

**An Evaluation of the
Strengthening Property Rights in Timor-Leste Project (SPRTL)**

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Executive Summary

This evaluation was conducted between September 25 and October 7, 2011 at the request of USAID/Timor-Leste. The purpose of the evaluation was a) to investigate the degree to which the SPRTL (or Ita Nia Rai) project accomplished its goals, b) to identify strengths and weaknesses of the project, and c) to make recommendations for future activities based on the findings of this evaluation.

For a variety of reasons the project has been modified and scaled back over the years. Nonetheless, we believe the project has been a success. Key successes include the following:

- The registration of 53,814 claims to 50,101 land parcels
- Less than 10% of the claims registered are disputed
- The development of an institutional structure to collect, record and manage these claims
- Strengthening of local human capital through the project, particularly the development of a team of senior staff within Ita Nia Rai, approximately half of whom are women
- A strong public awareness program, including participation of over 12,000 people in community forums and widespread recognition of the project and its goals

The program did have weaknesses and these include the following:

- As discussed in its 2010 Audit, the project needed to improve quality control of its data
- Only a small percentage of disputed claims (>4%) have been successfully mediated
- The project has been unsuccessful in developing a substantive working relationship with the Directorate for Land and Property (DNTPSC)
- Failure to develop a closer relationship with the DNTPSC threatens the future viability of the project and the future integrity of the data collected

Despite these weaknesses, as noted above, we believe that the SPRTL project has been a success. The most notable, and valuable, success has been the collection and recording of land claims data from across the country. This data should provide the core of a national cadastre and/or registry that identifies and tracks ownership of parcels of land over time. There seems to be broad anecdotal agreement that the Ita Nia Rai process is impartial and that its data is trustworthy and accurately represents the current status of control, use, and ownership of land in the areas where the project worked. If the integrity of this data is maintained and if it is properly updated as subsequent transactions take place, it could provide the basis for a formalized land market and for more expansive economic growth and opportunity because it will help reduce insecurity and unpredictability in the Timorese economy.

This data collection process allows individuals, groups, and other legal entities to make claims to land, which may subsequently be legally recognized by the GoTL, either through the Decree Law (27/2011) if

claims are undisputed or (when it passes) through the Land Law if disputes are contested. Given the Timorese history of displacement, conflict, and relocation, the stability that legal recognition of land claims will provide should help reduce conflicts and should help protect citizens against predations of other citizens and of the state. Reducing conflict should, in turn, help facilitate economic growth.

As it nears completion, the SPRTL project does seem to have strengthened the property rights of thousands of local people in the short term and may do so in the longer term *so long as* these claims are subsequently recognized, recorded, and enforced by the GoTL. Based on our review of project materials and conversations with a number of stakeholders, we recommend the following to further solidify these important achievements:

- Identify an additional location for the safe storage of project-generated property rights data and maps – options include housing the databases at either a university or on the Ministry of Finance’s Transparency Portal.
- Extend the SPRTL project for a period of 1-2 years and allow a more gradual transition of ownership over the property claims process. This will enable USAID and the Ministry of Justice to (i) successfully complete the public validation and property certification process, (ii) continue mediating competing claims, and (iii) further build the capacity of the DNTPSC to protect the integrity of the data already collected and institutionalize such processes for future expansion to other more contested properties throughout the country.
- Establish legal aid clinics in each district to sensitize people on the land law and to assist local people to address land claim disputes, particularly between private parties and the state.
- Support the development of implementing regulations, specifically as they relate to expropriation and compensation and to develop the architecture for the Real Estate Finance Fund which will be established to pay financial compensation to evictees.

By following the recommendations outlined above it will help ensure momentum of the project is retained through the upcoming elections, ensuring that Ita Nia Rai remains visible, and hopefully valuable, to any new government. We also believe that providing this support will better ensure a smooth integration of Ita Nia Rai processes and data into the DNTPSC, will help to build institutional capacity within the DNTPSC, will help protect and further strengthen the property rights of Timorese people which, in turn, will help to limit conflict and promote economic growth in the country. If the claims registration process is left unfinished, and disputes are exposed but not adequately addressed.

I. Background of the Project

As a result of colonial experiences, occupations, forcible relocations, displacements and violent conflict there has been significant land tenure insecurity in Timor-Leste. Post-referendum displacements further contributed to this problem, as did the destruction of housing during uprisings in 2006. Clarifying and strengthening the property and land tenure rights of local people is an important component of peace building efforts and is important for meeting development objectives including expanding economic growth.

