

TARA BANDU: ITS ROLE AND USE IN COMMUNITY CONFLICT PREVENTION IN TIMOR-LESTE



Photograph: Jennifer Hill, Belun



The Asia Foundation



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Cover Photo: "Women engage in Tara Bandu ceremony in Laga, Baucau" Jennifer Hill, 17 May 2012

Executive Summary

Monitoring through Timor-Leste's Early Warning, Early Response (EWER) program has revealed the prevalence in recent years, of local and international organizations supporting *tara bandu* in communities as a means of strengthening natural resource management systems and addressing identified conflict drivers in communities.

Through this Policy Brief, NGO Belun and The Asia Foundation consider various factors that can influence how effectively this traditional Timorese customary practice can be used to prevent conflict in Timor-Leste. In forming this paper's findings, interviews were conducted with key government and non-governmental personnel, and focus group discussions were held in 8 target sub-districts where either Belun or The Asia Foundation have supported community-led *tara bandu* efforts: Aileu Vila and Remexiu in Aileu District, Kristu Rei and Metinaro in Dili District, Ermera Vila and Letefoho in Ermera District, Lautem Vila and Tutuala in Lautem District.

All 3 categories of *tara bandu*: (1) regulating people to people relations; 2) regulating people to animal relations; and, 3) regulating people's relationship to the environment¹, were viewed positively by interviewees through this research (page 10), not only for their environmental or peace dividend but also as a way to enhance traditional culture and mutual respect within society.

However, examination of recent and current *tara bandu* practices reveals a variety of approaches taken by both local leaders and supporting organizations (government agencies, and local and international NGOs) in designing and implementing *tara bandu* (page 16). In some instances, local leaders and supporting organizations have not sufficiently engaged community members, particularly those involved in previous conflicts as well as marginalized groups including youth and women, resulting in *tara bandu* lacking legitimacy in the eyes of communities.

Tara bandu in urban areas (page 21) face the challenge of connecting to the cultural identities of mixed ethno-linguistic communities living away from their original cultural land. It is therefore harder to draw on the unique sacred natural and agrarian symbolism of each cultural group that usually defines *tara bandu*. Still, some processes inclusive of all ethno-linguistic groups that draw on multiple cultural practices and the innovative use of unifying symbols (e.g. the concept of nationhood, the national flag, religious messages etc.) have proved to evolve successfully and gain significance within more diverse, often crowded urban spaces.

¹ It should be noted that, according to Jose Correia a *lia na'in* (traditional elder) from Bazartete there are other ways of categorizing *tara bandu* including those that regulate people with the environment, people with other people, and the people with the state. Demetrio do A. de Carvalho, Presentation materials at the workshop on the first draft of this report, ETDA Dili Timor-Leste, 4 June 2013.

In exploring the complex relationship between Timor-Leste's fledgling formal justice system and *tara bandu* (page 24), the majority of research participants expressed the benefits that *tara bandu* can offer in responding to and resolving more minor cases of social disputes that would be further prolonged if dealt with through formal justice system processes. Most participants agreed however that more significant crimes, including cases of domestic violence should be dealt with through the formal system. This 'line in the sand' between the type of cases that can be resolved at the local level and those that require referral to the formal justice system has been identified by this research as an area that should be defined more clearly by the Ministry of Justice. Furthermore this issue requires thorough socialization through targeted capacity building of district and sub-district governance structures and to local leaders and communities to ensure traditional justice systems are not abused to deny people's rights or protections that would otherwise be afforded to them through formal systems. Supporting organizations including the PNTL should ensure that (preferably written) *tara bandu* regulations are consistent with the law, in particular with respect to domestic violence which should be understood as a public crime in all cases.

As part of their support to communities, government and local and international NGOs should strategically allocate technical and financial resources towards those aspects of *tara bandu* consultation and socialization which communities may not be well placed to fund themselves (e.g. payment for transport to consult with and socialize *tara bandu* to outlying *aldeia*). In order to ensure community ownership of *tara bandu*, supporting organizations should allow for maximum community contributions to the process rather than providing payments for attendance, catering or venues.

A central feature of this report is a 5-part Checklist for Effective *Tara Bandu* (page 35) to be used by supporting organizations as a way to help ensure that *tara bandu* are effective, conflict-sensitive and locally-owned. Drawing from experiences to date in the 8 targeted sub-districts, the checklist emphasizes the importance of ensuring initiatives come from communities themselves rather than external actors, as well as considering the diverse local contexts and cultures within which *tara bandu* take place. In all cases, successful consultation, implementation and ongoing socialization requires actively engaging marginalized groups including youth, women, people with disabilities and groups living in remote *aldeia*.

Linked to the essential criteria for conflict-sensitive *tara bandu* identified through the Checklist, Recommendations (page 38) targeted to specific conflict prevention actors/stakeholder groups are intended to provide the basis for new initiatives and further discussions. Key among these is a suggestion to establish a "Customary Practice Unit" within the Ministry of Justice to provide advice (including through dissemination of clear guidelines) to communities developing *tara bandu* to ensure that they do not contravene formal national laws, the Constitution or international conventions to which Timor-Leste is a signatory that prohibit discrimination relating to gender, religious or ethnic identity.

In following up all recommendations, Belun and The Asia Foundation are ready to work with organizations supporting *tara bandu* processes to ensure they are both genuinely owned by communities and consistent with Timor-Leste's formal law.

Overall, it is hoped that this Policy Brief will stimulate further research into *tara bandu* including by the Ministry of Justice, to review in more detail the various approaches to *tara bandu* ceremonies that have taken place across the country, in order to understand how their implementation has complemented (or otherwise) formal laws. Additional research on the impacts of *tara bandu* by specialist organizations, especially those focused on gender and domestic violence issues, could further illuminate the potential for *tara bandu* and other customary practices to foster a culture that better prevents and responds to various forms of violence and conflict in Timor-Leste.

Introduction

Tara bandu is a traditional Timorese custom that enforces peace and reconciliation through the power of public agreement. *Tara bandu* involves the hanging of culturally significant items from a wooden shaft to place a ban on certain agricultural or social activities within a given area. In contemporary post-conflict Timor-Leste, *tara bandu* codes of behavior continue to be established in conflict-prone areas. Monitoring from Timor-Leste's Early Warning, Early Response (EWER) program has revealed an increase, in recent years, of local and international non-governmental organizations and international organizations supporting *tara bandu* in communities as a useful means to address existing conflicts and/or prevent outbreak of potential conflicts.

However, more information is needed about how effective these *tara bandu* have been in actually preventing conflict in a variety of circumstances across Timor-Leste. It is unclear in what context *tara bandu* have been successful to date, for example between the same or different ethno-linguistic groups, and how application varies according to which institutions are involved, and the manner in which communities are engaged in the process.

Aware of the diversity and variety of uses of traditional conflict prevention mechanisms in Timorese communities, Belun and TAF initiated this research in order to explore the effectiveness of such practices with a view to informing their further, prudent use by both state and non-state conflict prevention actors. This recognizes that traditional social mechanisms will continue to play a vital role in the lives of Timorese people, partly because they are largely trusted by communities and partly because the formal justice system remains beyond the reach of many, especially citizens living in often isolated, rural areas. The scope of this research, however, does not extend to arguing the case for or against the use of traditional conflict-prevention approaches.

The overarching research question posed for this Policy Brief is “*how can tara bandu be used effectively to prevent conflict in Timor-Leste?*” In addressing this question, consideration was given to the application of *tara bandu* including who implements, supports and participates in *tara bandu*, the circumstances in which *tara bandu* are applied, as well as the nature of sanctions and their efficacy in preventing conflict. This research also aims to understand the relationship between *tara bandu* and the formal justice sector: to what extent do *tara bandu* complement formal justice mechanisms? How can *tara bandu* be used more effectively in the future to establish a broader culture of justice, including as a way to socialize existing laws?

While this report reviews the relationship between formal and informal laws, it was beyond the scope of this current research to be able to analyze in detail the impact of the creation of new traditional regulations on citizens' access to the formal justice system. Belun recognizes that this important issue deserves more attention and research in the future to understand in more depth the dynamics between citizens' access to traditional dispute resolution mechanisms versus the formal justice system.

Drawing on Belun and TAF's experiences in facilitating *tara bandu* through technical and financial support, the link between *tara bandu* and institutions that support such processes was investigated. As part of this, the nature of the PNTL's role was examined in order to identify how future *tara bandu* can be a more effective tool for state and non-state security actors to interact with each other and communities.

In line with these research foci, this Policy Brief is structured as follows: section I defines *tara bandu*; section II analyzes inclusion and legitimacy of marginalized groups within *tara bandu* processes; section III discusses the contrasting *tara bandu* experience in rural versus urban areas; section IV explores the relationship between *tara bandu* and the formal justice system; section V describes the link between *tara bandu* and institutions; finally, following a checklist for effective use of *tara bandu* to prevent conflict, a set of recommendations is provided to guide government authorities, civil society, community leaders and other actors about ways in which *tara bandu* can be an effective tool for conflict prevention. Throughout, a straightforward framework considering 1) the design and implementation; and, 2) impact of *tara bandu* is applied in order to guide the reader and ensure consistency in analysis.

Research Methodology

This research adopted a qualitative methodology and was conducted through the collection of information based on interviews with key government and non-government personnel, as well as focus group discussions in each of the 8 target sub-districts (2 sub-districts in each of the 4 target districts). Consultations were held in Aileu Vila and Remexiu in Aileu District, Kristu Rei and Metinaro in Dili District, Ermera Vila and Letefoho in Ermera District, Lautem Vila and Tutuala in Lautem District. Target areas were selected because their communities had participated in *tara bandu* in recent years and provided contemporary case studies from which to derive future policy prescriptions. In addition, target areas were deliberately selected to ensure a balanced geographic (East Central and West), ethnographic (Fataluku, Mambai, Kemak, Tetun Dili/mixed ethnographic) and demographic (rural, urban) selection of *tara bandu* experiences.

SUB-DISTRICTS INCLUDED IN THIS RESEARCH



Belun and The Asia Foundation invited interviewees and focus group discussion participants to share their experiences, perceptions and observations on how traditional conflict prevention mechanisms can prevent and/or contribute to conflict. Observations were drawn primarily from nine recent or current *tara bandu* in the four targeted districts. These were Aileu Vila, Remexiu and Laulara (Aileu); Metinaro and Bekora (Dili); Ermera (district wide); and, Com, Mehara/Tutuala and Daudere (Lautem). It is hoped that the lessons learned from these experiences provide guidance about how traditional conflict mechanisms can best be employed to positive effect in the future across all 13 districts in Timor-Leste.

It should be noted that while a diverse range of participants were consulted for the purposes of this research, this paper is not derived from a comprehensive, nationwide, quantitative survey or investigation into how traditional conflict prevention mechanisms may have been direct contributing factors in either preventing or causing certain incidents of violence. Furthermore, this paper has been drafted on the assumption that *tara bandu* can, in certain circumstances, be a useful conflict prevention tool. Still, the impacts of *tara bandu* on access to justice are important and are considered in Section IV (page 24), although further research will be required to investigate these concerns in more depth.

