UNDP Strengthening the Justice System in Timor-Leste Programme.

Independent / External Mid-term Evaluation Report September 2007

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I. Acknowledgments

The team is grateful to the many people who contributed to the evaluation process. We gratefully acknowledge the time taken by all those who met with the team during its mission, July 30th-August 11th, despite many competing and often urgent demands. We would particularly like to note and express our appreciation for the spirit of openness and constructive engagement encountered in all of our meetings. The team would also like to acknowledge the support and assistance given by the UNDP Justice Project team and Country Director, Mr Akbar Usmani.

II. List of Acronyms

CoA	Court of Appeal
CoC	Council of Coordination
CoI	Commission of Inquiry
CSP	Consolidated Support Programme
ICEJ	Information, Communication and Education Justice
JHRP	Justice Human Resources Plan
JSMP	Judicial System Monitoring Programme
LTC	Legal Training Centre
M&E	Monitoring and Evaluation
MoJ	Ministry of Justice
OPG	Office of the Prosecutor General
PDO	Public Defenders Office
PNTL	Policia Nactional Timor-Leste
SIP	Sector Investment Programme
UNMIT	UN Integrated Mission in Timor-Leste
UNPOL	UN Police
UNTL	National University of Timor-Leste

III. Executive Summary

2.1 The revised 2005 UNDP Strengthening the Justice System in Timor-Leste Programme (the Programme) provided for an independent external mid-term evaluation. The evaluation team took place from July 30th to August 10th, 2007. The overall objective of the Mission was to assess results, achievements and constraints of the Programme. A second objective of the mission was to assist UNDP, the Council of Coordination (CoC), and other stakeholders, to better support the justice system entities to strengthen institutional capacity and expand access to justice.

2.2 In carrying out the assessment, the team consulted secondary materials (reports, commentaries, studies of the justice sector in Timor-Leste), UNDP documents and reports, and quantitative data on the justice system. The quantitative data available to the team was limited. A qualitative methodology was adopted. Interviews and meetings between the team and key stakeholders and beneficiaries provided the primary resources for the evaluation. A full schedule of meetings and interviews completed by the team is annexed to this Report. A field visit to Suai was also undertaken.

2.3 The evaluation team's work and its report (including this Executive Summary) are organized according to areas indicated in the Terms of Reference

2.4 Detailed recommendations for the remainder of the programme are set out in Part V of the Report ('Outcome Status'), based on the team's analysis of progress to date, and the changing political context. In making its recommendations, the evaluation team underlines that not all deficits in justice delivery in Timor-Leste can be tackled in the context of the programme it has evaluated. Institution and capacity building are products of time; and achievements in justice system delivery can also be reversed, as was highlighted by the 2006 crisis in Timor-Leste.

Outcome Status

2.5 The Expected Outcome of the UNDP Programme (as per the Country Results Framework) is: *Improved institutional capacity (system and skills) of the courts, prosecution service and Justice Ministry to provide access to justice, uphold the rule of law and protect human rights.*

2.6 The evaluation team has concluded that the Programme has made a significant contribution to the strengthening of the justice system. However, overall progress on the achievement of the programme outcomes has been slow, and, as yet, the programme has not made a significant impact on access to justice in Timor-Leste.

The limited progress made can be explained, *in part*, by the serious constraints arising from the 2006 April-May crisis.

Outcome 1: CoC facilitating the development of a cohesive and effective administration of justice through strategic planning and improved coordination, resource mobilization and implementation support to the justice system.

2.7 The Programme has provided a framework for coordination of policy and strategy for the justice sector. The adoption of a revised Programme in 2005 reflects the CoC's willingness to take corrective measures in the light of lessons learned from previous capacity building measures.

2.8 The 2006 crisis posed significant challenges to the justice system and to the Programme. The timely and coherent response of the CoC to the crisis ensured that the justice system continued to function, and is particularly commendable.

2.9 The CoC's adoption of an information, communication and education justice (ICEJ) strategy was an equally commendable response to the challenge of enhancing public confidence in the justice system.

Strategic Planning and Coordination

2.10 Strategic planning processes within the justice sector are weak. The Programme has facilitated planning and coordination between justice system institutions. However, this has largely focused on Programme implementation and response to crisis situations. Coordination has been confined to the leadership within the justice system. It has not extended to technical staffing levels. Overall, the evaluation team concluded that the Programme has not, as yet, provided the necessary framework to facilitate long-term strategic planning for the sector.

Human Resource Planning

2.11 As yet, the Programme has not facilitated the long-term human resource planning required for the justice sector. The current national justice human resources plan (JHRP), prepared with UNDP support, is inadequate to ensure eventual self-reliance, taking into account anticipated increases in the justice system's work load.

International technical assistance: role of international justice actors

2.12 International technical assistance is a key input of the Programme. The impact of such assistance on capacity building, however, has not been consistent. The evaluation team notes that "the best", is often, "the enemy of the good." This is particularly pertinent in the context of Timor-Leste, a fledgling country beset with the consequences of conflict. The programme's strong focus on high standards of professional and technical legal skills for nationals, prior to their deployment as

functionaries in the justice system, may lead to prolonged dependence on international personnel, constraining national ownership and self-reliance within the justice system.

2.13 National justice actors have highlighted shortcomings in the mentoring and skills transfer processes. These include: language barriers; differences in academic legal backgrounds; tensions due to inequalities of status between international and national justice actors; inadequate orientation of advisors on deployment; priority given to on-line functions of international justice actors at the expense of mentoring, particularly after the 2006 crisis; lack of full-time district-level deployment of international justice actors and; limited functioning of courts.

Strategic Planning in line with national justice priorities

2.14 Access to Justice is a national priority for the justice sector. Access to Justice for women is one of the priorities identified in all of the justice sector's national policy documents. However, the programme does not include capacity building measures to support greater access to justice for women and there is no consideration of strategies necessary to encourage more women to become justice sector professionals.[1]

2.15 Access to justice, in the context of the well-known preference of people to use traditional justice institutions, is also not addressed in the Programme. No provision has been made for a comprehensive examination of the interface between access to justice, the formal justice system, and people's preferences for traditional modes of dispute resolution.

Oversight of project implementation

2.16 The evaluation team is of the view that the CoC needs expansion and strengthening, if it is to provide more effective oversight of programme implementation, in light of changes in the political context in Timor-Leste. Concerted engagement with civil society, and a human rights based approach to programme management, would enhance the programme's ability to contribute to promotion of public confidence in the justice system.

Outcome 2: Ministry of Justice capable of coordinating the legislative drafting through the Directorate of Legislation, promoting legal awareness, assisting the implementation of policies in the areas of Justice and Law as defined by the Council of Ministers and the National Parliament.

2.17 Incremental progress has been made on the achievement of this outcome. However, the Ministry of Justice remains dependant on international assistance to discharge its legislative drafting role. The limited role ascribed to Tetum as a

[1] The number of women participating in the Legal Training Centre (LTC) programme has decreased, from 9 out of 27 in the first programme, to 3 out of 12 in the current programme.

language for legislative drafting contributes to this dependency and limits opportunities for consultation on draft legislation.

2.18 Progress in the promotion of legal awareness and the provision of public information is one of the weaker components of the programme. Little progress has been made to date on the implementation of the ICEJ strategy. Lack of access to legal materials and information on reforms is also constraining the functioning of justice sector professionals, in particular, private lawyers.

2.19 Strong progress has been made in establishing and maintaining an IT system, with 'open-source software' as its backbone. The programme has provided good training to Timorese counterparts, with a clearly defined exit strategy for international assistance. However, the IT system is yet to become an effective case management system and there is a lack of infrastructure and IT equipment at district level.

2.20 Human resources in the Translation and Interpretation Unit remain seriously inadequate to cope with the increased caseload and extensive demand, leading to adverse consequences for access to justice and adherence to due process.

2.21 The capacity of national clerks remains extremely weak, leading to serious delays and inefficiencies within the justice system.

Outcome 3: National justice sector professionals with access to certified legal education, postgraduate training and continuing legal education

2.22 The strategic decision to establish the Legal Training Centre (LTC) professional training programme has played an important role in strengthening national justice capacity. The appointment of 27 national actors in June 2007 is one of the most significant outputs of the Programme. The improved skills of LTC graduates were commented upon favourably by many stakeholders.

2.23 There is demand for ongoing training programmes through the LTC, to ensure that the human resources required for the justice system can be met by fully trained, professional, national justice actors.

2.24 Despite the achievements of the LTC, serious concerns were expressed by current trainees and recent graduates about the professional training programme. Lack of flexibility in the language of instruction (and in some instances, limited academic legal background) has hindered the acquisition of knowledge and skills. Planning for greater national ownership and expansion of the LTC (through e.g. training of trainers) and, more attention to the training needs of private lawyers, is needed.

2.25 The evaluation team was informed that the next cycle of professional training will not take place until the graduation of current National University (UNTL) law degree students. Given the deficit in national personnel required for the justice system, and the desirability of avoiding a break in training programmes, continuity of the course is clearly important.

2.26 At UNTL, the law degree course has commenced, with UNDP support and good cooperation with the LTC (library and IT facilities). Teaching remains reliant on international assistance. The age profile of current students (average age is approx 40 years, according to the Rector of UNTL) suggests that limited fluency in Portuguese may have hindered wider access to the Programme. The age profile is gradually lowering, however, in recent intakes, and a foundation year, focusing on Portuguese language instruction, has been established.

Outcome 4: ***The Public Defender's Office (PDO) providing improved access and quality of legal aid services to the disadvantaged***

2.27 Staffing capacity (national and international) of the PDO has been substantially expanded. Improvement in knowledge, skills and performance of PDO personnel is evident.

2.28 The evaluation team noted, with concern, a perception within the PDO that the role of the public defender is not as highly valued as that of other justice system roles. This perception could potentially limit progress towards a justice system based on rule of law and human rights. Poor public awareness about the role of the PDO is exacerbated by the absence of public defenders in the districts. The absence of separate representation for the PDO on the CoC and the lack of an Organic Law for the PDO are limitations that can be corrected.

Outcome 5: Timorese correctional system in line with international standards

2.29 Progress under this outcome has been slow. Conditions of detention in Timor-Leste's detention facilities broadly comply with international standards. However, separate detention facilities for juveniles or female inmates do not yet exist. The corrections system continues to face serious difficulties, in particular, a lack of effective security structures, which contributes to a growing sense of impunity.

2.30 Social reintegration and vocational training supported by UNDP were interrupted by the 2006 crisis and have not yet recommenced. There is limited use of diversionary (non-custodial) sanctions within the justice system, due primarily to a lack of policy in this area. The juvenile justice law is not yet adopted. Delays were experienced in recruiting two international justice actors for the corrections system, but deployment is now complete.

Outcome 6: Courts capable of delivering justice according to the applicable laws through national staffing

2.31 Progress is being made towards achievement of a fully functioning court system. Professional training, including 'on- the job' training and mentoring of trainee judges, was successfully concluded and 11 judges were appointed. The Superior Council of the Judiciary was established and is now operational.

2.32 However, court actors (national and international) are not deployed full-time to the districts. The establishment of streamlined case management systems has not yet been achieved. Inadequate support to accommodate different language capacities among national staff hinders the effective functioning of the courts.

2.33 The limited functioning of the courts in the area of civil law was widely acknowledged as a matter of concern, given the prevalence of land, property and family disputes, and lack of access to effective remedies.

Outcome 7: ***Public prosecution service capable of performing its constitutional mandate, attend the requirements of its organic law and expedite access to justice.***

2.34 Incremental progress has been made in the prosecution service, primarily through support to the training and appointment of national prosecutors and the establishment of the Superior Council of the Prosecution Service. Service delivery within the prosecution service, however, remains a matter of concern. The violence of the 2006 crisis exerted unexpected pressures on the prosecution service, exacerbated by the disruption of the PNTL operational capacity. The weakness of internal support structures (finance, HR, Logistics, translation and interpretation, clerks) continues to hinder the completion of investigations and prosecutions, contributing to a backlog of cases (now in excess of 4100 cases) and a growing problem of impunity. As yet, prosecutors and support staff are not employed full-time to the districts. Overall, progress is slow, with limited attention given to strengthening the office's long term strategic planning capacity.

Underlying Factors Affecting Outcomes of the Justice System Programme

2.35 The external factors that have influenced implementation of the programme in the past, and that may be expected to have an impact on its progress over the remaining cycle, fall broadly under the following categories: national human resource shortages; governance weaknesses in justice sector institutions; lack of infrastructure, equipment and basic services; budgetary constraints; insufficient management of language capacities; impact of the April – May 2006 crisis;

Commission of Inquiry cases; rebuilding of the PNTL; change of Government in August 2007; ongoing civil unrest and security concerns; donor coordination; coordination with UNMIT.

2.36**Language:** Language continues to be a significant constraint on efforts to improve the performance of the justice system. Limited fluency in Portuguese is a barrier to accessing legal education and professional training. Within the legal process, the right to trial within a reasonable time is often compromised because of delays in translation. Repeated language difficulties arise in notification of parties to legal proceedings, hindering the completion of criminal investigations. Meaningful consultation on draft laws (published in Portuguese) is also constrained. Differences in language capacities, and the limited use of Tetum within the justice system, are: creating barriers to entering the legal profession; hindering the effective functioning of the justice system; undermining due process and, ultimately, limiting access to justice

2.37**COI Caseload:** The evaluation team has concluded that the Programme's capacity building role is being severely constrained by the allocation of CoI cases to international judges, prosecutors and ultimately defenders, deployed under the Programme, and could lead to a potentially damaging politicization of the Programme.

Management and Implementation Issues

2.38The evaluation team noted that the project management team has, in general, a good working relationship with the CoC. This relationship reflects the important role that UNDP can play as a politically neutral agency in a post-conflict situation.

2.39The evaluation team also noted certain risks associated with such a role. The limited capacity for long term strategic planning with the national justice institutions has meant that UNDP programming is perceived, by some, as a substitute for national justice policy making. A broader partnership strategy, with multi-stakeholder involvement in the programme, could assist in dispelling this perception.

2.40Monitoring and evaluation (M&E) mechanisms within the Programme remain weak. Performance management and reporting mechanisms for international justice actors are not yet adequately developed, contributing to an accountability gap and a lack of confidence amongst some stakeholders in the Programme's effectiveness.

2.41The project management team was not complete at the time of the evaluation. (A national justice project manager and an M&E expert are not yet recruited). Given

the changing political context and the need for effective coordination with the new Government and UNMIT, continued delays in recruitment could hinder progress.

UNDP and Partnership Strategy

2.42 The Programme has played a crucial role in coordinating support for the justice system. The partnership strategy of the current programme was formulated through an extensive consultation process that included all stakeholders, including donors and civil society. However, the evaluation team noted a concern that a limited partnership strategy in Programme implementation is constraining the Programme's impact.

2.43 Resource mobilisation, to secure support for the justice sector on a long-term basis, has not been successful, limiting the Programme's ability to support long-term planning. Some donors have expressed strong concerns about weaknesses in programme over-sight and cost effectiveness. Continued responsiveness to lessons learned is required. The evaluation team has concluded that alternative modalities to support justice sector development, beyond current arrangements for 'cost-sharing' and 'parallel financing', are necessary.

Key Recommendations

1. **Access to justice**: The review team recommends, as a matter of urgency: Full time deployment of court actors and full functional capacity for courts outside Dili. Future programmes to strengthen the justice system should address access to justice for women and other vulnerable groups and the necessary inter-face between formal and traditional justice systems in Timor-Leste.

2. **Improving public confidence in the justice system:** The evaluation team recommends that the Programme: prioritise implementation of the ICEJ strategy, strengthening links with civil society and media actors and, focusing, in particular, on the needs of districts outside of Dili; ensure access to information about laws and judicial reforms for all justice sector professionals, including, in particular, private lawyers; recruit a national officer to spearhead the implementation of the ICEJ strategy.

