JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

THE PRIVATE LAWYERS STATUTE: OVERVIEW AND ANALYSIS

September 18, 2008
DILI, TIMOR-LESTE

Table of Contens

1. Intrudaction…………………………………………………………………… 3
2. The Private Lawyers Statute: Overview and Analysis
Background ……………………………………………………………... 4
3. Legislative Overview………………………………………………………. 5
4. Legal Education…………………………………………………………….. 8
5. Practical Obstacles………………………………………………………….. 10
6. Social Justice………………………………………………………………. 11
7. Language Barriers…………………………………………………………. 12
8. Conclusion………………………………………………………………… 13

Introduction

JSMP, an independent, locally-led NGO, was established in 2001 to promote greater compliance with international human rights standards (particularly those relating to a fair trial), primarily through oversight of the courts.

Our information and analysis is disseminated to the public, and to interested international observers, through a regular series of press releases, updates and thematic reports, as well as through seminars, trainings and workshops.

The broad objective of these activities is to contribute to the development of a strong and transparent justice system through targeted advocacy, based on credible research and objective, firsthand observation.

Over more than seven years of operation, JSMP has witnessed the emergence of new institutions and concerted efforts to re-establish the rule of law. Whilst still reliant on outside assistance, Timor-Leste has, during this period, taken its first steps toward becoming a mature democracy.

This process is, of course, far from complete, and has encountered substantial obstacles to date. JSMP has, through its statements and publications, highlighted both examples of best practice and instances of malfeasance, confusion and non-compliance.

JSMP has lately broadened its focus to considering the body of new laws that are a feature of Timor-Leste's evolving legal system. Whilst being careful to maintain our independence, a constructive working relationship is being established with Parliament and the commissions.

The process of drafting legislation for an emerging democracy is no easy task, we readily admit, especially in the context of Timor-Leste's often conflicting legal influences. Advocacy toward reform is often still needed, however, in order that the law better reflect the realities of Timorese social context.

This report, accordingly, examines a recently passed statute of considerable importance to the justice sector. By enumerating the roles and responsibilities of the legal profession, this law formally establishes an institution just as critical to the rule of law as the courts themselves.

It is hoped that the following analysis will not only serve as a guide, but also prompt further deliberation. It is not only amendment that may be needed, but also review of policies throughout the sector that might impede lawyers from assisting in the delivery of justice, which is already too scarce a commodity.

Casmiro dos Santos
Interim Director, JSMP

The Private Lawyers Statute: Overview and Analysis

Background

Promulgated on 14 July 2008, the law regarding private advocacy and training of lawyers ('the private lawyers statute') was the culmination of years of negotiation between parliament and justice sector actors. Vital to this step was the backing of the parliamentary Commission on Constitutional Affairs, Justice, Public Administration, Local Competency and Government Legislation ('Commission A').

The first comprehensive draft is believed to have emerged for discussion in 2003. Along with a number of other bills of that time, such as the proposed law on domestic violence, its seeming complexity and, perhaps, political sensitivity saw it repeatedly shelved, only to re-emerge recently into governmental debate.

It is true that, in these early years of legal development, a great many proposals have jockeyed for position in Timor-Leste's often crowded legislative agenda. It is notable, however, that whilst the structures of legal administration and enforcement have been so carefully crafted, comparatively little attention has been paid to the professionals who must navigate this system.

Admittedly, the justice system is still in its infancy, and highly dependent on international personnel. JSMP understands that, at the time of writing, the total Timorese judicial contingent of thirteen judges, thirteen prosecutors and eleven public defenders is assisted by a further five judges, three prosecutors and four public defenders, largely from lusophone nations.

Despite this relatively substantial degree of support, the demands upon the courts are increasingly untenable. The backlog at the Dili district prosecution office is now reported at a staggering 4,700 cases. Even accounting for a number of complex hearings arising from civic disturbances over the previous two years, this represents a rise in pending matters beyond the present capacity of the system.

