



*Presidente da República*

**SPEECH BY HIS EXCELLENCY THE PRESIDENT OF THE REPUBLIC  
FRANCISCO GUTERRES LÚ OLO**

**AT THE CEREMONY TO COMMEMORATE THE 20TH ANNIVERSARY  
OF THE PUBLIC PROSECUTION SERVICE, THE OPENING OF THE  
LEGAL YEAR, AND THE RELEASE OF THE BOOK:**

**'THE PUBLIC PROSECUTION SERVICE AND THE PROTECTION OF  
FAMILIES AND MINORS IN THE TIMORESE CONTEXT – THE  
CONSTRUCTION OF AN INTEGRATED MODEL OF INTERVENTION'**

Mr President of the National Parliament  
Mr Prime Minister  
Mr President of the Court of Appeal  
Former holders of sovereign public offices  
Members of Parliament  
Members of the Government  
Mr Prosecutor-General  
Former Prosecutor-General  
Members of the Diplomatic Corps  
Ladies and gentlemen

It was with great pleasure that I accepted the Prosecutor-General's invitation to speak at this ceremony to commemorate the 20th anniversary of the establishment of the Public Prosecution Service and the opening of its legal year, as well as to release a book authored by the Office of the Prosecutor-General, titled 'The Public Prosecution Service and the Protection of Families and Minors in the Timorese Context: The Construction of an Integrated Model of Intervention'.

This is a good opportunity to be among those who are involved in the judiciary, namely judges and prosecutors, public defenders and lawyers, so that we can share experiences and opinions regarding the most important events and issues of today.

Eighteen or twenty years in the life of a person may correspond to the entirety of their youth, but that same period of time in the life of an institution may mean that they are still in their infancy. This is the case of the courts and of the Public Prosecution Service, whose construction process is still in progress, with an ongoing need to complete, consolidate, extend, and even reform it where necessary.

But the most important thing in the lives of both people and institutions, regardless of how long they have existed, is the quality of their performance and the significance of their results, i.e., their achievements.

Especially when it comes to public institutions, such as the courts and the Public Prosecution Service, what is essential is the impact of their jurisdictional decisions and actions regarding citizens as a contribution to the implementation of the law, the establishment of democratic institutions, and the improved access of citizens to law and justice, within the framework of the Constitution of



the Republic and the law. In essence, the most important thing is that which can be highlighted as a positive achievement.

It feels as if many years have passed since the establishment of the Transitional Judicial Service Commission, under the United Nations Transitional Administration, to provide consultation and advice to the Transitional Administrator, who was empowered to exercise all political, legislative and executive authority, including the administration of justice.

It was responsible for deciding on the selection, appointment, and career progression of judges and prosecutors. The creation of that commission was followed, in 2000, by the establishment of the Court of Appeal and of the district courts, as well as the Prosecutor's Office and the Legal Aid Service, through the relevant UNTAET regulations.

Twenty years have passed since the establishment of the bodies that now correspond to the Court of Appeal, the district courts, and the Public Prosecution Service.

We understand that the effects of the definition of this *minimum legal framework* on the organisation and functioning of the Court of Appeal, the district courts, and the Public Prosecution Service – as well as the Public Defender Service and the Legal Aid Service – persist to this day. In fact, this legal framework remains partially in force, to the extent that it has not been revoked by subsequent statutory rules approved by the National Parliament and by the Government, regarding the bodies and institutions of our justice system.

Following the restoration of independence, there was a normative and institutional reconfiguration of the judiciary that was still under construction, while ensuring, at the same time, the institutional and operational continuity of the bodies and services necessary for conflict resolution and social control.

These changes resulted from the need for growth and adaptation of the judiciary to the rules of the Constitution of the Republic applicable to it, and to the new functional requirements of the democratic rule of law. Changes were made also to meet the demand by Timorese citizens and communities for means of conflict resolution and redress which are the responsibility of the judiciary and its magistrates.

We must bear in mind that the courts and the Public Prosecution Service, as well as the other institutions of the judiciary, have only acquired the status and true dimension of pillars of a democratic, independent and impartial judiciary based on the rule of law and legal norms, when they were established as essential components of the democratic, sovereign, independent and unitary



State of Timor-Leste, whose foundations lie on the will of the people and on the dignity of the human person.

