

Strengthening the Justice System in Timor-Leste

Justice System Programme, UNDP Timor-Leste

TIMOR-LESTE is doing what few newly-independent countries have had to do in recent times: rebuilding the country's justice sector from the ground up. Firm government commitment backed by eleven years of sustained United Nations Development Programme (UNDP) support has delivered visible results.

After centuries of colonial rule under Portugal and a 24-year occupation by Indonesia, Timor-Leste gained independence in 2002. Independence came in the wake of widespread destruction of infrastructure, violence and displacement of the majority of the population, following a referendum vote in 1999. In post-referendum violence, 60-80 per cent of the country's infrastructure—including justice sector infrastructure—was destroyed. At this stage there was not a single judge in the territory; and only around seventy mostly young Timorese with some legal training.

It is against this background that UNDP, in 1999, provided initial first support to strengthen the institutional capacity of the Timorese justice system.

The current UNDP Justice System Program (JSP), which will run until 2012, focuses on upholding the rule of law and improving access to justice as preconditions to ensure sustainable peace and development.

Supporting Timor's Legal Training Center

The Program supports Timor-Leste's sole professional training institution for the legal sector, the Legal Training Center (LTC). The LTC provides quality post-graduate courses for Timorese judges, prosecutors and public defenders and private lawyers; and professional development programs for legal drafters, justice clerks, notaries and translators.

The LTC's comprehensive training plan focuses on a capacity-building strategy that strengthens the technical legal skills of justice sector actors. Those who graduate from the two-and-a-half-year training program are qualified to be appointed as district court judges, public defenders in

the Public Defender's Office (PDO) and prosecutors in the Office of the Prosecutor General (OPG).

Since 2007, fifty-one Timorese magistrates, prosecutors and public defenders have graduated from the LTC, thereby qualifying them to work for the state in their respective areas.

In order to ensure that ongoing professional education is available for judges, public defenders and prosecutors, follow-up training is also offered to LTC alumni.

Human rights and gender-related issues are part of all LTC training programs; and specific training sessions on human rights treaty obligations and conventions such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights and International Covenants on Civil and Political Rights and Economic, Social and Cultural Rights have also been held.

However, an analysis of previous LTC capacity development training programs revealed a higher drop-out rate of women trainees compared to their male colleagues. The underlying cause was that women, especially single parents, struggle to provide for the needs of their families; and when feeling pressure at home, opted to withdraw from study rather than try and juggle both study and family responsibilities.

In order to combat this trend, the JSP, the UNDP gender advisor and the LTC has developed a gender strategy for 2011.

The three aims of this gender strategy are to support current LTC female students to continue with their studies; to present the law as an attractive career option for female secondary school graduates and encourage young Timorese women to consider a career in the law; and once women have graduated from law to encourage them to continue post-graduate legal studies at the LTC.

Most female LTC students are juggling their studies with transport difficulties, family commitments and work responsibilities. For example, during a focus group discussion with female law graduates who are doing the three-month LTC preparatory program, one student said: "My family support me [to study]. However, there is no one at home to look after the children when I am not there."

Other students also said they juggled study, family responsibilities and, in some cases, work from their offices, putting extra pressure on their studies.

The campaign will include financial support for existing female LTC students through a grant program and employing a student liaison officer. For secondary school students, there will be an essay competition. A short film and a brochure presenting the law as an attractive career option for young Timorese women will be developed and distributed nationally.

Training for Private Lawyers

In 2011, LTC offers its second professional accreditation course for private lawyers, with more than sixty-five new vacancies for law graduates.

This second intake of private lawyers is expected to join the fifteen-month program, after finishing a three-month preparatory program and passing written and oral entrance exams. The training course consists of classes in constitutional principles, civil law, penal law, ethics and deontology, Portuguese and Tetum, administrative law and human rights; and includes a nine-month probation period.

