

BRIDE-PRICE AND DOMESTIC VIOLENCE IN TIMOR-LESTE

**A COMPARATIVE STUDY OF MARRIED-IN AND MARRIED-OUT
CULTURES IN FOUR DISTRICTS**

Nasrin Khan and Selma Hyati

Sept 2012

TABLE OF CONTENTS

GLOSSARY OF TERMS.....	6
CHAPTER ONE - BACKGROUND.....	10
1. INTRODUCTION	10
2. AIMS.....	10
3. METHODOLOGY.....	11
3.1. The Research Team	13
3.2. Sampling	14
3.3. Challenges.....	15
3.4. Research ethics	15
4. TERMINOLOGY.....	16
5. LITERATURE REVIEW	17
5.1. Marriage customs.....	17
5.2. Domestic violence	17
5.3. Adat and domestic violence	18
5.4. Domestic Violence and the Formal Justice System	19
5.5. The Law against Domestic Violence.....	19
5.6. Law on the Authority of the Communities.....	21
<i>CHAPTER TWO - MARRIAGE TRADITIONS.....</i>	<i>22</i>
<i>1 KABEN-SAI MARRIAGE TRADITIONS.....</i>	<i>23</i>
<i>1.1 Overview</i>	<i>23</i>
<i>1.2 Gift exchange.....</i>	<i>24</i>

1.2.1	Fatumean.....	24
1.2.2	Same.....	26
1.2.3	Betano.....	27
1.2.4	Laleia.....	28
2	KABEN-TAMA MARRIAGE TRADITIONS.....	28
2.1	Overview.....	28
2.2	Gift exchange.....	29
3	SIGNIFICANCE OF BARLAKE.....	30
CHAPTER THREE - DOMESTIC VIOLENCE.....		33
1	INTERVIEWEES.....	34
1.1	Married-out.....	34
1.2	Married-in.....	35
2	BARLAKE AND DOMESTIC VIOLENCE.....	36
2.1	Perceptions of barlake.....	37
2.2	Barlake and abandonment.....	39
3	WOMEN'S SOCIAL STATUS.....	40
3.1	Decision-making.....	41
3.2	The role of <i>lisan</i> rules.....	43
3.3	Perceptions of violence.....	44
3.4	Attitudes to reporting domestic violence.....	46
CHAPTER FOUR - THE LAW AGAINST DOMESTIC VIOLENCE.....		50
1	CASES REPORTED TO POLICE.....	50
2	SOCIALIZATION.....	53
CHAPTER FIVE - CONCLUSIONS AND RECOMMENDATIONS.....		56

1. LINK BETWEEN BARLAKE AND DOMESTIC VIOLENCE	56
2. IMPACT OF THE LAW AGAINST DOMESTIC VIOLENCE	57
3. RECOMMENDATIONS	59
REFERENCES	61

Acknowledgements

The researchers offer their sincere thanks to the many people who gave up their time, and sometimes travelled long distances in difficult conditions to participate in this study.

GLOSSARY OF TERMS

ADAT (<i>Indonesian</i>)	The laws or rules created by the ancestors. Used to refer to the local justice system. See ÆLISANØ
ALDEIA (<i>Portuguese</i>)	A hamlet or sub-village. The lowest level of government structure.
BAKU MALU	Fighting (physical).
BARLAKE	Bride price/dowry, given by groom and his family to the bride in married-out culture.
BEE-MANAS-AY -TUKAN	Literally: hot water and firewood. Bride-gifts for the parents of the bride, which seal the relationship between the couplesØ families in married-in clans. The <i>-bee manas</i> ’ payment is for the brideØ mother, to recognise her having given birth to the bride. The <i>-ay tukan</i> Ø payment is for the father, in recognition of his role collecting firewood for the mother and child.
BELAK	A circular metal medallion with significance in traditional ceremonies, made of gold, silver or bronze.
BUA-MALUS	Literally: areca nut and betel leaves (usually used in traditional ceremonies). Signifies bride-gifts given by some clans.
CHEFE DE ALDEIA (<i>Portuguese</i>)	Head of hamlet or sub-village; an elected position under the Law on the Authority of Communities. See ÆDATOØ
CHEFE DE SUCO (<i>Portuguese</i>)	Head of village; an elected position under the Law on the Authority of Communities. See ÆLIURAIØ
CONSELHO DE SUCO (<i>Portuguese</i>)	Village council members; elected representatives under the Law on the Authority of Communities.
DATO	Head of hamlet or sub-village; an elected position under the Law on the Authority of Communities. See ÆCHEFE DE ALDEIAØ
FETO-SAA	Sisterhood; the husbandØ family .
HASAI NARAN	To name someone or something; a ceremonial acceptance of a person into the clanØ lineage.
KABEN-SAI	Married-out; patrilineal clan.

KABEN-TAMA	Married-in; matrilineal clan.
LISAN	The laws or rules created by the ancestors, sometimes used to refer to the local justice system although it has a wider meaning and refers to all rules of behaviour from the ancestors. See =ADATø
LEE (<i>Portuguese</i>)	Literally: the law. Often used to refer to the formal justice process.
LIA NA'IN	Literally: owner of the words. A traditional leader who is responsible for remembering and passing on clan traditions and events, and is also a solver of clan disputes. Also refers to the senior member of a clan.
NAHA BITI (BOT)	Opening the (big) mat; the process by which the LIA NAøN resolves a problem under ADAT in some clans.
SEDE DE SUCO	Village hall; meeting place of the CONSELHO DE SUCO.
UMA LULIK	Sacred house. Each clan has a sacred house to which access is restricted, and is the responsibility of the clanø LIA NAøN.
UMANE	Brotherhood; wifeø family.

TERMS RELEVANT TO MARRIAGE CUSTOMS

DERE ODAMATAN	Knocking upon and opening the door.
HUSU FETO	The start of negotiations for a marriage.
KAKALUK	A bag made of fabric.
KARAU-DIKUR LABIS-LOR	The stage of the wedding when the family of the bride brings the bride outside the house.
KOBA	A small bag normally used for betel.
KOHE	A woven bag.
KUMU ETU-LEDOKES	The formal marriage swearing, at which the couple eat rice and pork.
KUTU ATAN TAKA NERAS	Literally: the rogue is dressed up. The woman parents dress their daughter and son in law.

LAKAN ROMAN	Shine and bright. Means lighting of candle or lamps.
LERE DALAN or HAMO'OS DALAN	Cleaning up of road or path towards the bride's house.
SAMA DALAN	Stepping on the road or path.
SAMA FOLIN or FÓ FOLIN	The negotiation phase to confirm whether the groom's family has brought along with them the bride price in accordance with the number grains of beans or corns given to the groom's representatives in the first negotiations.
TAIS	A traditional hand woven cloth.
TAKA BALIU	Cover the axe, the person who prepared firewood for cooking during the traditional marriage ceremony.
TUDI K HODI SONA FAHI	Knife for slaughtering a pig. Used in the marriage ritual. The slaughtering of the pig means that the negotiation is completed and the two families have accepted each other.

This study was commissioned by Forum Komunikasi untuk Perempuan Timor-Leste Lorosa'e (Fokupers), with generous financial support from UNFPA and New Zealand Aid.

CHAPTER ONE - BACKGROUND

1. INTRODUCTION

Designing the most effective interventions to combat domestic violence against women requires an understanding of the cultural attitudes and practices which enable it to happen.

The prevalence of, and attitudes towards, domestic violence in Timor-Leste has been the subject of a number of studies by international researchers for the last ten years. These have shown that there is a high degree of tolerance of violence towards women within intimate relationships, to the point that some forms of physical abuse are not even defined as violence (IRC 2003; Swaine 2003). These attitudes, inevitably, have an impact on the understanding of the drivers of domestic violence, the numbers of cases reported to the authorities, and how those complaints are dealt with.

The UN Declaration on the Elimination of Violence against Women (1993) states that violence against women is a manifestation of historically unequal power relations between men and women and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. Domestic violence therefore can ultimately be ascribed to women's systematically inferior status in society compared to men.

The payment of bride-price (*barlake*) has been hypothesised as a factor in increasing domestic violence, and exacerbating unequal power relations between men and women. The belief that *barlake* is a causal factor in domestic violence has been expressly advanced by Timorese human rights NGOs (Rede Feto, March 2009; JSMP Policy Paper, 2002). Although the same belief has been expressed by other researchers (IRC, 2003) no evidence has yet been presented to support this. Hence, this study was undertaken in order to ascertain if this belief is justified.

2. AIMS

The principal question this study seeks to answer is whether there is a causal link between *barlake* and domestic violence. A sub-question is whether there is a difference between women from matrilineal and patrilineal clans in their experiences of domestic violence.

Additionally, the research seeks to evaluate the impact of the Law Against Domestic Violence 2010¹ (LADV), especially whether women and local justice leaders know that domestic violence is a public crime, and to what extent cases are in fact being reported to the police.

¹ Law no.7 of 2010

It is not easy to identify isolate the role *barlake* plays in violence within intimate relationships partly because it is not a discrete financial transaction which ends with marriage, but is instead an integral part of the *lisan* i.e. the spectrum of relationships and behaviours which comprise Timorese traditional beliefs. Payment or non-payment of *barlake* affects many aspects of life within the family, from where the married couple may live, property rights, children's obligations to the family and where the couple will be buried.

Since *barlake* is part of a wider system of beliefs and practices, it is possible that it has an impact on attitudes which affect entire communities and not simply those couples where the husband pays *barlake*. For this reason, the research did not compare couples where *barlake* was paid with those where it was not paid. Instead, the study compares attitudes and experiences of married-in communities, which do not require *barlake* with those in married-out communities, which do.

The report is based on an initial review of relevant literature and interviews and focus group discussions with key informants. Before investigating the question of violence in the two clan types, their different marriage practices and the role of *barlake* was established through field research. Then, further field research was undertaken to explore the issue of domestic violence in the two communities.

The first stage of field research took place in late 2009, and focussed on marriage practices in both clan-types. The research results were analysed and written up. The second stage of research involved similar field research to explore attitudes towards domestic violence and how cases were resolved through both formal and informal justice processes.

The difficulties in recruiting a suitably qualified international researcher led to a hiatus of around 20 months before the second stage could commence work in January and February 2012. However, this delay did have the positive effect of enabling the researchers to ask additional question about the impact of the LADV, which was promulgated in July 2010. The LADV is the first comprehensive legislative approach to combating domestic violence in Timor-Leste. Although a full assessment of the law was outside the scope of this study, an exploration of whether the law has been understood and applied could usefully be undertaken as an element to this study. Therefore, questions were put to women, leaders of the local justice system, and the police to ascertain: levels of awareness of the LADV; attitudes to the designation of domestic violence as a public crime; and indicators of any changes in women's willingness to report to the police.

3. METHODOLOGY

The research takes an in-depth qualitative approach. This was chosen as the most suitable way to gain a deeper understanding of the differences and similarities in attitudes relating to *barlake* and violence. By examining, through the words of women and the

communities in which they live the role of *barlake* and violence, it was hoped illuminate the underlying causes of violence against women in Timor.

The strength of a qualitative approach is that although you cannot say your results are true for everyone, you can reveal multiple layers of meaning for a particular group of people. This is particularly important when studying human behaviour and trying to discern how it interacts with people's beliefs, attitudes, and perceptions (Ellsberg and Heise, 2005).

Timor-Leste has a multitude of local traditions and beliefs which affect how social relations are arranged. Trembath et al. (2010) warn against simplified descriptions of Timorese custom, culture and gender relations, and note that they are multilayered and adaptable. This was confirmed in the research findings. The traditions around marriage are diverse and localized, although there appear to be certain common traditions across districts. Recognising this, it must be acknowledged that the results in this study may not hold true in areas outside those studied by the researchers.

The research took place in four districts of Timor-Leste (see map below):

Bobonaro district

- Maliana sub-district
- Marobo sub-district

Covalima district

- Suai sub-district
- Fatumean sub-district

Manufahi district

- Same sub-district
- Betano sub-district

Manatuto district

- Lacle sub-district
- Laleia sub-district

In each sub-district one *suco* was selected for study, based on the contacts of local coordinators with married-in and married-out clans. One-to-one interviews were held with women and focus group discussions with mixed groups of local people, including representatives from the *conselho de suco*. Interviews were also held with police officers at district level.

MAP OF TIMOR-LESTE DISTRICTS



August 2009 – February 2010

The research team spent seven days in each of the four districts visited. In each sub-district, one focus group discussion was held with a *kaben-sai* community and one with a *kaben-tama* community. Participants included women from the local community; two or three *lia na'in*; a *chefe de suco*; a *chefe de aldeia*; and a member of the Vulnerable Persons Unit (VPU) from the Police National Timor-Leste (PNTL). Individual interviews were also held with the *chefe de suco*, the district and sub-district administrators, and the female members of the *conselho de suco*.

Women-only focus group discussions were held in each sub-district; approximately 15 women participated in each with a total number of 111 women participants. These focus group discussions were unstructured in order to give participants an opportunity to freely express their opinions.

January - February 2012

The research team visited each of the four selected districts for four days. A total of 30 women were interviewed, and four police officers (one from each district VPU). Eight focus group discussions with *conselho de suco* and *lia na'in* were held involving a total of 66 people.

All these focus groups and interviews took a semi-structured, participatory approach.

3.1. The Research Team

The research team comprised two international researchers (deployed at different times) and staff from Fokupers. In the first phase the international researcher was an experienced anthropologist from Indonesia, who could communicate in Tetun and Bahasa

with the informants. In the second the international researcher was an experienced English-speaking lawyer with expertise in gender and justice issues, who worked with an interpreter.

A national organiser from Fokupers was present at all interviews; Fokupers staff in the districts undertook the co-ordination of the field visits and liaison with local community leaders.

