

# Encounters with justices: Transpositions and subversions of modernity in contemporary East Timorese legal practices<sup>1</sup>

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This chapter analyses a form of legal administration mobilized by the East Timorese state in order to bring together local forms of conflict resolution and state justice. I discuss how this kind of state intervention has sought to enhance its own network in civil society. My empirical subject is the mobile-courts project, which I followed during ethnographic fieldwork carried out in Timor-Leste in 2014. The way in which the United Nations Development Programme (UNDP) celebrated mobile courts as effectively promoting *formal justice* prompted my decision to take the project as my research focus (UNDP 2011; 2012; 2013), as did the narratives of multiple actors involved in the advancement of state justice in the country. Moreover, I thought it could be a window into the encounter between different legal sensibilities, and into how East Timorese legal actors have been dealing with these processes.<sup>3</sup>

The mobile-courts project's aim was to help consolidate modern state legal structures in Timor-Leste. It operated by organizing hearings and trials in areas far from three of the four district courts, located in Dili, Suai, Baucau and Oecusse.<sup>4</sup> The

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4. Timor-Leste comprises 12 municipalities and one special administrative region, Oecusse, but has only four district courts. The jurisdiction of Dili, Baucau and Suai

project's objective was to enhance the presence of legal institutions in remote areas; to inform villagers about their rights, duties and other elements of public administration; and to disseminate so-called *formal* (state) *justice* to the country's hinterlands.

This chapter claims that one of the mobile courts' effects was the reinforcement of relations and synergy between state justice and local forms of conflict resolution, so-called *traditional justice* (UNDP 2011).<sup>5</sup> In many cases, the mobile courts simply ratified conflict-resolution decisions already attained through local mechanisms. From a legal standpoint, this approximation involved an encounter between different forms of not only justice, but of the very conception of life. People carried their non-modern, non-individualistic notions of rights and expectations of conduct, such as decorum and hierarchy among women/fertility givers and receivers, to the mobile courts.

I also provide ethnographic density data to enhance the statistical studies that celebrate the mobile-courts project as a success story. I show that many of the cases the mobile courts claimed to have resolved actually involved the withdrawal of complaints, including in cases of public offenses where this was not supposed to have happened. Finally, my ethnographic account discusses the form and content of legal pedagogies the mobile courts mobilized.

The overall purpose of this chapter is to make sense of some of the tensions that have emerged from the delay in achieving expectations as local and state forms of conflict resolution meet. It discusses some of the dilemmas stemming from a project of legal modernization and implementation of rights in contexts where legal sensibilities are significantly different from the ones that gave rise to global models based on individual rights and the very notion of human rights.

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extends to three other municipalities. The district court in the Special Administrative Region of Oecusse is the only one limited to its own territory. Due to the court's smaller human and geographical area of coverage, those responsible for the mobile courts project decided not to include it.

5. Because these are local categories, I chose to italicize "traditional law", "traditional justice", "formal law", "formal justice", and their synonyms.

Data analyzed in this chapter were collected during fieldwork conducted in the second half of 2014. I participated in three mobile-court sessions, each of which involved a range of different cases. Two of these occurred in the municipality of Baucau (in the towns of Vemasse and Baguia), and the other in Aileu, the largest town in the homonymous municipality.

My arguments are organized into four sections. In the first I present a brief history of relations between state justice and local forms of conflict resolution in Timor-Leste in the past few decades. I seek to show that the mobile-courts project's inspiration came out of a learning process. This discussion also considers the post-independence efforts to create and develop a legal sector in the country.<sup>6</sup> The second section briefly outlines the creation of the mobile-courts project, and presents some figures and its general *modus operandi*. The following section analyses a case I heard during one of the project's hearings. I use the case to demonstrate the complex entanglement of issues involved in what I have called "encounters with modes of justice". In this encounter, modern and local sensibilities were in constant friction and negotiation. Section four introduces other kinds of considerations, based on the mobile-court sessions I observed. Finally, the concluding section discusses how the project, while aiming to bring citizens closer to the state, also entertained a direct dialogue with global movements defending the valorization of local traditions, a process which has potential effects for the future of legal administration in Timor-Leste.

