



Provedoria dos Direitos Humanos e Justiça
Provedoria for Human Rights and Justice

Short and Medium Term Strategic Plan
January 2008 - December 2010

Dili, Timor-Leste

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ACRONYMS

CAT	Convention against Torture
CAVR	Commission for Reception, Truth and Reconciliation
CCD	Common Core Document
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CHC	Community Health Centre NDP National Development Plan
CMW	Convention on Migrant Workers and Their Families
CRC	Convention on the Rights of the Child
ICT	Information and communications technology
F-FDTL	Falintil-Defence Force of Timor-Leste
FRETILIN	Revolutionary Front for an Independent East Timor
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
INAP	(National Institute for Public Administration)
JSMP	Judicial System Monitoring Program
MLCR	Ministry of Labour and Community Reinsertion
MPF	Ministry of Planning and Finance
MSD	Management Sciences for Development
NGO	Non-governmental organization
NHRAP	National Human Rights Action Plan
OHCHR	Office of the United Nations High Commissioner for Human Rights
OM	Operations Manual
PDHJ	<i>Provedoria dos direitos humanos e justiça</i>
PNTL	National Police of Timor-Leste
UDT	Timorese Democratic Union
UNCDF	United Nations Capacity Development Fund
UNDP	United Nations Development Programme
UNHCR	United Nations High Commission for Refugees
UNICEF	United Nations Children's Fund
UNMIT	United Nations Integrated Mission in Timor-Leste
UNTAET	United Nations Transitional Administration in East Timor
VAC	Voluntary Advisory Council of the PDHJ

FOREWORD BY THE PROVIDOR

I am pleased to present the 2008-2010 Strategic Plan of the *Provedoria dos Direitos Humanos e Justiça* (Provedoria for Human Rights and Justice) of Timor-Leste. This plan offers the opportunity for coordination of activities and development of meaningful partnerships in the years to come, with a focus on the short and medium term.

The strategic planning process has taken place thanks to the gracious support of the United Nations (UNMIT HRTJS, OHCHR), Management Sciences for Development (MSD/USAID), the World Bank and the Government of Finland, I requested the assistance of the donors to develop a comprehensive plan early in the life of the organization, to ensure that it develops in a strategic, integrated and steady manner. I was involved from the outset, as were the two Deputy Providers, in developing this plan. Our entire staff was engaged in the development and selection of the vision, mission and core values for the organization as well the identification of objectives and the planning and prioritization of activities.

The process was highly participative. We invited more than 50 NGOs, members of Parliament, the government, the executive, the judiciary and international organizations to be part of the process both before and after the first draft plans were written. Two earlier drafts of the plan were developed and distributed in Tetum and in English, the first to the staff only, and the second to staff and external stakeholders. The members of the PDHJ Voluntary Advisory Council appointed in September 2007 were the last group of civil society members who gave their inputs to the document on December 4 and 21. This is very much in the spirit of engagement, transparency and accountability upon which the institution wishes to base itself.

This public document sets out a vision for the Provedoria, and its directions for the future. The Plan demonstrates the effective management of the institution's resources, while ensuring that the work of the Provedoria is as relevant as possible to the legitimate concerns and aspirations of the people of Timor-Leste. Strategic planning is also a blueprint for institutional development – including recruitment and training of new staff, ongoing development of procedures and staff manuals, internal monitoring systems, development of external relationships, promotional and training activities, and development of regional offices. At the same time, this is very much a living document – while it will guide our actions, it will also evolve as the situation in Timor-Leste evolves.

The Provedoria for Human Rights and Justice of Timor-Leste calls upon the Timor-Leste public at large, all branches of government, the political leadership and the civil society leadership to firmly stand and cooperate with it in the national effort to protect and promote human rights and good governance and to fight against corruption. The proper implementation and translation of activities enshrined in this document will contribute to our nation's commitment to protecting human rights, promoting good governance and fighting corruption, paving the way to the rule of law and good governance.

Dr Sebastião Dias Ximenes
Provider of Human Rights and Justice
Dili, Timor-Leste

January 2008

Strategic Plan at a Glance

Vision

A culture of human rights and good governance in Timor-Leste is the vision of the Provedoria for Human Rights and Justice (PDHJ).

Mission Statement

The PDHJ is the independent national institution of Timor-Leste dedicated to the protection and promotion of human rights, anti-corruption and good governance. It achieves this by:

- *Educating:* Creating public awareness by promoting a culture of respect for human rights, the rule of law, and the principles of good governance;
- *Promoting cooperation:* Encouraging and assisting public entities and agencies to develop policies, procedures and internal training and complaint mechanisms;
- *Resolving:* Effectively resolving cases of human rights, maladministration and corruption through an effective complaints handling service, and through education and settlement services;
- *Investigating, Research and Monitoring:* Recommending ways and means of protecting human rights and promoting good governance, based upon results of investigations, research, monitoring (directly and in partnership with civil society partners) and ensuring the constitutionality of legislation.

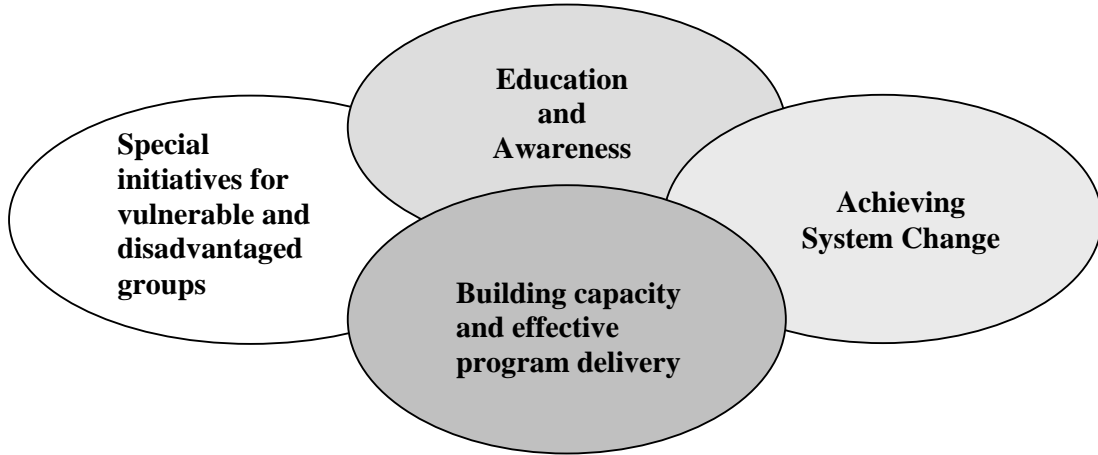
Core Values

The core values of the PDHJ reflect the standards to which it aspires in its work, its dealings with the public and its stakeholders.

- Accessibility
- Accountability
- Credibility
- Integrity
- Efficiency
- Equality between men and women
- Honesty
- Impartiality and fairness
- Independence
- No discrimination
- Respect for the rule of law
- Transparency
- Treating citizens with dignity
- Unity for the country

Strategic Priorities

This section sets out the four strategic priorities for the Provedoria.



1. Education and Awareness

Targeted Outreach for Government and Public Authorities

Law enforcement & Security

- Police (PNTL)
- Army
- Prison Officials

Public Service

- Induction, refresher training for public servants
- National, local levels of government
- Judicial, prosecutorial training

Elected officials & political parties

- Elected officials
- Council of Ministers
- Political parties

Public Outreach

Children & Youth

- School curriculum
- Volunteering and internships

General Public

- National communications plan
- TV and radio shows
- PDHJ reports and bulletins
- National events
- Press conferences

Specialised groups

- Seminars and workshops
- Thematic publications
- Training for lawyers, media
- Inviting NGOs to PDHJ training

2. System Change: Fostering Cooperation and Networks

Developing Systems with Public Authorities

Public Service

- Employee grievances
- Handling complaints from the public
- National anti-corruption strategy
- Budget coordination

Law enforcement

- Internal complaint systems for PNTL, Army, Prison guards
- Operational agreements with Public Prosecutor, law enforcement authorities

Legislature

- Review draft legislation on a systematic basis
- Early focus on human rights compliance

Developing Systems with NGOs

- Regular meetings with civil society to communicate developments in PDHJ procedures and practices

- Monitoring networks across all three mandate areas

3. Capacity-Building and Successful Program Delivery

Organization

Restructuring & Human Resources

- Review internal structure
- Enhance integration between mandates
- Women in development program

Planning, Policy & Infrastructure

- Annual and operational planning
- Management policies
- Vehicles, IT, communications infrastructure
- Regional presence

Training

- Technical
- Leadership
- Professional development

Case management

- Systemic investigations
- Evaluate Operations Manu (and related training)
- Data management
- Service standards

ADR¹

- Training for select staff
- Pilot project

Public Education

- Internships and specialized learning
- Translation resources
- Integrate public education and media functions across PDHJ

¹ Alternative Dispute Resolution

Strategic Plan at a Glance

4. Vulnerable and disadvantaged groups

- Mainstream issues re: women, children, persons with disabilities, IDPs across all program areas and ethnic minorities, as appropriate
- Develop or enhance NGO networks to identify and address issues affecting vulnerable groups
- Internal initiatives to enhance accessibility of PDHJ to vulnerable and disadvantaged groups

Women and Children

- Special program for women in PDHJ (human resource development)
- Legislative and policy initiatives re domestic and sexual violence

Internally Displaced Persons

- IDP-specific monitoring
- Legislative and policy initiatives, including liaison with government officials
- Public awareness and information campaigns

INTRODUCTION

The 2008-2010 Strategic Plan of the *Provedoria dos Direitos Humanos e Justiça* (the “PDHJ” or “the Provedoria”) is a high level planning tool, setting out the vision, mission and core values for the organization, and the key goals or strategic priorities for the next three years.

As well, the plan contains concrete activities based on input from staff and external consultations over the short and medium terms. They are clear, objective and related with each other in their overall scheme of contributing to the vision and mission of the institution.

The Office of the Provedor was established by the Constitution of the Democratic Republic of Timor-Leste in March 2002 as one of the key government responses to the challenge of building a democratic and just society.² The PDHJ is an independent national institution with three specific mandates – human rights, good governance and anti-corruption. In addition, it has a general power under Section 150 of the Constitution, which allows the Provedoria to seek a declaration of unconstitutionality of legislative measures.

In March 2005, the first Provedor was elected by the National Parliament and sworn in to office by the Parliament in June 2005. Two Deputy Provedors, selected by the Provedor, were sworn in later in the same month. The PDHJ opened its doors to the public in March 2006. Almost immediately, the crisis of 2006 occurred, focusing the limited resources of the new organization on managing the resulting human rights and humanitarian issues. Later on, several planning processes were initiated for specific parts of the mandate. Over the last year, as new staff have joined the organization, training sessions and internships have been offered.

In this short period of time, it has become clear to the leaders of the Provedoria and the staff that expectations are very high. Demands are being placed on the organization that will increase with time. The organization needs to manage these demands in an integrated and systematic manner, while ensuring that the distinct areas of its mandate are carried out properly.

The organization benefits from energetic, committed staff and engaged donor support. These assets need to be leveraged and sustained.

This plan focuses on two central ideas. The first is about integration. The staff need to work together more effectively within the organization to bring their collective resources to bear on systemic issues with a high level of impact. This includes pooling the resources of staff in public education and media relations, taking a more integrated approach to monitoring, and using a systemic case management approach across all three mandate areas, where appropriate.

Outside the PDHJ, the international and donor community also need to take a more integrated approach. The PDHJ is a single institution with three mandates that are highly interrelated and interdependent, rather than three competing organizations that happen to be co-located. There are few consulting or other resources that can support all three mandates together, and most organizations have a history and experience base in one of the three areas. The international community will need to learn about how best to support a more integrated approach, just as the PDHJ is learning, with civil society and others, the best way to fulfil its duties.

² Law No. 7/2004 of 26 May 2004 provided for the organizational structure, powers, functions and procedure of the office.

