

Property and Social Resilience in Times of Conflict

Land, Custom and Law in East Timor

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Chapter 8

Land, History and Politics in Maliana Sub-district

Introduction

Maliana sub-district lies in the far west of East Timor nestled in the fertile upland plains of Nunura and enclosed by steep mountain ranges that form the western highlands of Bobonaro district. The region provides the setting for the next case study, which compares the impact of migration, displacement and return on land relations in two distinct communities: the Bunak-speaking mountain community of Saburai in the borderlands with Indonesian West Timor, and the Kemak-speaking community of Uat whose members are settled both near the upland origin settlement of Tapor and the neighbourhood of Ritabou in Maliana town in the lowlands (see Map 8.1).

Following a brief introduction to the setting of Maliana sub-district and town, the chapter turns to the first land study from Saburai village. Saburai experienced intense yet relatively brief periods of displacement during the mid-1970s and in 1999. The process of return and rehabilitation since independence has been



Map 8.1 Bunak and Kemak language areas in Bobanaro district

Source: ANU Cartography 2012

marked by a revitalization of cultural practices that has provided a strong sense of stability for the local community in times of change and uncertainty. Like the case of Babulo, Uatolari, customary institutions have proved to be remarkably resilient in the light of Portuguese and Indonesian era processes of encompassment and continue to provide a focal point for local land relations.

A contrasting experience is provided by the recent history of Uat. This study engages issues of relocation, possession and plural forms of authority that have developed since colonial times. The discussion tracks the emergence of translocal relationships in Uat between the upland settlement of ‘origin’ and a more recent settlement that developed in the lowlands where part of the community now resides. In the upland settlement, access to land and natural resources is inextricably linked to membership of one of the constituent houses of Uat. Ancestral attachments to land are regularly reinforced by reference to local histories of arrival, settlement and alliance, and specific markers and sites in the landscape. In the lowlands, where Portuguese and Indonesian era policies of relocation led to the establishment of a more heterogeneous community and competing sources of authority, highly individualized claims to land have emerged.

Background to Maliana Sub-district

Maliana sub-district is one of six constituent regions of Bobonaro district. The sub-district has a total population of approximately 25,234 inhabitants (Census 2010) and comprises 7 administrative villages (see table for population distribution). Kemak and Bunak are the main ethno-linguistic groups present in the sub-district. While the people of the villages of Saburai, Tapo/Memo, Holsa and Odomau are predominantly Bunak-speakers, the villagers of Ritabou, Raifun and Lahomea are mainly speakers of Kemak. Generations of proximity and engagement mean that there are many bilingual individuals and families, and in Maliana town in particular there are numerous ethnically mixed families where the lingua franca, Tetun, is also widely spoken.

Table 8.1 Population of Maliana sub-district by administrative village

Suku name	Population
Lahomea	3,086
Raifun	2,011
Ritabou	5,441
Odomau	3,831
Holsa	5,520
Tapo/Memo	4,238
Saburai	1,107
Total	25,234

Source: Census 2010

The great majority of the population of the Maliana region are near subsistence farmers cultivating dryland swidden gardens (Tetun: *to 'os*) with seasonal staples of maize, cassava and sweet potato mixed with supplementary taro, beans and pumpkin. Household vegetable plots are planted in house gardens (Tetun: *kintal*) and many households also tend fruit-tree groves including oranges, pawpaw, mango, jackfruit, banana, candlenut and coconut. In limited upland areas some coffee is grown. Cattle (Tetun: *karau vaka*) are raised in some upland areas where there are extensive natural pastures, while water buffalo (Tetun: *karau Timor*) are more common in the lowlands where they are used to prepare irrigated fields for rice cultivation. Most households also keep goats, pigs, and chickens. Animals are valuable household assets that may be sold in times of need, or slaughtered to fulfil family exchange obligations during mortuary rituals, weddings and other ceremonial events.

The Maliana plain is also well known for its irrigated rice production. During late Portuguese times and throughout the Indonesian period large tracts of the upland plateau of Nunura were converted into permanently irrigated rice fields. The climatic conditions in the area are such that farmers are able to benefit from two rice-planting seasons. According to official Indonesian statistics, by the mid 1980s the Maliana rice fields were producing as much rice as the rest of Timor Leste put together (Fox 2002). However, in the aftermath of the violence that followed Timor Leste's vote for independence in 1999, most of the agricultural subsidies collapsed and infrastructure, including warehouses for rice storage and production, was damaged or destroyed. Since independence, local communities, in partnership with the government and international development organizations, have been engaged in the process of repairing essential infrastructure and re-establishing rice production, but progress has been slow and crop yields much diminished owing to limited equipment and production inputs. The marketing of local rice is also hampered by a range of issues such as storage, transportation, seed quality and the competition from government-sponsored cheap imported rice and rice subsidies (Oxfam 2004).¹

Maliana town is the administrative capital of the sub-district and the capital of Bobonaro district as a whole. The town was practically razed to the ground by pro-autonomy militia and elements of the Indonesian military and police during the violence that surrounded the UN-sponsored popular consultation in 1999.² Almost

1 During the Indonesian occupation, the rice industry was part of a national centralized collection and distribution system. This system began to breakdown in 1997/98 owing in part to political violence in Timor Leste but also to the broader socio-economic crisis affecting Indonesia. After the 1999 referendum, what remained of this system stopped operating completely. Today rice production levels generally remain at subsistence level (Oxfam 2004).

2 Levels of violence in Bobonaro district and Maliana sub-district were extremely high. Two of the worst incidents involved the killing of seven pro-independence supporters in Kailako on 13 April 1999, and the massacre of scores of people who had sought refuge at Maliana Police Station on 8 September 1999 (see CAVR 2005). At least three militia groups

the entire population of the sub-district, and Maliana town in particular, was displaced in the aftermath of the vote. The majority of the population was forcibly displaced to camps in Indonesian West Timor while others sought refuge on the slopes of Loelako Mountain or the mountain ranges between Saburai and Lolotoi. Although the majority of the displaced population returned in late 1999 and early 2000, a number of former members of pro-integrationist groups involved in the violence have not returned, and are not likely to return. The reconstruction and rehabilitation of public buildings and basic infrastructure has been slow. However, since independence in 2002, some progress has been made in the provision of key public services and Maliana has become an important regional centre. There are two senior high schools, an agricultural college, two junior high schools and ten primary schools, a regional hospital and the regional police command station. The town is also well connected to Dili with a number of daily bus services to the capital. Given its proximity to the Indonesian border, Maliana town has also benefited from cross-border trade and has a vibrant market. Although most market stalls are open throughout the week, there are also a number of shops and commercial businesses in Maliana town. The main market day is Saturday and it draws many traders from the surrounding region including people from more distant upland communities who come to sell their produce and buy domestic provisions such as oil, kerosene, sugar, and rice.

The Stability of Saburai

For some communities beyond the more intensely settled lowlands in Maliana and the ribbons of sealed road that connect the town to other centres, the customary basis for patterns of land ownership have remained relatively unaffected by long-term migration or displacement to the lowlands. The Bunak-speaking village of Saburai located in the mountains between Maliana town and the Indonesian border is a case in point. Their experience illustrates the resilience of customary institutions and the persistence of practices among long-emplaced communities. They represent a 'coherent ritual community' where the rhythm of social life is tied to the ceremonial cycle of agriculture and local governance is very much in the hands of the customary leadership who provide moral and political guidance as well as decision-making on matters affecting the domain (*suku*) including the allocation and use of land and natural resources (McWilliam 2008). The following discussion presents a more detailed description of Saburai social relationships to land in their ancestral domain, including some of the considerations governing customary land management practice.

operated in Bobonaro district: Dadurus [Dadarus] Merah Putih militia (DMP, Red White Tornado), which was based in Ritabou and had a branch in Maliana town; Halilintar, which was established by the former *bupati* of Bobonaro, João Tavares; and Kaer Metin Merah Putih, which was based in Lolotoe.

Saburai village comprises three administrative hamlets (*aldeias*) scattered across the territory of the *suku*. These are Tas Massac (152 households), Cossal (132 households) and Mabil Oa (142 households) (Census 2010).³ Right up until the 1970s the majority of the population of Saburai lived in dispersed settlements across the foothills of Mt Mali Toli and along the border region with West Timor, where they retain familiar and alliance relationships with neighbouring Bunak communities in the Lamaknen region.