3.2. Sampling

The comparative nature of the study made a stratified purposeful sampling approach appropriate. Women interviewees were selected from married-in and married-out communities so as to enable comparison of their attitudes. Efforts were made to ensure women from a range of ages and educational backgrounds were interviewed. Local coordinators working for Fokupers contacted community leaders to arrange the focus group discussions, and local women to ask if they would be willing to be interviewed. However, there were difficulties in a few cases where participants withdrew, or were unable to take part. This was, to some extent, unavoidable, given the remoteness of many of the locations and the difficulties in communication and transport infrastructure.

Having a known and respected local organiser as part of research team facilitated the research; they were able to introduce the research topic at the focus group discussions which helped participants feel comfortable to discuss sensitive topics that would not normally be discussed with strangers.

The most effective interviews were found to be those held in neutral premises away from the village. However, given the distances involved, it was impractical to do this in the majority of cases. Hence, the research team travelled to villages and held focus groups discussions in the *sede de suco* (village hall). Interviews with women were usually held at their homes, or open spaces outside; this led to some problems relating to privacy. In two *sucos* a number of women did not wish to be interviewed. This may have been because of the difficulties of obtaining privacy, but also echoes the experiences of previous research teams that a number of women would withdraw their participation upon discovering the focus of the research (IRC, 2002; Hohe et al.).

All participants gave their views openly when discussing marriage customs and local justice systems; when questions turned to the issue of domestic violence there was some reticence. In one *suco*, all the questions on this issue led to the *chefe de suco* responding with lengthy remarks about the role of the community leaders, avoiding giving answers to the question and preventing others from doing so. However, most focus groups did respond and give their opinions on the subject.

During all interviews, detailed handwritten notes were taken by the lead researcher. The notes were then analysed and written up.

Fokupers intends to hold further discussions in each location visited during the research so as to provide feedback on the conclusions, show them the publication (which will be translated into Tetun and disseminated) and organise awareness-raising events using the results of the research. It is hoped in this way to use the entire process to improve awareness and understanding of domestic violence. Additionally, this process should help counteract research fatigue and show the participants they tangible evidence of an output for their cooperation.

3.3. Challenges

The short time available for field research was a major challenge. The difficult road conditions in Timor-Leste especially in the rainy season, meant that a disproportionate amount of the time available for field visits was spent travelling to and around districts. This limited the time available for discussions.

On more than one occasion, pre-arranged interviews and focus groups could not take place because of communication challenges (such as lack of reliable telephone connections) or because people were reluctant to disrupt their working schedules.

There were some challenges, due to the first researcher departing before the second stage of field research could be undertaken. The majority of the sections dealing with marriage customs were prepared by her. Her findings, with some supplementary material, were integrated by the second researcher into the final report.

3.4. Research ethics

All interviews and focus groups were prefaced with an explanation of the purpose of the research, and the participants were informed that their names would not appear in the report. To protect their confidentiality, the names of the *sucos* are excluded from this report.

Additionally, interviewees were informed that their participation was voluntary, and if there were any questions they did not wish to answer, their wishes would be respected. No women refused consent after this introduction, but as explained above, a small number withdrew from the research before this stage.

Any research into domestic violence must ensure that participants are not placed at risk by their participation in the research. This was particularly challenging given the nature of the locations of the interviews. Outside the main population centres, Timor-Leste remains a largely rural country where people live close to their neighbours. In the villages, often the only communal buildings are the church, and the *sede de suco* which is an open-sided building. Usually, these venues were inappropriate even if it had been practical to use them. Thus, in most instances interviews were held at women's houses, or occasionally, outside in a field. Only in Manututo and Suai, where Fokupers has premises, was it possible to be assured of privacy. In those districts, women living close

enough to travel to the office were interviewed at Fokupersøpremises.

When selecting locations, Fokupersøstaff performed risk assessments as to where, when and how interviews should be held. They also liaised with the local community leaders to ensure their participation and so that they were not suspicious of the interviews held with women in the villages.

In two instances, male clan members insisted on being present at the interview, hence the questions were limited to marriage customs, and did not discuss domestic violence.

In order to be prepared for the possibility that an interviewee would request advice or assistance, or appear to need urgent assistance, an experienced staff member from Fokupers who could arrange any necessary intervention was present in all interviews (no such situation arose). It was also hoped this would compensate for any unease at speaking to a foreigner about intimate matters.

4. TERMINOLOGY

In this study the phrase ‘domestic violence against women’ is used to refer to physical, psychological or sexual violence by men towards women in intimate relationships. The problem of violence against men and children within familial settings is not within the scope of this research.

The phrase ‘domestic violence’ does not translate directly as a concept in Timor-Leste. While the term used in governmental or civil society-led awareness raising campaigns is *violensa domestika* most peoples’ understanding of the term tends to be rather inaccurate, excluding many forms of domestic violence, and including other, non-violent consensual acts, which are culturally unacceptable in Timor-Leste. In Tetun, the phrase *violensa contra feto* (violence against women) is perhaps preferable as it conveys the gendered nature of the issue.

The research also uses the term ‘clan’ in preference to ‘family’ in order to reflect the extended nature of Timorese families, and the sense these family connections bind each member within an identifiable and meaningful unit.

The Tetun word *lisan* refers to the local justice system but also refers to the entire universe of tradition/culture of which the *lia na’in* is the guardian; it is not specific to the dispute resolution part of that tradition/culture because that is not a separate element of the *lisan*. It has been observed that ‘...there is no such thing as a separate cultural aspect called ‘law’. The Tetun word for custom (*lisan*) comprises everything that is old and inherited from the ancestors. It refers to the order given by the ancestors, but not specifically to what in a western context is classified as crime. Yet, there are certainly conflicts arising in a community as people feel someone else has done wrong and acted against the order.’ (Hohe et al., 2003)

The word *adat* is Indonesian and is also used to refer to the local justice system. Since Timorese interlocutors often used this word to refer to the informal justice system, it has been adopted in this study, while the word *lisan* is used to refer to the wider spectrum of Timorese cultural rules and norms.

The Tetun terms *kaben-tama* and *kaben-sai*, or their English translations ‘married-in’ and ‘married-out’ are used to refer to matrilineal and patrilineal family structures.

Under the Law on the Authority of the Communities,² the phrase ‘community leaders’ refers to the members of the *conselho de suco*, and its use here reflects that definition.

5. LITERATURE REVIEW

5.1. Marriage customs

In Timor-Leste marriage creates a relationship between two extended families, which affects the couple and their children in concrete and long-term ways. In married-out tradition, marriage usually involves the bride leaving her own clan and becoming part of the groom’s. This custom is described as Wife-Giving and Wife-Taking. In marriage, the Wife Taker family gives cattle, buffaloes and money to the Wife Giver, while the Wife Giver family returns gold, weavings and pigs. (Hohe et al, 2003).

This description is very apt for the *kaben-sai* model of marriage, but is not an accurate description of *kaben-tama* marriage traditions where the husband joins the wife’s family, so the Wife-taker and Wife-giver description is inaccurate. Very little research is available on the marriage traditions of Timor-Leste as practised in *kaben-tama* societies. It was therefore essential that these traditions were explored in detail as the first phase of the research.

5.2. Domestic violence

Research studies over the last ten years have consistently found high levels of acceptance of violence towards women in intimate relationships, while domestic violence has consistently been one of the most prevalent forms of crimes reported to the PNTL. In 2001, 40% of all reported crime in Timor-Leste was found to relate to domestic violence (Cristalis and Scott, 2005), while in 2008 a survey found that 45% of police officers identified domestic violence as the most serious security problem facing them (Chinn et al., 2008).

The Demographic and Health Survey in Timor-Leste 2009 - 2010 found that nationally as many as 36% of women over 15 years old had been subjected to violence by an intimate partner in the 12 months preceding the survey. The most common forms of violence were being slapped (28%), pushed, shaken or had something thrown at them (14%), arms twisted or hair pulled (7%), kicked dragged or beaten up (7%), and being forced to have sex (2%). Despite these figures, reporting to the police was extremely low; only 4% of

² Decree Law No. 5 of 2004.

women who experienced domestic violence went to the police (NSD et al., 2010).

5.3. Adat and domestic violence

There has been a plethora of studies on domestic violence and its resolution through the local justice systems in Timor-Leste (Kovar, 2011).

As already noted, Timor-Leste has a multiplicity of local traditions (Hohe et al., 2003). Although the diversity of cultural practices in Timor-Leste is reflected in the local justice systems, there are some underlying common features and principles (Mearns, 2003). The informal justice systems of Timor-Leste are founded on the importance of maintaining social harmony and ensuring conflicts do not unduly disturb community and clan relationships. Their object is not individualised justice, but on achieving a wider social harmony and balance.

If a dispute is brought to the *lia na'in* to resolve, the process will usually involve the *lia na'in* of the affected clans sitting together to negotiate solutions to the problem³. When there is a dispute between husband and wife, the parties may be asked to speak about what happened, but only if the *lia na'in* requests it. The *lia na'in* decide who is right and who is wrong and define the penalty. Compensation or a fine can be ordered in the shape of livestock or cash. Cultural oaths may also take place between the disputants. Additionally, the guilty party must pay money to roll up the *matö* this is usually wine and food for the *lian na'in* involved in the resolution and represents the closing of the problem. This can be onerous, involving paying for food and drink to a large number of people, which, in a domestic violence case, affects the wife since it comes from the money available for feeding the family. The families involved must follow the solutions prescribed by the *lia na'in*, with the threat of more serious fines if the offence is repeated. In a case of domestic violence, if the man is found in the wrong, the compensation goes not to the wife, but her brothers or uncles (IRC, 2003; Butt et al., 2004).

These hearings have repeatedly been described as falling short of human rights standards, especially in disputes involving domestic violence: "Women have minimal and often superficial participation in justice hearings and find that the rulings which are passed are often based on the administrators of justice own biases and cultural beliefs regarding women's status in society." (Swaine, 2003, n.54 at p.6).

The resolution of domestic violence cases starts from the premise that aggression by a man towards his wife is not seen, in itself, as "wrong" and is not a problem for the community. (Schislao, 2007). This was confirmed by the findings of this study. In light of the tolerance for men's abuse of their partners, and the pressure placed on women to manage their husbands' behaviour, women who do take cases to *lia na'in* often find themselves blamed for the violence (IRC, 2003). And when resolving domestic violence

³ This process is known in some places as *naha biti (bot)* (öspreading the (big) *matö*) referring the woven mat on which they traditionally sit.

cases, the ultimate objective is always to keep the couple together, so resolutions may not effectively protect her from future violence (Swaine, 2003).

There is at present no law which regulates the details of the dispute resolution process, nor the way that *lia na'in* operate the local justice process before it reaches the *aldeia* or *suco* level, but at the time of writing, a draft law on local justice was being prepared.

5.4. Domestic Violence and the Formal Justice System

In the tiny percentage of cases where women report domestic violence to the police they meet an unwillingness to treat domestic violence as a crime at every stage of the process. Police frequently refuse to qualify the case as a crime, and often sent cases back for local resolution through *adat* (IRC: 2003).

Prior to LADV, in the small number of cases which were prosecuted, there was reported to be a tendency for the prosecution to use Article 145 of the Criminal Code, (‘simple offence against physical integrity’) rather than the more serious offence of abuse of a spouse. And these cases did not progress beyond this stage; in 2004, during a 2 month period of observation despite many cases being received by police, not one domestic violence case was scheduled at Dili District Court (JSMP, 2004).

5.5. The Law against Domestic Violence

Article 154 of the Criminal Code of Timor-Leste 2006 provides that mistreatment of a spouse is a crime. However, this applies only to spousal or analogous relationships, and did not provide a framework within which women could access justice, or services, nor did it create a mechanism to ensure institutions responded effectively. In short, the law did not meet international standards.

After years of discussion, and heated debate in Parliament, the Law Against Domestic Violence (LADV)⁴ was promulgated in July 2010. Its purpose is threefold: prevention of domestic violence, protection and assistance to victims, and prosecution of perpetrators.⁵ The law covers both criminal and civil law responses to domestic violence, and requires the state to provide various forms of assistance and services to victims. It also sets out various educational and awareness-raising activities by the government to prevent violence.

Its key provisions are explained here briefly:

- The term ‘domestic violence’ covers acts of physical, sexual, psychological, or economic violence committed within a family context, within a relationship of ascendancy or within an intimate relationship.⁶ Family is defined widely, and

⁴ Law No. 7 of 2010.

⁵ Article 1.

⁶ Article 2.

- includes couples in spousal relationships, parents and children, siblings and others within the domestic sphere (such as members of the extended family, or persons working within the household economy whether they are related or not).
- Where specified crimes under the Criminal Code, such as assault, sexual violence, homicide or mistreatment of a minor occurs within a family context and fulfil the conditions in Article 1 and 2, they are qualified as domestic violence.⁷
 - Domestic violence is a public crime.⁸ This means that prosecution is not dependent on a complaint from the victim, and that the case must be dealt with through the formal justice system rather than local justice systems. Moreover, cases must proceed even if the victim decides to withdraw.⁹
 - Timescales are imposed on police and prosecution to process cases.
 - Witness protection measures can be applied.¹⁰
 - When a crime of domestic violence is charged, the court may make various ancillary orders as part of the criminal proceedings such as:
 - Financial support (alimony)¹¹
 - Prohibition from contact¹²
 - Coercive removal from the family residence.¹³
 - The government is required to undertake awareness-raising, and training on prevention identification and domestic violence factors; training should be provided for *chefe de suco* and *chefe de aldeia*,¹⁴ and gender and human rights must be part of school curricula.¹⁵
 - The government is required to prepare a National Action Plan for domestic violence and establish and manage a national network of support centres for victims. Support services to victims, such as free shelters, psychiatric support, medical and social and legal assistance must also be provided.¹⁶

It is not within the scope for this research to analyse the progress made in all these areas, but the extent to which the law has been disseminated and understood was explored.