3. **Programme oversight and strategic planning in the justice sector:** Greater support is required to strengthen the planning capacity of each justice system institution, including assistance to develop institutional strategic, business and annual action plans. The evaluation team recommends that the CoC be expanded to include the Public Defenders' Office, Office of the Provedor for Justice and Human Rights, S.E. for the Promotion of Equality and civil society representative,

to ensure greater coordination between 'Rights, Justice and Equality' and to strengthen the CoC's capacity for strategic planning.

4. **Management systems and procedures:** Interventions aimed at strengthening internal governance and support systems within justice institutions (finance, HR, logistics, IT, translation and interpretation, logistics, registry (clerks)) should be prioritised.

5. **Justice sector human resources policy and planning:** A comprehensive, sector wide human resource/workforce planning exercise is recommended in order to: address the changing political environment; allow for sufficient national capacity to respond to emerging risks and increasing demands, without undue dependence on international justice actors, and; ensure access to justice, particularly at district level. A review of Government policy on pay and incentives for justice sector personnel is also necessary to ensure that the sector is able to attract and retain qualified legal professionals and other personnel.

6. **Languages:** The evaluation team strongly recommends that the CoC, while fully respecting the constitutional provisions relating to national languages, should explore ways of applying existing policy on language so as to: (a) improve the performance of the justice sector institutions; (b) facilitate access to justice and; (c) provide equal opportunities to legal professionals who do not yet have strong Portuguese language skills. At a minimum, greater use of Tetum in legal education and training and, in publication of legal materials, should be facilitated. Full support should be given to the ongoing development of Tetum as a legal language (building on the progress already made).

7. **National Budget:** The evaluation team recommends that consideration be given to progressively increasing national budgetary appropriations for the justice sector. The team also recommends further donor support to strengthen the capacity of justice sector institutions to execute their budgets.

8. **Role of international justice actors:** The performance, evaluation and reporting systems for international justice actors should be strengthened to ensure that the objectives of international technical assistance are being met. National justice actors should contribute to such evaluations. With the exception of the follow up to CoI cases, international court actors should be phased out in accordance with the deadlines set in the current Programme. National court actors should assume exclusive responsibility for the justice sector, with international actors limited to mentoring support, when required.

9. **Public Defenders Office (PDO):** The evaluation team recommends that the Organic law regulating the functioning of the PDO be finalized at the earliest possible opportunity, as a prerequisite to the Programme's effectiveness in supporting the PDO. Further, the team recommends that the PDO be given separate representation on the CoC, to ensure an 'equality of arms' between

prosecution and defence services and equal access to resources and decision-making.

10. **Legal Education and Training:** The evaluation team recommends:

    - Flexibility and inclusiveness in the management of languages at the Legal Training Centre (LTC) and at UNTL to facilitate wider access to legal education;
    - Training of trainers to facilitate national ownership and leadership of the Centre and of the law degree programme at UNTL;
    - Planning for intakes of new trainees, in the light of a revised (and expanded) national human resources plan for the justice system. The evaluation team strongly recommends a reversal of the decision not to implement new training programmes until the graduation of the current UNTL law degree students.

11. **Follow-up of Commission of Inquiry (CoI) cases:** The evaluation team recommends that alternative mechanisms and resources are identified to handle the CoI caseload, so that personnel recruited under the UNDP programme can dedicate themselves exclusively to their capacity building mandate. Donors are encouraged to provide support to the investigation, prosecution, and defence of the CoI cases, through the provision of additional funding or human resources to support such an alternative mechanism.

12. **Accountability mechanisms:** Future justice sector programming should incorporate lessons learned from the current Programme, including the need for more effective internal M&E mechanisms; inclusive, democratic and effective over-sight mechanisms; greater attention to cost-effectiveness; increased dialogue between the CoC and development partners on policy and strategic planning for the justice sector; regular independent reviews and evaluations.

13. **Funding mechanisms for future justice sector programming**: Donors and the CoC should consider establishing a Trust Fund to support access to justice in Timor Leste and continued capacity building, on completion of the current programme cycle.

14. **Future of current UNDP programme**: The current programme should be allowed to run its course, with the adoption of the corrective measures recommended in this report (Part V). A new programme should be designed and approved during the remaining cycle of the current programme.

IV. Introduction

3.1 During end-July/early August 2007, as envisaged in the UNDP programme document for strengthening the justice system in Timor-Leste, a mid-term, independent, external evaluation was commissioned, with the overall objective of *assessing results, achievements and constraints of the programme*, since its launch, as a revised programme, in January 2006, taking into account the impact of the 2006 crisis on the Justice System in Timor-Leste.

3.2 The first project for the justice system, "Enhancing the Justice System to Guarantee the Democratic Rule of Law – Strengthening the Justice System in Timor-Leste", was launched in July 2003, in close collaboration with the three pillars of the Justice System, the Ministry of Justice, the Judiciary, and the Office of the Prosecutor-General.

3.3 The programme was established to assist the justice sector in Timor-Leste for a period of 3 to 5 years, in order to improve the judicial system through a balanced sequence of support measure to the Courts, the Prosecution and the Justice Ministry, the latter including the Legal Training Center (LTC), Public Defenders Office (PDO) and the Prison sector.

3.4 The steering committee for the project was formed at a high level, and comprised the Minister of Justice, the Chief Justice and the General Prosecutor. This body is called the Council of Coordination for the Justice Sector (CoC).

3.5 In late 2005, the first Justice System Project was assessed by a revision team, and, following extensive consultations that team produced a new project document, which was signed in December 2005. The new effort was titled "Strengthening Justice System in Timor-Leste Programme".

3.6 The Strengthening Justice System Programme was launched in January 2006, with an estimated duration of 3 to 5 years. It is essentially a capacity development effort to improve the institutional and human resources capacity of the Courts, the Prosecution and Ministry of Justice, with the purpose of providing access to justice, upholding the rule of law and protecting human rights.

3.7 The programme is a multi-donor programme funded by Australia, Belgium, Brazil, Denmark, Ireland, Norway, Portugal and UNDP.

Mission Mandate

3.8 The mid-term evaluation mission was asked to review the achievement of outputs and impact through the current programme, which commenced in January 2006 (taking into account results of the justice system project initiated in 2003).

3.9 It was asked to examine the modalities of implementation and execution. In particular, the mission was asked to provide an overall assessment of the extent to which the justice system strengthening programme has been successful in building the capacity of its target institutions. The mission was requested to submit an outcome-oriented report, documenting lessons learned, and commenting on good practices it may find.

Mission Composition

3.10 The Evaluation Team comprised 8 persons, including the team leader, the UNDP policy advisor for legal reform and justice, a nominee of UNMIT, one national judge, one national prosecutor, and members sponsored by some of the donor agencies providing support to the programme (Australia, Ireland and Portugal). Annex I lists all team members.

Mission Working Methods

3.11 As envisaged in the Terms of Reference, the evaluation team members studied relevant documents related to the programme, and held a series of dialogues with key stakeholders in the programme during the period it visited Timor-Leste, 30 of July to 10 of August 2007, and made a field visit to Suai (thanks to the kind courtesy of the SRSG).

3.12 Team members seized every opportunity to confer among themselves, and share impressions and conclusions, following their meetings with stakeholders, in an effort to develop a common perspective in the very limited time available for collective meetings.

3.13 At the outset of the mission, the entire evaluation team met with the Special Representative of the UN Secretary-General, Mr. Atul Khare, the Deputy Special Representative, Mr. Erik Tan, and the UNDP Country Director, Mr. Akbar Usmani. The team also met, on more than one occasion, individually, and collectively, with members of the Council of Coordination (Dr. Domingos Sarmento, then Minister of Justice, Dr. Claudio Ximenes, Chief Justice of the Court of Appeal, and Dr. Longuinhos Monteiro, General Prosecutor). The team also had dialogues with donors, including representatives of aid agencies of Australia, Ireland, Portugal, United States, and also Brazil, which provides key complementary international advisors to the programme.

3.14 The evaluation team held meetings with UNMIT staff from its different units, Democratic Governance, Administration of Justice, Human Rights and Transitional Justice, and with UNPOL staff in Suai, and UNPOL Prosecutor's Support Unit.

3.15 In order to maximize the number of meetings, the evaluation team held parallel meetings, by splitting up from time to time. This enabled the team as a whole to

benefit from perspectives of international non-governmental organisations and civil society organisations knowledgeable about the justice sector, especially the Asia Foundation, ASF, JSMP, and UNICEF (with reference to juvenile justice issues, and the draft law on adoption).

3.16 In Suai, team members held meetings were with UNPOL and PTNL staff, and with representatives from CIESTL and Rede Feto. A meeting with the District Administrator was also possible in the tight time frame. Team members inspected facilities (or lack of them) at the courthouse in Suai, and three houses intended to house the judge, the prosecutor and the public defender, when they move to Suai.

3.17 In Dili, team members met with the Dean of the Law Faculty at the National University, and with the Vice-Rector for Planning, Development and International Relations. This meeting was particularly useful, and informs the evaluation team's views on capacity development for long-term sustainability of the justice sector, based on national, not international, human resources.

3.18 The evaluation team had an opportunity for meeting collectively UNDP staff having respective responsibilities in the Strengthening Justice System programme, and would like to record its appreciation for the cooperation, and candid sharing of views and opinions, on the part of all members of that team. Team members also had the opportunity to meet with the UNDP Country Director, during after-office hours, and benefited from his responses to issues outlined by the team.

3.19 The entire team had an opportunity on Friday, 10 August, to make a presentation to the CoC, donor representatives, and the UNDP programme team, on its preliminary findings and recommendations, which are further elaborated in this report.

3.20 It should be mentioned that in the scheduled meetings with the CoC only the Chief Justice could be present. Both the Prosecutor General and the Minister of Justice (just appointed) were unable to attend.[2]

Constraints in the context of evaluation work

3.21 The main constraint in the context of this evaluation was time. Two weeks (week-end included), in retrospect, was insufficient to examine, discuss, and analyse, in depth and collectively, the issues arising.

3.22 Team members could not meet representatives of private lawyers, or the President of the lawyers' association, among others. The evaluation team could not engage with court clerks, national and international. Nor could it form firm views about the value of complementary, parallel assistance rendered to the justice programme through bilateral arrangements of some donors with respective government counterparts.

[2] The Prosecutor General sent a representative on his behalf.

3.23 Team members would have greatly appreciated at least having a day's retreat to pool their respective perspectives, and produce the first draft text of this report. Instead, the team members had to make do with ad hoc dialogues among themselves, which served the purpose of assuring the team as a whole of consensus on key points. There remain issues that may have benefited from more discussion amongst team members.

3.24 Evaluation team members decided upon a rough division of labour, going by the suggested itemization of topics in the ToR, and produced rough drafts to share with others, during the time it had in Dili. Subsequently drafts and comments were circulated electronically.

3.25 Team members agreed that the team leader would circulate the consolidated text to team members, for their comments, and endorsement, and would subsequently transmit the report to the Council of Coordination and UNDP.

3.26 The evaluation team would have preferred to have shared a draft text of this report with donors, to solicit their comments. Comments from those donors who have contributed to strengthening the justice system without placing funds in the UNDP programme budget would have enriched perspectives presented in this report. The team appreciated the willingness expressed by some donors to review the draft before finalization. Regrettably, time constraints ruled out this option.

3.27 The evaluation team's relatively large size, and the diversity of its members' backgrounds, proved to be a positive feature from the point of view of the purpose of this exercise. The range of perspectives from each of the team members has been enriching, especially the perspectives of its Timorese members.

3.28 The perspectives provided by the Evaluation Team in this report are not based on any extensive analysis of empirical data, and hence they are more subjective, informed more by common sense and experience than by objective criteria.

3.29 Data on the functioning of the justice system in Timor-Leste are scant. There are no readily available measures on the degree to which the justice system is able to deter wrongful conduct, on the extent to which the system serves to resolve private disputes relative to prevalence of such disputes, or on the extent to which the system is able to redress abuse of power.

3.30 We do not have data that can be used to measure the extent to which the justice system is independent and autonomous of other branches of government, the ability of judges to withstand political pressures, and on mechanisms of judicial accountability.

3.31 Beyond the prescribed certification course for eligibility to be appointed as a judge, prosecutor, or public defender, we do not have data to measure the actual competency of judicial personnel in the performance of their duties.

3.32 We do not have objective data on users of the courts, the kinds of cases that are decided, the costs to litigants as a percentage of average earnings, the frequency of appeals against decisions of first instance courts, etc. Available data indicates that the problem of backlog of cases is most serious in the Prosecutors' office, and, consequently, the number of cases actually handled by the courts is not overwhelming.

3.33 The starting point for the evaluation team has been the premise that a 'good' justice system is one that is 'good enough' for people to want to use, commanding their confidence, and not necessarily a system whose members are highly competent by the yardstick of international professional standards for legal knowledge and skills.

V. Programme Outcome Status

4.1 The terms of reference seek specific evaluation comments on each of the outcomes and outputs specified in the programme document, as well as an assessment of the degree to which UNDP assistance has resulted in the development of national capacity, including assessment of performance monitoring and evaluation mechanisms, along with recommended corrective measures for the remainder of the programme cycle.

4.1.1 Strengthening the Justice System programme document presents seven large outcomes detailed into sixteen outputs.

Programme Outcome 1: CoC facilitating the development of a cohesive and effective administration of justice through strategic planning and improved coordination, resource mobilization and implementation support to the justice system

4.1.2 The following outputs are associated with the above outcome:

- *Effective coordination mechanism within the justice system and with development partners at the policy and programming levels to ensure adequate strategic planning process and respective monitoring structure in accordance with the National Development Plan, the Annual Action Plans, and the Sector Investment Programme.*
- *Judiciary Human Resources Plan developed and implemented.*
- *CoC's effective oversight on programme implementation.*

4.1.3 Taking into consideration associated output targets in the programme document, the evaluation team notes that the designers of the programme have rightly placed coordination of policy formulation and strategic planning at the top of priorities in outcomes of the programme.

4.1.4 The following positive achievements of the Council of Coordination should be noted:

- The revision of the initial Strengthening the Justice System programme, and the response to earlier concerns raised about the 2003 programme, reflects a willingness on the part of the CoC to adopt corrective measures in light of lessons learned.
- Long- term strategic planning and coordination for the justice sector was seriously affected by the April – May 2006 crisis. The crisis posed significant challenges to all justice sector actors. The CoC responded quickly and coherently, to the crisis. This response, which

included consultations with donors and civil society, supported by UNDP Strengthening the Justice Sector programme, ensured that timely needs assessments were conducted and donor support was secured to facilitate reconstruction and replacement of core facilities. The effective coordination and emergency response by the CoC, with UNDP support, is to be particularly commended.

- The adoption by the CoC of the ICEJ strategy, to enhance public confidence in the justice sector, was an important and timely response to the crisis. It reflects, however, a failure to address this problem effectively at an earlier stage in the Strengthening the Justice System programme (See comments on Output 2 below).
- A proposal, detailing the human and financial resources required for follow up on the COI caseload, has been prepared and presented to donors. Support from donors remains to be secured and will require further consultation, in light of government decisions on cases arising from the COI.
- International personnel recruited under the Program have made a positive contribution to Timor-Leste's efforts to deal with the aftermath of the 2006 crisis.

Areas of Concern: Strategic Planning and Coordination in the Justice Sector

4.1.5 The process of transforming judicial institutions, as well as other institutions, of Timor-Leste, cannot and will not come about by chance. Positive change can only come about through processes of deliberate and concerted planning. Strategic planning (defined as the process by which the guiding members of an organization envision its future and develop the necessary procedures and operations to achieve that future[3]) is a critical component of the process of implementing positive change. The purpose of strategic planning is to transform an organization. Strategic planning is useful for organizations, especially young organizations operating in complex, changing environments, such as that currently in Timor-Leste.

4.1.6 Planning helps institutions to determine their future, it serves as a framework for decisions, it optimizes organizational systems, provides a basis for more detailed planning, and assists benchmarking and performance monitoring, and enables the institution to explain its rationale, inform, motivate and involve other key actors.