The second central idea is to place public education and changing the political and social culture as priorities in the planning process. However important enforcement is, the Provedoria cannot rely exclusively or even primarily on traditional investigations and prosecutions for all its cases in the current environment. The legal framework in Timor-Leste is still a work in progress: the courts are rebuilding and the Public Prosecutors are backlogged. At the social level, public education helps build awareness of human rights and good governance standards. Public servants must also be part of the process: coordinating mechanisms are needed across government to strengthen good governance and to build a culture of accountability as a precursor to successful enforcement. This means putting a priority on changing the bureaucratic culture and moving towards meaningful and realistic service standards, as well as building effective complaint mechanisms throughout the government so that the Provedoria is a venue of last resort. It also means effective and systematic training of public officials is a priority. These are necessarily long term goals.

The strategic planning process provided an excellent opportunity to discuss and shape these ideas, as well as the more traditional priorities usually found in documents like this, such as capacity-building and specialized training programs for staff.

The strategic planning process was highly participative and consultative and it engaged the Provedor, the Deputy Provedors and external consultees extensively. In January 2007, preliminary meetings were undertaken with NGOs, parliamentarians, government advisors on human rights, gender equality and children's rights, as well as with representatives from the public service, the public service training institute, and the judiciary. The results of these meetings were then developed and discussed internally, with senior officials, with the staff, and informally, with donors. Strategic priorities and key activities were then developed and validated with stakeholders. Formal consultations were held in March 2007. A summary of the process, its methodology and the list of consultees are set out in appendices to this document.

This process was supported by The United Nations, in particular United Nations Integrated Mission in Timor-Leste (UNMIT), the Office of the United Nations High Commissioner for Human Rights (OHCHR), in partnership with USAID, through Management Sciences for Development (MSD), the World Bank and the Government of Finland.

Because the document was developed with staff and external stakeholder, and to ensure its ongoing usefulness, an attempt has been made to minimize jargon and technical planning language, although the terms and references in the action plan in Appendix 1 make reference to some planning terminology.

DURATION OF PLAN

The priorities set out in this document reflect *long term* strategic decisions for the PDHJ.

However, in terms of developing particular objectives, outputs and activities, however, the following time frames apply:

- *short term* planning (18 months), starting January 1 2008 to June 30 2009;
- *medium term* planning to July 31, 2009 to December 31, 2010.

Activities have been designated by the Provedoria as short or medium term in the attached Appendix.

MANAGING A COMPLEX MANDATE

The PDHJ has an unusual multiple mandate: it not only is responsible for oversight of human rights, good governance and anti-corruption, but also has a general oversight responsibility for the constitutionality of legislation. In all these three fronts, the PDHJ works as an independent national institution fighting lawlessness and impunity.

Because there is little international experience with this type of multiple mandate, there is an understandable tendency for the organization and its international partners to focus on or fund one area at a time, or to promote one aspect of the mandate as “the important one”. Until now donors, and to some extent civil society, have tended to see the organization through the silos of either human rights or anti-corruption. As a result, these two areas have been the focus of the funding although there has been some general corporate support for infrastructure, training and human resources. Good governance, in the sense of maladministration specifically, has received little targeted support. This is leading to uneven organizational growth, few attempts to find synergies within the organization, different opportunities for staff (for example, training and internships) and some fracturing within the organization.

For the PDHJ to be effective, it must function in an integrated manner and the donors must learn to see it this way too. Government and NGO networks need to learn – as the PDHJ itself is learning – how interconnected the different mandates actually are. Human rights complaints against the government or law enforcement authorities often contain aspects of maladministration. Good governance issues are frequently at the heart of corruption issues. Corruption and poor public service frequently lead to a denial of human rights. Human rights violations diminish the rule of law and erode respect for the constitution. Impunity gets the opportunity to institutionalize itself if violations of law are not brought to justice. In fact, a review of many of the complaints before the PDHJ in early 2007 reveals that several cases actually raise similar issues, regardless of whether the case is assigned to human rights or good governance, including abuse of power and complaints from public service employees about unfair employment practices.

Because of its unified mandate, the PDHJ has a unique opportunity to address these complex issues holistically – across all areas of its mandate - and in a more systemic and integrated manner. This approach is at the heart of the Strategic Plan.

The emphasis on integration and on finding synergies must not be misunderstood: the PDHJ mandates should not be conflated or mixed up. Human rights, good governance and anti-corruption have distinct legal, constitutional and international law, policy and best practice. These must be respected and operationalized differently where legal standards differ. Anti-corruption enforcement, for example, has a distinct investigatory and prosecutorial basis. International standards set out in human rights covenants provide a specific legal foundation for the rights contained in them. It is also true that individual complaints may only raise specific issues covering, say, human rights, or only corruption, and the PDHJ needs to be able to deal with these as well.

Generally, though, because the three areas reside in the same institution, the PDHJ has the chance to bring specialized resources to bear on the complex problems faced by Timor-Leste. Many injustices and social problems in developing countries arises from complex and interrelated factors that extend far beyond individual complaints, and that affect human rights and the conduct of government more generally. This plan will also seek to identify some of these and address strategies that are likely to address systemic issues effectively. This plan is a first attempt to bring these issues together, but is necessarily a work in progress or a “living document” that will, hopefully, evolve with time.

Finally, those with experience in strategic planning will note that this document is shorter than the usual plan, and that many of the underlying discussions and analysis of context are not contained in the plan itself. There was a stated preference by some institutional partners to this project, with a focus on keeping the document simple and short. However, some of the usual elements are contained in the Appendices to this document for ease of reference.

BACKGROUND AND SITUATION ANALYSIS

Brief History of Timor-Leste

Timor-Leste today is managing a complex and troubled past, the legacy of several centuries of colonization, decolonization and violent occupation. Despite a number of important and progressive advances, writers have observed a tradition of settling political competition through violence, and this has followed the country into its independence. While conflicts have destabilised the country, impoverished people and endangered human security, there have also been several positive accomplishments of nation building.

Timor was colonized by the Portuguese in the 16th century, and its occupation was characterized by political and economic repression. Political activities were banned and there was little economic investment. Despite sporadic rebellions, the colonization continued through to the 1970s.

In the 1960s and 70s, social and political upheavals in Europe pushed the powers to decolonize, although this occurred somewhat later for Portugal than for other European powers and their territories. When Portugal did begin to offer education and exchange opportunities, the Timorese became more politically active and agitated for change.

Portugal's 1974 Carnation Revolution triggered a new constitutional order in that country, while in Timor, the emerging parties included the Associação Social Democrática Timorense (ASDT), which would later become Fretilin (*Frente Revolucionária de Timor-Leste Independente*) and the União Democrática Timorese (UDT – Timorese Democratic Union), along with several minority parties.

Fretilin assumed power and began implementing progressive social and economic measures. However, political conflict, mainly between the two larger parties, led to a civil war in 1975 that killed several thousand people and provoked a mass exodus of civilians to West Timor. The Portuguese withdrew from the decolonisation process, prompting the UDT to seek the integration of Portuguese Timor into Indonesia, and Fretilin, for its part, to declare independence.

On December 7 1975, Indonesia invaded East Timor. The capital city Dili fell to the invading army, although Fretilin and the Armed Forces for the Liberation of East Timor (FALANTIL) held the interior until 1978-9, at which time the Indonesian forces assumed control.

The resistance forces regrouped in the 1980s under a national unity banner, and in 1987 the leader, Xanana Gusmão, resigned from Fretilin. The armed wing of the party became the military wing of a new multi-party National Council of Maubere Resistance. There were two important and lasting consequences of this action: Fretilin lost its total control over military power levers in the resistance movement, and a divisive split occurred between Xanana Gusmão and the Fretilin leadership.

After the Indonesian invasion, human rights violations occurred that included systematic and gross human rights violations against the Timorese population, including the bombing of the Matebian region that caused thousands of civilian deaths and the Kraras massacre in Viqueque district in 1983, where all adult male members of the village were executed.

In 1991, Indonesian forces shot into a crowd of people that had rallied to commemorate the death of a student: the resulting massacre at Santa Cruz gave new momentum to the resistance movement and sparked widespread civilian resistance to the Indonesian invasion.

Although there was some U.S. support for the Indonesian invasion of East Timor, the international community overall objected to the annexation of East Timor, and between 1975 and 1982 the UN issued various resolutions seeking a peaceful solution. In 1998, Indonesia indicated its willingness

to begin negotiations towards a resolution. In 1999, almost 80% of the East Timorese population voted for independence in the context of a UN-sponsored popular consultation instead of autonomy within the Indonesian State. The Indonesian militia retaliated, resulting in hundreds of dead and at least 250,000 displaced persons. Three quarters of the country's infrastructure was destroyed. The events of 1999 also left behind a fragile and tense social and political environment with institutions struggling to rebuild.

A UN Transitional Administration (UNTAET) assumed interim authority from 1999 to 2002. Political parties were repatriated, and Fretilin won the 2001 elections. During the UNTAET mandate, several important national institutions were established, including the National Parliament, the Council of Ministers, local government structures, and police and defence forces. A Special Panel for Serious Crimes ("Special Panel") was established by UNTAET Regulation 2000/15 to deal with the offences committed between 1 January 1999 and 25 October 1999, including genocide, war crimes and murder, sexual offences and torture

A draft constitution was prepared, and Timor-Leste became an independent nation in 2002.

Despite these positive developments, the legal system of the new nation was barely functioning, with a shortage of qualified legal and judicial personnel, and district courts that only operated sporadically. Access to justice was and continues to be a major issue in Timor-Leste, and is reported to continue to be especially problematic for women.

The creation of the law enforcement and security forces had structural weaknesses that would have particular consequences, especially in 2006. The police force (PNTL) was composed of those officers who had previously been with the Indonesian forces. The defence forces, for their part, were renamed FALANTIL-FDTL (F-FALANTIL) cloaking the forces with the historical mantle of the resistance movement. This was strongly opposed by certain veterans' groups.

In 2006, a crisis began when the army mutinied, and the poorly managed police force imploded, resulting in communal violence, rioting, house burnings and at least 150,000 displaced persons. The 2006 crisis, as it is called, is generally perceived as a conflict between the east and west of the country, although the roots of the conflict are more complex and strongly influenced by opposing political forces in the country. Most agree, however, that these divisions were used and manipulated for political gain, leading to the events whose impact shapes much of the background against which the current governance environment has developed.

Order was restored in 2006-2007, in part due to the deployment of international troops – including more than 1,500 police officers – and the establishment of the United Nations Integrated Mission in Timor-Leste. The Presidential elections went relatively smoothly in April and May 2007. This was the first national-level election conducted according to Timor-Leste's own laws and the first run by Timorese authorities. In June 2007, parliamentary elections were held leading to a peaceful change of the government. These elections were held in an environment largely free from violence and intimidation, with broad participation of the population. Although some minor law and order problems are seen at times, both the new national legislature and the government have started to function, and the representative democracy in Timor-Leste is already in action.

Political commitment to good governance and human rights

The 2002 Constitution of the Democratic Republic of Timor-Leste sets out the principles and structure of the State of Timor-Leste and is the foundation of good governance in the country. All institutions of State owe their existence to and derive their mandates and authority from the Constitution. This includes human rights and fundamental freedoms, the principle of the separation of powers, multi-party democracy and universal suffrage.

The Constitution clearly asserts that the Republic is a democratic, sovereign State based on the rule of law, and on respect for the dignity of the human person.

In 2002, the Government also launched a National Development Plan (NDP) with key priorities to:

- reduce poverty in all sectors and regions of the nation
- promote economic growth, support poverty reduction, and to achieve sustainable livelihoods and improved well-being.

Timor-Leste is a signatory to seven core human rights treaties and accompanying protocols, as follows:

- International Covenant on Civil and Political Rights (ICCPR)
 - International Covenant on Economic, Social and Cultural Rights (ICESCR);
 - International Convention on the Elimination of All Forms of Racial Discrimination (ICERD);
 - International Covenant against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT);
 - Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
 - Convention on the Rights of the Child (CRC)
 - International Convention for the Protection of the Rights of All Migrant Workers and the Members of their Families
-
- Second Optional Protocol to the International Covenant on Civil and Political Rights (aiming at the abolition of the
 - of death penalty) (OCCPR-OP2-DP)
 - Optional Protocol to the Convention on the elimination of All Forms of Discrimination Against Women (CEDAWOP);
 - Optional Protocol to the Convention on the Rights of the Child on the involvement of Children in Armed Conflict
 - (CRC-OP-AC);
 - Optional Protocol to the International Convention on the Rights of the Child on the sale of Children, Child Prostitution and Child Pornography (CRC-OP-CS).