Primary research for this publication took place between October 2012 and January 2013 during which time interviews were held with key actors involved in *tara bandu* processes and research and community focus group discussions took place in the eight target sub-districts. Those interviewed included key Government figures including the Minister for Justice, the Secretary of State for Culture and the President of Commission F of the National Parliament, as well as representatives from the PNTL, peacebuilding NGOs and INGOs and the UNDP. Focus group discussions consisted of 10-12 people per sub-district and were intended to enable a broad spectrum of society to voice their observations on the topic. Focus groups typically included local leaders (*lia na'in*), and women and youth representatives. A total of 39 persons were interviewed (31 male and 8 female) and 101 persons (74 male and 27 female) participated

in focus group discussions.²³ Research objectives and scope were clearly explained to all participants in order to ensure realistic expectations as to who would have access to the outcomes of the research and how the results would be used. Key findings from scholarly papers on issues related to customary practices and justice were also taken into account where appropriate.

I. What is *Tara Bandu*?

Definition

While ‘*tara bandu*’ is a contested term, there is a widely held view that it refers to a traditional Timorese custom that enforces peace and reconciliation through the power of public agreement to define social norms and practices acceptable to a given community.⁴ *Tara bandu* is one aspect of “customary practice” or “*lisan*” in Timor-Leste - defined by the UNDP as a “broad term encompassing local law, social norms and morality, art and rituals, and a system of community leadership and governance”.⁵ Communities defined *tara bandu* as a traditional and common practice with the means to reduce or prevent community conflict, reduce crime, protect the environment, manage natural resources and improve community welfare.

The process of forming *tara bandu* is a process of coming to communal agreement or ‘social contract’ that outlines the behaviours and practices that members of the community deem to be appropriate and want to enforce. As such, the legitimacy of the *tara bandu* is largely dependent on the degree of local level consultation and engagement in the generation and consecration of the terms of this communal accord. The *tara bandu* in Com for example, as discussed further on p. 18, did not achieve legitimacy due to insufficient engagement of the key actors in the process of developing the terms of a communal agreement.

Tara bandu were overwhelmingly viewed positively through this research, not only for their peace dividend but also as a way to enhance traditional culture and mutual respect within society. Given the ethno-linguistic diversity in Timor-Leste, there are also different descriptors used across the country for *tara bandu* entailing nuances specific to each region. For example, Fataluku-speaking communities prefer to use the word “*sikua*” which refers to the harmonization of people with each other and their

² A full list of the interviewees and focus groups can be made available upon request, though not all names will be disclosed as some interviewees requested to remain anonymous.

³ The level of participation of women in focus group discussions varied across different groups. Recognizing that some focus group discussion participants, especially women, may be less inclined to share their views in such collective settings, Belun’s trained facilitators actively sought their views, either during the discussions themselves or afterwards in informal conversation. In addition, 7 women were interviewed one-on-one in different capacities including as a *tara bandu* focal point, UNDP official and journalist.

⁴ The authors note the existence of different definitions across Timor-Leste of this research’s key terms (e.g. *tara bandu*, *lulik* etc). Definitions used in this research reflect broadly accepted interpretations held by interviewees and are not intended to exclude other legitimate interpretations held in the Timorese and research communities.

⁵ http://74.119.210.141/justice/sites/default/files/pdf_archive/Lit%20Review%20DV%20-%20CL%20FINAL02%2009%202011%20%282%29.pdf, Accessed 5 February 2013.

environment. Other words that can be used to refer to this type of ceremony include “*kahe-aitahan*, *kait-aitahan*, *tara-aitahan*, these all refer to hanging or draping articles symbolic of the banned practice such as the leaves of certain plants or trees, animal heads, horns or legs⁶.

While the different definitions and concepts are not always translatable, the overall principles and practice of *tara bandu* are similar and widespread. Among the key researchers in this field, Kovar and Harrington suggest that more recently developed regulations, although referred to as “traditional laws” and building upon the “traditional” Timorese cultural concept of *tara bandu*, should be referred to as “local laws” instead of *tara bandu*.⁷⁸

Both traditionally and contemporarily, *tara bandu* involves the hanging of culturally significant items from a wooden shaft to place a ban on certain agricultural or social activities within a given area.⁹ Often the items hung are those prohibited through the *tara bandu*, for example a cutting from a symbolic tree and the skull or bones from an animal sacrificed during a *tara bandu* ceremony. *Tara bandu* commonly include the holding of a large public ceremony, “usually following a public meeting that determines particular sanctions or fines for particular activities”.¹⁰ Punishment for breaking the conditions of a *tara bandu* can take the form of both physical sanctions (detailed under “Sanctions” on page 13) and abstract “supernatural” repercussions, such as from spells cast upon those who contravene the “regulations” of the *tara bandu*, depending on the cultural context. Traditionally, such regulations have not been written down. However, as Table 1 illustrates, in modern times it is common for them to be codified on paper. The Ermera (district-wide), Bekora (Kristu Rei, Dili) and Daudere (Lautem Vila, Lautem) *tara bandu* are among those that have had regulations written down in recent years.

Table 1: List of *Tara Bandu* Researched

NAME (Sub-District)	GEOGRAPHICAL LEVEL	WRITTEN DOWN	ORGANIZED BY	SUPPORTED BY
Bekora (Kristu Rei)	Suku	YES	Local leaders and Kristu Rei Conflict Prevention and Response Network (CPRN)	TAF, PNTL, Belun, Kristu Rei Sub-district Administrator
Metinaro	Sub-district	YES	Conflict Prevention and Response Network	Belun
Com ¹¹ (Lautem Vila)	Suku	NO	Local leaders	Belun

⁶ Presentation Materials from Mr. Eugenio Sarmiento, Chief of Department for Architectural heritage within the Secretariat of State for Culture, at Belun Workshop on the first draft of this report, ETDA, Dili, Timor-Leste, 4 June, 2013

⁷ Kovar, A. and Harrington, A. (2012) Background Note on Codified Local Laws.

⁸ In this paper, the use of the word “law” refers to formal or national law only, except in cases of quotes or paraphrasing. The general term “customary practices” denotes what some refer to as “local laws” or “traditional laws”. “Regulations” refers to the prohibitions and other clauses contained within *tara bandu*.

⁹ <http://belun.tl/wp-content/uploads/2012/06/Policy-Brief-5-Culture-and-its-Impact-on-Social-and-Community-Life.pdf>

¹⁰ D’Andrea (2003), p. 8

¹¹ Note that the Com *tara bandu* did not proceed after the signing ceremony for reasons explained on page 18 and this was the reason why it was not written down, despite intentions to do so.

Daudere (Lautem Vila)	Suku	YES	Local leaders	HIVOS, Seeds of Life
Mehara/ Tutuala (Tutuala)	2 Suku	YES	Mehara and Tutuala <i>xefe de suku</i>	Seeking support from Belun
Remexiu	Sub-district	YES	Conflict Prevention and Response Network	Belun
Aileu Vila	Sub-district	YES	Conflict Prevention and Response Network	Belun
Ermera	District	YES	District and Sub-district Administrators, local and church leaders	Kaidalak Solimutu Institut (KSI), Hametin Demokrasia, Belun

Historically, *tara bandu* were used, including during both the periods of Portuguese colonial and Indonesian military occupation, as a means to enforce local governance systems and control the population. Since Timor-Leste's vote for Independence in 1999, *tara bandu* have enjoyed resurgence particularly since the 2006 crisis. According to Mr. Demetrio Amaral, Director of Fundasaun Haburas, the motivation behind this resurgence including through a Haburas-led 2000/2001 program in several districts (e.g. Likisa, Ainaro), has been to emphasize the values of Timor-Leste's capacity to ensure that humans are living in harmony with each other and the environment in particular.¹² *Tara bandu* continue to be a dynamic and diverse instrument to govern society. As Section V (page 30) describes in more detail, in contemporary times, various actors (NGOs, PNTL, churches) are now involved in the design and implementation of *tara bandu*. Many cases adjudicated through *tara bandu* regulations are addressed through the intervention of *xefe de suku* and *xefe de aldeia* alone. While in others, in Bekora, for example, the community police (PNTL) have a role in supporting the *xefe de suku*, according to those regulations.

Types of *Tara Bandu*

Tara bandu assessed across Timor-Leste through this research can be classified broadly into three groupings detailed below: *tara bandu* regulating people to people relations; *tara bandu* regulating people to animal relations; and, *tara bandu* regulating people's relationships to the environment. Both local leaders and participants of focus group discussions identified all three of these categories as *tara bandu* commonly utilized during both the Portuguese and Indonesian periods as a way to govern people. The extent and continuity of their application however, especially in relation to the first category (regulating people to people relations) varies as a result of decisions taken by authorities under different administrations (Portuguese, Indonesian and now Timorese) to either foster or prevent their application in different areas of the country. In some areas *tara bandu* have been applied more regularly over the decades while in others, such as Poetete Suku (Ermera Vila, Ermera), the use of *tara bandu* has been identified as resurfacing in 2001.

¹² Interview with Haburas Director, 5 November 2012, Dili.

Other ways of categorizing *tara bandu* include those determined by Jose Correia, the *lia-na'in* of Lauhata, Bazartete, Likisa District: 1) *tara bandu* regulating people's relationship with the environment, 2) *tara bandu* regulating social relationships, and 3) *tara bandu* regulating people-to-state relationships¹³. Examples of *tara bandu* regulating people's relationship with the environment include *tara bandu* regulating the time for harvest or fishing according to climatic shifts, to prevent overfishing and ensure equal benefit to all community members, for example, eel catching (*metchi*) in Lospalos and fishing in the lake "*Bee Malae*" in Palaka, Balibo/Atabae or the lake "*Seloi Kraik*" in Aileu. Examples of people-to-state *tara bandu* include the previous rule and power of the *liurai* (traditional rulers) to create administrative boundaries between villages. Also environmental laws and regulations such as not burning the land and cutting down trees that are now formalized in the official law but Mr. Eugenio Sarmiento argued that they originate from the traditional regulations. He considers that it should be acknowledged that all formal laws have arisen from the traditional systems, and as such the *lia nain* should be more actively consulted in the process of the formation of formal laws.¹⁴

In contrast to the prevailing views garnered through this research, Kovar and Harrington argue that in more recent times, the use of "local laws" as they refer to them, have gone further into "regulating social issues and personal behaviour" outside of their traditional domain relating more to "the use of natural resources and treatment of sites believed to be sacred". The contention here is that the first category "*tara bandu* regulating people to people relations" is therefore a new use of "traditional laws" or "local laws". When prompted, interviewees insisted that the first category is currently used *and* has been a part of *tara bandu* traditionally.

***Tara Bandu* Regulating 'People to People' Relations**

Tara bandu regulating 'people to people' relations typically relate to socio-cultural, economic and political interactions between people. Application within the socio-cultural aspect specifies that people cannot violate other people's "rights" (as understood by those designing the *tara bandu* and not necessarily human rights as defined by law) including by committing physical or sexual violence, theft or property destruction. In relation to economic interactions, *tara bandu* can prohibit people from committing infractions and wasteful spending that affect people's livelihoods and create family conflict. Awareness of this perceived benefit of *tara bandu* was particularly strong in Ermera, location of much of the country's coffee production, where income from coffee harvests is often swiftly depleted through spending on cultural and family festivals, rather than saved. Thirdly, *tara bandu* can also regulate political behavior including placing restrictions on people using provocative language or insults about others' political views. An example of this is Belun's support, at the request of the local EWER Conflict Prevention and Response Network (CPRN), in Tutuala Sub-District (Lautem) during the 2012 political and

¹³ Presentation Materials from Mr. Demetrio do A. de Carvalho, Advisor to the Secretariat of State for the Environment, at Belun Workshop on the first draft of this report, ETDA, Dili, Timor-Leste, 4 June, 2013

¹⁴ Presentation Materials from Mr. Eugenio Sarmiento, Chief of Department for Architectural heritage within the Secretariat of State for Culture, at Belun Workshop on the first draft of this report, ETDA, Dili, Timor-Leste, 4 June, 2013

parliamentary elections for regulations prohibiting aggressive political language with the potential to trigger violence.