## **Justice in postcolonial Timor-Leste**

The land known now as Timor-Leste was divided into a series of princedoms at the time Portuguese colonial rule began. During World War II Japanese troops occupied the territory and, on their defeat, Portugal governed until 1975. After Portugal withdrew, the country declared its independence, cut short by the invasion of its neighbor, Indonesia, in 1975. In 1976 Indonesia annexed the territory to be its 27<sup>th</sup> province and up to 180,000 people were killed

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6. Here I take the category of 'development' as an ideology legitimizing modernization.

during its brutal occupation. In 1999 the United Nation-managed Popular Consultation saw the Timorese vote for self-determination, thus ending Indonesian rule, but only after orchestrated violence and bloodshed led to the intervention of international peacekeepers. The establishment of a transitional government headed by the United Nations finally enabled the resumption of independence in May, 2002.

As an independent country, Timor-Leste ushered in a fully-fledged modernization process. This process has included the formation, development and consolidation of institutional regimes directed to capitalist exploitation and the expansion of an individualistic ideology (Giddens 1991; Dumont 2000).

Of the multiple processes involved in the country's modernization, this chapter focuses on efforts to deal with challenges faced by state or *formal law* in its attempts at reaching out to East Timorese citizens, especially those living in the country's hinterlands.<sup>7</sup> The country's poor network of *formal justice* has been a cause for concern among those championing the country's development. The view is that it poses a risk to state sovereignty at large, especially for the omission of consideration for individuals in cases of offense against human rights supposedly common in the sphere of *traditional justice*. Overall, the praxis of many development projects and programs immediately after independence disparaged *traditional justice*. The perspective at the time was that local forms of conflict resolution did not respect constitutionally ratified international treaties; jeopardized respect for the rights of vulnerable subjects, such as women and children; and its high ritual costs involved economic loss to East Timorese (IRC 2003; JSMP 2002).

From the perspective of my interlocutors in Dili – most of whom were operators in state *formal justice* – the East Timorese preference for local forms of conflict resolution stemmed from the following: the state's legal process was ineffective and slow; local forms of conflict resolution were regarded as being more just, familiar, simple and inexpensive; local forms of conflict resolution

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7. According to the 2015 census, over 70% of the country's population lives in rural areas.

were considered to be immemorial and sacred, legitimated on cultural grounds; and, in these local practices, the contending parties were themselves in charge of jointly finding a solution to the conflict, thus re-establishing the regular flow of life (TAF 2013). Other possible reasons for the population's mistrust of state justice were that *formal law* is based on written norms and procedures in a context of high rates of illiteracy; that its procedures encourage the parties to see each other as adversaries; and that it is often conducted by international judges or inexperienced persons, who rarely make decisions considered by either party as fair (JSMP 2002; 2012). The fact that during the 24-year occupation these legal operators were Indonesian also contributed to discrediting this kind of justice.

Other factors may also explain such suspicion, particularly a fundamental difference in legal sensibilities (Geertz 1997) guiding formal state law and customary law, also known as *tradisaun* (in 'local' Portuguese) or *adat* (in Indonesian) and *lisan* (in Tetun). Geertz crafted the notion of legal sensibilities in order to approach justice not only as a way of pacifying conflicts, but also as a medium through which a given society may express its way of interpreting and assessing what happens in the universe that encompasses it, besides organizing and reproducing cosmologies (Simião 2011). For this author, the encounter of different legal sensibilities, especially in colonial and postcolonial situations, engenders multiple practical problems for the administration of justice. It may result in the poor penetration of state mechanisms and institutions, besides making evident how differently diverse population groups understand the very idea of 'justice'.

One example clarifies how different legal sensibilities may, in practice, draw many Timorese away from *formal justice*, even after centuries of foreign domination. It concerns a 'lesson' a Timorese prosecutor delivered to those attending a mobile-court hearing, part of the project under analysis:

Let's take the case of a person driving a motorcycle, who runs over a pig on the road. For formal justice [referring to the state's way of resolving conflicts], responsibility lies with the pig's owner, who let it wander about unconstrained. The latter should therefore bear the accident's costs. For traditional justice [referring to local forms of conflict resolution], the driver

is the one to blame, because these things do not happen by chance (interview).

