

even in domestic violence situations, is a family decision in some communities, thereby subordinating the individual woman's welfare to what is considered the overall welfare of the family.

*D. What state and non-state justice mechanisms exist in the community? How do they work? How are they linked, if at all?*

1. State justice mechanisms may not actually be present at the level of the community. In such a case, non-state justice mechanisms, where they exist, sometimes assume the function of dispute resolution and justice delivery.
2. Still, state and non-state legal or justice systems do co-exist and function side by side in some communities, and they sometimes cooperate to settle conflicts in the community. For example, in one Muslim community in the south of the Philippines, a murder trial was suspended upon motion of the National Commission on Indigenous Peoples (NCIP), a state agency, in order to allow the parties to settle their conflict through a non-state justice mechanism. The court granted the motion, and the parties later submitted an amicable agreement involving payment of 'blood money,' which the court approved. The court eventually dismissed the criminal case. In this example, the NCIP was critical in enabling the state-non-state interface.
3. The benefits that women are able to secure from using non-state justice mechanisms must be examined as well as the disadvantages. While non-state mechanisms (e.g., mediation, arbitration, and tribal councils) may appear to be more accessible to women than state mechanisms in terms of cost, language, geography and the users' familiarity with customary law, their effectiveness in delivering justice still has to be studied. Non-state justice mechanisms may, in fact, be less accessible to women when the normative rules or standards they apply are male-defined morality (or normalcy), or when they are not open to address women's gender-based needs and experiences.
4. Studies on non-state justice systems document the various ways that non-state systems reflect patriarchal social norms, perpetuate gender inequities, and keep women disempowered. Sometimes, customary and religious legal norms deprive women of rights and protection that they would otherwise enjoy under state law. Examples include the unequal inheritance practices under traditional rules in Cambodia.<sup>49</sup> Discrimination against women is also linked to and exacerbated by the practice of child marriage,<sup>50</sup> which continues in the eight Southeast Asian countries, either as a state-sanctioned practice under exceptional circumstances or under state-enacted religious law,<sup>51</sup> or as part of a cultural tradition.

---

49. UN Women 2011, p. 70.

50. Ibid.

51. UN Data.