

**REPÚBLICA DEMOCRÁTICA DE TIMOR-LESTE**

**PRIMEIRO GOVERNO  
CONSTITUCIONAL DE TIMOR-LESTE**

**ESTABLISHMENT OF THE OFFICE OF THE  
'PROVEDOR DE DIREITOS HUMANOS E JUSTICA'  
IN EAST TIMOR**

**7<sup>th</sup> Annual Meeting – Asia Pacific Forum of National Human Rights Institution,  
New Delhi, India 11- 13 November 2002**

## **Introduction**

Having been born through a long struggle against human rights violations, East Timor is committed to the promotion and protection of human rights. The Constitution of the Democratic Republic of East Timor provides for a Provedor de Direitos Humanos e Justiça (Provedor for Human Rights and Justice)<sup>1</sup>, an independent national institution.

## **Nature of the Institution**

The Provedor de Direitos Humanos e Justiça is:

- (a) An independent institution, established constitutionally and by law, which operates outside the Government and which reports to the National Parliament;
- (b) An institution designed to protect the rights, liberties and legitimate interests of persons in cases where persons have been affected by acts of governmental agencies, or private contractors operating a public service or managing public assets on behalf of government;
- (d) A body that conducts inquiries, initiates investigations, makes recommendations and reports but which is not empowered to challenge the actions and decisions of the Courts and/or the Parliament;
- (e) A body that provides education on Human Rights and Justice, and promotes general good practices in governmental entities.

## **Objectives of the Institution**

The Office of the Provedor shall:

### **Increase:**

- people's awareness about human rights and justice in East Timor;
- knowledge about principles of good governance, including transparency, fairness, justice, discrimination and compliance with the law;
- respect for and protection of human rights;

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<sup>1</sup> Pursuant to the Constitution of East Timor, Section:

(a) 27.1: the Provedor shall be an independent organ in charge to examine and seek to satisfy citizens complaints against public bodies, certify the conformity of the acts with the law, prevent and initiate whole process to remedy injustice.

(b) 27.2: citizens may present complaints concerning acts or omissions on the part of public bodies to the Provedor, who shall undertake a review, without power of decision, and shall forward recommendations to the competent organs as deemed necessary.

(c) 27. 3: the Provedor shall be appointed by the National Parliament through absolute majority votes of its members for a term of office of four years;

(d) 27.4: the activity of the Provedor shall be independent from any means of grace and legal remedies as laid down in the Constitution and Law.

(e) 27.5: administrative organs and public servants shall have the duty to collaborate with the Provedor.

Pursuant to Section 150,

Declaration of unconstitutionality may be requested by the President of the Republic, the Speaker of the National Parliament, the Attorney General, and the Prime Minister, one fifth of the Members of the National Parliament and the Provedor.

Pursuant to Section 151,

The President of the Republic, the Attorney-General and the Provider may 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

- the community' sense of confidence in a just government administration;
- the accountability of Government and government's agencies for their exercise of powers;

#### Improve:

- the sense of public ownership of the organs of governmental powers;
- governmental performance in respecting and promoting human rights, in implementing good governance practices, and in fulfilling its human rights duties and obligations derived from international treaties;

#### Combat:

- corruption and nepotism in public administration;
- bad practices in public administration
- human rights violations by public administration.

### **Forthcoming accession to international Human Rights treaties**

As an independent and democratic nation, East Timor will accede to various international human rights instruments. The Office of the Provedor will be a mechanism by which East Timor will put into practice its commitment to implementing Human Rights treaties, as ratified by East Timor. Therefore this Office will also assume a watchdog role in this area.

### **Progress towards the Establishment of the Office of the Provedor**

#### **Setting up of a Working Group**

The Prime Minister appointed Isabel Ferreira, his Human Rights Advisor, to coordinate a Working Group, entrusted with the establishment of the Office of the Provedor for Human Rights and Justice in East Timor. The Working Group is comprised of jurists, an academic, an NGO Representative and members of the UNMISSET Legal and Human Rights Offices.

The Group has considered the laws governing similar institutions in other parts of the world in order to develop a model that best suits the needs of East Timor. An effort has been made to combine the functions of an Ombudsperson-type institution (in the areas of corruption and maladministration) with human rights responsibilities, consistent with a national human rights institution, based as far as the Constitution allows on the Paris Principles.

#### **Convening of a Consultative Workshop**

The Prime Minister, Mr. Mari Alkatiri, convened a Consultative Workshop on the establishment of the Office of the Provedor on 14 and 15 June 2002. It was followed by a 1-day meeting of Experts on 16 June 2002.

The main objective of this event was to assemble jurists, experts (including the Special Advisor to the High Commissioner for Human Rights), representatives of local and international NGOs, as well as members of civil society in order to exchange views and experiences on the proposed model of institution for East Timor and to discuss a Policy Framework prepared by the Working Group. More than 150 persons attended the Workshop from all the districts in Timor-Leste. The Workshop was addressed by the Prime Minister and the Speaker of the Parliament who both made

strong statements in support of the establishment of the Office of the Provedor. The final report of the workshop is available on request.

### **Submission of a Policy Paper**

The Policy Paper outlines the essential characteristics of an independent, credible, accessible, effective, efficient and sustainable institution. The nature, functions, powers and limits of powers as well as the complaints' process are defined in the Policy Paper, which has been submitted to the Prime Minister for consideration and endorsement by the Council of Ministers of East Timor. The Organic Law that establishes the Provedor's institution in East Timor will be drafted and submitted to the National Parliament of East Timor immediately after endorsement of the Policy Paper by the Council of Ministers.

### **Establishment of the Office of the Provedor De Direitos Humanos e Justica**

It is envisaged that the Office of the Provedor will be established and become functional immediately after the appointment of the Provedor, subject to the availability of financial resources. The Government has approved a budget for the Provedor over its first 3 years of operation.

### **Tentative timetable**

The following timetable of activities leading to the appointment of the Provedor and the establishment of the Office, is planned by the Working Group:

- Setting Up of a Working Group: January 2002 - *completed*
- Workshop on the Policy Framework: 14, 15 and 16 June 2002 - *completed*
- Policy Paper submitted to the Council of Ministers: by 30 October 2002 – *completed*
- National District Information Campaign on the Role and functions of the Provedor: from 18 November to 15 December 2002
- Videoconference sessions with Experts to comment on the draft Organic Law: from 18 November to 15 December 2002 – from 6 to 20 January 2003
- Bill submitted to the National Parliament: by 31 January 2003
- Legislation enacted: by 31 March 2003
- Appointment of the Provedor by the National Parliament: in June 2003.