4.1.7 The objective of strategic planning in the context justice sector of Timor would be to improve the quality of service delivery within the system. The pivotal role of strategic planning in the reform of justice and law enforcement systems and processes of Timor-Leste was recognized by the

[3] Goodstein, Nolan & Pfeiffer (1992).

designers of the UNDP Project. It is not a coincidence that the first outcome (Outcome 1) of the programme was expressed as 'facilitating the development of a cohesive and effective administration of justice through strategic planning and improved coordination, resource mobilization and implementation support to the justice system'.

4.1.8 The National Development Plan, the Rights, Equality and Justice Sector Investment Program (SIP), and the National Policy on Justice, all provide the policy framework within which institutions of the justice sector operate. These policy documents presume that the policies these documents set out will be translated into programmes through internal institutional as well cross-institutional, sectoral planning processes.

4.1.9 Notwithstanding the strong emphasis placed by the programme on the role of strategic planning in the ongoing process of legal reform, the institutions of the justice sector supported by the project do not, as yet, have any effective internal planning processes. Neither have the institutions yet had the opportunity to collaborate in preparing a strategic plan for the justice sector as a whole.

4.1.10 The three pillars of the justice sector have Annual Action Plans (AAPs). These plans are prepared as part of the annual budgeting cycle. However, these AAPs do not draw on any comprehensive strategic planning process. The closest that the institutions of the justice system have come to undertaking strategic planning is the preparation of the UNDP's Strengthening the Justice System Programme. The UNDP's Strengthening the Justice System Programme document currently substitutes for individual strategic and business plans for the three major institutions of the justice sector. Given the narrow focus of the UNDP Project, this is a matter of serious concern within the justice sector.

4.1.11 Even within the scope of the UNDP Programme, the evaluation team concluded that the CoC has not, as yet, been able to function as an effective long-term strategic planning and coordination mechanism, in accordance with national priorities.[4] Strategic planning so as to ensure access to justice, (prioritised in the National Justice Policy), has been limited. The establishment of the SIP Working Group on Justice, Equality and Rights provided an opportunity for a broad-based planning and coordination process, with improved donor interface. A promising beginning was made in early 2006. Since then, however, the Working Group has not continued to operate effectively.

4.1.12 The United Nations Integrated Mission in Timor-Leste (UNMIT) was established by Security Council resolution 1704 of 25 August 2006, with mandate to, *inter alia*, promote a "compact" between Timor-Leste and the

[4] See: *Politica Nacional para a Justica* (2005)

international community for coordinating Government, United Nations and other multilateral and bilateral contributors to priority programmes.[5]

4.1.13 The justice sector is specifically identified as being in need of additional expertise. A Rule of Law Mission completed in January 2006, to inform the establishment of the Administration of Justice Unit within UNMIT, concluded that strategic planning and coordination within the justice sector has not been effective[6].

4.1.14 The 'Compact' for the Justice Sector has been prepared. However, it does not, yet, provide for the kind of comprehensive planning for the justice sector that is clearly necessary.

4.1.15 The necessity for strategic planning for the justice sector is obvious to the management teams of the respective institutions. The failure of the institutions to undertake comprehensive internal and sectoral strategic planning processes during the cycle of the current UNDP programme may be attributed to lack of personnel to manage and lead these planning processes.

4.1.16 Given the obvious lack of human resources to manage and lead strategic planning processes within the justice sector institutions supported by the programme, the question arises as to whether the UNDP programme should have provided greater support to the institutions in question to build their planning mechanisms.

4.1.17 One of the programme's objectives is to promote collaboration and coordination between justice sector institutions on matters relating to policy formulation. Coordination of policy formulation and planning processes is considered critical to building a coherent, cohesive and effective judicial

[5] See: Report of the Secretary General 8 August 2006, S/2006/628 para 42. The compact is to be characterized by (a) shared Timorese-international commitment; (b) clear priorities; (c) clear roles; responsibilities and accountabilities identified for Timorese institutions, the new mission, and bilateral and multilateral programmes; (d) shared resourcing, encompassing allocations from the Government's own budget, development partners and the new mission and (e) strong coordination mechanisms. Report of the Secretary General on the United Nations Integrated Mission in Timor-Leste (for the period from 9 August 2006 to 26 January 2007). UN-Security Council S/2007/50 para 43 The compact is composed of an Inter-ministerial compact committee, chaired by the First Deputy Prime Minister and supported by a secretariat made up of representatives of Government institutions, with support by UNMIT and the World Bank. The Government has identified some of its most urgent priorities emerging form the 2006 crisis: elections; national reconciliation; public safety/security; strengthened communication with civil society and Timorese society at large; justice; humanitarian assistance and housing; improved budget execution and delivery of basic services; youth employment; decentralisation; and public sector reform. The Government has proposed a time frame of 24 months for completion of the Compact.

[6] Report: Establishment of the Administration of Justice Support Unit UNMIT, January 2007, by, Charles Briefel, Senior Rule of Law Officer UNAMA, on temporary deployment to UNMIT Report from the UN Multi-Disciplinary Assessment mission to Timor-Leste, Report of the Rule of Law Sector. July 2006

system. There has been coordination between justice sector institutions on matters of mutual interest. This collaboration, which has taken place within the framework of the UNDP Strengthening the Justice System programme, was particularly vital in sustaining the efforts of the justice system to continue functioning during and after the 2006 crisis. The coordination and consultation that has taken place, however, has largely been restricted to issues relating to implementation of the programme and responses to crisis situations.[7]

4.1.18 The UNDP justice system programme team pointed out to the evaluation team that the UNDP Strengthening the Justice System Programme does not encompass the whole of the justice sector. For example, it was reported that responsibility for ensuring adequate housing and courthouse facilities, it seems, rests with the government (judiciary and/or ministry). There is also significant bilateral assistance provided to the sector that is not coordinated under the UNDP programme.

4.1.19 There is need for institutional consultation and coordination on matters of both policy and strategy outside the framework of the programme. Such collaboration and coordination needs to extend beyond meetings between the top leadership of justice sector institutions. The consultation must extend to lower level managers within these institutions. That kind of collaboration and coordination is not, as far as the evaluation team can ascertain, taking place systematically, if at all.

4.1.20 Meetings of the CoC, the team learned, have regularly involved donor representatives. But the donors' views differ as to whether or not these meetings provided opportunities for discussion of strategic planning, policy issues or the performance of the project.

4.1.21 Some donors expressed the view that the meetings with the CoC only presented needs assessments, and did not enable dialogue on critical issues. The potential of donors to provide technical assistance, or to support strategic planning processes for the justice sector is, therefore, limited.

4.1.22 There is also a clear need for greater coordination between Governance projects and other programmes within UNDP. Despite a clear recommendation to this effect in the Report of a UNDP HQ mission, (January 22 to February 2 2007),[8] the evaluation team could not ascertain that such coordination was effective. There are linkages between some of the items under the capacity development programme for the public sector reform initiatives, the support to the Office of the Provedor for Human

[7] This view is also expressed in the Draft Report of the UNDP HQ Mission 'Strategic Interventions in the Justice and Security Sectors', (Feb 2007). The Mission concluded that the CoC operated on an 'ad hoc basis', and that meetings mainly related to issues that concern implementation of the UNDP programme.

[8] UNDP *Strategic Interventions for Timor-Leste Justice and Security Sector* (Draft: February 2007)

Rights (including their monitoring role for the processing of the CoI cases), and the support to the Parliament and the Justice System Programme. The Justice Programme has not yet capitalized on existing potential for more synergy within UNDP.

Human Resource Planning

4.1.23 The UNDP programme is a capacity development instrument. The development of human resources for the justice system is part of the core mission of the programme. Human resource planning is a vital part of the process of building an effective, sustainable justice system for Timor-Leste. The programme sets the development and implementation of a human resource plan for the justice system as a key output of the project.

4.1.24 However, as yet, the programme has not facilitated an effective long-term process of human resource planning. Given the demands on the justice system, and the current extensive reliance on international justice actors, this is of very serious concern.

4.1.25 The existing national justice human resources plan is clearly inadequate to meet the increasing demands and pressures on the justice system, or to ensure effective access to justice to the people of Timor-Leste, particularly at district level.

4.1.26 Human resources needs of the justice sector should be made on the basis of an adequate assessment of unmet and future needs of people for justice. As this is yet to be done, the review team was surprised to learn that the CoC did not have plans for training of judges, prosecutors and public defenders at the Legal Training Centre after the current class graduates, and that a fresh intake of trainees will await the first batch of law graduates from UNTL.

4.1.27 The training of judges, prosecutors and public defenders at the Legal Training Centre takes a minimum of two and a half years. A substantial number of the legal professionals who have been recruited and trained so far could leave their positions for various reasons. Many of the current law degree students at UNTL are older students, with established careers, and will not necessarily choose to go into full time legal practice on completion of the degree programme. Coupled with these factors are the ongoing increasing demands on the formal justice system.

4.1.28 Suspending training of legal professionals at the LTC after the current course is completed, and waiting for a new crop of graduates from UNTL to recommence the training, raises the risk of the justice system having a chronic shortage of national personnel, and continued dependence on international staff. Moreover, training courses, if they are not continuous, can undermine the institutional standing that the LTC has already built up

by training two batches. It is both important and urgent to plan now for continuity of courses at the LTC, and provide opportunities for more persons interested in careers in the justice sector to obtain the training certification prescribed by law.

4.1.29 A comprehensive human resource plan for the justice sector remains an absolute necessity to: take account of the changed political environment; allow for sufficient national capacity to respond to risks, and increasing demands on the justice system; ensure meaningful access to justice, particularly at district level and; promote self-reliance and national ownership of the justice system.

4.1.30 The human resource plan should address some of the challenges and help overcome some hurdles in the course of capacity development that were described to the evaluation team by national personnel in service, and by those undergoing training to join the service.

4.1.31 The challenges mentioned by some course candidates included length of the program; burden of acquiring functional competence in Portuguese, the language of instruction (and a national language).

4.1.32 The national functionaries that the evaluation team met, in their respective offices (courts, prosecutor and public defender offices), referred to some 'on-the-job, post-training' difficulties. Some said that the mentoring process did not have consistent and uniform standards, as it depended very much on the individual personalities and skills of international justice actors. Other factors hindering the mentoring process were suggested including: tensions arising from inequalities of treatment and status between international and national justice actors; language barriers; inadequate orientation of advisors on deployment in Timor-Leste; duties of on-line functioning limiting the capacity of international justice actors to mentor, particularly after the 2006 crisis and; failure to deploy international actors to districts and limited functioning of courts.

4.1.33 The first successful batch that qualified in June 2007, after two and a half years of training, must be particularly commended for having successfully surmounted these challenges.

4.1.34 The human resource and capacity development plan must address the difficulties experienced by two batches of trainees. Those recruited for serving the justice sector in the future ought to be able benefit more from the training without experiencing the same level of difficulty as their predecessors in acquiring necessary proficiency in law needed for practitioners.

<u>International Staffing: Recruitment, deployment and management processes</u>

4.1.35 The recruitment of international justice actors was set out as a key input into the Programme's capacity building agenda. The significant expansion of the international staffing under the programme followed on from the exit strategy agreed for the previous UN Mission, and the UNDP 'takeover' of the Missions 'most critical posts'. Costs associated with the recruitment and deployment of international staffing account for the largest component of the Strengthening the Justice System Programme budget.

4.1.36 Recruitment of international staffing under the Programme's human resources plan was completed, with some delays arising from April-May 2006 crisis. In both the prosecution and interpretation services, the number of posts was increased. In the PDO, 2 additional international personnel were recruited by the MoJ, through national budget allocations.

4.1.37 Performance evaluation mechanisms for international actors have not been adequately developed. This is discussed further below (see paras. 4.1.54-55).

4.1.38 The evaluation team has concluded that, although international technical assistance will continue to be required, an ongoing heavy presence of international actors could hinder the development of national ownership and leadership within the justice system.

4.1.39 A recurring theme in discussions with national justice actors was the concern that more 'space' was needed to allow for greater national self-reliance to be developed. This failure can, however, be corrected through the implementation of the exit strategy for international actors from the ordinary judicial system previously established in the Strengthening the Justice System programme.

4.1.40 Comprehensive planning is urgently needed to ensure that as at end of 2008, sufficient national staffing would be available to end the current reliance on international staffing.

4.1.41 The exit strategy planned for international actors may however need to be revised, in the light of the increased caseload and the sensitivity of cases arising from the 2006 COI.

4.1.42 Outside of the context of the COI caseload, however, the evaluation team strongly recommends that the planned exit of international actors from the ordinary judicial process continue, with provision for specialised and periodic international technical assistance, as and when needed, or continuing support through 'study abroad' programmes and visits, and closer links with the UNTL law program. (See further below: Outcome 3).

Oversight of project implementation

4.1.43 The programme, as designed, entrusted the task of oversight of project implementation to the CoC. The assessment of whether or not the CoC has been able to discharge this task effectively, depends, at least in part, on the overall progress on outcomes achieved to date.

4.1.44 The team is of the view that the project has contributed to improvement in the performance of the justice system in certain parts of the country, namely, the Dili and to some extent, Baucau districts.

4.1.45 Regrettably, however, the programme has, to date, been ineffective in many respects. As indicated above, justice sector institutions still lack institutional planning mechanisms. The courts and offices of the prosecution service operate at minimal capacity, particularly outside the capital.

4.1.46 Support services of the courts and the prosecution service, including those run by the UNDP Programme are either weak or totally ineffective; for example, the training of the system of clerks (officers of justice) has failed to produce capable cadres; the registries still have to depend on international clerks; the IT system supported by the UNDP programme has yet to be developed into an effective case management system to expedite cases, monitor progress and generate necessary reports; the Translation and Interpretation Unit is unable to translate documents in a reasonable time; large cases get up for a very long time as they await translation.

4.1.47 The over-all assessment of the team is that the programme has, as yet, failed to make a significant impact in making justice accessible to majority of the people of Timor-Leste.

4.1.48 Having carefully considered current status of the programme, the team is of the view that CoC needs expansion and strengthening, if is to provide effective oversight of programme implementation, in the light of the changed political environment, and urgent demands to enhance public confidence in the justice system – throughout Timor-Leste.

Monitoring and Evaluation (M&E) mechanisms

4.1.49 A UNDP Mission noted in November 2006,[9] "*there is an immediate imperative to enhance the accountability mechanisms within the Justice project***".**

[9] UNDP Bangkok Regional Centre (P. Keuleers) *Managing performance and Monitoring Progress in Capacity Development in UNDP's Governance projects* (November 2006)

4.1.50 The Mission Report continues:[10] *…discussions with development partners in Timor-Leste reveal that monitoring and evaluation of UNDP's governance programmes and projects is generally considered weak. UNDP's strategy to mainstream monitoring and make it a core responsibility of programme staff was not felt to have worked and the body of methodologies for evaluation in UNDP are not considered sufficient. Although UNDP has evaluation policies, norms and standards for evaluation, they do not seem to have been consistently applied.*"

4.1.51 A number of challenges to performance and evaluation of international staff within the UNDP programme are identified:[11]

- The Chief Justice, appointed for 4 years by the President of the Republic, has held a UNDP contract.[12] Given the constitutional nature of this position, it is not possible for the UNDP Program to assume a role in evaluating performance.
- Most contractual staff occupy line functions (judges and prosecutors and public defenders). While the CTA of the Programme can conduct performance reviews for the staff working in the project office, the supervisory relationship is less obvious for international court actors.
- Hence, until national performance evaluation systems for the justice sector that could also apply to international court actors are fully functioning, the performance of most of these international judicial experts is not appraised.

4.1.52 Outside of on-line functioning, however, performance management of technical assistance and contribution to capacity development can and should be monitored.

4.1.53 A number of steps have been proposed to remedy the current accountability gap within the Justice Programme. These include the strengthening of monitoring and evaluation capacity within UNDP Governance programmes more broadly, and the recruitment of an M&E expert, specifically for the Justice programme.

4.1.54 Delays in recruitment of the M&E expert have been experienced, however, with no suitable applicants as yet identified for this post. Deficiencies in M&E within the programme continue to contribute to a lack of accountability for technical assistance in the justice sector. Essential to the strengthening of M&E will be capacity building for the judicial inspection posts, currently being deployed.

