

SCIT info

UNMIT/Serious Crimes Investigation Team (SCIT) newsletter • issue 2 • Dec. 2008



The SCIT works under the direction and supervision of the Office of the General Prosecutor of Timor-Leste



RESPONSIBILITY, INDEPENDENCE AND OPTIMISM IN THE JUDICIAL SYSTEM

Judge Maria Natércia Gusmão is part of the first group of Timorese judges who began their careers working side by side with international judges in the Special Panels for Serious Crimes. Now she is the President judge of Dili District Court and, acting chief justice of the Court of Appeals. With her contagious enthusiasm and optimism, she explained to SCIT info why the serious crimes process is important for Timorese society and shared her vision of the judicial system.

You began your career as a judge on the Special Panel for Serious Crimes. How would you assess this process?

Yes, I began in June, 2000 and remained until the panel's conclusion in May, 2005.

It was the best and most extensive professional experience I have ever had. It was very difficult at the beginning because I was a recently-appointed judge with no experience. Furthermore, working with many judges from different countries was difficult, because at the time my English was not very good. This caused some problems... Later, from 2002-2003 onwards, things started to improve, through a lot of effort on my part. I began to feel more at ease. Each individual must find the ideal manner to address his or her obstacles.

Do you think that the judicial process regarding serious crimes was important to Timorese society?

I think so. I believe it both was and is important, because there has to be justice for the Timorese. We cannot allow impunity for some while others stand trial and are convicted. This is an injustice. I also do not believe that the Timorese people are in favor of impunity.

Although the Special Panel on Serious Crimes has ceased to exist, investigations on the crimes of 1999 are ongoing. If the Prosecutor-General decides to proceed in prosecuting any of these cases, will they be tried before the Dili District Court?

If the Prosecutor decides to proceed with the charges, I believe that in our penal procedural code,

the Dili court has jurisdiction to try these crimes.

You witnessed the birth of the judicial system here in Timor-Leste...

Yes I did. I witnessed it and also actively participated in it and still do.

What is your opinion on the trajectory of the system since its inception until now?

It was very difficult when we started, as I have already said. We didn't even have chairs to sit on, we sat on the floor. You can ask other colleagues – some of them decided to go into politics. Starting something is difficult – but as we are Timorese, we never give up hope. We have our pride, our nationalism. If we Timorese are not willing to make sacrifices to work in this area, who will? Therefore we sacrifice our lives for this profession. We are still receiving the same salaries as in the beginning – it's been eight years! That's not the most important issue. What is important is that I, as a Timorese, have an obligation and a responsibility before this people. As I see it, we have made much progress. We now have trained judges, prosecutors and public defenders. We have career judges. The system is working, although I'll admit there are still some irregularities in certain areas. We are working, though, day by day, to improve the system and to enhance our performance. We currently have 11 career judges and 2 judges-in-training plus other groups now in training at the Judicial Training Center.

It is said that a good legal system is important to ensure independence of branches of government. In your opinion, why is this separation of power so important?

Separation of branches of government is fundamental to safeguarding the rule of law. Otherwise it would be as if we were governed by an absolute monarch who ruled over everything in the country. There must be a separation among the legislative, executive and judiciary branches. This is what ensures democratic rule of law. Therefore, it is important for the courts (judiciary branch) to be inde-



Editorial:

In this edition of SCIT info we have the opportunity to know better another agent of the justice sector in Timor-Leste, Judge Maria Natércia Gusmão. The President of the Dili District Court and acting President of the Court of Appeal, offers an insight on the Timorese courts and shares her experience as a former judge of the Special panels for Serious Crimes. Furthermore, SCIT adds a new section—Profile—to introduce to you our team in more detail. Finally, I take the opportunity to express my deepest gratitude to all Timorese who have cooperated with our investigators and Forensic experts. Thanks to their cooperation SCIT has been able to make significant progress in the investigations.

Marek Michon
Head of the SCIT



UNMIT/Serious Crimes
Investigation Team (SCIT)
newsletter • issue 2 • Dec. 2008

SCIT-UNMIT
UN House
Rua Caicoli
DILI

Phone: 330-410
Fax: 330-4110

UNMIT Regional Support Centres
BAUCAU: Vila Nova
MALIANA: Holsa Soso
SUAI: Next to the Heliport

For more information please contact:

Júlia Galvão Alinho
External Relations Officer
Mob: +670 73 11 519
E-mail: alinho@un.org

Investigating 1999 to assist bringing Justice in Timor-Leste

WWW.UNMIT.ORG/RULE
OF LAW/SERIOUS CRIMES
INVESTIGATION TEAM

In Short....