The distance between many Timorese and *formal justice* was identified during the influx of multiple agencies with international staff who came to work during the country's reconstruction after the devastation accompanying the withdrawal of the Indonesian forces in 1999. Different actors have proposed multiple solutions to the gap: from banning *traditional justice* altogether and replacing it entirely with *formal law*, to codifying and incorporating *traditional justice* into the country's constitution. These more radical suggestions did not last long. On the one hand, complete substitution would have overloaded the justice system, which already had a significant backlog of cases. On the other, incorporating *traditional justice* and its associated rites into the constitution turned out to be impossible for a system based on the active participation of agents from other spiritual spheres, whose wills are not homogeneous and details about which should not even be shared. Moreover, according to Simião (2013), the main purpose of traditional justice is to reassert positions within complex local hierarchical classifications, thus standing in opposition to the modern and constitutionally sanctioned notion of persons as equal individuals.

Given these and other complications, those involved in the development of Timor-Leste's justice system have, in the past few years, sought to research and develop projects encouraging communication between these two legal sensibilities. At the time when I carried out ethnographic fieldwork in 2014, there was a prevalence of discourses focused on the dialectical construction of bridges between *formal* and *traditional justice*, rather than forcibly imposing a substitution of one by the other. This option tried gradually shortening the distance between *formal law* and the average Timorese citizen.

Those involved in the development of a local legal system came to see *traditional justice*, once considered to be an obstacle to progress, as an ally. Even though *traditional justice* continued to be regarded as being less 'evolved', in practice it could help settle many disputes and, therefore, maintain social peace, as well as avoid the accumulation of lawsuits or court rulings that both

parties would have considered as unfair. By 2014, debates in the country no longer focused on whether or not the approximation between *formal* and *traditional law* should happen, but rather on how it should occur in accordance with the needs of such a plural and disputed development domain. This effort has been advanced through multiple kinds of mediations, among which was the mobile-courts project.

### **The project's inception, achievements and *modus operandi***

The inspiration for the mobile-courts project came from a Portuguese magistrate working at the Suai District Court in 2008. He proposed the initiative after realizing how difficult it was for the parties to attend hearings and trials, due to the lack of funds, distance from courts, bad road conditions, and people's other commitments such as tending the land or taking part in cultural ceremonies (JSMP 2010; 2015). The magistrate then began carrying out some of his hearings and trials closer to where the parties lived, initially funded by the Suai District Court. Since this early experience turned out to be effective, he gained further support from the Appeals Court and the Ministry of Justice. This funding lasted until mid-2010, when the initiative began to receive support from the UNDP and the Australian overseas aid program (JSMP 2011).<sup>8</sup> That same year the mobile-courts project came into existence under the coordination of UNDP's Justice System Programme (JSP).

During its hearings and trials, the project allowed the presence of not only the parties directly involved in a given dispute, but also other residents in the region. Critics of the Timorese justice system considered that this level of public access would help gradually bridge the gap between *formal* and *traditional justice*. The project also promoted itself as improving the capacity of Timorese operating in different parts of the justice system, as they worked in coordination with actors of multiple hierarchies and functions. The project assembled prosecutors, defenders, court officials, police

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8. UNDP was the only donor that continued its support for the project after 2012 (PNUD 2014a).

officers, magistrates and other agents of the justice system both for the planning and the implementation stages of mobile courts.

In 2013, in just three days, the mobile-court sessions resolved more cases than the Suai District Court did in two weeks (PNUD 2014b). In 2015, even after the Timorese government's controversial expulsion of international magistrates, mobile courts settled 455 cases in 12 districts. This accounted for 16.3% of all closed cases in the country's courts that year (90% of which were referred to as criminal cases) and over half of all the 870 cases heard by the mobile courts in 2015 (PNUD 2016). In 2014, while I was in the field, local justice system development reached an important milestone: for the first time Timor-Leste conducted hearings and trials in all its municipalities and in the Special Administrative Region of Oecusse (PNUD 2015). Mobile courts received the most credit for it: that year there were 62 sessions and over 360 cases were heard.