JSMP has observed that where public defenders and other judicial actors have been unable to maintain a presence, especially at district locations, the courts have tasked private lawyers to provide this service. Furthermore, given the delays in proceeding to trial, many matters are now being settled through mediation – a method that lightens the load of the courts and which is often presided over by private lawyers.

The lot of private lawyers has been uncertain, however, given unresolved questions of accreditation and standing. This has been the case both for the many Timorese lawyers returning from overseas study, as well as for those completing courses of legal training in Timor-Leste itself.

The private lawyers statute begins to clarify some of the issues that will help Timorese lawyers to contribute to the more effective administration of justice in this, their country. A number of obstacles remain to be addressed, however, in order that the skills of this important corps of professionals are best utilised toward the rule of law and the nation's development.

Legislative overview

The statement of intent prefacing the body of the statute indicates that regulation of the activities of private lawyers is necessary not only to streamline the administration of justice, but also to serve a social function in safeguarding citizens' interests at law. This relates directly to the government's obligation, at Title V, Chapter III of the national constitution, to introduce a legal framework that guarantees the scope of free action available to lawyers in service of the social interest.

Additionally, the preface notes that an important aspect of the legislation is to facilitate the training of private lawyers, as available to judges, prosecutors and public defenders. It is suggested that, rather than deducting substantially from the state budget, regulation will largely be paid for by the taxes of registered professionals. It is unclear what calculations exist to support this seemingly optimistic conclusion.

From the outset, the law maintains that the Judicial Training Centre (JTC), a UN-supported educational adjunct to the Ministry of Justice, will be the principal channel through which registration as a legal professional may be obtained. Those who have a law degree, are fluent (both written and verbal) in Tetum and/or Portuguese and have satisfied the requirements of the JTC course, may register according to the law. An administrative check of age and criminal records is also mandated.

Also eligible to practice in Timor-Leste are those whose law degree was obtained in another civil law jurisdiction, and who have a minimum of five years experience in the profession. They too, must be fluent in either Portuguese or Tetum, and must supply documentation in evidence of their legal qualifications and knowledge of the Timorese legal system for consideration of the JTC Council. A background check may be required, and any applicant who is the subject of a conviction or pending investigation is to be denied registration, subject to appeal and/or review.

For those working toward registration who not have benefit of international practice, evidence of an accredited law degree must be provided to the JTC, and a test undertaken to assess language and legal skills. The number of places in the training course is limited, and performance on the test determines placement. This section of the law appears simply to codify existing practice with relation to the JTC course.

By law, the course must include education appropriate to (though not limited to) prospective magistrates and public defenders, and enable a period of traineeship. Various stipulations are made as to the curriculum and duration of the course, and to the method of assessment. Given that the method of teaching has already been altered since linguistic issues led to the early failure of the entire cohort of national judiciary, it is doubtful whether the JTC syllabus needs such a fixed enumeration at law.

Should prospective lawyers pass the examinations set by the JTC, they are then able to request registration, and may practice as a trainee, with certain limitations. For this nine month period, they may, in their own right, only provide legal advice, and appear in court argue civil matters to a value of no more than US$1000 and criminal matters where a 'semi-public' crime is charged. They may also undertake matters of greater standing if supervised by a registered lawyer who guarantees their legal performance. Undertaking legal practice outside these limits, or without registration, is a crime.

Following satisfactory completion of JTC training and commencement of the nine month period of traineeship, lawyers are able to apply for a professional certificate. The body now empowered (and funded, from 2009) to provide these credentials is the Council for Legal Management and Discipline (CLMD), which is to maintain a list of registered lawyers and maintain professional discipline. It may also fix standards of professional attire, and facilitate taxing arrangements for new lawyers. Deregistration is held by the law to be merited, subject to review, where an individual has acted in a way determined by the Council to be incompatible with the exercise of legal duties.