Timor-Leste is a unitary state and its Constitution provides that all international instruments to which Timor-Leste is a party are part of domestic law. Any provisions that are contrary to applicable international law are deemed invalid.

Article 23 of the Constitution expressly provides that fundamental rights enshrined in the Constitution shall not exclude any other rights provided for by the law and shall be interpreted in accordance with the Universal Declaration of Human Rights. Whilst, as a general principle, rights apply to all individuals in Timor-Leste, some rights apply only to citizens. The rights applicable only to citizens include:

- equality before the law;
- the right of senior persons to protection by the State;
- equal rights and protection for disabled person;
- right of citizens living overseas to enjoy protection by the State;
- right to present complaints to the Provedoria (although the Provedoria law itself may be broader);
- right to disobey and resist illegal orders that affect fundamental rights and guarantees;
- right to access personal data stored in computer system;
- rights to petition, political participation, and to vote;
- right and duty to defend sovereignty of the State;
- right to work; and
- right to education and culture..

In addition, organic laws have been or are being developed for government ministries. In terms of government initiatives to improve overall good governance, there is a law regulating the public service (*Estatuto da função público*) and framework laws such as a civil code and penal law are being prepared although they are not yet passed. Applicable legislative provisions from UNTAET and from the previous Indonesian regime have created a web of laws that are some times confusing for citizens. However, key pieces of legislation, including the forthcoming Timor-Leste Civil Code, Penal Code, a Children's Code, and legislation against domestic violence will improve certainty and will strengthen the rights framework.

The Constitution of Timor-Leste affirms the independence of the judiciary, and guarantees access to justice, and the defence of legally protected rights and interests regardless of economic means. There have been concerted efforts, especially since 2003-2004, to build the court system. Judicial training and qualification, as well as review of prosecutorial staff have meant that there are relatively few resources in place. Prosecutors and judges have been trained and are on probation. There is no Supreme Court yet, and the Court of Appeal is functioning as the senior appellate court in the meantime. Thus, access to justice is not well established in practice, largely because the system is rebuilding and because human resources are scarce. International staff are assuming many of the functions of the judiciary in this rebuilding period, with nationals from Lusophone countries providing both judicial and prosecutorial services, as well as mentoring Timorese nationals.

To promote accountability and good governance, the following institutions and offices have been established and reinforced:

- Office of the Inspector General
- Officer of the Public Prosecutor
- Office of the Human Rights Advisor to the Prime Minister,
- Office of the Advisor to the Prime Minister on the Promotion of Equality (OPE)
- National Commission of the Rights of the Child
- Parliamentary Committee "A" on Constitutional Affairs, Rights, Liberties and Guarantees
- In April 2005, Committee A established a Sub-Commission on Human Rights which has a mandate to undertake reviews of legislation for compliance with the Government's human rights obligations and to receive complaints from the public.

There have also been several bodies established to look into violations that have taken place in the past. This includes the Commission on Reception, Truth and Reconciliation (CAVR) which was struck in 2002 to seek the truth regarding human rights violations committed in East Timor between 25 April 1974 and 25 October 1999, and to conduct community reconciliation and healing of victims. The Commission was an independent national institution. In its 2005 report, it found that at least 102,800 Timorese were killed or died of hunger and illness directly attributable to the Indonesian occupation. Indonesian forces were found to have used starvation as a weapon of war, to have committed arbitrary executions, torture, and sexual enslavement and sexual torture of Timorese women. A significant majority (85%) of the human rights violations were reported to have been committed by Indonesian security forces acting alone or through others. Violations were reported to be "massive, widespread and systematic".

The leaders of the Government of the Republic of Indonesia and Timor-Leste met in Bali in 2004 to establish a Commission of Truth and Friendship (CTF), tasked with establishing the truth regarding events prior to and immediately after the popular consultation in 1999, with a view to promoting reconciliation and friendship, and to avoiding the recurrence of similar events.

Good Governance and Maladministration

There has been no formal survey on corruption or good governance in the country. The following observations are therefore drawn primarily from the consultations which, while reasonably extensive, are necessarily anecdotal and cannot claim scientific accuracy. Nonetheless, those observations that appear to have significance to many consultees, with a view at least to getting a basic if incomplete picture of what is happening in the country.

The first general observation is that public servants currently receive no systematic training on good governance through the national training institute, INAP. There have been some modules developed on issues such as sexual harassment, with the support of UNIFEM, but these are not formally integrated into the permanent curriculum for induction and refresher training.

One impact of the lack of permanent and consistent training on governance standards is that internal complaint processes are not adequate in the public service. One consultee spoke of a resulting “legacy of corruption” in relation to past regimes, and in the absence of formal and ongoing training of public servants, poor practices will be difficult to stamp out.

During consultations, INAP officials expressed an interest in pursuing discussions with the Provedor to develop a permanent curriculum for public servants in the future.

Some ministries do have functioning internal complaint systems. During consultations, however, internal inspections were generally considered to be inadequate by interviewees with respect to complaints in or against the public sector. In some cases, complaints are filed with the very person against whom the complaint is made, and not surprisingly, nothing is done at all in many of these instances. Consultees reported that there are some processes in place in the Ministry of Health and the Ministry of the Interior, for example, that have inspection units which report to the Minister in terms of administrative matters but are independent in terms of their functions. However, their efficacy is not clear.

The Minister of the Interior receives complaints in relation to the police and police behaviour, but outcomes are not generally publicised or considered satisfactory. In the police and the army, internal procedures for discipline and human resources generally are reported either to be missing or not properly enforced. Managers are reported not to be clear about or to understand basic principles of fairness.

The results, in terms of the Provedoria’s work, are that many complaints are filed directly or simultaneously with the Provedoria in the absence of effective mechanisms elsewhere in the system.

In terms of specific areas of concern, consultees raised the consistent and fair enforcement of laws and regulations: for example, obtaining basic civil records such as a driver’s licence, or birth and death records, are reported to be lengthy and difficult processes, with some officials requesting bribes. Depending on the influence and power of the requesting citizen, a driver’s licence was reported to take either a day or six months. In short, equity in administrative practices is an important value but is not always practices.

Tender and procurement practices for public projects are reported to be another area of concern, and consultees also signalled issues with immigration and customs irregularities.

Finally, the relatively weak district level administration has been a source of longstanding concern according to consultees. Good governance, with an emphasis on decentralization, is seen as an effective means to address these issues and a way to deliver services and improve government responsiveness. The government, in partnership with the UN, has proposed the introduction of a new tier of municipal government, merging the current district and sub-district levels into a single and stronger administrative structure. This project will build on the successful Local Governance Support Program which provided “real time” simulation of local government a project that was

piloted in 2004 with a total of four participating districts by the end of 2007. Decentralization is also a critical project for the Provedoria, given the implications for good governance and anti-corruption. During consultations, it was suggested that the Ministry of State Administration, the UNDP and the UNCDF work closely with the Provedoria to ensure that capacity-building of local officials takes into consideration the mandate of the Provedoria.

Finally, a study on the state of maladministration and corruption would provide a useful baseline to validate the issues raised here and determine their prevalence. While such a study is not within the current capacity of the Provedoria, it would serve as a useful project for the international and/or NGO community to undertake in partnership with the PDHJ and other organizations. Meanwhile, the Provedoria has, in November 2007, appointed an international advisor to work on the National Anti-Corruption Strategy, which has to be collaboratively undertaken with the new Government and its institutions.

Human Development: Social and Economic Indicators

Timor-Leste is among the world's poorest countries and figures 147th in the UNDP Human Development Index 2005. The population, currently situated at about one million inhabitants, is growing and has among the highest fertility rates in the world. Life expectancy is low, in the mid to late forties, and infant mortality is high, particularly in rural areas. The urban poor face growing unemployment, while the rural poor face food insecurity. Despite projected oil and gas revenues, poverty is likely to increase in the medium term due to sluggish economic growth and rapid population growth.

In 2001, 40 % of the population were living on less than US\$1 per day and 20 % were below the national poverty line. Based on the 2003 study "Timor-Leste: Poverty in a New Nation: Analysis for Action", two in five people in Timor-Leste were considered poor. Poverty is concentrated in rural areas, where 86 percent of people live, and where 40% of households experience food shortages four months per year. Urban areas, especially in Dili/Baucau, are somewhat better off than rural areas.

Poverty increases from east to west. The western districts Oecusse, Bobonaro and Covalima are home to one fifth of the population, but account for a quarter of the poor.

Economic well-being is a function of family size, education and rural situation, with subsistence farming most closely associated with poverty. Given recent developments in the country, internally displaced persons make up a large percentage of the poor. Children experience the most poverty, while the elderly are reportedly the least poor. As is usually the case in other countries, better education reduces poverty, and poverty decreases with larger land size and larger livestock holdings.

Maternal and child health are areas of grave concern in the country, as are high rates of child malnutrition, disease and wasting. Women's organisations report high levels of domestic and sexual violence, with impacts on children that tend to perpetuate cycles of violence. While few instances of domestic violence are reported to the police, this issue came up over and over again during PDHJ consultations, and is reported in some detail in the 2006 Report on the Convention of the Rights of the Child, and the accompanying Common Core Document.

The rapid rise in population coupled with poor health outcomes for women and children points to an appropriate strategic focus on these groups. Finally, persons with disabilities suffer disproportionately from unemployment, poverty, and poor access to services. The precise figures are not available, but both physical and mental disabilities are the source of personal and family

hardship. During consultations, NGO representatives spoke to the particular stigma and hopelessness experienced by persons with mental disabilities.

Finally, the humanitarian issues related to internally displaced persons will continue to be a concern in both the short and medium terms, with women, children and persons with disabilities experiencing particular vulnerability among these groups.

Constitutional and legislative context

Article 48 of the Constitution of Timor-Leste provides that every citizen has the right to submit, individually or jointly with others, petitions, complaints and claims to organs of sovereignty or any authority for the purpose of defending his or her rights, the Constitution, the law or general interests. Two specific institutions are created to give effect to these rights, namely the Office of the Provedor for Justice and Human Rights and the Supreme Court, which has legal jurisdiction to hear complaints of human rights violations.

Article 27 of the Constitution provides for the creation of an Office of the Provedor for Human Rights and Justice, commonly referred to as the “Provedoria” or the PDHJ.

In 2002, the process of establishing the PDHJ began under former Prime Minister Dr. Mari Alkatiri who appointed a Human Rights Advisor to coordinate a Working Group to set up the PDHJ. The Working Group was comprised of jurists, an academic, an NGO Representative and members of the UNMISSET Legal and Human Rights Offices. A Consultative Workshop assembled jurists, experts, representatives of local and international NGOs, as well as members of civil society and UN representatives, to exchange views and experiences on the proposed institutional model for Timor-Leste. A Policy Paper was prepared that outlined the essential characteristics of an independent, credible, accessible, effective, efficient and sustainable institution. The nature, functions, powers and limits of powers as well as a complaints’ process were defined.

Following the endorsement of the Policy Paper by the Council of Ministers, the Organic Law establishing the PDHJ was drafted and submitted to the National Parliament of Timor-Leste. Law No. 7/2004 of 26 May 2004 provided for the organizational structure, powers, functions and procedures. In March 2005, the first Provedor was appointed and sworn in by the National Parliament. Thereafter, two Deputy Provedors were sworn in by the National Parliament in June 2005.