⁷ Article 35

⁸ Article 36.

⁹ Article 210, Criminal Procedure Code 2009.

¹⁰ Article 39.

¹¹ Article 34.

¹² Article 37.

¹³ Ibid.

¹⁴ Article 10.

¹⁵ Article 11.

¹⁶ Article 13.

5.6. Law on the Authority of the Communities

The Law on the Authority of the Communities¹⁷ (the Communities Law) provides the legal framework governing the government administration at local level in Timor-Leste. This decree sets out the composition and responsibilities of the *conselho de suco* and the role of the *chefe de suco*. The members of the *conselho* are referred to in the law as community leaders.

Each *conselho* is elected and includes one elder, defined as an individual who, on polling day, is older than 50 or is recognised in the community as a *lia na'in*. The *chefe de suco* is the head of the *conselho*.

In this legislation, the *conselhos*' responsibilities include the promotion of peace and social harmony, with specific duties to resolve and mediate conflicts locally.¹⁸ Minor disputes should be resolved by the *chefe de suco*, but the police must be called if a crime or disturbance occurs, or if a problem cannot be resolved at a local level.¹⁹ Similar duties fall upon the *chefe de aldeia* at the lower level. These provisions recognize parts of the local justice mechanisms and incorporate them to some extent into the formal structure of the state. However, other than the very general requirement to foster peace and harmony, there is no other guidance for the *conselho* as to how to proceed.

¹⁷ Decree Law No. 5 of 2004.

¹⁸ Section 2(a).

¹⁹ Section 3: A *suco* chief shall also: (2)(d) promote the creation of mechanisms for the prevention of domestic violence;

(e) support initiatives regarding the follow-up and protection of domestic violence

victims, and the rehabilitation and punishment of domestic violence perpetrators so as to suppress the occurrence of such cases within the community;

(f) request the intervention of security forces in case of conflict that cannot be solved at local level and when criminal offences or riots are reported;

CHAPTER TWO - MARRIAGE TRADITIONS

Marriage in Timor-Leste can mean either a traditional (*lisan*) marriage, or a religious (church) wedding.²⁰ Usually the *lisan* wedding takes place first, and a church wedding some months or years later. Some informers said that the church ceremony can only take place with the *lia na'in* authority. All participants in this research referred to themselves as married if they had been through a *lisan* marriage. The *lisan* wedding, presided over by a *lia na'in* is recognized as binding. Once the couple are married the two clans have some clear roles and responsibilities to each other, and the payment of *barlake* is a part of the process which seals this relationship. Thus, it has been noted that *õFetosaa-umane*²¹ represents a system of inter-familial exchanges and relationships established through the marriage of individuals from two family groups. Regulating major rites of passage such as birth, marriage and death, it can be said that *fetosaa-umane* relations effectively dictate the norms of family and social life in Timorese communities. (Ewer, 2011).

Men and women who live together without a formal process are said to have *õtakenö* one another; this form of cohabitation is recognised as analogous to marriage, but does not have any binding character, and does not bring with it the structure of obligations and duties binding both parties and families that marriage brings.

The *lisan* beliefs held by each clan regulate most of aspects of family life, not only marriage, but also the ownership of the property, funeral rituals, burial locations, and the roles of sons and daughters. The *lia na'in* is the authoritative voice about the clan's history and *lisan*. While there are differences of detail from district to district and from clan to clan, there are distinct similarities in the process of a *lisan* marriage, even across married-in and married-out communities. The effect of *lisan* marriage is to strengthen links between, or within, clans with a view to ensuring peace and stable social relations.

There are two types of *lisan* marriage in Timor-Leste: *kaben-tama* (matrilineal) and *kaben-sai* (patrilineal). In both *kaben-sai* and *kaben-tama* culture, before a couple can marry, their families and *lia na'in* sit together negotiate the bride-gifts and agree terms. Although most marriage negotiations are commenced at the wish of the couple, their wishes are not necessarily the over-riding factor. If the two families cannot agree in the marriage negotiations, they can refuse the marriage.

If agreement is reached, the marriage gifts are exchanged. Generally, the groom provides the most expensive gifts, while the bride's give lower value, more symbolic gifts. The three most important types of marriage gifts which may be required of the groom are:

- *Bua malos* - (literally, areca nut and betel leaves). Usually of small value, paid at the start of discussions between the bride and groom's family; the nuts and leaves

²⁰ None of the participants in this study were from non-Christian communities.

²¹ *Umane* refers to the family of the bride, and *feto-saa* the family of the groom.

are traditionally chewed during discussions.

- *Bee-manas-ay-tukan-* (literally, hot water and fire). *Bee manas* and refers to the hot water for the mother when she gives birth. *Ay tukan* is firewood, and refers to the father having provided the firewood for the mother and child. Hence, *bee-manas-ay-tukan* are gifts specifically to the girl's parents to recognise their efforts in bringing up their daughter. Usually this is the most symbolically important gift in *kaben-tama* weddings.
- *Barlake* - Bride price/dowry, given by the groom and his family to the bride's family in married-out culture. The most significant, in terms of financial value, of the bride-gifts, and not a part of married-in marriage ceremonies.

The gift exchanges during the traditional marriage ceremony perform the function of sealing the relationship between the families of the bride and groom in both married-in and married-out culture. But because marriage creates different relationships between the couple and their extended families, in the two cultures the scale and types of gifts exchanged are different.

This research did not explore the historical roots of these traditions, nor how and when the marriage mechanisms evolved. This is an under-researched area generally. Most informants expressed the idea that traditions were handed down by their ancestors. The significance of this statement is that acting against the wishes of the ancestors is punished, and underpins the importance of marriage bond between families.

1 KABEN-SAI MARRIAGE TRADITIONS

1.1 Overview

In married-out communities the woman leaves her own clan and joins her husband's. The consequence of joining his clan is that she has to abandon her family traditions and adopt those of his family, and her surname is either replaced by, or joined with, his. Married-out culture is usually patrilocal, that is to say that the couple live with or near the family of the husband; the couple can live apart only with the permission of the husband's family.

Generally, a woman who marries into a *kaben-sai* clan has no rights to her parents' property. In Fatumear one *lia na'in* informed us that when the wife marries, she loses all rights to her family property.²² However, where the *barlake* is not paid by her husband, the *lisan* may provide that she keeps it until he has paid it.²³

One of the most significant elements of this tradition, as related by informers in this study

²² Suai, focus group discussion, 27 January 2012.

²³ Betano, focus group discussion

is that the couple have the obligation to care for the family of the husband, while their children follow the father's tradition and belong to the family of the man, and take his surname. Because the wife has become part of her husband's clan, she must, after the death of the husband stay with the husband's family, and must be buried at her husband's family's traditional burial place.

1.2 Gift exchange

The gifts given by each family stand for specific values that are exchanged between the two entities (wife-giver and wife-taker). (Hohe et al., 2003, p.13.)

Most married-out communities societies do not require the groom to pay *bee-manas-ay-tukan* but do usually require *bua malos* and *barlake*, with the amount of money or buffaloes/other gifts to be paid negotiated in accordance with local custom and practice. The value of the bride-gifts vary widely across districts and clans, but in any event has serious significance.

During this research *barlake* was characterised by the community leaders as sealing a sacred bond between the couple and their families, creating a new family unit. As one *chefe de aldeia* said: 'the *umane* and *feto-saa*²⁴ are allied families. The family is stronger for *barlake*.'

Barlake is negotiated between the families and in many places, there is a custom of the woman's family handing over to the man's family grains of beans or corn in the first negotiation to signify how many buffaloes, or how much cash will be required. If it is not paid before the wedding it can usually be deferred indefinitely, but the deferral affects the relationship between the husband and wife's clans in ways described below.

The majority of women who participated in this research stated that the bride receives nothing from the wedding gifts except clothes and small items such, as toiletries, given specifically for her. The *barlake* payments are usually designated for the brothers and uncles of the bride, while only the *bee-manas-ay-tukan* (if paid) is for the parents of the couple.

1.2.1 Fatumean

A *lia na'in* from Fatumean, described in detail the process of marriage in his clan (which he differentiated from that of other clans). As it illustrates the traditional marriage process (at least in his clan) and gives an idea of how *barlake* is calculated, his detailed explanation is described here.

If parents see that their son is interested in someone they send the older people of the house to the woman's family as ambassadors to ask if she is single and available. If the woman's family agrees, a date is agreed for them to return with gifts.

If, before the second meeting, either the man or the woman refuses, the parents of the girl must give ten *ta'is* and the man pays USD 500 and they sit together to repair their relationship. Then the children are free to marry other people.

At the second meeting the man's family comes with the *buá malos*: areca leaves and betel nuts, and five buffaloes (this is negotiable) for each of the girl's uncles.

When the wedding takes place, the *barlake* involves payments by the groom to the bride's family to reflect each of the symbolic steps during the marriage ceremony. The bride's family gives gifts in exchange at certain points of the ceremony.

All the steps are described below, with the Tetun term on the left, and the description of what it entails on the right, with suggested typical value of the gifts in brackets.²⁵

Symbolic step (Tetun)	Description
LERE DALAN	The cost of clearing the road to the bride's house (USD 40).
SAMA DALAN:	The groom walking on the road to the bride's house (2 buffaloes)
ODOMATAN RAI-LO	The groom's family knocks on the door and the bride's family opens it (USD 24).
LAKAN ROMAN	For the bride's family to light a candle (USD 25).
	For the left eye of the bride (5 buffaloes).
	For the right eye of the bride (5 buffaloes).
	For baby clothes for when they have a child (USD 27).
	For two families to officially recognize each other (USD 40).
UMA LULIK	The <i>lia na'in</i> opens the sacred house (USD 7).
	The <i>lia na'in</i> refers to the ancestors dead or alive, the groom has to pay for the bride's grandmother (USD 100) and grandfather (USD 100).
KUTU ATAN TAKA NERAS	The bride's parents dress the bride and groom (USD 14).
TAKA BALIU	Literally 'cover the axe' this recognizes the person who provides firewood for the wedding feast (USD 14); if the groom doesn't cut firewood, he must provide a cooked

²⁵ The official currency of Timor-Leste is US dollars.

	pig and pay some cash (USD 5).
LABIS-LOR	Literally, "the bride comes out of the house" The bride must wait inside her family's house during the first stage of the marriage ceremonies, and can only emerge to meet the groom when his family is ready with gifts for her: a necklace; ring; <i>ta'is</i> (traditional woven fabric); <i>karau-dikur</i> (a bull's horn); money; and bracelets.
	The bride's family gives reciprocal gifts to the groom as symbols of their acceptance of the groom into their family: <i>ta'is</i> ; <i>kakaluk</i> (a fabric bag); <i>kohe</i> (a woven bag); <i>koba</i> (a small container normally used for carrying betel nuts). <i>Ta'is</i> and <i>lipa</i> (sarongs) may be given. The groom then puts a <i>ta'is</i> on the floor for the bride and they sit together with the family.
KUMU ETU-LEDOKES	The groom provides a pig which the bride's family cooks with yellow rice. In the ceremony, the couple push the rice into the pig's heart, then eat the rice and meat. The wedding ceremony is then complete, and food is provided to all the guests.
	The groom has to pay one buffalo in order to leave the house with the bride.
	The family of the bride has to answer with: <ul style="list-style-type: none"> ○ One <i>ta'is</i> for the bride and one for the groom; ○ A big woven mat; ○ Two cans of rice; ○ Two bracelets for the groom
	The father of the bride and her brothers give two <i>ta'is</i> , two bracelets, two cans of rice and two pigs for the bride and groom to take with them.

According to one *lia na'in*: "This *barlake* is like the *bee-manas-ay-tukan* [in *kaben-tama* culture]. It means that the groom has already measured the value of the bride. Rich people might give the price straight away, but if the groom cannot pay immediately that is not a problem; he can pay over time. Unless the tradition of the groom requires him to pay, then he must to pay. If not they will have problems in their home and they won't have children."

1.2.2 Same

The marriage traditions and gifts are much simpler in Same.

Here the *bua malos* was described as ðan official letter to the uncles from the bride's family in order to ask for the bride to enter the groom's house.ö It consists of *cinco-cinco*, (literally: five-five) which involves payment of five buffaloes, five *belaks*, and USD 5000; and the *dere odomatan* (the knocking on the door) consisting of two bottles of palm wine, and betel nuts for chewing, one *belak*,²⁶ and USD 100.

The bride's family gives the groom's family two *ta'is* and rice, then members of both families chew betel together and negotiate the wedding details.

The *barlake* usually involves the groom giving cash to the family of the bride (USD 10), and some items for the bride: earrings, fabric, bracelet, women's underwear, soap, and clothes.

In response, the family of the bride gives the groom a *ta'is* and cash (USD 10).

Once all these gifts are exchanged (and *barlake* paid), the *lia na'in* can decide the day of the wedding and the registration in the church.

1.2.3 *Betano*

The first stage of marriage negotiations are known as *huso feto*. At this stage the representatives of the man approach the family of the woman, and usually use metaphors to ask if she is single, such as ðWe know that you have beautiful flowers, and we want to pick this one.ö

The woman's parents and brothers then decide whether they agree. If the answer is ðyesö, then they will determine a date for an official proposal. On that date, they give the groom's family a number of grains of beans or corn which represent the amount of money or the total number of animals needed for *barlake*.

The *barlake* here consists of: ten *belaks*, ten buffaloes and money as negotiated with the family of the bride.²⁷

The family of the bride gives the groom's family one *ta'is* and one pig for each buffalo received, and in return for the money, they give clothes fabric for the groom.

The groom gives two bottles of palm wine or a goat for the festivities.

In this sub-district, the family of the groom brings the *bua malos* at the same time as the exchange of marriage gifts. When the families have agreed the *barlake*, and the groom gives the money and gifts to the family of the bride, this means that the family of the

²⁶ A circular medallion made of gold, silver or bronze.