Court staff and public servants are all obliged to bring to the CLMD's notice instances where a lawyer is seen to have acted inappropriately. Disciplinary hearings are presided over by a management panel, which may recommend sanctions including fines for minor infractions through to suspension or revocation of registration.

This management panel comprises five members, three from the JTC and one each of the remaining positions from the Association of East Timorese Lawyers (AATL) – a body representing upwards of eighty legal professionals – and from among the civil society groups that focus on the justice sector. With the President always to be drawn from among the JTC members, there is no doubt where control of the panel lies.

A number of offices are listed in the body of the law that are held to be incompatible with the impartiality needed to properly exercise legal duties. The law indicates that contracts for the provision of legal services are void where they require action that is incompatible at law with this impartiality. Accordingly, this role is expressly disallowed for holders of sovereign office (except members of parliament), employees of the Provedor for Human Rights and Justice, current court staff (including those in prosecution and defence), representatives of local government or public service (excluding teachers), armed forces or security personnel, notaries and mediators. Whilst the rationale for most of these categories is clear, the last of these presents a potential issue. In the prior absence of a comprehensive framework for legal practice, a number of legal professionals built careers on mediation – it seems from an initial reading of this statute that such a service may even be cause for disciplinary action.

Throughout this section of the statute, reference is made to an 'Order of lawyers' not yet existing at law. The phrasing of certain clauses, however, suggests that when lawyers are deemed have formed a sufficiently strong, formal network of professional association, the functions of the CLMD may be transferred to that new body, allowing lawyers to self-regulate. Whilst such a body – the AATL – already exists and has attracted a substantial membership, the drafters have clearly felt it is not yet able to bear this responsibility. Separate reference to a 'law society' raises doubt that such an Order may not be conceived as independent nor as representing professional interests.

The act enumerates the tasks that may be undertaken by lawyers, commencing with their court-based or 'forensic' function. The law also stipulates that lawyers may provide legal consultations, and raise issues of constitutionality. They may draft contracts and undertake commercial negotiation. Lawyers may challenge decisions made by public offices in respect of tax or other administrative measures, and may pursue any perceived claim by a citizen against a government authority. These fields of professional endeavour are only limited by the requirement not to undertake the proscribed functions of public defenders (except as directed) and law professors.

A number of conventions relating to legal practice are given standing by the law. Clearly enshrining lawyer-client privilege and also noting the doctrine of free exercise of legal representation, the law confirms that such professional assistance is not to be limited in respect of any court jurisdiction, authority, public or private entity, except where expressly limited by superseding law. Magistrates, public servants and other official agents are enjoined to allow lawyers to perform their appointed function, and instructed not to associate them personally with the case or client that they represent.

Furthermore, lawyers may, in the exercise of their duties, request to examine and/or copy as necessary any publicly held documentation (other than that officially deemed secret) that is related to the protection of their client or clients. In a system where obtaining information can often by trying, this legislated power may prove very useful indeed. It does beg the questions, however, of why no formal government channel is yet established to furnish such data, and why lawyers alone will now enjoy privileged access to documents that may have broader social or administrative relevance. Further inequities are belied by the statute's odd insistence that registered lawyers are, in their professional capacity, to receive priority treatment with any government authority.

Again following closely the dictates of the constitution, themselves a factor of the various human rights and treaty norms to which Timor-Leste is now signatory, the right of legal communication is protected. Specifically, it is established that lawyers have the right to communicate, in private, with their clients even when those clients are imprisoned or otherwise held in a civil or military prison. This clause is notable for its distinction between these modes of detention, which amounts to an increased formal recognition of the current practice of the armed forces detaining their own.

The confidentiality of client communications is further protected in this law through stipulations that the lawyer may be present during any judicially ordered search or arrest taking place at legal offices, or wherever private legal correspondence is kept.

Unusually, the statute lays out the social obligations of lawyers. As well as making injunctions against unfair dealing, professional responsibilities are formally stated as including duties to work toward improved judicial institutions and application of law, and to protest violations of human rights and miscarriages of justice. This appears to mandate a quite explicit function for the legal profession outside the courtroom.