Legislative analysis and recommendations

The Law No. 7/2004 provides that the Provedoria is an independent oversight body responsible for addressing citizens’ complaints of abuse of public power (including PNTL and F-FDTL) and for certifying the conformity of acts with the law. It also has responsibility for preventing injustice and initiating the process of remedying injustice. The Office of the Provedor is vested with wide powers that encompass:

- Addressing violations of fundamental human rights, freedoms and guarantees, abuse of power, maladministration, illegality, manifest injustice, and lack of due process, as well as instances of nepotism, collusion, influence, peddling and corruption;
- overseeing the functioning of public authorities, notably the Government, its agencies and private entities fulfilling public functions and services,
- reviewing legislation to ensure compliance with the Constitution and international human rights standards, intervening in court cases, to request the Supreme Court of Justice to review the unconstitutionality by omission of any legislative measures as deemed necessary to enable implementation of the Constitution;

- and making recommendations concerning the ratification of international human rights instruments, and to conduct public campaigns on human rights.

Any individual may submit complaints concerning acts or omissions on the part of public bodies to the Provedor, which shall undertake a review (without power of decision), and forward to the competent authorities the recommendations deemed appropriate to prevent or redress illegality or injustice. The Provedor is also mandated to mediate and conciliate between the complainant and the agency affected. Public outreach and promotion of human rights and good governance are also important aspects of the mandate of the Provedoria. The governing legislation specifically stipulates that the Provedoria shall keep the public informed of its existence and mandate. This legislation also includes a number of other important safeguards, such as making it an offence to knowingly hinder the Office of the Provedor in the fulfillment of its functions, as well as provisions for financial transparency of the Office.

According to art 34 of its law, the Office of the Provedor is required to report annually to the National Parliament. It is also mandated to coordinate and cooperate with other similar institutions in the discharge of its functions. Where circumstances so require, the Provedor may decide to address the public directly; to issue communiqués or to publish information on his/her opinions, recommendations and reports on specific cases or on his/her activity.

Although the powers and scope of the Provedoria are appropriate and the legislation is generally well drafted, there are some theoretical and practical issues that have arisen that require consideration. First, the practical enforcement of the Provedor's investigatory functions is proving to be a challenge. The law provides at article 42 as follows:

42. In the exercise of his or her competencies under Articles 23 to 27 above, the Provedor for Human Rights and Justice or any delegated employee of the Office may request, in accordance with the law, a Prosecutor to obtain search and seizure warrants to enable the Ombudsman or a delegated employee, in conjunction with the PNTL, to search premises and seize particular items considered relevant to an investigation conducted by the Office.

Given that the PNTL itself may be a respondent to complaints, it is not clear how these provisions will operate when there is a conflict of interest. More generally, the operation of this provision and the meaningful functioning of the enforcement arm of the Provedoria will require an operative agreement with the Public Prosecutor in the near term, while at the same time bearing in mind the importance of safeguarding the independence of both institutions. Finally, in light of the many pressures of the Office of the Public Prosecutor, resource constraints are such that prosecution of the Provedoria's complaints may require dedicated resources in its own offices.

Finally, the right not to self-incriminate is protected in the PDHJ legislation by the following provision:

39. Except for the purposes described in Articles 48 and 49, no statement made in the course of an investigation conducted by the Ombudsman for Human Rights and Justice or in any other proceedings being conducted by the latter shall be admissible as evidence in court, enquiry or any other procedure, nor shall such a statement be used against the person who made it.

The result of this is that when files are turned over to the Public Prosecutor from the Provedoria, evidence related to statements will not be admissible. This section has been viewed by some as a bar to effective prosecution, especially in anti-corruption cases where the institution is more actively involved in internal investigations where the alleged activity is criminal in nature. An amendment or repeal has been discussed. The statements in question cannot be used, not only

against the person who made the statement but also with respect to proceedings against other persons. This latter element appears superfluous and hinders investigations. It also appears to extend beyond the right not to self incriminate because it extends to proceedings against other parties. Although the scope of the term “statements” has not been tested definitively in the courts of Timor-Leste, section 39 is important because it contains a free standing right not to self-incriminate. There does not appear to be a specific right not to self-incriminate in the Constitution of Timor-Leste, although art. 34.4 of the Constitution provides the following general right:

34.(4) Evidence is of no effect if obtained by torture, coercion, infringement of the physical or moral integrity of the individual, or wrongful interference with private life, the home, correspondence or other forms of communication.

Given the importance of the right not to self-incriminate, and the relatively vague constitutional language in this regard, a constitutional legal opinion should be provided with respect to the scope of constitutional protection available, before the Provedoria law s. 39 is repealed or modified.

The Work of the Provedoria

The PDHJ has been open to the public since March 2006. The Office faced challenges almost immediately as a result of the crisis of April-May 2006. These events included civil unrest and violence, the involvement of the F-FDTL forces, the breakdown of the chain of command in the police force, and deployment of international forces to re-establish law and order. A massive displacement of persons within the country ensued, giving rise to a human rights and humanitarian crisis. PDHJ staff were engaged in emergency responses.

Early phases of the PDHJ’s organizational development were halted as the Office worked to conduct monitoring, and address the human rights issues related to the security situation and internally displaced persons. The entire PDHJ staff participated in these initiatives, including administration staff and the Public Assistance staff. The PDHJ launched investigations into the allegations of excessive use of force by both the PNTL and the F-FDTL, including unlawful killings, illegal arrest and detention by F-FDTL and ill-treatment in custody

The PDHJ response merited special mention in the 2006 United Nations Special Commission of Inquiry report related to the Crisis, and the PDHJ commitment was recognized by many as placing the Provedoria “on the map”. Indeed, the extensive public communications and monitoring that was undertaken, despite the early stage in the organization’s life, has become a benchmark. NGOs repeatedly asked that this type of public communication, activity and public visibility continue. Nonetheless, it must be acknowledged that these activities posed a challenge for the new institution, in terms of human and material resources.

The ongoing work in relation to the investigation of these allegations remains a priority area for the PDHJ.

Internally Displaced persons:

The events of April 2006 displaced about 150,000 persons, creating a humanitarian crisis in Timor-Leste. IDP camps are a threat to human health, human security and human rights, and certain groups – women, children and those with disabilities, are especially vulnerable.

In July 2006, the PDHJ signed an agreement with UNHCR to conduct a project on monitoring and evaluation of the human rights situation of IDPs. The agreement was extended later that year. Although the Project has already been discontinued, the PDHJ gained some important experience from the implementation of this project.

IDP monitoring was jointly implemented by the PDHJ and the Human Rights NGO Monitoring Network. Together, they were called the Joint Monitoring Team (JMT) and later on included members from the Women's Network (Rede Feto).

The PDHJ coordinated the team, which had carried out visits to the IDP camps in Dili and in the 12 districts to collect data, assess living conditions, security, and threats to the personal safety of the IDPs. Information regarding missing persons and separated families had been gathered, and the team had facilitated contact between IDPs, government authorities and international agencies. A publication on the rights of IDPs had also been prepared.

The ongoing situation facing IDPs will likely engage the Provedoria in the future in terms of both human rights and basic principles of good governance. At present, the Provedoria has its own group of six IDP rights monitors, who are regularly monitoring and reporting on the situation of these displaced people.

Access to justice is a particular area of concern for displaced persons in the aftermath of the 2006 crisis. Difficulties in accessing the justice system were compounded by an increase in criminal activity since the end of April 2006 including by youth and martial arts groups in early 2007. The weakness of the police system meant that crimes could not be easily reported or prosecuted. The PDHJ gathers information about allegations of crimes perpetrated against IDP and the information gathered by the network is passed to the Prosecutor General and to the Ministry of the Interior for appropriate action.

Administration of justice and detention:

The PDHJ has also partnered with the Human Rights NGO Monitoring Network to monitor administration of justice from the stage of detention and preliminary hearings through to the stages of trial and the prison system. Cooperative relationships have been established with the relevant authorities, including the International Committee of the Red Cross, justice and prosecutorial officials, prison officials, judges, and public defenders.

Monitoring of detainees is undertaken to ensure that detainee's rights are respected. Regular visits have taken place to police stations and following the 2006 Crisis, the intervention of international military and police forces has required further liaison with those forces. As a result of the monitoring of police detention, challenges related to communications with detainees regarding their rights have led to a recommendation from the Provedor that a card to be developed and distributed to prisoners that can be read to the detainee.

During consultations, participants have also raised issues with respect to the lack of dedicated facilities for detained juveniles. One NGO reported that they have to conduct informal education in detention facilities for young people. It must be noted here that last month the Provedoria released its preliminary report of the human rights monitoring of the Dili-based detention centres over the period between February to October 2007 bringing out some objective facts as to the plight of detainees in Dili.

Public education

The Provedor conducted country-wide visits in early 2006 to target government officials and explain the mandate of the Provedoria. Visits at the level of District Administrators included the district and sub-district administrators, head of divisions, *suco* leaders, and police and prison officials.

As well the Provedor has been engaged with special events, such as human rights day celebrations on December 10. The programmes that the Provedoria was able to work on with the civil society and the United Nations were reported by the local media with significant coverage. Last year, the December 10 programmes were organised in three districts in Timor-Leste. In Liquiça, the Provedor spoke to a large number of young people during the celebrations, which were organized

by local youth groups and UNOTIL. The Deputy Provedor for Good Governance and Anti-Corruption participated in celebrations in Maukata, Covalima district. In the Viqueque district, many people participated in the local activities and listened to the speech given by the Deputy Provedor for Human Rights about the importance of this celebration, the importance of human rights, as well as the role of the Provedor. The programmes this year had best networking, and the December 10 was celebrated throughout the country for 16 days.

In addition to the guidelines prepared for IDPs, annual reports, and the preliminary report on human rights monitoring of the Dili-based detention centres, the Provedoria has prepared and released two general publications on the organization and its functions which have been widely disseminated. An agreement has been signed with the national television broadcaster to undertake a series of shows on issues related to the mandate of the Provedor, and it has been recommended that similar efforts be made to secure an agreement with the radio station as well.

Training and internships:

General induction training was undertaken at the outset of the office's existence, along with basic courses in human rights, maladministration and anti-corruption in 2005-2007. PDHJ staff also received training in investigation skills, complaints handling, interview techniques, preliminary assessment of complaints and development of investigation plans. In the first quarter of 2007, the staff received training on basic human rights, election monitoring (human rights aspects) and strategic planning. Staff in the media relations area had the opportunity to participate in an internship with a central office in government in March 2007. All relevant staff in the second half of the 2007 received structured training on human rights monitoring; rights of the IDPs, human rights education, criminal procedures, and courses on good governance and anti-corruption. Study visits in the region and abroad have also been undertaken by the Provedor, Deputy Provedors and other senior staff. The effect of these trainings on the staff capacity is going to be quite positive in the days to come.

Complaint handling and case management:

The Provedor receives and investigates complaints concerning human rights violations, maladministration and corruption as provided by Art. 23 of the Law. Most organizations develop complaints procedures for only one type of complaint, but the Office of the Provedor receives complaints in three areas, and this adds a level of complexity in terms of processes that can be of general application and those that might be specialized depending on legal or other requirement. A basic complaints flow chart was developed in 2006 to guide the staff and the public.

In 2006-2007, complaints-handling systems from similar institutions in other countries were examined, including in the Asia-Pacific region. A team was struck, led by the Public Assistance Division to manage the receipt and investigation of complaints, as well as monitoring recommendations. This team is responsible for receiving and logging new complaints and for organizing the complaints management meetings to assess whether a complaint is within the jurisdiction of the PDHJ.

An Operations Manual was being prepared in 2006-2007. Although sections of the Manual were finished as at March 31 2007, the entire manual had not yet been finalized at the end of the quarter. The human rights complaints part of it has been put in force in late December. Implementing and testing the Manual will be a significant internal undertaking for the organization.

Human Resources and Organizational structure

Recruitment for the Office of the Provedor began in August 2005. Following a phased recruitment, staff members have been assuming their functions in Human Rights; Good Governance; Anti-corruption, Administration and Public Assistance areas. The Office of the Provedor opened its doors to the public in March 2006 with 15 staff. By March 2007, the Office had 43 staff.

The Provedor has overall responsibility for the management of the Office supported by two Deputies, who are responsible for (1) Human Rights, and (2) Good Governance and Anti-corruption. As well, the Departments of Public Assistance, Communications and Public Relations, and Finance and Administration provide services to the entire organization.