Unlike other communities in Maliana sub-district, Saburai experienced intense yet relatively short periods of displacement during the second half of the twentieth century. During the internal political conflict and immediately prior to the Indonesian invasion in August 1975 supporters of UDT (*União Democrática Timorese*) and Apodeti (*Associação Popular Democrática Timorese*), including the *liurai* of Memo, who under the Portuguese administration had jurisdiction over Saburai, forced scores of villagers from Saburai and Tapo/Memo across the border to West Timor (CAVR 2005). More widespread displacement followed in October 1975, when the Indonesian troops began covert military incursions into the territory of then Portuguese Timor and the people of Saburai began to flee their settlements seeking refuge either farther up in the mountains or across the border.

During the early years of the occupation, as the Indonesian troops took control of the area and the civilian population began 'surrendering' from their places of refuge, the people of Saburai were forced to live in large camps under military supervision. The majority was held either at a 'displacement camp' in Memo on the Nunura plain, or in Maliana town. In the early 1980s the Indonesian authorities permitted the return of the population to 'secure areas' or arranged for resettlement to 'new' villages along sealed roads and urban clusters. The return to Saburai took place in 1982 and was coordinated by the newly appointed village head, the *kepala desa*, who had taken the place of the former village head (*chefe do suco*) appointed in Portuguese times. While some people chose not to return home but to 'seek out a living' in Memo or Maliana town, the majority of the population returned to live and farm on their ancestral lands. On return some restrictions to movement were in place. For example, areas close to the mountains and forests were out of bounds for security reasons, including Tas Massac, the main ritual site of Saburai, and the population was encouraged to settle in hamlet 'clusters' rather than dispersed settlements.

In the violence that followed the popular consultation in August 1999, the people of Saburai were displaced once again. For most of the population the displacement was short lived. Informants described how immediately after the ballot most of the men fled to the hills while women and children were transported on trucks to camps across the border in Indonesian West Timor by pro-integration militia. As early as October 1999 the majority of the displaced population had spontaneously returned to Saburai and begun the process of rehabilitation. Only one group, under the leadership of the Indonesian era village head, who was also

3 During the Portuguese period the village, together with Holsa and Tapo/Memo, the other predominantly Bunak *suku* of Maliana, fell under the jurisdiction of the *liurai* of Memo.

a commander in the local Dadurus Merah Putih (DMP) militia, remained in West Timor until mid 2001.⁴ This group comprised mainly people from the former village head's own hamlet of Mabil Oa and included some members of the DMP militia. Their return involved intense negotiations with the local community and caused the former militia to voluntarily surrender to the UN Peacekeeping Force (PKF). While the former village head himself chose to resettle in Maliana town, most of this group has now returned to its ancestral lands.⁵

Today, there exists a degree of mobility between Saburai and more densely populated areas such as Memo or Maliana. However, this tends to be limited to students attending secondary school, or those employed as civil servants, teachers or nurses. Those who study or work in Memo or Maliana elect to walk the four-hour round trip to Maliana town on a daily or weekly basis rather than settle there more permanently.

Social and Ritual Organization

One of the main reasons why the customary basis for patterns of land ownership has remained relatively unaffected by migration or displacement lies in the resilience of customary institutions and the persistence of cooperative practices that foster the interdependent nature of the relationship between people and the land.

Land relations and the organization of everyday social life are ordered around nine principal clan 'houses' of origin (*deu ginil*). Each house comprises a number of subsidiary houses or lineages. All people of Saburai belong, or are affiliated, to one or another of these ritual houses. Members of clan houses affiliate through their mothers and all clan land is held maternally and inherited through the mothers and daughters of the house. Sons of the ancestral house must marry out and cultivate the lands of their wives and affinal relatives, although they retain entitlements and obligations to their mother's and sister's in their natal house. The complex of practices is referred to collectively as the 'mother's law' and provides a set of conventions and protocols of practice to which all members of the community abide.⁶

A key site of cultural and ritual orientation in Saburai is the ancestral settlement of Tas Massac. Located high on the slopes of Mt Mali Toli the settlement forms an extensive stone fortification and spiritual centre for the nine clan houses that founded the first settlement of Saburai. These ritual structures were largely destroyed during the Indonesian military invasion but the layout and the megalithic

4 About 11 families chose to remain in West Timor or elsewhere in Indonesia. They maintain contact with their family in Saburai.

5 Later in 2003, a community reconciliation meeting that included a number of deponents who were part of this group was held under the auspices of the Commission for Reception, Truth and Reconciliation.

6 While women play an important role in the ritual life of the community the elevated status of 'the feminine' as source of all life does not necessarily mean that women are afforded greater decision-making power within the sphere of everyday social life.

focal points of the centre remain intact.⁷ When Saburai households were able to return to the village in the early 1980s they were not permitted to rebuild the ritual complex in the old centre, but instead constructed a temporary or transitional complex (described as *uma simples* or *knua foun*) farther down the mountain that, in terms of its layout, mirrors that of the old settlement and provides the active focus for house-based rituals for the local community.⁸

Table 8.2 Customary authorities in Saburai

'Eme' Deu hima pó bali	Female keeper or guardian of the ritual clan house.
Deu Gubul	Male head of the house. Responsible for decision-making regarding disputes between members of the house.
Lal Gomo	Ritual speaker/spokesperson equivalent to <i>lia nain</i> in Tetun. Determines sanctions for any infractions of the customary social and moral code.
Lolo Gomo	There are a number of different <i>Lolo Gomo</i> who are responsible for the oversight of different areas of land and natural resources. They also act as intermediaries between the people and the <i>Lal Gomo</i> . The <i>Lolo Gomo</i> 's role is similar to that of the <i>Kabu</i> or <i>Cabo</i> in other areas.
Ukon Gomo	The <i>Ukon Gomo</i> makes public announcements regarding seasonal prohibitions and together with the <i>Lal Gomo</i> determines sanctions for any infractions of the customary social and moral code.
Lokar Gomo	Equivalent to the <i>Kukun Nain</i> in Tetun, the <i>Lokar Gomo</i> retains special knowledge of the history of the land and its people.

At each of the 'sacred' houses (*deu pó*) in the 'temporary' ritual complex, a woman from the respective clans takes the role of female guardian (*Deu hima pó bali*: the women who tend the sacred house) or 'mother' (*eme*) of the clan. Her role is to guard the ancestral clan heirlooms and sacra, tend the sacrificial hearth fire (*Bunak*: *hot giral*, Tetun: *ahi matan*) and participate in birth rituals for new members of the house community. Members of each house also choose a male head of house (*deu gubul*). His role is to safeguard the 'words of the ancestors' (sacred knowledge), provide leadership for all members of the house and have the authority to resolve conflicts that might occur within the house or between houses.

Five houses provide the ritual leadership of the *suku* community. These are Lo Nai, Mone Ichu, Siri Gatal, Los Lokar and Leo Ues. Members of each of these

7 The site includes stone altars, the stone base of the domain flag (*bandeira hun*) and of the former cult houses as well as gravestones and other elements of the ritual centre. Although people no longer live at the old centre, it is still used actively for major house ceremonies and as a vital (*pó*) location for cultural performance.

8 Other houses have also been constructed in the settlements of Mabiloa and Cossal. However, these are meeting houses and do not contain hearths. Tas is the ritual centre for all the community.

houses appoint a *lal gomo* (spokesperson or Tetun: *lia nain*) and together they represent the senior holders of local cultural knowledge and principal advisers on all matters of significant community interest. The *lal gomo* are assisted in both ceremonial and practical tasks by a series of customary officeholders who provide a policing and communicating role to maintain the cultural rules. Although the community duly elected a village head in 2006 (re-elected in 2009) in accordance with the national state system, the *chefe suco* is a young man and quite junior in the customary hierarchy. His authority is very much dependent on the advice and support he can garner from the customary elders of the domain. A view expressed in Saburai is that ‘if the Government (*governu*) wishes to do something in the village, they have to go through the ritual leaders (Tetun: *lian nain*, Bunak: *lal gomo*, ritual speakers)’.