***Tara Bandu* Regulating ‘People to Animal’ Relations**

This category refers to how people manage their own animals and respond to other people’s livestock and wild animals. EWER monitoring regularly identifies violent incidents that have started as a result of stray animals damaging a neighbor’s crops. In order to minimize such violence, these *tara bandu* restrict people from stealing, killing or injuring other people’s animals or wild animals or fish in the forests, rivers and oceans. They also recommend better management of livestock movement through herding or the use of pens and tethers to avoid animals damaging neighboring property or crops. This category can occasionally include the prohibition of the use of pesticides for crops or dynamite to kill fish, in order to maintain biodiversity and the health of coral reefs.

***Tara Bandu* Regulating ‘People to Environment’ Relations**

Typically, these *tara bandu* stipulate that people should protect the environment, in particular by reducing the burning of land or not cutting down trees arbitrarily or before they are large enough to be harvested sustainably. Such *tara bandu* can specify that people not steal plants or produce from protected rice or vegetable fields. Other examples were identified where *tara bandu* regulated taking of rocks that could lead to landslides or changes in river flooding patterns for example, as well as regulating waste management and banning the throwing of non-biodegradable rubbish in non-designated areas. A recent example is that in Daudere *Suku* (Lautem, Lautem) where International NGO Hivos and Seeds of Life (SoL), a program within the Timor Leste Ministry of Agriculture and Fisheries (MAF), supported both upstream and downstream communities to implement a *tara bandu* in July 2012. This agreement restricts cutting of trees including bamboo within 25 meters of a local watershed, in order to enable re-forestation.



The images above show the implementation of tara-bandu activities in Ermera. The spiritual symbolic articles are hung on a post in a strategic location within the community to remind people not to violate the tara bandu regulations.

Photo: Edio Mariano, Belun

Sanctions

Sanctions continue to represent a significant aspect of *tara bandu* and have been said to have historically (exact time-period not specified) involved occasions of human sacrifice for those contravening *tara bandu* regulations.¹⁵ In modern times, however, sanctions typically include the exchange or sacrifice of animals and more recently, with the introduction of cash economies, the payment of money. Current monetary sanctions can range from as low as payments of \$10 in Ermera for very minor discretions to a formerly very high sanction payment identified through this research of \$6,000 in Poetete *Suku* (Ermera Vila) relating to the most serious of offences (e.g. murder). Penalties in Dili were found to be generally higher than in rural areas, for example the payment of one cow for stealing one cow and the sacrifice of 1 additional cow for the local community to eat. More typically across the country, a payment could be a pig or \$50 for a smaller discretion; a cow or \$300 for a larger one.

For many, the high cost of some sanctions (a maximum found during this research was \$5,000) were not considered to be a concern, as the primary objective of *tara bandu* regulations is to “prevent” people from contravening so the sanctions do need to be high enough to act as a deterrent.

High sanctions however do carry the risk of causing substantial financial burden on those who contravene *tara bandu* regulations if they are from poorer families, especially if no alternatives are provided. For example a ban on cutting trees in a certain area, that does not provide alternative means of cutting trees (such as only lower branches) or areas to gain firewood, may find the most vulnerable families continuing to contravene regulations if they cannot afford alternative fuel sources.

In reality however, *tara bandu* sanctions can often be negotiated to be relevant to the perpetrators’ circumstances and is determined by the local leaders who are enforcing the *tara bandu* regulations. In fact *tara bandu* can serve to reduce the financial burdens of other cultural practices. The *tara bandu* in Ermera for example puts a cap on the costs of high-priced cultural events that could instead be spent on more critical pursuits such as assisting children in their schooling and reducing malnutrition. This sentiment was highest in Ermera District where a considerable proportion of annual income is used to pay for *lia mate* and *lia moris* festivals and the price of *barlake* can be extremely high. The community in Poetete *Suku* in Ermera expressed hope that the reduced cost of these cultural events could result in more children being sent to school.

Although it was claimed in Ermera that the price of sanctions was falling, for example the maximum fine is now \$2,500, down from \$5-6,000 in *Suku* Poetete, whether this reflects a nationwide trend is difficult to ascertain. Here, NGOs and others supporting *tara bandu* can dissuade communities from establishing completely unaffordable sanctions that would be particularly harsh for the poorest and most vulnerable. However the deterrent objective of the sanctions should be remembered, and sanctions need to match

¹⁵ Interview with *lia na'in suku* Poetete, Ermera Vila, October 12, 2012.

the severity of the acts committed. It can also be acknowledged that in cases of acute vulnerability or poverty of perpetrators, the sanctions are at the discretion of the local leaders.

Interestingly, it was often argued that the absence of a *tara bandu*, in some cases, results in even higher payments being made as parties to conflict attempt to solve their problems outside of any pre-existing formal (legal) or informal (*tara bandu*) framework. In other words, the settlement of civil cases through *tara bandu* is preferred to the (often) more expensive *ad hoc* arrangements.

Other more novel forms of sanctions were identified that do not require the payment of large amounts of cash. In Metinaro (Dili District) for example, the sanction for stealing an animal is exactly that animal - a pig theft for example would require payment of a pig in return. Similarly in Bekora the sanction for stealing a cow is a cow. In Remexiu (Aileu District), one punishment is the cleaning of the local church. In domestic violence cases in Daudere *Suku* (Lautem Vila, Lautem), a custom is followed whereby the suspect brings a pig and the victim brings local palm wine, *tua sabu*, to a conciliation ceremony.

In contrast to the formal justice system where a victim may seek retributive justice and a perpetrator may be found guilty of breaking a law (discussed in Section IV from page 24), such sanctions regimes represent a form of arbitration to re-align the spiritual balance in communities and with the natural order. Although sanctions may be pre-determined, community leaders (whether *xefe de suku* or *lia na'in* etc) may decide to apply sanctions with partiality and favour one party over another. This is highly likely given the close relationships between the parties to a conflict and those mediating in Timor's commonly tight-knit communities. Especially vulnerable here are women who are victims in the vast majority of cases and are being judged by men who occupy the vast majority of community leadership positions (whether traditional *lia na'in* roles or as *xefe de suku* and *xefe de aldeia*).

Beyond the sanctions of the physical world, many communities, particularly in Lautem District, identified the existence of "spiritual sanctions". These might include the attraction of disasters, sickness and other challenges for someone who contravenes a *tara bandu*. In some instances, these are seen to function as a deterrent that is as effective to potential transgressors as any financial penalty that a *tara bandu* might impose.

II. Inclusion and Legitimacy in *Tara Bandu*

For the objectives of *tara bandu* to be met for all members of society, that is, the prevention of conflict and the protection of livelihoods, *tara bandu* should involve the maximum possible level of participation from communities. Inclusion in this context comes in two forms: firstly, engaging people from as wide a geographical area as possible including to less accessible *suku* and *aldeia*; and, secondly, engaging people from socially marginalized groups such as women, youth, persons with disabilities and minority ethno-linguistic, religious and political groups. To date, limited research has been conducted to assess the true legitimacy of *tara bandu* across communities, including amongst marginalized groups. Kovar and Harrington state that the "inclusion of women, youth and other disadvantaged groups could not be

confirmed but seems unlikely”.¹⁶ They point out that those involved in designing and implementing *tara bandu* are commonly *lia na'in*, *xefe de suku*, *xefe de aldeia*, district and sub-district administrators and church and PNTL leaders, “positions which are very commonly held exclusively by male community members”¹⁷. This section aims to paint a picture of how communities themselves, including marginalized groups, perceive their own participation in *tara bandu* processes.

Community Members

Design and Implementation

Focus group discussions confirmed the participation of most of these “leader” groups in the design of *tara bandu*. The Lautem Sub-District Administrator identified various religious, government, state and cultural functionaries as coming together as “important pillars” to design and implement *tara bandu*.¹⁸ There were variations in who designed and implemented *tara bandu*, depending on the geographical scope of their application. The Ermera District-wide *tara bandu* signed 27 February, 2012, was organized by the District and Sub-district Administrators, with the support of local church and community leaders and is presently being socialized in a total of 52 *suku*.

In contrast, other *tara bandu* have been implemented at the behest of the community, members of which have contributed financially to the process and will, at least in theory, have a greater stake and interest in its success. For example, in Mehara and Tutuala *suku* (Tutuala, Lautem), it was clear that the community was involved in the development of the *tara bandu* involving both those *suku*. At the time of research, this process or “action plan” as referred to by the sub-district administrator’s representative was in its early stages. The researchers observed at the time that two *xefe de suku* and up to 21 local community members (14 men and 7 women) were systematically developing a timeline and the subjects for inclusion of the *tara bandu*, such as the problem of stray animals leading to conflict. Perhaps reflecting the age of one of the *xefe de suku* who is in his late twenties, the details of the *tara bandu* were typed on a computer during the meeting and a projector was used to showcase the “live” documents to the meeting participants. Interestingly, the group had a very structured approach to developing their *tara bandu* which included a seven step process as follows: 1) consultation; 2) presentation of the results of consultation; 3) discussion and writing the regulations; 4) seeking of feedback from government authorities; 5) showing the regulation to the Ministry of Justice; 6) discussion of the Ministry of Justice’s feedback with the community; and, 7) socialization and dissemination of the final *tara bandu* to all *aldeia*. It is not clear where the leaders of this process obtained their framework from but they were intending to seek additional support from Belun and higher levels of government to implement their *tara bandu* fully. Although the two *xefe de suku* had a strong leadership role in this process, it was also evident that participants were able to voice their views and add their contributions to

¹⁶ Kovar and Harrington (2012)

¹⁷ *Ibid*

¹⁸ Interview, 3 October 2012, Lautem Vila.

the initial documents as they were being typed. They explained that the process was a way of taking into account *both* traditional and local government leaders' opinions. Although this area is known as being Fataluku speaking, the meeting was held in both Fataluku and Tetun, possibly as a means for including any non- or non-fluent-Fataluku speakers in the process.

However, design of *tara bandu* does not always ensure the buy-in of a critical mass of community members. Cases have been identified where those empowered to arbitrate on *tara bandu* have abused their position and undermined the legitimacy of the whole process. It was claimed, for example, that a couple of members of the Remexiu (Aileu) *tara bandu* commission did not adhere to a *tara bandu* regulation that required people to tether their animals. The impact of this is that other people will feel less obliged to follow the *tara bandu* and this can undermine its whole purpose and broader legitimacy. Related to this, local leaders may invest themselves in a *tara bandu* process but fail to foster the support of the wider community. Under the guidance of *some* local leaders, a 2011 *tara bandu* supported by Belun and the local Conflict Prevention and Response Network (CPRN) in Com (Lautem Vila, Lautem), did not succeed in part because the seminar prior to the *tara bandu* was facilitated in the Com Resort, a hotel designed for local and international tourists. Focus group discussants were keen to identify that the seminar, while attended by several "*ema boot*" from the Government, did not include the motifs and *tais*, expected by the community. At the time of this research, the Com community is planning to approach Belun for both technical and financial support and eventually move the ceremony to a more culturally significant or sacred place.