Very detailed conditions are set for the conduct of a legal professional, both in the operation of their practice, and in relation to the client and the court. Lawyers are required to go about their work thoroughly and expeditiously, and to show due respect to the judiciary, their colleagues and other court staff throughout court proceedings. Whilst in a more established jurisdiction, such explicit instruction may be taken as condescending, in the context of establishing a professional corps, this may arguably be more tenable. Lawyers are, moreover, given clear guidance on the modest ways in which they may advertise their services, and the way in which they may bill a client.

Prohibited at law are monetary charges that comprise a share of proceeds from a legal action, and contingency (so-called 'no win/no fee') arrangements that are dependent on the outcome of a case. A form of billing is required under the statute that sets out the items that comprise the fee, promoting accountability. Most contentiously, a table of fees is to be established by the CLMD and published in the government gazette.

Though it appears some departures may be allowed from strict adherence to this fee structure, it is likely this will nonetheless stand as a firm control over the practice of legal professionals. It is unclear what accounting will be made for experience and specialist expertise under such a system, and what effect this might have on those entertaining the law as a career, whether post-study or otherwise. Careful comparisons will need to be made in calculating fees so as not to disadvantage those serving as public defenders, prosecutors or members of the judiciary, lest they be enticed to abandon public office in favour of a more lucrative private occupation.

In its final articles, the statute establishes a transition period of four years, during which time the requirements for legal practice will not be enforced. Accordingly, the limitations on practice in reference to trainee lawyers do not yet operate. Furthermore, those persons who have been performing the function of lawyers despite not meeting the criteria listed in the statute, are – with the support of the court and notice of the CLMD, permitted to continue their legal role until the expiry of this transition period. Whilst this seems a relatively long time, the slow process of legal training leaves little opportunity for all presently operating lawyers to satisfy the legislation's conditions. Unless radical changes are made, many legal professionals may lose their livelihoods.

Legal Education

Clearly critical to the endeavour of building a constructive and accountable legal profession is the process of training new lawyers, and providing opportunities for ongoing learning to include more established practitioners. Whilst this statute details only post-graduation instruction, it is necessary to consider it in the broader context of education in Timor-Leste.

Presently, there are four universities understood to be actively teaching a law degree in Timor-Leste: University of Peace (UNPAZ), Dili University (UNDIL), University Continental and Timor-Leste National University (UNTL). Law is taught, generally, over four years. In at least one of these institutions, however, the governmental process of accreditation has determined that the syllabus and/or methods do not sufficiently raise the understanding of student to merit formal recognition.

Students having completed their course of studies at UNPAZ have been dismayed to find that the standard of their legal knowledge is not accepted as granting eligibility for the JTC. As the law now stands, there is no direct means by which they may proceed to registration as a practitioner. Whether or not the course is an appropriate preparation for a career in the law, it is a substantial administrative failure that sees an entire cohort of motivated students of law effectively barred from a path of employment implicitly promised to them at their enrolment.

Of the remaining universities, only at UNTL has accreditation of the law program been approved by the government authority. This is a new course of studies, having only commenced in 2007, and the first cohort of students is only midway through their degree, after which they may apply for entry into the fifteen month JTC training. Clearly it will be some time before UNTL graduates will be able to contribute directly to the rule of law in their country. UNDIL and University Continental students must hope accreditation is granted before they complete their studies.

With no prior alternative consistently available to them, lawyers in Timor-Leste are overwhelmingly graduates of other educational systems. Of the eighty or so professionals represented under the AATL, all have obtained law degrees in Indonesian universities – many having balanced their studies with pre-independence activism. This trend in legal practice appears to be mirrored in civil society, and continues, with many Timorese saving to undertake courses elsewhere that they reasonably believe will advance their prospects back home.