Ritual and the Agricultural Cycle

Three of the nine clan houses are considered to be the founding houses of the Saburai community. During ritual ceremonies all other clan houses and their subsidiaries congregate around three distinct altars representing these founder houses:

Table 8.3 Saburai founding houses

‘Feminine’ lord	Mone Ichu Mil or Gamal Ichu	Ratu or Datu Mil/Gamal Dato/Deu Benu
Lo Nai	Mone Ichu	Siri Gatal
Ferrian Mau*	Loko Gatal (Loko Hatar)	Los Lokar (gate-keepers)
	Ma Belis	Los Chu
	Leo Ues	<i>Deu Ebi</i>
	<i>Leo Rawan</i>	
	<i>Leo Malis</i>	

Note: The clan of Ferrian Mau no longer exists. The house of Lo Nai looks after the Ferrian Mau altar and Ferrian Mau lands

During the decades of Indonesian rule, the major ritual festivals that marked the agricultural cycle in Saburai fell into disuse, but they have been gradually revived from 1997 and further revitalized in the years following national independence. The ceremonial cycle that engages a series of collective domain-wide ritual events provides another example of the strength of the moral community of Saburai.

There are four main rituals undertaken during the year. The first is a ritual involving a public sacrifice (buffalo/pigs) and commensality with the ancestors undertaken at the ‘old centre’ (*knua tuan*). The purpose is to ‘feed’ the dead, and restate the relationship of mutual interdependency that the living maintain with their forebears. Participants are expected to attend with clear consciences and no

arguments are permitted on the day. Following this ceremony known as *Chubi Lai*, which marks the beginning of a new cycle, the community participates in a ritual known as ‘burning the grass’ (Bunak: *an ini*).

An ini is associated with the clearing and burning off of cleared gardens in preparation for planting. At this time over a three-day period of licence, young men of the village engage in ritual hunting, of pigs, deer, monkeys, and cuscus possum among other edible wild animals, bringing them to a designated site called *La Ta* below the old settlement for preparation of sacrificial offerings that will later be taken to the ancestral centre by the female house custodians and male ritual authorities.⁹ Both men and women are active in the ritual process, but distinguished by gendered tasks.

Subsequent rituals include a post-planting ceremony invoking the fertility of the soil and strong growth of plants (Bunak: *ukur ho'on gio*, Tetun: *matak malirin*, cool green), and a closing public ceremony as a maize harvest celebration (Bunak: *paol gipi ge*, Tetun: *silu batar*: harvest maize) and an expression of gratitude to the ancestors and God. Each ceremony provides an occasion for the community to reinforce the spiritually sanctioned rules by which people are expected to live. The community-wide injunctions or prohibitions (Bunak: *ukon zikalkail*, Tetun: *Tara bandu*) apply to forms of harvesting and land use practices (periods of no burning, hunting or felling of trees) as well as to a range of proscriptions against social offences – no stealing, no adultery, no fighting and so on.¹⁰ Transgression incurs fines (*ukon no golo*) and opens offenders to forms of spiritual or ancestral sanction such as illness, the death of children or other misfortunes. Within the traditional clan structures, a series of customary officeholders are recognized who provide a policing and communicating role to maintain the cultural rules. The *lolo gomo* for instance has a monitoring and reporting role across the domain and will report infractions to the *ukon gomo*, who is responsible for announcing the seasonal prohibitions (*ukon zikalkail*), and then to the *lokar gomo*, who is also one of the senior clan ritual leaders of Saburai (*lal gomo*) and has oversight over the agricultural cycle, if the issue is considered sufficiently serious

Marriage Prescriptions and Practice

The practice of matrilineal kinship and matrilineal residence is a cornerstone of Saburai land relationships and distinguishes the Bunak-speaking people of Saburai

9 Older men and women also ‘follow’ the ritual hunt sometimes assisting in chasing down an animal but mainly in order to gather forest fruits and other natural resources. Only the female and male elders attend the ancestors in the old village. All other participants return to their own homes where they consume their portion of the sacrificial offerings and share it among family members who were unable to attend.

10 The prohibitions are opened and closed or reinstated through ritually sanctioned invocations.

from the majority of other ethno-linguistic groups across East Timor.¹¹ As a general rule members of the same ‘house and hearth’ (*deu gubul*, *hot giral* or *hoto deu*) may not marry. Sanctioned marriage patterns or relationships between houses are described as *malu ai*. There is no custom of *barlaki* or *hafoli feto* (bride-wealth or bride-price) in Saburai marriage practices. Elders stressed that equal value was placed on both men and women and that marriage gift exchange represented the effort and investment of the respective families in bringing up their children – not the ‘purchase’ of the bride.¹² *Malu* houses (bride’s house) give feminine goods, while *ai* houses (groom’s house) give masculine goods.¹³ Gifts exchanged during the course of marriage negotiations are minimal in comparison to similar prestations among other groups found across East Timor.¹⁴ On marriage the groom lives on land belonging to his wife’s mother. He does not become a member of his wife’s house, nor does his wife become a member of his own house. Any children will be members of their mother’s house.¹⁵ A newly formed family unit will farm the wife’s mother’s land and may also have access to the wife’s mother’s house land. If a man’s wife dies he is no longer entitled to farm her mother’s land and must return to his own maternal house land. In the case of the death of their mother, children often remain with their maternal relatives; typically a female sibling will take charge of her nephews and nieces if her sister dies. Informants suggested that whoever looks after the children has the right to cultivate land previously farmed by their parents but once the children are old enough they will farm this land.

If a man or woman from Saburai marries outside the community a degree of negotiation is required regarding place of residence, access to land, inheritance and house membership of the wife and children. Across Timor Leste the most common marriage pattern involves asymmetric exchange between wife-givers and wife-takers (Tetun: *fetosae-umane*), whereby the bride usually leaves her paternal home to form a new family unit on her husband’s father’s land and will usually

11 In Tetun speaking areas such as Suai/Kamenasa or Viqueque matrilineal clans are found but they are not necessarily matrilineal (see Hicks, 2004). In the case of the Kemak of Leosibe a form of temporary uxorilocal residence may occur until bridewealth exchange is complete (see Uat example).

12 This may be a relatively new concept but informants (including some of the elders) suggest that the Tetun phrase *uma folin* (house-price) rather than *feto folin* (bride-price) more accurately describes the spirit of this exchange.

13 In *malu ai* relations there is no sense that wife-givers are superior to wife-takers.

14 Usually this involves the simple ‘symbolic’ exchange of ‘feminine’ goods such as *tais* (cloth) and ‘masculine’ *belak* (gold plate) or money. One informant stated that for her ‘traditional’ (*lal adat*) marriage the cloth and money exchanges between houses probably had a value of around USD 100. This pattern of exchange is replicated during specific times of the year or events such as house building, funerals, etcetera.

15 Friedberg describes another type of marriage among the Bunak of Lamaknen where the bride is represented metaphorically as a cutting that is ‘transplanted’ to her husband’s house. She and her children become members of her husband’s house and inaugurate a line of descent called *dil* (Freidberg 1996).

– depending on the protocols regarding bride-wealth (Tetun: *barlaki*) – become a member of her husband’s father’s house. Of the mixed marriages observed in Saburai there was a tendency to accommodate the customs of the bride’s family. Therefore, in the case where a man from Saburai married a woman from outside the community her family expected that she would leave her paternal home and that her husband’s family would engage in the appropriate gift exchange.¹⁶ The wife and any children from the marriage would remain members of the wife’s father’s house until the complete bride-wealth was exchanged.¹⁷ The *deu gubul* and maternal uncles of the husband would be responsible for identifying and allocating house land to the couple. While the couple would not ‘own’ this land, their children would have the right to inherit the land through their paternal grandmother. In the case where a woman from Saburai married a man from outside the community there was a strong sense that the wife’s marriage customs would prevail. Women are considered to be the source of all life. For many it is unthinkable that a woman would leave her maternal house and land as this would involve an obligation to take the source of life and ‘wealth’ (Tetun: *rikosoin*) of her house with her.

Land Allocations, Boundaries and Use

Informants from Saburai described possessing a variety of entitlements to land for both farming and house-building based on ancestral and contemporary cultivation practices, type of land, type of crops and location. Most people farmed one to four plots of land measuring anything between 1 and 3 hectares on a rotational basis. Some plots were farmed exclusively by the farmer and immediate family, some farmed collectively with other house members or affines (*malu ai*), while others share-cropped. Few informants claimed to farm irrigated rice plots in the lowlands (see also Census 2010).