The Human Rights Division is led by a Deputy Provedor. The Division conducts monitoring, initiates investigations and resolves complaints related to human rights violations. It is divided into an Investigation and Monitoring Department, a Legal Policy Department and a Promotion and Education Department.

The Anti-Corruption Division and Good Governance Divisions are under a single Deputy Provedor. The Anti-Corruption Division investigates allegations of corruption (Investigations department) and leads the development of planning and sectoral strategies. Its Prevention Department focuses on determining vulnerability to corrupt practices and making recommendations. Thirdly, the Community Relations Department is responsible for sensitisation and education.

The Good Governance Division receives complaints about maladministration. It makes recommendations about systems to encourage good governance, and improve accountability and transparency. The Good Governance Division is also divided into three departments, namely Prevention, Investigations and Government Relations. The latter Department is responsible for education to Government agencies about practices of good governance.

During the planning process, it became evident that there is duplication in both investigations and public education/prevention between the Ant-Corruption and Good governance departments. The prevention areas could work together more effectively and some areas of investigation could be better integrated. Similar efficiencies might be found with the Human Rights Division on the investigation of cases involving abuse of power that are also seen in the good governance area. Several recommendations to address these issues are being considered, and improvements to integrated operations are addressed in the strategic plan.

Finally, the General Administration Division contains the Public Assistance Department, and the Finance and Administration Department. The Public Assistance Department was established to receive complaints. The Administration and Finance area includes human resources, public relations and finance.

Provedoria: Current Strengths, Weaknesses, Threats and Opportunities

Strengths: The Provedoria is a new organization, and its powers are still untested. However, it is generally viewed as having an important future role to play in Timor-Leste. Although the NGO community expresses some concerns about the Provedoria, many participate in networks with the Provedoria and there are generally good and cooperative relations with civil society.

The Provedoria has a strong constitutional mandate. Its legislative framework is well-drafted and clear, and confers on the organization a comprehensive set of powers and responsibilities covering human rights, maladministration and anti-corruption, as well as an overarching responsibility to act as a constitutional guardian.

While the multiple mandate is a challenge, it also offers an opportunity to address the three mandate areas and to tackle problems in a holistic manner, enabling the organization to find synergies and strategies, and to work cooperatively on complaints and national approaches to issues involving human rights and good governance.

The support of the international community is a strength for the organization and has been so since its inception. Support from the UNMIT HRU, the World Bank and MSD in particular have brought support not only in financial terms but also with respect to operational matters such as monitoring, reporting and case management. As well, the extensive training to date to the organization in its early stages has meant that staff at least have had the basics in most operational areas.

In terms of its operations to date, the Provedoria has a centrally located office in Dili that is geographically accessible. It has developed some basic publications in Tetum and Portuguese, including the Guiding Principles for Internally Displaced Persons. Its response to the 2006 crisis is recognized as have been both rapid and effective, meriting special mention in the 2006 Report of the UN Independent Special Commission of Inquiry for Timor-Leste. The PDHJ monitoring and reporting efforts during this period are recognized by many as placing the Provedoria “on the map”.

Finally, the organization benefits from young, committed staff who are eager to learn and develop professionally. Almost the entire initial complement of staff that were planned for the 2006-7 phase is in place, save for the Director General or Permanent secretary position. The Provedor and the Deputies appear genuinely committed to their mandates and to the organization. They bring a wealth of combined experience to the PDHJ, and are excellent ‘ambassadors’ for the PDHJ.

Finally, the strategic planning process itself provided a chance for the Provedoria to undertake concerted outreach to external stakeholders, and to help to reinforce buy-in and trust for its planning process through the consultations and systematic input at several stages.

Weaknesses: Although the doors of the organization opened in March 2006, the organization is still in early development phases. This is partly because the Crisis of April-May 2006 mobilized the staff into emergency responses, halting normal organizational development both in the PDHJ and in government for several months. It is also partly because staff are new at their jobs, because the organization itself is new, and because the PDHJ is operating in a context of embryonic governance structures.

Given the extensive planning and training the organization had in its first year, couple with the absence of a Permanent Secretary, the burden of organizational development has fallen on the shoulders of the Provedor and the Deputies. This, over and above their usual duties, has meant that the time devoted to administration by them, while necessary, is taking away from other priorities. Priorities cannot move forward as they might have done if a senior operational staff person had been in place. A further difficulty is that there has been an attempt to fill the position but without success, which signals that there may be insufficient human resources at that senior level in the public service system generally. This might signal the need for an institutional senior advisor for a one to two year period as a transitional strategy, something that has been done in other national institutions with some success.

There has been a fracturing of the operations of the organization into the three areas (human rights, maladministration and good governance), both operationally and in terms of how the donors “see” the organization as a whole. Until the planning process, staff did not fully understand where the organization as a whole was going. Not surprisingly, external stakeholders did not see it either. The focus on human rights and anti-corruption from donors has, for example, meant that the investments in these two divisions has been greater than for the area of good governance generally.

Staff could be working together more effectively than they are, especially on cases where the issues are similar, but where complaints reside in two or even three of the mandate areas. Similarly, promotion and public education work is undertaken in isolation so that the communications between the divisions on public relations and other issues is not as integrated as it could be.

Physical and telecommunications infrastructure in the organization is relatively weak, although given the recent history in the country, this is perhaps understandable. Limited telecommunications

and information technology, for example, have meant that investigations, monitoring and promotional work are more limited in their reach and capacity. Limited transport is an impediment to monitoring and investigations, while a lack of appropriate software for database management has limited the productivity of the public assistance staff.

Influxes of untrained staff have meant that blocks of training time had to be invested early on, at the expense of moving forward on daily work. At the same time, this investment is indispensable and could not be avoided.

In terms of internal policies, internal controls are relatively limited, and those that exist do not appear well understood. Financial controls in particular are critical for the organization's credibility and transparency. The organization has little control over its budget from the Ministry of Planning and Finance, although some steps have been taken move towards a system with at least a 3-month budget. Internal budget controls and improved budget execution would likely assist the organization in getting better support.

In terms of caseload, a backlog has developed in the organization that is already permanent (that is, more than half the cases are being carried over from year to year). NGOs have expressed concern about the slow processing of cases and lack of communications about the progress of complaints. In such circumstances, it is very important that all three operational areas of the mandate work together to find synergies, areas of cooperation and use a systemic approach to case management.

Because the PDHJ powers are not well understood some parties appear to be ignoring requests for cooperation and evidence with impunity, in part because the enforcement powers of the Provedoria have not been rigorously tested or executed. There are some issues in terms of extent of the enforcement powers in the Provedoria's legislation that are referred to above, but it is recommended that these be studied at greater length in relation to the Timor-Leste's constitutional context before a final decision is made about modifying or repealing provisions.

Finally, attracting qualified staff is a serious and ongoing challenge, and this is especially true for women being hired or promoted beyond administrative positions. In terms of international staff, the senior Provedoria officials have expressed understandable concern about short term consultancies and the lack of institutional knowledge after consultants leave. Reliance on longer-term international human resources has also caused difficulty when a consultancy ends, be it sudden or planned. Some of the strategies in the plan such as systematic training and continuous capacity building may help. But this problem is endemic to developing countries and is difficult to avoid when expertise is brought in except through retention of staff and repeated training to reinforce learning.

Opportunities: Many of the weaknesses in the organization also offer opportunities to improve the situation, in large measure because of government interest in supporting the Provedoria as a pillar of national good governance, and also because of related donor interest.

The multiple mandate of the PDHJ will allow it to function in an integrated manner if the PDHJ itself structures its operations accordingly, and if donors can see it this way too. Government and NGO networks can learn – as the PDHJ itself is learning – how interconnected the different mandates actually are. As has been noted elsewhere, human rights complaints against the government or law enforcement authorities often contain aspects of maladministration. Good governance issues are frequently at the heart of corruption issues. Corruption and poor public service frequently lead to a denial of human rights. Human rights violations diminish the rule of law and erode respect for the constitution. In fact, a review of many of the complaints before the PDHJ in early 2007 reveals that several cases actually raise similar issues, regardless of whether the case is assigned to human rights or good governance, including abuse of power and complaints from public service employees about unfair employment practices.

Because of its unified mandate, the PDHJ has a unique opportunity to address these complex issues holistically – across all areas of its mandate - and in a more systemic and integrated manner.

Many other parts of government and civil society are also struggling with similar issues of capacity and dealing with complex social problems that require multiple actors to intervene. In virtually all the consultations, participants expressed a keen desire to work with the Provedoria and thereby support not only its mandate, but their own as well.

The launch of the strategic plan itself also offers the chance to share and disseminate the Provedoria plans for the future and to reiterate the important role that stakeholders and staff had in its development.

Threats: Lack of sufficient and trained human resources in the public sector poses a significant threat not only in terms of attracting good people, but also in terms of trained staff moving to other, more lucrative positions, once they are trained and more attractive in the job market. Commitments to stay for a minimum reasonable period are used in other public sector organizations, and might be considered for this organization as well.

At the organizational level, if the donors are not working together in a concerted fashion, there is a threat that, however well intentioned, that donor support and expectations will harm rather than help. The PDHJ needs support, but it also needs to be able to set its own priorities. The organization would benefit from a regularly convened donor coordination group, and some efforts have already been made by donors to move in this directions.

However, the single greatest external threat to the organization is the country's instability, and the fragile nature of institutions that are not sufficiently resilient to withstand significant shocks such as those that occurred in 2006. Another such incident would set the country and consequently the Provedoria well back in its capacity and plans to carry out its mandate. Security planning should be given some thought in advance if another such incident occurs to ensure that staff and officials are able to function with a reasonable degree of personal security. This would require communications capacity and related protocols. Given the experience of 2006, the Provedoria is well placed to have such a contingency or security plan in place, to coordinate emergency action and to ensure personal safety.

Finally, the typical threat to national institutions such as this one is that they are perceived to be or become too close to the governing political party, and thereby lose their credibility and independence. The behaviour of the Provedoria during elections, and in relation to allegations of abuse of power will be carefully watched by civil society and the international community. These threats can be addressed in part by careful selection of strategic and systemic cases, regular measured reporting and scrupulous neutrality as regards the power and influence of individuals, organizations, parties who come before the PDHJ.

THE STRATEGIC PLANNING PROCESS

The following key processes were undertaken during the planning process:

Preparation: Consultations with UNMIT, OHCHR and MSD to finalize terms of reference, establish modalities of work and communications, and develop a proposed work plan and strategic plan outline. (October 2006 to January 2007)

Information gathering and Consultations: Information gathering for the Situation Analysis, including legislative and literature review, SWOT and institutional review. Consultations were undertaken with Provedor, the Deputies and staff in January 2007. In addition, preliminary meetings were undertaken with NGOs, parliamentarians, government advisors on human rights,

gender equality and children's rights, as well as with representatives from the public service and the judiciary. The results of these meetings were then developed and discussed internally, with senior officials, with the staff, and informally, with a donors.

The input of key stakeholders was sought, through bilateral meetings, two focus groups, interviews, and a facilitated workshop with staff to review the planning process. (January 2007)

Analysis and Preparation of Consultation Document: Based on input, a consultation document was prepared to set out a first iteration of the draft program, identifying key strategic issues for the organization and proposing the mission, vision and values of the Office of the Provedor. Core goals were identifying for the short and medium term. (February-March 2007). It presented the substance of the proposed strategic plan, priorities and principal objectives, as well as the high-level assumptions and rationales that underpinned the choices made, in a summary and accessible manner.

Keeping staff Informed: The minutes of the Staff workshop were translated and circulated to staff. The consultation document was translated in preparation for the first mission (March 2007).

Development Phase: Development of strategic objectives and activities for the attainment of the chosen goals of the PDHJ, in close consultation with staff and stakeholders.

Delivery and Review Phase: Delivery of Draft Strategic plan to PDHJ on March 31 2007 and proposal regarding next steps. Revisions to Draft Strategic Plan as necessary.

Conclusion Phase: Launching of the approved and finalised Strategic Plan, with appropriate publicity. Operationalization, integration and budgeting to take place with staff in April 2006.

