

# SCIT info

UNMIT/Serious Crimes Investigation Team (SCIT) newsletter • issue 3 • Mar. 2009



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



## OFFICE OF PUBLIC DEFENDERS: "BRINGING JUSTICE CLOSER TO THE PEOPLE"

Established during the UNTAET administration, the Office of the Public Defenders (OPD), was responsible for defending suspects tried before the Special Panels for Serious Crimes. The institution's mission, however, is considerably larger and includes ensuring that all citizens, however poor they may be, have access to justice in all different areas, criminal, civil law, etc. The Public Defenders Office Director, Dr. Sérgio Hornai explained to 'SCIT info' that the lack of attorneys has been one of the major challenges faced by his office, yet stated that public defenders will be permanently present in the districts in 2009. Sérgio D'Hornay assured that the OPD is committed to bringing access to justice closer to the people.

### How long has there been an office of the public defender in Timor-Leste?

There has been an Office of the Public Defender since the UNTAET transitional administration in 2000. The institution was established to provide public services, to support our citizens whenever they came before the courts and required legal aid as defendants. Until 2005, our attorneys acted as defense lawyers to those accused of Crimes Against Humanity and other serious crimes committed in 1999, who were tried before the Special Panels for Serious Crimes. That being said, the Office of the Public Defenders currently provides support to citizens in all sorts of court cases.

### How long have you been the director?

I began working as director in late 2001, early 2002. I have been striving to organize and coordinate the institution so that we can strengthen the legal sector. Public defenders are the third leg of a tripod of justice, which includes also prosecutors and judges.

### How many defense attorneys work as public defenders?

We have 15 public defenders 4 internationals and 11 nationals, 4 of which are still on probationary period.

### Does your office operate throughout the country?

Yes, throughout the country, according to the juris-

dition of the courts. Wherever there is a court must be a Public Defender. So far, we have been unable to provide good conditions for defenders who go out to work in the districts, such as for example an office with permanent electricity. However we are currently conducting our needs assessment to provide proper conditions. These conditions shall be in place this year.

### Are the defenders permanently in the districts?

The defenders are not permanently in the districts, we have a type of rotational system. Although we are not yet at 100% of our strength, we can at least ensure some presence in the districts to address the needs of those requiring our services. We have one defender assigned to the district of Baucau, another to Suai and yet another to Oecussi. They also provide counsel to people in the districts and legal aid as defense lawyers. As I said, though, this year we shall provide conditions for defenders to remain in the districts. Our strategy is to bring access to justice closer to the people.

### What is the role of the Office of Public Defenders within the context of the legal system of Timor-Leste?

Our role is to ensure that there is a proper justice system in Timor-Leste. I refer, of course, to due process. That is, we exist to fulfill the constitutional principle that all citizens are equal before the law. As you know, the Courts try and judge, the Prosecutor represents the State in prosecuting and a balance must therefore exist, and so the State established the OPD. Our role, essentially, is to ensure proper due course, pursuant to the Constitution of the Republic and the democratic rule of law.

### Do citizens have free access to the services of the Public Defender?

Yes, it's free. That is our mission, according to our statutes (Decree 38/2008): to provide free legal aid to poor citizens. The average income of our popula-



### Editorial:

*In the third edition of SCIT info we are pleased to introduce the third pillar of the justice system in Timor-Leste: the Office of the Public Defender.*

*The Director of this Office, Dr. Sérgio Hornai, provides an insight into the crucial work of the Public Defenders, the progress made and the challenges they face.*

*Furthermore, we are glad to inform all Timorese that SCIT will be able to continue its investigations, since on the 26 February the UN Security Council decided to extend UNMIT's mandate for another 12 months. In its resolution 1867 (2009) the Council reaffirmed "the importance of ongoing efforts to achieve accountability and justice and a coordinated approach to the justice sector reform".*

**Marek Michon**  
Head of the SCIT



UNMIT/Serious Crimes  
Investigation Team (SCIT)  
newsletter • issue 3 • Mar. 2009

