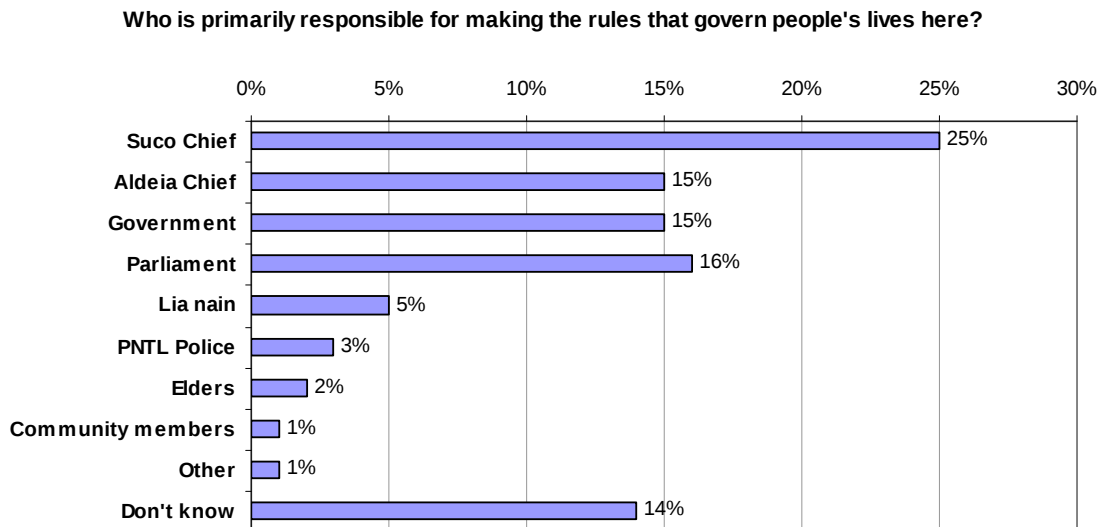
In this context, respondents were asked to compare the security situation in their locality at the time the survey was conducted (November-December 2008) to the situation two-years prior, in the aftermath of the violence. Overall, as shown in Figure 3, the vast majority (87%) of Timorese feel safer in their communities today compared to two years ago. In Dili, even more Timorese (95%) feel safer compared to two years ago. Positive perceptions of improvements in safety could contribute to positive attitudes towards the justice sector as a whole, despite the many perceived and objective constraints, as examined in this survey report.



NP=1120

Figure 3

While there is broad consensus over the security environment, there is far less agreement on the question of who is responsible for laying down society's basic rules. Here responses include a range of local and national institutions and individuals. Figure 4 shows that 25 percent of respondents assign responsibility to *suco* chiefs and 15 percent to aldeia chiefs, while 15 percent point to the government and 16 percent to parliament. Only 5 percent consider lian nain/local elders, as responsible, which is surprising given their traditional role as authorities on the practice of customary law. The proportion who believe the police make the rules that govern their lives is also very low (3%). In addition, a notable 14 percent of citizens say they do not know who is responsible for the making the rules.

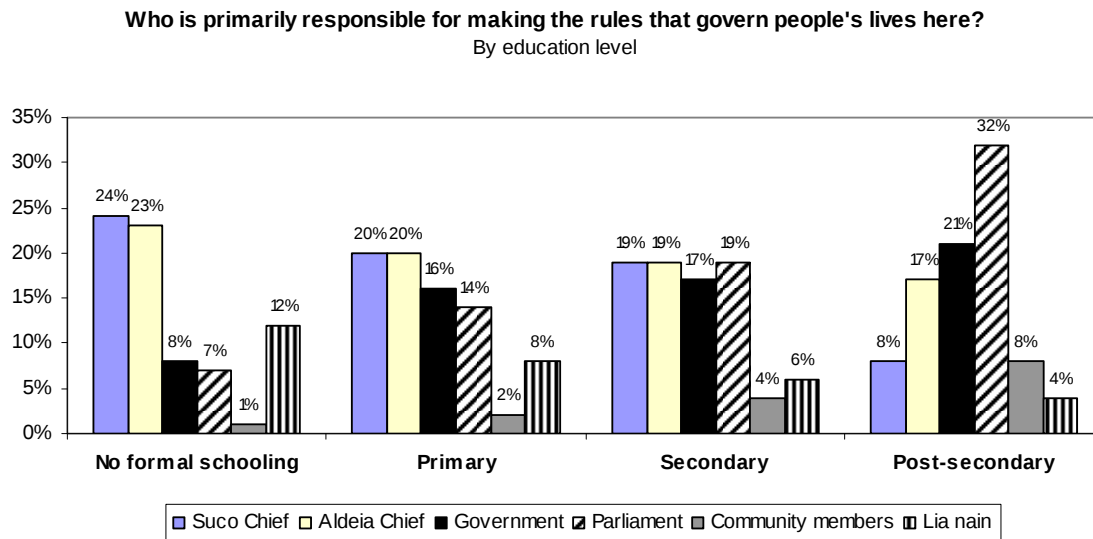


NP=1120

Figure 4

Educational attainment appears to be a significant factor in determining responses to this question. Those with higher education levels, especially post-secondary schooling, are more

likely to believe that the state (government and parliament) rather than community leaders, is responsible. In contrast, respondents with little or no education are more likely to view community leaders such as *suco* and aldeia chiefs as being responsible. For example, only 7 percent of respondents with no formal schooling consider the parliament accountable for making the laws compared to 32 percent of respondents with post-secondary education. Similarly, only 8 percent of respondents with a post-secondary education believe *suco* chiefs are responsible versus 24 percent of respondents with no formal schooling. Those with a primary or secondary education are more closely divided in their opinion of whether it is the state or community leaders that are responsible.



NP=1120

Figure 5

3. Responsibility for Law and Order

The results of the survey (Figure 6) indicate that Timorese continue to identify community leaders, rather than the police (PNTL), as primarily responsible for maintaining law and order. In 2008, a combined 86 percent of the general public identified some type of community leader (i.e. *suco* chiefs, *aldeia* chiefs, and elders) as responsible for maintaining law and order in their communities. Breaking down the 2008 data according to the type of community leader cited by citizens as responsible for maintaining law and order reveals that most Timorese view *aldeia* chiefs (40%) as responsible, followed by *suco* chiefs (29%) and elders (13%).

This result is interesting considering the widely-held perception of improved security with the absence of consensus on who is responsible for making the rules governing people's lives. There appears to be a disconnect between responsibility for rulemaking and responsibility for law and order. Only 5 percent of Timorese believe the police are primarily responsible. In comparison to the 2004 data, these figures show an even stronger identification of local leaders as responsible for maintaining security, moving from 81 percent to 86 percent, while identification of police decreased from 14 percent to 5 percent. These data might also suggest greater disillusionment with the performance of the PNTL and/or international police forces, at least relative to the functions of local community leaders. They might also indicate the predominance of the role of customary dispute settlement versus law enforcement as a way of handling community issues and problems.

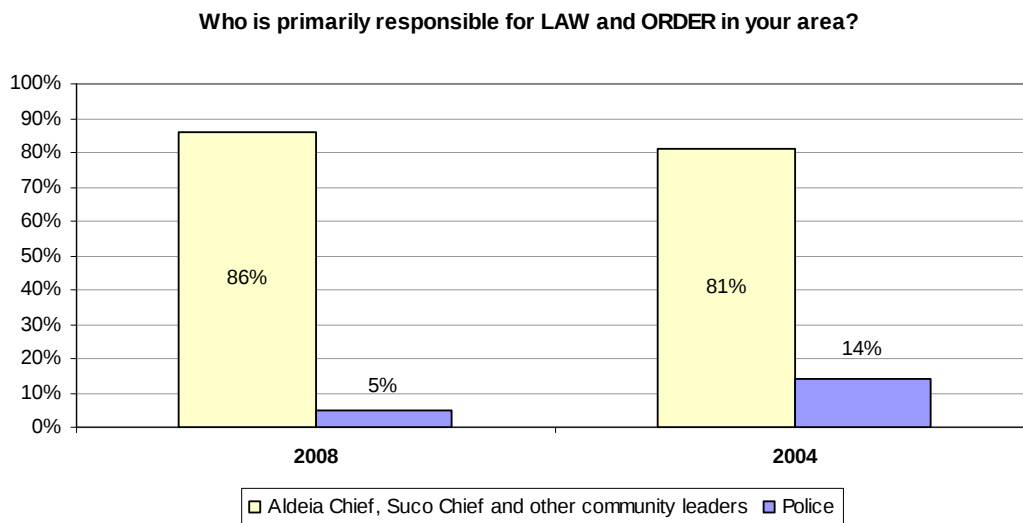


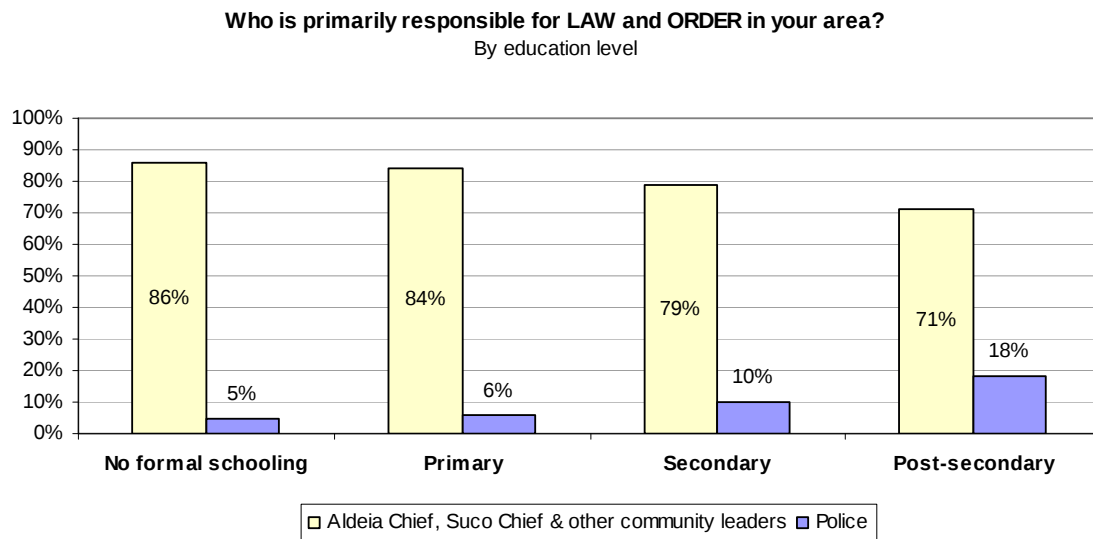
Figure 6

Overall, the survey results in Figure 6 appear to reflect the types of crimes that tend to occur in Timor Leste, and the justice seeking procedures they would require. Especially in rural areas, where the number of serious crimes remains low, and other forms of offences such as

theft, land grabbing and gender violence, *aldeia* chiefs remain central to resolving communal disputes and mediating local conflicts. The data also suggest citizens still perceive the PNTL, which has only been operating for nine years, to have limited relevance when it comes to maintaining law and order on a day-to-day basis in their locality.

Education is not a significant factor in determining citizens' views on the maintenance of law and order, with the vast majority of citizens across all education levels identifying community leaders as responsible. The proportion identifying community leaders does vary somewhat with differing education levels, however only a modest decline is seen, which produces an overall range of only 15 percent, detailed as follows: no formal education (86% identify community leaders as responsible for law and order), primary education (84%), secondary education (79%), and post secondary (71%).

Correspondingly, the proportion identifying police as responsible rises slightly as education level increases, ranging from 5 percent among those with a primary education to 18 percent of respondents with a post-secondary education. This finding suggests that even highly educated citizens—who are likely to be more aware of the role and mandate of the police—still strongly perceive community leaders as having primacy in the maintenance of law and order.



NP=1120
Figure 7

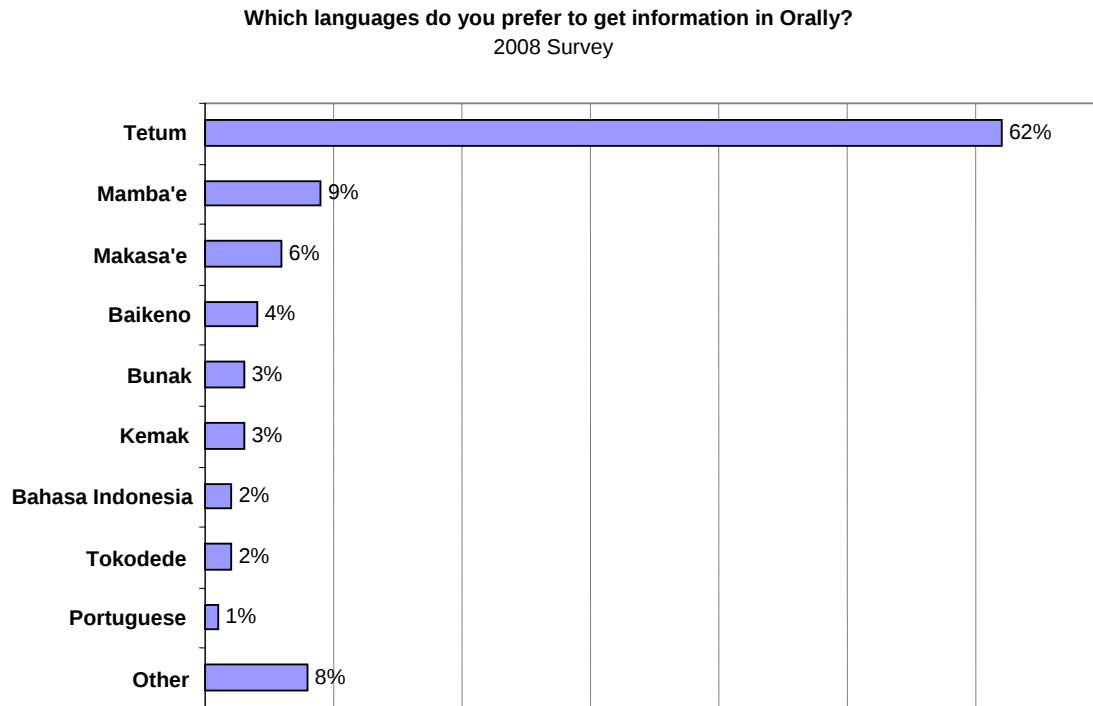
4. Legal Awareness

Though legal awareness remains low in Timor-Leste, in the last five years there have been some efforts on the government's part to raise awareness of and seek feedback on new legislation. Examples include the consultations on the Divorce Law and Petroleum Fund Law. The Ministry of Justice's strategy for increasing public awareness of legal information has focused on outreach through mass meetings. In 2004, in the first of such efforts by the Government, the MOJ provided orientation on the new criminal and civil procedure codes to private lawyers and others. The 2004-2005 legal information dissemination campaigns reached over 10,000 people through direct contact at open public forums in the districts as well as 60,000 through radio. In 2006, MOJ undertook other efforts to disseminate legal information through the Office of the Prosecutor General and the Court of Appeals. Overall, the survey found that people's awareness of their rights and the law was derived primarily through the TV and radio. Evidence from focus groups suggests media programs containing creative legal messages dramatized through stories were more memorable than campaigns on particular legal or civic education topics based on the "letter of the law."

Part of the problem in promoting broader public awareness lies in the fact that Portuguese, the *de facto* legal language of Timor-Leste, is spoken by only an estimated seven percent of the national public. Although Tetum is spoken by over 80 percent of the national public, many in government and elsewhere see it as a "trading" language lacking the terminology for legal settings. The result is that laws, judgments and even court orders are often handed down in Portuguese, especially by international judges. Many court actors, including national judges, private lawyers and members of Parliament are thus unable to understand, act on, or further disseminate legal information. In short, the number of people who can understand and discuss the law is limited. Fortunately attitudes are changing. Key laws have been successfully translated into Tetum, such as the Criminal and Civil Code Procedures, and use of Tetum in the courts appears to be increasing as national court actors take over from international court actors. The Asia Foundation's Tetum-Portuguese legal dictionary, currently in development, will hopefully facilitate this process.