The Strengthening Property Rights in Timor-Leste (SPRTL) Project is a follow-on project to two earlier Timor-Leste Land Law projects and addresses concerns identified in the 2006 Conflict Vulnerability Assessment, which identified continuing insecurity related to land issues as a “fundamental cause” of conflict that year. Based on this previous work and on a request from the GoTL, the project started in 2007. Between the Land Law Projects and the current SPRTL project USAID has invested approximately \$14.3 million in land tenure work over 9 years in Timor-Leste.

The SPRTL Project was designed to accomplish five tasks:

- Promote public information and awareness of rights related to land and the process of registering claims to land in Timor-Leste;
- Support the development of a land policy, laws, and implementing regulations;
- Support the development of a national land body in Timor-Leste;
- Support improved land administration in Timor-Leste; and,
- Support effective dispute resolution, mediation and reconciliation efforts in Timor-Leste.

The project has adopted the name “Ita Nia Rai” meaning “Our Land” in Tetum. This five-year, \$10 million project is nearing completion and is currently scheduled to end in March, 2012.

The project began with an ambitious agenda: in its first year the project hoped to support the passage of a Land Law and implementing regulations, to raise public awareness of land issues, to develop dispute resolution mechanisms as well as the technological tools, procedures and systems needed to register claims to land. The plan for year 2 was to begin registering selected claims, develop support mechanisms for land administration for the GOTL and continue to support public awareness efforts. In years 3 and 4 the project hoped to register claims and convert these to legal titles to land in accordance with the Land Law and to build capacity within the Directorate for Land and Property (DNTPSC). The original goal was for all claims, nationwide, to be registered during year 5 and for “at least” 50,000 properties to be titled according to the Land Law and for the GOTL’s land administration institutions to build sufficient capacity to operate independently.¹

Unfortunately, although the Land Law was drafted it has been held in Committee until the fifth year of the project.² This unexpected and substantial delay has made it virtually impossible for the project to support the issuance of certificates of ownership (some certificates may be issued according to the terms of the Decree Law but this process has not yet begun) and it has made it wholly impossible to convert claims to legal titles. In order to work around this long-standing political roadblock the project provided technical assistance to draft a Decree Law that would recognize private uncontested claims to

¹ USAID/Timor-Leste Fact Sheet, “Strengthening Property Rights in Timor-Leste,” available at: <http://easttimorlegal.blogspot.com/2010/03/ita-nia-rai-our-land-project.html>.

² The Draft Land Law was “passed” by Committee A during the evaluation visit and is being currently being debated by members of Parliament.

land as well as implementing regulations for this Law. The Decree Law was signed by the President on June 30, 2011.

The project has encountered other substantial problems, the most important of which is that engagement of the national land body has lagged. Plans to develop the management and technical capacity within the DNTPSC, which would allow for the eventual assumption of project activities by the Government of Timor-Leste, have thus far remained unachieved.

The Minister of Justice has, however, expresses strong support for the project and has expressed her desire to take over control of project functions (land claim registration, public display and recognition of rights under the appropriate law). If serious about assuming ownership over Ita Nia Rai, the DNTPSC needs to first develop the management structure, strategies and work plans required to gradually assume complete ownership over the project. Another variable that could affect the direction of Ita Nia Rai is the upcoming elections in May 2012. The election could result in a change in leadership for both the DNTPSC and the Ministry. .

Whether or not the project managers could have done more to facilitate a transition of the project's activities to the GoTL remains a question. The problems related to the delayed Land Law were certainly beyond the control of the project managers. However, as a result of these problems and other concerns, the project has been modified over the years. The numerical target for claims registered was reduced; of course no claims have been titled; and the project no longer focuses on mapping and registering claims to community land. Nor has the project supported preparation of implementing regulations for the Land Law. The project has, however, adjusted to these constraints and has actively pursued those activities it could. Below, we assess the project's five activities in light of the on-the-ground realities it has encountered.