²⁷ A normal amount is around 2500 USD. If the bride is from the family of the *liurai* then the price will be higher.

groom has taken the bride. The groom can pay the total *barlake* immediately, or over time.

The *barlake* is distributed amongst the uncles and sometimes the brothers of the wife; the mother and sisters of the bride are not usually entitled to receive anything. However, in Betano, one *lia na'in* said that the mother receives one buffalo as part of the gift exchange; this was the only example of female relatives receiving anything.

1.2.4 Laleia

The practice in Laleia, Manututo is significantly different to the other *kaben-sai* traditions. Indeed, when asked whether they were *kaben-sai* or *kaben-tama*, the local community seemed initially a little confused by the question.²⁸ They decided that they were *kaben-sai* but that this distinction meant little to them. Participants in the FGD asserted that òit is not compulsory to follow *kaben-sai*. The two families can sit together and choose what tradition they follow. It depends what the children want.ö

The *chefe de suco* explained òin the past, in my grandmother's time, *barlake* could be 500 -1000 dollars, and only when this was fully paid would the wife be released to the husband's family. But this left the parents without someone to care for them in their old age, because the husband would not allow her to come [after paying so much *barlake*]. So we changed the system.ö

Now they accept no *barlake* when their daughters get married. The essential bride-gifts here are *bua malos* (USD 100); and *hasai-naran* for the ceremony of changing the name so the groom becomes part of the bride's family (USD 20). Additionally, the husband gives the wife 1 golden *belak* and 1 *suric* (sword) or five buffaloes.

They do accept *bee-manas-ay-tukan*, (3 buffaloes) but this is optional .

2 KABEN-TAMA MARRIAGE TRADITIONS

2.1 Overview

In *kaben-tama* tradition, the family continues through the line of the wife. Thus, on marriage, a man leaves his own clan and joins that of his spouse; he becomes a member of her house and is formally recognized as such. Women tend to retain their names.

This tradition tends to be matrilineal, so the man comes to live with, or close to the bride's family. Most clans interviewed required the groom to pay only *bee-manas-ay-tukan*, but some also required *bua malos* and/or *hasai-naran*.

²⁸ Laleia, focus group discussion, 22 February 2012.

When asked about their responsibilities towards the families, the majority of respondents from *kaben-tama* traditions stated that the couple were in the middle between both families. This meant that they have responsibilities to both families, and the children are not necessarily lost from the man's clan.

The property ownership rules within *kaben-tama* differ across clans and districts. In Same, a *lia na'in*²⁹ stated that the wife does not retain any property except that which she and her husband earn, which is then for the benefit of the children. "In our belief, if the wife keeps her own family's property it devalues one clan, and is bad for the children." If the couple separate, whoever is responsible for the separation loses the children and the family property.³⁰

In Lacle (Manututo district) if the husband lives with the wife's family, he must leave all his belongings with his own parents, and the couple must earn their own money.³¹ But the wife also has no right to her family property.

The focus group discussion in Suai revealed that in married-in culture the wife retains the family property "because she cannot earn money or buy land." However, the husband takes care of the property, but it is the uncles (of the wife) who make the decisions for the family.³²

2.2 Gift exchange

The *kaben-tama* marriage traditions presented in the four focus discussions were much simpler and more consistent from clan to clan than the *kaben-sai* traditions, and did not differ significantly across the sub-districts visited.

In order to decide if the bride and groom can get married, the *lia na'in* of both clans sit together to throw grains of corn, and if the grains fall in pairs the marriage can proceed. The *lia na'in* then decide together the *bee-manas-ay tukan* that the parents of the bride will receive.

The *lia na'in* of the bride invites the groom to bring his close family (siblings, parents, uncles) to meet the family of the bride and at that stage, the groom gives *bee-manas-ay-*

²⁹ Betano, focus group discussion, 9 February 2012.

³⁰ A tradition was described to us by one clan in Laleia (Manututo district) whereby children can be sent to join the man's family, as: "The father can take two children or one. They can be sons or daughters." They lose all rights to the parents' property and live with their father's clan. They are no longer members of the clan of their parents and must live with the father's clan. They can inherit the father's family property. This process involves a traditional ceremony which sees the child(ren) removed from the wife's family and become irrevocably part of the husband's. Because the man is part of the wife's family, both he and she will be buried close to her family, while the children who become part of the father's original clan will be buried according to that clan's traditions."

³¹ focus group discussion, 23 February 2012.

³² Suai, focus group discussion, 27 January 2012.

tukan to the bride's uncles, and a necklace and a ring for the bride to wear. This signifies the bringing together of the traditions of the two families, and seals the relationship between the families, (thereby performing the same symbolic function as *barlake* in married-out culture).

Bee-manas-ay-tukan is always of a relatively low monetary value. This was explained by one interviewee in this way: "My husband must come and work for my family his whole life, so we cannot ask him for anything."³³

Participants in FGDs asserted that if the wife's family demands too much, the ancestors will punish the family and she will be infertile.³⁴ Hence, there is a strong taboo against *barlake* or other high value bride-gifts.³⁵

3 SIGNIFICANCE OF BARLAKE

Barlake plays an important role in Timorese society: "the *barlake* system serves as a guideline for marriage between the husband and wife so that they will only get married once in a lifetime...the system provided a strong moral and social code encouraging respect and commitment between couples, supported by their respective families. Respondents feared that without such a system, it would be easier for couples to divorce and live without appropriate behavioral boundaries. Too much freedom could reportedly create greater tension and become a potential source of conflict in communities. The traditional marriage system thus regulates family relationships, promoting social recognition of the responsibilities taken on by couples entering into a marital relationship." (Ewer, 2005 p. 14) This positive aspect of *barlake* was emphasized by many informers in this study, although some also noted its potential for misuse or misinterpretation.

The following assertions about the role and meaning of *barlake* were made by participants in this study:

- "*barlake* is a symbol of the agreement between the family of the man and the woman on the relationship between the couple and the support for their marriage."
- "*barlake* is a symbol of the effort of the parents in raising and education their daughter."
- "*barlake* gives dignity to woman by recognizing her value to her family."
- "*barlake* is a symbol of social status and prestige within society."
- "*barlake* means putting a price on our children."

³³ Maliana, interview January 2012.

³⁴ For example, in Lacle, focus group discussion, February 2012.

³⁵ *Ibid.* This prohibition does not seem to operate against brides from *kaben-sai* clans, since the same groups said that if their sons wished to marry a woman from the *kaben-sai* tradition, they would be willing to pay *barlake*. It was outside the scope of this study to pursue why and how this asymmetrical belief system exists.

The impact of a man not paying *barlake* in *kaben-sai* tradition was discussed in four interviews with women whose tradition was *kaben-sai* but whose husbands did not pay *barlake*, for differing reasons. All were from Maliana.³⁶

M. said that she married without any *barlake*, because her parents did not want to lose their daughter (her husband only paid *bua malos*): òif my parents demand *barlake*, their daughter would leave, and they wanted me to live close, so the waived *barlake*.ö

Researcher: Is that unusual?

òIn my family it's not unusual, but most other [*kaben-sai*] families require *barlake*. In my family the girls live close.ö

Later, she said:

ò*Barlake* is bad. It allows men to say 'I have paid everything, I have bought you, now I can marry again.'ö³⁷

In another case from the same sub-district, D. explained that her husband had agreed a *barlake*, but could not pay it before the marriage: ò*Barlake* was agreed but not paid. It puts pressure on us because the children are now grown up and my parents are demanding it.ö

The case of A., illustrates the complex rules around *barlake* and the way it reaches down through generations. A.'s father had not been able to pay the *barlake* due for her mother, so the debt remained outstanding. A. explained that her husband paid *bua malos* but was forbidden to pay *barlake* because: òIf the dowry of the most senior woman is not given the daughter cannot leave the family home. But my husband agreed with my father and I did leave, and I will live in my husband's home and die and be buried at his place. If he pays *barlake* before my mother's *barlake* is paid, I and my children will die. Once my mother's dowry is paid, my husband will be required to pay *barlake*.ö³⁸

The fourth woman, J., was in the same situation as A. ó her mother's bride-price remained unpaid. The solution in her clan was different: òMy husband did not take me out of my family because there was no *barlake*, so I'm still part of my own family although I live apart from them. My husband is from Ermera and my family would not agree to me marrying out.ö

Researcher: Is it a problem not to marry out?

òMy father was buried by my own family and my mother by her family. My family is already separated. My husband was upset with this way of living but he accepted it to marry me.ö

³⁶ A fifth woman from a married-out clan in Covalima had not been given *barlake* but this was because they were from the same clan.

³⁷ Maliana, interview 26 January 2012.

³⁸ Maliana, interview 26 January 2012.

Researcher: Did this cause conflict?

“My husband said I am not happy because I cannot take the children, I said, OK you can take them, they are grown up now.”

Researcher: Is it better to pay *barlake* or not?

“Better not to pay, because if he pays I lose my right to my parents’ land. The *barlake* does not go to us, yet we lose our land.”

[Later]

Researcher: do you prefer to use the law or *adat*?

“I prefer the law. Under *adat*, they will blame me and I will have to pay money to cover my shame. If I go to the law it depends on what I say. I will be heard and they will decide based on that. If he punches me and I threaten to report him, he says he won’t come back. We will be separated if I report. (Laughing) I say, that’s OK, our children are grown now.”³⁹

³⁹ *ibid.*

CHAPTER THREE - DOMESTIC VIOLENCE

Domestic violence is extremely prevalent in Timor-Leste. Police perceive domestic violence to be the most serious local security problem, and cite it as the type of dispute they are most often involved in mediating (Chinn, 2008).

According to the most recent reliable statistics, over one third (38%) of women in Timor-Leste have experienced violence from their intimate partner since the age of 15, while 29% of women had experienced physical violence in the 12 months before the survey. There is wide variation across districts: in the 12 months before the survey 10.6% of women in Manututo had experienced it, while in Manufahi the proportion was 63.3% (NSD et al., 2010). These districts have the highest and lowest levels of domestic violence in Timor-Leste.

The rates of domestic violence in each of the four districts of this research study is given in table 3.1

TABLE 3.1 Percentage of women experiencing domestic violence in four districts of Timor-Leste

District	Women who ever experienced domestic violence since age 15 (percentage)	Women who have experienced domestic violence in the previous 12 months (percentage)
Bobonaro	14.4	14.1
Covalima	57.4	57
Manututo	16.5	10.6
Manufahi	75.6	63.3

Information taken from NSD et al., 2010: table 16.1

A total of 30 women in eight sub-districts were interviewed about domestic violence for this study in 2012, 15 from *kaben-tama* and 15 from *kaben-sai* clans. Of those from *kaben-tama* traditions, four women stated they had been victims of domestic violence, while nine women from the *kaben-sai* interviewees said the same. This equates to approximately a quarter of married-in women but nearly two-thirds of married-out women reporting experiencing domestic violence. This is a significant differential, it would be premature to ascribe this difference to *barlake*.

This chapter discusses the relationship between *barlake*, and domestic violence against women, as well as factors which may differentiate *kaben-sai* and *kaben-tama* communities, such as women's role in their relationships; their status in society; their ownership of property in both communities, and their likelihood of seeking help for domestic violence. Additionally, questions about the relationship between *barlake* and

domestic violence, and the resolution of domestic violence complaints within the community were put to community authorities, *lia na'in* and VPU officers.

The cumulative effect of the evidence gathered here strongly suggests that *barlake* is linked to higher levels of domestic violence against women, although not a direct cause of it. Certainly, many participants in the study believe that there is a link between domestic violence and *barlake*, and a number of married-out clans have changed their traditions to reject *barlake*. They explicitly stated that this in order to protects women who marry out from domestic violence. They explain that by not accepting *barlake*, the *feto-saa* have a greater voice with the groom's family, the *umane*. If they *feto-saa* are concerned about mistreatment of the woman, they can raise this forcefully with the *umane*.

Barlake appears therefore to create an unequal power relationship between the clan of the woman and that of the man in a marriage. Not only does this hinder or prevent the woman effectively using dispute resolution systems from within the clan. Moreover, many women describe a number of cultural practices and assumptions around the payment of *barlake*, which reduce their ability to make decisions to protect themselves from violence. For example, if a married-out woman goes back to her family, if she reconciles with her husband, he must pay a fine to her brothers and uncles for them to release her. Or they can refuse to allow her to leave. It is striking that Manututo, a district in which *barlake* is not usually paid by *kaben-sai* communities, has the lowest level of domestic violence in the country.

1 INTERVIEWEES

1.1 Married-out

Of the 15 women from married-out culture interviewed, nine had experienced violence from their partner. This is equivalent to a victimization rate of 60%, much higher than the national average of 36%.⁴⁰

Of those nine, four said their husband had paid *barlake*. None of them cited *barlake* as a trigger of the violence, nor did they see it as causing the violence, but they all said their husbands had made abusive remarks to them about the *barlake*. One woman, who had been abandoned by her husband, said he had justified this on the grounds that he had paid *barlake* for her already, so he no longer had obligations to her.

Of the 15 women in this group, six said their husbands had not paid *barlake*. Five men who paid *barlake* did not go on to inflict violence on their wife while four men did. One woman who had not been a victim of violence also had heard her husband make negative

⁴⁰ See NDS et al., 2010.

remarks about *barlake*.

1.2 Married-in

Of the 15 women interviewed, four had experienced domestic violence from their partner, equivalent to 26%. This number represents just under the national average. None of the women had ever heard any complaints or comments about the bride gifts by their husbands.