According to my interlocutors who worked for the justice system and UNDP in Dili, mobile courts began by selecting cases based on locations that are close to each other, but distant from the district court in charge of that jurisdiction. Priority was given to cases which had the same prosecutor and the defender, not unusual given that fewer than ten individuals occupy these positions in each district court. District court staff, composed of both court officials and magistrates, conducted the screening. The court's administrative judge, the highest ranking official in the district legal hierarchy, needed to review and approve the cases selected. The head of the court officials at Dili District Court, for instance, told me that in his jurisdiction, the administrative judge actually conducted the selection.

After the administrative judge approved the case, the district's head of the court officials had to find a date when the defender, magistrate and prosecutors were available. The court then sent a letter to the police officers in charge of the administrative seat where the hearings and/or trials would be held, notifying them of the plan and the expectation that they would collaborate with it. Cooperation with local agents included their presence during the hearings (for security reasons), and their finding a venue in which to hold the court. Usually, but not necessarily, sessions took place



at local police stations, also called *esquadras*, but they could also occur in buildings belonging to public administration.

The court also sent hearing/trial notifications to the parties involved. Confirmation by the parties was not a requirement for the courts to happen. Having set the dates and times, chosen the cases determined the venue and notified those involved, the head of the district court's officials sent a memo to UNDP communicating all of the relevant details. The information included the kinds of offenses involved, names of all those providing testimonies and the victims, judicial proceeding numbers, and so forth. UNDP then released the funds, most of which covered daily allowances and transportation costs for taking legal agents to the hinterlands. Each mobile-court session cost UNDP around U\$2,750.00 (USAID 2014).

The following section is an in-depth analysis of a case I observed during a mobile court, which raises issues and points out complications that challenged the project's implementation and the very process of state formation in the country.

### **Angelmo x Leopoldo**

I begin this analysis with a statement of complaint the Timorese prosecutor's office presented concerning a neighbor dispute over a parcel of land,<sup>9</sup> which led to alleged death threats. This case was tried during a mobile-court session held in December 4, 2014 in Baguia, to where I traveled with UNDP personnel. The complaint stated that:

On October 13, 2013, at around 08:30am, in the region of Nunudere, in the sub-district of Baguia, district of Baucau, the indicted Leopoldo Pinto, holding a *katana* (machete), went to the backyard of the complainant, Angelmo Maria Aparício, and they began to quarrel about that land parcel. The indicted approached the complainant and told him to stop working in that backyard. The indicted threatened him with the *katana*, saying "with

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9. Conflicts over land tenure in Timor-Leste are very common and varied. According to some reports, they are the second most common kind of civil dispute brought to *formal justice*, after those involving alimony payments (JSMP 2015). For an analysis of land-conflict management in contemporary Timor-Leste, see Oviedo's chapter in this volume.

this katana I will kill you, and there's no problem". After hearing this threat, the complainant left the place. The indicted acted voluntarily, freely and consciously, knowing that this conduct was liable to legal punishment. He therefore jeopardized the complainant's freedom of circulation, as the latter became afraid of the threats.

This was only the first hearing, but both parties did attend. Leopoldo, the defendant, was a 57-year-old advisor at the Ministry of Tourism. He had support from a public defender and two lawyers who accompanied him from Dili. He was from Baguia but lived in the capital, and his position afforded him an income that was far above the average in Timor-Leste – over ten times as much as the minimum wage. Angelmo was a 67-year-old local farmer, who lived in a village close to the police station and whose livelihood came entirely from whatever he could produce on the land.