II. Evaluation of Project Activities

Task 1: Public Information and Awareness

The project has developed and implemented a strong public information and awareness activity which has multiple components and seems to have helped spread knowledge of the land claims process across the country. Among the important contributions made under this task are the following:

- Public awareness activities have directly reached over 12,000 Timorese through community forums, focus group discussions, workshops/seminars and in annual forums to explain the land claims process
- The project has used mass media, including radio and television, to communicate the goals of the project. Public Service Announcements communicate key messages, including that the process is free of charge; that corruption in the process should be reported, and noting no one may prevent another party from making a claim. A UNMIT Communications and Media Survey conducted in May, 2010 found that 69% of survey respondents were aware of and had received information about Ita Nia Rai
- The project has developed a website (www.itaniarai.tl) that provides access to information for public use in Portuguese, Tetum and English
- The project has developed 16 descriptive videos; 9 are available on YouTube in English and Tetum (<http://www.youtube.com/user/ItaNiaRai?ob=5>)
- The project has developed a variety of print media, including posters, brochures and newsletters that explain the land claims process

- The project also developed a PIA campaign to explain the Decree Law
- The project has conducted a number of trainings for government officials (some designed to build technical capacity within government, some for Civil Society Organizations (CSOs) and many designed to train staff)

Taken together, these efforts have helped inform the Timorese public of opportunities that exist under Ita Nia Rai to bring claims to property and thereby strengthen their property rights. We note particularly the widespread participation that is evident in this project. With more than 53,000 claims registered, thousands of individuals, families, and others have taken advantage of the Ita Nia Rai process. We compare this to Ghana where the Millennium Challenge Corporation's Land Tenure Facilitation Project (\$3.9 million) surveyed and mapped 3800 parcels, with lease titles registered and issued to approximately 900 smallholder farmers and peri-urban dwellers after more than four years of implementation. An additional 1,335 parcels/land holders are in process and it is expected that lease titles will be registered for a total of 2,000 parcels before the MCC Compact closes after five years of implementation. The different level of response demonstrates that demand for securing property claims through the Ita Nia Rai process is much stronger than is the demand in Ghana (no doubt for a variety of reasons). That the project has been able to address at least some of this strong demand is an important achievement.

However, we note that some members of CSOs were less satisfied with the process. There was some concern expressed to us that the project was not sufficiently participatory and that interactions with communities were cursory and unsatisfactory. We note this complaint but also note that a strong community response to the project suggests that despite any perception of inadequacies the process was valuable enough for thousands to participate. We also note that we did not hear any complaints of favoritism in the process, indeed just the opposite: several stakeholders told us that the process is impartial.

The evaluation team believes that the project met its objective for Task 1 of promoting public information and awareness of rights related to land and the process of registering claims to land in Timor-Leste.

Task 2 – Land Policy and Law

The project has had difficulty meeting goals related to the development of a new land law, land policies and implementing regulations. These difficulties stem from unwillingness within Parliament to move forward (until very recently) on debate of the Land Law. Because the Land Law is not yet in place, the project has not been able to support the certification of any land claims. The Decree Law adopted in June, 2011 changes this and allows for the issuing of certificates to undisputed claims. Had the Law been passed and a process for issuing certificates developed earlier, the property certification process may have been further than it is today. However, these problems were beyond the control of the project and so the project was left to respond as best it could to the reality of this political roadblock.

The project supported the development of a draft Land Law that is now being debated by Members of Parliament and it also supported the drafting of a Decree Law and implementing regulations that allow for recognition by the GoTL of undisputed private land claims. Therefore, as the project winds down it is possible to point to three important contributions the project has made under Task 2:

- Support for the drafting of the Land Law³, which will, if adopted by Parliament and signed by the President, strengthen the land rights of Timorese by increasing the security of their claims
- Support for the drafting of a Decree Law and implementing regulations will, if the Land Law fails to pass, provide a mechanism for the recognition of undisputed private claims to land by the GoTL
- The project has trained 127 Timorese in land law and policy

However, even if the Land Law is passed and signed by the President, it will still need implementing regulations, which to our knowledge, are only partially drafted. In addition, given the uncertainty and political maneuvering surrounding this process it would be advisable to implement a new public awareness campaign to inform Timorese of their rights under the law in order to relieve public confusion and particularly to explain (to the greatest degree possible) the process moving forward for contested claims and claims against the state. This project will not be able to provide this support.