The age, education and relationship profile of the interviewees were as follows:

Table 3.1 AGE – all women

Age	Married in	Married out
16 - 24	-	-
25 - 39	8	6
40 - 54	5	6
55 - 74	2	3

Table 3.2 EDUCATION – all women

Education	Married in	Married out
None	2	4
Primary	2	3
Junior High	3	3
Senior High	8	4
University	-	1

Table 3.3 RELATIONSHIP – all women

Relationship	Married in	Married out
Never married/cohabited	-	-
Living with partner	9	13
Separated	3	1
Widowed	3	1

Table 3.4 RELATIONSHIP – women who suffered domestic violence

	Married in	Married out
Living with	-	6

partner ⁴¹		
Separated	2	2
Widowed	2	1
TOTAL	4	9

Women were asked about the clan of their husband, to explore whether marriages between couples from different traditions, increased the likelihood of violence. Two women from married-in clans had married a man from a married-out clan, and two women from married-in clans had married a man from married-in. Domestic violence was reported by one of the women who was from married-in culture; she explained that this was sometimes triggered by tensions around different cultural expectations around family. Given this was the only such case, it was not possible to draw any conclusions.

2 *BARLAKE* AND DOMESTIC VIOLENCE

Unsurprisingly, *lia na'in* mostly offered extremely positive explanations of the purpose and significance of *barlake*, presenting the opinion that the traditional marriage vows prevent domestic violence against women, and that if cases did occur, the punishments and oaths under the informal justice system would prevent recurrence of violence.

However, these perceptions were often strongly contradicted by others, including other *lia na'in* as well as women interviewees.

All women and focus groups were asked what they perceived to be causes of domestic violence in society. The answers from focus group discussions were consistent across all communities, centering around money, family demands, jealousy, the wife's failure to prepare meals or fulfil other household tasks, and the husband drinking alcohol. This is in keeping with the causes that other studies have uncovered (IRC, 2003).

When women interviewees were asked about the causes of violence in their own relationships, answers tended to be vague. Possibly this was because the violence is not perceived as a discrete event but part of a continuous narrative of a relationship. In any event, it was not possible to categorise women's descriptions of the trigger events with those suggested in the focus group discussions. *Barlake* was not mentioned as a trigger for violence by any informers, although it was regularly described as something men would refer to as a way of reinforcing their rights over their wives. Of the nine *kaben-sai* women who reported having been physically assaulted by their partners, four of them reported that their husbands had at times in their marriage made statements to the effect that they could treat their wives as they liked, because they had paid for them, but none believed it to be the cause of the violence. Conversely, only one woman whose husband made such comments to her about *barlake* said her husband had never assaulted her.

⁴¹ In all cases, the current partner was the person responsible for the violence.

Financial problems were almost universally described as the main trigger for violence, sometimes related to the husband's drinking or simply lack of money to buy food and other necessities. One woman said her husband's drinking led to him beating her. Another woman, C. from a married-in clan explained: "My husband beats me because he smokes and he wants money for cigarettes. He beats me. He has a business and he earns the money but he beats me"⁴²

Other women described disputes over the children. A number of women described how they would be slapped, punched or kicked by their husbands if they hit their children or ordered their children to perform household chores.

Researcher: what do you do when he does this?

"I am just patient. We don't want to shout or call for help because the neighbours will gossip."

A number of people believed that disputes about the demands placed on the couple by their families caused violence. There are many traditional events for which couples have to contribute financially or with buffaloes, pigs or wine. These demands were consistently described by informers as laying a heavy, and sometimes unreasonable, burden on couples, which can lead to indebtedness and financial problems. M., from Maliana, whose husband had not paid *barlake*, was asked what changes would reduce domestic violence in Timorese culture: "We need to change because people spend money on traditional ceremonies, but don't have enough money to send their children to school."

D., from Maliana, also recommended: "We need to reduce demands from the *umane*; we can't eliminate our culture, but the demands of the *umane* on the *feto-saa* must be less."

2.1 Perceptions of *barlake*

Community leaders were defensive of the negative perceptions of *barlake*. They said that *barlake* seals the relationship between clans, and creates a strong unified family unit from two separate families. In their view, *barlake* creates social solidarity and promotes peace, and is a symbol of the worth and dignity of the woman.

One *lia na'in* from Fatumean insisted that the traditional marriage ensured women's dignity, and stated "He should never say 'I bought you.' This is forbidden." He went to say: "Some people say we sell our daughters for buffaloes and jewellery but it's not like that. It's recognition for the effort of parents in bringing up a child."⁴³

One *lia na'in* insisted that *barlake* simply cannot cause conflict, because of the oaths in the traditional marriage ceremony. When asked if *barlake* could cause men to treat their wives as property or provoke domestic violence most of the *lia na'in* strongly denied it.

⁴² Interview, Maliana, 24 January 2012.

⁴³ Focus group discussion, Maliana, 27 January 2012.

although some conceded that it might occur in other places.⁴⁴

Not all Timorese people agree with the *lia na'in* perceptions. According to one report, 19% of respondents felt a man had a right to hit his wife, and 32% of those said that it was justifiable because a man has paid a bride price (UNFPA, 2005). Clearly, a significant minority of Timorese people feel that *barlake* does justify violence against women.

Many women said that men openly say that *barlake* means they can treat their wives as they like. All the police officers from the four district VPU's agreed that they certainly heard men assert their ownership of their wives because of *barlake*.

“The *barlake* gives the man the right to beat his wife. If *barlake* is big the wife becomes a slave and has to do everything. Our experience is that men say that when they are beating their wife it is like they are beating their money.” said F., a participant in the focus group discussion in Same.

An interviewee from Manufahi district said: “When men pay *barlake*, even if only partially, they think of their wives as things. Not only the husband thinks that, but all the family of the husband thinks the same as they all contribute to the *barlake*. When the husband beats the wife she cannot expect the family of the husband to help. Women are alone in their houses.”

In Betano, an interviewee said: “Men often say ‘I provided so much for you. I can beat you like I beat my buffalo.’ This happens a lot.”

M. in Maliana spoke about her married-out clan's tradition of only accepting *buá malos* and refusing *barlake*. She did not see this as related to domestic violence, but simply so that the women would continue to live close to their families.⁴⁵ She described her family as unusual in her district. But in Covalima and Manututo, *kaben-sai* communities told researchers that they refuse to accept *barlake*, and believe this makes it easier to protect their daughters from mistreatment.

In Same, members of another married-out clan explained why they only accept a small amount of *barlake*:

Researcher: How much is the *barlake*?

“We can ask for around 5 million Rupiah⁴⁶ - if we ask more, they will beat our daughter if anything goes wrong. We believe the wife suffers violence if the *barlake* is too high.”

Researcher: If the wife is beaten, can she expect support from her family?

⁴⁴ For example, Fatumean, focus group discussion, 28 January 2012.

⁴⁵ Maliana, interview, 26 January 2012.

⁴⁶ Approx USD 500.

“Sometimes the family supports her, but it is difficult if they ask for a lot of *barlake* at the beginning because then her family has less power. She belongs to them [the husband’s family]. If they pay less, the wife’s family has a stronger voice to support their daughter. They can say ‘how much have you given?’”⁴⁷

In Laleia, a *chefe de suco* from a married-out tradition explained his family’s change of tradition:

Researcher: Do you think that if a big *barlake* is paid, a man can do anything?
“It is to prevent this that our parents decided not to have *barlake*.”

Researcher: Does that mean that in the past, people paid *barlake*, and then men would beat their wives?
“That never happens here, but it happens in other places.”

Researcher: If you were offered a big *barlake* for your daughter, would you accept?
“No, because we want to follow our ancestors. When you spend money, it’s gone, but our daughters will always be there.”⁴⁸

Manututo is unusual, in that the *kaben-sai* communities across the whole district reject *barlake* or at least accept only a small value *barlake* for daughters. The VPU officer in Manututo believed that *barlake* could theoretically be a cause of violence, but that it was not a problem in the Laleia area because little *barlake* is paid. She noted: “There is no difference here between *kaben-tama* and *kaben-sai* – the two traditions are almost the same here.”⁴⁹

There was a universal perception on the part of women interviewees, and *lia na’in* from clans which refuse *barlake* as well as the police, that refusal of *barlake* helps protect women from domestic violence.

The fact that in three out of the four districts of this research married-out clans refuse *barlake* shows that marriage traditions are open to change. A further example of such adaptation was given by one informer who described how some local villages make agreements that they will not seek *barlake* if marriages occur between their villages.⁵⁰ The mechanisms for such changes would be an area in which further research would be useful. This would enable in the development of policies to help protect vulnerable groups through consensual and grassroots processes.

2.2 Barlake and abandonment

⁴⁷ Same Focus group discussion 8 February 2012.

⁴⁸ Laleia, focus group discussion, 22 February 2012.

⁴⁹ Laleia, interview, 23 February 2012.

⁵⁰ Manututo, interview, 24 February 2012.

Abandonment in Timorese culture is a serious matter. Indeed several informers were under the impression that it is a crime. The fear of abandonment was cited many times by women as a reason they would not report cases of domestic violence. The community leaders also felt this to be a serious issue. This is one form of abusive behavior of which *lia na'in* and other community leaders disapprove, but which they are unable to prevent.

Of the four VPU officers interviewed for this research, none believed that *barlake* was a cause of domestic violence, or could remember any examples of cases where *barlake* had even been a factor in domestic violence. However, one example was related to the research team as illustrating how *barlake* affects men's behavior, involving a man who abandoned his wife for another woman. His justification was that he had paid *barlake*, he had bought her, so he had no more obligations. He refused to go through any *adat* process, so, with the agreement of the *chefe de suco*, his wife reported the matter to the police, who persuaded him to cooperate with *adat*. The officer sat in on the dispute resolution process; the husband agreed to abide by the decision and eventually returned to his wife.⁵¹

Two of the women interviewed for this study had been abandoned by their husbands. They were from married-out culture and their husbands had both cited *barlake* as a reason they felt entitled to leave their wife.

The fact that *barlake* is used as a justification by men to leave their wives does indicate a perception that *barlake* gives men the right to behave as they like to their wives, perhaps because they do indeed feel they have bought her.

In abandonment cases, women reported strong support from the *lia nai'n* and *chefe de sucos*. However, they all described their disillusionment that their husbands could not be made to use these processes, or to comply with a decision. It highlights the weaknesses of the *adat* process of dispute resolution: it is voluntary, and decisions are unenforceable, and there is certainly a proportion of men willing and able to ignore the *adat* process.

3 WOMEN'S SOCIAL STATUS

The status of women in the two types of clan was compared, in case this explained the large difference between the number of women from *kaben-tama* clans who experienced domestic violence, and those from *kaben-sai* clans.

Status can be indicated by such factors as women's property and inheritance rights, the roles allotted to women within the family and in public, and cultural practices that enforce rigid gender roles. In both the *kaben-sai* and *kaben-tama* communities there is a clear division of responsibilities between men and women. The husband is seen as the head of the family, and is responsible for earning money. The wife is expected to take care of the house, look after children, and to help in the fields during the busiest times.

⁵¹ Maliana, interview with VPU officer.

The wife may also earn money through work inside or outside the home (making *ta'is*, selling fuel, or paid employment), but this does not reduce her household duties. These roles were reinforced by the Indonesian Marriage Law 1974/1 that recognized the husband as the head of the family.

There seem to be no significant difference between the communities in any of these areas except in regards to the *lisan* rules around *barlake*. Women may have nominally greater rights to family property in married-in culture, but it does not give her a significantly stronger role to make decisions within the family. It is the older male members of the clan (brothers, uncles etc.) who make the decisions about the property. The only real difference between the two types of clan is the payment of *barlake*; in other respects the men hold all the power. Despite the apparent stronger position of women in married-in culture, there was little evidence of women having a noticeably higher status.

And, as one female participant in the focus group discussion in Suai noted “between married-in and married-out, it doesn’t make any difference, even if a man marries-in. The man still has the power.”⁵²

Researcher: Does a man have to be more careful in *kaben-tama* clans to keep his wife and her family happy?
“For his wife, he is the head of the family, and if she behaves badly he can beat her.”

One *lia na'in* from a married-in clan had this observation: “It is all this talk about gender that is causing problems. It is teaching that men and women can do each others’ jobs. But if she is sleeping and he is cooking there will be problems. Women are from Adam’s rib and husband and wife must take care of each other the traditional way.”⁵³

3.1 Decision-making

Women are not involved in negotiating the bride gifts in either tradition – neither the bride nor the mother of the bride have any role as decision-makers; their role is limited to preparing food for the visitors.

Young couples are allowed to choose their own partners, on the whole, but the decision ultimately remains with the families, irrespective if they are from married-in or married-out culture. Where the families cannot successfully negotiate the terms of the marriage, the couple will not be allowed to marry.

One striking example of this was the experience of F, a young woman from married-in culture, who had been engaged to a man from married-out culture:

“We stayed together as a couple for 2 years. After we became engaged, I moved in with

⁵² *ibid*

⁵³ Focus group discussion, Manututo.

his parents. There was no physical violence but I became unhappy because my husband would stay away for one or two nights without informing where he was. So I asked my family to help me. The two families sat down but then they decided we should separate. My husband wanted to pay the dowry and take me into his family but my family wouldn't accept that. *Bunak*⁵⁴ culture doesn't allow that.ö

Researcher: Did your family consult you?

öThey didn't ask my opinion. The families talked for four or five hours. They asked his opinion and he said he wanted me to marry into his line. They refused. I was surprised because I wasn't expecting this. I had no thought of separating. I offered to pay the money myself but it was not my decision. It is the culture. We loved each other but we understood our culture. If I marry out like this, I will die soon. And if he marries into *Bunak* culture, his family will speak ill of him, and he will die.ö

She was therefore compelled to leave and live with her parents. F. was pregnant at the time, and gave birth some months later to her first child.

öI went and told him that I was pregnant, and he said he would take care of my child. His (*Kemak*)⁵⁵ boss said that in their culture if no *barlake* is paid, the man has no involvement in the child.ö

She started legal proceedings to try and obtain some financial support for her and her child from the man, as, under the *lisan*, he had no obligations.