4.1 Language Preference

As seen in Figure 8 below, Tetum is the language in which a strong majority of the general public (62%) in Timor-Leste prefer to receive verbal information. The next most preferred language is Mumba'e, which is cited by significantly fewer citizens (9%) than Tetum, followed by Makasa'e (6%). The bulk of other languages preferred by Timorese for receiving verbal information are regional dialects, each of which is cited by marginal numbers of Timorese (Baikeno 4%, Bunak 3%, among others). Meanwhile, only 1 percent of Timorese prefer to receive oral information in Portuguese, despite that it is one of the country's official national languages. Similarly, only 2 percent of the general public prefer Bahasa Indonesia, which was designated as the official language for more than two-decades under Indonesian rule that lasted until 1999.



NP=1120

Figure 8

When asked “which language can you speak?” in the 2004 survey, nearly nine out of ten respondents answered ‘Tetum’ and four out of ten ‘Bahasa Indonesia’ (Table 1). While preference for speaking a language can differ from that for receiving oral information, the results from the questions asked in the 2004 and 2008 surveys are comparable in that they both confirm that Tetum is the most well known language among the Timorese public. In addition, while Bahasa Indonesia was cited in the 2004 survey by 40 percent of Timorese as a language they *can speak*, the 2008 data further clarifies that very few Timorese (2%) actually *prefer* it for receiving verbal information.

**Table 1. Which language can you speak (multiple response)?
2004 Survey**

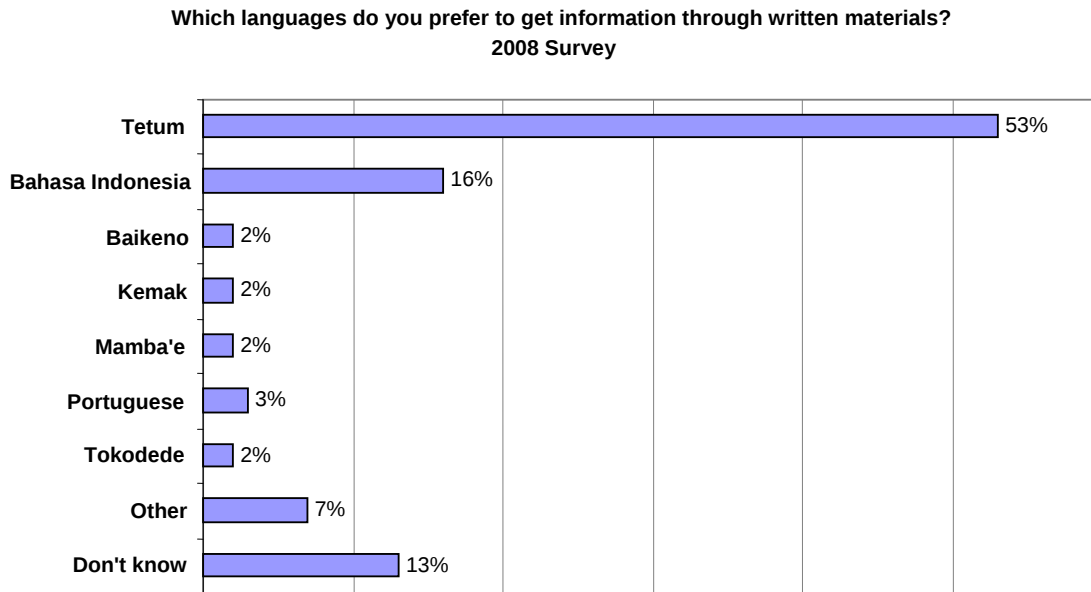
	2004
Tetum	88%
Bahasa Indonesia	40%
Mamba'e	17%
Makasa'e	10%
Portuguese	7%
Baikeno	5%
Kemak	5%
Fata luko	3%
Tetumterik	3%
Tokodede	2%
Nau-eti	2%
Galolen	2%
Tokodede	2%
Other	5%

NP=1114

Table 1

Respondents in the 2008 survey were also asked which language they prefer for written materials. According to Figure 10, 53 percent indicate Tetum, followed by Bahasa Indonesia which is cited by significantly fewer citizens (16%). Only 3 percent cite Portuguese, and a surprisingly high 13 percent say they do not know which language they prefer, which may reflect the high rate of partial literacy in Timor-Leste. Again, all other languages cited are regional dialects, preferred by marginal numbers of Timorese (ranging from 1% to 3%).

It should be noted that while Bahasa Indonesia is only cited by 16 percent of Timorese as the preferred written language, this percentage is notably higher than for those who identify it as the language they prefer to obtain information in orally (2%). One possible reason for this disparity is that under Indonesian rule, the formal education system as well as government utilized Bahasa Indonesia, and therefore many may not be able to read comfortably in Tetum.



NP=1120

Figure 10

In 2004, respondents were also asked which languages they *can read*. Allowing multiple answers yielded data showing that 61 percent of Timorese are able to read Tetum, 48 percent Bahasa Indonesia, and 10 percent Portuguese. Similar to the data presented above regarding ability to speak a language versus preference for receiving verbal information, the 2008 survey further clarifies which language Timorese *actually prefer* in terms of written materials. For example, despite 48 percent of Timorese claiming that they *can read* Bahasa Indonesia, only 16 percent say they *prefer* to receive written materials in Bahasa Indonesia. While only just over half (53%) of Timorese say they prefer written materials in Tetum, this proportion is still far greater than any other language. At the same time, the absence of a language that is preferred by a strong majority of the public suggests that Timor-Leste is still undergoing a transition period linguistically, with less than ten years having passed since the education system began using Tetum as the primary language for reading and writing.

**Table 2. Which language can you read?
2004 Survey**

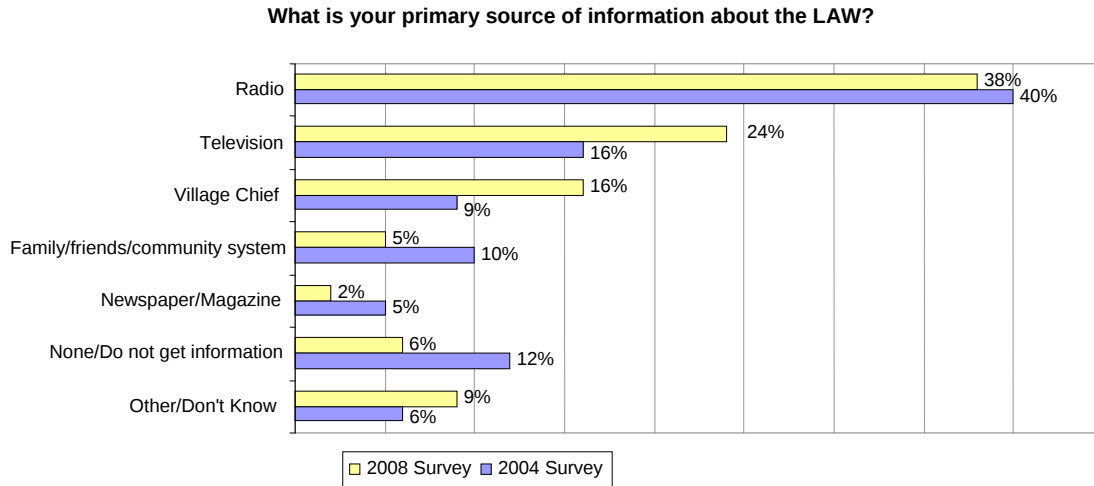
	2004
Tetum	61%
Bahasa Indonesia	48%
Portuguese	10%
Mamba'e	6%
Makasa'e	4%
Baikeno	2%
Fata luko	2%
Kemak	1%
Tetumterik	1%
Nau-eti	1%
English	1%
Other	5%
None	9%
Don't Know	12%

NP=1114

Table 2

4.2 Information Sources about the Law

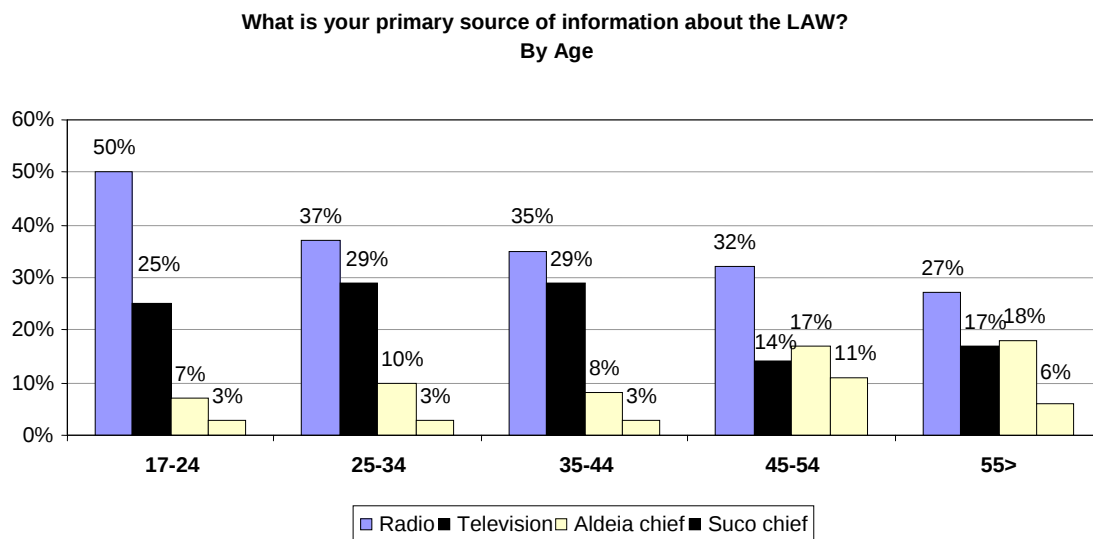
In general, radio continues to be the most accessible and widespread communication tool in Timor-Leste, with a strong plurality of citizens—38 percent in 2008 and 40 percent in 2004—indicating that it is their primary source of information about the law (Figure 12). However, other modes for receiving legal information have seen modest increases during the past 5 years. The proportion of people naming village chiefs as their main source of legal information has risen from 9 percent to 16 percent, while the proportion receiving information through television has risen from 16 percent to 24 percent. Conversely, the number of Timorese receiving legal information from newspapers has declined by more than half, from 5 to 2 percent. Family/friends/and community system as a source has seen a significant drop from 10 percent to 5 percent. Finally, the data suggests that there has been a decrease in the percentage of citizens (from 12% to 6%) who indicate that they do not receive any information about the law, a possible sign of progress in efforts to raise legal awareness.



2008 NP=1120; 2004 NP=1114

Figure 12

Age appears to be a significant factor in determining where respondents obtain information about the law. As Timorese age, they are less likely to receive information from radio. Nearly twice as many respondents aged 17-24 cite radio as their main source compared to those over 55 years old (50% vs. 27%). In addition, television appears to be a more common source of information among citizens aged 44 and under. For example, while television is the primary source of legal information for 29 percent of citizens aged 25-34, only 14 percent of citizens aged 45-54 receive information through this mode. Age is also a factor in determining the likelihood of local leaders such as *aldeia* chiefs and *suco* chiefs serving as sources of information about the law. The data reveal that reliance on *aldeia* and *suco* chiefs is highest among those aged 45 and over. For example, while 18 percent of citizens aged 55 and over primarily receive legal information from their *aldeia* chief, only 7 percent of citizens aged 17-24 do so.

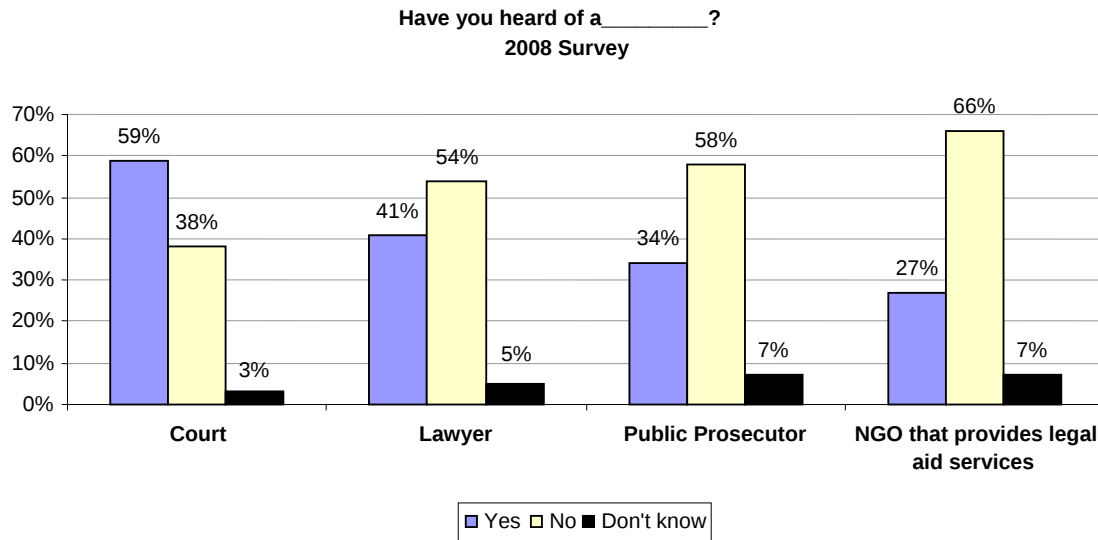


n=297 n=272 n=221 n=160 n=171

Figure 13

4.3 Legal Awareness – Courts, Lawyers, NGOs

The survey also sought to measure basic legal awareness of the formal justice system, by asking respondents if they have heard of various formal legal institutions. The data in Figure 14 shows that more than half (59%) of Timorese report that they have heard of a court, while 41 percent have heard of a lawyer. Only around one in three citizens have heard of a public prosecutor. Even fewer (27%) have heard of an NGO that provides legal assistance. These results suggest that while a modest proportion of the public are aware of courts, they are not clear about the existence or roles of the different actors involved in the system. Overall, the relatively low proportion of citizens who are aware of the basic components of the formal legal system suggests that most Timorese do not understand the nature of the formal system of judicial governance or have practical access to the legal system.



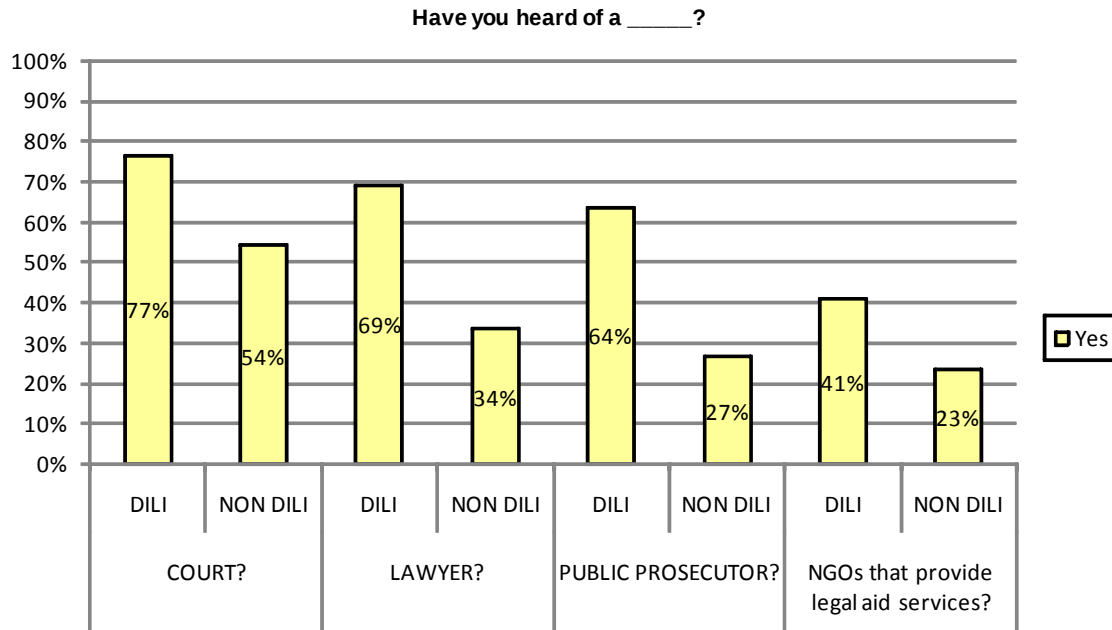
NP=1120

Figure 14

Location, age, education, and gender are significant factors in determining the likelihood of a respondent being aware of the formal institutions of justice assessed by the survey. Respondents most likely to be aware were younger (aged 35 and under), residents of Dili and better educated. Lowest awareness levels were found among respondents over age 55, with little or no education, and living outside of Dili.