We note also that this task was supposed to support the production of land policies. Several stakeholders noted that the lack of a land policy means that there is a lack of a consistent voice or message regarding the government's approach to land issues. No stand-alone formal public policy was developed by the project. As an alternative, the Minister of Justice established a Working Group to develop a policy paper as a forerunner to the development of legislation. The Working Group comprised a number of people within the Ministry of Justice and one person from the project (Ibere Lopes). A Policy Options paper was drafted by the Working Group set up under the Ministry of Justice. The paper was discussed with members of parliament, other relevant ministries and the Prime Minister. A list of policy options was chosen, and the Ministry of Justice requested the Working Group to draft the Land Law based on the chosen options. Once the first draft was ready, the Ministry started a series of public consultation activities that lasted about 9 months. These activities included discussions and workshops with ministries, members of Parliament, NGOs, INGOS and other civil society organizations, members of the Church and other faith-based organizations, local Government officials, University of Timor Lorosa'e and the University of Dili. The Minister of Justice also launched a series of District debates, where the Minister herself and representatives of the Land Law Drafting Working Group traveled to all 13 districts for open-house discussions on the draft. In some sense, the draft law could be said to be the embodiment of a land policy; however, it lacked the formal adoption process that embodies most land policy processes.

The project met most of its objectives in regard to Task 2 but faced political obstacles which delayed further progress. The project team responded to political realities and provided support for development of policy options, laws and implementing regulations that hopefully will further strengthen the property rights of Timorese for the longer term.

Task 3 – Support to a National Land Body

Here again the project has run into difficulties and has found it challenging to support a national land body. Originally, the project hoped to support the development of a national land commission. This did not happen and instead the Ita Nia Rai process was developed to serve as a kind of alternative structure, outside the government but not empowered to issue certificates of ownership and so, in only some senses, operates parallel to the Ministry of Justice's DNTPSC.

³ In addition to a Land Law the Parliament is also debating a law on compulsory acquisition and a third law on valuation of land.

The project has been able to provide support to the DNTPSC in terms of training staff and is currently training a team from the DNTPSC in GIS, IT, and the Ita Nia Rai process. This training is scheduled to continue until the project ends in March, 2012.

However, not all training was well received (different approaches to surveying methodologies played one part here). We were told that government officials often did not attend planned trainings or did not actively participate (due to cancellations and lack of consistent attendance). This lack of participation means the project was unable to support the development of strong capacity to continue the Ita Nia Rai processes. Also, as we will address below, the evaluation team feels that trainings related to data collection and mediation may not have been as extensive as they should have been to build local capacity and to meet local needs. Many stakeholders with whom we spoke expressed concern that the DNTPSC lacks the needed capacity to continue the Ita Nia Rai process and protect the data the project has collected. Any future training for the DNTPSC should include as overarching objectives: (i) the gradual elimination of the current parallel structure that currently exists between Ita Nia Rai and the DNTPSC, while at the same time strengthening the legitimacy of the government in carrying out the proven methodologies used by the project; (ii) allowing more involvement and ownership of the Ita Nia Rai process by DNTPSC staff.

We recognize that the Minister of Justice has expressed strong support for the project as well as an interest in assuming full responsibility for land claim registration activities. It appears that the Minister may have sufficient funding to assume these responsibilities. She has requested (30/9/11) that a plan be developed to outline how the Ministry will hire Ita Nia Rai staff so as to ensure the project continues to register and validate claims. While we believe this willingness to assume responsibility for the project is very positive, we feel there is a strong case to be made that the United States Government (USG) should offer continued assistance to the GoTL to support a smooth transition and integration of Ita Nia Rai into the Ministry's structure, to support improved coordination with the DNTPSC, and to support capable management of and technical trouble-shooting for the project.

While the project had difficulties accomplishing its objectives under Task 3 it developed an alternative institutional structure (Ita Nia Rai) that has helped, in the short term, to strengthen the property rights of local people. The project has consistently attempted to support capacity building at the DNTPSC and it seems that the problems it has encountered providing such support reflects political concerns and different cultures within government agencies more than a failure to communicate.