The new accreditation course for lawyers is important, as it will enable lawyers to be accredited before a deadline of 2012. In 2008, a private lawyers' bill was passed. This law allowed for a transition period of four years, during which time those lawyers who were already working as lawyers were allowed to continue working as lawyers. However, that transition period expires in 2012. In order to have as many lawyers accredited as possible by the deadline, LTC is making training for private lawyers a priority in 2011 and 2012.

In 2011, LTC continues current courses for translators, notaries and lawyers. It also plans to start various new training programs, including the fourth professional accreditation course for Timorese judges, prosecutors and public defenders, training for bailiffs and a course on the penal process for prison guards.

In order to implement its comprehensive legal training program plan, with JSP support, the LTC has six international lecturers—a training coordinator, a prosecutor lecturer, a judge lecturer, a lawyer lecturer, a translator lecturer, a notary lecturer. Portuguese language lecturers are also employed.

Access to Justice and Decentralization

Providing all Timorese citizens, particularly those in remote areas, with access to the formal justice sector continues to be a challenge across the sector.

By supporting courts, prosecutors and public defenders in district centers of Baucau, Suai and Oecusse, the JSP is assisting these district justice offices to deliver justice to people outside the capital Dili. With JSP assistance, national and international professionals have been deployed to the districts; houses have been leased for national and international justice actors; and material, transport, and information technology and communications provisions have been provided to district offices. In Baucau, for example, the JSP funds the salaries of three national interpreters who translate local languages into Tetum and Portuguese for the court.

One initiative, which was been warmly welcomed by local communities, is the mobile court project. Suai District Court, which is based in the south of the country, covers four of Timor's thirteen districts and takes in some of the poorest regions in Timor-Leste. The ability of the justice sector institutions to bring suspects, witnesses and victims from different regions in this jurisdiction to the court is also hampered by the very poor condition of major arterial roads in the area.

In order to respond to some of these issues, Suai District Court traveled to the two district centers of Same and Maliana in October and November 2010, holding court sessions in a local police station and a government building. The JSP supported both the Same and Maliana hearings.

The court heard seven criminal cases in the town of Maliana in November 2010 and five criminal cases in Same town in October 2010. Suai Court judge, Dr. Jose Maria de Araujo presided over the hearings.

Justice sector actors who took part in the mobile court hearings commented on how mobile court is a way of showing the community that the court is functioning, addressing transport and infrastructure problems; and educating the community about judicial procedures. The mobile court initiative also has the strong support of Vice-Minister for Justice, Ivo Valente.

Speaking after the Same hearings, local community member, Joao Fernandes said the mobile court gave the community immediate answers about cases. "We don't need to spend a lot of time going to Suai... Now we can see directly how the judge, public defender and prosecutor process our cases," he said.

In addition to the mobile court initiative, international access to justice officers have been deployed in the district jurisdictions of Suai, Oecusse and Baucau to work with local justice institutions, producing and distributing legal awareness materials. Each international access to justice officer works

with a national counterpart. These national officers are funded by the JSP for an initial two-year period and will then be fully transferred across to the Ministry of Justice (MoJ).

An equitable and accessible justice system requires a robust public defense service and the JSP continues to support Timor-Leste's Public Defender's Office (PDO). In 2010, the JSP assisted the PDO in access to justice workshops organized in two regional centers of Baucau and Ainaro. These meetings, which were facilitated by a national public defender, a judge and a prosecutor, helped raise awareness and understanding among citizens outside the capital Dili about the role and mandate of all justice institutions.

The JSP has also supported the PDO by providing it with infrastructure and equipment, security and transport support. JSP has recruited interpreters and translators for the PDO in Dili and in the districts. A JSP-supported public defender advisor has helped draft a legal aid law that allows the state to pay for legal representation provided to citizens who cannot afford or access a private lawyer.