According to the data in Figure 15, familiarity with the courts, lawyers, public prosecutors, and NGOs that provide legal aid services is strongly correlated with whether or not the respondent lives in Dili. Seventy seven percent of respondents who live in Dili say they have heard of a court compared to 54 percent of respondents who do not live in Dili. Sixty-four percent of Dili respondents say they have heard of a public prosecutor compared to 27 percent who reside outside of Dili. Greater legal awareness in Dili may be attributed to the

facts that Dili has TV broadcasts; that Dili has a higher concentration of people with secondary and post secondary school educations, and that the Dili District Court has been functioning regularly for the last six years.



NP=1120

Figure 15

According to the data in Figure 16, familiarity with the court system is also strongly correlated with level of education, with each successive rise in educational attainment significantly increasing the likelihood that an individual will be familiar with the courts. The data shows that 97 percent of citizens with a post-secondary education are aware of the courts, while awareness is only 41 percent among citizens with no formal education. Awareness of the court system among citizens with education levels between these two extremes is 63 percent for those with a primary education and 75 percent for those with a secondary education.

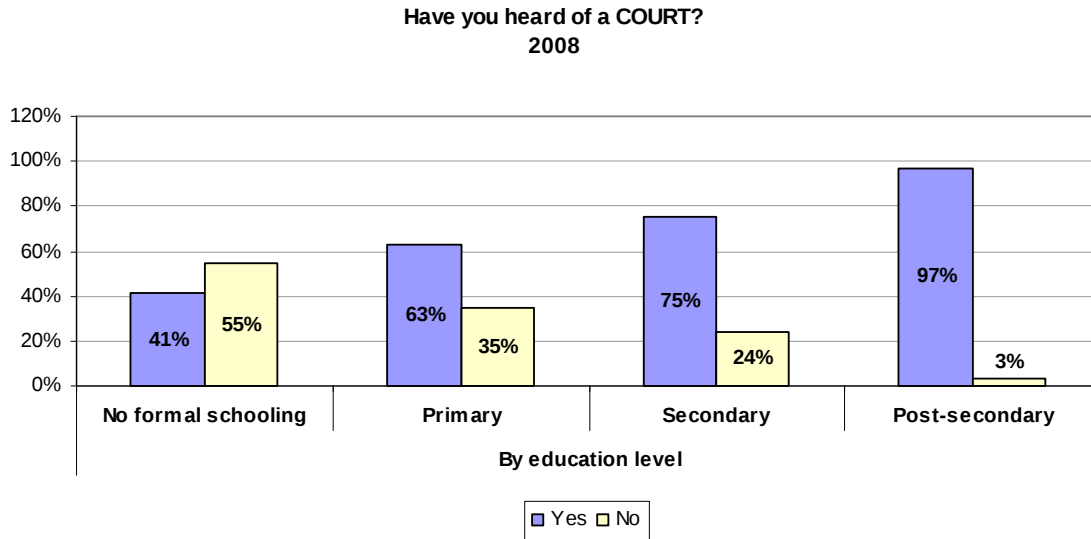
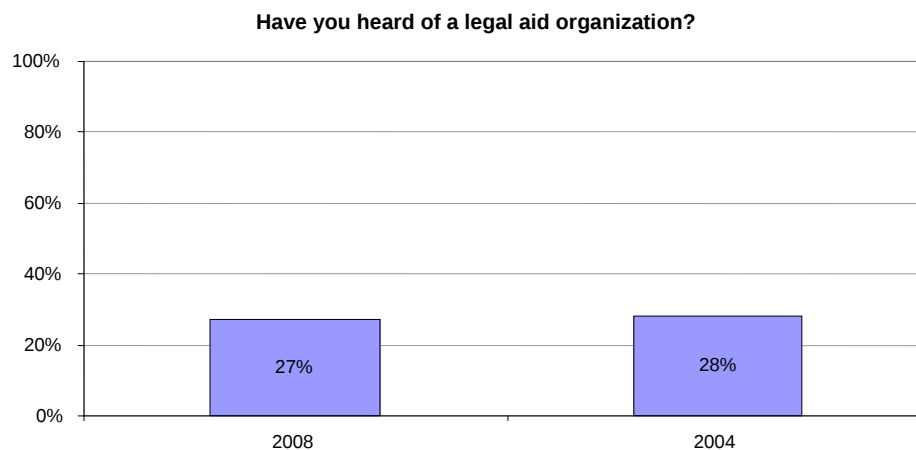


Figure 16

Despite considerable efforts by development programs to disseminate information on the formal legal system, awareness remains very low across all formal institutions, and in fact, appears to have changed little over the past four years. For example, the data in Figure 17 comparing awareness levels of legal aid organizations in 2008 and 2004 shows that the level of awareness has essentially remained the same (27% vs. 28%).



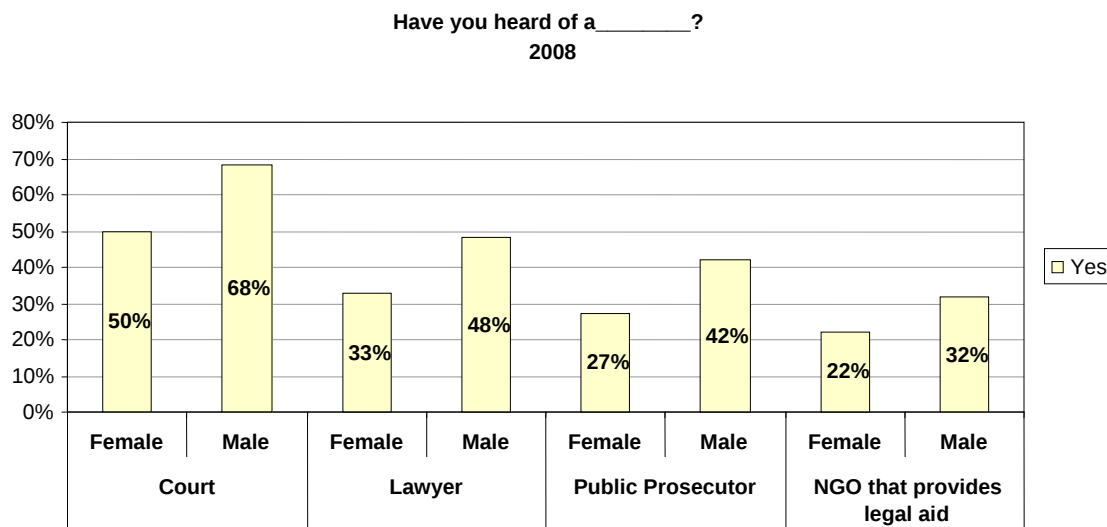
2008 NP=1120; 2004 NP=1114

Figure 17

Both age and level of educational attainment are significant factors in determining the likelihood of awareness of legal aid organizations. Respondents most likely to be aware of legal aid organizations are those aged 35 and under (34%) and those with higher levels of education. Respondents least likely to be aware are those over the age of 55 (12%) with little or no formal education.

Gender is also a determining factor in awareness of formal legal institutions (Figure 18). Across the board, males show greater awareness than females. Sixty-eight percent of males have heard of a court, versus 50 percent of females. Forty eight percent of males are aware of lawyers, compared to only 33 percent of females. Forty-two percent of males know about public prosecutors, while only 27 percent of females are aware of them. Lastly, 32 percent of men have heard of an NGO that provides legal aid services, versus 22 percent of women.

As seen in Figure 16 above, education is another significant factor in determining awareness of formal legal institutions. Given that females have substantially lower levels of educational attainment in Timor-Leste, the gap in awareness between males and females is not surprising. There are likely other factors that also contribute to greater awareness of formal legal institutions among men than women, including their levels of engagement in civic life/government.



NP=1120
Figure 18

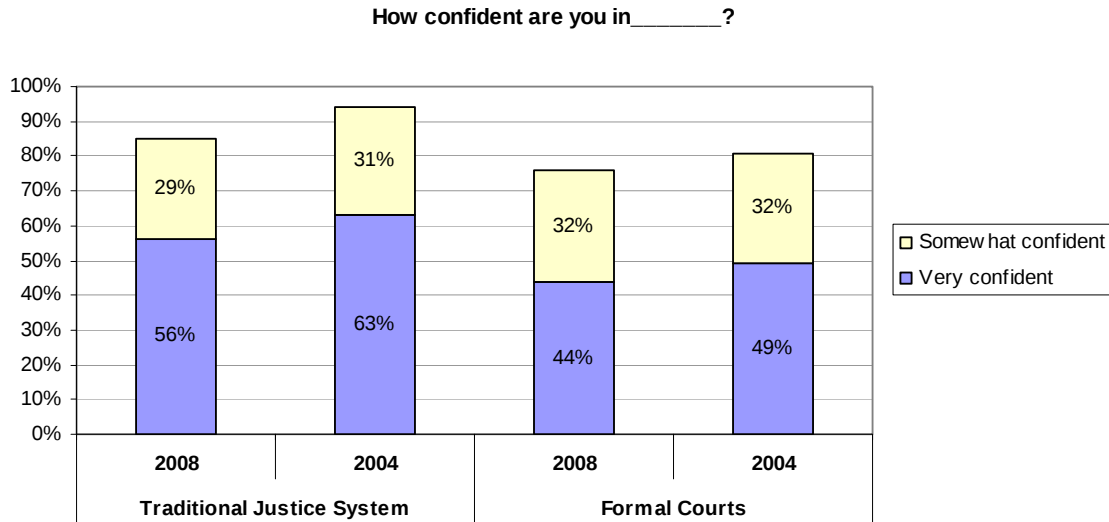
5. Attitudes on Justice

The longstanding customary justice system, critical to local stability in Timor-Leste, functions in parallel with the formal justice system. In this sense, like most countries, Timor-Leste has a *de facto* hybrid system of justice. According to the 2004 survey results, the formal justice system remained largely at the periphery for most Timorese, as local justice provided quick, low-cost, and effective means to resolve disputes. The state, civil society and donors have continued to raise concerns that local justice mechanisms fail to uphold human rights standards, particularly women's rights, and impede other aspects of justice provision. Part of the problem lies in the fact that the jurisdictional arrangements between the local and formal justice systems have not been aligned. Police often act to resolve disputes or mete out punishment without recourse to formal processes. Court decisions consider compensation made previously at a local level, while local community members often seek restoration even though a matter has been dealt with in court. To address this lack of clarity, at the end of 2008 the Ministry of Justice began drafting a customary law and mediation legislation that seeks to formally link and harmonize these systems. The law, still under consideration, may ultimately improve the interaction and functioning of these systems, though any changes in citizens' perceptions must await future assessments.

5.1 Confidence Trends

In 2008 the general public continues to show strong overall confidence in both traditional institutions of justice and the formal courts (Figure 19). However, across the board, the degree of confidence is slightly down compared to 2004. In terms of traditional justice, the percentage of Timorese expressing that they are "very confident" in the system has dropped from 63 percent in 2004 to 56 percent in 2008, while the percentage indicating they are "somewhat confident" has dropped from 31 percent in 2004 to 29 percent in 2008. Regarding the formal courts, the proportion of the public (among those who confirmed they had heard of a court in Figure 14) saying they are very confident in the system has dropped from 49 percent to 44 percent during the past five years. There has been no change in the percentage of citizens who report that they are somewhat confident (32%).

Comparing levels of confidence between the two systems reveals that the traditional system still elicits a higher level of confidence among the public, with 56 percent of respondents indicating that they are "very confident" and 29 percent "somewhat confident," versus 44 percent and 32 percent respectively for the formal court system.

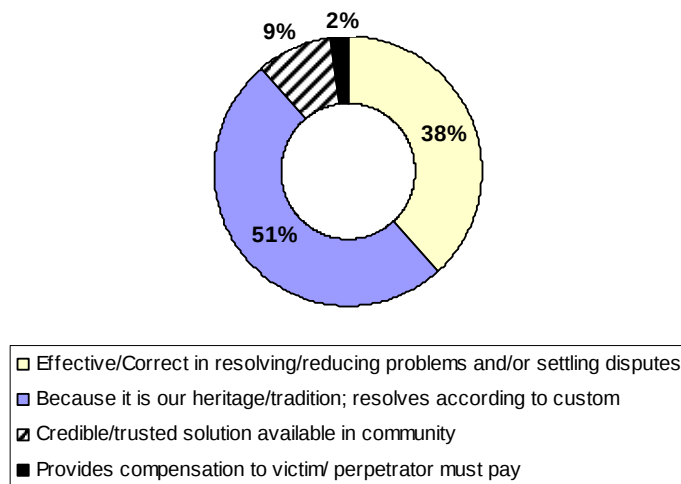


TI=1120 FC=658

Figure 19

The 2008 survey also assessed the reasons for confidence in the traditional justice system and formal courts among respondents who said they are very or somewhat confident. Roughly one half (51%) of those respondents who expressed confidence in the traditional system say that the reason for their confidence is that the system is their heritage and tradition, and that disputes are resolved according to custom. 38% point to the effectiveness of the traditional system in settling disputes, while 9 percent say it is a credible and trusted solution available to the community.

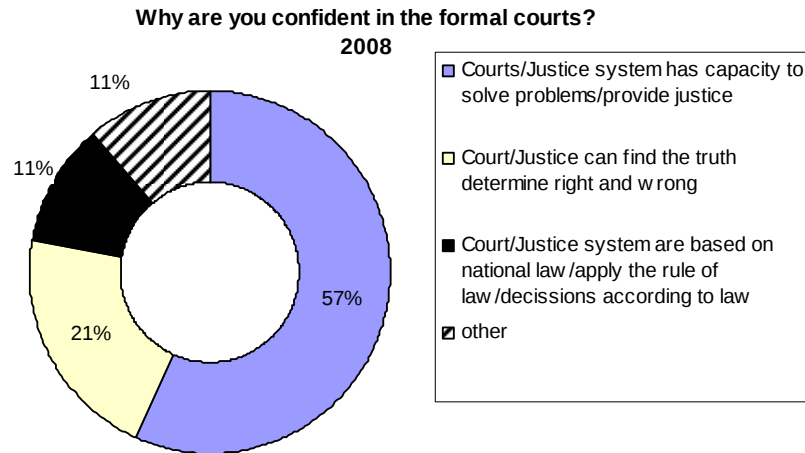
Why are you CONFIDENT in the traditional process?



n=950

Figure 20

The most common reason cited for having confidence in the formal courts is that they have adequate capacity to provide justice and solve problems across Timor-Leste (57%). Twenty-one percent say that the court is effective at finding the truth and determining right and wrong. An additional 11 percent say that the reason for their confidence is that the court system is based on national laws that are aptly applied in the adjudication process.



n=1120

Figure 21

Confidence in other legal institutions, such as legal aid organizations and the police, also remain very high. While only just over a quarter of Timorese have heard of an NGO that provides legal services (see Figure 14 above), among this group, a substantial 52 percent say they have very high confidence in legal aid organizations and another 43% are somewhat confident. Negligible numbers (4%) express little or no confidence in legal aid organizations. High confidence ratings in legal aid organizations could be inflated. The Foundation's experience, through field work on household surveys and focus group discussions, is that respondents may sometimes use the term "confidence" to express their desire for greater access to justice rather than as fact about the quality of the current provision of justice. To the extent that this is the case, the numbers here may be slightly inflated compared to the actual level of trust that respondents place in each institution, i.e. as "confidence" would normally be understood. In any event, even this high level of, perhaps "aspirational", confidence is significant in that it strongly suggests that citizens wish for effective formal justice institutions and do bestow some legitimacy to the official system.