The analysis and recommendations contained in this strategic plan are based upon information drawn from the following sources:

- Documentary and literature reviews, including current affairs commentary, recent reports (notably government documents, reports on the Crisis and the Common Core Document for UN treaty reporting).
- Focus Group Discussions: Facilitated discussions and feedback sessions were held with key representatives of NGOs and participants from the judiciary, the Government, Parliamentary representatives, the diplomatic community, international organisations, and key contacts within the United Nations and relevant Embassies.
- Individual Interviews: Bilateral interviews were carried out with those stakeholders whose opinion and ongoing collaboration is essential to the effective functioning of the PDHJ, including the Inspector General's Office and the Office of the Prosecutor General, and INAP..
- Consultative Forum: A two-day consultative workshop was convened March 28-29 2007 with stakeholders, including civil society organisations, Parliamentary representatives, and donors.
- Internal meetings, workshops and review sessions with the entire staff and with the Provedor and the Deputy Provedors.
- Final discussion in December 2007 with the members of the PDHJ Voluntary Advisory Council, which represents the pluralist civil society of Timor-Leste in PDHJ.

STRATEGIC PLAN

The vision, mission and core values of an organization are the starting point for a strategic plan. They reflect aspirations and goals, and serve as a tool to inform the public of the organization's purposes and standards. They ensure that everyone in the organization understands and shares the same overall direction, goals and values.

The PDHJ will ensure that its vision, mission and values are included in future promotional and information material.

Vision

A culture of human rights and good governance in Timor-Leste is the vision of the Provedoria for Human Rights and Justice (PDHJ)

Mission

The mission statement is in two parts: first, is the short-form of the mission statement and second is a more detailed version.

The PDHJ is the independent national institution of Timor-Leste dedicated to the protection and promotion human rights, anti-corruption and good governance. It achieves this by:

- *Educating:* Creating public awareness by promoting a culture of respect for human rights, the rule of law, and the principles of good governance;
- *Promoting cooperation:* Encouraging and assisting public entities and agencies to develop policies, procedures and internal training and complaint mechanisms;
- *Resolving:* Resolving cases of human rights, maladministration and corruption by through an effective complaints handling services, through mediation and other settlement services;
- *Investigating, Research and Monitoring:* Recommending ways and means of protecting human rights and promoting good governance, based upon results of investigations, research, monitoring (directly and in partnership with civil society) and ensuring the constitutionality of legislation.

Core Values

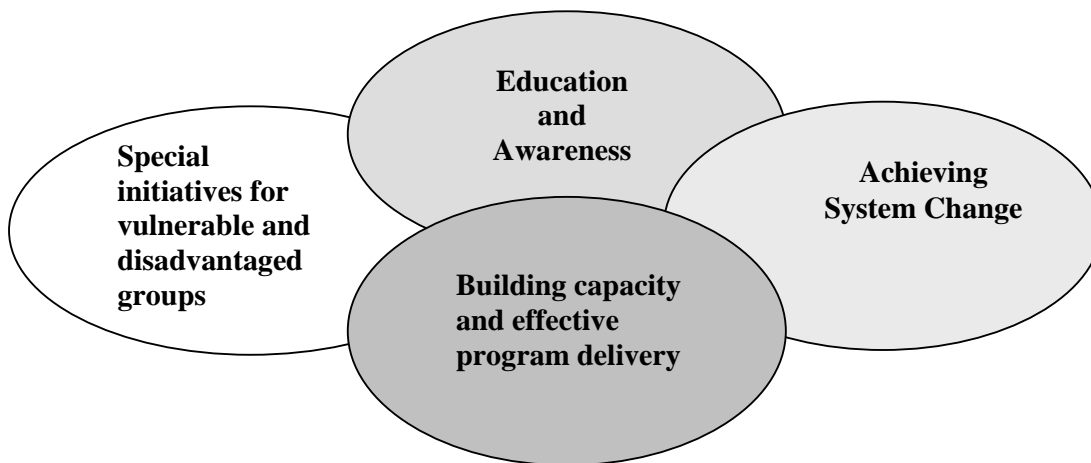
The core values of the PDHJ reflect the standards to which it aspires in its work, its dealings with the public and its stakeholders. The irreducible minimum characteristics that an Provedoria must have are: *credibility* of the review and investigation process; *confidentiality*; *impartiality and fairness*, and *independence*. In addition, PDHJ staff and stakeholders have identified the following values, some of which stem from the particularities of Timor-Leste and some of which better reflect the PDHJ's triple mandate:

- Accessibility
- Accountability
- Integrity
- Efficiency
- Equality between men and women
- Honesty
- No discrimination
- Respect for the rule of law
- Transparency
- Treating citizens with dignity
- Unity for the country

During the consultation process, participants reiterated the importance of a distinct and clearly articulated value related to equality between men and women in the Timor-Leste context.

Strategic Priorities

This section set out the strategic priorities for the Provedoria.



It is important to note that each of the four identified priorities applies to the whole organization, regardless of the department or mandate area.

Each of the four strategic priorities is presented and discussed in the following sections, along with a rationale, followed by specific goals. The strategic priorities serve as the key result areas for the action plan found in Appendix 1 to this document, which provides suggested activities and timeframes.

1. Education and Awareness

Objective: Promote a nation-wide culture of good governance and human rights, and increase community confidence in a just administration

Repeatedly, consultees, and PDHJ officials and staff have stated that the first strategic priority is to foster a change in the culture of impunity, and of ignorance about the rights and responsibilities of citizens, and to promote a culture of respect for human rights and good governance. Without accountability, it is not possible for the Provedoria to carry out its work effectively, resulting in an environment that is ripe for corruption. Changing people's attitudes is a major challenge and requires that they feel a strong sense of civic responsibility to collaborate with institutions and authority. As is common in post-conflict situations, it is not always easy for individuals, NGOs and political players to make the transition from resisting an oppressive authority to engaging in nation-building after independence.

A focus on changing the culture can serve to build a strong link across the PDHJ mandates as well, by helping citizens to see how institutions should work for all people and not only those with connections or influence.

This priority or key result area has two principal sections: (1) government and public authorities and (2) the general public.

As regards government and public authorities, the first identified objective is to change the way that these authorities understand and carry out their mandates and responsibilities. The average citizen might feel unable to address human rights violations or raise governance issues directly with these authorities out of misplaced deference or because experience has taught them that complaint is useless at best. Education and awareness can be part of the solution.

1.1. Ensure that law enforcement and security comply with and respect human rights and good governance

Given recent events in Timor-Leste, and especially the 2006 Crisis, training and support for law enforcement personnel and other security officials has been identified as the first objective, on a short term if not urgent basis. Stakeholders and civil society reinforced this choice during consultations.

Law enforcement and security must be achieved within the parameters of respect for human rights and good governance. In fact, as at March 2007, a majority of the cases in the caseload of the Provedoria relate to abuse of power by authorities, and a significant number of those relate to law enforcement. The priority is the Police (PNTL), followed by the army and, to a lesser extent, prison officials. Several training initiatives have already been undertaken with the Police by the PDHJ, in cooperation with NGOs, the Office of the Advisor to the Prime Minister on Human Rights and UNMIT. These initiatives must continue, expand, and be formalized to make sure they are carried out regularly. It is proposed that the Provedoria partner with a police training institute to develop permanent curricula for police at the national local levels.

However, it has been pointed out that a good deal of training has already been undertaken by the PDHJ, the UN and other international organizations. Thus, it would be useful to undertake a baseline assessment or evaluation of the training to date, including its impact on police practices as a starting point.

Until now, the PDHJ conducted separate training in human rights and good governance. It is proposed that the training be integrated, where appropriate, and address all three areas of the mandate (human rights, good governance and anti-corruption), at least for basic training. Specialized and more advanced courses will likely need to be separate in future.

In terms of outcomes, the assessment and the training should lead to the development of curricula that can be adapted, and used for armed forces and prison officials as well. Similarly, these materials should form the basis of parallel training or information sessions for professional groups who need to be aware of the standards being taught to police. These include lawyers, the judiciary, public prosecutors and the media.

PDHJ staff have emphasized the importance of including a historical overview of the Crisis of 2006, and the events that gave rise to it, as part of the development of training materials for law enforcement officials.

1.2. Conduct Sensitization Programs and Training for Public Servants

There is at present, no regular training program for public servants on human rights, good governance and anti-corruption. Nor is there capacity at the national government training institute, INAP (National Institute for Public Administration), to deliver such training.

The objective is to train public servants through regular induction and refresher training offered by the national training school, INAP. However, there must be a long-term commitment to have the training offered on a permanent basis through the development of modules that are a permanent part of the training materials for public servants.

It also should be borne in mind that the Ministry for State Administration, in partnership with the UN, is planning a significant government-wide initiative of decentralization and local government.³ Part of the planned devolution of powers to a new local/ municipal layer of government is a Capacity-Building Program for Municipal level staff. The PDHJ should formally request those responsible for the planning of the decentralization to include in the capacity-building program a section on human rights, good governance and anti-corruption. Decentralization, if it occurs according to the current plan, will be a massive undertaking. The PDHJ will need to work closely with the responsible authorities to ensure that this opportunity is not lost at the entry level for new or reassigned public servants.

1.3. Programs for Elected Officials, Council of Ministers and Political Parties

The PDHJ recognises the critical role that Parliamentarians, the Council of Ministers, government officials and political parties play in relation to human rights, proper administrative practices and actions, and of good governance practices generally. All these groups have a crucial role in seeing that this is achieved, as well as to support the PDHJ to ensure its effectiveness. For example, the Council of Ministers must visibly support the PDHJ in its efforts, and can have a crucial impact on the degree to which government officials themselves comply with the law and with PDHJ investigations.

The PDHJ will offer its perspectives and expertise to increase the understanding of the law and best practices in the areas of human rights, good governance and anti-corruption so that their critically important role can be enhanced, and to increase public trust in these institutions.

1.4. Children and Youth

Changing the culture starts with children and young people, by making them aware of human rights and good governance. Civic engagement generally is also about teaching responsibilities to young people as future citizens.

The national education system offers the opportunity to address human rights, anti-corruption, good governance and anti-corruption in the school curriculum. This will require a program plan, a pedagogical committee and long-term cooperation with the Minister of Education.

In the shorter term, the PDHJ can also use popular publications such as *Lafaek* to disseminate information to households.

In addition, extracurricular activities such as school clubs offer a way for youth to be engaged and to improve their awareness. Youth volunteers have worked as interns, for example, on the human rights aspects of election monitoring for the PDHJ. This may be a good way to develop national capacity and build engagement among citizens. This can occur at both the high school and university levels.

³ Ministry of State Administration, *Timor-Leste Decentralization Strategic Framework* Part 1 (October 2006) and the *Decentralization and Local Government in Timor-Leste Policy* (October 2006).

1.5. Public Outreach

The citizens of Timor-Leste should be in a position to demand the respect and treatment they are due from the public service, in line with the principles of fairness, accountability and equal treatment. As clients of government services or as employees of the government, they have a right to be treated in accordance with human rights and good governance standards, and they must therefore know what those standards are. Finally, citizens must know about and have access to effective remedies in the event that they experience a denial of their rights. At the same time, citizens need to know their responsibilities.

A core communications plan and programme will be required to organize and integrate all these events and plans, and to ensure that these activities are properly coordinated across the PDHJ. Activities should also consider the needs of women, children and disadvantaged groups.

The use of press conferences and media releases was emphasized during the consultations as an important way to inform the public about key events and investigation findings. This is critical in the short term to establish and reinforce the credibility of the PDHJ, and as a “bridge strategy” to heighten public awareness in the short term as some of the longer terms strategies (especially those related to system change) are being implemented. In addition, this would build on the early practice and success of the PDHJ’s work during the 2006 crisis when the PDHJ did communicate regularly with the public.

A program of publications, press conferences and media reports (print and electronic) can help support the objective of awareness for more specialized and literate audiences. In 2007, an agreement was signed by the PDHJ and a television station for broadcasts on the Provedor’s work. This is a good model to follow, and should be repeated for radio.

