



JUDICIAL SYSTEM MONITORING PROGRAMME

PROGRAMA MONITORIZASAUN SISTEMA JUDISIAL

Press Release

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Celebration of JSMP's 11th Anniversary

The justice sector continues to face challenges: JSMP encourages all components of society to fully contribute and to have good will

As usual on the 28th April of each year JSMP celebrates its anniversary. This year JSMP will celebrate early because the 28th April falls on a Saturday.

Since JSMP was established in 2001, JSMP has done its best to ensure that all judicial institutions function effectively and continue to maintain their performance, productivity and quality in accordance with international standards regarding the principles of fair, transparent and accessible justice.

The Executive Director of JSMP, Luis de Oliveira Sampaio, stated that *“for the eleven years that the JSMP has had a presence in the justice sector, JSMP has continuously noted that the justice sector faces a variety of challenges. JSMP is aware that although it has been eleven years since the restoration of independence in 2002, this doesn't mean that all the problems faced in this sector have been resolved. Rather, JSMP believes that strong and sustainable investment in this sector will have multiple implications for other sectors in the framework of national development”*.

JSMP acknowledges that nowadays Timor-Leste has a relatively comprehensive legal framework to guarantee and protect the rights of citizens in a democratic state. The legal framework comprises the Constitution of Timor-Leste, various international laws that have been ratified and other positive legal products such as: the Penal Code, the Criminal Procedure Code, the Civil Code, the Civil Procedure Code, the Law on Witness Protection, the Law Against Domestic Violence and other organic laws that have been enacted since the Indonesian period, as well as UNTAET regulations that were applicable during the transitional period.

However, in practice many citizens still face a variety of challenges. These challenges exist because of the fact that the institutions are still very young, but also a number of other challenges have been caused by human factors. For example, the justice sector continues to have limited human resources, limited means of communication, problems with language and interpreters, problems regarding access to documents relating to cases, conflicts in the interpretation of provisions in existing laws and problems with transparency in the Court of Appeal (trials are often closed to the public).

In addition, JSMP has noted that until now the Law on Witness Protection has not been effectively applied in all of the courts. Also there is a problem regarding the urgent need of a policy regarding training for private

lawyers in comparison with the reality in remote areas, difficulties in establishing panels in cases that must be heard by a panel of judges (both civil and criminal cases) and practical obstacles such as transport, trial schedules that are not effective and consistent, problems with communication and coordination between relevant institutions, as well as other challenges.

Although JSMP also notes that there are indications of progress and change in certain aspects at the legislative policy level, often the public remain concerned and dissatisfied with decisions issued by the courts. These complaints are often directed at the trial process and the lack of transparency in the way cases are resolved because they do not allow for public participation or the specific involvement of the parties to a matter. In addition, JSMP has observed that the law is often not applied in proportion to the seriousness of a case, especially in cases involving gender based violence.

JSMP has observed several concrete examples that relate to judicial practices, and JSMP often notes that citizens are concerned and dissatisfied with the decisions issued by the courts. There are specific concerns about the resolution of land disputes. Community members have expressed their concerns to JSMP that the trial process at the Court of Appeal often does not involve the parties who have rights and direct interest in a matter. They have also complained that they are given a decision by the Court of Appeal that tells them that they have to immediately vacate a house or a place that they have been living in.

In addition, community members have expressed other concerns to JSMP relating to land issues, because they are very worried about the performance of lawyers representing their interests at all levels of the trial process, because unfortunately there is no efficient communication between the clients and their lawyers. The lawyers rarely organize communication, consultation and updated information about developments and challenges in the cases that they are handling or provide information about the process to the parties involved.

What is interesting from all of this is that in several cases JSMP has found that the lawyers who are handling a case or representing them come from the same institution, such as lawyers from the Office of the Public Defender. This means that the lawyers representing the 'plaintiff and the respondent' in a land dispute come from the same institution.

Although JSMP doesn't question or doubt the technical and professional legal skills of the lawyers, in situations like this, JSMP is not certain and not comfortable with the potential for a 'conflict of interest' in cases involving two lawyers from the same institution. If situations like this continue JSMP believes that the public or the parties have a reason to doubt the process and the final conclusion of that process, even if that process was conducted in accordance with standard procedures.

In addition, JSMP continues to be concerned with cases of gender based violence, specifically cases of domestic violence, as all of the courts continue to apply suspended sentences that are in conflict with the special character of these crimes and the existence of the Law Against Domestic Violence which states that domestic violence is a 'public crime' in the framework of the Timor-Leste criminal justice system. Nevertheless, JSMP respects and praises all components of the State, in their individual or collective capacity, who have contributed towards and dedicated themselves to the entire process of establishing and upholding the justice system. JSMP is certain that a strong and credible justice system will guarantee and produce a democratic society and ensure that all people have the same rights and responsibilities to ensure justice for all.

JSMP believes that this will happen if everyone participates or is involved in this process. JSMP is sure that through their involvement, each component will have its own impact on the justice sector.

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