

**RECENT ACTIVITIES**  
**Provedoria for Human Rights and Justice (PDHJ)**  
Timor-Leste

August 22, 2007

The Provedoria for Human rights and Justice (PDHJ) is in the third year of its operation. It has a comprehensive mandate which covers not only protection of human rights and their promotion, but also good governance and anti-corruption.

The PDHJ opened its doors to the public for complaints on 20 March 2006. But it started receiving complaints soon after the Provedor and Deputy Provedor were sworn in by Parliament in June 2005. As at 18<sup>th</sup> June 2007, the PDHJ has received 66 human rights cases. Most of the cases received during the above period related with illegal arrest, detention and PNTL. Out of the 66 cases, 16 cases were closed for statutory reasons including lack of jurisdiction. However, the PDHJ has been able to make recommendations to the concerned institutions or the competent authorities on 23 cases. That means the number of cases cleared from the docket is 39. All recommendations are being followed up by Human Rights Division (HRD). As at today, the number of human rights complaints has reached 78.

Recent activities

The major case which the Human Rights Division of the PDHJ is working on at present remains the case of petitioners (April 28, 2006) which focuses on human rights violations committed during April 2006. The events following the demonstration ending in violence on the 28 April 2006, when both the police (PNTL) and the military (F-FDTL) used lethal force against civilians, were of such seriousness that the Provedor resolved to employ his powers and open an investigation into the events in accordance with Article 35 of the Provedor's Law. This investigation was later expanded to include the later incidents of May 2006.

This investigation was opened within 24 hours following the violent events of April 28 and 29. The Provedor immediately began an investigation into the allegations of human rights violations by both the police and the military, and began monitoring the detention of over one hundred individuals taken into custody by both the F-FDTL and the PNTL. In investigating the use of lethal force by PNTL and F-FDTL, which resulted in deaths and injuries, the PDHJ interviewed nearly seventy victims and witnesses up to the time of the submission of this report. As part of the investigation work, the Deputy Provedors and staff of the PDHJ made a total of 25 visits to 10 different districts during the first weeks of May and the month of June.

The investigation was still underway when the serious events between May 22 and 26 took place. During this period, armed conflicts occurred between the police and the military, who were split into regional divisions. A large number of people were shot dead by the F-FDTL on 28 and 29 April. The violence and threats resulted in more than 150,000 IDPs, from the last weeks of May and created serious obstacles for this investigation process, including difficulties in locating victims and witnesses. As such, the Provedor was unable to continue the investigation with the same degree of intensity, thereby delaying the conclusion of the investigation and a conclusive report regarding the allegations. The Provedor is still not in a position to confirm these reports or to clearly determine the number of people that the PDHJ believes to have been killed. Despite being unable to conclude this investigation at this time, the Provedor believes it is important to point out the nature of some of the human rights violations, which are being investigated:

- ☛ Excessive use of force by both the PNTL and the F-FDTL
- ☛ Unlawful killing by both the PNTL and the F-FDTL
- ☛ Illegal arrest and detention by F-FDTL
- ☛ Ill-treatment in custody by both F-FDTL and PNTL

The Provedor's investigations into these events and comprehensive report are critical, in particular because of the wide dissemination of unconfirmed reports. The Provedor, with its independent nature and legal powers, represents an important State mechanism to identify impartially and objectively the facts and those responsible. The PDHJ is finalizing its independent report on the incidents soon, with specific recommendations.

Regarding promotional mandate, during 2006 the PDHJ began to develop a national profile and, through the media and other mechanisms, to promote the principles of good governance and human rights. During the first months of the year, the PDHJ travelled to all 13 districts to conduct meetings with government officials about the mandate of the PDHJ. Following the opening of the office to the public in March 2006, the PDHJ has continued to increase its profile in Dili and the districts during its regular activities – such as field monitoring. Recognising the important role that the media can play in promoting awareness of human rights and good governance, the PDHJ has developed contacts with the media, and they have been very helpful.