On returning, however, many of these law graduates of the Indonesian system have found themselves at a loose end, often with limited connections and little means of breaking into courtroom practice. Some have become the so-called 'advogadu odomatan bot', or 'front-gate lawyers' who are to be found at the entrance to courts and police stations, touting for business.

With no graduates of Timorese law degrees to compete with just yet, these Indonesian graduates are at least able to apply for training at the JTC. This is only a partial solution, however, as annual intakes are mostly limited to between twenty and thirty highly-contested places. The current class numbers sixteen.

This leaves a growing pool of prospective lawyers to earn a living variously through mediation, contract negotiation or commercial advising. With cohorts of law students at Timorese universities often exceeding 200 students, the number of those awaiting post-graduate training – now mandated for registration – is set to rise dramatically over the next few years.

Even allowing for the fact that many graduates in law will not wish to practice, but instead take up positions in public service or elsewhere, this represents an increase outside the present capacity of the JTC to adequately accommodate. With courts across the country already understaffed, clearly there is a need to produce a corps of well-trained lawyers to populate the already overburdened justice system.

Under the new law, it appears that lawyers with international experience (as opposed to those who have returned to Timor-Leste following a degree obtained elsewhere) will have an easier time being registered. The law allows legal professionals from a civil law system (such as Portugal), who have practiced for five years, to apply for registration outside of the JTC process. They must speak one of Timor-Leste's official languages, and be able to demonstrate to the courts an understanding of Timorese legal context.

Whilst there is certainly a need to recognise international experience, to do so in such a way as offers a disproportionate procedural advantage over local practitioners may lead to an imbalance in the profession, and the legal system at large.

Much as the need to fully populate the justice system with Timorese nationals in a variety of legal posts, the manner of selection and appointment merits some further consideration. JSMP understands that students at the JTC are streamed, largely by academic performance, into cadres of future judges, prosecutors and public defenders (in decreasing order of precedence).

Unlike other jurisdictions, where judges (and other public legal officers) are chosen from the ranks of high-achieving, respected and experienced practitioners, judges proceed to the bench immediately upon completing their training. Even accounting for a trainee, or probationary period, it is questionable whether this approach best supports Timorese nationals in judicial decision-making.

Also of concern is the hierarchical nature of the training regime. There is no doubt that Timor-Leste needs a capable and mentally adroit judiciary. A functioning justice system must, however, also comprise skilful prosecutors and defenders, who provide strength and acuity to these arms of the courts system. In prioritising certain offices over others, the JTC not only imperils the stability of the system, but also entrenches counterproductive views as to the relative worth of professional roles. A method that institutionally lauds prosecutors over defenders and risks offering a lesser standard of representation to the accused is surely not measuring up to fair hearing obligations. It is, of course, still unclear where private lawyers may fit into such a legal caste system.

Practical Obstacles

As well as obtaining appropriate education and training credentials, lawyers in Timor may face a range of less overt pressures under the system described by this statute. In a legal sector already troubled by an undersupply of personnel, and which is roundly criticised for alienating the public and disputing parties alike, care must be taken to ensure that the process of engaging with justice institutions, and of seeking a formal resolution to a legal complaint, is as straightforward and inclusive as can reasonably be managed.

The statute appears to place considerable restrictions on professional communications by lawyers, whether for commercial gain or otherwise. It is, JSMP agrees, understandable that interdictions be made against attempts to sway public support in respect of a legal case, and against insensitive or misleading appeals for business. It must be remembered, though, that there exist few channels by which the public may inform themselves about legal developments.

Civil society shoulders a heavy burden in disseminating news of reform, and raising awareness of justice institutions. Despite extensive support from multilateral donors, and the facilitation of departmental officials, occasional seminars explaining the mechanism for lodging a complaint with the court are not a complete substitute for a comprehensive channel of government information that allows the citizenry to engage fully with a largely unknown legal system that nonetheless sanction their actions. As such, care must be taken in the application of this statute, as in other policy, not to cut off means by which lawyers may assist in this campaign of public education.