The data shows (Figure 22) that the proportion of the public who say that they have "great confidence" in the institutions assessed by the survey is highest for the police (59%). Another 31 percent of citizens say that they are somewhat confident in the police, and only 7 percent express little or no confidence. The high level of confidence in the police (which was also revealed by recent data collected for the Foundation's "Community-Police Perceptions Survey: Timor-Leste in 2008") may reflect the dramatic improvement in the security situation over the past few years as well as a host of other factors such as intensive efforts to train the PNTL that will be discussed in more detail in Chapter 6.

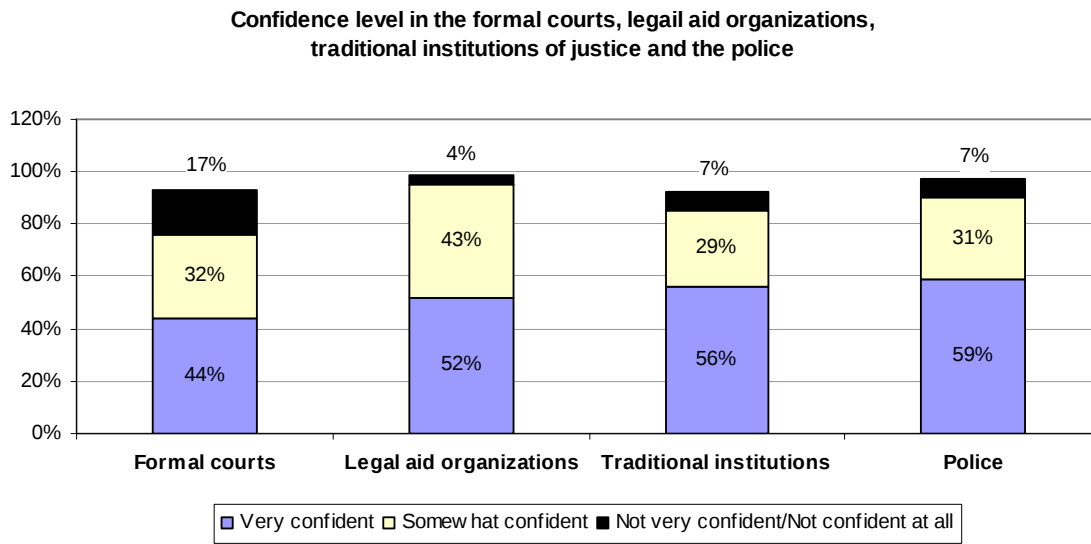


Figure 22

Overall, the survey indicates high levels of confidence across the wide range of legal institutions. This continued confidence may indicate that the improved security situation elevates perceptions of the justice system and that the post-independence euphoria seen in the 2004 survey data has not yet dissipated.

Although confidence levels in the formal courts continue to be somewhat lower than in the traditional justice systems, an overwhelming 85 percent of respondents who have heard of a court say they would want an official from the formal court system come to their area to help settle disputes. While only just over half of Timorese have heard of the formal courts, among those who have, there is a strong preference for involving formal court actors in local disputes. This suggests that the public sees value in the formal courts, though fully understanding the nature of this desire would require further research.

**Would you want an official from the formal court system
to come to your area to help settle disputes?**
(Respondents who have heard of a court)

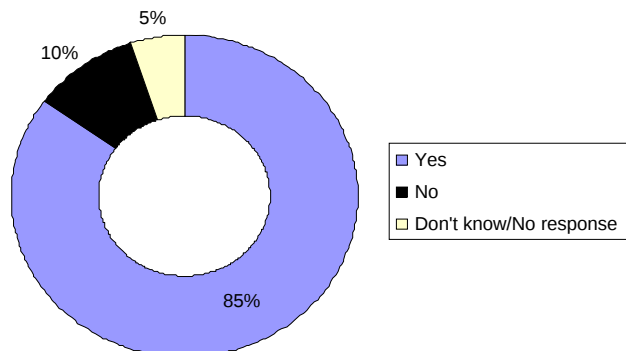
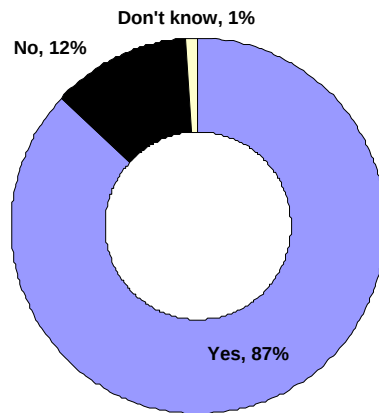


Figure 23 n=658

5.2 Legal Assistance

As seen in Figure 14, public awareness of alternative sources of legal assistance remains very low. Only 27 percent of Timorese say they have heard of an NGO that provides legal aid services. At the same time, the perceptions of those who are aware of legal aid NGOs are telling. As Figure 24 shows, the overwhelming percentage of those who are aware of such organizations (87%) confirm that they would seek their assistance in obtaining justice, while only 12 percent say they would not. These results show a very strong inclination to utilize NGOs for legal aid services. This finding suggests that although awareness of legal aid NGOs remains low, those who are aware have either had a highly positive experience with receiving services or have heard positive assessments from others who have received services.

Would you go to an NGO for assistance in obtaining justice for a problem?
2008

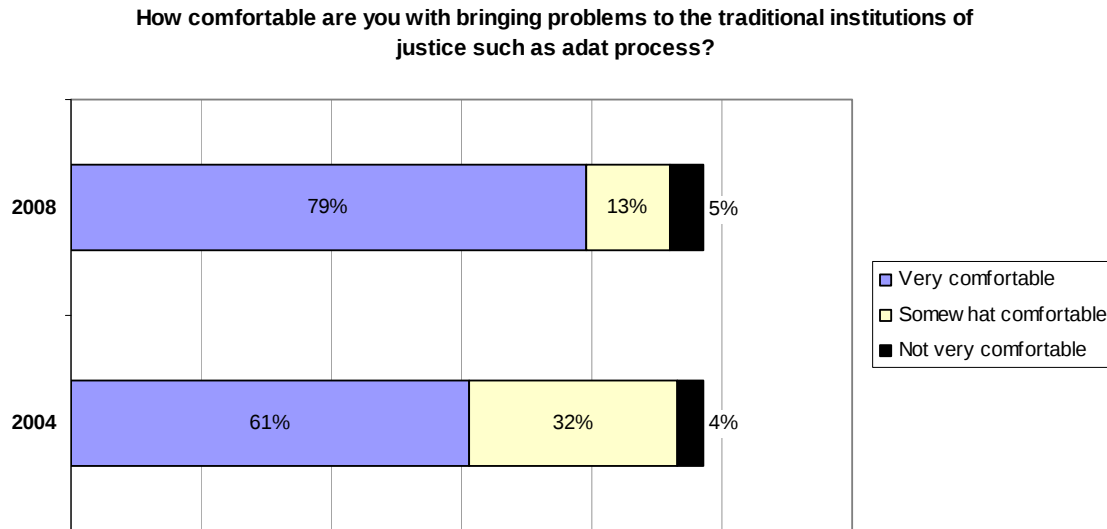


NP=302

Figure 24

5.3 Comfort Trends

The 2004 survey confirmed that traditional institutions of justice in Timor-Leste, such as the *adat* process, which follow customary laws, values and belief systems, remained prominent and were generally regarded as the first process people utilized when seeking justice. Accordingly, the 2008 survey sought to gauge the degree to which citizens' comfort levels in terms of bringing problems to traditional institutions of justices may have changed over the past five years. As the data in Figure 25 shows, citizens are actually more comfortable now, with 79 percent saying they are very comfortable and 13 percent somewhat comfortable, versus the levels in 2004 in which 61 percent were very comfortable and 32 percent somewhat comfortable. Currently, very few Timorese (5%) are not comfortable bringing problems to traditional institutions of justice. This increase in comfort may result from the improved survey methodology, but could also be explained in part by the work of legal aid organizations and legal information awareness efforts that have enhanced the conduct of mediation and arbitration by actors engaged in the customary dispute resolution process.



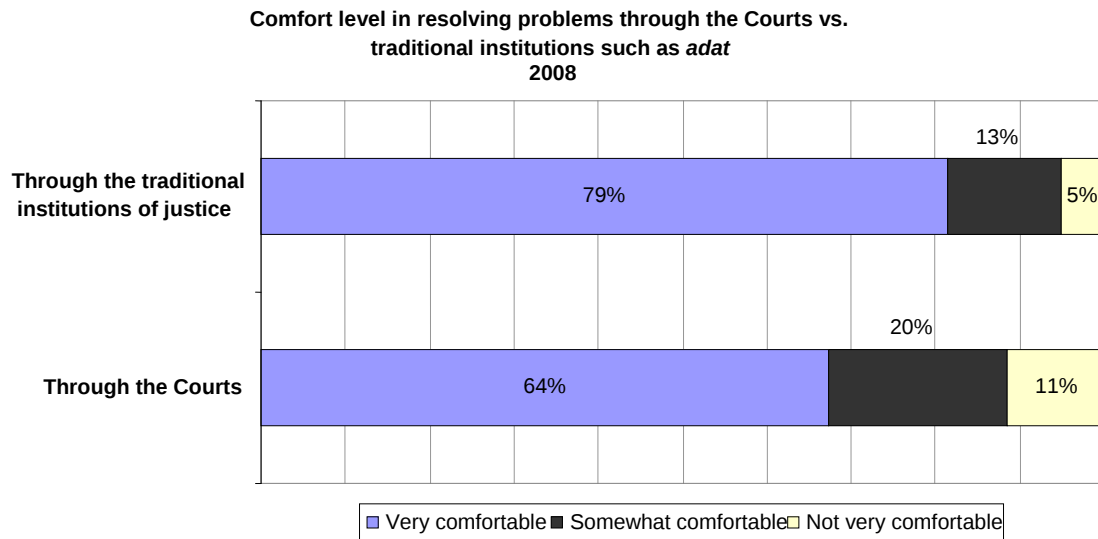
2008 NP=1120; 2004 NP=1114

Figure 25

5.3.1 Comfort: Formal/Traditional Comparisons

When respondents with experience in the formal court system were asked about their experience, they expressed high levels of comfort with the institution (64%). However, this proportion is still less than the proportion of respondents who are very comfortable with the traditional institutions of justice (79%). Twenty percent claim to only be 'somewhat comfortable' with resolving problems through the formal courts, compared to thirteen percent who gave the same answer about the traditional institutions. Among those who had

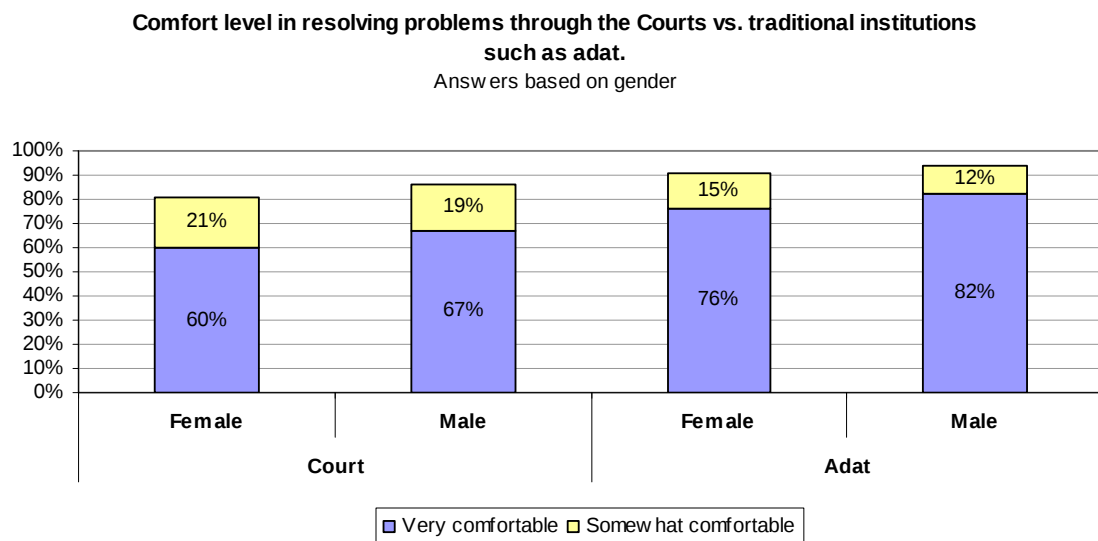
heard of a court, just over 10 percent say they are ‘not very comfortable’ going to the formal courts.



(TJ=1120 C=658)

Figure 26

When the responses are broken down by gender, slightly fewer women (60%) than men (67%) indicate that they are comfortable with the formal courts as well as traditional institutions, such as adat (76% vs. 82%)



(Court F=278 M=381 Adat F=559 M=561)

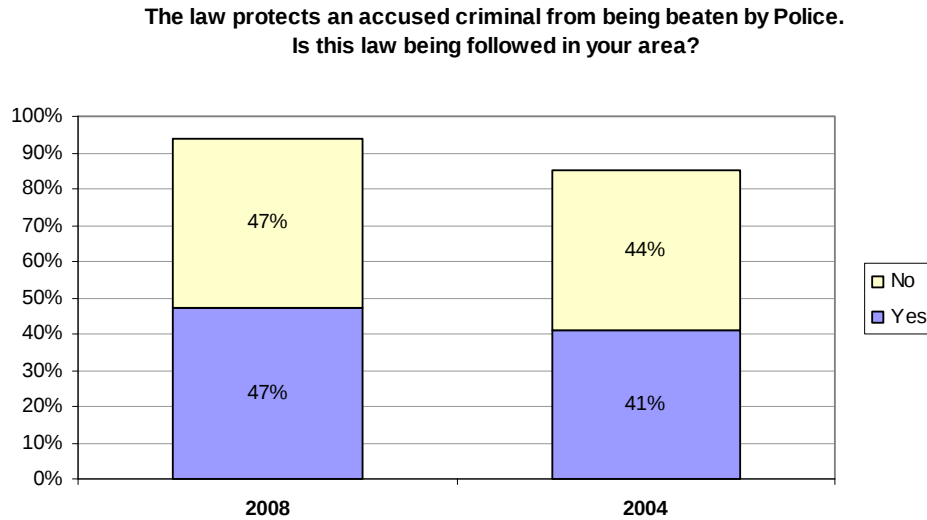
Figure 27

6. Punishment and Impunity Trends

According to the UN Commission of Inquiry (COI) Report on the 2006 crisis, a major contributing cause was a sense of impunity stemming from the failures of the justice sector and the lack of political will to address serious crimes that occurred as far back as 1999. Both during Indonesian rule and since the inception of the PNTL shortly after independence, there have been frequent reports of excessive use of force by the police in Timor-Leste. Rogerio Lobato, former Minister of the Interior, was convicted of handing out weapons to civilians during the 2006 crisis, an aggravating factor for the crisis, according to the COI report. While the police appear to receive a high degree of respect, they are regarded with some fear as well.