The nine clan houses of Saburai form the principle land-holding units of the domain. Informants typically stated that the ancestors were responsible for distributing land among the clan houses and that land allocation reflects ancestral cultivation practices. House land (*Echu Deu*) is usually demarcated by certain physical features in the landscape such as rocks, trees and river courses. The head of each house (*deu gubul*) is considered to be the authority on all house land history and boundaries. He is ultimately responsible for all important decisions regarding land including land allocation and land dispute resolution. The ritual speaker of the house (*lal gomo*) also retains communal knowledge of domain land and may be called upon to resolve any boundary disputes. Houses that are considered to be

16 Not all *fetosae-umanne* marriages have this requirement.

17 In the event that a husband dies before the ‘bride-wealth’ exchange is complete, his widow and children may return to her father’s land. However, if the exchange is complete there is an expectation that the widow and children would remain on his mother’s land. In the past, this meant that arrangements may have been made for a widow to marry her husband’s brother or other male relative.

founder houses can have no distinguishing boundaries and access to land among these houses is fluid. For example, there are no boundaries between land belonging to the house of Siri Gatal and those of Lo Nai, Mone Ichu or Los Chu and similarly Loko Gatal shares land with Mone Ichu, Ma Belis, Leo Rawan and Leo Malis.¹⁸

House land is ultimately considered to be the common property of the clan, but it is held maternally and rights to individual plots are inherited through mothers and daughters. Nominally, any land previously farmed by the mother will pass to the eldest daughter. However, she may allow other members of her family to also farm this land. Her brothers and other male members of the house can ask permission to farm their sister's or their mother's land, but are generally expected to access land belonging to their wives and affinal relatives in the first instance. One area of house land is specifically reserved for the female guardian of the house and members of the house are expected to contribute time, labour or resources to farming this land. Although land is maternally held, husbands and brothers are considered to be the 'managers' of this land. Depending on individual dynamics between husbands and wives or sisters and brothers, women may have a greater role in land management. However, more often than not men will make important decisions regarding land management.¹⁹

Informants expressed conflicting views regarding sale, transferral or rental of house land. However, land transactions between members of different houses do occur. Once land has been transferred it can no longer be claimed by family members or house members of the original owner, if the land is sold to a member of a different house. Most informants agreed that no house land could be sold to outsiders. Any land transactions should involve the relevant customary authorities, principally the *deu gubul*, the *lolo gomo* charged with oversight over land, and in some cases the *lal gomo*, *chefe aldeia* and *chefe suco* as well.

Informants typically asserted that there was no un-allocated land within the domain.²⁰ However, they also stated that not all land was considered to be house land. Non-house land includes previously unused or abandoned land. Customarily, the *lolo gomo* must be informed prior to farming any unused or abandoned land within the domain. The *lolo gomo* (the guardian of land and natural resources) informs the *lal gomo* (ritual spokesperson) who will determine whether or not this land may be cultivated. This land is individually owned by whoever is responsible for fencing, clearing, burning and cultivating it. What distinguishes this land from house land is that it cannot be claimed by other house members but will pass

18 This reflects the three broad house groupings based around the founder houses described above.

19 One informant suggested that this was because during the Indonesian occupation the concept of male head of household was enforced for contractual reasons.

20 One informant suggested that the only 'unused' land left in the village domain was *rai manas* (sacred or haunted) and therefore could not be farmed or used to build houses. However, another informant described how he and his wife asked for permission to build their house on a plot of land that was deemed to be *rai manas* by the elders.

directly to the children of the individual owner and to subsequent generations through the female line.²¹ The inter-generational entitlement arises from acts of possession subject to the permissive authority of ritual elders.

Rice Fields

Included in this category of ‘privately’ or ‘individually’ owned land are also areas of irrigated rice paddy in the lowland areas close to the Nunura River. However, it is unclear the degree to which customary officeholders such as the *lolo gomo* and the *lal gomo* have been involved with the management of this land. One such area of land is called Zupal Galap. Informants stated that, during the 1960s, a workgroup of about 20 people from the hamlet of Tas Massac dug irrigation channels on this land in order to cultivate rice. They claim that this land belonged to the traditional domain of Saburai but had previously laid ‘abandoned’ and ‘unused’ because it was too far from the settlements. People from Tas Massac claim to have farmed this land right up until 2000 after which the irrigation system fell into disrepair. However, during the mid 1990s the land was the subject of a land-grab by the then district administrator of Bobonaro, Guilherme dos Santos from Tapo/Memo. Dos Santos claimed that the land originally belonged to his father the Portuguese-era *liurai* of Memo.

While further inquiry into the details of this dispute is required, it follows a similar pattern found in other areas of Timor Leste including Uatolari and Ainaro. Under Portuguese rule powerful *liurai* or *regulo* were able to draw on labor from the populations under their jurisdiction to work on agricultural projects that were in many cases initiated by the Portuguese administration. In the post-independence period disputes have arisen between those involved in working on these fields and family members of the former local authorities charged with establishing these projects. The case of Zupal Galap also has political undertones as the claimants from Saburai involved in the dispute were considered to be pro-independence supporters and Guilherme dos Santos was a prominent pro-integrationist, instrumental in the creation and support of pro-integration militia in Bobonaro district. These types of dispute, which are explored in detail in Chapter 10, illustrate the interaction between contested historical claims of possession and dispossession, and political changes in the state regime.

Plantations

As in other areas of Timor Leste, informants from Saburai stated that fruit trees belonged to the person responsible for planting them (and their descendants) regardless of whether or not these were planted on house land. However,

21 Insufficient cases of this sort of individual land ownership were documented to draw any conclusions. However, it is possible to suggest that either this land will eventually become part of the broader house legacy and therefore become house land; or that this type of individual land ownership claim represents an evolving land-holding model.

informants also identified certain areas such as sacred betel nut groves that were considered to be communal resources. One such area, in a place called Soe Lelo, used to be harvested collectively once a year by the people of Saburai and Memo. But it seems that this is no longer the case.

Natural Resources

Certain areas of land and natural resources within the domain of Saburai are subject to special injunctions or prohibitions (Bunak: *ukon zikal kail*, Tetun: *Tara bandu*). These include rocky outcrops, mountaintops and stone altars, many of which are associated with ancestral histories of origin as well as important communal natural resources such as areas of old-growth forest and water sources. Some of these sites are completely 'out of bounds' and transgression will not only incur a fine (*ukon no golo*) defined by the *lal gomo* but also expose the transgressor to 'unseen' forms of spiritual or ancestral sanction including illness or death. Other sites and resources may be accessed but one or more of the *lal gomo* must be involved and the correct invocations and animal sacrifices must be made to the ancestral or spirit guardians.²² This applies in particular to certain areas of old-growth forest that may be accessed by members of the community, particularly when they require wood to build or rebuild their houses. Some sites, such as sacred springs, may be accessed at any time but particular 'rules' or behaviours must be observed. For example, from one water source called *Il Pó* (literally: sacred water) it is safe to fetch water as long as none of the surrounding trees or plants are damaged or broken and no water is spilt back into the source. Although they may not be recognized as such, many of these prohibitions and injunctions have clearly positive environmental outcomes. Conserving areas of forest and foliage around springs and water sources serves to create natural filters that keep the water fresh and potable. By acting as gatekeepers to areas of old-growth forest and imposing fines for infractions, the *lal gomo* manage access to this valuable resource and potentially ensure its sustainable use.²³

Customary Dispute Resolution Mechanisms

Any land disputes or infractions regarding the use of land and natural resources are dealt with in the same way as a range of social offences through a process called *pil*

22 Such statements by informants are usually accompanied by a 'cautionary tale' involving a well-known member of the community. For example, elders recounted the story of a former village head who was baptised and no longer believed in local customs and practices. He decided to open an area of old-growth forest in which to let his animals graze without undertaking the necessary rituals and as a result both he and all his animals started getting sick.

23 Some informants who had heard of, or were involved in, projects run by environmental NGOs commented that their ancestors understood the benefits of looking after their environment.

gewen (Tetun: *nahe biti boot*). In the case of a land dispute between members of the same house, the disputants meet with the *deu gubul* and other members of the house who know the history of the land. In cases involving disputants from different houses then the *deu gubul* of the houses involved will be present. The disputants, house elders and witnesses sit together to discuss the nature of the dispute. In most cases the *deu gubul* will try to negotiate a compromise between the disputants. However, in cases where a party to the dispute is found clearly in the wrong the *deu gubul* will settle the case in favour of the injured party and may impose a fine on the offender. The case will be ‘closed’ with some form of ritual sharing of food and drink. If a case cannot be resolved by the *deu gubul* he may call on the council of *lal gomo* to intervene and pass judgement (Bunak: *dato hol leki*). After listening to the parties to the conflict and witnesses the *lal gomo* will make a decision regarding the case, which again might entail some sort of compromise between the parties to the dispute, or, in cases where a person is found guilty of an infraction, a fine might be imposed and the offender may be publically admonished.²⁴

Local dispute resolution mechanisms are favoured in Saburai, in part because people’s experiences dealing with government institutions such as the Department for Land and Property, the police or the sub-district administration have been unsatisfactory. These institutions tend to be regarded as remote, inefficient or biased.²⁵ Consequently, the leadership of Saburai have instituted a local rule declaring that if anyone takes an accusation or dispute ‘outside’ the community and the charge is not made or found to be legitimate, then the accuser must pay a series of fines (at the river, the road, the edge of the settlement) by way of recompense for bringing members of the community and the name of the village into disrepute.