The dispute between the two men was, however, much older and more complex than the proceedings could recognize. They were in fact relatives: Leopoldo was a nephew of Angelmo's father. Their relations involved over forty years of mutual hostility based on political differences, family conflicts and other problems involving land parcels that harked back to Portuguese colonial times. They were parties in another lawsuit that had not been resolved through formal justice, which was to decide ownership of the land parcel where Angelmo was working when he was allegedly threatened by Leopoldo. Leopoldo's defense stated he had just been warning his cousin that no one was supposed to work on that piece of land until the court ruled on its ownership. Angelmo said Leopoldo was not a good character and had taken part in the Indonesian campaign of terror in Baguia during the 1970s, which included burning houses and killing people. Faced with these statements and other information regarding older conflicts brought to light early on in the hearing, the magistrate pointed out that they were there to address only the death threat:

Today we are here to discuss the threat: each day, one thing. That's how it works. We separate out the problems. That's what we are doing now. Some other day we will discuss the problem of the land, which will also be settled by the courts, as I have already explained to you. So, hold on. This has to be sorted out! Otherwise, when you die, your grandchildren will continue to struggle and the problem will never come to an end...

Despite the accusations, Leopoldo kept claiming his innocence. He said there had indeed been a quarrel, but not on the day mentioned in the complaint. In particular, he stressed that there had been no threat, much the less with a katana in his hand. Angelmo, in turn, kept reaffirming the details in the complaint. The judge called on a witness appointed by the defense, Mr. Inácio de Souza, a neighbor of Angelmo and therefore also of Leopoldo. The man said that he had known both parties for decades, but he could neither confirm what exactly happened that day nor even the date itself, and he had not been present during the quarrel. He only welcomed Angelmo into his house after the event – “the only thing I remember is that it was morning,” he said. At this moment, the prosecutor and the defender exchanged a glance and smiled.

The judge became impatient with the lack of evidence. The prosecutor raised his tone and said that somebody was lying, which was itself an offense. The judge then asked both men to stand up, look into each other’s eyes, without fighting, and talk about what had happened. Both maintained their versions of the event, but interesting information emerged from their statements. Although Leopoldo was an agent of modernity and resident in the capital, he told Angelmo that he should not have taken the case to formal justice, that he should have heard the police’s, the family’s and his own pleas that the matter be resolved through traditional justice. Angelmo declared he had not acceded to the request because he knew that Leopoldo wished to kill him. Visibly upset, he kept saying that Leopoldo was committing a sin by lying before the judge, because the judge stood right below God. Moreover, Angelmo said that by lying Leopoldo was also negating his ancestors, and concluded by exclaiming that “it was my father who arranged your mother’s *barlake* [bridewealth]!”<sup>10</sup> Leopoldo became distressed and began to shout back, but was quickly silenced by the authorities.

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10. For Silva (2014) “[...] bridewealth (as opposed to dowry) involves gift exchanges between women givers and takers, so as to establish alliance relations and rights over persons. These alliances imply a series of reciprocal obligations. The amount and type of goods that make up bridewealth vary according to the individual and collective subjects’ social positions involved. In contemporary urban Timor-Leste, matrimonial prestations are referred to as *barlake*. There is no

At least three points stand out from this case. First, it is significant that both Angelmo and Leopoldo claimed lack of consideration for *kultura* as a category of accusation. Moreover, Angelmo's claim that only God stood above the judge evokes an element of inviolability that seems to echo an important trait of local conflict resolution: the sanction uttered by sacred entities that participate actively in *traditional law* is key for the agreement that occurs after rituals aimed at pacifying ongoing conflicts. It seems therefore that Angelmo's speech sought to draw a bridge between *formal* and *traditional justice*.

The kinship dimension present in their dialogue requires attention. In local practice, alliance relations establish attachments between family groups (the houses of origin of those to be married). These are rigorously regulated by ritual exchanges that are part of bridewealth (*barlake*), which define positions of women giver or receiver – or, in local parlance, *umane* and *manefoun*, respectively.<sup>11</sup> According to Simião (2013), the *umane-manefoun* relational language is fundamental for *traditional law*, especially when parties in conflict are linked through it. This is precisely the situation in focus here: it was probably Angelmo's house that provided Leopoldo's wife, as it was his father who negotiated Leopoldo's mother's *barlake*. If that is so, then Angelmo is Leopoldo's *umane*, and therefore stands in a hierarchically superior position according to local kinship. By declaring this kinship in front of everyone, Angelmo deployed the logic of traditional law to show that, besides being a victim, he enjoyed more cultural prestige than the established, well-dressed and modern Leopoldo. He also evoked an idiom of ingratitude and breach of ancestral duty in order to further delegitimize his adversary.