Impact

Com community members surveyed were adamant that these failures - the wrong place, the wrong clothing and the absence of communication with the spirit world - were the reason for this *tara bandu* not proceeding. Whether this is accurate may be difficult to prove. However, it seems reasonable to assume that, for local citizens, legitimacy can derive from a belief that a *tara bandu* has invoked culture and is linked to "morals", to "god" and the "spirit world". In such a case, the *lia na'in* (defined as owners of the word), are expected to be the transmitters of knowledge and tradition from previous generations to the present generation. In the Com experience, the inclusion of *some* of the *lia na'in* in a process that did not pay due attention to accepted cultural norms, lessened the confidence that community members held in the *lia na'in* themselves. Beyond the failures of integrating appropriate symbolism, the Com *tara bandu* was also said to have failed as a result of generally poor consultation and implementation on the day of the ceremony, including a lack of transport provided for those living further away to attend.

Success of *tara bandu* can also be thwarted by non-transparent and ineffective management. The Com *tara bandu* was also cancelled due to a lack of proper facilitation and communication between network members, some of the *xefe de suku* and other traditional leaders. Importantly, a key target group in this case, youth, particularly those who were party to the conflict that precipitated the *tara bandu* in the first place, were not well consulted either. Poor communication can also exacerbate confusion over what the exact details of *tara bandu* are when they are not written down. For example, in Metinaro, certain stakeholders such as residual IDPs within the Metinaro community who were more marginal to the

process, given an expectation that they would eventually leave the area, did not fully understand the thematic or temporal scope of the *tara bandu*. At the same time, more easily comprehensible parts of the regulations, for example, related to tree cutting were deemed by the community to be successful. A space exists for supporters of *tara bandu* (NGOs, churches, etc) to build up the knowledge of communities to design and implement their own *tara bandu* according to local needs (see Section V). A community might be well equipped to prevent a more traditional social infraction such as the arbitrary cutting of trees or burning of land. At the same time, as suggested in the Metinaro focus group discussion, a community might not be able to deal with more contemporary conflict prevention challenges such as masked intruders, referred to as *ninjas*, who attack people in their homes and steal their belongings.

Managerial factors contributing to exclusion and illegitimacy are undoubtedly preventing some *tara bandu* from achieving their conflict prevention aims. In addition, the potential benefits of *tara bandu* can be severely hampered by budgetary challenges, which limit the ability for full community participation, including through the inability of people from outlying *aldeia* to obtain and fund transportation. This has been the experience not only in the more top-down approach in Com but also in community driven *tara bandu* where communities themselves may be unable to finance the attendance and inclusion of stakeholders from remote areas. In such cases, communities and those supporting them would be advised to consider having smaller and therefore more realistic areas to cover within their *tara bandu*. This is not to say that larger budgets or support from NGOs or local government correspond with a better process. In Bekora (Kristu Rei, Dili) where money was contributed by both NGOs and local government, the *tara bandu* process was criticized because it lacked genuinely broad participation and the community's own conscientious contributions to the process.

One disadvantage of a more limited geographical scope, for example, being confined to a single *suku* or even *aldeia* is that contradictory *tara bandu* may be applied in neighboring areas. Alternatively, there may be no *tara bandu* in neighbouring areas in which case a member of one *suku* may simply enter a neighboring, unregulated *suku*, and cut trees or burn land there, for instance. This was commonly identified as a challenge including in Com (Lautem Vila) and Aileu Vila (Aileu).

Attempts at more integrated *tara bandu*, such as the district-wide Ermera *tara bandu* are a bold attempt at minimizing discrepancies between potentially competing local *tara bandu*. At the time of writing, however socialization to people who live further away from the larger towns had not yet been implemented. Regardless of their geographical scope, *tara bandu* are more likely to succeed if they are fully resourced to inform as much of the targeted population as possible. Such *tara bandu* should not be hurried into effect but rather consider the amount of time required for all communities to be consulted about the process. Furthermore, all potential *tara bandu* implementers should be aware of the existence of *tara bandu* in neighbouring areas to ensure that any possible discrepancies between them are managed.

Despite the lessons learned from Com and other examples, evidence of the contribution of surveyed *tara bandu* to the minimizing of community conflict is inconclusive. Feedback from a broad range of interviewees including NGOs suggests that *tara bandu* in categories 2 and 3 (focusing on people's

relationships with animals and the environment) are being effective. In relation to recent *tara bandu* attempting to regulate people's interactions with one another (category 1), it is not yet possible to link their implementation with any changes in the number of violent incidents. Community leaders and the PNTL in Ermera believe there has been a decrease in violence in their major towns since the period 2009-2011, as a result of the presence of the "*kablehan*" - an unpaid civilian security force who provide security during both the day and night time. Through the *tara bandu* the *kablehan*, who are provided with some training by the PNTL, are empowered to fine citizens on the spot for small contraventions of the *tara bandu*. For any significant issues, *kablehan* are expected to hold persons they have witnessed contravening regulations and later bring them to *xefe aldeia* or *xefe suku* to review and seek resolution to their cases. If resolution at this level fails, then *kablehan* bring accused persons to the PNTL. (The empowerment of the *kablehan* raises many questions, both about the right of *kablehan* to apprehend other citizens and the human rights of accused people to access justice and not be detained arbitrarily).

In contrast to perceptions of conflict held in Ermera, Belun's Early Warning, Early Response (EWER) monitoring indicates that there has been no significant decline or increase to date in the number of verified incidents in the three Ermera sub-districts covered by the program (Ermera Vila, Hatolia and Letefoho).¹⁹ It should be noted here that there are many other factors influencing the total number of incidents in a given area including activities of various groups, such as martial and ritual arts gangs who do not adhere to *tara bandu* regulations.

Marginalized Groups

Design and Implementation

For those developing *tara bandu*, the inclusion of all marginalized groups- youth, women and persons with disabilities, as well as social, political, ethnic and religious minorities among others - and, accommodation of their legitimate interests, should be of primary concern. All groups should be given support, such as for transport to attend consultation meetings, to encourage their participation in *tara bandu* from the very start. Youth, like all members of the community, need to understand how the regulations and sanctions regimes can benefit and protect them, not just restrain them.

Monitoring from Belun's Early Warning Early Response (EWER) system consistently identifies youth as being involved in high levels of violent incidents in both rural and urban areas in Timor-Leste.²⁰ Their genuine inclusion in *tara bandu*, in line with the roll-out of the formal justice system, can incentivize them away from physical violence and theft for example. Not surprisingly most interviewees said that youth should be consulted and explained that their inclusion was essential for the objectives of *tara bandu* to be met. The tools and incentives used to engage youth differ according to the context. For example, the Fataluku-speaking communities of Tutuala (Mehara suku) invoke the cultural significance of

¹⁹ <http://belun.tl/wp-content/uploads/2013/02/tri-XI-eng.pdf>

²⁰ <http://belun.tl/en/conflict-resolution/early-warning-and-early-response-ewer/>

“*lulik*” (which in Tetun refers to that which is sacred or holy including ancestral spirits) in order to encourage youth to be engaged and take *tara bandu* regulations seriously.²¹

In relation to Com, those interviewed believed that legitimacy in the eyes of the youth comes from a fear that they may die or get sick as a result of not following the *tara bandu* regulations which are intrinsically linked to their culture. Inclusion of youth here was also hampered by the cost of transport for those coming from distant *aldeia* (given that youth have limited access to money) and the unpassable roads - an obstacle which affects almost everyone in Timor-Leste, especially during the rainy season. In a contrasting example, youth participation was said to be high across Ermera, possibly because the process was more inclusive from its inception but also because some youth ended up becoming *kablehan*.

The *active* participation of women in designing and implementing *tara bandu* is particularly critical given the coverage within many *tara bandu* of domestic violence issues (e.g. in Aileu Vila Sub-district, Aileu; Bekora, Kristu Rei Sub-district, Dili; Ermera District) which overwhelmingly affect women (for more on domestic violence specifically see Section IV on page 28). Female participants who attended focus groups and interviewees in the four districts researched expressed (publicly and privately) support for *tara bandu* broadly and pointed out their participation in the design and implementation stage of *tara bandu*. Their participation in the actual ceremonies typically includes dancing traditional “*tebe dai*” and reading traditional ballads, as well as preparation of food and, in the case of nuns, the responsibility to facilitate mass.

However, it was difficult to identify many specific instances of women playing a key role in deciding the content of *tara bandu* regulations and what sanctions are to be applied. An exception was in Letefoho, Ermera District, where a sub-district focal point for *tara bandu* socialization was a woman. When interviewed, she passionately spoke based on her own experiences about the need for *tara bandu* to help change a local tendency to (wastefully) spend income from coffee harvests on festivals instead of on children’s education and family health needs.

Impact

Poorly designed and implemented *tara bandu* such as those in Com and other places can have negative and longer lasting impacts across the community. The community is still clearly disenchanted with how the process played out and blames the failure to implement the *tara bandu* for not minimizing further youth-related violence taking place. In another example, the community from Poetete *Suku* (Ermera Vila) believe that efforts to ensure youth involvement including the contribution of a few dollars from each youth from the start of the 2010/2011 district-level *tara bandu* has reduced gambling and violence, although evidence for this is unclear. Focus group participants tended to believe, rightly or wrongly, that *tara bandu* can change the mentality of the youth not to steal, for example.

²¹ Hull (2001)

Communities put forward some creative suggestions for how to ensure inclusion using existing relationships. Practitioners of many *tara bandu* such as Haburas identified the importance of linking back to people's families including grandparents (as well as the spiritual connection to ancestors) as an important tool to encourage all members of communities to be involved. The Sub-District Administrator in Lautem noted that youth can and need to be engaged in civic culture via *tara bandu* and invoked the role of mothers as an effective way of encouraging good citizenry. The view that women are the transmitters of culture could be leveraged by organizations supporting *tara bandu* as a way of encouraging appropriate gender inclusion in such processes. Again, here it is important to understand the local context and cultural norms, including gender relations which may vary according to each *suku*.

One concern identified by the researchers was the potential impact on women in particular by the entirely male "*kablehan*" in imposing rules not mandated by the law (see section V on page 30). This challenge could necessitate support from a local or national NGO, or perhaps a partnership of the two, to provide gender-sensitive training for the *kablehan*. In future, such modules should be integrated into training programs, whether for PNTL, *kablehan* or any other actors involved in *tara bandu*, at the earliest stages of their development.

III. *Tara Bandu* in Urban Areas

In rural areas it is clear that *tara bandu* is viewed in part as an opportunity to transmit culture to the next generation, and in part as providing additional societal benefits such as the potential to reduce conflict. Because of their derivation from "traditional cultural values", the design and implementation of *tara bandu* in rural areas is understood by communities, firstly, because people "know their culture", as many put it. Secondly, *tara bandu* are generally accepted by communities due to their consistency with the knowledge and expectations already held in communities.