In many ways Saburai presents a largely self-regulating community where access to land is based on ancient clan histories, and use of land and other natural resources is regulated through the still influential cycle of sacrificial religious practice. This is not to say that the people of Saburai do not suffer discrimination and differential access to resources derived from entrenched social hierarchies, or that principles and practices regulating access to land and natural resources remain fixed in time, are non-negotiable or are free from external influences. But what is striking is the range of cultural practices that has been sustained and revitalized in the years since the Indonesian occupation, and the sense of stability that these have afforded the local community in times of change and uncertainty. For people

24 By way of example, for breaking the prohibition a person may be fined a pig or a buffalo if serious enough, by the clan leaders. At the hearing of the offence, the animal would then be slaughtered and its legs cut off and hung on a post or tree near the site of the offence. The rest of the meat would be carved up and distributed among the witnesses and participants to the process of judgement.

25 People’s experience has been shaped during the Indonesian era and post-independence. Police or representatives have been found slow to respond or reluctant to travel to remote locations such as Saburai, which at the time this research took place was only accessible by foot (two hours’ walk) or by 4X4 vehicle.

in Saburai the enduring authority of customary institutions provides a continuing and locally legitimate framework for understanding relations in land and for negotiating land use agreements between categories of kin, affines and outsiders (McWilliam 2008). It is evident that, while the external influence of the state in its various guises has introduced alternate forms of legitimation and regulation, these have yet to radically transform the nature of land-based transactions in Saburai. Saburai, in other words, provides a striking illustration of resilient and self-sustaining customary practices, notwithstanding the experience of displacement during the Indonesian military occupation.

The Translocality of Uat

A very different experience is presented in the following discussion of the community of Uat. Here, under the pressures of late colonial development policies, and the impact of Indonesian occupation, the original settlement split and substantial member households now reside in the lowlands as a formal part of the village of Ritabou around the town of Maliana. The following discussion highlights the complications of translocal settlements and illustrates the limits of customary institutions in seeking to manage land relations in different settings. The context involves large numbers and heterogeneity, and greater plurality of public authority, than the case of Saburai. There is also much greater individuation of rights to land as a result of changing cultivation practices, increased involvement by the state (in its colonial and neo-colonial forms), and greater awareness of the commodified monetary value of land. In a number of cases, these individuated claims to land rests on histories of actual possession or narratives of dispossession.

Until the early 1970s, the *concelho* of Maliana was made up of 3 *reinos* (kingdoms), 6 *sucos* (villages) and 21 *povoção* (hamlets) (Sherlock 1983). However, these administrative divisions did not always match pre-existing or underlying social organization and political groupings. The people of the present-day villages of Raifun, Ritabou and Lahomea (and to a certain extent Odomau) consider themselves part of a broad *Kemak*-speaking kin group called *Leo Sibe* (literally: nine settlements).²⁶

Today, Uat is one of the administrative hamlets of the village of Ritabou, which is the most heterogeneous of the seven villages of Maliana sub-district. Ritabou now includes populations that historically formed part of *Leo Sibe* as well as communities from Marobo (Atu-Aben, Soilesu, Bobonaro sub-district) and Hauba (Mali Ubu, Bobonaro sub-district) settled in Maliana town. However, during the Portuguese period, the composition of a village or *suku* was determined

²⁶ The history of *Leo Sibe* is locally contested. Bunak people claim that *Leo Sibe* is derived from an earlier territorial grouping of Bunak lands. In Bunak, *Leo Sibe* is known as *Lamak Chiwe* (Lamak Nine). *Lamak Ichu* (Lamak Seven) is in West Timor and *Lamak Sogo* (Lamak Ten) is in Bobonaro.

by group membership rather than territory. Thus, regardless of whether they are settled in the uplands or lowlands, the people of Uat claim hamlet and village membership based on their relations to one of the constituent clans or houses of Uat that traditionally formed part of Ritabou *suco* (village).²⁷

From a population of approximately 120 families, the hamlet head of Uat calculated that 56 families are currently settled in the lowlands around Maliana town, while 64 families have chosen to settle in the uplands close to Tapor, the now abandoned original hilltop settlement of the origin houses of Uat.²⁸ However, he stated that there was a high degree of mobility between the two locations. In general, he felt that older members of the community tended to prefer living in the upland village close to their ancestral houses and lands, while younger members, particularly those of secondary school age, tended to move with their parents or close relatives down to Maliana town to attend school. Nevertheless, there were some families who moved between the upland settlement and Maliana town.

According to local histories, the original founders of Leo Sibe came to the uplands between Bobonaro and Maliana in search of land. They were granted land and settlement entitlements through an alliance with the people of Marobo.²⁹ Leo Sibe was divided into two groups of ten ‘houses’ or clans, each corresponding to one of the two hilltop settlements of Usi and Uat. The two groups refer to each other in kinship terms as brother and sister (*na’an ho feton*). The ‘female’ houses of Usi, which is located at a higher altitude in relation to Uat, are also called *Sapulu Tete* (ten above), and the ‘male’ houses of Uat are known as *Sapulu Nera* (ten below). As the population of Usi and Uat grew, subsidiary or branch houses settled throughout the upland areas and down towards the Nunura plain just south of Maliana town.

The Upland Community

The upland community of Uat is structured around nine (originally ten) lineages/houses.³⁰ Each house may have several branches or subsidiary houses – some have settled within their ancestral lands while others have settled farther afield

27 There is a long history of animosity between the community of Uat and the former *liurai* of Ritabou described in more detail in Chapter 8. During the Indonesian period this rivalry manifested itself in attempts by a village head from the *liurai* house of Ritabou to transfer the people of Uat under the jurisdiction of a village in the upland area close to Bobonaro township.

28 Current Census 2010 population figures, based on village of residence, place current population of Uat to be 99 households, 535 persons.

29 The houses of Leo Sibe are collectively ‘Tai’ (male) in relation to Marobo ‘Sabe’ (female). The houses of Uat are sometimes referred to as ‘uma ai-ri’in mane’ in relation to the houses of Marobo, which are described as ‘uma ai’ri’in feto’ in recognition of their traditional role as ‘wife-takers’ (Uat) and ‘wife-givers’ (Marobo).

30 The house of Nugu Luli is still remembered in ritual; the house of Bau Ubun has been ‘exiled’ and is no longer considered part of the ritual community.

but still carry the same name. House membership usually consists of agnatically related male kinsmen, their in-married spouses and children. However, there are exceptions. In some cases a person may be incorporated into, or 'adopted' by, a particular house because they have been chosen by members of a community of related houses to perform a specific ritual or political role historically associated with that house, or as a way of circumventing marriage prescriptions. Members of these nine core houses lay claim to land surrounding the historic settlement of Tapor based on ancestral cultivation practices.

Each house is associated with a specific responsibility and role within the community. Three senior houses have the authority to 'rule' over the community – these are Liko Loko, Bili Ubun and Lika Ubun. The *txu'uman* (head of the house) of Liko Loko has the power to pass judgement (Tetun: *tesi lia*, literally 'cut the words') within the community. Liko Loko is 'paired' to the house of Bili Ubun. Together these houses are referred to as *Lesu no Bane* (Tetun: *ai-lele* and *ai-nitas*).³¹ According to local informants, the house of Bili Ubun was given a 'flag' as a symbol of office by the colonial Portuguese authorities and therefore the village head must be chosen from this house (or one of its subsidiary houses).³² The third, 'founding' house of Uat is Lika Ubun. The main role of this house is to mediate the relationship between the community and the natural resources. The elders of this house provide ritual leadership to the community and are closely associated with the house of Lori Ubun, whose members are usually chosen to act as the *kabo* responsible for notifying the community of key stages in the agricultural cycle, monitoring the fruit trees and overseeing house yards and plots.