Task 4 – Land Administration

The SPRTL project has made its strongest contributions through its efforts under Task 4. The project developed the Ita Nia Rai process in order to help build land administration capacity, collect vital land claims data, record this data and resolve disputes around claims. The project has been able to collect property rights data in twelve of thirteen districts, training and working with local Timorese in these areas and working in collaboration with district level DNTPSC staff. Important contributions made under this Task include the following:

- As of October 5, 2011 53,814 land claims have been recorded for 50,101 parcels of land
- This claims process is free of charge to participants and is decentralized, therefore more likely to offer good access to informal "justice"
- Of these 53,814 claims, 9.2% are disputed and 53% of these disputes involve private individuals and the state

- 20.3% of claims were registered by individual women; 40.1% by individual men; 11.4% by married couples; 3.5% by other groups; 22.5% by the state; and 2.3% by non-state actors
- Public display of claims has begun in 3 out of 12 districts and is expected to continue although with a close-out date of March, 2012 the project does not have time to complete this process
- The project has trained 229 Timorese in the claims recording process
- The Minister of Justice has expressed a desire to assume responsibility for continuing this work

The project is to be commended for gathering so many claims in a short time period and in a broadly participatory and impartial manner. In any area the process of bringing forward claims may create “winners” and “losers.” Some stakeholders suggested that some claimants were coerced into not disputing claims. These would clearly be losers. We were not able to corroborate these allegations but recognize that coercion may have taken place. The important question would be the extent of this experience and we did not have a sense, from speaking with stakeholders, that this problem was so extensive as to compromise the integrity of the process overall. The process addressed this concern in part through its public information awareness efforts, which emphasized that no one may stop another from bringing a claim.

This task was also designed to address gender and land issues. Whenever the project expanded into a new district a Gender Assessment was conducted. Just over 20% of the claims registered have been registered by individual women. An additional 11.4% have been registered jointly in the names of both the husband and wife. In addition, thirteen gender trainings involving 590 men and women (364 men; 226 women) had taken place as of July, 2011. Just over 46% of the participants at community forums, workshops and trainings related to the land claims process have been women and the PIA campaign under Task 1 does seem to have contributed to a widespread understanding that women have rights to register claims jointly with their spouse or individually.

CSO representatives expressed two concerns related to the land claims process: a) that the process avoided working in high conflict areas, and b) that the public display process brings forward new claims and the project does not have the time or resources remaining to address these new disputes. As for the first issue, the project conducted both conflict and gender assessments before starting work in any district. The assessments involve a trip to the district by the public information awareness (PIA) and mediation teams for meetings with the District Administrator, DNTPSC District Director, Chefs de Suco, and Chefs de Aldeia and other leaders from the communities where they intend to collect household property data. During these meetings the team distributes Ita Nia Rai explanatory materials, shows videos, reviews the project approach, answers questions, and then identifies with these leaders conflict-prone areas and gender-related issues that the project needs to take into consideration. The project’s GIS team uses the conflict assessments as a reference when demarcating collection areas. The project’s land registration team uses the information while training data collectors, field coordinators, and community facilitators who will work in the district. Areas with high conflict are initially avoided by data collectors, so that the community becomes familiar with the process and less anxious as the data collection process is rolled out. These areas are, however, eventually covered as part of the property claims process but in a more delicate manner. The only exception to this approach was in Ainaro where the District Administrator strongly objected to the process because he felt too many private claims will be made for what he felt was government property.

The Ita Nia Rai teams also use the conflict assessments to inventory the local dispute resolution resources available and to describe the local mediation processes and systems. As discussed in subsequent sections, the project-supported mediations seek to strengthen existing alternative dispute resolution resources instead of bringing in outside resources.

As for the second concern regarding the identification of new claims, this is legitimate and in the absence of Ita Nia Rai, the government may have very limited abilities to mediate the land disputes. This is particularly concerning given that the project is currently reducing the resources available for mediation as part of project close-out. This is at a time when there are currently over 4600 land disputes now identified as part of the Ita Nia Rai process. This figure is expected to grow once the public display processes in each of the districts occurs and further counter claims lodged.

Another major area of concern for Task 4 is, however, the quality of the data collected. As discussed at length in the 2010 USAID Audit report, much of the data the project has collected is incomplete. In response to this audit, the project created an internal audit squad, a data correction and validation team and increased staff to address the backlog of work that needed to be done to make files complete. This approach has helped address these quality control problems; however, we note that as of September 9, 2011 27,956 claims were still missing one or more pieces of data. In many cases, it seems that files are missing a single piece of information that is actually physically within the project's offices but has not yet been entered into the database. The project manager reported, in a senior staff meeting we attended, that all claims information will be entered into the central database by October 31, 2011. Ensuring that this data is as complete as possible should be a top priority as the handover of materials to the Ministry of Justice rapidly approaches. Project staff seemed to be in full agreement on this point.