No *Lulik* in Dili?

While *tara bandu* can enjoy a higher chance of legitimacy in rural areas, what about in urban areas where there exists an ethnic pluralism? The view held by many in rural areas was that the 2006 Crisis had its main impact on communities in Dili, predominantly because the common traditional cultural values, symbols and practices (including *tara bandu*) passed down from generation to generation were lost in the urbanization process. (Clearly the causes of the 2006 Crisis are more complex, although it is not this paper's intention to analyse them).²² Many believed that *lulik* (referring to that which is sacred or holy including ancestral spirits) is weak in Dili and one participant even said that there was no *lulik* in Dili. An aspect of this deficit is that the appropriate traditional authorities reside back in their traditional lands.

²² For more information on the 2006 crisis see the Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste: <http://www.ohchr.org/Documents/Countries/COITimorLeste.pdf>

This absence, whether in part or whole, means that there is no divine permission for people to use or claim land and this would continue to result in urban conflict.

Given the integral link between *lulik* and *tara bandu*, communities from both rural and urban areas expressed doubt about the applicability of effective *tara bandu* models in urban areas, especially in Dili. Some recommended that financial sanctions in urban areas should be higher since urban dwellers would not be as afraid of re-offending as people are in rural areas. Others even suggested that there is no point applying a rural system to urban areas and therefore, as an alternative, stronger application of formal laws and recourse to state security and local governance actors should be applied in order to avoid people contravening social norms or committing crimes. A more positive approach - suggested by the Lautem Sub-District Administrator - could be for governments and peacebuilding NGOs to augment their civic education training and awareness building programs at the sub-district level generally. These could prepare people who move to Dili seeking employment for different challenges, and discourage them from turning to street gangs and martial arts groups as a form of social inclusion and protection. As such there may be a role for other informal peacebuilding tools and methodologies to be used in urban contexts where cultural differences are difficult to assimilate. These can include seminars, dialogue, mediation and other forms of 'Alternative Dispute Resolution' that are not so linked to cultural practices.

Regardless of the extent to which *lulik* exists in urban areas, in reality a more complex "multi-culture" exists in urban settings compared to rural areas. Urban areas are characterized by a variety of ethno-linguistic groups living tightly together, overlayed with a mix of competing political interests, larger economic disparities, education levels and social statuses, in addition to comparatively higher conflict risks.²³ This understanding is held in Dili itself, where members from the Bekora (Kristu Rei, Dili) focus group emphasized in particular the different cultural backgrounds of groups migrating to Dili from all over the country and living in proximity to each other. They argued that a lack of common cultural understanding and non-uniform approaches to *tara bandu* can affect the likelihood of migrants succeeding in urban settings. When the Bekora *tara bandu* was socialized in the diverse Kamea community, there was heavy participation from people originating from Laga sub-district, Baucau, but not from some other communities who had arrived to the area earlier. In such diverse communities, exclusion of some groups over others, whether intended or not, could exacerbate conflict.

"Know the Map of Dili"

While most focus groups were sceptical of the applicability of *tara bandu* in urban areas, an alternative view put by practitioners of *tara bandu* including Haburas was that *tara bandu* can certainly be implemented in urban areas provided they are sensitively designed and the time is taken to "socialize" them. Sufficient resources (human, financial and time) should be allocated to properly assess and understand people's "histories and *lisan*" and identify the distribution of the population, in other words,

²³ For more information on urban violence in Dili see: <http://www.smallarmssurvey.org/about-us/highlights/highlights-dili-urban-violence.html>

“know the map of Dili”. And, even when operating in an urban context, practitioners should learn about the timing of the local planting and harvest seasons. The need for deeper research into people’s cultural characteristics and relationships - including knowing which communities are based in which areas and the nature of their historical and present-day interactions - was acknowledged by the Minister of Justice and the President of the National Parliament Commission F.

In implementing *tara bandu* in urban areas with dense populations, close consideration should be given to the existence of different regulations operating in close proximity. Urban communities were concerned with these differences and suggested the need to develop uniform regulations in neighbouring areas. It is recommended that support from sub-district administrators be obtained to ensure that *tara bandu* in neighboring *suku* are uniform. The key here is to leverage the common interests (peace, stability and economic opportunity) and cultural understandings (*lisan*) from all parts of an urban community, and in the process de-emphasize ethno-linguistic and other faultlines. In practice this could require creating, from existing knowledge of *tara bandu*, new forms of *tara bandu* that do not exclude certain groups. For instance, while it may not be possible to include reference to traditional cultural symbols, e.g., “*uma luliks*” or specific environmental features which demarcate areas where people originally come from, *tara bandu* in urban areas could seek the blessing of a figure respected by multiple ethno-linguistic groups, such as a local priest. Here, it is important to be aware of any religious diversity that may exist and in such cases include representatives of all faiths in the process.

Despite the absence of *lulik*, traditional practices common across all groups such as sacrificing an animal in ceremony or drinking cow’s blood, could still apply albeit alongside more modern symbols. For example, potentially unifying symbols such as referring to the nation or the flag or God can be invoked in *tara bandu* in urban areas as in the case of Bekora, even though they are not the revered, supernatural symbols used traditionally. Such dynamics could also be drawn upon when designing *tara bandu* in rural areas where two different ethno-linguistic, religious or political groups are to come under common regulations. While unifying symbols could enhance the chances of a *tara bandu* being adhered to by diverse parties in an urban context, it was noted that success of *tara bandu* partly derives by leveraging participation from community members who have brought to urban areas from their original homes a high belief and consciousness in *uma-lisan*. It could be that youth who have come to Dili (or another urban area) to seek work are already familiar with *tara bandu* from their own district and are well prepared to respect *tara bandu* being applied in their new environment. This could lead to a “fusion” approach, where the strong cultural beliefs from the variety of ethno-linguistic groups in a particular urban context can be drawn on in a new and unique formation made relevant to multiple groups within a particular urban community.

Overall, *tara bandu* in urban areas can be re-calibrated to reflect a local, diverse, context, without having to be radically different from *tara bandu* in rural areas. Whether implemented in rural or urban areas, all communities stressed the importance of local ownership. Success of *tara bandu* is more likely to depend on whether it has been genuinely community owned and not perceived as having been imposed by outside parties (illegitimate leaders, NGOs, government bodies, international actors etc). In urban areas

especially, widespread levels of participation are critical given that there is no insurance in the form of a common culture to unite people if a *tara bandu* is poorly conceived.

IV. *Tara Bandu* and the Formal Justice System

The relationship between Timor-Leste's fledgling formal justice system and the many forms of traditional or informal justice being used is complex and varied, and mandates often overlap. In the current post-conflict environment of Timor-Leste, a national priority such as establishing the Rule of Law, including strengthening the judiciary and the PNTL, can be thwarted by continuing political and social conflicts.

As the country transitions to a more credible justice system, there is a widely held view that formal justice processes are not yet working smoothly; people do not understand (and in some cases cannot access or read) the national laws, the constitution or their rights, in addition to facing financial, logistical and communication challenges in accessing the formal justice system. This view is exacerbated by a lack of information held in communities that the cost of accessing formal justice is prohibitively high - in one case it was said that \$7500 was wasted on a case, in comparison to what could be \$100-\$200 to settle a similar case through a *tara bandu*. Local officials, such as the *xefe de suku* of Daudere Suku are under the impression that it costs \$500 or more to access a lawyer in Timor-Leste.

The real cost varies according to many factors including whether or not a claimant can afford a legal representative or not. In cases where they cannot, at least in theory, a service such as legal aid should be provided through the Public Defender's Office (although to date such means testing is being applied arbitrarily in view of other challenges to access including knowledge of its availability). Either way, assumptions about the high price of hiring a legal representative helps to entrench a perspective, held in areas far away from Dili in particular, that it is preferable for people to sort out their issues more immediately and locally, rather than going through expensive and prolonged formal justice procedures.

In this context, more familiar systems of mediating conflict and settling disputes appear, understandably, to be more desirable for victims, perpetrators and the wider community. It is not unreasonable to suggest that *tara bandu* is being developed more frequently by communities and supporting organizations as a means to prevent conflict because of the capacity gaps in the burgeoning formal justice system. Communities broadly are attracted to informal justice mechanisms such as *tara bandu* because they have the ability to resolve issues more quickly than the formal justice system in its current state, even if the aims of the formal system including justice and impartiality are not achieved. But does *tara bandu* enhance or constrain the Rule of Law?

Enhancing Rule of Law?

The view that *tara bandu* can assist formal justice by reducing conflict and bringing many parties together during a period in which the Rule of Law is being developed is widely held. Minister of Justice Dionísio Babo Soares points out that *tara bandu* programs are important in assisting the formal justice sector,

particularly in relation to the resolution of conflict in rural communities.²⁴ Multiple local government representatives agreed with the notion that “customary practices can strengthen formal laws”, as well as bring local character to them; although there exist various different conceptualisations on how formal and informal systems can strengthen each other. In Lautem it was claimed that individuals might not believe in either the law or church doctrine in isolation but that they would believe in the trilogy of the law, church and culture. In other words, respect for the law is strengthened by respect for culture, as part of this trilogy. In Com (Lautem District), interviewees went as far as to say that formal laws, referred to under the term “constitution” were seen as being secondary - God assumes primacy, followed by Constitutional Law, which is then followed by culture.

Communities surveyed through this research generally spoke about the complementarity between formal justice and *tara bandu* and did not see a contradiction between the two. According to one interviewee, formal and informal justice systems are like an “egg” - two separate parts of the same system working together. It was commonly assumed, in a continuation of a dichotomy stemming from the Indonesian-era, that formal justice is responsible for addressing criminal cases, while *tara bandu* (and *nahe biti boot*) address civil cases. Expressed in another way, the former deals with “big crimes” while the latter deals with “small crimes”.

It appears that *tara bandu* can fill in gaps before laws are socialized and in cases where people wish to access formal justice but live in remote areas or cannot afford to. This occurs especially in rural areas where it is logistically and financially challenging for people to reach the court system as there are currently only four tribunals nationwide. In addition *tara bandu* is viewed as being more inclusive because it can be understood by all people, including the “50% who cannot read or write and therefore cannot follow the formal justice system”.²⁵ *Tara bandu* can also contribute to relieving the pressure on the formal justice system by dealing with more minor cases such as theft of animals or non-violent disputes, and enable the system to focus on delivering justice in more serious cases.

Or Undermining Rule of Law?

A major drawback of the use of *tara bandu* is their non-legal basis and the justice sector’s lack of obligation. The application of *tara bandu* could undermine the Rule of Law and all of the donor and government support for its establishment and the securing of human rights principles in Timor-Leste for more than a decade. Harrington identifies the risk of people receiving “double punishment” both under the formal justice system and under *tara bandu* sanctions for a single act e.g. stealing a car.²⁶ The arbitrary application of sanctions by people in positions of power should be considered human rights violations.

²⁴ Interview, 22 October 2012, Dili.

²⁵ Interview, Sub-District Administrator Gleno, 10 October, 2012.

²⁶ Interview, 5 February 2013, Dili.