These constitutional attributes must be pursued from the moment the restoration of national independence was declared, on 20 May 2002 – the date that marked the entry into force of our Constitution of the Republic.

These attributes, defined in article 1 of the Constitution of the Republic, are the bases from which the principles of popular sovereignty and the dignity of the human person derive. Their postulates are the citizens' access to law and justice and the citizens' political participation in the democratic legitimisation of the bodies of sovereignty.

It is this democratic legitimisation, based on universal, free, direct, secret, personal, and periodic suffrage, that justifies the participation of the President of the Republic, the National Parliament, and the Government in the appointment of senior members of the judiciary and the Public Prosecution Service, namely with regard to the Court of Appeal and the Office of the Prosecutor-General, as well as their respective supreme councils, which are provided for in the Constitution.

Nevertheless, the exercise of these constitutional powers must be limited to their terms and scope, in the sense with which they were constitutionally defined, which means strict respect for the separation of powers between, on one side, the legislative and the executive, and, on the other, the judiciary.

A detailed and comprehensive law on the organisation of the judiciary would certainly contribute to the exercise of the constitutional mandates and powers provided for the judiciary, with greater legal certainty. We hope that such a law will take into account the experience gained and the current reality, as well as realistically envisage the evolution of the judiciary in the medium and long term. It is our expectation that the National Parliament and the Government will ensure that a law of this nature is passed in the shortest period of time possible, as we have long been looking forward to its entry into force.

In this regard, it is essential to maintain and reinforce strict respect for the independence of the courts and judges in the exercise of their jurisdictional functions. It is incumbent on them and on them alone to judge, subject only to the Constitution of the Republic, to the laws, and to their own conscience.

It is also essential to continue to develop the Public Prosecution Service as a hierarchically organised judiciary under the Prosecutor-General. In the Public Prosecution Service, its prosecutors must act in accordance with criteria of



legality, objectivity, impartiality, and compliance with the norms contained in the legal instruments provided by law.

Therefore, prosecutors in particular – and those involved in the judiciary in general – should not be subject to or accept any pressure or interference in their jurisdictional functions, be they political, social, familial, cultural, or religious.

In keeping with the constitutional model defined for it, the Public Prosecution Service has continuously and persistently carried out its statutory duties, both in the implementation of the State's criminal policy, criminal investigation, prosecution, and representation and defence of the State, and in ensuring the defence of the incapacitated, minors, and families and the protection of diffuse rights – namely within the scope of environmental and community protection – arising from the Statute of the Public Prosecution Service, defined by Law no. 11/2011 of 28 September, which amends Law no. 14/2005 of 16 September.

We know that much has been done by the Public Prosecution Service to effectively fulfil its duties. We know how much the Public Prosecution Service has already accomplished since its establishment to reach the human resources capacity it has today, to which the collaboration with the Legal and Judicial Training Centre in the training of prosecutors and prosecution officials has been key. We know of the continued action of the Public Prosecution Service to prepare in terms of equipment, property and technical resources, as well as setting up its own management and information systems.

The planning and implementation of actions, year after year, as well as their periodic assessment and firm and consistent leadership, have enabled the Public Prosecution Service to improve its performance and achieve a significant reduction in the number of cases pending.

These achievements are certainly reason to be pleased. They are also a reason to be confident in the Public Prosecution Service's ability to develop institutionally and to do better to overcome present and future challenges, which are multiple and complex in nature.

Institutions, leaders, members of the judiciary, members of civil society, development partners, and citizens in general have contributed to these achievements. The successful execution of the Public Prosecution Service's mandate is, no doubt, also a result of the contribution made by all prosecutors-general that have been appointed thus far: Dr Longuinhas Monteiro, the country's first prosecutor-general; his successor Dr Ana Pessoa who ensured institutional strength as well as the management and property resources needed for the proper performance of the duties that are the purview of the



Public Prosecution Service; and Dr José da Costa Ximenes, the current Prosecutor-General who, over the course of his first and second terms in office, has provided a level of leadership worthy of the development of the Public Prosecution Service, and has been meeting, under challenging conditions, the needs of carrying out his multiple roles – both in the area of criminal law and in the articulation with other institutions.