For the purposes of ritual, houses used to gather in one of three corporate groups: *Mane Munun*, *Mane Selala* and *Mane Morin* (translated as the eldest, middle and youngest men respectively). Elders from Uat also stated that these corporate groups represent work groups formed by their ancestors to labour on their ancestral lands. The distribution of houses into 'age' groups is consistent with a widely documented trend within Austronesian societies whereby ritual power and landed authority are associated with origins and precedence, while temporal or political power is associated with newcomers or in-migrant groups (Fox, 1995).

31 According to local custom the founder-ancestors of Uat planted Ai-lele (kapok) and Ai-nitas (Java olive tree) on the site of the origin village.

32 There is a long-standing dispute between members of the house of Bili Ubun, its principal subsidiary house Manephat and the 'exiled' house of Bau Ubun. According to local informants, the house of Bau Ubun previously held the office of *liurai* but sometime in the twentieth century the Portuguese transferred this power (*entrega bandeira*) to a member of the house of Bili Ubun because 'he knew about administration' (*hatene administrasaun*). The action of the colonial authorities appears to have exacerbated long-standing animosity between members of these ruling houses. Tensions between members of these houses underpin a long-standing land dispute considered in further detail in Chapter 8.

Table 8.4 Uat houses division by ‘age’ group

Mane Munun (Eldest Men)	Mane Selala (Middle Men)	Mane Morin (Youngest Men)
Lika Ubun	Leo Boi	Liko Loko
Lori Ubun	Duas Mali	Bili Ubun
	Lua Laben	Manephat

Note: Original houses of Uat not included here include Nugu Luli, now incorporated into a community of suku Manapa; and Bau Ubun, origin house of the liurai of Ritabou ‘exiled’ from the community of Uat/Sapulu Nera (see footnote 40)

The origin settlement located on top of Tapor hill was a stone fortification that enclosed the original ten houses of Uat (Sapulu Nera). In the past, members of the community were also buried within this enclosure, close to their ancestral houses. Following the Indonesian invasion, however, the site has been abandoned and no communal ceremonies have been performed there. Most houses were destroyed or burnt during the Indonesian invasion and many of the burial sites were looted. In the absence of a communal site for ritual focus, a number of the elders of the community lamented that the larger rituals associated with yearly ceremonial cycle were fading. Nevertheless, despite being abandoned and engulfed by the surrounding forest, the site at Tapor remains a key cultural reference point for the community.

Since independence, traditional structures representing the remaining houses of Uat have been built on land surrounding the original settlement. Members of the community describe these houses as *uma simples* (simple houses) in recognition of the fact that they have not been rebuilt according to customary prescriptions.³³ Each house structure is presided over and cared for by one of the senior male members of the house. Their role is to guard the ancestral heirlooms and sacra of the house. The house is both a symbolic and social structure and in many respects mirrors the customary arrangements in Saburai. In their panels, pillars and platforms Uat ritual houses preserve the memory of previous generations of house members, subsidiary houses and houses related through marriage.³⁴

Marriage Prescriptions and Practice

Houses of Uat are exogamous and therefore the members of each house must seek marriage with members from a different house. Within the Uat community

³³ These prescriptions relate to the order in which reconstruction must take place, who should be involved, the sourcing of materials, etcetera.

³⁴ For example, subsidiary houses take a wood-chipping from the central pillar of the origin house, which is then placed in the new house structure. Also, hanging within the house structure are horns of water buffalo received from ‘wife-taker’ houses or pig jaws received from ‘wife-givers’.

of houses, as elsewhere in Timor Leste, preferred ‘paths’ of marriage alliance exist between houses (Clamagirand (-Renard) 1980, Forman 1980, Traube 1986). Within Uat, there are three main categories of marriage alliance. The first is between houses with whom the earliest marriage alliances were made – these are called *ai mea*. A second category consists of all subsequent marriages with incoming groups; and a third category, called *bei-bei*, refers to marriages that are not sanctioned by custom, or do not fall within the preferred categories of *ai mea*. In order to circumvent marriage prescriptions, it is customary for the bride to ‘pass through’ the house of a traditionally accepted wife-giver house to that of the groom. That is to say that the prescribed wife-giver house acts as an intermediary between the houses of the bride and groom.³⁵ Today, marriage relations are not confined to the community of houses of Uat. Increased spatial mobility and interaction with other groups of houses (including related groups such as Usi, or subsidiary houses dispersed throughout the district, neighbouring groups and even foreigners) has led to the formation of new alliances that do not fit the customary prescriptions.

The houses of Uat have distinct marriage practices that set them apart from most other Kemak-speaking groups. In communities across Timor Leste, affinal relations involve the continual exchange of goods and services between ‘wife-giver’ (progenitor) and ‘wife-taker’ (progeny), not only at the time of the formal exchange of bride-wealth but at all events that regulate the social life between the houses. In most Kemak-speaking areas, a bride will move to her husband’s house regardless of whether the fully agreed bride-wealth (*berlaki, folin*) has been exchanged between ‘wife-giver’ (*uma mane*) and ‘wife-taker’ (*uma mane foun*) houses. However, among the houses of Uat, it is often the case that the groom is expected to live and work on his wife’s family land (sometimes called ‘bride service’) until the full bride-wealth has been exchanged. Until such time as the exchange between wife-givers and wife-takers is complete, any of the couple’s children are considered to belong to their mother’s house.

The practice of temporary matrilineal residence has direct implications for land and inheritance. According to local informants, if a man dies while he is still living on his wife’s house land, this land will not be automatically inherited by his wife or their children but will revert to his wife’s brothers (or male relatives). In such cases where the couple have purchased land outright (that is, the land does not belong to the wife’s house) then it will be passed on to the man’s wife and children.

Land Allocations, Boundaries and Use

Informants resident in upland Uat described a mixture of individual and communal tenures. Types of entitlement are based on narratives of arrival and settlement, ancestral and contemporary cultivation practices, types of land and types of crop. Certain areas of land are linked directly to ancestral founding narratives of arrival and

³⁵ Marriage prescriptions in Uat reflected many of the characteristics described in depth by Clamagirand in her work on the ‘Ema’ of Marobo; see (Clamagirand (-Renard) 1980).

settlement. These include areas of land believed to have been first cleared, burned and cultivated by the core houses of Uat. In the past, communal house land was subject to ritual prohibitions and farmed collectively by members of all the houses of Uat. Part of the harvest was used for communal rituals held at the site of the origin settlement or individual house-based ceremonies. This practice has been largely discontinued and one such 'communal' area was being farmed individually at the time of the survey. Nevertheless, communal rights and ritual prohibitions still applied to particular areca palm groves (two named groves were Ai-Mu and Dara-Abu).

According to the hamlet head of Uat and the village head of Ritabou (also originally from Uat), the upland community adheres to customary injunctions regulating access to certain natural resources and those related to the agricultural cycle. The *kabo* of Lori Ubun, for example, is traditionally responsible for notifying the community of these injunctions and together with senior members of the house of Lika Ubun may be called to deal with infractions by members of the community.

Most informants claim to have access to house land for the cultivation of staple crops (for example, maize, peanuts, cassava, and some upland dry rice). House land was generally described by informants as any land that was first cleared and farmed by members of their house. The senior members of each house retain the knowledge of house lands. House elders and the *txu'uman* (head of the house) are responsible for resolving any disputes that might arise concerning house land. When speaking of their house land, informants tended to trace back at least two or three generations to make their point. House land is generally passed from father to son and tends to be cultivated with other members of the family. Women are entitled to farm on their father's land or that of their house until they are married, or move to their husband's house lands. Given the lengthy nature of marriage exchange practices described above, it is not uncommon for children to be granted access to land through their mother's house. Also, if a wife-taker (*uma mane foun*) house is unable to provide a couple with land when they get married, then the wife-giver (*uma mane*) house may grant some land to the couple.

Although informants stated that house land belonged to all members of their house, they also recognize that this land is subject to individual inheritable rights. For example, if a man from the house of Duas Mali cultivates a plot, his children will have the right to inherit the land when he dies. It does not revert to the communal property of the house although it remains ritually part of the collective landed domain of the house. Thus, in the event that the children of this man decided not to farm the land, then other members of the house are entitled to seek permission from the head of the house to use the land.

Most people claimed that tensions or disputes regarding land tended to relate to inheritance. For example, one man commented that male siblings do not always respect their sister's claims to land. Another stated that when a man dies while he is still living on his wife's house land, male relatives of his widow might claim back this land.