[10] *Ibid. p. 27*
[11] *Ibid. p. 20*
[12] This is due to change in 2008, with a shift to payment of salary from national budget allocation (already agreed). The Chief Justice, though previously on a UNDP contract, is Timorese, and was recently reappointed by the President of the Republic of Timor-Leste.

4.1.55 A performance management system has recently been introduced within the Justice System programme. This is in its early stages, however. It is not, as yet, considered to be adequate to monitoring impact of the programme on the overall objective of capacity building, so as to ensure access to justice.

4.1.56 The 2006 UNDP Mission specifically recommended that an annual external justice monitoring and evaluation mission should take place to assess the impact of the programme, and the services provided by the international experts (preference is for joint M&E missions with other donors funding the justice programme).

4.1.57 The Mission further noted that any such performance audit could play an important role in building capacity in new judicial inspection institutions.

4.1.58 In the spirit of the Paris Declaration, it is the view of the evaluation team that requests by donors for joint and regular M&E missions with UNDP should be given serious consideration by UNDP management. An openness to this recommendation is also likely to improve resource mobilisation efforts and strengthen confidence amongst development partners.

Resource Mobilisation

4.1.59 One of the major outputs of the project under Outcome 1 is that funding mechanisms shall be established and that essential commitments for funding shall be obtained and maintained.

4.1.60 The projected budget of the Project is USD10,819,725. The breakdown of the amount per year is as follows[13]:FY2006:USD4,385,325; FY2007: USD3,805,095; FY2008: USD2,629,305.

4.1.61 The programme shortfall for 2007 has now been fully covered. Ireland and Norway advanced their 2008 contributions.[14] Sweden has recently agreed to support the programme with a contribution of USD3 million, over a 3-year period, commencing in 2007. A shortfall will again arise in 2008.

4.1.62 The lack of adequate resources to facilitate long term planning is a significant constraint on project management and long term planning. Resource mobilisation, to secure support for the justice sector on a long-

[13] All information relating to the budget of the project has been extracted from the Annual Progress Report 2006 of the Strengthening the Justice Sector System in Timor-Leste (Report dated February 2007), and the Update (May 2007) unless otherwise indicated.

[14] Contributors to the program include the following. Norway: USD1.0 million; Ireland: Euros 1.2 Million over three years; Sweden: US $ 3.0 over three years; Portugal: USD3.0 million; Australia: ASD4.0 Million (USA: USD200,000; Brazil USD150,000. Brazil and Portugal have in addition seconded justice sector professionals. This information was provided to the review mission by the Project Management unit.

term basis, has not, as yet, been successful. Financial constraints have severely limited the ability of the Programme to support long term planning for the justice sector. International staff are recruited on six monthly contracts, leading to a high turn over of staff, gaps in deployment and highly cost intensive recruitment and deployment processes.

4.1.63 To remedy these difficulties (and to strengthen coordination and planning,) the evaluation team proposes a broader partnership strategy, a possible 'trust fund' approach to support for the justice sector, to address this ongoing difficulty. This is set out in detail below.

4.1.64 The financial position of the programme has been adversely affected by unanticipated developments arising from the 2006 crisis. The Report of the United Nations Independent Commission of Inquiry recommended the investigation and prosecution of certain persons who were alleged to have been involved in criminal activity during the crisis. The Government and the international community agreed that the investigation and prosecutions of the alleged offences would be undertaken within the framework of the country's domestic legal system.

4.1.65 The majority of national judges and prosecutors were still undergoing training at the time of the 2006 crisis. Timor-Leste authorities shared the view of the Commission of Inquiry that, given their political sensitivity and the security concerns arising, the CoI cases could be more appropriately handled by international court actors. As the UNDP Justice Programme was responsible for the provision of international court actors to the judicial system, the follow up of the COI cases, by default, became partly the responsibility of the Strengthening the Justice System programme. Judges and prosecutors recruited under the UNDP project were taken from other cases and given responsibility for the COI cases.

4.1.66 UNMIT used the occasion of the last meeting of the COC to appeal to the donor community for USD9.5m to finance the follow up of the CoI cases. The appeal was unsuccessful. Only one donor has so far pledged USD1.0 million for the follow up of CoI cases. Neither the UNDP nor UNMIT has had much success, as yet, in finding funding for this new mandate.

<u>Strategic Planning in line with National Priorities</u>: <u>Formal and Traditional Justice</u>

4.1.67 Neither UNDP Programme nor the planning mechanisms of the respective justice sector institutions appears to have considered as yet the interface between access to justice, the formal justice system and traditional justice institutions in Timor-Leste. This remains an area that deserves very serious attention in the process of reforming the justice sector and improving access to justice. Significant research and studies have been undertaken in this

field. As one commentator notes, "*locally based systems of customary law continue to be the preferred means of obtaining justice prior to going to the poor functioning formal court system*."[15]

4.1.68 Community based systems also functioned as models for the Community and Reconciliation Processes completed under the auspices of the Commission for Reception, Truth and Reconciliation (CAVR). As such, these processes have already benefited from review and restructuring that sought to ensure compliance with human rights standards. Significant work on liaising with traditional justice actors is already being done by NGOs such as JSMP (WJU) and ASF. A key question needing further regulation and consideration is how customary legal mechanisms interact with, supplement, or constrain access to, the formal justice system.

4.1.69 Given the overall objective of ensuring access to justice, any future strategic planning for the justice sector and UNDP involvement, should address the issue of legal pluralism in Timor-Leste.

Strategic Planning in line with National Priorities: Access to Justice for Women

4.1.70 Access to Justice for women is one of the priorities identified for the National Justice Policy (2005). The National Development Plan states the policy objective to "Facilitate access to justice for women and develop the legal means to fight violence and other crimes perpetrated against women …". Women face a number of sex-specific obstacles in securing access to justice. They have lower literacy and fluency rates in Tetum and Portuguese than men. Women also have greater restrictions on travel away from home and they may fear domestic or sexual violence.[16] The preference of communities to submit disputes to customary / traditional legal mechanisms may also hinder access to formal justice systems. Customary / traditional legal mechanisms may reinforce gender inequality or patriarchal customs. Women are often particularly vulnerable in land and property disputes, with limited access to land and property ownership.

4.1.71 Dealing with violence against women is a major challenge for the criminal justice system of East Timor. Violence against women and girls is reported to be serious and widespread. It has been estimated that more than one-third of all crimes committed in East Timor fall into the category of domestic violence against women and girls.[17] The Women's Justice Unit at the Judicial System Monitoring Program (JSMP) have highlighted inconsistencies in judicial responses to sexual violence and the many

[15] Report "Reconciling Justice - Traditional Law and State Judiciary in East Timor" by Tanja Hohe and Rod Nixon, Hohe and Nixon, (2003).

[16] See: Govt of Timor Leste: *Strengthening Transparency and Accountability in Timor-Leste: Report of the Alkatiri Initiative Review* January 2006, p.29

[17] Right, Equality and Justice, Priorities and Proposed Investment Program, (GoTL, April 2006) (Sector Investment Plan (SIP), p. 39.

obstacles faced by women and young girls in securing effective remedies for such violence.[18] Domestic violence is reported to affect women disproportionately. A 2002 report by PRADET Timor Lorosae and UNICEF indicated that 61% of victims of child abuse cases were girls. Awareness of legal remedies and access to information about the formal justice system is reported to be particularly low amongst women.[19]

4.1.72 UNDP generally accords high priority to Gender in its programming, and in Timor-Leste supports the UNIFEM PEWRL programme, one of whose aims is to facilitate participation of women in building a legal framework that is socially inclusive and gender responsive. However, the UNDP Justice System programme does not specifically include access to justice for women. There is no consideration, within this particular programme, of the strategies necessary to strengthen skills, institutions, behaviour and attitudes, so as to ensure that the formal justice system can promote access to justice for women or that legal education and professional training programmes are equally accessible to women. The intake of female trainees on the LTC programme has reduced since the first cycle. No assessment of the reasons for this has, to the knowledge of the team, been undertaken.[20]

Outcome 1: Recommended Corrective Measures

Coordination and Project oversight

4.1.73 Expand COC to include Public Defenders' Office, Office of the Provedor for Justice and Human Rights, S.E. for the Promotion of Equality, and civil society representative. This would ensure more effective coordination of policy formulation under 'Rights, Justice and Equality' SIP. It would also strengthen the CoC's capacity for strategic planning and program implementation, with greater attention to the overall objective of securing access to justice.

4.1.74 To enhance the impact and cost effectiveness of the programme, greater coordination is needed within the UNDP Governance programming, to strengthen linkages between the Justice programme and other UNDP programmes, for example in the areas of Support to the Office of the Provedor for Justice and Human Rights; civil Society, civic education, gender and media.

[18] See: JSMP 'Analysis of Decisions in Cases involving Women and Children Victims: June 2004 - March 2005' (2005); *Ibid.* 'Police Treatment of Women in Timor Leste' (2005); *Ibid.* Report on Women in Formal Justice Sector (2004).
[19] Right, Equality and Justice, Priorities and Proposed Investment Program, (GoTL, April 2006) (Sector Investment Plan (SIP), pp. 39-44.
[20] The first LTC programme included: 9 women, 18 men. The current programme has a reduced number: 3 women, 9 men.

4.1.75 Strengthen coordination between UNDP Justice programme and the Administration of Justice / Human Rights and Transitional Justice units in UNMIT, to ensure effective use of available resources.

4.1.76 Commitment to convene regular (quarterly) CoC meetings to facilitate dialogue between the CoC, other justice sector stake holders, donors and relevant civil society organisations.

Judicial Human Resources Planning

4.1.77 A comprehensive, sector wide approach to human resource / work-force planning is required for the justice sector, with the priority of ensuring that Timorese judges, prosecutors, public defenders and clerks are taking over all in-line function roles, with clearly defined international assistance, as and when required.

4.1.78 A revised human resources development plan for the justice sector is urgently required. This should identify the numbers of national justice actors required within Timor-Leste, to ensure effective access to justice, without reliance on international actors.

4.1.79 The human resources plan must allow for capacity to respond to increased demands in times of crisis and the potential for greater demand as public confidence in, and awareness of, the formal justice system increases. The many roles that justice actors can play, in ensuring access to justice, particularly at district level, must also be recognised in any such plan.

Role and Effectiveness of International justice actors

4.1.80 Strengthen the performance evaluation and reporting systems for all international justice actors to ensure that objectives of international technical assistance are being met and that donors are receiving 'value for money'. Such performance management relates to capacity development TOR of international actors. On-line functioning can only be monitored under national justice inspection systems. National justice actors should have input into the evaluation process.

4.1.81 Ensure that all international justice actors are provided with orientation to the specific needs of Timor-Leste and key actors / stakeholders (including civil society actors), particularly at district level.

4.1.82 Provide intensive Tetum language training to international justice actors, willingness to learn Tetum to be included in the TOR for all advisers.

4.1.83 Practice of deploying advisers on six-monthly contracts to be revised, to ensure greater continuity and cost-effectiveness in international technical assistance. Contracts for international justice actors should be for minimum 12 month period.

4.1.84 A clearly defined exit strategy continues to be required, with timelines and targets for exiting of international justice actors. This current UNDP Programme provides for such an exiting of international actors, and should be broadly adhered to. The exit strategy needs to be more comprehensive, however, to identify alternative mechanisms to meet the demands for international technical assistance. Such mechanisms will not necessarily require ongoing physical presence of international actors for lengthy periods of time. Possibilities to consider include: study abroad trips / visits, study abroad programmes; on-line discussion / mentoring forums; short inputs of international technical assistance, through practical training workshops, study trips, continuing professional development training; strengthened links with the UNTL law degree programme.

<u>COI caseload and implications for functioning of justice system</u>

4.1.85 Recommend that donors provide support to the investigation, prosecution, defence of persons accused, through the provision of additional financial or human resources. This support is essential to ensure the continuing functioning of the 'ordinary' judicial processes and to ensure continued progress in access to justice. This support is also required to ensure that international advisors deployed by UNDP can continue to contribute to 'capacity building' effectively. In a post-conflict context, given the highly sensitive nature of these cases, such assistance is also required to protect national justice actors from political interference, intimidation or security threats.

4.1.86 The evaluation team strongly recommends that the COI caseload and national response is addressed outside of the context of the UNDP Justice programme, the primary focus of which must continue to be capacity building.

<u>Programming Policy Areas:</u>
<u>Access to Justice for Women</u>

4.1.87 Future strategic planning should address access to justice for women within the context of the programme's support to capacity building for the formal justice system. UNDP programming in this area should be closely coordinated with strategies, programmes and projects being undertaken by

other stakeholders, including state bodies, UN Agencies and relevant civil society actors.

Traditional Justice: Legal Pluralism

4.1.88 For many people of Timor-Leste, the formal justice system does not provide an effective or accessible legal remedy. Traditional justice mechanisms continue to function and provide a means to resolve a wide range of disputes. Greater attention to legal pluralism in Timor-Leste, its potential to provide effective remedies and its relationship to formal justice mechanisms, is needed in any future planning for support to the justice system. Importantly, any such planning would also have to address the potential of traditional justice mechanisms to constrain access to justice, or to reinforce inequalities within Timorese society.

Programme Outcome 2: ***Ministry of Justice capable of coordinating the legislative drafting through the Directorate of Legislation, promoting legal awareness, assisting the implementation of policies in the areas of Justice and Law as defined by the Council of Ministers and the National Parliament***

4.2
The following outputs are associated with this outcome:

- Directorate of Legislation strengthened and capable of analysing legislative needs and priorities, proposing realistic normative solutions in order to guarantee a quality control to the legislative process
- Dissemination of the new Civil and Criminal codes and their respective procedural codes

4.2.1 The description of the outcome illustrates some of the programme document's ambiguity with respect to the programme's goals, strategies and performance indicators. It does not give any clear indication as to the changes expected within the Ministry of Justice as a result of the programme's intervention.

Legislative drafting and advisory services

4.2.2 One of the outputs expected was to enhance the capacity of the Directorate of Legislation of the Ministry of Justice to provide quality advisory legal services on legislation initiated by other organs and legislative drafting expertise. The programme would provide technical assistance to both

perform in line work (providing opinions on draft legislation emanating from other government agencies and performing legislative drafting duties) and training of nationals. With this objective in view, an international legal adviser was recruited by the program for the directorate.

4.2.3 The Government of Portugal has provided two additional advisers to the directorate. With the assistance of these international legal advisers, the Directorate of Legislation has provided and continues to provide legislative drafting support to the services of the Government on a wide range of laws. A course to train Timorese lawyers on legislative drafting was started. On the job training in legislative drafting was also provided to Timorese legal professionals.

4.2.4 Progress on the achievement of this outcome has however been less than satisfactory[21]. Core legal instruments, such as the Penal and Civil codes are not yet adopted, leading to delays in other areas (e.g. Domestic Violence Law and Juvenile Justice). Members of Parliament who are not fluent in Portuguese are unable to participate fully in shaping legislation and the majority of the people of Timor-Leste do not have access to the laws that govern them. The limited role ascribed to Tetum as a language for legislative drafting, is leading to continued and excessive reliance on international assistance.

4.2.5 The Ministry of Justice is only able to discharge its legislative drafting responsibilities by relying on international personnel. Capacity building for legislative drafting has not yet achieved its overall objective. There is little progress in building capacity to translate bills and laws into Tetum.

4.2.6 Training plans for legislative drafting were interrupted. The Programme responded effectively and appropriately to security concerns and logistical difficulties in delivering the planned distance-learning course. Training of national actors has continued, with some delays. International justice actors are now delivering and coordinating training.

4.2.7 National expertise in the field of legislative draft remains inadequate. Lack of coordination on legislative drafting, between international justice actors and other stakeholders has led to conflicts, confusion and duplication of effort. The review team found, for example, that there had recently duplication in the drafting of a bill on adoption, with two separate versions of the law being produced in the Ministry of Labour and Solidarity[22] and the Ministry of Justice.