The deputy prosecutors-general have also been contributing in a committed manner to the results of the institution and, together with the prosecutors-general form the leadership core of the Public Prosecution Service.

I believe, nevertheless, knowing that we are only in the first twenty years of the institution, that the challenges remain and are becoming increasingly more complex.

Further strengthening the specialisation of judiciary functions and services is crucial if we are to successfully tackle the challenges of fighting corruption and organised crime. The legal and institutional framework in these areas is already favourable and conducive to an effective fight to prevent and combat this type of crime on a permanent basis.

It is important to increase and deepen the specialised criminal investigation capacity, as well as strengthen its articulation with and steering under the Prosecutor-General, taking due account of the constitutional mandate of the Public Prosecution Service.

Consistency in terms of criteria of legality and criminal investigation policy implies the guidance of the Public Prosecution Service regarding criminal investigation activity and cooperation between it and the specialised institutions, such as the Anti-Corruption Commission and Forensic and Criminal Investigation Police. In these areas, it is also key to continue ensuring proper international cooperation.

On the part of the National Parliament and the Government, it is important that they continue to update and improve national legislation in the areas of the fight against corruption and organised and transnational crime, in line with international conventions to which the State of Timor-Leste is signatory.

The defence of the State's interests in the civil, administrative, fiscal, and audit areas is also a specialised field that represents a priority challenge for the Public Prosecution Service. For example, the credibility of the State and the judiciary before the citizens and any significant improvement of the performance of public institutions require that the audit reports produced by the Chamber of Auditors result in appropriate legal consequences.



The integrity of the management and conduct of public administrators, officials, and other civil servants depends very much on the legal effectiveness of these reports.

From among the challenges facing the Public Prosecution Service, I would like to highlight today those in the field of child and family curatorship. This is an area of activity of the Public Prosecution Service that reveals its capacity and vocation to act dynamically, to meet citizens, and to practice a brand of justice that is closer to citizens.

I am pleased to point out that the Public Prosecution Service has been carrying out its function of protecting families and minors, alongside and in collaboration with other institutions, especially within the judiciary, such as the courts. But not only that; the Public Prosecution Service has been carrying out the State policy in this area with the understanding that the participation of citizens, civil society, and the state as a whole is essential, because the protection of families and minors is the responsibility of each and every one of us – citizens and institutions of the state and society at large.

From among the institutions of society, we must naturally highlight family, which is a social reality characterised as '*society's basic unit and a condition for the harmonious development of the individual*', as recognised and defined in article 39(1) of our Constitution of the Republic. The *family* or families as institutions of society have, on this basis, the constitutional right and guarantee of protection by our State.

It is as a consequence of this guarantee of protection that the Constitution of the Republic specifically assigns to the Public Prosecution Service '*the defence of minors and the incapacitated*'. This responsibility and the practice of its implementation make the Public Prosecution Service a *body of protection* of these social groups, which are among those most in need of specific protection by the State.

The Public Prosecution Service's basic institutional mission consists in articulating resources and institutions that favour positive impacts on the protection of minors and families, thus contributing towards turning our society into a society free of domestic violence, where families live in peace and social well-being, where every child is happy, and where there is gender equality.

As a key point of contact in accessing justice, the Public Prosecution Service has been gaining a particular sensibility arising from its special mission of protecting families and minors in a social context characterised by high rates of domestic violence and the need for greater protection for its victims.



Within this context, the safety of victims – especially children who have been raped – against the threats, presence, and harmful actions of the rapists must be an overriding priority of the PNTL, including the Community Police.

Community leaders, the support network for the prevention and fight against domestic violence, and citizens in general also have a duty to help ensure the safety of victims.

The Public Prosecution Service and the courts, especially during the trial stage, must also ensure the continuous and unconditional protection of victims.