It is generally agreed that fruit trees (apart from the sacred groves) belong to the person responsible for planting them (and their descendants) regardless of whether

or not these are planted on house land. Most fruit trees, be they individually or communally owned, are subject to ritual prohibitions. Members of the houses of Lori Ubun inform the community when it is time to harvest the fruit of these trees. Penalties may be incurred for infractions of these prohibitions, usually in the form of a sacrificial offering to be made to the guardian spirits or ancestors who mediate the relationship between people and the land. Some informants stated that it was possible to 'get away' with breaking the rules by 'hiding away' or eating the fruits out of sight, surreptitiously.

Upland tenures are multilayered and complicated. They include notions of both communal entitlement based on ancestral histories of possession and individuated ownership based on inheritance and long-term cultivation. House members are entitled to farm their house land but may also farm areas of land belonging to other houses related through marriage. The principle of temporary matrilineal residence means that children may have access to their maternal house land but not their paternal house lands, and sometimes 'outsiders' are granted land through arrangements via 'adoptive' houses. Despite this complexity, informants stated that there were no members of the community who did not or could not gain access to land. Any land disputes arising within the community are usually dealt with at house level or between individuals and representatives of the houses involved in the disputes. However a number of people did raise the issue of encroachments from neighbouring groups who lay outside the jurisdiction of their house and community elders and were therefore more difficult to resolve.

The Lowland Community

There is a high level of mobility and fluidity between the upland and lowland settlements of Uat. Individuals and families from the core houses of Uat who have long settled in Maliana town continue to participate in house-based activities, ceremonies and rituals in the upland settlement. Similarly, family members settled in the uplands will often travel to Maliana town to attend the weekly market, visit the health clinic or attend to matters at the sub-district or district administration. As members of core houses of Uat, lowland settlers continue to have rights to land in the uplands and in some cases may actively contribute to farming activities there. Some members of the community who previously lived in Maliana town and have chosen to return to the upland settlement continue to have rights to land in the lowlands and may actually share-crop this land with family members who remain settled in Maliana. The translocal character of Uat is a legacy of the past and represents a pattern that is widely experienced across Timor Leste.

There are multiple histories of how lowland settlers from Uat gained access to land in and around Maliana town and the Nunura plain, whether for house plots or cultivation. These histories date from the post-war period, the Indonesian occupation and post-1999. Many informants base their claims to land on family histories that describe a shift in livelihood practices from hunting to grazing, to shifting cultivation and finally to the more sedentary farming of permanent crops. These stories are often tied up with oral histories from Uat emphasizing the role

members of certain houses played in clearing, burning and farming the land or digging irrigation channels.

Elders from Uat claim that in their father's day there were no permanent settlements of Uat people in the lowlands. They remember their fathers taking part in seasonal hunting parties to the lowland forests. At the time, the eucalypt forests of the Nunura plain were considered to be 'dangerous', untamed areas. Hunting parties would 'present' their horses and dogs to the ancestors before leaving Tapor (the original upland settlement) to ask for protection and a successful hunt. Later, the elders claim some people began to graze animals in the lowlands but it was not until after the Second World War that they began to clear land for farming.

Like many other migrants or 'latecomers' to the lowlands, informants from Uat acknowledge that the land on the Nunura plain originally belonged to groups from the areas of Saburai to the west, and Kailako to the east. In particular, they claim that in-migrant groups paid tribute to the land-holding houses of Achu and Achu Plaza (now part of the village of Manapa) in exchange for rights to use land in the lowlands.³⁶ In Uat oral histories, members of the houses of Duas Mali and Lua Laben (often referred collectively to as *asi no txua*: fields and palm wine) were the first to venture into the lowlands:

<i>Balik ulu</i>	Open the path by throwing the spear
<i>Sesa be ka, dudu ma loa</i>	Spread out, open and broaden
<i>Sama teho, napa gh'e nu</i>	Tread and trample [the eucalypt] underfoot

Members of these houses claim they were granted access to some land on the Nunura plain by the land-holding houses of Atchu and Atchu Plaza, and in exchange were expected to pay tribute:

<i>Tere bale, lape bale</i>	We ask you, we give to you this land
<i>Datxu bale, prio bale</i>	This is the garden, this is the palm wine
<i>Dia Duas Mali, Lua Laben</i>	Duas Mali, Lua Laben
<i>Mara de'ena, m'ghen dia luro</i>	Use it, the end is ripe, the head is yellow
<i>Imi hodi tate, imi hodi toi</i>	When we come, give us part of the cob, pour us some of the wine

Described in Uat narratives as an offering of palm wine and a portion of the harvest, this tribute is commonly referred to throughout Timor Leste as *rai te'en*, the 'waste' of the land (*kakata te'e*, *sura ra'a* in Kemak ritual language). Oral histories refer to general usufruct rights granted to members of the houses of Duas Mali and Lua Laben. However, many informants from Uat now settled in the lowlands claim highly individualized permanent rights to land.

36 Atchu and Atchu Plaza are also considered to be the custodians of the sacred water source of Kor-Luli on the Nunura plain.

A number of informants from Uat living in the lowlands link their claims to land to colonial 'development' programmes implemented during the post-war period. They claim that they themselves, their father or grandfather, were recruited by the local authorities to take part in work groups responsible for clearing areas of forest for farming. During the 1950s and 60s, the Portuguese colonial authorities urged the population to move into larger settlements in the lowlands on the fringes of the Nunura plain and work the land. These directives were usually given effect through the direction of local leaders (*liurai*, *chefe suco*, *chefe povoção*) and appear to have been implemented without the involvement of any customary groups claiming stewardship over lowland resources.³⁷ No formal documentation exists regarding the transferral of land to members of these work groups. However, the head of the district Land and Property Department stated that since independence a number of individuals have come forward to claim plots of land based on participation in these work groups. Indeed many claim that land they cultivated under these schemes was then appropriated by the Indonesian authorities or occupied by other individuals and families.

Despite the efforts of the colonial administration it appears that few people chose to settle permanently in the lowlands during this time.³⁸ Furthermore, according to informants from the Land and Property Department only a small number of individuals, mainly senior civil servants, wealthy business people or the Church, were ever issued any form of land title during the Portuguese era.³⁹ Informants recall that by the 1970s some coconut plantations had been established close to the administrative post of Maliana and a number of people from the uplands who owned livestock had cleared portions of land to build enclosures on the plain.⁴⁰ However, they also describe how, right up until the Indonesian invasion, much of the land on the Nunura plain was still uncultivated forest mostly used by upland populations for seasonal communal hunting.

More permanent settlement in the lowlands, and in particular Maliana town, was the direct consequence of the Indonesian invasion and occupation. During the months of political unrest that preceded the invasion in late 1975, there was a trickle of refugees into neighbouring West Timor, but it was the full impact military occupation that provoked massive displacement. Informants from Uat

37 In part, these directives were the result of a drive by the Portuguese authorities to make the colony more productive but land allocation was also used by the colonial administration as a means of supplementing local civil servant salaries.

38 It was also suggested that people avoided settling in the lowlands as a means of evading the Portuguese colonial head tax.

39 One official from the Land and Property Department suggested that few people obtained title to land during the Portuguese period, mainly owing to lack of resources, lack of access to information or because they saw no practical need to obtain title. He believed that those who did obtain title to land were able to do so because the colonial authorities favoured them.

40 Two of the larger land owners in Maliana known to have obtained title during this time did so for the use of land for cattle grazing (*aforamento com motivo da criação do animais*).

described how people fled the Indonesian troops and intensive bombing campaigns seeking refuge in the mountains on the slopes of Loelako Mountain or towards Bobonaro sub-district and Atsabe in Ermera district. Once the Indonesian troops had gained control of the area a number of sites such as the townships of Bobonaro and Maliana became 'holding centres' for the 'surrendering' civilian population. It was not until the early 1980s that the Indonesian authorities permitted the civilian population to leave these heavily guarded areas.

In the case of Uat, some but not all families were resettled to the 'new' town of Maliana. The process of resettlement was coordinated by the local East Timorese leadership in collaboration with the Indonesian military and civilian authorities. Informants recall how each family was allocated 20m × 20m plots of land on which to build their houses and house gardens. Some people claim they were resettled close to land that their family had farmed during the Portuguese period. But others suggest that there was little or no negotiation with local land-holding groups or customary authorities. New settlements had to be established along main roads, close to military posts or administrative centres. As a result, people tended to be resettled close to members of their own community in hamlet or village clusters and populations that had once formed part of dispersed upland communities essentially became members of close-knit neighbourhoods of the rapidly expanding town of Maliana.