Since the project started collecting property claims, over 825 subsequent property transactions have occurred and these have since been captured within the property claims database. The fact that households are recording such updates to their property rights status with the project offices indicates there is considerable trust in the process.

While the project made important progress recording claims, it remains the case that public displays will not be completed for all districts (this was not a requirement within their SOW). Initially, public displays were conducted in Liquica and Manatuto as early as February 2010 but these had to be halted and eventually redone so that they were completed in accordance with Decree Law 27/2011. Additionally, the lists of uncontested claims must still be approved by the District Director of the DNTPSC and by the Minister of Justice before any certificates of ownership can be delivered to citizens. This process has not yet happened but was anticipated to begin as early as November 2011.

If the Ministry of Justice is to assume responsibility for the Ita Nia Rai process moving forward, s they will need to have the required technical capacity as well as the political will to continue the process in a transparent and effective manner.

We believe that it is in the interests of the USG and USAID to offer assistance to the Ministry to complete the property claims and registration process for the 50,000 targeted land parcels. Assistance should also be offered to help build the skills needed to protect the integrity of the data the project has collected and to integrate Ita Nia Rai into the Ministry of Justice and DNTPSC. There is a concern that failure to do so will compromise this data, exposing it to misuse or abandonment which could lead to conflict, particularly if the electorate has high expectations that contested claims will be resolved and certificates will be issued before the 2012 elections. There is also concern that the DNTPSC may reject the validity of the data collected (based on either technical concerns related to surveying methods and/or incomplete records) creating confusion among claimants and exacerbating political tensions.

The project met some important objectives under Task 4, but in an alternative manner than originally intended (through Ita Nia Rai). The project was able to amass a significant body of information about land claims in Timor-Leste. This material should provide the core of a new national cadastre and

property registry. This cadaster, if viewed by the Timorese as a trustworthy source of information, will provide the basis for developing a land market. It will also help encourage investment as investors will have a clearer sense (as well as clearer process) for purchasing or leasing land and they will, if land laws are enforced, feel more confident investing in their properties.

Task 5 – Dispute Resolution, Mediation and Reconciliation

The SRPTL project has created an impartial process whereby local people bring claims to land forward using a variety of evidence. As a first step, private claimants are encouraged to resolve any conflicts among themselves. In cases where private parties are unable to resolve a dispute the project offers mediation services. If mediation is unsuccessful, some parties attempt to resolve disputes on their own, others may turn to litigation. This process recognizes and respects local knowledge, it is cost effective and accessible, it encourages local problem solving and it seems to be fairly demand driven. Important contributions made under this Task are the following:

- Of the claims collected for the 50,101 parcels of land, 4,616 or 9.2% are disputed. 90.8% of the parcels were undisputed, suggesting that any additional conflicts that the claims process may have created were resolved by claimants negotiating among themselves
- Of the 4,616 disputed claims to parcels, 53% are between private individuals and the state and there is currently no legislative or regulatory framework to solve these disputes, therefore Ita Nia Rai could not facilitate a resolution of these cases
- The project has trained 1128 Timorese in dispute mediation, including 185 women

The low percentage of disputed private claims is impressive; however, it did not cover all sub-districts or the rural areas within the country, nor was it intended to. As a result, this number may not be representative of the general state of land conflict throughout all of Timor-Leste. If it is reasonably representative, however, this suggests the project developed a dispute resolution model that may be adaptable in other countries and in other post-conflict environments. It is too soon to tell if this is the case and research into the short and longer-term effects of this process would be especially welcome.

Some stakeholders expressed concerns related to the mediation element of the process and the evaluation team shares some of these concerns. In particular, the project (perhaps for purposes of expediency and cost-effectiveness) adopted a mediation technique that may have been overly mechanical. The process allowed for up to three two-hour mediation sessions with disputants. If a resolution to the problem was not reached after three sessions the disputants were referred to the court system. Given the reportedly large backlog of cases in the formal legal sector and the greater costs associated with litigation it may have been useful to extend mediation services.