Legal Awareness (Access to Laws and to Information)

[21] See Strengthening the Justice Sector System in Timor-Leste, Annual Report 2006, pages 15-18.
[22] The draft law on adoption was produced in the Ministry of Labour and Solidarity with UNICEF support.

4.2.8 Progress in the promotion of legal awareness and the provision of public information is one of the weakest components of the programme. Public information about the formal justice sector is limited, undermining not only access to justice but public confidence in the justice sector as well, a situation that could, if not remedied, ultimately undermine the rule of law.[23]

4.2.9 The evaluation team members who visited Suai were able to find out, at first-hand, the total lack of awareness on the part of the district administration chief, and two civil society organisations, about the functioning of the justice system in the district. They seemed to believe that following the ending of Indonesian occupation, the district court had ceased to function. The extent of public ignorance about how to access the justice system can be gauged from this.

4.2.10 Access to legal information, for key justice actors in Timor-Leste, continues to be limited. There is limited dissemination of new laws or legislative proposals. The *Journal Republica* is difficult to obtain, particularly for justice actors outside of Dili. Insufficient attention or resources have been allocated to the dissemination of legal materials amongst recent graduates and private lawyers, particularly in Tetum.

4.2.11 Lack of access to materials and information has created difficulties for a wide array of justice sector stakeholders, including the following:

- Justice system actors: Limited access to legal materials and information has hindered the professional development of all justice actors, in particular, private lawyers. It reduces the quality of legal services provided.
- Parliamentarians: Many parliamentarians have a limited grasp of Portuguese. The publication of draft laws in Portuguese, without translation into Tetum, limits the possibility of effective engagement and a democratic dialogue in the legislative process.
- Victims / Perpetrators / Witnesses / other clients: Court schedules remain unclear; There is a lack of familiarity with remedies available or relevant justice actors and roles.
- Civil society: Monitoring, advocacy and outreach strategies are constrained. Victim support programmes encounter difficulties in accessing basic information on case management and progress.
- Public information: Lack of understanding or awareness of the formal justice system contributes to perceptions of impunity, lack of trust in formal justice system, and effectiveness of legal reforms.

4.2.12 The Criminal Procedure and Civil Procedure Codes, however, have been adopted and LTC trainees and recent graduates have been trained on the

[23] See the recent study: Rui Gomes 'Public Perceptions on Justice in Timor-Leste', UNDP / UNMIT, Feb. 2007

CPCs. Significantly, both the Civil Procedure Code and the Criminal Procedure Code have now been translated into Tetum and are being used in legal training in the LTC.

4.2.13 With regard to access to information about the functioning of the justice system, the UNDP Programme has recruited an international UNV Public Information Officer. However, this role has so far focused on dissemination of English language information about UNDP activities. In the view of the evaluation team, this is a strategic planning failure and reflects inadequate attention to the importance of accessible information on the justice system.

4.2.14 The UNDP Programme adopted an ICEJ strategy following the 2006 crisis and in response to widespread lack of public confidence in the justice system. Little progress has been made to date on the implementation of the strategy.

IT Systems and Support

4.2.15 Strong progress has been made in establishing and maintaining an IT system for the justice system and providing training to Timorese counterparts, with international staff planning and implementing a clearly defined exit strategy for international assistance. There is a strong and commendable emphasis on promoting self-reliance and the development of sustainable IT systems.

4.2.16 The justice buildings network is in place. The choice of open source software is particularly to be commended, given the cost saving involved.

4.2.17 As yet, however, the IT systems have not developed into an effective case management system. The system has not as yet in anyway enhanced the capacity of the courts and offices of the prosecution service to expedite investigations or trials. It does not provide up-to-date information on the status of cases moving through the prosecution service and court system. Court users / actors continue to rely on manual records and there are inconsistencies in information on court scheduling / case progress.

4.2.18 Civil society, victim support groups and human rights monitors note difficulties in accessing information on the status of cases. The lack of coordination / IT link up with the prison system has contributed to procedural irregularities and confusion as to status of detainees. It also creates obstacles for the provision of effective victim support.

4.2.19 Concerns have been raised, particularly by the Office of the Prosecutor General, as to the appropriateness of an integrated / centralised IT system based in the MoJ, given the highly sensitive nature of information stored in the system. While many jurisdictions are moving towards an integrated

system, this approach may not be appropriate at present in the Timorese context. Greater attention should be paid to the needs and concerns raised by the different branches of the justice system.

4.2.20 One of the most significant shortcomings of the IT system is that is based exclusively in Dili. Lack of buildings and IT equipment and infrastructure at district level limits the impact of the IT system developed. Greater attention is needed to provision of IT training for clerks and the IT needs of court, offices of the Prosecution service and Office of the PDO outside of Dili.

Translation and Interpretation Unit

4.2.21 Human resources in the translation and interpreter units are inadequate to cope with the increased caseload and extensive demands on the Unit. Delays of up to 9 months were reported to the team. There is a severe shortage of Portuguese/Tetum/English translators. Translation/Interpretation needs have increased with deployment of UNPOL, which uses English.

4.2.22 The Translation and Interpretation unit continues to rely on international assistance, and given the barriers faced in language capacity, international assistance and ongoing support will continue to be necessary. Ongoing training and recruitment of translators / interpreters will be essential to ensuring that delays and technical flaws do not hinder the functioning of the justice system. Continued strengthening of translation and interpretation capacity within the legal system is essential to secure compliance with the Directive on the Use of Official Languages in the Judicial System.

Clerks

4.2.23 As noted above, the evaluation team members did not get an opportunity to directly contact international and national clerks. The team's understanding is that the capacity of national clerks has not significantly improved.

4.2.24 All justice actors that the team met raised concerns about the inadequate numbers, skills and functioning, of clerks. This lack of national capacity is leading to serious delays and inefficiencies within the justice system. The evaluation team was informed that at present nearly all of the work in the registries is done by international staff.

4.2.25 Particular difficulties (absentees, lack of infrastructure and transport facilities, poor communication infrastructure) were noted in the delivery of notifications in criminal proceedings. These difficulties are exacerbated by problems in liaising with police, especially in the Dili district area.

4.2.26 An MoU with Portuguese Cooperation has been concluded to provide international technical assistance in form of clerks for both the Prosecution

Service and the Courts. However, language continues to come in the way of 'on the job' skills transfer / mentoring of national clerks by international staff.

Outcome 2: Recommended Corrective Measures

Legislation

4.2.27 Commence new program at LTC to develop domestic capacity for legislative drafting; Send, if necessary, some Timorese legal professionals to Portugal or Brazil, for training in legislative drafting.

4.2.28 Ensure greater coordination on legislative drafting between advisers, and between advisers, national actors and relevant stakeholders**.**

4.2.29 Plan for exiting of ongoing presence of international justice actors in Legislative Drafting Directorate

4.2.30 Prioritise translation of laws into Tetum and support dissemination of laws to all justice actors.

4.2.31 A prerequisite to the effectiveness of the UNDP Programme will be the continued development of Timor-Leste's sovereign legal framework. The team, therefore, recommends prioritising drafting and adoption of laws in the following areas:[24] Regulation of Private lawyers, to include Continuing Professional Development requirements for all justice actors; Organic law for Public Defender's Office; Finalise drafts and secure adoption of the Penal Code and Civil Codes; Domestic Violence; Adoption; Juvenile Justice; Witness Protection; Land and Property; Martial Arts Regulation; Judicial Organisation (jurisdiction, structure); Military justice; Law on Legal Clerks (registries) and support services; Forensic investigation; and Non-custodial options/diversionary measures to replace incarceration in sentencing.

Legal Awareness, public information

4.2.32 Review dissemination of the *Journal Republica*, to ensure that it is distributed more widely and is translated into Tetum.

[24] These priorities for legislative drafting are identified in many documents and reports, and are outlined also in the recently adopted Programme for Government of the IV Constitutional Governmetn of Timor-Leste.

4.2.33 Greater support to ensure that draft laws presented in Parliament or distributed for consultation are translated into Tetum so as to ensure full engagement and democratic debate in the legislative process.

4.2.34 ICEJ strategy to be prioritised, with greater links to civil society and media actors working in this field.

4.2.35 Ensure greater dissemination of accessible information on the justice system, particularly at district level.

4.2.36 Ensure access to information about laws, judicial reforms, for all justice actors, including private lawyers.

4.2.37 A law dictionary in Tetum should be published without delay, to facilitate the production of legal materials / manuals in Tetum.

4.2.38 Deployment of national Public Information Officer, with strong links to civil society actors and language capacity (written and oral) in Tetum and Bahasa Indonesian, to maximise impact at grassroots level.

Support structures

4.2.39 IT system should be transformed into an effective case management system appropriate to the capacity and expressed concerns of justice actors.

4.2.40 Continued recruitment and training of national clerks, in line with a national Justice Human Resources Plan, and continued provision of international technical assistance and support to clerks.

4.2.41 Continued recruitment and training of Translators / Interpreters in line with human resources planning (and to ensure capacity to respond to increased pressures and demands).

4.2.42 Consider requests to decentralise Translator / Interpreter services to the various institutions of the justice sector.

Programme Outcome 3: ***National justice sector professionals with access to certified legal education, postgraduate training and continuing legal education***

4.3.1 Associated outputs are that: *Legal Training Centre (LTC) fully functioning as a systematic training and research services to the justice sector; and*

Facilitation and support umbrella provided for the establishment of the Law School.

4.3.2 The appointment of 27 national judges, prosecutors and public defenders in June 2007, following the completion of 2.5 years training and probation, is one of the most significant outputs of the Justice System Programme.

4.3.3 The strategic decision to establish a full-time professional training programme was correct,[25] and has been crucial to the strengthening of national justice capacity. Significant improvements in the skills of graduates of the LTC were noted by many justice actors and civil society.

4.3.4 The behaviour and attitudes of graduates, their professionalism in discharging their roles, their integrity, and the consequent improvement in court functioning was favourably remarked upon by many.

4.3.5 The second training programme has commenced with a lower intake (15 were admitted, and 3 have already dropped out). The number of women participating the second cycle has dropped, from 9 out of 27 in the first programme, to 3 out of 12 in the second. The completion of the second cycle, and the graduation of trainees to probationary actors, is delayed until January 2008 due to the April-May 2006 crisis.

4.3.6 The team noted that corrective measures have been taken to ensure that the demands of the training curriculum are fully met, despite programme interruptions.

4.3.7 There is a clear demand for ongoing training programmes through the LTC, to ensure that the human resources required for the justice system can be met by fully trained, professional national justice actors. The continuation of this postgraduate professional training programme is essential to the strengthening of the justice system, to ensuring access to justice throughout Timor-Leste and to increasing self-reliance. Continued training opportunities will ensure the successful implementation of an exit strategy for international actors.

4.3.8 The Legal Training Centre library is the most extensive law library in Timor-Leste, and is now relied on by UNTL students and trainees to gain access to print and electronic resources.

4.3.9 Graduates of the LTC have led 2 training workshops for PNTL and the Private Lawyers Association (supported by Asia Foundation). Training was delivered in Tetum / Bahasa Indonesian. This development reflects an important transfer of legal pedagogical skills to graduates of the LTC.

[25] In the light of previous decisions made on national justice actors. These decisions are outside of the remit of this report.

4.3.10 Training for assistant public defenders is being undertaken. This was delayed due to the April-May 2006 crisis, and shortage of international public defenders. This has now been corrected through Brazilian cooperation and deployment of 2 additional international PDOs through the MoJ national budget allocation.

4.3.11 The Law degree programme at the UNTL has commenced and is progressing. Students of the law degree have access to the library resources of the LTC. Significant cooperation has been secured from Portuguese Universities to ensure the delivery of academic legal education.

Areas of Concern / Constraints: Legal Training Centre

4.3.12 Despite the achievements of the LTC, the evaluation team has a number of serious concerns about the effectiveness of the training delivered, and the failure to plan for greater national ownership and expansion of the LTC programme.

4.3.13 Concerns were expressed by both graduates and trainees about the failure to facilitate and manage differences in language capacity. A general consensus (not unanimous) was that the exclusive use of Portuguese as a medium of instruction created a barrier to trainees' acquisition of legal skills and concepts. One graduate commented that he had lost approximately 18 months due to limited Portuguese language capacity. Others questioned whether the objective of the course was to achieve proficiency in the Portuguese language, or to provide professional legal training. In some instances, difficulties in following the programme may also have been due to inadequate academic legal training.

4.3.14 Juridical Tetum has been introduced into the training programme. Trainees / graduates argued strongly that the use of Tetum in the training programme (and, if necessary, Bahasa Indonesian) should be expanded to ensure full understanding of legal concepts.

4.3.15 Lack of dissemination of juridical Tetum materials, to private lawyers, NGOs, and graduates, is also limiting the broader impact of the training programme. The LTC could facilitate the dissemination of such materials to all justice actors.

4.3.16 Trainees / graduates also commented that greater sensitivity and awareness of their previous legal experience was needed. Many trainees have extensive practical and academic experience, often in Indonesia. Graduates / Trainees commented that the specificity of this experience is not fully appreciated by trainers or by the training programme.

4.3.17 The training programme also needs to be better adapted to the Timorese context, the socio-economic context within which justice actors will operate, with greater attention to the overall objective of ensuring access to justice. Graduates commented that they were not well equipped to provide legal services to poor, disadvantaged groups or to explain legal concepts to the wider public, on graduation. A significant gap existed between the professional legal training environment and the concrete context within which legal services are provided in Timor-Leste.

4.3.18 Graduates/trainees noted that insufficient attention was given to the requirements of international law, particularly human rights law. Concern was also expressed that training on gender, justice and law was perceived as an 'add on' to the core legal training and not fully integrated into teaching of criminal and civil law.

4.3.19 Of serious concern to the evaluation team was the absence of a clear plan to ensure national staffing of the LTC. Training of Trainers has not yet taken place. Training of Timorese justice actors to be 'mentors' and assessors for future graduates has also not yet taken place.

4.3.20 With regard to the probationary period of trainees, concerns were expressed as to whether international justice actors could adequately fulfil their duties as trainers and assessors, given their deployment to online functions in the justice sector.

4.3.21 The evaluation team believes that insufficient time is being allocated by international advisors to their core roles of mentoring and capacity development. This problem has been exacerbated by the deployment of international justice actors to respond to the increased caseload arising from the COI, the April-May 2006 crisis and ongoing unrest.

4.3.22 A continuing professional development programme for private lawyers is not yet agreed. This should now be prioritised. An optional / voluntary programme could be offered prior to the adoption of the law on private lawyers. Draft legislation has been prepared for the regulation of private lawyers. This includes a proposal to create a two-year grace period to allow private lawyers to obtain qualifications. A final decision on this regulation will have a significant impact on the LTC. It is likely that training for private lawyers would be delivered through the LTC.

4.3.23 At present, it is estimated that there are approximately 80 private lawyers who may seek training leading to qualification.[26] Given the almost complete lack of Portuguese language skills amongst private lawyers, it will be essential to ensure that any future training programme takes a pragmatic and inclusive approach to management of language capacities.

[26] See: Timor-Leste CSP Mission: February / March 2007, para. 134.

4.3.24 The gravest concern of the evaluation team was that planning for new intakes of trainees has not yet commenced. In the team's view, decisions on future training programmes should take into account our assessment that demands on the justice system will continue to increase, with improved public confidence in the system, and further, that the reliance on international line staff should cease, as recommended repeatedly in this Report.

4.3.25 Flexibility and inclusiveness in the management of languages at the LTC will be essential to ensuring that policies on legal training facilitate access to legal education, are not discriminatory (either directly or indirectly).

University Law Programme

4.3.26 The Law degree course began in the academic year 2005/2006). The third year commences 17th September 2007. The proportion of younger students has been increasing gradually over the last three years.

4.3.27 The selection criteria for admission to the Law Degree were designed so as to meet the current requirements of legal education and future professional legal practice.