When asked her opinion of the *lisan*, she responded öThe culture is good, but the implementation is bad, if people understood better there wouldn't be a problem.ö⁵⁶

J., also from Maliana, feared that her husband would be expelled from the clan if he did not keep her brothers happy, as he had never paid *barlake*. The demands of the *umane* for buffaloes and other contributions to family events placed pressure on the couple; if they did not pay, her brothers could expel him from the clan. öEven if a wife loves her husband, tradition requires him then to leave, and she must stay alone and feed her children alone.ö

She could not inform anyone of violence from her husband, because he had not yet paid the *barlake*. She was afraid that if her parents discovered the violence in the relationship, they would separate her and her children from her husband.

This demonstrates the complex role *barlake* has on marriage and clan relationships, but ultimately, these rules privilege the decisions and traditional positions of older male clan members. This was the same in all clans who participated in this research. Consequently,

⁵⁴ *Bunak* is a language spoken in the district, and synonymous with married-in culture.

⁵⁵ A language spoken in Bobonaro, synonymous with married-out culture.

⁵⁶ Maliana, interview, 24 January 2012.

both in married-in and married-out cultures women are dependent on their male relatives to help them resolve domestic violence. At least two women said that their relatives had refused to help them, and they had been left without any recourse when subjected to repeated violence by their husbands.

3.2 The role of *lisan* rules

When interviewing women about *barlake*, domestic violence, and their attitudes to seeking help a number of issues, which initially seemed tangential, recurred. Over the course of the research, it became evident that these issues represent significant cultural messages about women and their status, which impact on women in a number of concrete ways. And when put together, they form a network of rules related to *barlake* by which women from *kaben-sai* families, face severe limitations on their ability to make free decisions about their intimate relationships, and their personal safety. Each of the rules described here were cited as concerns by one or more women interviewed.

- If *barlake* is not paid, and the husband is unable to meet the demands of the wife's family for contributions to family events, her brothers may expel him from the family, and separate her from him.
- If a woman goes to her family for refuge and later wishes to reunite with her husband, the family can impose a fine on her husband to "release" her. The fine must be paid to the wife's brothers. This is a disincentive for women to seek refuge from their family.
- If the couple separate, the *barlake* has to be returned. Women can be discouraged by their families from leaving abusive husbands for this reason.
- Some men believe that, by paying *barlake*, they are released from responsibilities towards their wife and children and can abandon them or marry again.

These negative effect of these *lisan* rules are compounded by the *adat* process. If a woman seeks a resolution of domestic violence through *adat*, she may found to be at fault. Violence by a man to his wife is not, in itself considered to be a wrong. Instead, social preconceptions as to what is appropriate to report will affect how she is dealt with (IRC, 2003). Women who report cases when the violence is not "serious" or is not a crime (as perceived by the *lia na'in*) will be treated as at fault and will be fined. (The Asia Foundation, 2004; Swaine, 2003). In any event, even if she "wins" her case, the fine will be imposed on her husband and paid to her brothers, further impoverishing the family.

An older married-out woman, A., in Fatumear, described how her husband often referred to the *barlake* he had paid for her, and beat her a lot. Once, he beat her with a rope, until her whole body was swollen. She ran away to her family's home, until he came and took her back by force.

Researcher: Did you want to leave again?

[long pause] õI have to die in my husband's house. My in-laws gave much for me.ö

Researcher: Did he say this?

õYes, he said 'I have spent much and the children shall be with me.øIf he beats me again I won't run away because my brothers were angry. They said, 'don't come here even if he does it again.ö

In Suai, the VPU officer felt that women from married-out culture had more barriers to seeking help, and described the explanation she had been given by some women: õIf we decide to go to our father or brothers, our husband has to pay buffaloes as a fine. So we think, 'when will my husband be able to pay this in order to release me from my parents?øIn married-in culture, even if it's one or two slaps, they will go to parents and report it. There is no need for the husband to pay a fine to release her.ö

The negative impact of *lisan* rules on women is not restricted to *kaben-sai* communities. But while the process of the traditional justice system and of decision-making undoubtedly seriously disadvantages women from both communities, the consequences of *lisan* rules related to *barlake* affect only women from married-out clans, and severely limit their autonomy. These rules place women in a position where they cannot make decisions regarding their own safety because of cultural sanctions. This is illustrated by the words of a (female) participant in a focus group discussion with a married-out community:

õIf something happens and the wife doesn't want to create a problem, she will not tell anyone. She will just leave it until she's even beaten to death. And her family will get the news that she died of sickness. Women lie about how they got their injuries. ö

Researcher: Why does this happen?

õWomen will not inform their families because they do not want to create problems. If she complains, her family will complain to the husband and it will cause problems.ö

Researcher: So women get support from their families?

õSometimes, yes. But if they asked for a lot of *barlake* at the beginning they have less power, and you belong to the husband's family. With a high dowry, you cannot say anything.ö⁵⁷

3.3 Perceptions of violence

None of the women interviewed considered slaps, punches and kicks to be domestic violence. This attitude reflects that held generally by Timorese society, described in the Tetun phrase *bikan ho kanuru baku malu* (a plate and a spoon will hit each other)

⁵⁷ Suai, 8 February 2012.

(Swaine 2002; JSMP 2002). Unanimously, across married-in and married-out clans, women regarded some degree of spousal violence to be normal, and unremarkable.

The use of physical force by a man in an intimate relationship is not necessarily viewed as an offense, and may, in certain contexts, even be an obligation of those using it (Schislaio, 2007; UNFPA 2005). Many women defended it as the man's role to 'correct' his wife. A number of women said that if their husband beats them it is in order to teach them. J., from married-in culture, said: 'Occasionally he kicks or hit me but I don't consider it violence...'

Researcher: Would you like him to stop?

'If I make a mistake if he punches me that means I made a mistake.'

Researcher: Do you think it would be better if men did not hit their wives?

No answer.⁵⁸

Universally, the opinion was voiced that this type of behavior should be dealt with by women 'patiently' and should not be reported even to close family members.

Interviewees, even those women who had gone to the police for help, drew a clear line between 'serious' cases when help could be sought, and those when it could not. Serious cases are those which involve weapons such as machetes and guns, and leave the victim 'pouring blood'. Even when violence is 'serious' women did not necessarily view it as entirely illegitimate. For example 'If your husband beats you until you are pouring blood, you should go first to parents, because they raised us. If our parents want us to stay together, we should listen to them' if my husband beats me but his intention is good, I should stay with him.'⁵⁹ This attitude was more likely to be expressed by women interviewees than by men, demonstrating the extent to which women have internalized the idea that violence is a corrective tool by men towards women.

The level of seriousness therefore can be extremely high before it is seen as legitimate for a woman to call on help from the *adat* or the police (UNFPA, 2005).

The advice most women would give to other women who were experiencing domestic violence would be to better understand how to keep their husband happy, for example, by not disagreeing with him too much, or assessing his mood carefully before telling him about problems. All interviewees and focus group discussion participants drew a line between 'reasonable' and 'unreasonable' men, who would beat their wives even if she had done everything 'right'. But they could not think of any action that a woman could take against an unreasonable man, except go to her parents, or her in-laws for help. If they did nothing, the need for the woman to manage her husband's violence was simply reiterated.

⁵⁸ Maliana, interview, 26 January 2012.

⁵⁹ Interview with woman from married-in clan, Laleia sub-district, 23 February 2012.

3.4 Attitudes to Reporting Domestic Violence

According to national statistics, only 24% of women who experienced violence from their partner informed another person. Of those, 87% reported to their own family and 27% to their in-laws. Only 4% reported to police. Formerly-married women who experienced physical violence are more likely to seek help than other respondents (53%) (NSD et al., 2010). That research gives the percentages of women who seek help from anyone in each of the four districts of this research as:

Bobonaro ó 31.4%
Covalima ó 50.9%
Manututo ó 22.8%
Manufahi ó 6.8%

Women interviewed for this study were asked if they would report abusive behavior by their spouse; there was very little willingness to report domestic violence to anyone, with no discernible difference between women from married-out and married-in clans. Of the 30 women interviewed, all said that women should tolerate violence from their husbands –patiently unless she is –pouring blood. Almost all said that if serious violence did occur they would ask their family or *chefe de suco* to intervene. Three women did go on to note that if they did suffer –serious violence from their husbands, they would report it immediately to the police because they would be concerned about what would happen to them if they did not. M., had never experienced domestic violence, but said if her husband ever beat her until she bleeds, she would immediately report to the police because: “If I do not report, he can kill me one day.”⁶⁰

Of the nine married-out women in this study who suffered domestic violence, none had reported it to police. One woman, F., was taking legal proceedings for abandonment, but although she had also suffered domestic violence, she never reported this. She explained that the domestic violence was a matter that should stay –inside her house.

Of the four women from married-in clans who had suffered domestic violence three said they had not told anyone. The one who did report domestic violence, D., from Maliana, withdrew her complaint. She described how her husband beaten her “until my whole body was swollen.”

Although she reported this to the police, acting on advice from her healthcare provider, she was later compelled by her husband to withdraw: “He told me –if I go to prison, everything between us is over. I cannot culturally take a decision which would mean my family would have to return the money he paid for me. It would be a shame for me, so I withdrew.”

⁶⁰ Same, Interview, 27 January 2012.

However, her husband subsequently abandoned her and she went to the police to report that. At the time of interview, she was taking legal proceedings for financial support because her husband had abandoned her and their four children for another woman. As he had provided the *bua malos* (USD 30, and a buffalo) he had no obligation under custom to do anything else. "I struggled to get our families to talk together but my husband didn't want to. He said 'I have paid everything so I won't cooperate.'"

Because he refused to cooperate with the *adat* system, her family and the *suco* leaders supported her to go to a higher authority; she was awaiting a result from the court in Suai at the time of the interview. When asked about whether she trusted more the formal justice system or the traditional justice system, she said: "I trust the tribunal. I got nothing from the *lisan*. When my husband refused to come I couldn't do anything."

Later in the interview she stated: "Women are not valued in our culture; it is better not to go through tradition."⁶¹

The majority of women both from *kaben-sai* and *kaben-tama* culture believe that domestic violence is private. Reasons given for not reporting include:

- Men have a right to "chastise" or "teach" their wives by punching, slapping or kicking them.
- Domestic violence is a family matter that should be dealt with by the family; it will cause shame if others know about problems within the couple's relationship.
- Getting the parents or in-laws involved can lead to more problems for the wife, or forced separation from the husband.

It was explained that domestic violence belongs inside the house, and cannot be brought outside, because of "shame." A number of women repeated this point. One said: "the man beats us, but we feel the shame."

An example of the serious consequences domestic violence against women can have, and still not be reported was related by F., from Bobonaro. She explained: "My husband never said anything about *barlake*. He is from married-in culture and isn't used to having many people around the house. It's different in my culture. So when my family would visit he would beat me. Or he would beat me if I came home late."

Researcher: What kind of injuries did you received?

"He would kick me a lot. He kicked during my pregnancy, he was always kicking me and the baby died after six months (in the womb). I think his kicks caused my baby to die."

Researcher: Did you tell anyone about the violence?

"No. What happened in my home I cannot tell to anyone else."

Most women when pressed, agreed that if the violence was serious (involving a weapon

⁶¹ Maliana, interview 26 January 2012.

such as a machete or a gun, or the wife has serious injuries and is pouring blood) it should be reported to someone, although they were divided as to who. The majority felt that this should go through the traditional justice system before reaching the police. A few suggested that the police should be called, because the man needed to be cooled off in police custody.

The overwhelming majority of women interviewed for this study would use the *adat* system over the formal justice system to settle problems of violence from their spouse. The *adat* process usually involves taking the dispute to the clan elder - the *lia na'in*. If the dispute involves two or more families, then all the *lia na'in* from those families will be involved. Women have almost no voice in the *adat*, the main aim of which is to encourage reconciliation between the perpetrator and the victim and ensure the family unit is protected (Hall, 2009). All interviewees and FGDs described a hierarchy of reporting to resolve disputes, and only if one level fails can the next one be attempted:

Family → mediation by both families together⁶² and/or *lia na'in* → *chefe de aldeia* → *chefe de suco* → police.⁶³

This process is followed in both *kaben-tama* and *kaben-sai* communities. Most problems that require resolution start with the family, and only escalate to the next level if the family is unable to resolve the problem or if it is serious enough that the family feels it needs to be handled by an outside authority. Generally women have to proceed in line with the wishes of their families, and not initiate any process without their family's agreement (Swaine 2003; Babo Soares; 1999; p.3).

Although the reluctance to report and the preference for family or *adat* over police is consistent across both married-in and married-out culture, the issue of *barlake* came up repeatedly as an obstacle to protecting women from violence even if they did want to tell someone. This is a key element to the problem women from *kaben-sai* clans face. The payment of a large bride gift reduces the ability of the woman and her family to speak against the man's family.

One interviewee in Manututo said that if a woman wants to reconcile she must resolve it traditionally, but if she wants to divorce or separate, she must go to court. Her family would only support her to go to the police if the violence was not her fault. All women were concerned that calling the police would lead to a separation, and even women suffering from violence said they did not want this.

C., from a married-in clan in Maliana, was the only woman who said she would never

⁶² Some women include this stage as part of *adat* while others view it as starting when the *lia na'in* or one of the community leaders is involved.

⁶³ Not all cases will follow this exact procedure. For example, women or their families might skip family mediation go directly to the level of the *chefe de aldeia* or *chefe de suco*, skipping family mediation and/or the level of the *lia na'in*.

report violence, however serious. She appeared to the researchers to show clear signs of trauma and depression, and stated that she was repeatedly beaten by her husband "until I am pouring blood". Despite support offered by Fokupers staff, she was adamant that she would not report this to anyone. "Because if I report it, the uncles will tell me it's not their problem, I should deal with it. I'm dependent on my husband. Many times he beats me until I am bleeding, and I will not report him. If he goes to prison who will feed me and my children?"