From the early 1980s, the Indonesian authorities also began 'developing' Maliana town. As in other regional towns such as Ainaro, the authorities initially simply appropriated land without any attempt to identify previous owners and with little, if any, compensation. The present-day administration buildings, government housing schemes, schools, police and army barracks, and the hospital were all built during the Indonesian period. The town also experienced an influx of Indonesian settlers including civil servants, teachers, military, police, transmigrants and owners of small businesses. Most informants believe that the arrival of outsiders created a demand for land where this had previously not existed and people's attitudes towards land began to change. Land was no longer valued simply for its productivity but as an asset that could be transferred and transacted.

Increasingly, the state became the main reference point in relation to land and property in the lowlands. By the mid to late 1980s anyone wishing to build a house had to get planning approval and pay a house tax. Those who wished to obtain a title for their land and property, including agricultural land, could (for a fee) apply to the Lands Department (known in Indonesian as Kantor Agraria) to survey their land and issue a title.⁴¹ Some informants from Uat claim to have obtained titles for land and property through this process. Others suggested that during the Indonesian period titles were often issued without investigating the

41 Informants from the current Directorate of Land and Property (*Direcção Terras e Propiedades*, DTP) have stated that despite a number of 'national projects' implemented to register land titles many people chose not to take part in order to avoid paying tax on their land or property.

history of the land or prior claims based on occupancy and use. Some believed that those in positions of authority, or individuals favoured by the Indonesian authorities, were able to take advantage of this oversight to grab large areas of land for themselves or political allies. DTP staff stated that there was a standard procedure for issuing titles for land and property during the Indonesian period. When a person approached the Lands Office to survey their land/property for the purposes of obtaining a title, the authorities were obliged to place a notice at the *suku* office that stipulated that any counter-claims had to be made within a certain period of time. However, reportedly this process was seldom transparent or fair – people could easily be intimidated from coming forward during the allocated time to make a counter-claim. Some informants from Maliana town suggested that, although these procedures may have existed in theory, in practice most people were either uninformed or unaware of their right to submit counter-claims.

Informants from Uat who were civil servants during the Indonesian period were offered public service housing (PERUMNAS) in one of two areas in Maliana town – near the airstrip in Ritabou village or in the neighbourhood of Ramos Kore. They claim that under the terms of such leases they were able to purchase the house outright over a period of seven years. One informant who returned to his property following the displacement in 1999 was concerned that the state might not recognize his rights to this property after independence. In particular, he questioned whether or not the state would recognize the rights of those who were yet to make final payments to purchase the property outright and what the status of individuals and families who occupied properties after 1999 might be.

In the violent aftermath of the UN-organized popular consultation in 1999, thousands of Maliana residents were forcibly displaced on trucks to camps in Indonesian West Timor. Those who were not taken by pro-integration militia, working in collaboration with the Indonesian military, sought refuge in surrounding mountains. The vast majority of refugees began returning from camps across the border or their mountain refuges once news of the arrival of INTERFET (International Forces for East Timor) had been announced. During the early weeks of spontaneous returns people sought shelter wherever they could. This included empty public buildings or private dwellings that had not been totally destroyed during the militia post-ballot rampage. Later, once local leaders who had formed part of the clandestine movement were able to reconnect, international agencies such as UNHCR were on the ground, and the UN Transitional Administration was in place, a more orderly system was implemented to facilitate return to places of origin. However, the violence and displacement of 1999 reawakened past land conflicts and created new tensions as some individuals and groups took advantage of the situation to either repossess land allegedly lost as a result of dispossession during the Portuguese and Indonesian periods, or reoccupy land and property that had been previously occupied by their political rivals.

A minority of informants from Uat acknowledged that they were currently living on land or property that was formerly occupied by someone else. In most of these cases informants sought to explain their current situation by suggesting that the

owners had fled to West Timor in 1999 and were unlikely to return, or that they were directly related to the rightful owners. In some cases informants justified their actions in political terms by suggesting that the former owner was a member of the pro-integration militia or ex-Indonesian military, or that the former occupant had originally stolen/occupied land on which the property was built from his or her family.

Since independence, some informants from Uat claim to have purchased land and/or property in the lowlands directly from individuals claiming prior ownership. While in many cases this has been done in good faith, informants suggested that following the displacement of 1999 some individuals had taken advantage of the situation, claiming ownership to property that they had already sold outright to Indonesian civil servants or East Timorese who were unlikely to return.

Few informants interviewed held any form of documentation in the form of official land titles or transaction records regarding the status of their land and property. It was common for informants to claim to have negotiated access to land 'according to custom' (Tetun: *tuir adat, tuir kultura*), whether through marriage, through the exchange of certain goods and services with local land-holding groups, or through long-term occupancy and use.⁴² In cases of long-term occupancy and use informants regularly referred to investments made in land or property such as the planting of specific trees or crops and the building of permanent housing.

According to the hamlet head of Uat, who lives in the lowlands, any members of the upland community of Uat currently seeking to transfer to the lowlands would most likely have to arrange access to land through share-cropping or rent agreements with current land owners. In general these arrangements are made directly between private individuals and do not appear to have to be mediated through customary authorities or the local community leadership. However, the hamlet head also suggested that parties to any form of land or property transaction might organize a meeting with neighbours and key figures in the community where traditional offerings of betel nut, palm wine and tobacco might be exchanged between parties and those present would act as witnesses to the transaction.

While in the upland settlement of Uat attachments to land continue to be governed by principles and practices that draw on ancestral histories and patterns of settlement and cultivation, for the lowland population of Uat the impact of Portuguese colonial and Indonesian occupational policies of resettlement and land development have brought about a transformation in patterns of land relations. The gradual take-up and utilization of blocks and cultivated fields in the growing township of Maliana and its hinterland has seen a shift in the basis of claims away from customary principles of mythic origins and precedence, to highly individualized assertions of ownership derived from occupation or physical possession in some cases but by no means in all sanctioned by the regulatory authority of the state. This process of transition highlights the limits of recognizing custom as the default legal basis

42 It is commonly claimed that any documentation was lost or burnt during the post-ballot violence and displacement or in some cases no documents were issued either in Portuguese or Indonesian times.

for land entitlements in rural districts, where histories of colonial and neo-colonial administration, combined with patterns of population mobility and changes in cultivation techniques, have created claims based on possession (and dispossession) rather than grant from customary authority.

Conclusion

In this exploration of the political and historical context of land relations in Maliana sub-district, processes of continuity and change have significantly altered perceptions and practices associated with land attachment. In some areas, most notably those that have been least affected by colonial processes of improvement, contemporary practice continues to be strongly guided by traditional appeals to locally emplaced political authorities and patterns of land entitlement drawn from ancestral precedence. Land attachments for these communities are anchored in the oral histories of founder ancestors and the networks of kinship and alliance that inform the social basis for claims to land. These principles and appeals are evident in claims and assertions of land ownership throughout the area, exemplified by the mountain community of Saburai, which offers a striking example of the resilience of customary conventions and the continuing relevance of ritually sanctioned decision making that works to bind members of Saburai within a moral community.

Elsewhere, and particularly in the lowlands of Maliana and the Nunura plain, the intrusion of Portuguese and later Indonesian development agendas overruled or marginalized the role of customary authority and introduced competing avenues for securing access to land and formalizing a commoditized land ownership. This was secured by relocating highland communities on to the lowlands and coercively encouraging the opening up of previously uncultivated savannah lands for irrigated agriculture and seasonal cropping. For the people of Uat this has led to a settlement division into upland and lowland residential communities with continuing interaction and membership of lowland settlers with their origin settlements in the mountains.

Competing forms of authority and the highly modified land tenure arrangements that have been produced over half a century of engagement with regulatory state systems have also created a degree of uncertainty and the potential for disputes and land conflicts to emerge over contested claims to the new lands secured at the urging of government. In Chapter 10 we examine the long-standing conflict between Uat and Meganutu householders over a subdivision of rice paddy land in the lowlands that could not be resolved through mediation channels. The numerous failed attempts to secure a solution only highlight the limits of customary authority in these circumstances where there are no longer more encompassing levels of customary authority through which to appeal. In the past, inter-group or inter-village conflict could easily lead to violence and physical reprisals, and, as village communities continue to wait for law and administrative clarity from state regulated institutions, land conflicts remain a source of resentment and ill-feeling between rival groups.

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