Concern has been raised about the *kablehan* in Ermera enforcing certain public behaviours which are not in any way contravening the country's formal laws. For example in Part III, A, b. of the Ermera *tara bandu* regulations it is stated that there cannot be sexual relations between a married man and an unmarried woman, even though formal law does not prevent this. Although the regulations do not refer specifically to the role of *kablehan* in enforcing such regulations, interviewees spoke of their role in preventing young people showing affections to each other in prohibited areas according to local *tara bandu*. That some *kablehan* carry short wooden sticks (known as "*aitonka*") to carry out their role is likely to increase the chances that people's human rights under law are infringed upon. Not surprisingly, PNTL are adamant that *kablehan* should not be involved in responding to criminal cases. What is less clear is whether or not *kablehan* can both fulfil their mandate to enforce the *tara bandu* regulations and respect people's rights at the same time.

To the claim that *tara bandu* represents a contravention of human rights, the Director of NGO Fundasaun Haburas said that this argument misunderstands the historical context and intentions of *tara bandu*. Although *tara bandu* in the past (citing cases from the 1930s) have contravened human rights, *tara bandu* in contemporary times are established with "human rights values" in mind and more draconian elements of *tara bandu* have been removed. Senior PNTL figures similarly reject the idea that *tara bandu* can contravene human rights and have not identified any cases contravening human rights in practice. It should be noted here that Timor-Leste's Provedore of Human Rights and Justice (PDHJ) continues to receive large number of complaints of human rights violations by the PNTL itself and therefore that some PNTL officers do not yet understand accurately what constitutes human rights violations. Given that the establishment of human rights norms is facing continuing challenges in Timor-Leste, local and international organizations supporting *tara bandu* should be careful to ensure that the Rule of Law, the Constitution and treaties to which Timor-Leste is a signatory are not contravened. To do this will require some research on the part of those organizations to understand what human rights standards the country has signed up to.

A key risk to attempts to strengthen the formal justice system posed by continued implementation of *tara bandu* is the disincentive this may create for people to learn about and utilize the formal justice system. Rather than working in tandem with the formal justice sector as communities, NGOs and PNTL understand it, successful application of *tara bandu* in civil cases might be replicated in criminal cases, thereby increasing the gap between the intentions of the formal justice system and citizens' trust in it.

One of the other reasons that people consulted in this research prefer the use of *tara bandu* or customary practices more broadly over the drawn out formal justice procedures is that it can better manage conflict. By addressing underlying causes of conflict as identified by the community using tools that are well understood by the community, *tara bandu* can contribute to conflict prevention rather than relying on the *reactive* approach of formal justice systems. While this may be the case in individual cases, it is difficult to prove whether *tara bandu* does actually reduce crime and violence generally, even if there is a perception that it does. Related to this, the ability of communities to develop their own, possibly contradictory *tara bandu* in neighboring areas, may encourage potential perpetrators to commit similar

violations in neighboring areas with impunity. Other participants said that in some cases traditional law could be used first and then if problems are not solved, they can be sent to formal justice systems. Because the truth is often not fully sought or clarified, arbitration through *tara bandu* can encourage re-offending. The counter argument was that often there is often not strong enough evidence available to convict people in cases when the formal justice route is preferred.

Regardless of how the authorities and others approach the use of *tara bandu* as a tool for conflict prevention and justice, the government should continue to raise awareness about and improve the service delivery of the formal justice sector. This should include informing citizens, in writing, about the boundaries between formal and traditional/local laws - something communities appear to desire - which will essentially further formalize *tara bandu*. One suggestion commonly put forward was that Ministry of Justice experts in the law should work with communities designing *tara bandu* to ensure that they are consistent with the formal law.

Domestic Violence

Timor-Leste suffers from a high level of domestic violence. 36% of married women have experienced physical, sexual or emotional violence by a husband or partner according to the Timor-Leste Demography and Health Survey 2009-2010, as cited by Kovar (2011).²⁷ Given this, it could be that informal systems such as *tara bandu* can provide avenues to minimize the suffering of victims and contribute to long-term cultural change in reducing acceptance of such violence. In this context, Kovar argues that “not enough attention is given to the fact that local law and its focus on collective rather than individual rights serves an important social function: the maintenance of peace and social order within small, close-knit communities”.²⁸

However, NGOs hold well-founded concerns about the use of *tara bandu* with respect to domestic violence, including that it places the victim and the perpetrator as equal parties who must pay sanctions to solve their “dispute”, regardless of whom the aggressor has been. Since *tara bandu* may be more concerned with achieving harmony in communities and not justice for victims, they may further undermine the intentions of the law to facilitate justice and much of the work done to date by local NGOs and international actors to strengthen and promote the Rule of Law. The current practice of mediating domestic violence cases at the family, *aldeia* or *suku* level (facilitated by men in the vast majority of cases) provides few options for victims of violence. Even though people believe that a consensus is reached between parties in a domestic dispute, it is difficult outside of the auspices of the law to prove that both parties have truly consented to this “resolution”. Furthermore, this system may encourage a perpetrator (who has sufficient financial resources to pay the fines) to abuse the same victim again, knowing that the consequences are not as severe as being removed from the community to serve prison time.

²⁷ <http://dne.mof.gov.tl/published/TLDHS%202009-10/Final%20Report%20TLDHS%202010.pdf>

²⁸ Kovar, 2011, pg. 5.

Yet, with or without informal mechanisms such as *tara bandu*, women in Timor-Leste in particular continue to face significant barriers to accessing justice, especially in light of their dependence on men for income and shelter. This argument is often put forward by community members, to justify processing the case at the local level. Such attitudes are not conducive to the processing of those cases which have been considered by the victims themselves, or witnesses, to be severe enough to require external intervention. Even for the minority of victims of domestic violence who are both aware of their rights and bold enough to go to the police, their cases are often not dealt with and the victim may have to return home to even further abuse. As Kovar argues, the focus on “punishing the perpetrator” has been insufficient to date in guaranteeing access to justice for victims of domestic violence.

In practice, how *tara bandu* is applied with respect to domestic violence varies across the country. Most community members agreed that the objective of including reference to domestic violence in *tara bandu* regulations, was to act as a deterrent, to prevent cases of domestic violence and assert the communal condemnation of such practices. If such cases did arise however, attempts would be made to mediate the case at the family level, or with the involvement of local leaders. Local leaders claimed that if they were not able to resolve cases, they would be more likely to refer these cases to the police rather than necessarily applying the *tara bandu* sanctions. Indeed, in most cases, *tara bandu* introduced or re-socialized after 2009 replace any sanctions relating to domestic violence, with reference to the formal law. As such *tara bandu* can itself be utilized as a tool by which to socialize the formal law itself.

One group of communities claims that *tara bandu* cannot be applied in relation to domestic violence given that such cases are meant for the tribunal in line with Timor-Leste’s Penal Code of 2009, which deemed domestic violence a public crime. “Domestic violence is a public crime and police do not tolerate it”, said one senior PNTL figure. In fact, the Bidau Santana (Kristu Rei, Dili) community with the support of TAF modified their existing *tara bandu* to reflect the new Domestic Violence law. In a follow up meeting through the Asia Foundation’s Community Police Council (CPC), it was decided by the community to socialize the *tara bandu* to every *aldeia* in the *suku*. However, the *tara bandu* was developed in 2009 before the passing of the Domestic Violence (DV) law. As the law now states that domestic violence crimes are public crimes it was not consistent to use the DV sections and socialize them. In a CPC meeting the women’s representative, with the support from the CPC member, expressed the need to not socialize the DV section and instead replace it with information related to the DV law. In this way the *tara bandu* was modified by taking out a specific section and referring to the law instead.

Other groups surveyed, for example, community members from Poetete *Suku* (Ermera Vila) drew a distinction between domestic violence that results in injuries and domestic violence that doesn’t result in injuries (for example, heated arguments). For those without injuries, no fine is imposed but for those with injuries, offenders were required to pay \$50 through the *tara bandu* on the first offence (in contradiction to formal laws) while re-offenders should be sent to the police. Alternatively, as explained in a slightly different way in Bekora, offences deemed to be “*nivel kiik*” (small level) should be dealt with through local leaders, whereas those deemed to be “*nivel boot*” (big level) should be dealt with through the police. Here, when injuries result, they must be reported to the police, although, as widely

acknowledged, in reality this depends on the family involved. Focus group members in Com said that the first offence carries with it a sanction under *tara bandu*, and then under the second offence, the parties must go to the court. At the same time, interviewees suggested that the two systems, formal and informal, were not the same and that domestic violence crimes should be referred to the tribunal. Yet research conducted by Kovar (2011) found that the “majority [of respondents] prefers these cases be dealt with by the informal system, even if the woman is seriously injured”.

Support for *tara bandu* to be used in cases of domestic violence, at least milder ones, ties in with the romantic view that domestic violence is occurring as a result of the culture not being harmonized - something that *tara bandu* can strengthen by passing on “morals” to the next generation. The challenge here has been, and continues to be, that information on such cases is not conclusive enough to inform policy-making about the role *tara bandu* can play as an effective option for preventing or minimizing cases of domestic violence and importantly, disassembling the culture of silence around this issue. In any event, domestic violence should continue to be understood as a public crime and cases ought to be referred to the PNTL and dealt with under the formal justice system. Here, organizations that support *tara bandu* have a responsibility to ensure that *tara bandu* are consistent with Timor-Leste’s 2009 Domestic Violence law. Furthermore, dealing with domestic violence cases through the law only (and not through customary practices including *tara bandu*) avoids situations where an accused person is sanctioned twice for the same offence.

V. *Tara Bandu* and Institutions

Organizations Supporting *Tara Bandu*

This research was in part motivated by the growing number of organizations, NGOs, churches, international organization supporting *tara bandu* processes in Timor-Leste. Catholic Relief Service (CRS), Hivos, JICA and the Ministry of Social Solidarity (MSS) are among many organizations identified as providing both technical assistance and financial support for design and implementation of *tara bandu* across the three categories of *tara bandu* identified in Section I.

Design and Implementation

Technical advice, particularly from local NGOs, tended to help communities draft regulations and determine appropriate sanctions, given that knowledge about how to develop and manage *tara bandu* may have been forgotten over time. For example in Ermera, NGOs like Kadalak Solimutuk Institute (KSI) no Hametin Demokrasia no Igualidade (HDI) provided specialist training for *kablehan* to police *tara bandu*. Complementing local civil society knowledge, international NGOs have the capability to draw from experiences in other post-conflict countries ensuring that traditional conflict mechanisms build peace effectively.

The extent to which NGOs on the whole, the primary providers of support to communities implementing *tara bandu*, are involved varies. In some cases, for example with Hivos and Seeds of Life in Daudere *Suku*, they were present at the start of the process and co-drove the effort in partnership with community leaders. In contrast, in the case of Mehara/Tutuala, the community initiated the process themselves but intends to seek technical advice and support from Belun and the Ministry of Justice after drafting their initial regulations (which they were doing at the time this document was written).

In many cases, but by no means in all, the role of NGOs is appreciated including in Ermera where Hametin Demokrasia no Igualidade (HDI) worked together with the local Catholic church to support *tara bandu*. Communities there were keen to express appreciation for the role that HDI has played in supporting their initiative. A contrasting example would be the Com *tara bandu* supported by Belun, but was not appreciated by the community for reasons explained in Section II.