When asked, she was unable to think of any changes that could cause the violence to stop or which could help her.⁶⁴

⁶⁴ Maliana, interview, 24 January 2012.

CHAPTER FOUR - THE LAW AGAINST DOMESTIC VIOLENCE

Traditionally, in Timor-Leste, domestic violence has been resolved within the family, or by the *adat* system. One of the key changes introduced by the Law Against Domestic Violence was to make domestic violence a public crime. This means that prosecutions do not depend on the victim filing a complaint; any person becoming aware of a case of domestic violence must report it to the police to be resolved through the formal justice system. This involves a major shift in thinking, and in practice. For the LADV to take effect, women must know their rights, the community leaders (*lia na'in*, *chefe de suco*, *chefe de aldeia*) must send cases to the police, and the police must investigate cases reported to them. The study sought to evaluate to what extent this has been achieved.

Neither police nor community leaders could give any instances of domestic violence that had been dealt with under *adat* since the passage of the LADV. The community leaders were generally vague when asked about this, as generally only cases reported to the *chefe de suco* are recorded. It seems likely, given that this study found negligible levels of awareness about LADV, that cases are still being dealt with outside the formal justice system, but research is needed to clarify if, and to what extent, that is the case.

1 CASES REPORTED TO POLICE

There was ample evidence before the LADV 2010 that the formal justice system did not respond properly to cases of domestic violence against women. It was consistently found that most police officers did not consider domestic violence a crime worth putting through the formal justice process. Cases of domestic violence reported to the police would often be sent back to the *adat* to resolve, leading to confusion. "Women [are] sent back and forth between the two systems or simply become the subject of unfair and unstandardised processes" (Swaine, 2003, n. 54 at p.63).

One example of police inaction was given by the *chefe de suco* in Fatumear. He described a case in 2010 of an attempted rape of an eleven year-old girl by a 17 year-old male in the village. Her parents asked the *chefe de suco* to report this to the district police, but the police simply referred the case back to local justice to resolve because "nothing actually occurred." Despite the seriousness of the case, and the willingness of the family and the local justice leaders to use the formal justice system, they were forced to use the *adat* system.

Prior to LADV, even when the police did arrest a suspect, they would frequently hold the defendant for 72 hours in pre-hearing detention and then ask the court to withdraw the case from the formal justice process (JSMP 2005c:5).

If the LADV was being properly implemented, there should be a noticeable rise in the number of cases recorded in the formal justice system since 2010 as cases which were

resolved under *adat* should now be being passed dealt with by the police thereby. Also, when women withdraw, cases should still be proceeding to court. Therefore a rise in reported cases represents a positive step. The under-reporting of domestic violence is so great, that a rise in numbers probably indicates greater willingness on the part of women to use the justice process, and police processing cases properly, rather than an increase in the prevalence of domestic violence.

Hence, VPUs in each district were asked for statistics on cases reported to them in 2010 and 2011, to see whether the expected increase had occurred.

Table 4.1 Numbers of domestic violence cases reported to VPU officers⁶⁵

	2010	2011
Bobonaro ⁶⁶	28	18
Covalima	20	58
Manufahi	13	13
Manututo	- ⁶⁷	25

In Bobonaro, changes in local police structure mean that the VPU no longer covers Maliana town; hence the statistics for 2011 do not include cases from Maliana town and cannot be directly compared with 2010. The VPU informed us that Maliana is the sub-district from which the most complaints are received, hence it seems likely that if there had been no change in 2011, the number of cases in 2011 would have been much higher.

It is a matter of concern that structural changes of this sort are resulting in responsibility for VPU cases being given to other, non-specialist, units. Without the training and expertise of VPU officers, there is a danger that domestic violence cases will be mishandled and the anticipated benefits of the LADV will be lost.

In Covalima, there has been a dramatic increase; reported cases have almost tripled. There are a number of reasons why this could be the case. Covalima has both a district court and a mobile court in existence. This may mean that women have better access to the formal justice system, and also that there may be better awareness of the LADV. The VPU officer in Covalima was of the opinion that the law had made a big impact in other ways:

“The law has made a change. Previously people didn’t want to report because the case would not be forwarded to a prosecutor. Now people report because they know there will be justice. Some cases, mostly of farmers, have gone to the tribunal, and the men are feeling that violence is not good. It is changing their attitudes. The law has supported women by increasing their confidence to report cases, and educated them.”

⁶⁵ All cases reported to the VPU and classified by them as domestic violence.

⁶⁶ The statistics from Bobonaro, are not directly comparable as in 2010 all six sub-districts of Bobonaro were reported to the VPU, while 2011 only covers five districts.

⁶⁷ No data available.

“Some men really feel sorry even before the trial, they begin to see that domestic violence is not good. The law is so strong, and they say we won’t do this again, and we will teach our children not to do it.”

Researcher: What happened to cases before the law was changed?

“It used to be very difficult because women would withdraw cases. Women were afraid they would lose their husbands because they are economically dependent on their husbands. Women are not worried anymore because they can ask the court to order maintenance payments from him.”

The legal requirement for police and prosecutors to process cases within five days has made an impact. The officer explained that now, upon a victim filing a complaint, the VPU notifies the prosecutor immediately by telephone and immediately prepares the case to be sent to the prosecutor in fewer than five days. If she misses the deadline, it is a disciplinary matter. And she believes that as a result of LADV cases no longer languish at the prosecutors’ office but are processed and sent on to the tribunal.

“Previously, cases would be left for years, unprocessed. Now, the tribunal gets the file from the prosecution quickly.”⁶⁸ Of all four districts studied, Covalima shows the greatest impact of LADV.

In Manufahi the same number of cases were recorded in 2010 and 2011, which implies that the LADV has made no impact. This was the only police station in which the VPU officer had a superior officer present at the interview with the researchers.⁶⁹ This somewhat hampered the research, since he answered many questions rather than allowing his junior officer to do so. He asserted that since the law came in, numerous cases have been sent to the tribunal: “Before, it was seen as ‘plates and spoons hitting each other’ but since the law changed, cases proceed even if the couple reconcile.”⁷⁰

All VPU officers confirmed that women frequently withdraw after reporting, and that this usually leads to the case being dropped at court due to lack of evidence. This is a problem familiar to all jurisdictions, and many have sought to overcome it through improved evidence gathering which ensures that the case does not rely wholly on victim testimony. This problem should be addressed through training of police and prosecutors. In districts with no increase in reported cases further investigation is necessary to understand the reasons. It may indicate that cases are not being referred by local justice leaders, that police are not recording domestic violence cases correctly, that cases are being reported to police officers from units other than the VPU who do not apply the law properly, or that further socialisation is required in the district.

⁶⁸ Interview at Suai Transit House, 28 January 2012.

⁶⁹ The Head of the District Investigation Unit.

⁷⁰ Interview at Same district police station, 10 February 2012.

Police officers also need training on LADV, as currently only VPU officers are trained to handle domestic violence cases. As VPUs are located in the district capital, it is not easy for victims to reach these offices, and cases naturally be reported will available police unit be to sub-district police officers. VPU officers also noted that victims are sometimes confused about where to report; cases are reported to the BPU (Border Police Unit), and the Community Police. In the best case scenario, these cases will get forwarded to the VPU, and in the worst, women will be re-victimised by police refusing to treat the case as a crime. Even if cases are forwarded to the VPU, this is still not a good response; simply passing cases to the VPU without taking basic steps to preserve or gather evidence leads to delays, a poor service for victims and loss of essential evidence.

Before the LADV, there was a problem of high rates of attrition⁷¹ of domestic violence cases. One survey found of 316 cases filed by the prosecutor from July 2003 to June 2004 only eight decisions were actually delivered by the court in the ten months from April 2004 to February 2005 (JSMP, 2005). Although prosecutors seem now to be processing cases of domestic violence, when the court is seized of these matters, there is a pattern of applying suspended sentences however serious the violence.⁷²

The Prosecutor General has noted that the courts have got into the habit of applying suspended sentences in all cases that carry a prison sentence of less than three years. This has a major impact on the way that victims feel about the judicial process, which is supposed to restore and repair the rights that have been violated. These practices actually harm the rights of the victim and hurt the feelings of the wider community in relation to their trust and perception of having a justice system that is fair and credible.⁷³

After the many difficulties survivors of domestic violence face in reporting abuse, and of accessing the justice system, it is essential that judges are sensitized to appropriate sentencing bearing in mind the balance between appropriate punishment, rehabilitation, and victims' rights.

2 SOCIALIZATION

The results of the socialization of the LADV are not yet evident, one year since the local justice system lost jurisdiction over domestic violence cases.

Almost without exception, the participants in focus group discussion and women interviewees had not heard of the law and could not describe what it said, although in three of the sub-districts awareness-raising and training events had been held with members of

⁷¹ This term refers to the number of cases lost from the justice system when comparing cases which are reported to police, and the lower number which reach the point of a court hearing on the facts or sentencing.

⁷² JSMP press releases: 'Summary of cases tried at the Suai District Court during August 2011', 16 September 2011; 'Dili District Court hands down suspended sentences in three cases of domestic violence', 25 October 2011; 'Oecusse District Court tries domestic violence cases for three consecutive days' 21 February 2012, 'Summary of cases tried at the Suai District Court in the Second Week of February 2012', 29 February 2012. www.jsmp.minihub.org.

⁷³ JSMP Press Release, 'JSMP meets with the Prosecutor General of Timor-Leste', 29 October 2010.

the *conselho de suco*. The only group who showed an understanding of the law were the *chefe de suco*.⁷⁴ Women expressed the same preference for referring cases to *adat* as in previous surveys before the LADV was passed. A previous study found that the most commonly cited factors for confidence in local justice mechanisms are: disputes are resolved according to custom and tradition (45%) and the effective settlement of problems (34%). The most commonly cited factor for lack of confidence in local justice is that it lacks neutrality and people do not trust it (53%) (The Asia Foundation, 2008). This indicates a large proportion of people who would, presumably, use another dispute resolution mechanism if it was trustworthy and reasonably accessible.

During this research women interviewees said they would prefer to use *adat* to resolve domestic violence, but their reasons suggest that a proportion would go to the police if they had a free choice. The reasons for using *adat* were:

- “The police will only return the case to the *adat* system.”⁷⁵
- “The community leaders will be angry if we go to the police.”⁷⁶
- “The law will separate me from my husband.”
- “The police are not effective.”
- Going to the police would shame the woman’s husband and his family.
- Going to the police would cause problems between the *umane* and *feto-saa*, which will require money to repair the damage.

Many women were concerned not to offend the local leaders and *lia na’in* (who would then be hostile next time the women needed assistance). Since these are the two reasons that women most frequently gave for not using police, if they can be properly addressed, a proportion of women will be encouraged to seek and receive the help they need for domestic violence.

When it was explained that the law made all domestic cases public crimes, local leaders in all locations but one⁷⁷ said they would apply the law and send all crimes to the police.

Unfortunately, it is evident that there are misconceptions about what constitutes a crime. For example, to the question “what is a crime?” one *lia na’in* gave the answer: “A crime is someone killing someone or stealing things, or living unlawfully with a husband or wife. A man beating his wife is not considered a crime.”⁷⁸

One interviewee in Betano told us: “If my husband wants to marry another woman I will go to the *adat* system. If he does not agree, or it cannot be resolved, then it is a crime and I will go to the police.”

⁷⁴ This may be because they consistently receive the most training, for example, a national training for all *chefe de sucos* was held in Dili on 8 March 2011.

⁷⁵ Bobonaro, focus group discussion.

⁷⁶ Marobo, focus group discussion.

⁷⁷ The *chefe de suco* in Bobonaro was very defensive of the role of the local justice system and felt that the law undermined it.

⁷⁸ Manufahi focus group discussion, 10 February 2012.

It became obvious that only those domestic violence cases described as ‘serious’ (as described in Chapter Three) are considered by the leaders of the local justice system to be potential crimes. This has obvious implications for the way domestic violence cases handled. It will undermine the objectives of the LADV if attention is not paid to this issue in developing plans for socialization of the law.

The police in two of the four districts said they had undertaken socialization programmes, but these were aimed at the women and youth representatives on the *conselho de suco*, and the *chefe de suco* and *chefe de aldeia*. In focus group discussions, *lia na'in* and other members of the *conselho de suco* expressed a desire for training. This was also reiterated by police officers. It appeared that they appreciate that the new law places demands on them, for which they are not equipped to respond.

One woman said she had benefited greatly from having attended a training and awareness raising events. C., from Covalima, felt that she was now empowered to seek help for domestic violence. She described one example of her husband’s past violence: ‘We had violence once when I talked back to my husband and he beat me up. I hit him with a stick and then punched me on the chin and I was unconscious. At the time there was no law against domestic violence so there was no-one to report to.’

Although C. referred to only one incident, her other remarks in the interview made clear that she was regularly assaulted by her husband, and that this was only the most serious example.

Researcher: Did you think about speaking to your family or the *lia na'in* about it?
‘Yes, but it was difficult for the family to approach him because he would use sharp tools to threaten them. He’d threaten to kill anyone who approached, saying ‘it’s just plates and spoons’. But now I would report it. At the time the family was afraid of him, but I have been trained now, so my family can react if something happens to me.’⁷⁹

⁷⁹ Suai, interview January 2012.

CHAPTER FIVE - CONCLUSIONS AND RECOMMENDATIONS

This study set out to answer the question whether there is a causal link between *barlake* and domestic violence.

Additionally, the research sought to evaluate whether the LADV is having an impact; whether women and local justice leaders know that domestic violence cases must be reported to the police, and whether cases are in fact being reported to the police.