In 2010, the JSP public defender advisor helped organize a three-month study mission to Brazil for three national public defenders. The public defenders were trained by Brazil's Superior School of the Federal PDO from August to October 2010. During the study tour, the Timorese public defenders learned about the Brazilian PDO, PDO institutional principles, human rights principles and other related judicial subjects and also strengthened their Portuguese language skills.

Developing Legal Awareness

In addition to supporting the work of the LTC, the JSP has run legal literacy and awareness activities, in cooperation with the MoJ, the OPG, the PDO and the Courts. The following communication materials have been produced and distributed:

- brochures explaining the role of the Public Defender's Office
- posters illustrating how to bring civil and criminal cases to the courts
- human rights booklets for Timor-Leste's police force (Policia Nacional de Timor-Leste - PNTL)
- JSP and MoJ newsletters
- bilingual (Tetum and Portuguese) Penal Procedure Code books

- bilingual (Tetum and Portuguese) Civil Procedure Code books (3,000 copies)
- bilingual (Tetum and Portuguese) copies of the Constitution
- information on citizens' rights to justice and customary law
- MoJ application forms for border passes and to register commercial and non-commercial entities
- MoJ information on applying for passports.

In the area of customary law—which is relied upon by so many Timorese to resolve a variety of disputes, both criminal and civil—the JSP has been working with the MoJ for over a year on a draft customary law.

The draft was developed following community consultations conducted around the country. During these consultations, participants made suggestions about incorporating local justice and customary law into the formal justice system; and received information about constitutional provisions related to the judicial system, customary law and the competencies of the judicial system, the police and alternative conflict resolution mechanisms. The draft law will be revised in 2011 before it is presented to the Council of Ministers.

Overall, Timor-Leste's justice system has expanded since 2001 when the first national justice institutions were established: one Court of Appeals in Dili, four district courts covering the whole country and three prisons. An independent Prosecution Service and Public Defender's Office were created and, during the following years, their district offices were also established. Registry and notary services were also established in 2001 and today there are offices for civil registration in all the thirteen districts. Though some justice institutions mentioned in the Constitution have not yet been established, most notably the Supreme Court, progress has been registered for the establishment of the High Administrative Tax and Audit Court through the JSP technical assistance. The oversight bodies for the Prosecution and Courts—i.e., the Superior Councils—are functioning; and the PDO's Superior Council is currently being constituted.

This has been a remarkable journey towards a functional justice system run by the Timorese. Government commitment to developing this sector, with international assistance from UNDP and other international partners, has remained steadfast despite three changes in government and several turnovers of UNDP leadership.

Annex A

Courses offered by Timor-Leste's Legal Training Center –2008-2011		
Year	Type of training	Beneficiaries
Courses commencing 2011	Fourth training for judges and public defenders	21
	Second and third training for lawyers	65
	First integrated training for bailiffs	25
171 trainees	Penal procedure training for prison guards	60
2011 Ongoing courses	Complementary training for judges, prosecutors and public defenders (with Portuguese training for 14 of this group)	50
	First training for notaries	11
	First course for private lawyers	14
	First training for translators	14
	ICT training	30
2010 courses	Preparatory Portuguese language and training program for notaries	11
	Preparatory training for judicial clerks	56
	First preparatory training for the LTC admission examinations	38
	Preparatory Portuguese language training for legal drafters and advisors from the National Parliament and the Provedor for Human Rights and Justice	13
	Two three-day seminar for lawyers	20
2009 courses	Third training for magistrates and public defenders	14
	Complementary training for judicial actors and probationers (including Portuguese language training for 25)	37 (25 have attended Portuguese classes)
	Training of lawyers for the Ministry of Justice	11
2008 courses	Third training for magistrates and public defenders	14
	Three-day seminar for staff from the ombudsman's office (Provedor for Human Rights and Justice)	25
	Complementary education training for judicial actors (judges, prosecutors and public defenders) and Portuguese classes	37
	Civil procedure training for bailiffs	47

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