In a country where a large segment of the public is illiterate, and where access to radio may be limited or inconsistent, personal visits and outreach are also important in spreading the word, bearing in mind the importance of not stretching already-thin resources.

The current monitoring activities that the PDHJ started in 2007 for the elections can continue for more general monitoring in future across all three mandate areas. This could also ensure regular visits to the regions, at least for late 2007 and 2008, pending the establishment of regional offices or sub-offices. This is a strategy that has been used in other jurisdictions with success.

Finally, while many activities at the PDHJ can be accomplished without a budget (other than allocated human resources), education and awareness require a dedicated and adequate budget, and staff that have reliable and regular access to the budget.

Activities related to public education and training of government officials are only be part of the picture, however. Many systems within the public sector need to be transformed. At present, for example, there are no independent “neutrals” within government who can effectively receive and resolve complaints from members of the public who use government services. These systems within the public sector that do exist often do not work well, or do not have public confidence. Complaints by those who are literate and can write are often dealt with in Timor-Leste by letters addressed to the Prime Minister, to Parliament, various government officials and sometimes the Provedor. These types of mechanisms are not very efficient and encourage confusion about roles and responsibilities.

The next priority area is designed to address some of these gaps and encourage a stronger link between public education and system change.

2. System Change

Objective: Fostering Cooperation: Comprehensive & Mutually Supportive Systems and Networks across Government, and Civil Society

This section focuses on system change and on addressing root causes of human rights violations and maladministration. It is important for this purpose to encourage the government to ratify remaining important United Nations Conventions including the Convention against Corruption (2003) and create necessary legal responses to combat corruption by taking up measures on prevention, criminalization, international cooperation and asset recovery. As a point of departure, however, the PDHJ needs to review its Statute first and address major issues of legal reform to further empower itself in the best possible ways. The Provedor has already constituted a Working Group on Legal Reform, which is expected to recommend necessary changes on the PDHJ statute based on the working experience of the Provedoria over the last two years.

The PDHJ is legally obliged under Article 33 to work closely with similar institutions, bodies or authorities in Timor-Leste, to foster common policies and practices, and to promote cooperation. This ensures that:

- There are comprehensive and functioning systems to prevent and rectify corruption, influence-peddling and maladministration.
- Human rights and good governance standards are used and applied across government.

Based on the consultations and complaints that have been filed with the PDHJ, public authorities in Timor-Leste need to improve their understanding of human rights and good governance standards. Among the complaints received thus far by the Provedoria, several are linked to abuse of power by public authorities, resulting in human rights violations and in some cases, corruption. As well, employment complaints from public servants make up a large number of cases before the Provedoria. In many instances, these complaints have come directly to the Provedoria because internal processes to receive and resolve them are non-existent or inadequate within public institutions and government authorities. Because of the fragile state of governance generally in the country, many complaints would be normally addressed first through other fora - the courts, grievance boards, internal complaint systems - are coming to the PDHJ first instead. Moreover, it is also clear that prosecuting all or even most cases before the courts is not realistic in the near term as an overall solution in Timor-Leste, in part because interviews with the judiciary showed that the judicial system is still rebuilding.

Improving governance systems in the public service can be achieved in three ways.

2.1 Effective legal regime and Internal complaint mechanisms

As stated in the first paragraph under this section, it is important that the Provedoria lobbies the government to initiate the process to ratify remaining important United Nations Conventions including the Convention against Corruption (2003) and create necessary legal responses to combat corruption by taking up measures on prevention, criminalization, international cooperation and asset recovery. It also needs to review its Statute and address major issues of legal reform to further empower itself in the best possible ways. Both these steps can help the Provedoria to create effective legal regime for it.

As to the internal complaints mechanism, first, public bodies have a legal duty to lead by example, to provide proper service, to treat employees fairly and to act in accordance with the rule of law. This implies that they must have the mechanisms in place to deal fairly, promptly and effectively with instances of corruption, influence peddling, maladministration and abuse of human rights.

The Provedoria will seek to support the creation and development of internal mechanisms within the public service to handle complaints from employees, to protect them from reprisal for reporting corruption (“whistle blowing protection”), and to support the development of clear and credible channels for the public to file complaints about public services. These efforts can help enhance the effectiveness, transparency and credibility of government. At the same time, this would prevent the PDHJ from being overwhelmed early in its life with a large number of complaints and could free up resources for more strategic work.

2.2. Coordination and network strategies

Second, the Provedoria can also support the development of coordinating mechanisms and networks across government to enhance human rights and good governance generally.

The PDHJ cannot do its work alone. There are several organizations operating or overlapping in the same general field of anti-corruption, good governance and human rights. Having many players can benefit the larger cause to a certain extent. Work in one area can complement and support the other. For example, the findings of an Inspector General (or an independent Auditor, if and when that body is created) might induce the PDHJ to examine an issue more closely. Given the authorities and powers of the PDHJ, this might result in action or - more effective action - to remedy problems observed initially by another agency.

A networked approach to monitoring is an example. A national, integrated program of monitoring was initiated for the elections in 2007. This offers a strategy to keep the Provedoria’s finger on the pulse of events in the county more generally and to have a regional presence. A national and integrated monitoring program would focus on both human rights and good governance, and would be supported internally by an integrated monitoring team including both human rights and good governance staff.

As well, a national anti-corruption strategy or human rights plan would not be a sole initiative of the PDHJ, but the PDHJ would contribute to this work and support the government-wide initiative, working in partnership with the Office of the Inspector General and others. At the moment, to gear up the process, the PDHJ intends to take a lead role, assuming that at some stage the government will take over the work that it has initiated. Similarly, the human rights strategy was being worked out by the Office of the Advisor to the Prime Minister on Human Rights (which has now been shifted to the Ministry of Justice as its new responsibility), and here again, the PDHJ would be an important supporter of a national strategy. In addition, mechanisms are needed to ensure that relevant draft laws are systematically shared with the PDHJ.

System change is a long-term process. The state is fragile and its governance structures are new. Even if these initiatives begin immediately, the work and results are long-term. Moreover, because the ultimate responsibility for system change efforts lies with public authorities, the PDHJ itself has little control over the outcomes. Despite these two factors, the strategies discussed here are no less crucial to the PDHJ’s success. At the same time, these ideas can only be fully exploited if there is no confusion about roles and responsibilities that might lead to unproductive duplication or unnecessary conflict. Memoranda of understanding and written agreements are especially important in this regard, in particular where there are operational implications.

In addition, a legal and policy framework can support good governance and human rights, and to deal with corruption. The PDHJ has the mandate to “supervise” (in the sense of reviewing) laws and directives so they are consistent with the Constitution, the rule of law and human rights. Using a central lawmaking mechanism, for example the Parliamentary Committee “A” on Constitutional Affairs, Rights, Liberties and Guarantees, the PDHJ can review and provide comments on relevant laws, including proposed and draft laws, with a view to promoting human rights and good

governance. It can also ensure the constitutionality of laws. Participation in consultation mechanisms created by Ministries, including the Ministry of Justice, offers another way to engage in legislative review.

At present, the PDHJ has very limited resources to engage in legislative review or to propose legislation. On the human rights side, however, there have already been some initiatives, such as the draft legislation on domestic violence, which began before the PDHJ began, but in which the PDHJ is involved. There is thus some capacity and experience in this area held by individuals within the PDHJ and among NGOs.

The PDHJ has also started work to propose modifications to its own legislation (as a result of a legislative anomaly that prevents certain statements obtained in PDHJ investigations from being used in subsequent court proceedings, for example). This will require a coordinated approach to the government from the Provedoria.

At present, however, a broader program of legislative review and research is beyond the capacity of the organization for the short to medium term. Human resources capacity needs to be built over time before the organization can engage in this issue effectively across all areas of its mandate. As capacity for legislative analysis and review develops, the PDHJ should also concurrently enhance its policy development capacity. There has already been a good deal of work done in this regards with respect to internally displaced persons and offers a promising way to ensure dialogue with government, civil society and citizens on issues of shared importance.

2.2 Operational agreements

Cooperation agreements in several operational areas are needed with public bodies where their collaboration is critical to operations. For example, the Office of the Public Prosecutor and the PNTL will be partners in the enforcement of the PDHJ's mandate with respect to obtaining evidence and prosecuting cases before the courts. As well, operational agreements will be required with the Ministry of Planning and Finance for the budget of the PDHJ to ensure, as a minimum starting point, that the PDHJ is working with a regular budget and is able to plan ahead.

Finally, budgetary independence is central to the PDHJ's credibility and capacity to act. While this is obviously also an internal capacity issue, it also represents a longstanding problem that can only be addressed through a coordinated effort with the responsible ministry. The best practice, albeit widely ignored, is that independent institutions prepare their own budgets, defend them directly before Parliament and be accountable for them. Best practice also suggests that the institution have the capacity and flexibility to use its funds as it sees fit, so that it can address urgent issues as they arise. The organization should have control over hiring and its own organizational structure.

The current budget approval system in Timor-Leste and the lack of longer term budget planning may give rise to an apprehension of lack of independence. The core responsibility of PDHJ is to oversee, and, where necessary, seek to correct the actions of the organs of the executive. Its ability to do this depends in large part on the funds allocated. The current budget estimates project spending at roughly \$ 400,000.00 US dollar per year, but the centralization of the budget process in government means that there is little control over even minimal expenditures and this makes planning difficult for staff. Internal challenges around budget execution make the task more difficult.

At the time of the preparation of the document, there were discussions underway to allocate the budget on a three-month basis. The discussions should continue and be the subject of an arrangement or operational agreement with the Ministry of Planning and Finance. At the same time, it is important for the PDHJ to show internal capacity in executing its budget and providing timely

budget information and requests to the Ministry of Planning and Finance and, where applicable, to donors as well.

2.4 Network Building with Civil Society and Other Institutions

The PDHJ already has a very pluralist organ called Voluntary Advisory Council (VAC) to advise the Provedor on a range of important issues under his mandate. It consists of members from the diverse groups of the Timorese civil society, which have their role in the nation building. Apart from this, the Provedoria has a number of constructive relationships with NGOs, including through the Joint Monitoring Network with respect to human rights matters and with the JSMP and others in relation to IDP issues. It has also held workshops and meetings with transparency-related organizations that should be formalized and continue.

Regular meetings and / or monitoring networks are a good way to ensure that there is a programme of regular cooperation and consultation with civil society⁴ and to foster exchange and encourage collaboration. Monthly or quarterly meetings can offer a systematic and planned forum to share experiences and information. For example, the PDHJ will have to communicate information about its new Operations Manual (how cases are being screened, for example, or how the intake process works) to NGOs and to professional groups such as lawyers.

The final group of networks is external – regional and international – with institutions whose mandates are similar to those of the PDHJ. This can help ensure that the PDHJ has the contacts and information needed to do its job and seek assistance where needed from more experienced institutions. The PDHJ needs to develop international networks with similar organizations. Attending meetings of regional and international coordinating bodies can assist in building personal networks and connections that can in turn obtain financial and material support, information and funding. Networking can ensure that the PDHJ is privy to knowledge about best practices and emerging international standards. Regional bodies such as the Asia Pacific Forum and others offer this type of opportunity.

3. Ensure Capacity and Effective Delivery of Programmes

Objective: The PDHJ is fully capable of discharging its functions in the most effective and efficient manner possible.

The third priority relates to capacity building and ensuring effective delivery of programs. The PDHJ has an important role to play as the constitutional body charged with promoting proper administration and with investigating alleged incidents of maladministration.

The organizational structure of the PDHJ should support the effective, integrated and sustainable delivery of all services, in line with good organizational management principles. The design and delivery of service programmes must respond to the needs of the people of Timor-Leste. These programmes cannot function without appropriate management and administrative systems. Basic organizational and management systems must be in place to review how the PDHJ is managing implementation, and to evaluate what must be changed or adapted to improve performance: in short, this will ensure proper organizational development.

3.1 Internal Restructuring and Organizational Development

⁴ This refers to organisations, outside of government, that are active in, or have a role to play in good governance and maladministration issues, including NGOs, religious institutions, academics, the media, bar associations, etc.