The PDHJ prepared several press statements and conducted media conferences on topics ranging from the commemoration of Human Rights Day on 10 December to recommendations for a screening process in the redevelopment of the PNTL. The PDHJ also appeared on numerous radio and television talk shows and, in cooperation with Radio and Television Timor-Leste (RTTL), organised radio programs on topics such as arrest and detention procedures and protection of IDPs. In 2007, the PDHJ is working on broadcast material regularly on community and national radio. The PDHJ produced a range of promotional materials including brochures on the mandate of the PDHJ and the PDHJ's complaints handling procedures, the rights of IDPs, referral services for IDPs, and published a Tetum translation of the United Nations Guiding Principles on Internal Displacement. It is clear however that much more needs to be done by the PDHJ in this regard.

Recently, the Provedoria involved itself in monitoring both the presidential and parliamentary elections. Its monitors were able to visit several parts of the country, and report on the important issues from there.

The Human Rights Division of the PDHJ follows up human rights cases and the implementation of recommendations made by the Provedor. However, there is no formal mechanism as yet. PDHJ has made several recommendations, and the process of implementation of these recommendations is indeed slow. The Operations Manual of the PDHJ is being finalized, which will have clear provisions on the follow up procedures.

### Interaction with the government

The PDHJ is a very new organization. It has just completed two and half years (but only one operational year, in fact). It enjoys a good level of support from all quarters, including the governmental institutions.

There is no specific difference of opinion or approach between the government and the PDHJ. However, we need to continue working with the government and other institutions to make the mandate of the PDHJ known to all concerned. Recently, the PDHJ expressed its concerns regarding the Truth and Clemency law, approved by the Parliament early this month, under the process of “specialidade” with an overwhelming majority of 44 votes in favor and 2 abstentions. It said that the law which is still awaiting approval of the President has serious legal flaws and human rights implications. In its present form, the Law will promote the culture of impunity by means of legislation. The PDHJ is hopeful that the President will take necessary steps to deal with the situation.

The current challenge for the Provedoria is to arrange for more staff and budget, human resource development, institutionalize all initiatives that have so far been undertaken, and ensure smooth implementation of strategic planning, which is being finalized. As the PDHJ goes along, investigation of complaints will be a challenge because of the particular skills required for this. Its triple mandate (human rights, good governance and anti-corruption) requires a high level of strategic planning, achievement indicators and different levels of expertise within the organization. Even if the

organization is in full control of the internal situation, the shortcomings of the justice system including infrastructural requirements must also be tackled. Shortcomings in the judicial system – in particular the Prosecutor General’s office – also pose a significant challenge for PDHJ.

### Capacity Development Project

As a new national institution, the Provedoria is aware that it needs to build its capacity to take up all human rights challenges in the country. UNDP, with the Office of the High Commissioner for Human Rights (OHCHR) and the PDHJ as partners, has established a project that supports institutional capacity building of the PDHJ to ensure its effectiveness in developing and implementing programmes in accordance with its mandate. The project is a comprehensive and long-term capacity building effort, extending support to both substantive/technical and operational functions of the PDHJ. Project activities are being carried out in close coordination with all stakeholders to the project, under the guidance of the Project Steering Committee. We are receiving a number of technical assistance from other NHRIs (national human rights institutions) in the region through this project.

The Asia Pacific Forum of National Human Rights institutions, of which the PDHJ is a candidate member, has also provided technical advice and other assistance to the PDHJ. It also supported us with its APF/Brookings-Bern Project to work on promotional and educational activities regarding the rights of IDPs in Timor Leste. The activities included the production of newsletters covering the humanitarian crisis, the rights of IDPs and the judicial process; publication of brochures, several radio programs, and TV and Radio announcements. The UN Guiding Principles on Internal Displacement were translated into Tetum, one of the two official languages in Timor-Leste. The principles were then published in a booklet which was since been widely distributed. It is our opinion that the role of the APF in the NHRI movement is always important. It needs to involve more in the capacity development works in the region.