4.3.28 In Timor-Leste, linguistic pluralism is a marker both of national identity and of the challenges that arise in discharging the sovereign functions of a new nation State. These challenges are particularly evident in the justice system, and have underpinned the development of legal education. Tetum is considered to be inadequate, at present, to meet the multifaceted demands of an effective justice system (from legal drafting, to commercial transactions, to law enforcement). Fluency in Portuguese has been identified as a prerequisite to the effective functioning of the legal system and has been the medium of instruction in legal education and training programmes, including at UNTL.

4.3.29 At present, the Law degree programme at UNTL is delivered exclusively through Portuguese and the majority of students in the current degree programme are over 35 years. This suggests that limited Portuguese fluency may have been a barrier to accessing the law degree programme. To remedy this difficulty, and to avoid linguistic discrimination and the exclusion of young students, a foundation year was introduced, which focuses primarily on Portuguese language training.

4.3.30 As yet, national staffing has not been secured and delivery of the law degree programme is reliant exclusively on international assistance. Greater flexibility in the languages of instruction might have facilitated more Timorese involvement in the delivery of the programme. Again, as noted with regard to the LTC, pragmatism and an inclusive approach to the management

of language capacities will continue to be essential to ensuring that access to legal education is safeguarded and national capacity within the justice sector expanded and strengthened.

4.3.31 The library and IT facilities to support the law degree programme require urgent and ongoing support to nurture the establishment of a community of legal researchers and a pool of legal expertise, capable of contributing to national debate on law and policy reforms and to continuing legal education needs.

Outcome 3: Recommended Corrective Measures

4.3.32 Ensure greater use of Tetum (and, if necessary, Bahasa Indonesian, for a transitional period) in the delivery of the LTC training programme, to ensure that language is not a barrier to the acquisition of knowledge and understanding of legal skills and concepts.

4.3.33 Prioritise organisation of Training of Trainers to facilitate national ownership of the Legal Training Centre.

4.3.34 Trainers delivering this programme should be required to have knowledge and experience of Human Rights law; Gender and Law; Access to Justice; Civil Law Systems; Legal Education pedagogy. Training to be delivered through Tetum / Portuguese (if necessary, Bahasa Indonesian).

4.3.35 Recruit an increased number of trainers (national) to support widespread demand for ongoing professional legal training.

4.3.36 Plan for intakes of new trainees in the LTC, in the light of a revised national human resources plan for the justice system.

4.3.37 Train national justice actors in 'mentoring' and assessment skills, to ensure that national actors can supervise and monitor probationary actors.

4.3.38 Ensure that training for Court of Appeal positions is completed, so that dependence on international justice actors can cease.

4.3.39 Provide refresher training opportunities for recent graduates.

4.3.40 Introduce continuing professional development programme for private lawyers.

4.3.41 Given the language capacities of most private lawyers, any future training programme for private lawyers, arising from the legal regulation of the profession, should be delivered through Tetum and Portuguese (and, if necessary, Bahasa Indonesian).

4.3.42 Admission to the LTC should allow for recognition of foreign legal qualifications.

4.3.43 Provide opportunities for those who failed training programmes to repeat assessments.

4.3.44 Facilitate greater contacts between the LTC and the Law degree programme, and prioritise the provision of legal materials, library and IT facilities to support the development of the degree programme.

4.3.45 Commence planning for recruitment of national Law faculty staff and identify training needs for such staff.

Programme Outcome 4: The Public Defender's Office providing improved access and quality of legal aid services to the disadvantaged

4.4.1 The programme output is *Public Defender's Office institutional and human resources capacity strengthened.*

Progress on Output

4.4.2 The human resources capacity of the Public Defenders' Office (PDO) has been significantly strengthened with the graduation and appointment of seven national Public Defenders, and the deployment of four international Public Defenders (two through MoJ national budget allocation, one through Brazilian cooperation, and one through UNDP).

4.4.3 Improvements in case management and in the quality of public defence representation provided are evident. Skills have improved through formal training, knowledge and understanding of law, and training on professional ethics. There is improvement in adherence to procedural requirements at all stages of the legal process. Increased numbers of appeals are being lodged by Public Defenders, reflecting capacity and commitment to providing clients with a full defence.

Areas of Concern

4.4.4 The Public Defenders office is not separately represented on the CoC and does not have a status distinct from the MoJ. Its input into strategic planning and coordination, therefore, is limited. This contributes to a perception that the PDO is less important than other parts of the justice system. As the PDO is a key institution in the justice system, this perception / reality undermines

the possibility of building a system based on rule of law. The draft of the Organic Law for the PDO is not yet concluded, again undermining the distinct functioning and the perceived status of the PDO.

4.4.5 Public defenders are not deployed full time to the districts. This limits access to justice for poor and disadvantaged groups in particular. It also contributes to a climate in which human rights abuses by police / prison authorities may go unchecked.

4.4.6 The contribution of international justice actors to capacity building is limited by their deployment to online functions. This is likely to increase as COI cases progress through the courts, and as the intake of criminal cases increases due to civil unrest and possible resumption of the prosecution of Serious Crimes.

4.4.7 Inequalities in the terms and conditions of international and national staff is a source of grievance and contributes to low morale amongst national actors.

4.4.8 There is very little public awareness of the Public Defenders' Office, its role or mandate or how to access the services of the PDO; this lack of access to information is exacerbated at district level and may contribute to failures to comply with requirements of due process. For the majority of the people of Timor-Leste, the PDO is inaccessible.

4.4.9 The failure to finalise the organic law for the PDO contributes to a lack of accountability for public defenders and to poor internal governance structures within the PDO.

4.4.10 To date, human resource planning for the PDO has been inadequate and is insufficient to ensure access to justice, particularly at district level, and to ensure diminishing reliance on international actors.

Outcome 4: Recommended Corrective Measures

4.4.11 Secure representation of the PDO on the CoC to ensure an 'equality of arms' as between Prosecution and Defence roles.

4.4.12 Deploy Public Defenders full-time to districts; provide offices for the PDO where it does not have any and complete refurbishment of accommodation facilities in districts to facilitate deployment.

4.4.13 Strengthen capacity for strategic planning and management within the PDO.

4.4.14 Plan for the ending of involvement of international actors in on-line functions.

4.4.15 Provide support to ensure the finalisation of the Organic Law for the PDO.

4.4.16 Support capacity building for internal governance structures in line with the Organic Law.

4.4.17 In line with the ICEJ strategy, support widespread dissemination (in Tetum) of accessible information about public defenders and the roles, functions and mandate of the PDO.

Programme Outcome 5: Timorese correctional system in line with international standards

4.5.1 The associated outputs are: *Policy options developed for the correctional system; Facilitation of social reintegration programmes for the general inmate population and young offenders.*

4.5.2 The evaluation team has concluded that progress on this outcome, to date, has been slow. Delays were experienced by the Programme in recruiting international justice actors (These are now deployed).

4.5.3 In general, while physical conditions of detention (except for women and juveniles) in the prisons of Timor-Leste largely conform to international standards, the corrections system has very significant problems. These include:

- Lack of separate detention facilities for women and for juveniles;
- Absence of effective systems and procedures;
- Lack of professionalism and discipline on the part of both management and staff;
- Inadequate resources.

Social reintegration and vocational training programmes supported by UNDP were interrupted by the 2006 crisis and have not yet recommenced. There is limited use of diversionary (non-custodial) sanctions and lack of policy in this area. (The juvenile justice law is not yet adopted).

4.5.4 These problems have long existed in the prisons service. The problems were exacerbated by the 2006 crisis. Indeed, the escape of highly sensitive inmates from Becora prison was an indication of the very grave situation of the country's corrections system. Little progress has been made post-crisis to resolve these shortcomings.

4.5.5 Currently, there is an absence of basic equipment, facilities, policies and procedures on corrections systems. Ongoing civil unrest, the implications of the COI caseload and possible Serious Crimes prosecutions, all pose severe demands on the correction facilities.

4.5.6 In response to the 2006 crisis, the government appealed to donors to provide support to the prisons system with a view to enhance security and the service's effectiveness in general. The Australian government made an immediate contribution of AUD 2.0 million to the UNDP to support Prison Services development.

4.5.7 Recruitment of key personnel to assist with technical expertise for the assessment of needs and drafting of a prison component project proved to be difficult, resulting in delay. Two international prisons advisers were recently recruited. Work plans have been developed, and coordination with the UNMIT Administration of Justice Unit is working well to date.

4.5.8 Poor security facilities are contributing to repeated escapes from prison, contributing to a lack of security and ultimately to a climate of impunity within the State. This has damaged staff morale and public confidence in the capacity of correctional facilities and the justice system.

4.5.9 Strengthening of capacity for strategic planning within this sector is paramount to ensuring a safe, secure and humane environment and to providing meaningful opportunities for rehabilitation and social reintegration.

4.5.10 Support to strategic planning and infrastructure development of correction facilities has been severely hampered by the 2006 crisis. Any future strategic planning will need a comprehensive, in-built, risk analysis.

Outcome 5: Recommended Corrective Measures

4.5.11 Prioritise support to strategic planning for the prison sector, through support to the National Directorate of Prisons and Social Reintegration;

4.5.12 Support the strengthening of internal policies, management and governance structures;

4.5.13 Basic equipment needs of correction facilities, and of staff, to be prioritised;

4.5.14 Social reinsertion/vocational training to recommence on a regular basis, with planning for training of trainers;

4.5.15 Training programmes should be certified and accredited to ensure successful reintegration of prisoners;

4.5.16 Support development of policy to increase use of diversionary, (non-custodial) measures;

4.5.17 Prioritise construction of separate facilities for juveniles and female inmates.

Programme Outcome 6: Courts capable of delivering justice according to the applicable laws through national staffing

4.6.1 The associated outputs are: *Superior Council and Court of Appeal fully operational and carrying out their functions as prescribed by the Constitution and relevant law; District courts fully operational, efficiently managed, and delivering judicial services.*

4.6.2 Poor performance of the judicial system is related to weak capacity of government in planning and programme implementation; inadequate budget appropriations for the justice sector;[27] human resources constraints, and lack of basic infrastructure and appropriate facilities. Poor service delivery, in turn, has resulted weak public confidence in the judicial system.

4.6.3 The programme was designed to improve the performance of the justice system, principally by providing theoretical legal education, practical 'on the job' instruction, and mentoring to trainee judges, prosecutors and public defenders. It was also envisaged that the performance of the courts would improve through a variety of measures, including organization of on the job-training and mentoring for courts personnel in all districts, appointment of national judges to districts courts upon completion of the on the job training and mentoring, streamlining of case management systems in all courts, and establishment and operationalization of the Supreme Council of the Judiciary.

4.6.4 The training of judges was also be extended to judges of the Court of Appeal, who would be trained in preparation for assumption of office as judges of a Supreme Court yet to be established. It was expected that the project would lead to a reduction of the number of cases awaiting trial and determination and that delivery time on court procedures would decrease.

4.6.5 The judicial system of Timor-Leste has made very commendable progress towards achievement of some of the outputs under Outcome 6. The 'on- the job' training and mentoring of trainee judges that the project supported was successfully concluded.

[27] National Policy for Justice, Programmatic Framework Document (April 2005 – 2010), at pages 31 -32.

4.6.6 Eleven judges completed the training. The Superior Council of the Judiciary was established and is now operational. The Council appointed the trainee judges to offices as judges in June 2007. Seven of the judges who completed training in June 2007 were deployed at the Dili District Court, which is now fully operational. The District Court at Baucau has had resident judges for some time and it too is now operational, though less so than the Dili Court.

4.6.7 The leadership of the judiciary is considering plans to deploy some judges full-time to remaining districts where there are as yet no resident judges. The number of cases being disposed of by the Dili District Court and, to some extent, the Baucau court, is reported to be increasing.

4.6.8 Nevertheless, service delivery with the courts system remains a problem, particularly outside the capital. The project's goal of having district courts that are fully operational, efficiently managed and delivering judicial services has not been achieved.

4.6.9 Training provided to trainee judges did not adequately prepare the judges to try civil cases. The training of the judges of the Court of Appeal to prepare them to assume office at some Supreme level has not been carried out. Districts courts outside the major urban areas of Dili and Baucau have not been provided with the judges, clerks and support they require to function properly.

4.6.10 The district courts of Suai and Oecussi have no resident judges, prosecutors, public defenders or court clerks at all, and remain, for all practical purposes non-operational. Judges, prosecutors and public defenders assigned to the two courts live and work in the capital, and only occasionally travel to the districts to conduct trials.

4.6.11 During their visit to Suai, review team members were informed by the District Administrator and civil society groups that they did not know that there was a judge appointed to court at Suai. The District Administrator expressed his opinion that the area last had a functioning court during the Indonesian occupation.

4.6.12 The establishment of stream-lined case management systems to expedite processing of cases, and to generate reliable data has not been achieved. The project has not led to any significant reduction in the size of the backlog of cases in the district courts of Suai and Oecussi.

4.6.13 Capacity development through mentoring has been adversely affected by the low level of court activity across the judicial system as a whole. The project has to date had relatively little impact in improving access to justice in much of the country outside the capital.

4.6.14 The over-all assessment of the review team is that the courts system has some way to go before it can be said that all the courts of the country are fully operational, efficiently managed and delivering services. The reasons for current shortcomings in the courts system include: lack of internal strategic planning mechanisms; lack of adequate budget appropriations; lack of effective internal governance systems and procedures; lack of human resources, especially for support structures; cumbersome budget executions procedures; disproportionate allocation of judges and other court actors to the district of Dili, at the expense of the other districts; reluctance of international actors to stay in the districts to which they have been posted; and the 2006 crisis, which led to the virtual disappearance of PTNL (the team was informed that less than a hundred police personnel have been certified as fit for duty).

Outcome 6: Recommended Corrective Measures

4.6.15 Develop internal capacity for strategic planning with the court system;

4.6.16 Enhance coordination of sectoral planning and programme implementation within the justice sector, including police and prisons;

4.6.17 Prioritise Human Resource Management and Development with following steps;

- Undertake work force planning exercise to determine human resource needs for short, medium and long term;
- Develop new human resource development plan for the justice;
- Establish (under the auspices of the Legal Training Centre) programmes for continuing professional education for judges;

4.6.18 Resolve the problems of court functioning at district level (lack of accommodation, allowances, logistics, communications);

4.6.19 Deployment of judges (including international judges) at district courts on full time basis;

4.6.20 Strengthen internal governance structures (Finance, HR, Logistics);

4.6.21 Strengthen the registry and support services (prosecution clerks; translation; logistics; IT); install video and audio evidence recording systems in courts and provide training on use;

4.6.22 Strengthen the effectiveness of the Superior Council for the Judiciary.

Programme Outcome 7: Public prosecution service capable of performing its constitutional mandate, attend the requirements of its organic law and expedite access to justice

4.7.1 Outputs associated with this outcome are: *1. Superior Council of Prosecution fully operational and carrying out its functions as prescribed by the organic law and its constitutional mandate. 2. Prosecutors Offices fully operational, efficiently managed and delivering services as mandated in its Organic Law. 3. Improved coordination between Police and the Justice Sector through streamlined procedures amongst Investigation Police, Prosecution and Courts.*

4.7.2 The Organic Law establishing the Prosecution Service was enacted in September 2005. Since then, there has been considerable progress in reinforcing the institution of the Prosecution Service. The academic training, practical instruction and mentoring of trainee prosecutors has been successfully concluded. Nine prosecutors in all completed the training.

4.7.3 The Superior Council of the Prosecution Service has been established and has commenced its work. The Council has appointed the trainee prosecutors who completed the required training to the magistracy on a permanent basis.

4.7.4 The Office of the Prosecutor General is making plans to deploy some of the prosecutors in question to districts outside the capital on a full-time basis. This progress notwithstanding, the prosecution service still faces significant constraints in fulfilling its mandate.

4.7.5 The programme has to date had relatively little impact in redressing the performance problems of the prosecution service. Service delivery within the prosecution service remains a matter of concern.

4.7.6 The delivery time for investigation and prosecution of crimes has not been reduced. On the contrary, the Prosecution service has been unable to reduce the size of the backlog of cases that it is handling. The number of complaints in respect of which investigation have not completed has consistently been on the increase, as is the number of cases in which indictments have been issued but the courts have not scheduled cases for hearing.