The call for additional support to develop *tara bandu* was common across all districts, and tended to focus on acquiring technical expertise and not finances. Communities appear to be aware of their own knowledge gaps particularly in the space where traditional and formal justice meet and are seeking support from the Government in particular. To date the Government has been more active at a local level, for example in Bekora *Suku* (Kristu Rei, Dili). Many suggested that the Ministry of Justice provide technical support and in at least one case, Mehara/Tutuala, leaders of the *tara bandu* process are taking the initiative to consult with the Ministry of Justice themselves. If this particular *tara bandu* is successful, it may be that neighboring communities also consider seeking advice from the Ministry of Justice. In any case, this precedent (as far as this research can presume) should prompt the Government more broadly to consider developing a consistent approach to providing *tara bandu* advice, including the creation of a unit on “Customary Practice” within the Ministry of Justice and a set of guidelines to inform the development of *tara bandu*. Such a policy can prevent ad hoc and potentially inconsistent advice being given to different communities in a time when *tara bandu* usage is increasing and such advice is in demand.

Impact

In addition to providing technical advice, organizations supporting *tara bandu* inevitably contribute financial support to communities when assisting with the design, implementation and resolution of *tara bandu*. As in the case of any peace, conflict and development intervention, this has the potential to create a perverse incentive for communities; that is, communities are willing to accept external support for financial reasons and not because of the objectives *tara bandu* itself. NGO support, at least in districts surveyed, does not appear to be driving perverse incentive for communities to participate in *tara bandu*. Still, it should be acknowledged that external support in any form will fundamentally change the quality of the customary practice - in this case *tara bandu* - possibly by changing the focus on the visible outcome (i.e. a ceremony) rather than the process which can bring families together and ensure their buy-in through material and other contributions.

This is not to say to NGOs and other supporting organizations are not required in the process. Practically, certain *tara bandu* would not go ahead successfully without external support simply because it does cost

money to reach citizens living in far reaching *suku* and *aldeia* and ensure they are equally part of *tara bandu* processes. “You need money when you need to mobilize people” admits the xefe de *suku* of Daudere *Suku*. One repeated criticism was that NGOs were often able to provide support to *tara bandu* in their design and implementation but not fully support local communities to socialize *tara bandu* to all *aldeia*. Outlying *aldeia* away from the main *suku* were often ignored, it was claimed. Consistent with this sentiment, organizations were frequently called upon by communities to assist in the provision of transport, to complement other costs covered by the community such as the provision of food and ceremonial goods. Without external support to cover basic costs in economically disadvantaged communities, *tara bandu* may fail to extend to include marginalized groups and thus be prone to failure. Therefore, if it is important to consider the conflict risks of actors supporting *tara bandu*, then it is equally important to consider the risks of not having external support for communities attempting to institute *tara bandu*. In this regard, small grants funds prudently administered either by government, donors or larger/national civil society organizations can help communities cover basic costs and ensure that *tara bandu* are properly socialized.

On the technical side, NGOs have a responsibility beyond helping to ensure consultation is inclusive of marginalized groups and designing regulations that do not contravene formal laws. They can also facilitate *tara bandu* that do not present any other harmful, perhaps unforeseen effects. For example, while traditional *tara bandu* may have included rituals such as drinking pig’s blood and sharing human blood in the past. Haburas points out that sharing blood, for example, has health risks and does not encourage parties to a *tara bandu* to do this.

This research has found that determining the concrete impact of *tara bandu* is a challenge that requires time and follow-up research. While this research aims to draw attention to this process, NGOs, research bodies and international organizations can be more active in monitoring and evaluating *tara bandu*, and not just supporting their implementation. This observation was made by several interviewees including the Aileu District Police Commander who emphasized the need for supporting organizations to measure the results of *tara bandu* and identify strengths and weaknesses therein.²⁹ Small grants funding mechanisms could be extended to cover any follow-up activities recommend as a result of more systemized monitoring. Section VI (page 35) provides a checklist for what NGOs and other organizations working in this area should do at a minimum, in preparing to support *tara bandu* into the future.

In relation to the role of governments it was suggested that different departments were not communicating well with each other. There were calls in Metinaro (Dili), although not in other places, for government representatives (namely from the Ministry of Agriculture) to attend ceremonies, and therefore give further legitimacy to *tara bandu* ceremonies. While the Ministry of Justice should assume primary responsibility for policy development linked to customary practices, the Ministry of Agriculture should be consulted on policies related to categories 2 (peoples’ relations to animals) and 3 (peoples’ relation to the environment).

²⁹ Interview, 17 October 2012, Aileu Vila.

The Role of PNTL Linked to *Tara Bandu*

Design and Implementation

The Policia Nacional de Timor-Leste (PNTL) are presently engaged in *tara bandu* to varying degrees. In the district-wide *tara bandu* in Ermera, community police have been working closely with *xefe de suku*. PNTL, with the support of HDI, Belun and local churches provided training for *kablehan* to clarify the latter's roles as well as explain their obligations under the law. In Bekora (Kristu Rei, Dili), PNTL were called upon by local leaders to be involved in the writing down of *tara bandu* because of their knowledge of the laws.

In contrast, in areas perceived to have fewer conflict risks, the PNTL have been playing a more passive, observer role. In Lautem sub-district for example the PNTL have been informed about the *tara bandu* process and their services were requested to provide security at *tara bandu* consultations and ceremonies. Both PNTL and community leaders here claim to have a united community and thus do not believe the PNTL needs to play a central role in the *tara bandu* design and implementation. Even so, the District Commander for the Lautem PNTL was invited to the main ceremony, as were transit police who are responsible for enforcing laws related to roads. In Metinaro (Dili), the PNTL did not participate directly in the *tara bandu* but supported the process in principle. In only one case from the *tara bandu* surveyed were the PNTL not involved at all. In Daudere *Suku* a *tara bandu* to protect a local water source may provided less impetus for local police involvement given its intention to regulate people's interactions with the environment rather than between each other.

Impact

One of the potential impacts of low PNTL involvement in *tara bandu* is that the PNTL can maintain their focus on enforcing formal laws and avoid agreeing to enforce any *tara bandu* regulations that may contravene formal laws (e.g. forced labor). PNTL officers appeared comfortable with the distance they had from *tara bandu* processes and were keen to identify that they are not bound by *tara bandu* but rather by the Constitution. Senior PNTL interviewed including District Commanders clarified that PNTL had a responsibility to intervene when crimes have been identified. At the same time, PNTL officers including senior officers were aware that their involvement could have a positive impact by helping to clarify formal laws for the community, including around domestic violence. Some were circumspect in recognizing the benefits of *tara bandu* to promote cultural norms and reduce conflict. Others thought *tara bandu* could prevent or reduce conflict but could not explain how or why.

Overall, *tara bandu* can be used as a respected mechanism through which the police can build up the community's trust in them either by attending as observers or by providing training to the community, depending on a community's needs. *Tara bandu* provides a useful platform from which PNTL can educate citizens about its role in preventing and addressing crimes and emphasize the importance of the community supporting the PNTL, by reporting crimes for example. It would be advantageous in all cases, even if the risk of conflict is perceived to be low, for the PNTL to be invited to the ceremony and importantly be seen through their attendance as giving legitimacy to the process and *vice versa*. Local

PNTL should themselves actively seek information on *tara bandu*, ensure that regulations do not contravene formal laws and maintain a copy of any regulations for future reference.

The decision making process is also an important phase for the PNTL to be involved in, or at the very least be observers to. *Tara bandu* are in effect a localized conflict mapping and problem solving exercise. The PNTL would benefit from this type of analysis in terms of understanding what communities view as their problems, as well as identifying areas where the PNTL can help reduce tensions over specific issues, e.g. theft, domestic violence etc, thereby improving community policing in practice.

VI. Checklist for Effective *Tara Bandu*

Based on the above research, this five-part checklist can be used by organizations supporting *tara bandu* as a way to help ensure that *tara bandu* are effective and conflict-sensitive.

Consider Diverse Local Context and Culture

- Learn about which *tara bandu* are in place and have been implemented previously, including in neighboring areas.
- Communicate with the appropriate languages throughout the process including through local dialects where relevant.
- Consult with community members with experience designing *tara bandu*, especially in urban areas with diverse cultural affiliations.
- Consult with the responsible *lia na'in* regarding use of respected local cultural norms including traditional dress/ *tais*, food and holding of ceremonies in culturally appropriate spaces.
- Encourage use of unifying social symbology for *tara bandu* in urban areas with mixed cultural traditions, such as the use of the national flag and religious symbols (where not divisive).

Facilitate Community Ownership and Participation of Marginalized Groups

- *Actively engage* marginalized groups (youth, women, persons with disabilities, groups living in remote *aldeia* and religious minorities). This includes participation from citizens in remote *aldeia*.
- Include appropriate, respected community members, *lia-na'in*, elders, local leaders, church leaders including nuns.
- Encourage the inclusion of women and youth in roles of responsibility in implementing *tara bandu*.
- Utilize existing community networks e.g. Conflict Prevention and Response Networks (CPRNs).
- Ensure maximum levels of participation, including members of *all* local ethno-linguistic groups in both urban and rural areas.

Provide Appropriate Technical and Financial Support

- Ensure financial and technical support to comprehensive consultation processes prior to the ceremony.
- Ensure *tara bandu* regulations and sanctions are consistent with the formal law, especially in relation to the Law Against Domestic Violence, Laws on the Environment and the Penal code.

- Ensure that all *tara bandu* regulations carry the disclaimer that there is no legal basis for the enforcement of these traditional regulation and sanctions but these instead represent a local voluntary agreement between community members in the area covered by the *tara bandu*.
- Ensure that there is a transparent system in place to manage the funds or goods gained from any sanctions implemented under the *tara bandu* are given to the victim or, where there is no direct victim, are used for communal benefit not private gain.
- Ensure that *tara bandu* are consistent with recognition of domestic violence as a public crime that should be reported to the PNTL and dealt with through the formal justice system.
- Encourage communities to consult with legal representatives (such as lawyers, legal aid organizations or NGOs working on law and justice issues) on the design and implementation of *tara bandu* regulations, until such time as a formal system for reviewing *tara bandu* is decided by the Ministry of Justice.
- Ensure geographical scope and time periods covered by *tara bandu* are clear in the regulations.
- Discourage use of excessive monetary sanctions and encourage the use of directing money towards funding community needs such as children's education and family health needs.
- Keep external financial support to a minimum and encourage maximum community contributions (e.g. of ideas, finances, human resources) to the process.
- Direct financial resources for *tara bandu* towards items that local communities might have difficulty resourcing (e.g. transportation, and not food and venue hire).
- Ensure financial support to socialize *tara bandu* to all *aldeia* immediately following ceremonies.

Practice Transparent Communication and Coordination

- Inform the appropriate authorities (local government, Ministry of Justice, PNTL,) of your support to a *tara bandu* process, and invite them into your planning processes when possible. Legal advisors (lawyers, or legal NGOs) should be consulted during all planning processes.
- Ensure *tara bandu* are written down in order to provide transparency and consistency in interpretation.
- Coordinate with other organizations supporting *tara bandu* in the same or neighboring areas.
- Monitor and evaluate each *tara bandu* and share results with community - in order to do this effectively, develop a baseline and system for measuring social change before and after *tara bandu* (i.e. by referring to EWER system data, crime statistics, personal perceptions and sanction log books).