Most recently, during the four-month long state of siege which began February 11, 2008 following assassination attempts on the Prime Minister and President, UNMIT's Human Rights and Transitional Justice Section received several reports of excessive use of force and ill-treatment during arrests allegedly committed by PNTL members. Some of the complaints received by UNMIT claimed that ill treatment had been inflicted during detention at police stations, where use of force was clearly unnecessary. No single PNTL officer to date has served a sentence for a crime. In fact the month after his return from hospitalization for gunshot wounds received on February 11, 2008, the President of the Republic granted pardons or sentence reductions to 94 of the country's 179 prisoners, including Rogerio Lobato and those convicted of crimes against humanity for crimes committed during 1999. In the face of these developments the tension between holding violators of the law accountable and maintaining stability became a salient question in Timor-Leste, as did the issue of the treatment of criminal suspects.

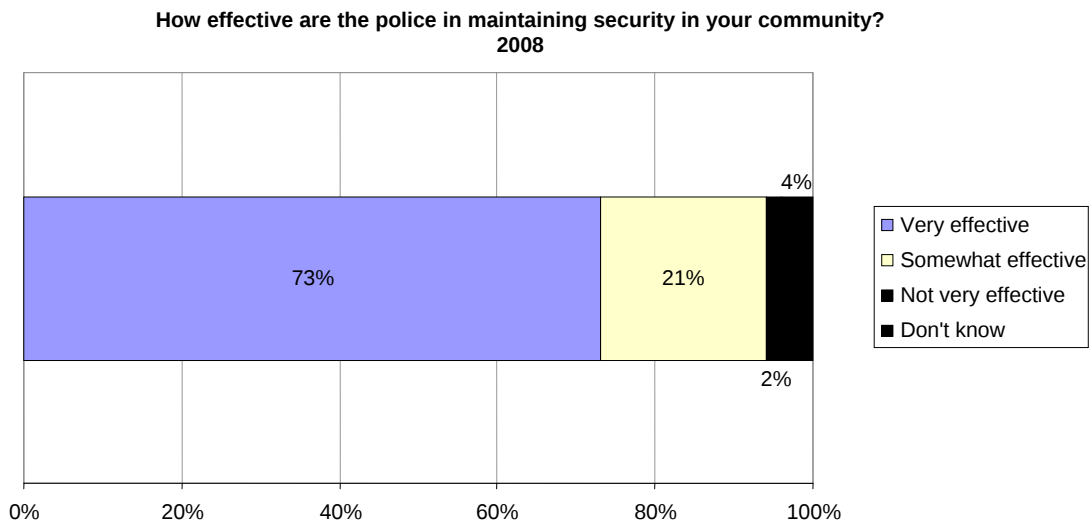
Both the 2004 and 2008 Law and Justice Surveys queried Timorese on their views about the extent to which harsh treatment of suspected criminals was acceptable. For example, the surveys sought to determine correlations in how communities view the effectiveness of the police, community confidence in the police, and their perceived level of maltreatment. The survey asked whether or not the law that protects an accused criminal from being beaten by the police is being followed in their locality. The data from 2004 showed that a considerable 44 percent of respondents felt that the law *was not* being followed, and the 2008 survey indicates that by a small margin an even greater proportion (47%) believe the law is not being followed.



2008 NP=1120; 2004 NP=1114

Figure 28

Given widespread perceptions that the police beat accused criminals, the 2008 survey tried to determine if citizens find this practice acceptable. Two proxy variables were introduced for acceptance. The first was whether citizens feel that the PNTL are effective in maintaining security and the second was citizens' level of confidence in the PNTL. The results were surprising. Seventy three percent of respondents say the PNTL are very effective, and another 21 percent say the PNTL are somewhat effective, thus the respondents who think the PNTL are effective total 94 percent.

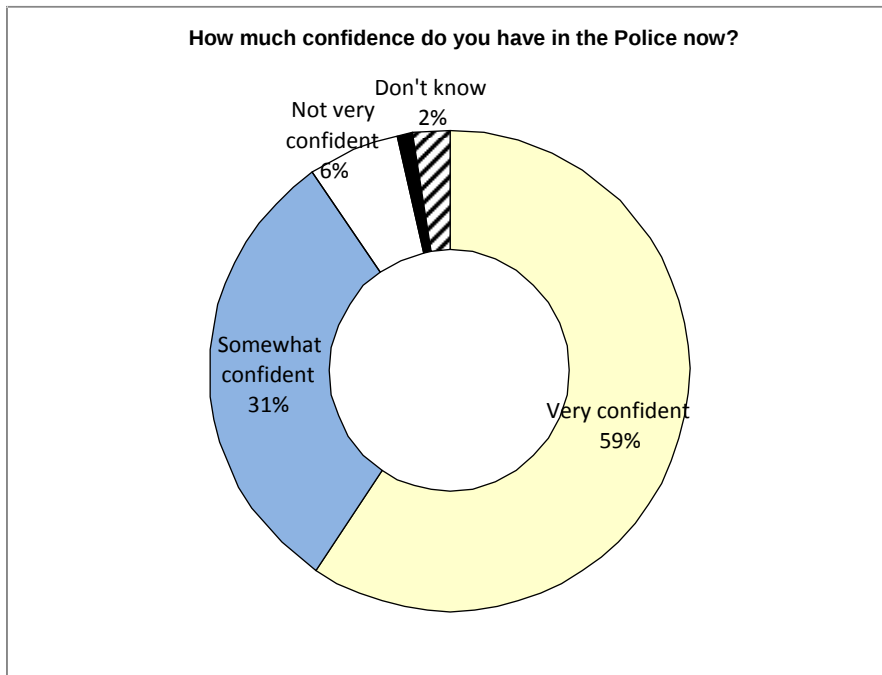


n=1120

Figure 29

Furthermore, when asked the question, "How confident are you in the Police?" 59 percent of respondents say that they are very confident in the PNTL and 31 percent say they are

somewhat confident. Enthusiasm for the PNTL may be influenced by factors other than actual PNTL performance, including 1) improvements in the overall security environment 2) aspirations for greater provision of security and 3) national, post-independence pride in a Timor-Leste, rather than foreign, police force. However, the results do not suggest that the PNTL's summary punishment of suspected criminals causes citizen disapproval, or at least a noticeable reduction in confidence in the PNTL.



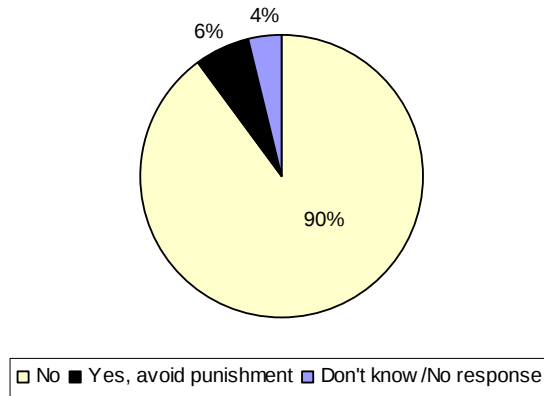
NP=1120

Figure 30

Both the 2004 and 2008 surveys sought to better understand Timorese views on punishment and impunity for serious crimes, specifically cases in which an individual has committed murder. While the questions querying such were somewhat different between the two surveys, the overall results are largely the same: Timorese overwhelmingly believe that individuals who have committed murder should be punished without exception. In 2008, 90 percent of Timorese say that there are no instances in which an individual who has committed murder should be able to avoid punishment or paying compensation to the victims, while in 2004 91 percent said they believe a person who has committed murder should go to jail rather than providing compensation or doing both.

Suppose some person commits murder. Do you think that there are times when this person should be able to 'avoid punishment' or be free from 'compensating' the victim?

2008

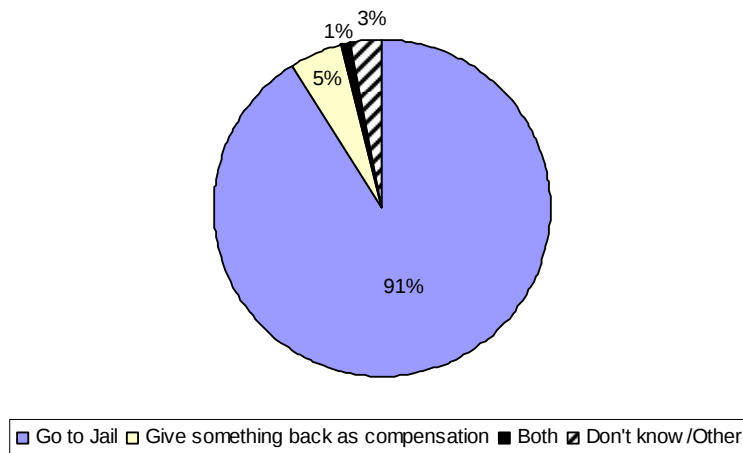


NP=1120

Figure 31

Suppose someone kills another person. Should they go to jail, give something back as compensation or both?

2004



NP=1114

Figure 32

7. Gender, Law, and Justice

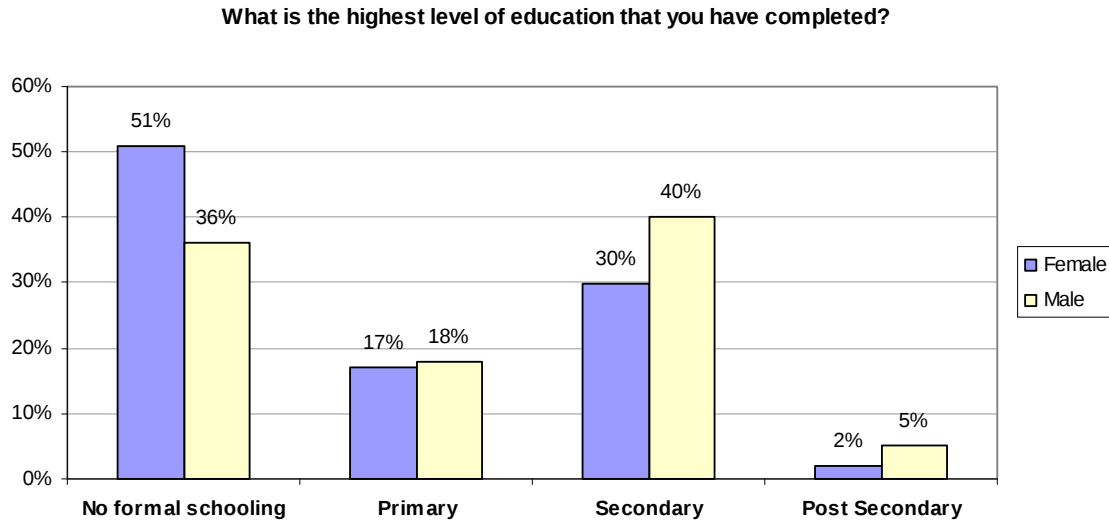
The people of Timor-Leste are still recovering from trauma suffered from decades of conflict and the violence following the 1999 referendum. Women, especially, continue to suffer mental health problems associated with torture, rape, and other forms of violence from the occupation. Such mental health problems are exacerbated by continually high rates of domestic violence – a major social and human rights challenge for the country. Many women are discouraged from bringing domestic violence cases to the formal justice sector because of the threat of economic insecurity and exclusion, a problem compounded by the fact that women's earnings are on average one-eighth those of men. Justice and other means of recourse for women are often out of reach. With a fertility rate of 7.8, moreover, there is a prevalence of early pregnancy, high dropout rates, and lower literacy rates for women. Fifty-two percent of women are estimated to be literate, compared with 65 percent of men.

The law states that all domestic violence cases should be handled by the formal court system. Evidence suggests that women, in a desperate attempt to stop the violence, use court proceedings as a threat, but often withdraw their cases in court proceedings before the husband is sentenced to jail. Domestic violence survivors fear their testimony would lead to a conviction and cut their family off from their primary income source. On the other hand, local justice outcomes often leave victims of domestic violence with unaddressed needs. It is up to (often male) community leaders to mediate negotiations between the victim's and perpetrator's families and determine an appropriate way to restore balance to the community – often through the payment of goods or livestock.

Recognizing the power *suco* chiefs and *aldeia* chiefs (village and hamlet council chiefs) have in their communities as mediators and opinion leaders, the Government of Timor-Leste passed a Decree Law (No. 5/2004) that holds *suco* chiefs and *aldeia* chiefs responsible for creating mechanisms to prevent domestic violence, protect victims of domestic violence, and punish and rehabilitate perpetrators. A number of training initiatives have been implemented around this issue, but the effectiveness of these programs is unclear.

7.1 Educational Opportunities

While educational attainment remains low among Timorese as a whole, the survey reveals that considerable differences continue to exist in access to education for males and females. Figure 33 shows that just over half (51%) of females have no formal schooling versus 36 percent of males. While the proportion of males and females with a primary level education are roughly the same, there is a considerable gender gap at the secondary (30% vs. 40%) and post-secondary (2% vs. 5%) levels.



NP=1120

Figure 33

7.2 Local Justice Processes

The 2004 survey results showed that a strong majority of the public supported gender equality in the traditional adat process (69% approved). However, attitudes toward equal legal representation appear to have been met with increasing disapproval over the last five years. In 2008, only 39 percent approve of women being allowed to speak in the local justice process. In terms of levels of disapproval, the data shows that more than twice as many Timorese disapprove of women speaking on their own behalf during the adat process than was the case in 2004 (58% vs. 25%).

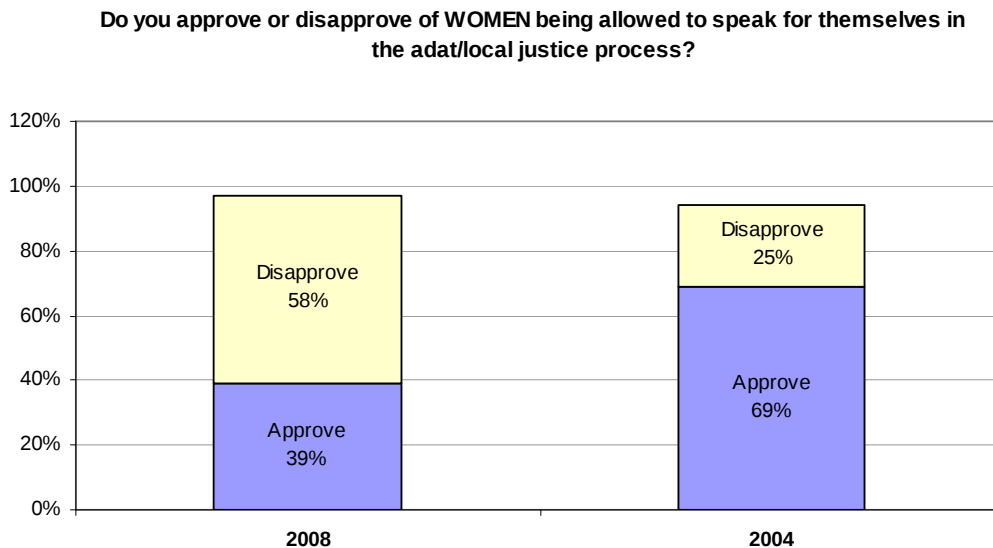
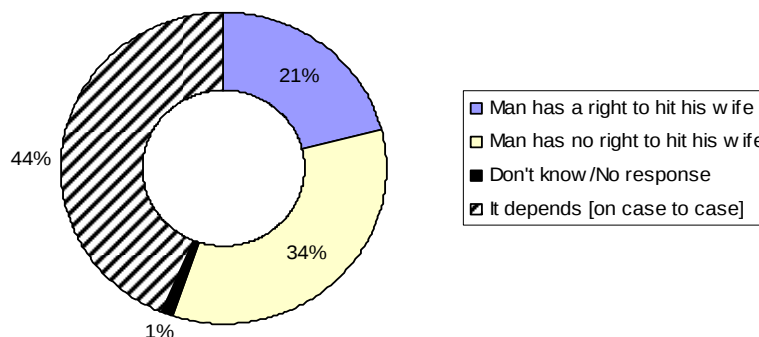


Figure 34 2008 NP=1120, 2004 NP=114

The increase in gender bias in accessing justice could relate to factors surrounding the period immediately before and after independence (2002-2004) when considerable national attention was paid to gender equality – as seen in the Constitution, the constituent assembly elections and the appointments in government institutions. However, the lack of sustained public attention and weak penetration of the state may have diminished the national enthusiasm for gender equality. Other possible factors may relate to the reversion of women's roles to traditional domestic activities following their participation in the resistance movement as fighters and political operatives. The decrease in household incomes over the last five years may have also increased traditional pressures on women to play greater domestic functions as men's roles in securing the household's livelihood have increased. This would also explain the reduced participation of women in formal education system.