4.7.7 The backlog in cases awaiting further investigation or trial include cases of sexual violence. The problem of unresolved cases is particularly acute in districts outside the capital, where the judicial system at best only functions at minimal capacity.

4.7.8 The causes of the unsatisfactory performance of the prosecution service are the same as those the evaluation team has noted for the court system. Judges, prosecutors and public defenders largely live and work in the capital, and only occasionally travel the districts to conduct trials. In addition, the prosecution service lacks management and technical personnel to provide support services to investigations and prosecutions.

4.7.9 The prosecution service is also very understaffed. Its internal governance systems are too weak to give effective support to investigations and prosecutions. Over-sight of criminal investigations and conduct of prosecutions are also hampered by problems such as lack of office space, transport facilities, accommodation, and communications facilities.

4.7.10 The performance of the prosecution service has also been adversely affected by aftermath of the 2006 crisis. The civil unrest and violence that the crisis gave rise to has led to an increase in the number of cases handled by the prosecution service. This increase in the caseload of occasioned by Commission of Inquiry cases has added pressure upon the agency.

4.7.11 The 2006 crisis led to the transfer of primary responsibility for policing from the PNTL to the United Nations Police (UNPOL), over whom the Prosecution service does not have direct authority. Police involved in investigations have no effective supervision. The crisis exacerbated existing problems of coordination and collaboration between the police and the prosecution service.

4.7.12 The capacity of the prosecution service to direct investigation police in line with organic law and to exercise over-sight of the legality of police action regarding criminal cases on domestic violence enhanced remains limited due to the absence of prosecutors from the district.

4.7.13 The production of standard operational procedures between police and prosecutors that was envisaged under this outcome is yet to be carried out.

4.7.14 The prosecution lacks effective case management systems. The 'case management system' that the UNDP project has established is no more than a data base for the back-up of case files. The capacity of the prosecution service to monitor the cases it is handling, to improve efficiency and effectiveness of investigations and prosecutions, or to generate statistics and reports on the cases that the prosecution is handling, remains limited.

4.7.15 The project's goal of turning the prosecution service into a fully operational, efficiently managed institution delivering services as mandated in Organic Law establishing the Public Ministry is yet to be realized. The project has not assisted the agency in developing institutional capacity for strategic planning.

4.7.16 Capacity development through mentoring of national actors by international counterparts has been adversely affected by the low level of court activity. The prosecution service, in common with other institutions of the justice sector, faces considerable constraints in making justice accessible to the majority of the people of Timor-Leste.

Outcome 7: Recommended Corrective Measures

4.7.17 Develop internal capacity for strategic planning within the Office of the Prosecutor General;

4.7.18 Enhance coordination of sectoral planning and program implementation within the justice sector;

4.7.19 Prioritise Human Resource Management and Development;

4.7.20 Resolve the problems of prosecution service at district level (lack of office space, lack of accommodation, etc.);

4.7.21 Strengthen the registry and support services (prosecution clerks; translation; logistics; IT);

4.7.22 Strengthen internal governance structures (Finance, HR, Logistics);

4.7.23 Prioritise the adoption of a prosecutorial strategy to cover COI, Serious Crimes, and other criminal cases;

4.7.24 Deployment of prosecutors (including international prosecutors) at district offices of the prosecution services on full time basis;

4.7.25 Improve working relationships between prosecution service and police;

4.7.26 Provide ongoing training on investigation techniques and criminal procedure code for prosecutors (and police), to strengthen the effectiveness of criminal investigation;

4.7.27 Strengthen capacity of prosecution to oversee the legality of police action in gender based violence cases;

4.7.28 Enhance case management capacities of the Office of the Prosecutor General;

4.7.29 Deployment of Inspector Prosecutor at the earliest opportunity and assistance to build effective oversight mechanisms;

4.7.30 Strengthen the effectiveness of the Superior Council for the Prosecution service.

VI. Underlying Factors Affecting Outcomes of the Justice System Programme

5.1 The Evaluation Team has been motivated in its observations by a concern to guard against a ***dependency syndrome*** that might arise from a belief that international expertise in the Timor-Leste justice system is indispensable for a long time to come, because national professionals cannot meet the challenges confronting them. The Team had many occasions to observe and take note of professional pride and self-confidence amongst national staff in the justice institutions. This has reinforced the belief that international expertise could be phased out after a reasonable duration of genuine mentoring, Prolonged reliance on international expertise could inhibit the development of the national justice system.

5.2 The 'givens' of the Timor-Leste Constitution, underlying the justice system support programme, are the following :

- Art.128º CRDTL: "The Superior Council for the Judiciary is the organ of management and discipline of the judges of the courts and it is incumbent upon it to appoint, assign, transfer and promote the judges". A transitional provision vests in the Court of Appeal the powers of the Supreme Court (not yet established). Judges "owe obedience only to the Constitution, the law and to their own conscience" (art. 121º CRDTL) and "Court decisions shall be binding and shall prevail over the decisions of any other authority" (art. 118º CRDTL). The Superior Council headed by the Prosecutor-General "is an integral part" of that Office, and public prosecutors "shall be a body of judicial officers, hierarchically graded, and shall be accountable to the Prosecutor-General" (art. 132º and 134º CRDTL).The Prosecutor-General is appointed by and is accountable to the President. Public Defenders, and private lawyers alike, are regarded by the Constitution as having a responsibility for serving the "social interest" (Art. 135ª).

- Statutorily prescribed qualifications for appointment of judges, prosecutors, and public defenders must be respected. These include a standard of proficiency in the two official languages in Timor-Leste, Portuguese and Tetum. Bahasa Indonesia could be a 'working language', since many people use this language, and some of the laws still in force in Timor-Leste are in this language.

5.3 Although each of these three pillars of the justice system have their respective domains of authority, they need to perforce function as part of one system (which includes the police, and the legal community, more generally). It has been a good beginning, even an institutional innovation, to bring three of the

key actors in the justice system into the CoC to direct and manage the justice system strengthening programme. The evaluation team has called for further expansion of the CoC.

Human Resource Shortages and Policy Implications

5.4 Implementation of the programme has been adversely affected by shortages of national expertise in the justice sector institutions. All of its institutions lack adequate personnel with the skills required to carry out the programmes and activities envisioned under the programme. Shortages of skills are not limited to the legal profession. Shortages of competent personnel extend to the support structures of the respective institutions.

5.5 The impact of the programme will be strongly affected by the Government's human resources policies for the public sector. Salaries in the Timor-Leste public sector lag far behind those offered by international organizations and NGOs. Many qualified Timorese nationals do not consider public sector employment as a viable option, given the relatively poor terms and conditions available.

5.6 Investing in people and improving the capacity of State institutions promotes the rule of law, creates conditions that encourage economic development and enhances prospects for long-term stability. Tackling the problem of lack of skills and expertise in the public sector, in general, and the justice system, in particular, may require a review of Government policy on pay and incentives.

5.7 Failing that, many of the professionals that have benefited significantly from training provided in the UNDP Justice System Programme (and others) could leave the public sector to find better salaries, terms and conditions elsewhere. Given the heavy international presence in Timor-Leste, such opportunities are likely to persist for some time.

Internal governance weaknesses

5.8 Constraints arising from national skills shortages are compounded by the lack of effective internal governance systems within justice sector institutions. Justice sector institutions, like many of the public sector institutions of Timor-Leste, do not yet have effective management systems and procedures. Planning, budgeting, financial, human resource management and development, and information management systems, are weak or non-existent. The absence of effective management systems and procedures has led the UNDP to assume an executive role in the Justice system, managing services (such as translation and interpretation, IT systems management, training, registry services) that the Government itself ought to be managing.

Lack of infrastructure, equipment, basic services

5.9 Another factor that has constrained the successful implementation of the programme is the lack of basic infrastructure, equipment and services. The programme has trained legal professionals that go some way towards meeting demand for national expertise to run the justice sector, but the infusion of this national expertise has not had any significant impact in improving the performance of the justice system, especially outside of the capital, Dili.

5.10 One of the reasons why improvements in the skills of national justice actors has not led to more improvement in service delivery is because the State has not provided the support (infrastructure, equipment and basis services) that justice sector professionals need to be able to perform their functions.

Languages

5.11 Language continues to be a significant constraint on efforts to improve the performance of the justice system. Many justice sector actors have limited knowledge of the Portuguese language. As the majority of Timorese people do not yet speak or read Portuguese, language (as in many jurisdictions) is a barrier to access to information about the formal justice system, and, ultimately, a barrier to access to justice.

5.12 Lack of fluency in Portuguese hinders access to professional training at the LTC and to the law degree programme at UNTL. It also limits the effectiveness of the training delivered. Within the legal process, the right to trial within a reasonable time is often compromised because of delays in translation. Repeated language difficulties arise in notification of parties to legal proceedings, hindering the completion of criminal investigations. Meaningful consultation on draft laws (published in Portuguese) is also constrained.

5.13 The Constitution provides that the official languages of the State are Tetum and Portuguese, and further provides that Tetum and the other national languages are to be valued and developed by the State. As yet, however, Tetum is not widely used as a legal language, though incremental, and welcome, progress is being made in the development of juridical Tetum.

Budget Constraints

5.14 Meeting the challenge of improving service delivery within the justice system is the responsibility of the Government of Timor-Leste. The support provided by development partners through the UNDP's Strengthening the Justice

System programme is intended to complement the resources and efforts of the Government.

5.15 Unfortunately, the Government has not, until now, made adequate budgetary appropriations to meet the pressing needs of the justice system. Worse still, monies budgeted for the justice system have not always been spent. The problems that hamper the functioning of the justice system that were referred to in the foregoing paragraphs (lack of human resources and infrastructure, equipment and basic services) are largely attributable to the twin problems of low budget appropriations for, and poor budget execution within, the justice sector, as in other agencies of the Government.

5.16 The evaluation team notes that the Government has, over the past year, increased its spending on the justice sector. The team remains concerned, however, about poor capacity for budget execution within the sector. Many observers believe that lack of capacity for budget execution may be the most significant constraint on the capacity of public sector institutions of Timor-Leste to meet their development goals.

5.17 The low level of budget execution in the public service is a result of both deliberate policies to curb abuse of public resources and shortages of qualified personnel in departments responsible for finance and procurement.

5.18 The low capacity of justice sector institutions to execute their budgets reflects the want of strategic planning, and will have a negative impact on the successful implementation of the UNDP Justice System programme. Existing mechanisms of budget execution are based on laudable motives to safeguard national resources and prevent abuse or corruptive practices. However, the manner in which the system of budget execution operates can frustrate the implementation of the Government's own policies. On-going efforts to find a solution to this problem must continue if the performance of the public sector, including the justice system, is to meet the Government's aspirations and safeguard the rights of the people of Timor-Leste.

Legal awareness among professionals and the general public

5.19 The Directive on the Use of Official Languages in the Justice system requires the use of Portuguese or Tetum in legal proceedings.

5.20 The view that Tetum is not yet sufficiently developed for use in professional training or legal proceedings is changing. New legal materials are now becoming available in Tetum.

5.21 It is essential that key legal actors have access to legal information and that information about laws become available in a form that is accessible to the

general public.[28] Following the April-May 2006 security crisis, both the Government and the CoC of the UNDP Justice System programme have recognised the urgency of ensuring greater access to information and more transparency in the justice system.[29]

5.22 In the context of this evaluation, current and former trainees of the Legal Training Centre strongly expressed their view that the quality of their training would be enhanced if there were greater use of Tetum in the programme (both as a medium of instruction, and in the materials provided.). Some legal professionals who were trained in Indonesia, and are unable to master the Portuguese language argue that their exclusion from professional training is discriminatory.

5.23 The evaluation team strongly recommends, at a minimum, greater use of Tetum in legal training and in publication of legal materials. Full support should be given to ongoing development of Tetum as a legal language (building on the progress already made), and to addressing the shortage of Portuguese/Tetum translators.

Impact of the 2006 Crisis

5.24 The UNDP's Strengthening the Justice System in Timor-Leste programme was implemented in an environment dominated by the 2006 political crisis. The crisis had, and continues to have, a very strong impact on Government and politics in Timor-Leste, in general, and on the functioning of the justice system, in particular. The crisis presented enormous challenges for the justice system of Timor-Leste.

5.25 The evaluation team is impressed that all stakeholders in Timor-Leste give great credit the justice system for having played a crucial role in asserting the supremacy of the law during the critical period following the 2006 crisis.

5.26 There are at least two major challenges arising from the 2006 crisis that affect the UNDP Justice System Programme. These are the Commission of Inquiry cases and the process of restructuring the PNTL.

Commission of Inquiry Cases

5.27 The international community responded to the 2006 crisis by, amongst other initiatives, establishing the Independent Special Commission of Inquiry (COI). The Commission's mandate was to establish the facts surrounding the crisis, to investigate the causes of the crisis, to clarify responsibility for the

[28] See: Govt of Timor Leste: *Strengthening Transparency and Accountability in Timor-Leste: Report of the Alkatiri Initiative Review* January 2006
[29] See: ICEJ Strategy adopted by the UNDP Justice System Programme.

crimes that were committed during the crisis and to make recommendations on measures to ensure accountability for crimes and serious violations of human rights alleged to have been committed.

5.28 The Commission's report identified incidents of alleged crimes that, it recommended, should be prosecuted and a set of other cases in respect of which it recommended further investigations.

5.29 Of particular significance for the UNDP programme was the recommendation that these cases should be handled within the domestic legal system, and that international legal actors should take the lead in investigations and prosecutions of the cases in question, with national actors playing only a supporting role.[30]

5.30 The Commission recommended that donors *consider favourably requests for further support of the judicial sector in Timor-Leste, especially the extra resources required to handle the cases arising from the crisis.*[31] The recommendations of the Commission were adopted by the Government and ratified by Parliament.

5.31 Due to the sensitive nature of the COI cases, the UNDP's Strengthening the Justice System in Timor-Leste programme, was asked to deploy international legal actors already recruited under the programme to handle the cases. While, the Government of Timor-Leste remains of the view that the COI cases should be dealt with by the national justice system, there is a strong view that international actors should continue to handle this caseload because of the fragile security situation within the State.

5.32 The last Parliament passed a controversial bill that would grant amnesty for some of the crimes arising from the crisis. The President submitted the Bill to the Court of Appeal for constitutional review. The Bill was recently found to be unconstitutional by the Court of Appeal.

5.33 Unfortunately, to date, neither the UNDP nor UNMIT has been able to interest donors in providing financing for the handling of the COI cases. As a result, personnel recruited under the UNDP programme continue to be responsible for the COI caseload. This shift in roles has detracted programme personnel from their capacity building and mentoring work – a core input of the UNDP programme.

5.34 It is clear that the programme's potential to contribute to capacity building will be severely constrained if the Government and UNMIT cannot secure

[30] Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste, Geneva 2 October 2006, paragraphs 179, 185, 191 and 192.
[31] Report of the United Nations Independent Special Commission of Inquiry for Timor-Leste, Geneva 2 October 2006, paragraph 206.

additional human and financial resources, or identify an alternative mechanism, to implement the recommendations of the COI.

Rebuilding of the PNTL

5.35 The police are the backbone of law and order in most societies. The 2006 crisis led to a substantial collapse in the operational capability of the PNTL in Dili. Some sections of the PNTL maintained a level of operability and were in fact allowed, by both the Government and intervention forces (the ADF and AFP), to continue performing their duties.

5.36 Following the crisis, the policing functions of the State were delegated to the United Nations. The understanding was that the United Nations would be responsible for policing Timor-Leste while the PNTL was restructured.

5.37 The restructuring of the PNTL appears to proceeding at a less than satisfactory pace. The process of screening and certification of PNTL personnel has not made much progress. The capacity of the United Nations to prepare the national police to resume its role as the primary law enforcement institution in Timor-Lest is itself in question.

