



JUDICIAL SYSTEM MONITORING PROGRAMME PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

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Timor-Leste's Legal System still at the crossroads

JSMP understands very well that the justice sector is an influential factor in the development of a nation. Therefore, JSMP urges all parties to respect the authority of legal institutions and pay due respect to their sovereignty and competency. This includes granting these institutions the proper space to carry out their mandate in accordance with the Constitution and other laws that guarantee justice for all.

Throughout 2010 JSMP observed various efforts and hard work to build a robust legal system that is accessible to all. JSMP acknowledges positive developments/achievements in several areas. Nevertheless, JSMP also observed certain political acts or practices which have the potential to undermine collective efforts to uphold a credible legal system that accommodates the needs of all parties.

These achievements/developments include:

1. Human Resources:

- a. Currently there are 14 judges and 4 trainee judges, therefore a total of 18 judges.
- b. 13 public prosecutors and 4 trainees, therefore a total of 17 prosecutors.
- c. 11 public defenders and 5 trainees, therefore a total of 16 public defenders.

The combined total of judicial actors is 51.

- d. Currently there are 16 private lawyers studying at the Judicial Training Centre – 15 men and one woman.
- e. There are 39 participants in the second round of training for private lawyers to prepare them for judicial training – 18 women and 21 men.

2. Legislative issues

- a. The Law Against Domestic Violence was enacted and promulgated in June 2010 (although this law needs a national policy and work plan to facilitate its application)
- b. The Draft Civil Code is still with Committee A of the National Parliament
- c. The Draft Law on Legal Aid is still being drafted by the Ministry of Justice

3. Infrastructure and Communications

- a. JSMP observed that housing/permanent accommodation has been built for judicial actors in all jurisdictions, namely Baucau, Suai and Oecusse. Last week there was an inauguration and handover ceremony relating to accommodation for public defenders
- b. IT (Information Technology) systems are being set up in the courts and the public prosecution service
- c. A case management system is being designed for the Office of the Prosecutor General
- d. District Prosecution Units are being established in all jurisdictions

Aside from these developments, JSMP is still concerned with ongoing political practices and behavior that JSMP believes to be in opposition to collective efforts and national plans to develop the legal system. These political practices do not reflect the political will to uphold principles of the rule of law, separation of power, equality before the law, and the integrity and independence of judicial institutions.

Practices that we consider to be a challenge to the justice sector include:

1. The exercise of Presidential Authority in regards to the excessive granting of pardons;
2. Interference in specific cases being dealt with by the judicial sector;
3. Language issues (at the district level), as no interpreters are available for regional languages such as Fataluko, Baiquino, Bunaq etc.
4. Draft laws that are only available in Portuguese, and have not been translated into other official law Tetum, which would encourage greater participation and transparency in dealing with issues affecting the state and the private life of citizens (a clear example is the Draft Civil Code).
5. JSMP notes that accommodation/permanent housing has been provided for judicial actors, however actors who have been sent to respective jurisdictions are unable to reside in the aforementioned accommodation because the facilities are inadequate;

In light of the aforementioned facts, JSMP can draw the hypothesis conclusion that as 2010 comes to a close the legal system in Timor-Leste still remains at the crossroads.

Despite the challenges in front of us we still believe that our collective efforts to build and develop will enable us to overcome these challenges and put justice in its proper place.

JSMP remains committed and appeals to all parties to continue to work together to uphold the legal system as an investment towards peace, justice, good governance and at the same time an investment for a better Timor-Leste in the future.

JSMP hopes that 2011 will launch a new decade where Timor-Leste will demonstrate the authority and inviolability of the law, the establishment of peace, respect for principles of the rule of law, separation of powers and the independence of judicial institutions.

Through this opportunity JSMP wishes to express our highest gratitude and respect to donor agencies who have been providing support for JSMP programs. These donor agencies include: USAID, The Asia Foundation, the Government of Australia through

AusAID, the Justice Facility, NOREM (Norwegian Embassy in Jakarta), Misereor, UNFPA and UNIFEM.

JSMP wishes to state that in 2011 JSMP needs the collective support of donor agencies to continue investing in the justice sector of Timor-Leste, which will enable JSMP to continue its role of providing support to vulnerable groups and individuals in the justice sector and to continue challenging judicial actors to fulfill their mandate and institutional responsibilities to guarantee justice for all.

“Supporting JSMP means supporting justice programs for everyone”.

For further information please contact:

Luis de Oliveira Sampaio

Executive Director of JSMP

Email: Luis@jsmp.minihub.org

Landline: 3323883