Paralleling biases against women's access to justice, the data also suggests that attitudes condoning domestic violence have worsened over the last five years. Specifically, while the percentage of Timorese who believe "a man has a right to hit his wife if she misbehaves" has stayed roughly the same since 2004 (21 percent in 2008 vs. 19 percent in 2004), the percentage of those indicating that they *disapprove* of the practice appears to have fallen sharply. In 2004, when respondents were asked if a man has the right to hit his wife if she misbehaves, 75 percent firmly disapproved of such action. In 2008 only 34 percent of Timorese believe that "a man has no right to hit his wife" and 44 percent think that it depends on each case individually. It should be noted that the latter answer option was not offered to respondents in 2004, which may have affected the results. Regardless, the current percentage of Timorese (34%) who believe that without exception, a man has no right to hit his wife, remains quite low. Also of interest is that more women (24%) than men (18%) think that a man has a right to hit his wife if she misbehaves.

Some people say that a MAN has the right to hit his wife if she misbehaves. Other people say that any MAN who hits his wife is wrong and should be stopped. Which one do you think is right?
2008

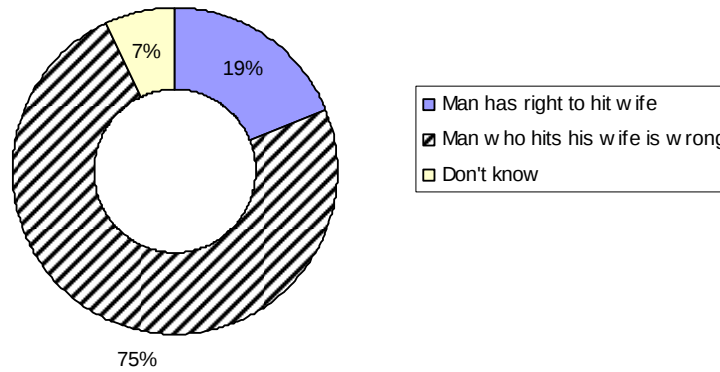


NP=1120

Figure 35

Some people say that a man has a right to hit his wife if she misbehaves. Other people say that any man who hits his wife is wrong and should be stopped. Which of these views is closer to yours?

2004



NP=1120

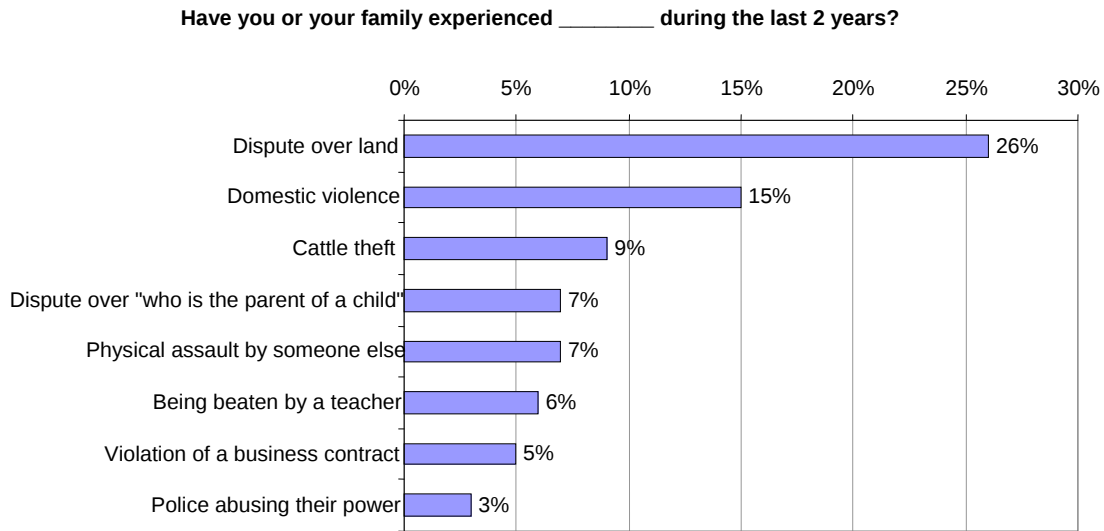
Figure 36

8. Paths to Justice

Justice seekers follow common pathways in Timor-Leste. When a problem or dispute arises in a community, aggrieved parties take their cases from lower to higher levels of local, community authority, except for serious crimes. Serious crimes are typically referred directly to the police and formal justice system for prosecution. For civil and minor criminal cases, disputes are first reported to the respective family leaders, who attempt to negotiate a solution with the head of the family of the other party to the conflict. If unresolved the case is then brought to the *Chefe de Aldeia* (Chief of Hamlet), who engages the *lia nain* (venerated elders) and other respected individuals to seek a resolution. If still unresolved at this stage, the case is brought to the *Chefe de Suco* (Chief of the Village). *Suco* chiefs make the decision to involve other authorities, such as other *lia nain*. If still unresolved, parties are given informal authorization from the *suco* chief to refer the case to the police or court. Referring a case to the police does not necessarily mean the case enters the formal system. Police can find themselves playing a role in traditional dispute resolution processes, including mediation of domestic violence, land disputes, and paternity related issues. While data from both the 2008 and 2004 surveys revealed that Timorese still largely rely on traditional justice mechanisms, little is known about the variance in justice seeking behavior for different types of cases. The 2008 survey intended to seek greater nuance in the commonalities and unique features of how different case types are handled. First the frequency of various types of cases was determined, then the pathway for the handling each type of case was examined.

8.1 Frequency of Crimes & Disputes

According to the data in Figure 37, disputes over land are the most frequently cited (26%) crime/dispute respondents say they or a member of their family experienced in the past two years. Domestic violence ranks as the second most commonly experienced crime/dispute (15%), followed by cattle theft (9%), paternity disputes (7%), physical assault (7%), beatings by a teacher (6%), violations of business contracts (5%), and police abusing their power (3%).



NP=1120

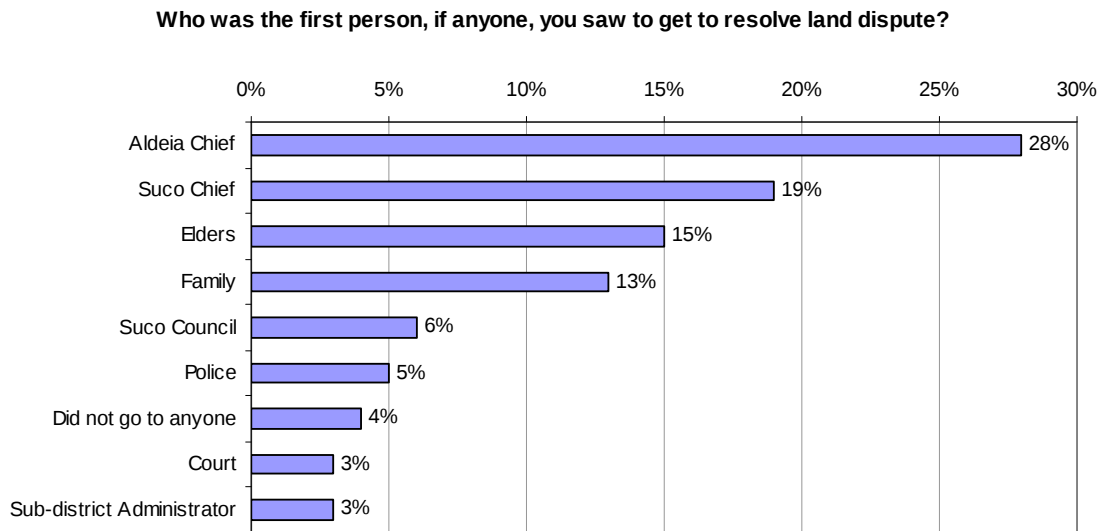
Figure 37

The reported incidence of certain crimes/disputes in Figure 37 might be lower than expected. First, there is extensive research demonstrating that domestic violence is a widespread problem in Timorese society. According to the Community-Police Perceptions survey, police perceive domestic violence to be the most serious local security problem, and cite it as the type of dispute they are most often involved in mediating. Yet, only 15 percent of Timorese claim to have experience with domestic violence in the past 2 years. While the survey did not investigate the reasons for this apparent underreporting of domestic violence, it is plausible that many Timorese do not consider certain incidences of violence among family members, to qualify as such.

Another result that does not square readily with other data is that only 3 percent of Timorese say they or their family have experienced police abusing their power. As seen in Chapter 6, 47 percent of respondents believe that the law which protects an accused criminal from being beaten by the police is not being followed in their locality. Police beating accused criminals would normally be considered an example of police abusing their power. However, the data in Figures 28 and 29 suggest that most Timorese do not consider beating alleged criminals to be an abuse of police power, in the same way they might view other illegal police actions such as soliciting bribes. Overall, the data seems to suggest that the long history of police brutality in Timor-Leste has resulted in public acceptance of beating accused criminals as within the powers of police, rather than an extraordinary example of abuse of power.

8.2 Resolution of Crimes & Disputes

When asked who they first approached for help in resolving a land dispute, respondents identified an extremely wide range of individuals/institutions, with no single one utilized by a majority of respondents (Figure 38). At the same time, it can clearly be seen that the vast majority of mechanisms citizens utilized first are considered to be part of the traditional or informal justice system. The most common among these was the *aldeia* chief (28%), followed by the *suco* chief (19%), elders (15%), family (13%), and the *suco* council (6%). Very few respondents first attempted to resolve land disputes using the formal justice system. Only 5 percent say they first contacted the police, while 3 percent contacted either the court or sub-district administrator. Four percent say they did not seek assistance from anyone.



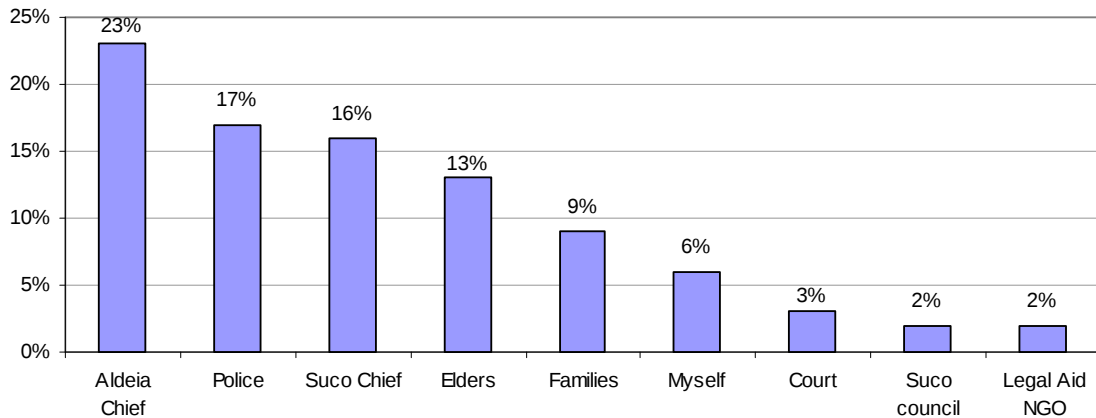
n=289

Figure 38

As mentioned, justice seekers follow common pathways in Timor-Leste. When a problem or dispute arises in a community, aggrieved parties take their cases from lower to higher levels of local, community authority, except for serious crimes. In short, cases are often not solved where they are first brought. In terms of land disputes, Figure 38 shows that the *aldeia* chief, who respondents cited more than any other entity as the first point of contact they used to resolve land disputes, is also confirmed by a relatively small proportion as having actually resolved the disputes (23%). At the same time, despite only 5 percent of respondents indicating that they first went to the police for assistance, 17 percent of cases were settled by the police. The next most cited as having resolved land disputes were *suco* chiefs (16%) and elders (13%). Nine percent of respondents were able to solve the problem through family, while 6 percent resolved the issue directly on their own behalf. Only 2 percent indicated that their case was resolved by a legal aid NGO. The data further confirms that the formal courts continue to play a minimal role in resolving land disputes (3%), which may be partly due to the complexity of adjudicating disputes within the often highly ambiguous historical and documentary records and cultural nuances of land ownership in Timorese society. However,

across the board, the data shows that there is far from being a clear choice among either the traditional or formal system that citizens can depend on for resolving land disputes.

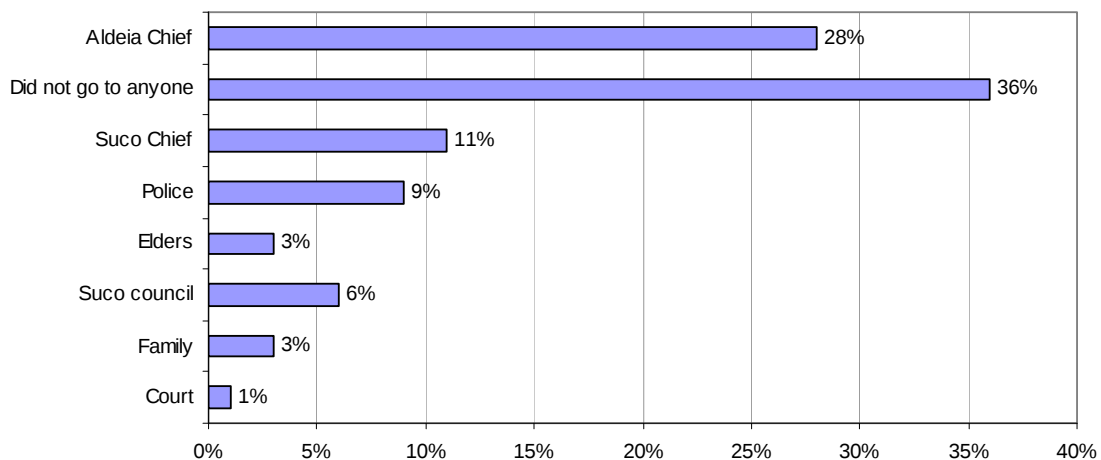
**Who actually resolved land dispute case?
(respondents who confirmed case was resolved)**



n=175
Figure 39

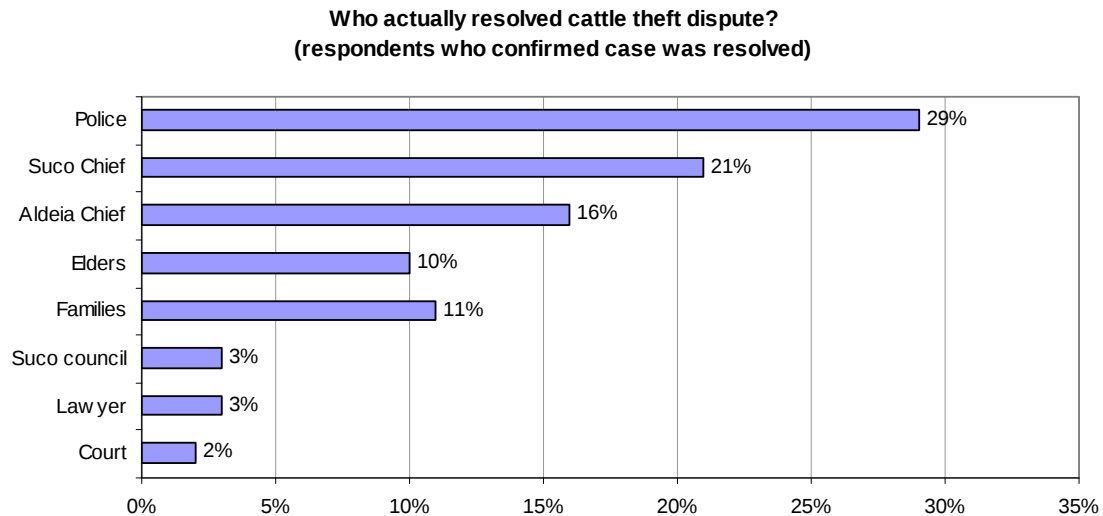
Resolution in the case of cattle theft appears to be unique, in that most victims (36%) who experienced cattle theft in the last two years did not go to anyone for assistance. When asked the reasons why, the majority of respondents answered that they did not have evidence or did not know who had committed the crime. When citizens did approach someone for help, the first person was most often the *aldeia* chief (28%), followed distantly by the *suco* chief (11%). Only 9 percent contact the police for assistance and 1 percent brought the matter to a court.