This case is therefore a good example of how encounters between *formal* and *traditional justice* have unfolded in local practice. While Angelmo was offended by the accusation that he

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consensus however as to what it is, nor what are its effects on sociability – in this sense, *barlake* is best understood as a floating signifier. In fact, it is by strategically mobilizing the multiple meanings attributed to *barlake* that certain individuals negotiate their place in the world" (8).

11. For more on the alliance between *manefoun* and *umane*, see Silva (2012).

had betrayed *kultura* by mobilizing state law, it was he who evoked the superiority of local networks and obligations as a tactic to achieve his own ends. The same can be seen in Leopoldo's attitude: even though he had become a modernizing agent in the country, he also evoked *kultura* even before the hearing, by pleading with Angelmo not to take the case to *formal justice*.

Moreover, Angelmo's anger when accused of betraying *kultura* is better understood if we consider that it was possibly Leopoldo who had not appropriately fulfilled the obligations implicated in the *umane-manefoun* relation that bound them. Although he held an important position in the Ministry of Tourism and enjoyed superior financial status, he was inferior to Angelmo by local standards, and therefore should neither have threatened him nor exacerbated a bad relationship over the decades. Finally, Leopoldo had achieved financial success due to material reproduction implicated in family networks that existed due to the involvement of Angelmo's father in negotiations for Leopoldo's parents' marriage. In that sense, even if the land parcel did not belong to Angelmo, he believed that Leopoldo was indebted to him and to his close kin.

Even though the lawsuit was shelved weeks later through lack of evidence, this, of all the cases that I observed, clearly shows the complexities involved in the encounter between the 'two forms of justice' present in Timor-Leste. Individuals in cases managed by *formal justice* bring with them the traditional language of conflict resolution, such as the *umane-manefoun* logic and a relation with the sacred. The following section brings to light other issues that emerged from my participation in the mobile courts.

### **Other remarks**

According to current law in Timor-Leste, there are two kinds of criminal offenses – public or semi-public. The former are considered to be more serious: prosecution does not require the filing of a complaint and anyone, not just the victim, may report them to the police. The semi-public category concerns offenses that are considered to be less serious, and criminal proceedings can only begin after the victim (or, if the victim is minor, his or her

representative) exercises the right to complain up to six months after the event (RDTL 2009). But, different from public offenses, the law allows for renouncing and withdrawing complaints. According to Article 216 of the Timorese Code of Penal Procedure (RDTL 2006), the victim may withdraw a complaint of a semi-public offense before a final decision is made by the judge, therefore closing the case.

As multiple reports have noted, since Timor-Leste became independent, most offenses in the country have been committed against women, especially in the domestic sphere, and were classified as gender-based or domestic violence. In 2010, a law against domestic violence (Nº 7/2010) came into force which turned it into a public offense (RDTL 2010; Santos Filho 2016). Yet, in the mobile courts that I attended, Timorese male and female magistrates consistently ignored the law and allowed for the withdrawal of complaints in these cases. Neither male nor female prosecutors ever questioned these decisions during hearings and trials. This behavior indicates that both local legal agents and the parties involved in formal justice proceedings in Timor-Leste were subverting its underlying legal logic. All the domestic-violence cases heard by the mobile courts I attended were closed after the original complaints were withdrawn.

In a mobile court in Vemasse, I noted another pattern of conduct that also subverted the logic of formal law. Without questioning, the judge accepted as damages an amount the parties' family had previously agreed upon, which relied on local forms of conflict resolution. Moreover, as some reports have indicated, magistrates frequently agreed that compensation was to be transferred to the victim's family rather than to the victim herself. This follows the standard of *traditional law*: locally, a person is not regarded as an individual separated from his or her family group. This form of compensation is however vehemently criticized from a human-rights perspective, since damages should go to victims and not their families (Hohe and Nixon 2003; Graydon 2005; Grenfell 2006).