Engaging with the formal justice sector can be a confronting experience, even for those well versed in its processes and traditions. Parties already face linguistic and cultural impediments to fully engaging with a process that can seem aloof, even alien. The use of professional attire such as robes, whilst clearly useful in identifying legal professionals, may arguably do more for the prestige of the profession than it does in facilitating legal process. Surely tradition must, in such an instance, bow to simplicity.

With so many reasons for choosing another, often less salutary, recourse to disputes, care ought to be taken by the CLMD (responsible for setting standards of professional attire under this law) not to add to perceptions of the courts as unapproachable and cloaked in needless idiosyncrasy. Robes would also represent an additional expense for new lawyers, many of whom have likely sacrificed much to pursue a legal career.

The law establishes a traineeship system, under which registered lawyers will, for nine months after completing their JTC studies, only be able to practice the full range of courtroom advocacy under the supervision of a more senior lawyer. It is unclear from the statute, and from the current practice of the JTC, how such relationships are to be formed between junior and senior practitioners. Mentorship would be beneficial for the growth and consolidation of the profession, but caution must be employed in ensuring this anticipated grouping of interests does not result in cartelisation.

Social Justice

Most jurisdictions have generally been reticent to ascribe an activist function to legal professionals, this private lawyers statute takes the unusual step of establishing just such a duty at law. In delineating the role of lawyers in Timor-Leste, the law clearly indicates a mandate to work toward improvement of the legal system, and to protest human rights violations and other miscarriages of justice.

This is an encouraging step in an emerging democracy where human rights have all too often been trampled, and where the courts – and indeed the parliament, in its dealings with matters of justice – have not always been exemplars of best practice. Establishing an educated and critical professional corps with a legislative obligation to cooperate toward the betterment of the system is a powerful gesture.

Other legal systems have been reticent to grant such an imprimatur, understanding that it comes with a degree of political weight and influence. Similarly, attempts to target legal professionals in aid interventions have historically been troubled by allegations of bias and partisanship. Though lawyers, by dint of their education and social standing, may have an established platform and be able to mobilise networks of support, their collective impact on public discourse is difficult to calculate.

Evidence from comparable post-conflict states suggests that identifying the legal community as a political bloc can produce negative effects on two fronts. Increased access to power and privilege can diminish the motivation to press unpopular or marginalised causes. When lawyers do hold to more egalitarian principles, speaking up on contentious issues can lead to unwanted pressure and even violent intercession.

For these reasons, among others, various justice sector initiatives have sought to work around the legal profession. Training programs for paralegals and other points of legal reference within the community are laudable efforts in their own right. Such stopgap measures, however, do not offer a substitute for legal representation, but should rather operate in concert, assisting citizens to raise issues of concern. This statute confirms a central role for lawyers not only in the courtroom, but also in wider society. Difficult though it may be to do so, lawyers must be supported – by donors, government and civil society – not by dictating to them the supposed will of the people but instead by enabling them to ascertain public needs for themselves, and to speak out accordingly.

Language barriers

The use of Portuguese as the principal working language of the courts has, from the adoption of the language directive in February 2004, created difficulties in training, logistics and accountability. In a country where, according to a nation-wide survey, only seven per cent of the population is fluent in Portuguese, this is a significant hurdle in generating understanding of, and confidence in, the formal justice system.

This is true for lawyers as much as it is for the general public. Many of the Indonesian trained lawyers returning in hopes of establishing a practice here have been hindered by their lack of Portuguese, though this is, of course, only one of Timor-Leste's two official languages. Court use of Tetum, as the other, is still limited. Innovations such as the provision, at the Baucau district court, of judgement summaries and other such official documentation in Tetum suggest this may be changing, albeit quite slowly.

Though there is evidence that courtroom protocol is catching up to the demographics of Timorese language, the seemingly glacial pace of such progress makes for a poor match with legal education. Across all four active law faculties in Timor-Leste, Bahasa Indonesia is overwhelmingly the main language of university instruction.