First person approached to resolve cattle theft dispute



n=107
Figure 40

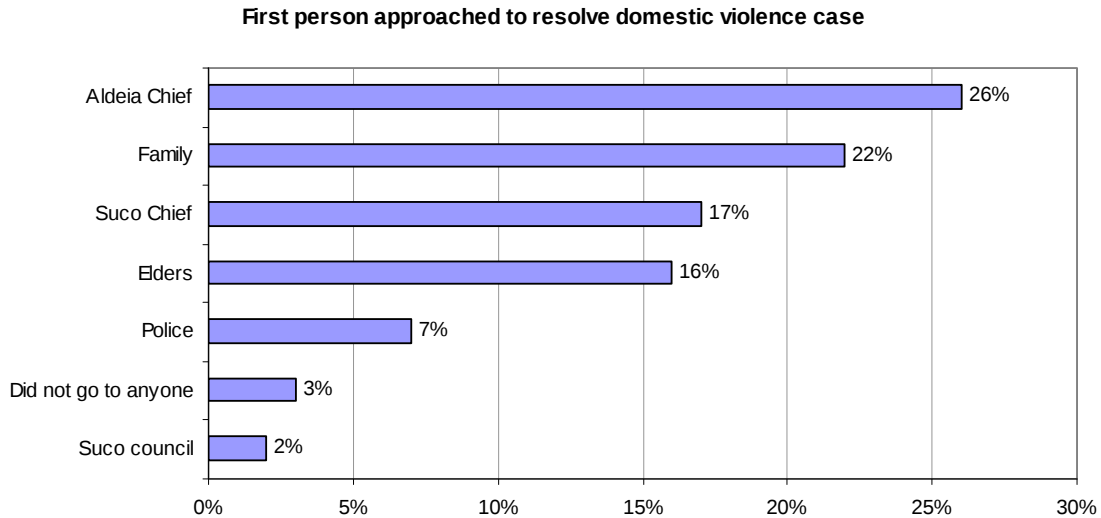
Interestingly, although police are third in line behind *aldeia* and *suco* chiefs as the entity citizens first approach to resolve cases of cattle theft, citizens cite the police as the institution most often responsible for resolving cases of cattle theft (29%), followed by the *suco* chief (21%) and *aldeia* chief (16%). This finding regarding police further demonstrates the complex pathways to justice utilized by Timorese, in which civil and relatively minor crimes/disputes are first brought before local leaders as a matter of practice, but are frequently referred to the police if local leaders are not able to resolve the issue.



n=41

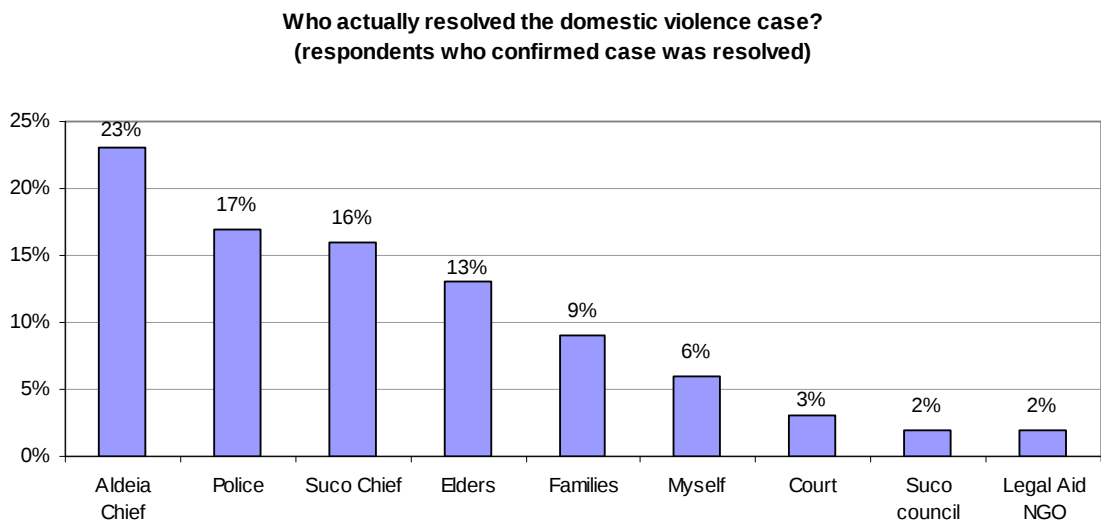
Figure 41

In resolving domestic violence cases, citizens rely heavily on community leaders, such as *aldeia* chiefs (26%), *suco* chiefs (22%) and elders (16%). At the same time, families play a significant role in mediating incidents of domestic violence. After *aldeia* chiefs, family is the next most common (22%) mechanism respondents used to resolve domestic violence issues. Despite domestic violence being illegal, only 7 percent of respondents said they first contacted the police. Overall, the data confirm that when it comes to domestic violence, Timorese prefer that mediation processes remain in the realm of families and communities. The likely reasons are that domestic violence is still not viewed as a crime in the same way as theft or murder, and there is a social stigma in involving the police in what are viewed as personal matters.



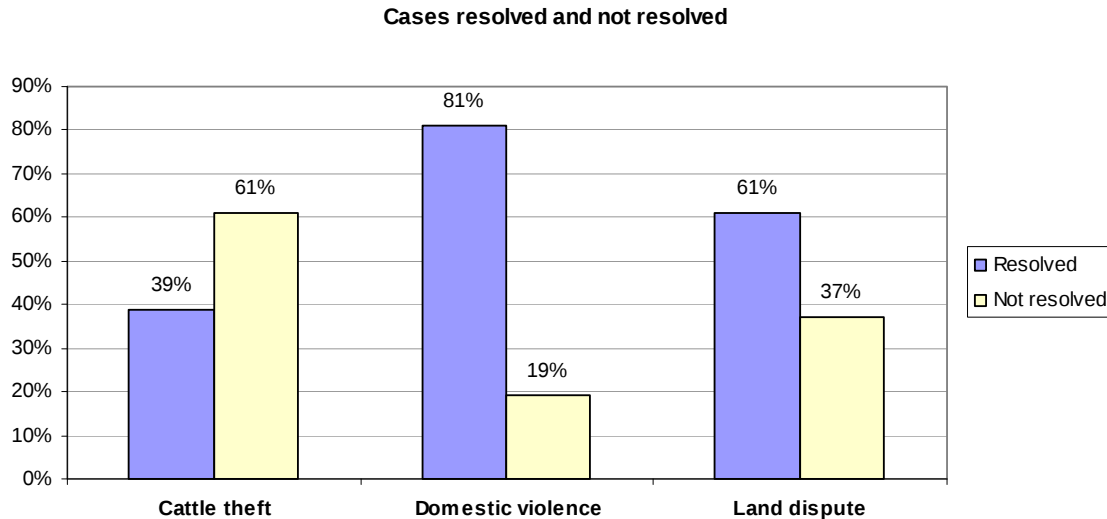
n=171
Figure 41

In terms of actually resolving cases of domestic violence, it seems that *aldeia* chiefs are successful in resolving the cases brought to them. The data shows that 23 percent of respondents reported that the *aldeia* chiefs were the first person approached for assistance with domestic violence cases and 22 percent reported that the *aldeia* chiefs resolved their case. In addition, the data suggests that while families are often the first place where cases are brought (22%), they are less often responsible for actually resolving the case (9%). Furthermore, while only 7 percent said they first approached the police, 17 percent say that police were ultimately responsible for resolving the case. This disparity suggests that while citizens may prefer to avoid police involvement in cases of domestic violence due to the social stigma, police often become involved anyway when other types of mediation prove unsuccessful.



n=139
Figure 42

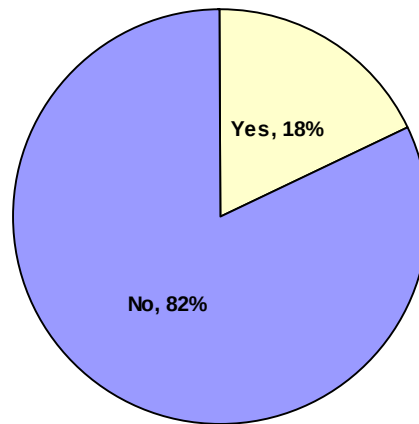
The data reveal interesting trends regarding the actual rate of resolution for the different types of cases examined in this chapter. Surprisingly, domestic violence has the highest rate of resolution, with an astounding 81% of respondents claiming the incident was resolved. However, understanding how these cases are resolved and whether resolutions are sustainable and prevent further violence would require further research, distinguishing between issues and outcomes related to both victims and perpetrators. While land grabbing is the most common type of crime/dispute experienced by Timorese in the past two years, these cases are resolved more often than not, with 61 percent of respondents confirming their case was resolved compared to 37 percent who indicate that it was not resolved. Cattle theft on the other hand, is the only type of dispute in which more case went unresolved, with only 39 percent confirming resolution versus 61 percent indicating that the case was not resolved.



n=107; n=171; n=175
Figure 43

Finally, the data in Figure 44 below provide more evidence that accessibility and public utilization of the formal courts remains very limited in Timor-Leste. As shown in Chapter 4, Section 4.3, only 58 percent of all respondents have heard of a court (Figure 14), and less than one-fifth (18%) of those citizens have had a case handled in court since independence (Figure 44).

Have you or your family had a case handled in court since Independence?

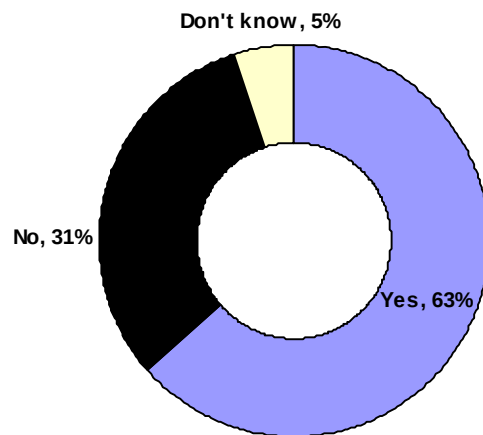


n=658

Figure 44

Among the few citizens who confirmed that they or a member of their family had a case handled in court since independence, only 63 percent indicate that the court proceedings were conducted in their preferred language (Figure 45). In terms of whether or not respondents understood the procedures while in courts, 30 percent indicate that they did not, while 67 percent say they understood.

When you were at the Court, were the Court proceedings conducted in your preferred language?



n=116

Figure 45

The lack of access to the formal courts and limited knowledge about court procedures may contribute to incidences of citizens taking justice into their own hands. More than half of

respondents (54%) state that in their communities, when a serious issue or dispute is not resolved through traditional mediation or the formal system, people attempt to find solutions on their own (Figure 46).

In your area, if a serious problem or large dispute is not resolved using the formal law, do people take justice into their own hands?

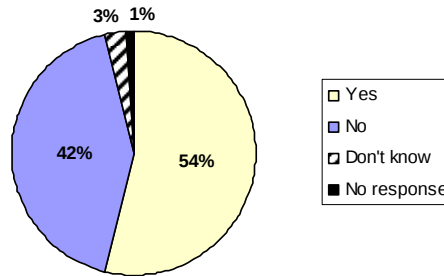


Figure 46 NP=1120

Appendix 1: Methodology

The survey was conducted through in-person interviews with a random, representative sample of 1120 citizens, age 17 and up, across all districts in Timor-Leste over 19 days in December 2008 (December 5-23). Fieldwork and data processing were conducted by INSIGHT Timor-Leste.

Representativeness of the Sample

Because the sample is national and random, the survey results represent all parts of the population in their correct proportion. The survey was geographically representative, as elaborated below. Demographically, the poll results are close to the real population, reflecting similar proportions of gender and age.

Representativeness of the Sample

	2004 Census	Sample
Gender Male/Female	50.3/49.7	50.1/49.9
Age 17-35 / 35+	51.6/48.4	51.8/48.2

National Sample Distribution

<i>District</i>	<i>Sub-districts covered in survey</i>	<i>Number of sampling points (aldeias)</i>	<i>Number of respondents</i>	<i>% of national sample</i>
Aileu	Aileu Kota	4	40	3.6
Ainaro	Ainaro Maubisse	6	60	5.4
Baucau	Baucau Quelicaí	10	120	10.7
Bobonaro	Balibo Bobonaro Maliana	10	100	8.9
Covalima	Mape/Zumalain Suai	6	60	5.4
Dili	Cristo Rei Dom Aleixo	24	240	21.4
Ermera	Atsabe Hatulia	12	120	10.7
Lautem	Lospalos Iliomar	6	60	5.4
Liquica	Liquica Maubara	7	70	6.3
Manatuto	Laleia	4	40	3.6
Manufahi	Same Turiskai	5	50	4.4
Oecusse	Pante Makasar Passabe	8	80	7.1
Viqueque	Ossu Viqueque	8	80	7.1

Margins of Error

Overall margin of error for the sample is 2.92%, at a 95% confidence interval. However, the survey instrument was structured to include a number of follow up questions, particular in regards to specific criminal or civil cases encountered by the respondents, increasing the margin of error in some cases. Annotations have been made within this report to note where data is based on smaller sample sizes.

Sampling methodology

The basic sampling methodology was multi-stage random sampling, employing the following stages:

Sampling Points Selection

- All 13 districts within Timor-Leste were covered in the survey. The proportion of the sample allocated to each district was determined in accordance with that district's proportion of the national population of adults age 17 and up. Sub-districts were likewise selected according to their proportion of the population within the district.
- Within each subdistrict, *sucos* (village-sized urban and rural administrative units) were selected using a proportional to population systematic random sampling method; *aldeias* (neighborhood administrative units) were then selected in each *suco* using a systematic random probability sampling method.
- Survey teams interviewed 10 respondents in each selected *aldeia*, equally divided among men and women.

Sampling Point Substitution

- In 12 cases, it was necessary to substitute a different *aldeia* when the originally selected one was unreachable due to road conditions, specifically if road conditions made vehicle access impossible and travel by foot would have required more than three hours. In each of these cases, a substitute *aldeia* was selected using the above-referenced random sampling method

Household Selection

- Households in each *aldeia* were selected using an interval method
- In each selected *aldeia*, the survey teams first consulted with the *aldeia* chief in order to obtain their list of *aldeia* households. (All *aldeia* chiefs maintain a hand written list of households and residents in their *aldeia*.)
- The teams then calculated the first household on the list to be selected by taking the total number of residents and adding up the numerals to determine the starting point (e.g. if an *aldeia* had 108 residents, then $1+0+8 = 9$, so the team would start from the 9th household on the *aldeia* chief's list).
- Following the first selected household, the survey teams then selected every 5th household on the lists until the target of 10 households per *aldeia* was reached.

Respondent Selection

- One respondent was selected for interview in each household.
- Potential respondents were defined as adults age 17 and older, of the correct gender. As the gender split in the Timor-Leste population is very close to 50-50, the gender of potential respondents was determined by the survey form numbers, odd numbers for women and even numbers for men.
- All potential respondents in each household were listed in descending age order and a random Kish Grid procedure was used to select a respondent for interview.