5.38 The UNPOL is made up of small individual national contingents. The capacity of these contingents to transfer knowledge and skills is hampered by language constraints and lack of knowledge of local conditions. The units have scant knowledge of local laws. They come from diverse backgrounds and do not have uniform systems and procedures. This leads to inconsistency in development of policing capacity. The units may be able to maintain law and order but do not always have the skills that the PNTL needs to build its capacity for policing. The short-term nature of the deployments of these national contingents, and the high levels of staff movements within UNPOL, adds to inconsistency in the transfer of skills to the national police.

5.39 UNPOL does not, at present, appear to have clear capacity development strategies for the national police. No action has as yet been taken on the development of a national policy in place; No strategic plan for the PNTL has as yet been developed.[32]

5.40 UNPOL and PNTL units operate as separate and distinct units in most places. Collaboration between UNPOL and PNTL is inadequate in many areas. Operational policing processes and procedures to enable the PNTL to develop into an effective police force are yet to be developed.

5.41 The criminal justice system cannot function properly without an effective national police system. The prosecution service, in particular, will not be able

[32] CSP Mission Report - February and March 2007, pararaphs 92-94.

to discharge its functions effectively without an effective national police force.

5.42 The outcome of on-going efforts to restructure the PNTL will have a decisive impact on the development of the criminal justice system in Timor-Leste. It will also have a significant impact on the ability of the UNDP programme to achieve its outcomes, particularly in relation to improved functioning of the justice sector actors in the criminal justice field.

Security and Political Implications for the Justice System Strengthening Programme

5.43 The crisis that Timor-Leste experienced in 2006 crisis has not been resolved yet. The 2006 crisis was a manifestation of serious divisions within Timorese society. These divisions remain, as has been evident from the political and civil unrest following on from the 2007 elections.

5.44 The justice system does not operate in a vacuum. Political developments could have a significant impact on the implementation of the UNDP Justice System programme and its ability to achieve planned outcomes. Continuing civil unrest and political violence will aggravate pressures on the justice system.

5.45 The progress of the programme will depend on the answers to a number of questions: Will the country gradually stabilize?; Or will politically inspired violence increase? Should violence continue, how serious will it be? How far will it go? Will it remain restricted to urban areas, or will it spread to the countryside? All of these questions will need to be factored into a comprehensive risk analysis for the programme. This kind of risk analysis has not yet taken place.

5.46 Equally important will be the policies that the Government will adopt to deal with the ongoing exigencies of the situation. What policies will the Government adopt to promote peace and reconciliation? Will such policies succeed? What will be the repercussions of a failure peace building efforts?

5.47 The political crisis in Timor-Leste since 2006 has put judicial institutions and their personnel in the spotlight. The role of judicial and law enforcement institutions in responding to politically inspired violence has exposed these institutions to attacks by the protagonists in the on-going conflict.

5.48 The justice system risks becoming highly politicised in Timor-Leste, threatening the core principle of separation of powers that is essential for the rule of law.

5.49 In the light of the prevailing political conditions, the importance of a serious analysis of risks under changing political scenarios is imperative if the UNDP

Justice System programme is to consolidate its gains, and overcome the deficits noted by this evaluation team.

VII. Management and Implementation Issues

6.1 Management and implementation issues, in the context of specific programme outcomes, have been addressed above. This section deals with some additional factors that have a bearing on this subject.

6.2 The CoC, and its Secretariat located in UNDP, have established a good working relationship in the course of programme implementation. UNDP programme management staff are clear that all policy directions and decisions on allocation of resources are the prerogative of the CoC, and their role is to support the implementation of CoC decisions. However, the evaluation team noted a perception amongst some stakeholders that UNDP programming was substituting for nationally-led long term strategic planning processes. This perception is exacerbated by the limited progress made on strategic planning within justice institutions and the Programme's limited partnership strategy.

6.3 National ownership through the CoC is a positive feature of the programme, and the involvement of this body in decisions regarding policy, direction, and priorities can be recognized 'good practice'.

6.4 A systems approach, which means involvement of all institutions comprising the justice sector in order to strengthen synergies and complementarities in their functioning, calls for the enlargement of the policy and decision-making body to include other key stakeholders.

6.5 The M&E systems for the Programme, as noted above, remain seriously inadequate (See: paras. 4.1.49 – 4.1.58). This weakness contributes to difficulties in assessing the impact of the Programme, and in monitoring its effectiveness. Performance management systems, particularly for international personnel, remain weak, as noted above (paras. 4.1.51-55).

6.6 The critical need for strategic planning capacity in the CoC, assisted by the UNDP programme management team, has been reiterated at many points above.

6.7 The evaluation team notes that the analysis of risks, which was undertaken during the programme revision in 2005, has not been revisited. A revised risk analysis is required in the aftermath of the 2006 crisis and very important developments affecting the programme, discussed above. In Timor-Leste, where conflicts and shifting political currents are an endemic feature of the programming environment, it would be necessary to review risks on a periodic basis, and build in sufficient flexibility in the programme strategy to adapt to both high probability/low risk and low probability/high risk contingencies.

6.8 The programme management support team needs some changes, which have been addressed above, including the desirability of having a national officer, instead of an international one, to take up the responsibility for implementing the programme's public communications strategy. A national justice project manager and an M&E expert are not yet recruited. In the team's view, the continuing absence of a national justice project manager is limiting the Programme's partnership strategy, and its capacity building role. Given the shortcomings in M&E within the programme, it is crucial that the post of M&E expert is quickly filled.

6.9 An overhaul of management and implementation arrangements should be undertaken on completion of the UNMIT justice sector assessment and in conjunction with further revision of the present programme strategy and partnership arrangements, discussed in the next section.

VIII. UNDP and Partnership Strategy

7.1 UNDP has played a key role in the justice sector because the Government and donors regard it as a politically neutral entity with technical competence to execute and monitor large and complex programmes. Limitations in the Government's capacity for national execution of the justice programme justifies direct execution by UNDP.

7.2 UNDP has demonstrated its commitment to national ownership by according primacy to the CoC in the implementation of the programme. The project management team displayed a willingness to change the programme emphasis in 2005 in order to better accommodate the priorities of the national Government.

7.3 The partnership strategy set out in the 2005 revision of the programme was formulated in partnership with all stakeholders, and Australia and Portugal representatives served full-time on the revision team. Apart from all key national entities, Brazil, Ireland, UK, USA, the World Bank, UNICEF, and national and international NGOs, such as Avocats san Frontieres, the Asia Foundation, JSMP, and then UNOTIL, contributed to the programme formulation.

7.4 The evaluation team notes that systems for regular communication and briefing of partners interested in the programme could be considerably improved. The recommendation made in this report, to expand the CoC to include representatives civil society organisations, and regular meetings with donors, is intended to strengthen the partnership spirit, building on good foundations already laid, involving more actively other donors, including Sweden and Norway.

7.5 The 2005 partnership strategy envisaged two modalities of support from donors for the justice system. These are 'third-party cost sharing arrangements with UNDP' and 'parallel financing'. The former allows for contributions to be made as a general grant to the UNDP programme budget, or earmarked for specific activities in that programme, in line with the Results and Resources Framework. The latter modality enables donors to administer their contributions directly, while aligning the outputs to the expected outcomes of the UNDP programme. Parallel financing can best contribute to coherence and impact of the programme if it is well coordinated through the COC and the UNDP Programme Coordination and Support Unit.

7.6 The evaluation team takes note that parallel financing arrangements have not been fully aligned to a set of common objectives. Among the reasons for this is a difference in programmatic emphasis and related goals between some donors and the UNDP programme directed by the COC.

7.7 Many donors noted that the UNDP programme has been more focused on the development of the capacity of 'duty-bearers' in the justice system, and less on access to justice, and on capacity development of 'rights or claim-holders'.

7.8 Donor support given to efforts of NGOs to promote legal literacy, awareness of rights, access to alternative dispute resolution forums, and critical examination of the norms and values that inform traditional dispute resolution, has not been aligned to the UNDP programme. Presently, the emphasis in the UNDP programme is lop-sided, with an almost exclusive focus on the 'supply' side of justice, and little emphasis on the 'demand' side.

7.9 The Evaluation Team, in light of this situation, recommends that the 2005 version of the UNDP programme should be revised in 2007, so that in 2008, the programme can be more balanced, and more in line with the human rights based approach to access to justice.

7.10 Now that the basic framework of the justice system, and minimal pre-requisites for its functioning, have been established, it is time to reorient the programme to focus much more on overcoming obstacles faced by people in getting access to justice through the formal system.

7.11 In the context of Timor-Leste, this would require efforts to 'informalise' the formal system, so that it is more accessible, affordable, and intelligible to the general public, and 'formalise' the informal systems of dispute resolution that are prevalent in the country, in order to ensure that the norms and values in traditional systems do not contravene universally accepted human rights norms, enshrined in the Constitution, and embodied in the international instruments ratified by Timor-Leste.

7.12 The recommended reorientation of the programme strategy in the course of the remaining part of 2007 would also afford an opportunity to revisit the issue of resources needed to respond to the recommendations of the mid-term evaluation team, and place the programme on a sustainable foundation for the long term.

7.13 It has been noted above that resource mobilisation, to secure support for the justice sector on a long-term basis, has not, as yet, been successful. Financial constraints have severely limited the ability of the Programme to support long term planning for the justice sector. This situation warrants serious consideration to be given to modalities of funding other than 'cost-sharing' and 'parallel financing'.

7.14 The Evaluation Team recommends that all stakeholders concerned about strengthening the justice system and promoting greater access to justice should give serious consideration to the establishment of a Trust Fund to support the long term needs of the justice sector in Timor-Leste.

7.15 UNDP has considerable experience managing a variety of trust funds, and is well positioned to compensate for shortfalls in the capacity of the government for programme execution, procurement, and compliance with international standards for transparency and accountability in the use of funds.

7.16 Many countries in Latin America place government funds earmarked for specific development purposes at the disposal of UNDP in order to take advantage of more stream-lined procedures, and overcome deleterious consequences for development projects arising from departmental delays and bureaucratic inefficiency. Timor-Leste could benefit from the lessons learned in Latin America on Government-UNDP cooperation.

7.17 The evaluation team would also urge stakeholders interested in promoting access to justice in Timor-Leste, and developing the capacity of its justice system to be responsive to the needs of people, to consider establishing a Trust Fund to Support Access to Justice in Timor-Leste.

7.18 UNDP could initially manage the Trust Fund, until a credible group of Timor-Leste citizens can be entrusted with the responsibility of managing resources meant to bring justice to people. Donations to the Trust Fund by donors should be unconditional and not earmarked. Donors should be able to convey their views on priorities by their membership in an Advisory Council for the Trust Fund. Decisions on the use of the funds should be taken by an Executive Committee, comprising the Council of Coordination (expanded, in line with recommendations made above), UNDP, UNMIT, World Bank, and one or two donor representatives by rotation (not all of them).

7.19 The Evaluation Team recommends that the long-term option of establishing the Trust Fund be explored in the context of the programme revision recommended here, to make the current programme much more responsive to the needs of the citizens of Timor-Leste, correcting its present lop-sidedness, the result of its exclusive focus on capacity development of 'duty-bearers', and a neglect of 'rights-holders'.

7.20 The risk, noted in the programme document, of "missing the opportunity to develop extensive partnerships with civil society organisations and international NGOs present in the country, to bring all major actors together in a support structure to Timor-Leste" has become reality.

7.21 The recommendation to establish a Trust Fund, can overcome this limitation of the current programme, enabling it to both involve and support civil society groups that more attuned to the real justice needs of people.

Annex 1: Mid-Term Evaluation Team Members

TIMOR-LESTE STRENGTHENING JUSTICE SYSTEM PROGRAMME
MID-TERM EVALUATION TEAM

The following members of the independent evaluation team were appointed by the donors, UNDP and the Timor-Leste Government. =

1) Mr. Duarte Tilman Soares (Judge Dili District Court, Timor-Leste).
2) Mr. Jose da Costa Ximenes (Prosecutor, Timor-Leste).
3) Ms. Siri S. Frigaard (Chief Public Prosecutor, Norway. Team leader).
4) Mr. Pedro Bacelar de Vasconcelos (Professor of Public Law, Portugal).
5) Mr Gerald Gahima (Senior Management Adviser, Office of the Prosecutor General, Dili)
6) Mr. David Mather (Correction Officer of the Administration of Justice Unit, UNMIT).
7) Ms. Siobhán Mullally (Co-Director of the Center for Criminal Justice and Human Rights Law, National University of Ireland, Cork)
8) Mr. R. Sudarshan (Legal Reform and Justice Policy Advisor, UNDP Bangkok Regional Center. Co-team leader).

Annex II: List of Documents Consulted

Avocats Sans Frontieres – Access to Legal Aid in TL Survey November 2006

Draft UNDP Justice System Programme - CoI Follow Up Proposal December 2006

Information, Communication and Education Policy for the Justice sector

Joint Needs Assessment June 2006

Joint Needs Assessment Revised September 2006

Justice Programme Annual Report 2006

Justice Programme Progress Report May 2007

Justice Programme Revised Programme Document December 2005

Justice Project Document July 2003

National Policy for Justice - Programmatic Framework Document 2005-2010

Notes on the first meeting of the Justice Working Group July 2007

Report of the Secretary-General on Timor-Leste pursuant to Security Council resolution 1690 (2006)

Report of the UN Independent Special Commission of Inquiry for Timor-Leste Security Council Resolution 1704 (2006)

UNDP BCPR Report on East Timor Justice and Security Sector February 2007

World Bank Consolidated Support Mission March 2007

Annex III: List of Meetings and Persons Consulted by the Evaluation Team

Antonio de Souza e Silva, Ambassador of Brazil

Adino Xavier, CIESTL

Akbar Usmani, UNDP Country Director

Alan Leary, UNDP Justice Programme, Prisons Security Specialist

Alberto Jesus, NGO Forum

Amandio Correia, Private Lawyers Association

Ana Graça, UNDP Justice Programme former Chief Technical Adviser

Andre Fernandes, UNDP Justice Programme, Public Defender

Ann Linnarson, UNICEF

Athul Kare, UNMIT, SRSG

Bernardo Fernandes, UNDP Justice Programme, Acting Prosecutor

Charles Latroph, Ireland Aid

Claudio Santorum, UNDP Justice Programme Chief Technical Adviser

Claudio Ximenes, CoC, Chief Justice

Daniel Amaral, UNDP Justice Programme, CTO/Operations Manager

Daniela Cury, UNDP Justice Programme, IT Unit Coordinator

Domingos Sarmento, CoC, Minister of Justice

Donna-Jean Nicholson, AusAID, Second Secretary

Edith Bowles, World Bank

Endre Vigeland, UNDP Justice Programme former Programme Officer

Eric Tan, UNMIT D-SRSG for Security & Rule of Law

Erika Macedo, UNDP Justice Programme, Lecturer

Eun-chim (Jennifer) Choi, UNDP Justice Programme, Programme Officer

Fatima Mendes, Embassy of Portugal, Ministra-Conselheira

Ivo Rosa, UNDP Justice Programme, Acting Judge

Jacinto Tinoco, UNDP Justice Programme, Translators Unit Coordinator

Joaquim Fonseca, PM Office, Adviser on Human Rights

Kim Hunter, Asia Foundation

Longuinhos Monteiro, CoC, Prosecutor-General
Luis Felgueiras, UNDP Justice Programme, Lecturer
Maria Agnes, JSMP Women Justice Unit, Coordinator
Maria Nunes, Rede FETO
Micel Martins, Avocats Sans Frontieres
Nicole Seibel, USAID
Noura Hamladji, UNDP Governance Unit Head
Patricio de Jesus, PNTL Suai
Robbin Scott-Charlton, AusAID 1st Counsellhor
Rui Gomes, UNDP Pro-Poor Policy Unit
Sara Negrao, UNIFEM/OPE
Sebastiao Dias, Provedor de Direitos Humanos e Justiça
Sergio Hornai, Public Defense Office, National Coordinator
Willbert Van Hovell, UNMIT Human Rights Unit Head
Zeni Arndt, UNDP Justice Programme, Public Defender

National Judges
National Prosecutors
Prosecution Investigation Support Unit
Suai District Administration
Legal Traning Center, 2nd course trainees