Ensure Conflict-Sensitive Implementation and Socialization

- Ensure ample opportunity for community members' feedback on proposed *tara bandu* regulations and adapt regulations accordingly where feedback is accepted.
- Co-develop plans for socialization of *tara bandu* in every *suku* and *aldeia* where they apply.
- Do not hold ceremonies until communities are fully prepared and marginalized groups have been included.
- Discourage the use of arbitrary interpretation of regulations or application of sanctions, including clearly defining the role of parties to a *tara bandu* such as *kablehan*.
- Ensure ceremonial rituals and sanctions do not risk leading to injury or sickness.

VII. Recommendations

Government

1. Conduct research, through the Ministry of Justice, on all *tara bandu* ceremonies that have taken place across the country, in order to understand how their implementation has complemented (or otherwise) formal laws;
2. Establish a working group to evaluate how the government should manage the role of *tara bandu* in local level conflict prevention practices as well as community utilization of *tara bandu* regulations and the implications in terms of access to justice.
 - a. The group should also consider appropriate legal frameworks and mechanisms for the vetting of traditional and local level regulations to ensure they do not contravene formal national laws, the Constitution and conventions to which the Government of Timor-Leste is a party to.
 - b. This group could consider the formation of a “Customary Practice Unit” within the Ministry of Justice to provide advice (including through dissemination of clear guidelines) to communities developing *tara bandu* to ensure no contradiction with formal laws;
 - c. This group should be led by the Ministry of Justice with membership including representatives of the President’s Office, the Ministry of Social Solidarity, the Security, the Ministry of State Administration, the Secretariat of State for the Environment, the Secretariat of State for Arts and Culture, the Secretariat of State for the Promotion of Equality and key civil society organizations who are engaged on this issue.
3. Enable the National Directorate for the Prevention of Community Conflict (NDPCC) under the Secretariat of State for Security and the National Department for Peacebuilding and Social Cohesion (NDPBSC) under the Ministry of Social Solidarity, to support *tara bandu*, where appropriate, according to a consistent framework for preventing and responding to community conflict;
4. Support, through the Ministry of Justice and the Civil Society Advisor in the Office of the Prime Minister, civil society organizations to implement *tara bandu* programs that complement formal justice in relation to local conflict and civil (not criminal) cases;
5. Socialize such support, policies and guidelines to the level of local government and local leaders;
6. Ministry of Justice should consult Ministry of Agriculture and Fisheries in developing advice and guidelines dealing with ‘People to Animal’ (category 2) and ‘People to Environment’ (category 3) *tara bandu*.

Tara Bandu Organizing Committees and Local Authorities

1. Host consultations and take into account local community perspectives before designing and implementing *tara bandu* by including all segments of the community including women and other marginalized groups, and people living in remote *aldeia*;
2. Request training on inclusive consultation and facilitation skills when seeking support for *tara bandu*;
3. Ensure through liaising with appropriate national authorities (including Ministry of Justice, legal aid NGOs, UNDP or relevantly qualified legal actors), that *tara bandu* do not violate formal laws;
4. Apply sanctions transparently and consistent with *tara bandu* guidelines.

Lia Na'in and Community Leaders

1. Host consultations and take into account a diverse range of community perspectives (men, women, youth, spoiler groups etc) before designing and implementing *tara bandu*;
2. Orient communities, either through public meetings or awareness raising materials, about the details of *tara bandu* including objectives, prohibitions, sanctions etc; post a copy of *tara bandu* guidelines in places where local communities gather, e.g. churches, youth centers etc;
3. Provide advice to young people on cultural norms linked to peace, especially to youth heading to Dili who will be exposed to greater conflict risks and different cultural norms.

International Development Partners

1. Provide technical advice to the Government of Timor-Leste on how *tara bandu* interventions can run in parallel to support establishment of the Rule of Law and adherence to Timor-Leste laws, Constitution and conventions to which the Government is a party to;
2. Ensure that donor funding is not directed towards *tara bandu* and other traditional forms of justice that contravene Timor-Leste's existing national laws, Constitution and conventions to which the Government is a party to;
3. Design programs that reflect the local context relating to *tara bandu*, when providing technical support to the PNTL and other security, peacebuilding and legal actors;
4. Ensure sufficient financial support to enable implementing organizations (e.g. local NGOs) to socialize *tara bandu* to remote *aldeia* and conduct monitoring and evaluation of *tara bandu*.

Timorese Civil Society

1. Learn about existing or potential future *tara bandu* regulations before proceeding with new interventions in a given community;
2. Consider the potential risks and impacts to communities and the Rule of Law including the specific local context and culture, before designing and implementing *tara bandu*;
3. Ensure the inclusiveness of all *tara bandu* processes including for marginalized groups such as women, youth and minorities, as well as the sensitive use of cultural motifs (tais, dress and other symbols);
4. Discourage high monetary sanctions and encourage appropriation of money towards paying for essential cost items such as children's education or family health;
5. Pursue further research on the relationship between traditional laws and access to formal justice systems, particularly with regard to cases of Domestic Violence and the potential for *customary practices* to foster a culture that prevents and responds to Domestic Violence.

PNTL

1. Attend *tara bandu* processes from start to finish as a way to engage with communities and understand what they see as their main security and crime-related challenges;
2. Assist communities in writing down their *tara bandu* regulations and consult with legal aid NGOs or relevantly qualified legal actors to ensure that they do not violate current laws;
3. Attend the *tara bandu* ceremony to help lend legitimacy to the process;
4. Ensure that domestic violence and other public crimes are not included in *tara bandu*, except where reference is given to the 2009 Law Against Domestic Violence.

Belun

1. Provide clear guidelines to members of EWER Conflict Prevention and Response Networks (CPRNs) on how to design, implement and manage *tara bandu* themselves, including how to ensure that communities and the PNTL are fully engaged;
2. Build the capacity of local leaders, *suku* council members and members of EWER Conflict Prevention and Response Networks (CPRNs) to facilitate mediation to prevent and respond to conflict, through their own *tara bandu*;
3. Support members of EWER Conflict Prevention and Response Networks (CPRNs) to socialize *tara bandu* regulations to the aldeia level including to remote *aldeia*;

4. Ensure *tara bandu* processes include marginalized groups such as women, youth and minorities, and use cultural motifs (tais, dress and other symbols) sensitively.

The Asia Foundation

1. Design programs that reflect the existence and influence of *tara bandu*, when providing technical support to the PNTL and other security actors and legal actors;
2. Consider the use of *tara bandu* through existing and future programs including the Community Policing Program, where alternative conflict transformation tools are not being effective;
3. Ensure that *tara bandu* are community driven initiatives, with an established M&E framework for measuring the resulting impact, or lack thereof.

All Institutions

1. Improve lines of coordination between government institutions and civil society in the support of *tara bandu* related activities so that no duplication or contradictions occur in the financial or technical support to *tara bandu* in areas close to one another, to avoid communities viewing *tara bandu* as ways to source income rather than actually developing community-driven agreements.

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Annexes

About the EWER Program (Belun)

Belun's mission is to serve Timorese society and prevent conflict with integrity and innovation. Headquartered in Dili, Timor-Leste, Belun comprises a dedicated team of 47 staff, who are strongly supported by 86 volunteer district monitors across the country. Belun is among the largest national non-government organizations in Timor-Leste and holds the most extensive community outreach program across the country. Since its inception in 2004, members of the Belun team have been working across a number of programs to strengthen civil society organizations and provide needed support to communities in all 13 districts of Timor-Leste as well as conducting extensive research to inform programmatic and policy development.

In 2008, Belun established and expanded the Early Warning and Early Response (EWER) system for monitoring and addressing conflict and tensions nationwide. The EWER system is supported by a network of sub-district-based volunteer monitors who gather information relevant to the potential for local conflict and civil unrest. The system currently monitors 43 of Timor-Leste's 65 sub-districts, representing approximately 64% of Timor-Leste's communities, after scaling up gradually over its first three years of operation.

EWER emphasizes the response to conflict and tensions rather than focusing efforts just on forecasting or *predicting* violence alone. The EWER strategy is based on the understanding that communities are best placed to identify what tensions exist and their potential to create violence, whereas external assistance may prove valuable in facilitating linkages and providing targeted technical support. In recognition of this, EWER has helped to establish Conflict Prevention and Response Networks (CPRNs) in all 43 EWER sub-districts which typically include a cross-section of local civil society and state actors including district, sub-district, *suku* and *aldeia* level authorities, PNTL officers, non-governmental organizations (NGOs) and community based organizations (CBOs), women's and youth groups, martial arts group representatives and veterans organizations.

In addition to EWER Conflict Potential Analysis Reports (published trimesterly), Belun publishes Policy Briefs including this one that provide issues-based recommendations to the Timor-Leste Government and its development partners, as well as to communities themselves, on how to address emerging conflicts and promote peace. Topics selected for Policy Briefs typically derive from trends observed through the EWER monitoring and enable Belun and its partners to share more in-depth analysis with conflict prevention stakeholders. CPRNs convene every time a Policy Brief is released to verify and analyze the impacts of identified trends and to design locally appropriate response actions in order to address both short and long-term conflict risk factors. Importantly, these meetings provide communities with an opportunity to share their knowledge and experience of conflict with Belun through the EWER system.

About TAF's Security and Safety Program

The Asia Foundation is a nonprofit, nongovernmental organization committed to the development of a peaceful, prosperous, just, and open Asia-Pacific region. The Foundation supports Asian initiatives to improve governance and law, economic development, women's empowerment, the environment, and regional cooperation. Drawing on nearly 60 years of experience in Asia, the Foundation collaborates with private and public partners to support leadership and institutional development, exchanges, and policy research.

The Asia Foundation's Timor-Leste office receives support from the United States Agency for International Development (USAID), the New Zealand Aid Programme and the British Government's Department for International Development (DFID) to carry out a range of projects related to security and safety in Timor-Leste with a special focus on Community Oriented Policing. The Asia Foundation has been working with the Poícia Nacional de Timor-Leste (PNTL) and communities since 2008 to help reduce conflict and crime at the suku level, as well as promote sustainable police practices through policy development. In 2009, The Asia Foundation and the PNTL formed a partnership to undertake a pilot project in Conflict Mitigation through Community-Oriented Policing (CMCOP), funded by the United States Agency for International Development (USAID). The one-year pilot highlighted the importance of creating mutual engagement between citizens and the police to understand each other's role in maintaining security.

In 2011, the project was expanded into a three-year program targeting all 13 districts in Timor-Leste, with support from USAID and the New Zealand Aid Programme. The HAKOHAK Polisia ho Comunidade (Embrace Communities and the Police) program is helping the PNTL develop the concept of Community Police Councils (CPCs) to implement the principles of community policing, by providing training to council members on setting safety and security agendas and improving coordination. The program's activities aim to reduce resentment, apathy, and opposition to police in target communities and discourage the public from taking the law into their own hands. At the same time, these activities help bring the PNTL closer to communities and help identify and resolve community problems in a proactive rather than reactive manner.

Through the generous support of DFID, TAF is able to support this research into *tara bandu* practice. The aims are to supplement research and practice on security and safety in Timor-Leste and help to improve the impact of community policing and conflict prevention initiatives in Timor-Leste.