Respondent Substitution

- If the correct respondent was not available on the first attempt, the policy was to attempt two call backs before substitution.
- Substitutes were selected through the same process as the original respondents
- The actual national substitution rate was 5.5%

Quality Control

The following quality control measures were employed by INSIGHT during data collection and data entry.

Collection

- A quality control (QC) team comprised of two INSIGHT staff was tasked with completing QC review of ten percent of the interviews. The following two methodologies were employed in equal proportion:
 - 1) Accompanying the survey teams and directly witnessing interviews.
 - 2) Random selection of survey forms to double-check and re-interviewing the respondents.
- In addition, survey team supervisors directly monitored a number of interviews in the field and reviewed the completed survey forms.

Data Entry

- All first entry data was reviewed by a separate member of the data entry staff
- A random check of 10% of the forms was conducted following second entry, prior to data cleaning
- TAF staff conducted spot checks of the forms following the completion of the data entry and cleaning process

Appendix 2: Demographics

National Data

The urban/rural breakdown for the national sample of 1120 respondents is 27.4 percent and 72.6 percent respectively. According to the National Statistics Directorate National Priority Tables from the Timor-Leste Census of Population and Housing, the breakdown for Timor-Leste is 25.5 percent urban and 74.5 percent rural.

Consistent with data contained in the National Statistics Directorate National Priority Tables from the Timor-Leste Census of Population and Housing, the national sample is comprised evenly by gender, with 50.1 percent men and 49.9 percent women.

Proportion of respondents based on age and gender

Age Range (in years)	2004 Census Data Proportion of Timor-Leste Population 17 years or older	Sample Weighted Frequency
17 but less than 25	26.9%	26.5%
25-34	24.7%	24.3%
35-44	19.6%	19.7%
45-54	13.9%	14.3%
55 or older	14.9%	14.8%
Total Men	50.3%	50.1%
Total Women	49.7%	49.9%

Proportion of respondents based on education level

	Proportion of Respondents (Base= national sample of 1120)
No education	43.4%
Some or completed primary	17.9%
Some or completed secondary	35.5%
Some or completed post-secondary	3.3%

**It is important to note that no reliable data exists on educational attainment among the population of Timor-Leste, and therefore it is not clear if this survey sample is representative of actual education levels in Timor-Leste.*

APPENDIX 3: Survey Questionnaire

1. What is the highest level of education that you have completed? [S]

No schooling	1
Informal education	2
Attended primary school	3
Completed Primary school	4
Attended pre-secondary school	5
Completed pre-secondary	6
Attended secondary	7
Completed secondary school	8
Diploma	9
Attended University	10
Completed University	11
Graduate School	12
Don't know	98
No response	99

2. What do you do for living? [S]

Working	1
Looking for work	2
Attending school	3
Housekeeping	4
Retired	5
Other [SPECIFY: _____]	6
Don't know	98
No response	99

3. What is your monthly expenditure for your basic goods? [S]

< \$25	1
\$26-50	2
\$51-100	3
\$101-150	4
\$151-200	5
\$201-300	6
\$301-400	7
\$401 >	8
Don't know	98
No response	99

4. Which languages do you prefer to get information in orally and through reading materials? [M] [MULTIPLE RESPONSES ALLOWED, BUT DO NOT CODE IF RESPONSE IS "A LITTLE BIT"] [Probe: Do you speak any other languages?]

<u>Orally</u>	
<u>Reading Materials</u>	

Tetum	1
Potuguese	2
Bahasa Indonesia	3
English	4
Mamba'e	5
Makasa'e	6
Galolen	7
Baikeno	8
Fataluko	9
Tokodede	10
Tetum Terik	11
Kairui	12
Nau-Eti	13
Other [SPECIFY: _____]	14
NONE	90
Don't know	98
No response	99

5. Disputes and other problems between people are common in our everyday lives. Do you feel the FORMAL laws are adequate to address such problems? [S]

Yes	1
No	2
Don't know	98
No response	99

6. What is your primary source of information about the LAW? [S]

Radio	1
Television	2
Newspapers / Magazines	3
Family/friends/community	4
Chefe de Aldeia	5
Chef de Suco	6

Church	7
NGO	8
Prosecutors	9
Public Defender	10
Lawyers	11
Police	12
Other [SPECIFY: _____]	13
None / do not get information	90
Don't know	98
No response	99

7. Do you feel that you could get ENOUGH INFORMATION about the law if you needed it? [S]

Yes	1
No	2
Don't know	98
No response	99

8. Who is primarily responsible for law and order in your area? [M]
[RECORD FIRST, SECOND RESPONSE, ETC – DO NOT READ RESPONSES]

PROBE: Is there anybody else?

First	Second	Third

Chefe de Aldeia	1
Chefe de Suco	2
Parliament	3
Police	4
The Government	5
The Ministry of Justice	6
Elders	7
Other [SPECIFY: _____]	8
Don't know	98
No response	99

9. Who is actually maintains law and order in your area? Who is the primary person or people? [M] [RECORD FIRST, SECOND RESPONSE, ETC– DO NOT READ RESPONSES]

PROBE: Secondary? Is there anybody else?

First	Second	Third

Chefe de Aldeia	1
Chefe de Suco	2
Parliament	3
Police	4
The Government	5
The Ministry of Justice	6
Elders	7
Other [SPECIFY: _____]	8
Don't know	98
No response	99

10. Who is primarily responsible for making the rules that govern peoples' lives here? [M]
[DO NOT READ LIST – TWO RESPONSES ALLOWED, RECORD FIRST & SECOND RESPONSES ONLY]
PROBE: Is there anybody else?

First	Second	Third

PNTL Police	1
Elders/Chefe de Suco	2
Community members	3
Church	4
Myself	5
My family	6
Chefe de Aldeia	7
Lia Na'in	8
The Government [in general]	9
Parliament	10
Other [SPECIFY: _____]	11
Don't know	98
No response	99

11. Have you heard of a Court? [S]

Yes	1	--- GO TO Q.12
No	2	--- GO TO Q.21
Don't know	98	--- GO TO Q.21
No response	99	--- GO TO Q.21

12. Is there a Court close enough for you to use, if you need it? [S]

Yes	1
-----	---

No	2
Don't know	98
No response	99

13. Have you or your family had a case handled in Court since independence? [S]

Yes	1	--- GO TO Q.14
No	2	--- GO TO Q.16
Don't know	98	--- GO TO Q.16
No response	99	--- GO TO Q.16

14. When you where at the Court, were the court proceedings conducted in your preferred language? [S]

Yes	1
No	2
Don't know	98
No response	99

15. Did you or your family understand the procedures while in Court? [S]

Yes	1
No	2
Don't know	98
No response	99

16. How comfortable are you with resolving problems through the Courts? Are you very comfortable, somewhat comfortable, not very comfortable, or not comfortable at all? [S]

Very comfortable	1
Somewhat comfortable	2
Not very comfortable	3
Not comfortable at all	4
Don't know	98
No response	99

17. How much confidence do you have in the fairness of the formal courts now? Do you feel very confident, somewhat confident, not very confident, or not confident at all in them? [S]

Very confident	1	--- GO TO Q.18.A
Somewhat confident	2	--- GO TO Q.18.A

Not very confident	3	--- GO TO Q.18.B
Not confident at all	4	--- GO TO Q.18.B
Don't know	98	--- GO TO Q.19
No response	99	--- GO TO Q.19

18. A. Why are you confident in the fairness of the formal Court? [OPEN]

18. B. Why are you NOT confident in the fairness of the formal Court? [OPEN]

19. Would you want an official from the formal court system to come to your area to help settle disputes? [S]

Yes	1	--- GO TO Q.20.A
No	2	--- GO TO Q.20.B
Don't know	98	--- GO TO Q.21
No response	99	--- GO TO Q.21

20. A. Why would you want an official from the formal court system to come to your area to help settle disputes? [OPEN]

20. B. Why would you NOT want an official from the formal court system to come to your area to help settle disputes? [OPEN]

21. Do you think the formal justice system is designed to help people like yourself? [S]

Yes	1
No	2
Don't know	98
No response	99

22. Do you think that the implementation of the law helps people like yourself?

Yes	1
No	2
Don't know	98
No response	99

23. Have you ever heard of a LAWYER? [S]

Yes	1	--- GO TO Q.24
No	2	--- GO TO Q.25
Don't know	98	--- GO TO Q.25
No response	99	--- GO TO Q.25

24. Are there any lawyers available in your area? [S]

Yes	1
No	2
Don't know	98
No response	99

25. Have you heard of a public prosecutor?

Yes	1
No	2
Don't know	98
No response	99

26. Have you heard of NGOs that provide legal aid services? [S]

Yes	1	--- GO TO Q.27
No	2	--- GO TO Q.29
Don't know	98	--- GO TO Q.29
No response	99	--- GO TO Q.29

27. Would you go to an NGO for assistance in obtaining justice for a problem? [S]

Yes	1	--- GO TO Q.28
No	2	--- GO TO Q.29
Don't know	98	--- GO TO Q.29
No response	99	--- GO TO Q.29

28. How much confidence do you have in legal aid organizations? Do you feel very confident, somewhat confident, not very confident, or not at all confident in them? [S]

Very confident	1
Somewhat confident	2
Not very confident	3
Not confident at all	4
Don't know	98
No response	99

29. Suppose some person commits murder. Do you think that there are times when this person should be able to avoid punishment or be free from compensating the victim? [S]

Yes	1	--- GO TO Q.30
No	2	--- GO TO Q.31
Don't know	98	--- GO TO Q.31
No response	99	--- GO TO Q.31

30. IF YES ON Q.29 for what reasons should this person be able to avoid being punished for serious wrongs such as murder that they have done? [OPEN]

31. The law mandates that "Justice shall not be denied for insufficient economic means" [please refer to constitution article 26.2 – for TETUM translation]. Do you feel this principle is being implemented in your area? [S]

Yes	1
No	2

Don't know	98
No response	99

32. In your area, if a serious problem or large dispute is not resolved using formal law, do people take justice into their own hands? [S]

Yes	1	--- GO TO Q.33
No	2	--- GO TO Q.34
Don't know	98	--- GO TO Q.34
No response	99	--- GO TO Q.34

PROBE: Note if the respondent saying more in the answer!

33. IF YES TO Q.32, What do people do when they take justice into their own hands? [M – list any other thing mentioned]

Fight	1
Make threat	2
Damage property	3
Arson	4
Steal	5
Defame	6
Other [SPECIFY: _____]	7
Don't know	98
No response	99

34. Do you approve or disapprove of women being allowed to speak for themselves in the adat / local justice process? [S]

Approve	1	--- GO TO Q.35
Disapprove	2	--- GO TO Q.36
Don't know	98	--- GO TO Q.36
No response	99	--- GO TO Q.36

35. IF YOU APPROVE in what circumstances should they be allowed to speak? [M]

On any issues been discussed	1	--- [SINGLE]
When their family is involved	2	
When they are a victim	3	
When they are a person being complained about it	4	
Other [SPECIFY: _____]	5	
Don't know	98	
No response	99	

36. Some people say that a man has the right to hit his wife if she misbehaves. Other people say that any man who hits his wife is wrong and should be stopped. Which one do you think is right? [S]

Man has a right to hit his wife	1
Man has NO right to hit his wife	2
It depends [on case to case]	3
Don't know	98
No response	99

37. How comfortable are you with bringing problems to the traditional institutions of justice such as adat process? Are you very comfortable, somewhat comfortable, not very comfortable, or not comfortable at all? [S]

Very comfortable	1
Somewhat comfortable	2
Not very comfortable	3
Not comfortable at all	4
Don't know	98
No response	99

38. How much confidence do you have in the fairness of the traditional institutions of Justice? Are you very confident, somewhat confident, not very confident, or not confident at all? [S]

Very confident	1	--- GO TO Q.39.A
Somewhat confident	2	--- GO TO Q.39.A
Not very confident	3	--- GO TO Q.39.B
Not confident at all	4	--- GO TO Q.39.B
Don't know	98	--- GO TO Q.40
No response	99	--- GO TO Q.40

39. A. Why are you confident in the traditional process? [OPEN]

39. B. Why are you NOT confident in the traditional process? [OPEN]

40. Do you feel safer, as safe or less safe in your community now compared to 2 years ago? [S]

Safer	1
The same as 3 years ago	2
Less safe	3
Don't know	98
No response	99

41. How effective are the police in maintaining security in your community? Are they very effective, somewhat effective, not very effective, or not effective at all? [S]

Very effective	1
Somewhat effective	2
Not very effective	3
Not effective at all	4
Don't know	98
No response	99

42. How much confidence do you have in the police now? [S]

Very confident	1
Somewhat confident	2
Not very confident	3
Not confident at all	4
Don't know	98
No response	99

43. The law protects an accused criminal from being beaten by police. Is this law being followed in your area? [S]

Yes	1
No	2
Don't know	98
No response	99

44. - I am now going to read you a list of problems and disputes. Could you please tell whether you or any of your family have experienced any of these problems during the last two years? The first is **THEFT OF CATTLE – example: someone steals 3 buffalo from you.** [S]

Yes	1	--- GO TO Q.45
No	2	--- GO TO Q.53
Don't know	98	--- GO TO Q.53
No response	99	--- GO TO Q.53

45. If YES, Who was the first person, if anyone, you saw to get help to resolve it? Who was the second? [Insert the relevant number for the first person, second person, third, etc. in the boxes below] [M]

First	Second	Third	Fourth	Fifth	IF ANY OF THIS BOXES FILLED GO TO Q.47

DID NOT go to anyone	1	--- GO TO Q.46
Suco Council	2	
Chefe de Suco	3	
Chefe de Aldeia	4	
Lia Na'in	5	
Court	6	
Prosecutor	7	
Public defender	8	
Lawyer	9	
Police	10	
Church	11	
Priest	12	
Legal aid organization / LBH	13	
NGOs	14	
Family/families	15	
Other [SPECIFY: _____]	16	
Don't know	98	--- GO TO Q.47
No response	99	--- GO TO Q.47

46. IF 'DIDN'T GO TO ANYONE' ON Q.45, Why? [OPEN]

47. Has it been resolved? [S]

Yes, it has been resolved	1	--- GO TO Q.48
No, it is NOT resolved	2	--- GO TO Q.51
Don't know	98	--- GO TO Q.51
No response	99	--- GO TO Q.51

48. IF YES, at Q.47 by whom/which organization was it resolved? [S]

Suco Council	1
Chefe de Suco	2
Chefe de Aldeia	3
Lia Na'in	4
Court	5
Prosecutor	6
Public defender	7
Lawyer	8
Police	9
Church	10
Priest	11
Legal aid organization / LBH	12
NGOs	13
Families / friends	14
Other [SPECIFY: _____]	15
Don't know	98
No response	99

49. Were you satisfied with the outcome? [S]

Yes	1	--- GO TO Q.50.A
No	2	--- GO TO Q.50.B
Don't know	98	--- GO TO Q.51
No response	99	--- GO TO Q.51

50. A. Why were you satisfied with the outcome? [OPEN]

50. B. Why were you NOT satisfied with the outcome? [OPEN]

51. Whom/what would you most want to help you resolve this dispute? [S]

Suco Council	1
Chefe de Suco	2
Chefe de Aldeia	3
Lia Na'in	4
Court	5
Prosecutor	6

Public defender	7
Lawyer	8
Police	9
Church	10
Priest	11
Legal aid organization / LBH	12
NGOs	13
Families / friends	14
Other [SPECIFY: _____]	15
Don't know	98
No response	99

52. How could the handling of your problem, dispute or case been improved?
[OPEN]

53-125 SAME QUESTION PATTERN FOLLOWED FOR SPECIFIC CASES: Land Disputes, Domestic Violence, Cattle Theft, Paternity Dispute, Physical Assault, Violation of Business Contract, Police Abuse of Power, Beating by Teacher

126. Is there anything you would like to say about the Justice System?
[OPEN]



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