Given that the major statutes used in both Timorese criminal and civil proceedings derive from the Indonesian system, this use of Indonesian language is perhaps understandable. In fact, only UNTL consistently teaches in Portuguese, a factor that may have influenced its recent accreditation, alone among law programs.

This statute indicates throughout that registration as a lawyer is conditional on the ability to speak and write in one only of the country's official languages. This is somewhat misleading, since official practice appears to heavily favour fluency in Portuguese. Since this law so closely follows the status quo in other matters, it is surprising, on one level, to find a lesser degree of clarity in relation to language use.

JSMP has learned that with so few places available at the JTC, candidates sitting entrance exams or interviews are being told that although responses can technically be given in Tetum, to do so would considerably reduce the likelihood of selection for the course. Though this may reflect the realities of instruction at JTC, such discrimination may conceivably be argued as counter to the dictates of the private lawyers statute. To procedurally deny access to Tetum speakers would seem to apply the law arbitrarily.

This bias is felt in other ways across the justice sector. Legislation is drafted primarily in Portuguese, with many parliamentarians pleading an ignorance of legal content that belies their linguistic heritage. Whilst this alone represents a significant blow to a functioning democracy, the passage of these laws, and their dissemination (however abbreviated) in a form that is demonstrably unreadable by the majority of those who are required to enforce, interpret, argue and abide by them, is plainly unsound.

Whilst the statute now in question pretends a formal equality between Timor-Leste's two state languages, this is simply not borne out by official practice. JSMP contends that the continuation of this de facto policy is to the abject detriment of justice.

Conclusion

The private lawyers statute embodies a vital recognition of the role of legal professionals in the post-conflict reconstruction of Timor-Leste. By contributing to the rule of law, and by dutifully performing as champions of social equality, lawyers will continue to serve the interests of their nation and fellow citizens. Already, many Timorese are keen to make a contribution (and a livelihood) in this way. If they are to be facilitated in doing so, then expansion of the JTC program must follow swiftly.

In support of this important work, the government, and donor organizations alike, may usefully consider opportunities to add to the depth of legal knowledge. Postgraduate exchange programs have lately been proposed that would expose budding legal practitioners to other systems, and provide cross-jurisdictional skills in legal analysis, statutory interpretation, case management and court protocol. This approach could certainly bolster, if not supplant, the JTC preparatory courses.

The question of career-long progress will undoubtedly become an issue for Timorese lawyers as the current legislative regime is consolidated. With judicial appointments and public interest positions determined straight out of training, there is seemingly scarce opportunity for practitioners to rise through the ranks, nor impetus to develop their understanding. It may be that future reforms will allow for specialisation in subject areas, and for formal recognition of experience and expertise.

This law implies, at least, a cooperative arrangement between trainee, and more senior, lawyers. Other jurisdictions have sought to formalise this necessary interrelation by mandating a period of effective apprenticeship that adds practical training to the theoretical foundation laid by university courses. Importantly, it also provides a mentor to whom the trainee may direct questions and through whom professional networks may be strengthened and innovations to practice tested.

More broadly, the statute directs a uniformity of practice and conduct that appears to assume the place of professional associations. Though such a body (or bodies) is mentioned, almost casually, as a later addition to the legal landscape, legislators and judicial administrators would do well not to undervalue the existing representative organization, the AATL. Providing a public face for the profession and speaking out on a range of justice sector issues, the AATL seems well geared to satisfying the collective duties of lawyers in Timor-Leste. Further support could also provide an avenue for dissemination of resources and delivery of continuing legal education.

Ideally, lawyers will help make the courts more accessible, comprehensible places. This outcome will not be served by slavish adoption of professional custom and tradition, whether by dress or mode of speech. Between language barriers and differences of social standing, there exist enough impediments to the free exercise of legal rights. It is to be hoped that the legal profession will take into account their wider social role – so well enunciated in this statute – when making such decisions, and so play well their newly-appointed role in the development of Timor-Leste.