Also noteworthy was the informal character of the sessions. As Timor-Leste is a small country with few legal staff, legal actors operating within the same jurisdiction were likely to know each

other. There were even relatives working together in the local justice system: in a mobile court I attended in Aileu, a prosecutor and defender were not only cousins but bore the same first and last names. As a result, at least in the sessions where I was present, magistrates, defenders and prosecutors seemed to act in concert for finding solutions, never acting as opposing parties.

During these sessions, I also noted how Timorese legal agents made an effort to mediate between the domains of local legal sensibilities and the assumptions of 'modern citizenship'. In the context of justice, these efforts may involve legal pedagogies aimed at shaping conceptions and meanings by reorienting conduct, similarly to the economic pedagogy suggested by Silva (2016), and in Santos Filho's terms (2017). Besides the prosecutor's in-court lesson about the pig casualty referred to earlier— who also sought to justify the state's efforts to draw people closer to *formal justice* – it was common to explain to the public at the mobile courts what would be discussed, and the functions of the magistrate, the public prosecutor and the defender during hearings and proceedings. They also instructed the parties to sit straight in front of the judge, to behave, to speak a language that s/he would understand, to listen and comply to the authorities, and so forth.

Therefore, when we speak of pedagogic projects aimed at agents and beneficiaries of Timorese justice, we are referring to projects that are not limited to teaching the population how to carry out their functions, how a modern nation-state works, what behavior is wrong before the law, or how to pursue their demands through formal justice. The legal-modernizing pedagogy they involve seeks to produce individuals in Dumont's terms (2000): a fundamental premise for relating with the legal system. Even more fundamentally, it teaches not just what types of behavior are unlawful, but also seeks to produce a locally shared feeling that they are really wrong, in other words, to establish a new morality.

Another finding highlights the complexities involved in conflict resolution in the country: the heterogeneity of languages deployed during hearings and trials. On one occasion, the case involved four different languages: the one that was locally prevalent, Tétum, Indonesian and Portuguese.

Last but not least, also remarkable was the extent to which the practice of mobile-court hearings and trials strayed from the project's explicit aims. Of the three courts I attended, the one held in Baguia was the only one of relevance with an audience. Half of the hearings planned did not take place because the parties involved did not show up. Moreover, the only cases that were actually closed were those where the complaint was withdrawn. These issues are virtually absent from the statistics included in the UNDP reports. The reports state that the mobile courts settled many cases, but do not mention that most of these cases were finalized not because the judge delivered a sentence, but because the complaint was withdrawn, therefore closing the case. In other words, it was not that the project itself settled many cases: instead taking the courts to the sites where the offenses happened made it easier for people to withdraw their complaints, and therefore extinguish the cases. This fact sheds a different light on the figures presented in UNDP's reports (UNDP 2011; 2012; 2013; 2014a; 2015; 2016).

### **Closing remarks**

Once considered an obstacle to progress, local conflict resolution practices began to be valued by modernity in the twentieth century, especially after the tragedies of World War II. 'Cultural differences' became part of the modernizing ideology, and came to be regarded as a virtue to be valued and preserved. Modernity itself, influenced by an emerging ideology of universal human rights, secured to itself the right to 'dose' culture, that is, to choose which 'cultural' traits are virtuous and worth conserving – dances, chants, clothing, architecture, the arts – and which ones are not: 'wife purchase', animal sacrifice, child labor, hierarchies overlapping with constitutional dispositions, and so forth.

Therefore, both the cherishing of 'cultural differences' and the critique of certain aspects of what is understood as the 'culture' of a people have become, in Silva and Simião's terms, "two sides of the same modern coin" (2016, 201). This global phenomenon, which I call "cultural dosimetry" – or gardening, in Bauman's terms (1991) – is performed by governments moved by modern ideals, which have their own understanding of what



‘local culture’ should look like. It is part of what Silva and Simião refer to as “the invention of East Timorese culture”, a process which takes *kultura* as a means towards modernization, and as “an administrative category deployed in governance policies for engendering an ‘other’ to be disciplined” (2016, 187).