The safety of victims – against rapists and those acting on their behalf – must be effective, so that, even if those victims are minors or children, they feel empowered to bring charges against whoever the rapist might be.

The improvement of citizens' access to the courts and to justice is certainly a major challenge facing the Public Prosecution Service and its central body, the Office of the Prosecutor-General. The exercise of curatorship of minors and families and the integrated protection of their rights, including the development of family mediation, is a necessary and key component of this challenge.

But the constitutional protection of minors and the legally incapacitated individuals is based on the family itself. It is the family that sustains or gives continuity to the policy and actions of the State of protecting the family and, through it, its members. In our social conditions, the family as a social institution acts as a support to its members who are most vulnerable, such as children and women.

In our context, the support of the State's protective mission, through the protective curatorship of the Public Prosecution Service over minors and vulnerable family members, implies the active participation of the family and its supportive action with regard to its vulnerable members.

We should be aware that the actions of the Public Prosecution Service, the courts, and other institutions of the State – even if integrated, articulated, broad-based and reinforced in terms of means and resources – will not be enough, on their own, to solve the problems and sustainably overcome the critical social challenges facing families today.

It is therefore indispensable that families themselves assume that the resolution of the problems and the overcoming of the challenges they face must start from within each family.



It is by taking the family as a starting point and by working closely with non-government organisations and the State, that society can transform itself for a better future.

The National Parliament and the Government should be sensitive to the already widely expressed views that the legislation must provide better protection for victims and witnesses in cases of domestic violence. We know that women and children are the main victims of these crimes.

Preventing and combating this type of crime requires a more developed national legal framework in terms of children's rights.

First of all, it is imperative that the National Parliament and the Government continue to pursue actions to materialize the commitments we made in 2003 by ratifying the United Nations Convention on the Rights of the Child.

I will say once again that the ongoing experience of protecting children and families is a remarkable example due to the positive impact it has had on the recognition of the family as *'the basic cell of society and necessary condition for the harmonious development of the person'* – whose extension is found in today's children.

But the transformation of today's society into a better tomorrow for children and families implies so much more. It implies that all of us, citizens of Timor-Leste, integrate the fundamental principles of the Constitution of the Republic and the Civil Code into our daily lives.

To effect this transformation, let us all do our best to promote and accept the consensual nature of marriage, the full equality of the spouses, the protection of maternity and paternity, the non-discrimination between children born in or out of wedlock, and a parental power that guarantees the security of family members as well as their health and the sustenance and education of under-age children.

The protection of children and respect for women are real challenges and criteria for the transformation and development of Timorese society.

For this transformation to take place, it is also necessary for the Public Prosecution Service to pursue and strengthen the exercise of its core function of protecting minors and families, provided for in article 132(1) of the Constitution of the Republic, through the continuous training of its officers and the strengthening of the network of institutions that contribute to that objective.



The Public Prosecution Service has been significantly improving the justice of the protection of minors and families in Timor-Leste, which deserves the highest praise from us all as Timorese citizens.

This praise also extends to the courts and other institutions within the judiciary and society at large which have been contributing to the same outcome, and to all development partners who have been cooperating with national institutions to achieve better results.

We are confident and encourage the Public Prosecution Service, its prosecutors and prosecution officials, as well as all prosecutors and members of the judiciary and the network of institutions working for the protection of minors and families, to continue the worthy work in which they are involved. This commitment of yours is for the sake of a society of peace and well-being, free from stigma, social inequality, discrimination, violence against women and children, and indeed free from any criminal form of violence.

The Public Prosecution Service and the courts will always have the necessary support from the President of the Republic for their strengthening and institutional development, so that they may fulfil their respective constitutional mandates.

It is in this context that I am participating in the launch of the book announced by the Public Prosecution Service – in defence of minors and the legally incapacitated individuals.

To conclude, I would like to congratulate all who are involved in the judiciary for the opening of another legal year, in the hopes that, in the future, there may be a common year for all institutions in the Timorese legal system.

To all judiciary institutions and officers, I wish on this occasion that this legal year that now begins is full of positive achievements in the fulfilment of the mandates which each one of you is charged with by law and by the Constitution of the Republic.

Thank you very much!