For the integration of the PDHJ's work to proceed effectively across mandates, some internal restructuring will be required. First, a human resources consultancy undertaken in 2006/ 2007 supported by MSD made useful recommendations with regard to the internal structure of the PDHJ. Final decisions have not yet been taken, but some time needs to be devoted to the review of internal structure in the short term. One of the recommendations that has been endorsed in principle, however is the engagement of a Director General, Permanent Secretary or equivalent, to manage the overall development of the institution, handle corporate planning and to oversee human resource development, including the professional development of women in the PDHJ.

Some aspects of integration may not require structural change, including the integration of public education and media relations functions across the organization. At present, the education and media relations staff work in their respective divisions or departments, and although there is some cooperation, a more concerted and integrated approach is critical. A corporate communications plan, the development of the next annual plan (and the public release of the 2005-6 plan), preparing and releasing bulletins and other reports, organizing seminars and coordinating media campaigns – are of these all major endeavours requiring that the staff work together in a concerted fashion.

As well, the development of an integrated policy for national monitoring of human rights, good governance and anti-corruption requires an internal reorganization of the PDHJ's work, even in the absence of formal restructuring. This is discussed in more detail below.

Finally, the organization needs to put into place or strengthen basic internal and administrative policies, financial controls and systematic internal program evaluations. With respect to human resources, several specific proposals in connection with human resources management and development have been made that need to be examined carefully. Finally, an organizational evaluation program needs to be put into place and managed, either by a Deputy Provedor, or a Director General or Permanent Secretary, once that position is filled.

3.2 Staff Training

PDHJ is mandated to carry out a range of duties, and successful delivery of these services requires that the staff have technical and professional knowledge, skills and abilities to carry out their responsibilities professionally. The PDHJ has attracted committed and professional staff but finding the exact technical and professional knowledge and skills has not been easy. A good staff training program can serve as an incentive to bringing new staff on board and upgrading the skills of those staff already on board.

There has been no significant training on management skills or professional development.

In terms of current capacities, staff have had some formal training in the areas in which they are operating. Ongoing training is a priority for the Provedoria and there is a need to establish a regular training program for human rights, good governance and anti-corruption. A good deal of sporadic training or one-off training has taken place that needs to be systematized. A coordinated training program could take into account what has already been done, the extent to which training has been internalized and reflected in daily work, and the need for integrated training across the mandate areas where appropriate. Some of these recommendations are contained in the human resources plan prepared for the Provedoria, and are summarized below:

- Technical training for human rights, maladministration and good governance, as well as other core job training including public education and media relations.
- Supervision, Management and Leadership Development.
- Professional Development: General work-related skills development such as communication skills, computer skills, writing skills and presentation skills.

3.3 Effective investigations and case management strategies

Effective case management is central to the work of the PDHJ in each of the three mandate areas.

Investigating complaints is a core responsibility. It is the activity that receives most scrutiny from officials and the public alike. Rightly or wrongly, it is also the activity against which an institution's reputation and credibility is judged.

The statistical breakdown of complaints filed with the PDHJ shows most of its complaints (regardless of mandate area) involve only a few sectors (abuse of power, procurement irregularities and related corruption), and that the majority are arising from a relatively small number of public authorities and government departments. This suggests that a more integrated approach to investigations (and therefore to case management as well) may be appropriate, at least for these types of cases. For example, the following areas offer an integrated approach for monitoring, policy, legal analysis and investigation:

Police abuse of power and maladministration. Police training in human rights and good governance (including anti-corruption) should be done together as a team since the issues cross two if not all three of the mandate areas.

- Employment cases, which are seen in all three areas of the mandate of PDHJ
- Housing and property
- Tendering and procurement practices.
- Immigration and customs

The organization had about 140 cases by March 2007 (120 at the end of January and a further 15-20 filed in February and March), and is developing a backlog. The ambitious capacity-building programme for staff and the demands of the 2007 elections have placed further strains on staff in terms of the effective and timely resolution of cases. While the current caseload does not necessarily predetermine the strategic areas of intervention in the future, it does suggest that a more strategic approach can be used across all three areas of the mandate to bring concerted action to selected cases. Again, this would only apply in cases where there are systemic and shared issues.

Effective case management important to the organization's overall effectiveness and credibility. Because the PDHJ has only been in operation for a short while, it is difficult to assess its performance empirically. Some cases have been resolved through good offices of the Provedor and Deputies. At the staff level, however, there are few resolved cases. Moreover, in meetings, NGOs have expressed concerns about cases being filed and receiving little or no feedback about progress or status over long periods of time. This suggests the importance of the PDHJ leading by example in terms of service standards, for example by developing protocols and timelines, and communicating them to external stakeholders and the public generally.

An Operations Manual and an effective case management system are thus key objectives. As documented elsewhere, there are few work guidelines or tools, apart from a complaint flow chart and some procedures for complaint screening.⁵ A complete Operations Manual is being prepared, and should be ready for mid-2007. However, the Manual needs to be implemented internally and tested against actual work experience, and then evaluated or modified, as appropriate.

Finally, the organization must be able to determine, quickly and accurately, what is happening to its caseload. At present, case statistics are gathered manually and then logged using a spreadsheet, a

⁵ A separate report is being prepared on human resources, funded by MSD/USAID and should be consulted for details.

task that will soon become unwieldy and inefficient as the case load grows, and regular reports are required. A simple, off the shelf relational database would be more appropriate. Alternatively, adapting a customizable system from another national institution may be another good option, but whichever option is chosen, it should be simple, easy to maintain, relevant to the organization's business processes and relevant for all three mandate areas.

3.4 Ensure necessary infrastructure

The PDHJ has several gaps in its physical and systems infrastructure that have a significant effect on the organization's capacity to carry out its mandate. The general categories are electrical supply, transportation (especially for investigations and monitoring work), telecommunications and information systems.

At a minimum, staff need access to email and to the Internet for communications, media relations, and international liaison. In terms of knowledge management and information systems, a local area network is needed to access file management and data collection centrally and to support data collection and reporting, as well as to support basic data storage, manipulation and retrieval.

Finally, the development and management of a web site in the longer term absolutely requires email and internet access. The staff will require professional support to in order to establish and maintain a web site, including a standing budget for external support for English and Portuguese translations, depending on the linguistic policy adopted by the PDHJ and subject to national language policy.

3.5 Alternative Dispute Resolution (ADR)

Preliminary information suggests that the PDHJ is already struggling with the quantity of work it receives, and this is likely to continue as the organization becomes better known and as it conducts public education and awareness campaigns. It is important that the investigation officers be given a chance to deal with the work they face now, and will face in the future.

The Law allows the PDHJ to settle complaints through mediation and conciliation. There are no guidelines or tools to support mediation which could provide an avenue of resolution for complaints. A successful ADR programme could speed up the process and reduce the resources used on full investigations. Statistics in other jurisdictions suggest that about a third of the complaints that are in-jurisdiction can be resolved within about three to six months.

However, there is some evidence to suggest that there may be some unwillingness to use mediation in Timor-Leste, either because of fear, a sense by respondents that there is no upside to cooperating, or lack of knowledge about the mediation process. This needs to be studied carefully before significant resources are allocated to a program of this magnitude. What is proposed instead is a more focused approach, with training limited to a small team, followed by a structured mediation stream in a pilot project. If the pilot is successful, the actual programming would only begin in the medium to longer term, beyond the term of this plan.

3.6 Develop a regional presence

The PDHJ has not yet established sub-offices, but the Law provides for this. There is an intention to open three or four offices by 2009-10 to have national coverage. This is an ambitious undertaking in the current environment. There is no doubt that establishing branch offices has advantages: it allows the PDHJ to operate in outlying areas where the individual's understanding of his or her rights and recourses are least understood. However, opening and operating new offices is a significant proposition, in terms of human and financial resources at a time when the head office is just getting set up. There is at present little budget for this item.

Because of these challenges, it may be wise to ensure that operations are well established in Dili before seeking to expand. This should be treated as a lower priority, and a longer term objective. IT and communications systems should be prepared in advance of setting up sub-offices to ensure the staff are effective and secure in their work. In the interim, national monitoring programs can help the PDHJ establish a national presence, working in an integrated way across the human rights, maladministration and anti-corruption areas. This is especially important in light of the relatively few cases that have been received from rural areas since the Provedoria began receiving cases.

4. Serve the needs of disadvantaged groups, women and children as these relate to human rights and good governance

Objective: To ensure that the work of Provedor benefits those that need it most.

Article 8 of the Provedoria's enabling legislation provides for:

The Ombudsman for Human Rights and Justice shall ensure that the most vulnerable and disadvantaged persons such as detainees, women, children and minority groups, including persons in special needs such as culture, language and health, and those with disabilities are able to benefit from the services provided by the Office.

Disadvantaged groups including women and children, persons with disabilities, the aged, the internally displaced persons and ethnic minorities face unique challenges with respect to human rights and good governance. The issue of gender discrimination is no less significant. The PDHJ cannot overlook them in their programming. (Detainees in general are covered in the special section in training prison officials).

This can be accomplished in the following two ways:

- By mainstreaming issues relevant to persons who are poor, disadvantaged and vulnerable, and especially women and children across all program areas
- By cooperating with stakeholders, including NGOs and government advisory bodies, to ensure that issues regarding these groups including the religious or cultural minorities are brought forward on a regular basis and addressed through appropriate policy and legislative measures.

Recent country reports, including the 2007 Common Core Document and related specialized reports from Timor-Leste speak to the vulnerability of women and consequently of children in the current social and political environment as a fact of life in Timor-Leste. This is especially problematic for displaced persons. More generally, reported high levels of sexual and domestic violence, coupled with low levels of schooling and literacy for older girl children, create a cycle of dependency and vulnerability.

It is important that there be formal consultation between the PDHJ, NGOs, the international community (including UNIFEM and UNICEF, in addition to the OHCHR) and government (e.g. the planned National Commission on the Rights of the Child, and the Offices of the Advisor to the Prime Minister on Gender and Promotion of Human Rights) (now shifted to the Ministry of Justice), to identify and address these issues. Specifically, legal and policy frameworks for domestic violence and for internally displaced persons are short-term priorities even if these initiatives have been in development for some time.

Making the rights of persons with disabilities a priority in emerging democracies and post-conflict situations is always a major challenge. However, NGOs have observed that, as a starting point, the PDHJ should make its own facilities accessible, and work cooperatively with civil society to develop targeted programs to support persons with disabilities. Finally, the PDHJ Law is explicit

about the importance of gender balance, and the organization has expressed its commitment to the equality of men and women as a core institutional value. As has been noted in Priority 3, a parallel human resources consultancy has proposed a "Women in Development" program or similar special program has been proposed for the PDHJ to encourage the development of women in the organization at progressive levels. This would assist the PDHJ to more visibly and meaningfully represent and serve Timor-Leste society.

The IDP situation remains an area of significant concern for human rights, especially for basic social and economic rights to health, education, housing and food security. Most of the ESC (economic, social and cultural) rights guarantees are immediately relevant in their context. Coordination and monitoring efforts with the monitoring network and with the government and humanitarian aid organizations will be essential short term and medium term priorities, including the development of plans and policies to ensure an enduring solution for this vulnerable group of persons. There is no reason why Provedoria cannot lobby with the concerned entities having public responsibility in this regard to formulate such important issues like national food security policy and "basic health for all" programmes.

CONCLUSION

The PDHJ now has the start of a template to guide its activities into the future across all its mandate areas, although this template is not static. The organization and therefore the plan must grow and evolve over time as the country and institutional situations change. As the PDHJ's capacities increase, it will develop a better understanding of what it must do to be successful, and it will be better placed to establish performance indicators as well, although it is too early to provide outcomes or indicators at this stage except for process outcomes (See Appendix 1).

A national launch of the final version of the plan will be planned for later in 2007, and will provide an opportunity to the PDHJ to better communicate and carry out its vision for the future. This process to date has been important for building internal confidence and external trust, and has hopefully set benchmarks for the Provedoria's engagement with stakeholders for the future.

It represents a journey that will continue in the future.

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