• Preservation of Serious Crimes archives

In addition to the investigations, the SCIT has been working for the preservation of the Archives, which belong to the Prosecutor-General's Office. The digital archives are being organized with a new software, which is used in many international tribunals. As for the physical archives, they are being re-structured and maintained. All work as been done together with the Office of the Prosecutor-General

• Reaching out to the victims in 2009

Together with the NGO's that have been supporting the victims of 1999, SCIT is preparing activities to provide information to the families of victims. These are expected to take place in March 2009, after the rainy season. All sucos will be sent information on the program of activities.

pendent, and to make their decisions impartially. **What do you think of the possibility of integrating the traditional justice system with the formal judicial system?**

It's difficult for me to comment on this because I have not studied the issue sufficiently. Considering the possibility, however, if the decision is

made to integrate the two systems, I believe it is important to verify that the traditional justice system does not violate Human Rights, fundamental freedoms or any other laws.

SCIT returned victim's remains to their families

In November the forensic experts and the investigator responsible returned the remains of a victim allegedly killed in 1999 to the family.

The remains were discovered by a relative of the victim less than two months ago and, with the permission of the family, the SCIT forensic team brought them to Dili for examination. The purpose of those exams was not only to confirm the identity of the victim but also to help the investigators to try to establish how this person had died.

Once the post-mortem analysis was completed the SCIT forensic team and investigator went back to the family's house to return the remains of their loved one. Before the official handover of the remains the family and local community performed a ritual to expel all the evil spirits associated with the alleged crime. At the house the family officially received the remains, thanked the SCIT officials for their



'contribution in seeking justice' and invited them to take part in a meal together with all the family and friends.

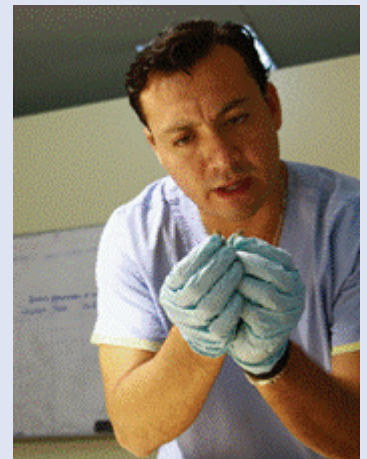
This was the second victim to be exhumed and already returned to the family since the SCIT resumed the investigations into the serious violations of Human Rights of 1999.

SCIT Profile

Mirko Fernandez, forensic anthropologist in Timor-Leste for 3 years

"Not being able to identify all the victims of 1999 has been frustrating"

Mirko Fernandez, 33 year old, Canadian, has been SCIT Forensic Anthropologist since October 2007. This month he is leaving Timor-Leste for family reasons, but leaves behind an important contribution for the Team and especially for justice in Timor-Leste. Mirko worked for two years in the former Serious Crimes Unit until 2004, when the investigations were interrupted. During his work with SCU and SCIT he has participated in many of the 250 exhumations performed, and examined a great number of victims remains trying to establish how they died, how they were killed and many times trying to find out their identity. For this reason Mirko has been in close contact with many families and that is why he says: 'without their cooperation it would have been impossible to do so much'. However he feels frustrated because the Forensic section was not able to identify all the victims: 'Without access to DNA testing it is impossible, this is frustrating for us and especially for the families'. The language difficulties and the lack of a national counterpart are the other challenges he points out. In spite of this he would like to come back to Timor one day to help to find the 300 victims that, according to the Red Cross, are still missing.



"The cooperation from the families has been fundamental for all investigations".

Workshop for judges, prosecutors and lawyers



The contribution of the medical-legal expertise for criminal investigations was the central subject of a two days workshop at SCIT. 20 people, including, judges, prosecutors and defence lawyers attended the workshop in which was also debated past, present and future challenges of forensic medicine in Timor-Leste. Dr. Nurul Islam, SCIT forensic pathologist conducted the discussion. The workshop was, furthermore, an opportunity for those Timorese legal officials to become more familiar with the mandate of SCIT.