1. LINK BETWEEN BARLAKE AND DOMESTIC VIOLENCE

In a patriarchal society in which women are seen as inferior to men, *barlake* can easily move from a symbolic recognition of the wife's value to her family, to become a transaction which implies ownership. Based on the information in this study, there are reasonable grounds to conclude that *barlake* is not a significant trigger for domestic violence against women, but that it does increase the risk of such violence. This conclusion is based on a number of grounds.

In this study a significantly higher number of women from married-out clans experienced domestic violence (nine) compared to married-in clans (four). The four women who experienced domestic violence and whose husbands had paid *barlake* all said that *barlake* was mentioned by their husbands in a negative context during the marriage. Conversely five men who paid *barlake* did not go on to inflict violence on their partner. Neither the police nor women interviewees perceived *barlake* as a major cause or trigger for domestic violence. Hence, it appeared initially that *barlake* was only a minor factor in domestic violence. But other evidence suggests *barlake* does affect the rates of domestic violence.

Although women interviewed for this study do not, on the whole, perceive *barlake* to be a trigger or cause, of violence, they do believe that *barlake* causes men to see their wives as property. This perception, while subjective, is not unfounded. It is based on what they see, hear, and experience. Women related stories of men using *barlake* as a justification for abandoning their wives and children, or comparing women to objects they have paid for. Women from married-out culture who suffered domestic violence and abandonment spoke of their husbands saying that, having paid *barlake*, they can treat their wives as they like. These perceptions, therefore are based on an evaluation of the attitudes and behaviours of men, and have weight.

The researchers also heard how *barlake* interacts with other *lisan* rules in ways which are oppressive of women seeking to protect themselves from domestic violence. For example, if the wife goes to her family for refuge from domestic violence, her husband must pay a fine to her brothers to release her.

If the *barlake* has not been paid, the husband can be expelled from the clan at the wish of

the wife's parents or uncles. If there is a resolution through *adat*, the penalty involves payment of compensation or a fine to her family.

These rules serve to emphasise the concept of marriage as a transaction between the two families, in which the woman's role is simply to serve her husband's family, rather than an autonomous person whose feelings and wishes have weight. The practical effect is that a woman's ability to seek help if suffering domestic violence is restricted: numerous women cited these rules as reasons why they could not report abused by their husbands even if they wished to do so. The traditions around *barlake* further discourage women from reporting violence by their husbands: if a woman goes to outside parties to seek help, sanctions involve financial penalties, which are paid to the wife's family. This acts both as a disincentive to seek help, and emphasizes the financial aspect of the relationship over any other, reinforcing the idea that a man is paying for his wife.

A number of *kaben-sai* clans say that *barlake* makes women more vulnerable to mistreatment, and reduces the power of the wife's family to protect her. Many have decided to change their tradition, and now refuse *barlake*. In Manututo, the payment of *barlake* has been rejected by *kaben-sai* clans across the district. This may help explain why the district has the lowest levels of domestic violence in Timor-Leste.

These factors, in combination, provide enough evidence that there is a correlation between bride-price and domestic violence, although not a causal link.

This finding should have major implications for evidence-based interventions intended to reduce gender based violence. However, such policies must be developed with care. Acknowledging central role that *barlake* and the *umane - feto-saa* play in Timorese married-out culture, it is essential that any interventions respect the positive cultural values, and social cohesion represented by *barlake* while safeguarding women and children from violence. This can only be achieved if there is a process within Timorese society which leads to a change in attitudes, similar to that experienced by clans in Manututo, and others who refuse *barlake* or reduce the financial value to a symbolic amount.

It is suggested that local traditions can adapt and change in light of lessons learned from the clans and districts where married-out clans have willingly adapted their traditions. To this end, education and awareness activities on domestic violence should include discussion of the significance and impact of *barlake*. If payment of bride-price is reduced to a minimum, the symbolic and cultural aspects of *barlake* can be retained while reducing its negative consequences.

2. IMPACT OF THE LAW AGAINST DOMESTIC VIOLENCE

If the LADV were being properly applied, one would expect a significant increase in cases reported to the police since it was adopted. Information supplied by VPUs only demonstrates this to have happened in Covalima. This suggests that in many districts

steps still need to be taken to ensure that cases are reported to police, and treated seriously by the formal justice system.

The decision to make domestic violence a public crime is one of the most effective tools to ensure prosecution and protection of women from domestic violence. The fact that the choice to prosecute is no longer the responsibility of the victim means that that she cannot be blamed by local leaders for failing to use *adat*. But this positive outcome can only be expected if:

- Victims are assured that the formal justice system will support them;
- local leaders understand the limits of their power under LADV;
- police no longer send cases back to local level for resolution; and
- police and prosecutors are trained how to provide evidence of domestic violence that is not dependent on the victim's testimony.

If all these conditions are not in place, women will continue to suffer both from domestic violence, and from failures of the formal justice system.

Women remain unlikely to report to anyone, except when levels of violence reach what they perceive as 'serious'. This tends to mean only when they have received significant bloody injuries, inflicted using a weapon. Even in these cases, women are generally reluctant to go to police. They prefer to go first through their families, the *lia na'in* or the *chefe de suco*. But this is not simply a free choice on their part – it is partly because they fear that the local leaders will be angry to be bypassed, and will punish them, and because the police are not trusted to process the case as a crime. Interviewees and focus group participants also assumed that the police would simply return cases for resolution locally. Women need to be assured that local leaders have no role in domestic violence cases, and that those leaders will themselves forward cases to the police.

Women also consistently said they do not want their husbands in prison, and it is essential that socialization gives an honest message as to what the potential outcomes can be from the formal justice system. Currently, courts impose suspended sentences in most domestic violence cases (to a degree which has attracted criticism) hence women can be reassured that imprisonment is not the inevitable outcome of reporting cases to the police.

Lia na'in and other local leaders need to be trained in the provisions of the LADV. As the first stage of the *adat* process, *lia na'in* are more likely to receive reports of domestic violence than the *chefe de suco*, but current socialization efforts are not directed at them. Hence, although a key element in the informal justice system, they are unaware of what the law requires of them.

All elements of the formal justice system need training. Police and prosecutor training on domestic violence should focus on gathering evidence, especially in case the victim withdraws. This means understanding how to use photographic, medical and other witness evidence. Additionally, police training should be widened to include not just

VPU officers but all police. Since many cases are not reported to VPU, but other police units, it is important that all officers have an understanding of LADV and what evidence to gather at the point of complaint being filed, and that all cases must be processed in the justice system not sent back to the *adat*.

Sensitization training of police, prosecutors and judges would be useful to make them aware that domestic violence cases are often preceded by a long history of violence, and that most women will report only under severe pressure. Moreover, given that many forms of abuse are not even perceived as violence, there is a sphere of hidden violence which should be made visible. The impact of domestic violence on victims and on those around them should also be included. Hence, police and prosecutors should be trained how to elicit victim impact statements i.e. full and detailed background statements from victims, and to present them to the court, even where there is a guilty plea. This will allow the court to be fully informed before sentencing.

Criticisms of judges around the over-use or misapplication of suspended sentences suggest that there is a need for sentencing guidelines or training that will ensure appropriate weight is given to the seriousness of domestic violence, the suffering of the victim and children, and any coercion that may have been imposed to cause the wife to withdraw or reconcile. This may be a good outcome in cases where the violence is not grave, it is a first offence, and if the wife is genuinely happy with this.

However, judges must be aware of social pressure on women to reconcile with violent husbands, the risk of reoffending and whether the woman will again be able to report reoffending to the police. There is a difficult balance to strike, as suspended sentences wrongly applied can exacerbate the problem by sending a message that domestic violence against women is not considered serious. It is up to the judiciary and police to ensure these sentences mean enough to teach violent that there is unacceptable. If violent men start to perceive that the law in fact results in no punitive measures, the danger is that they will be given a license to reoffend and that women will continue to suffer.

3. RECOMMENDATIONS

- Education and awareness activities at community level and in schools should include discussion of the impact of *barlake* on families and on the perception of women as objects; this should be part of all the awareness activities the government undertakes under the LADV.
- The government should engage with *lia na'in* and *chefe de suco* and *chefe de aldeia* to find ways to encourage them to share experiences and practices from districts where *barlake* is not accepted, such as through special discussion groups and conferences at district and sub-district level.

- *Lia na'in* in married-out communities should be encouraged to change the local *lisan* around and either reduce the amount of *barlake*, or reject it entirely.
- The socialization of the LADV should focus on the grassroots level, including women in the community and *lia na'in* not only selected members of the *conselho de suco*.
- Socialization training should take into account the level of understanding of terms such as "domestic violence" and "public crime" and thoroughly convey the key concepts such as the definition of a crime, the consequence of domestic violence being a public crime, and its implications for local justice and police.
- All socialization and awareness-raising activities should make clear that the LADV includes provisions on financial support, and that perpetrators will not necessarily be sent to prison, but that the court may give them a chance to correct their behavior through, for example, a suspended sentence.
- All socialization activities on LADV should build-in evaluation processes, and apply lessons learned so that the most effective techniques and training approaches can be adopted more widely.
- All police officers should be trained in the domestic violence law, including not only PNTL but others, who may be the initial contact point for victim complaints.
- Police and prosecutors should be trained in how to present evidence of domestic violence, which does not rely on victims' testimony, such as photographic and medical evidence, and interviews with others who saw or heard the altercation.
- Police and prosecutors should understand how to elicit full victim statements which show the history of violent behaviour, and its effect on the victim.
- Judges, police and prosecution should be given sensitization training on the typical features of domestic violence, and its effects on victims and children.
- Judges should develop consistent and transparent sentencing guidelines or policies which allow non-custodial sentences in cases where it is appropriate, but which is also rigorous about imposing custody in cases where the offence is repeated or where it appears the victim has been coerced to reconcile, or to withdraw her testimony.
- The government should gather information in a systematic way about the amounts of *barlake* paid in different districts and compare these with the domestic violence rates.

REFERENCES

- Action Plan from the Second Women Congress Timor-Leste, 2004-2008.
- Allden, S. (2007): "Internalising the Culture of Human Rights: Securing Women's Rights in Post-Conflict East Timor", *Asia-Pacific Journal on Human Rights and the Law*, Volume 8, Issue
- Alves, M.D.F. et al (2009): Baseline Study on Sexual and Gender-Based Violence in Bobonaro and Covalima. Asia Pacific Support Collective, Timor-Leste.
- Babo-Soares, D. (2009): Co-existence of Formal Law and the Customary Law in Timor-Leste. Paper presented at a workshop "Sector Consultation Workshop on Customary Law/Justice", Dili, 27 February 2009.
- Bere, M.A. (2005): "Women and justice in Timor-Leste", *Development Bulletin*, no. 68, pp. 55-57. Asian Development Bank <http://www.adb.org/documents/reports/country-gender-assessments/cga-timor-leste.pdf> (accessed 4 March 2012).
- Butt, S. et al. (2009): Looking Forward: Local Dispute Resolution Mechanisms in Timor-Leste. Sydney Law School, legal Studies Research Paper No. 09/33.
- Chinn, L. and Everett, S. (2008): A Survey of Community & Police Perceptions: Timor-Leste in 2008. The Asia Foundation, Dili.
- Committee on the Elimination of Discrimination Against Women (CEDAW) (2009): Concluding Observations, Timor-Leste.
- Ellsberg M. and Heise, L. (2005) *Researching Violence Against Women*. World Health Organization, PATH, Washington DC, United States.
- EWER Policy Brief No. 5 (2011): Culture and Its Impact on Social and Community Life, A Case Study of Timor-Leste. <http://www.cicr-columbia.org> (accessed 5 march 2012).
- Gusmao, X. (2003): Address at the Asia Foundation Conference on Traditional Justice, Dili, 27 June 2003.
- Hall, N. (2009): East Timorese Women Challenge Domestic Violence, *Australian Journal of Political Science*, Vol. 44, No. 2.
- Hohe, T. and Nixon, R. (2003): *Reconciling Justice. "Traditional" Law and State Judiciary in East Timor*. Prepared for the United States Institute for Peace.
- Independent Comprehensive Needs Assessment (2009): The Justice System of Timor & Leste.

Joshi, V. and Haertsch M. (2003): Prevalence of Gender-Based Violence in East Timor. Prepared for International Rescue Committee (IRC) Dili.

JSMP (Judicial System Monitoring Program) (2002): Policy Paper on Draft Domestic Violence Law. Dili

JSMP (Judicial System Monitoring Program) (2002): Workshop on Formal and Local Justice Systems in East Timor. Dili.

JSMP (Judicial System Monitoring Program) (2005): Statistics on Cases of Violence Against Women in Timor-Leste. Dili.

JSMP (Judicial System Monitoring Program) (2005c): Police treatment of women in Timor-Leste. Dili.

JSMP (Judicial System Monitoring Program) (2006): The Law of Gender-Based Violence in Timor-Leste, Dili.

JSMP (Judicial System Monitoring Program) (2010): JSMP meets with the Prosecutor General of Timor-Leste, 21 November 2010, Dili

Kovar, A. (2011): Justice Sector Program, Prepared for UNDP. Dili.

National Statistics Directorate (NSD) et al. (2010): Timor-Leste Demographic and Health Survey 2009 ó 2010.

Ospina S., and Hohe T., (2002): Traditional Power Structures and Local Governance in East Timor.

OCAA (Oxfam Australia) (2003): Underlying causes of gender inequality in Covalima - East Timor: final report. Dili,

Rede Feto (2009): NGO Alternative Report Implementation of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Dili

Schislao, D.S. (2007): Representations of Body and Violence: The Invention of "Domestic Violence" in East Timor, *Revista Brasileira do Ciencias Sociais* vol.3, ISSN 0102-6909.

UNFPA (2005): Gender-Based Violence in Timor-Leste: A Case Study.

UNIFEM (2009): Domestic Violence Legislation and Its Implementation: An analysis for ASEAN countries based on international standards and good practice.