After Timor-Leste gained independence, a movement emerged for replacing local conflict-resolution practices with *modern law*, guided by other, supposedly more humanitarian, paradigms (CRL 2017). This was followed by proposals defending the codification and formalization of *traditional law*, which turned out to be impossible, given the latter’s characteristics as well as other difficulties (CRL 2017; Grenfell 2006; Miranda 2017). Gradually, those involved in the development of a local justice system realized that the best way of attaining the desired aims was to bring *formal* and *traditional* justice closer together, in order to shorten the gap between the average citizen and state justice. The need for approximating these different, and even opposing, forms of justice emerged in the early years of independence, and has turned out to be a solid and publicly legitimate path since then.

Hitherto regarded as an enemy of modernity and human rights, *traditional justice*, like other aspects of *kultura* in Timor-Leste (Silva 2014; 2016), has increasingly become a partner and a viable means for achieving development objectives. Rather than replacing it with *formal law*, as was previously defended, *traditional law* was subjected to ‘cultural dosage’ in order to adapt it to constitutionally ratified international human rights treaties. It also came to be regarded as a means for drawing the population closer to state justice which, although young, already has a huge number of cases to process.

*Formal* or state justice, as I have been calling it, was already born with a negative processual deficit. When Timor-Leste became independent, it inherited all the unsolved lawsuits from the two years of the UN transitional administration. This deficit has never been eliminated and remains to this day, with more cases being added than concluded every year (Rocha 2017).

The growing number of cases going to Timorese courts may be regarded as an achievement, because it means that the population has been increasingly accessing *formal justice* (JSMP 2016; 2017). However, on the other hand, the courts’ slow

settlement of these conflicts may end up jeopardizing the progress made in the last few years. Reports have shown that the local importance and mobilization of *traditional justice* among the population has all but receded (TAF 2004; 2009; 2013). There is also a growth in local movements for valuing Timorese cultural identity, so these processes have converged, prompting a change in perception about the need to develop connections between *formal* and *traditional* justice.

In the absence of formal legislation regulating the relationship, initiatives to draw *formal* and *traditional justice* closer together have involved efforts towards mediating the universes of local legal sensibilities and premises of 'modern citizenship'. I sought to demonstrate, through an analysis of legal pedagogies, that both non-governmental organizations and Timorese legal actors have been enacting this kind of mediation with local populations, even if we acknowledge that the development sector's expectations are not monolithic, but rife with internal differences (Rocha 2017).

Against the background of attempts at mediating between sometimes opposing legal sensibilities, mobile courts gained importance as a project which, besides resolving cases (or finding out that many of these had already been settled), brought the average citizen closer to *formal law*. Timorese legal actors also showed openness to recognizing some of the decisions made by *traditional justice*, and themselves acted out mediation efforts. Precisely for being a locus of encounters between different legal sensibilities, the project's hearings and trials were a stage for interesting events. I sought to show how individuals took to this space a traditional conflict resolution language, such as the *umane-manefoun* logic and the sacred elements evoked during the mobile court in Baguia, as well as some disjunctions involving linguistic difficulties, attitudes, failure to attend, among others.

Moreover, even though UNDP, a non-governmental institution upholding modern values, such as human rights, funded this project, in practice, the Timorese legal actors implementing it brought different moralities, somewhat subverting the organization's 'original plan'. These subversions made room for the kinds of conduct that may challenge universal human rights, such as the authorization to withdraw complaints in

cases involving domestic violence. The latter took place within the scope of a project funded by one of the leading champions of human-rights ideology, the United Nations, and its core development program.

Finally, it may be argued that the project did bolster the proposal of legitimating *formal justice* in the actors' discourses. At the same time, it reinforced the hybrid character of local justice systems, where tradition and modernity are continuously negotiated. In other words, although the program included modernizing pedagogies, such as the abovementioned prosecutor's 'lesson', it also dealt with multiple 'institutions' stemming from local social or traditional structures. These "encounters with modes justice" inevitably led to interesting instances of cultural shock, and provide a window into the future dynamics of developing and implementing justice in Timor-Leste.

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