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

#### **In Short....**

- **Swearing in of the new Prosecutor-General of Timor-Leste on the 27 March** Ms. Ana Pessoa will be sworn-in as Prosecutor-General of Timor-Leste, by the President, Jose Ramos Horta, on the 27 March 2009. Dr. Longinhos Monteiro will be appointed PNTL Commander.
- **Victim reparation- Draft Law on a CAVR and CTF follow-up institution ready this year** UNMIT Human Rights and Transitional Justice Section has recruited an expert to prepare a Draft Law on a CAVR and CTF follow-up institution. This law will include a reparation scheme to the victims of Human Rights violations which happened in Timor-Leste between 1974-1999. The draft will be ready in the second half of 2009 to be then debated in the National Parliament.

tion is quite low, so if they find themselves in a situation where they must defend themselves in court, they are unable to pay attorneys' fees. The OPD is to intervene in such cases.

#### **How do people access your services? Do they come straight here?**

They can do it through the courts by notification from the courts. If someone is accused and has no defense attorney, the judge has the court officially notify the OPD to provide immediate assistance to the person. Anyone requiring legal counsel or aid in a court case can also come to us directly. That is why we are trying to disseminate information, through leaflets, on the role of the OPD to the public, in Dili, in the Districts and Sub-Districts, so that people know what our role is and come to us. It is an ongoing task because sometimes we even have to explain what a lawyer is and what we do.

#### **What is the extend of aid provided by the Public Defenders ?**

We work with all types of cases. Criminal law, when the person commits a crime defined in law; civil cases, when there is a dispute among individuals, administrative issues, labor law, as well as consumer protection cases. Although the number

of Public Defenders is still insufficient, I am proud to say that quality of the service provided is considerably good. All our public defenders have received complementary training at the judiciary Training Center, which has brought consistency to our legal framework.

#### **What have been your biggest achievements and challenges over the years?**

The major challenge has been the lack of human resources. We also require some more consideration from the Timorese government. Despite this, we have made progress and we have ongoing support from international attorneys.

#### **Why is it important that the State provide this service?**

Because the Timorese State is a State of democratic rule of law. Our Constitution declares that justice cannot be denied to the poorest of our citizens. They are also entitled to use and enjoy their rights whenever facing legal proceedings or appealing to the courts to resolve disputes. The State, therefore, had to establish an institution that safeguards its citizens from suffering discrimination in access to justice because of socioeconomic conditions. Otherwise, there would be no justice.

## **Timorese journalists spent one day at SCIT**

A group of 16 Timorese journalists, coming from several media such as national radio, television and newspapers, attended a one-day workshop at SCIT headquarters. The activity was designed to provide the media professionals with background information on the Serious Crimes process, SCIT mandate and working procedures, and also to explain the legal framework in which the Team operates. "This kind of initiative is very useful for Timorese journalists since they have to inform the population on these important issues", said the journalists at the end of intensive day that included also a guided tour to the SCIT forensic lab. Furthermore, they stated: "it increases our capacity to cover justice issues".



*The Timorese journalists showed particular interest for the international law framework and forensic techniques for the identification of victims.*



*The Timorese press follows the entrance of the president in the new building.*

## **Prosecutor-General's Office has new building**

On the 5 March the President of RDTL, Jose Ramos Horta presided the inauguration of the new Office of the Prosecutor-General in Dili. In the same day 4 new prosecutors were sworn-in. The new prosecutors declared to "work hard to contribute to cut down the backlog of pending cases in the Office of the Prosecutor-General". The new building, located in Colmera was built by a Timorese company and it will greatly improve the working conditions of the Timorese prosecutors. As both the president and the Prosecutor-General stressed: "together with the new offices in Baucau, Oecussi and Suai, this building reflects the effort of the Timorese authorities to strengthen the justice system". Prime-Minister Xanana Gusmao has also visited the building and congratulated the Prosecutor-General for his achievements during his eight years as Prosecutor-General.