A related concern is that only a very small percentage of land disputes have been resolved through project-supported mediation. Even with a somewhat abbreviated process, only 177 of the 2160 disputes among private parties have been successfully resolved (3.8%). This low number for resolving disputes may reflect another concern: the scope of training mediators received. Some stakeholders felt that mediators did not receive adequate training. We feel that this is likely a legitimate criticism but also note that increased training on mediation involves opportunity costs. However, investing more in mediation training may have helped to further reduce the number of disputes over land claims that exist.

Finally, we raise a concern similar to those mentioned in Task 4. It is unclear that dispute resolution and mediation trainings have increased the capacity of officials within the DNTPSC to capably take on these

tasks. In the absence of Ita Nia Rai, the government may have very limited abilities to mediate resolutions to land disputes. This is particularly concerning given that the project is currently reducing the resources available for mediation as part of project close-out. This is at a time when there are currently over 4600 land disputes now identified as part of the Ita Nia Rai process. It is expected that this figure could grow once the public display processes in each of the districts occurs and further counter claims lodged. Finally, provisions within the Land Law suggesting compensation for households evicted from property may result in squatting or forceful occupation of land. Conflict mediation and legal aid services will be essential to address the potential growth in land disputes and to avoid the escalation of tensions associated with competing claims to property.

Despite the concerns regarding the small percentage of land disputes resolved through project-supported mediation, we feel that the project accomplished important objectives under Task 5, most important of which is the development of a dispute resolution model that builds on local efforts and local knowledge and that has, at least to date, facilitated the recording of large numbers of undisputed claims to land. In a post-conflict environment this is an important accomplishment and helps support peace building efforts.

III. Conclusion

In conclusion, while there have certainly been some shortcomings in the SPRTL project, we believe the project has made important contributions to Timorese society. Key successes include the following:

- The registration of 53,814 claims to 50,101 land parcels
- Less than 10% of the claims registered are disputed
- The development of an institutional structure to collect, record and manage these claims
- Strengthening of local human capital through the project, particularly the development of a team of senior staff within Ita Nia Rai, approximately half of whom are women
- A strong public awareness program, including participation of over 12,000 people in community forums and widespread recognition of the project and its goals

The program did have weaknesses and these include the following:

- As discussed in its 2010 Audit, the project needed to improve quality control of its data
- Only a small percentage of disputed claims (>4%) have been successfully mediated
- The project has been unsuccessful in developing a positive working relationship with the key land agency, the DNTPSC
- Failure to develop a positive working relationship with the DNTPSC threatens the future viability of the project and the future integrity of the data collected

Despite these weaknesses, as noted above, we believe that the SPRTL project has been a success. The most notable, and valuable, success has been the collection and recording of over 53,000 land claims from across the country. This data should provide the core of a national cadaster and/or registry that identifies and tracks ownership of parcels of land over time. There seems to be broad anecdotal agreement that the Ita Nia Rai process is impartial and that its data is trustworthy and accurately represents the current status of control, use, and ownership of land in the areas where the project worked. If the integrity of this data is maintained and if it is properly updated as subsequent transactions take place, it could provide the basis for a formalized land market and for more expansive economic growth and opportunity because it will help reduce insecurity and unpredictability in the Timorese economy.

IV. Recommendations

Given the important contributions outlined above we recommend that USAID/Timor-Leste consider the following actions to build on and protect these developments.

- Identify an additional location for the safe storage of project-generated property rights data and maps – options include housing the databases at either a university or on the Ministry of Finance’s Transparency Portal.
- Allow a more gradual transition of ownership over the property claims process. This will enable USAID and the Ministry of Justice to (i) successfully complete the public validation and property certification process, (ii) continue mediating competing claims, and (iii) further build the capacity of the DNTPSC to protect the integrity of the data already collected and institutionalize such processes for future expansion to other more contested properties throughout the country.
- Establish legal aid clinics in each district to sensitize people on the land law and to assist local people to address land claim disputes, particularly between private parties and the state.
- Support the development of implementing regulations, specifically as they relate to expropriation and compensation, and to develop the architecture for the Real Estate Finance Fund which will be established to pay financial compensation to evictees.

By following the recommendations outlined above it will help ensure momentum of the project continues through the upcoming elections, ensuring that Ita Nia Rai remains visible to any new government. We also believe that providing this support will better ensure a smooth integration of Ita Nia Rai processes and data into the DNTPSC, will help to build institutional capacity within the DNTPSC, will help protect and further strengthen the property rights of Timorese people which, in turn, will help to limit conflict and promote economic growth in the country.