



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRI

Press Conference
8 November 2013

**The work load of judicial actors and the demands of the public
do not correspond with their efforts and dedication:**

**Human resources, facilities, transport, safety and welfare are still
concerns for judicial actors**

In July-September 2013 JSMP conducted research to review the existing resources and capacity of each legal institution to examine how to improve their institutional responsibility and services in order to provide and guarantee justice for the people of Timor-Leste.

This research was carried out to ascertain the existing resources and challenges that the courts, the Public Prosecution Service and the Office of the Public Defender face, which impact on their capacity and the quality of services these institutions deliver.

This survey was carried out in the form of interviews with judges, prosecutors, public defenders and court clerks.

This initiative came about as the result of JSMP court monitoring and informal conversations between JSMP staff and judicial actors, whereby JSMP heard their complaints and became aware of the concerns of judges, public prosecutors, public defenders and court clerks.

JSMP also became concerned after observing that the work load and public demands placed on judicial actors are not proportional, and for this reason JSMP organized this study to make recommendations on its findings so that the relevant institutions could pursue efforts to find solutions.

Often the general public demand for these institutions to be productive without knowing or wanting to know about their capacity, resources, facilities, tools for communication and working conditions, and they are not aware of the limitations, challenges and difficulties that these institutions encounter.

During preliminary discussions the findings of the research were compiled, analyzed and then developed into thematic reports to provide a more comprehensive perspective for the public.

In each of the annual reports published by JSMP that provide a review of the justice sector, JSMP has found that these issues have not been adequately responded to by the competent institutions.

Therefore, recalling that the National Parliament has started to debate the 2014 State Budget, we organized this press conference to request and remind the National Parliament to consider the aforementioned problems in the draft State Budget for 2014.

The following challenges were identified by JSMP during interviews with judicial actors:

- **Work load**

JSMP has once again noted that the issue of human resources is still a problem for all of the courts. This situation has implications on the quality of work produced and also the cases being processed will continue to stack up.

For example, each judge deals with 70 cases per year and public prosecutors and public defenders handle more than 100 cases per year. According to figures recently provided by the Prosecutor-General in his report to the President, currently there are 4,317 cases being processed (pending).

This has further implications because there is no time for judicial actors to read other references, or to conduct research in complex cases. The charges and defense prepared by each party are very brief because they don't have enough time to speak with their clients and only meet with their clients when they are at court.

- **Issue of transport**

Transport is really important to facilitate the work of judicial actors as well as to increase their productivity and safety. However, this problem has not been resolved to date.

The judges have only had Kijang-Inova vehicles available for approximately 7 years, and the condition of these vehicles does not benefit their work. For years they have had to perform their work in the districts, covering long distances to conduct mobile courts, and the issue of transport has been very problematic.

This is very unfair when comparing the conditions enjoyed by members of the government and the National Parliament who have their vehicles replaced at the start of each period and directors from a number of ministries have their vehicles replaced every year, with vehicles of a much higher quality than those provided to judicial actors.

What is even worse, several public defenders don't even have transport and can only have access to motorcycles or have to use their own motorcycle. In addition several public defenders and court clerks don't have computers and there is no ongoing maintenance of adequate quality.

These circumstances are risky for the public defenders because after providing legal assistance and returning home by motorcycle there is the possibility that someone could ambush them in the street and endanger their life.

- **Issue of safety**

1. Article 118.1 of the Constitution states that courts are organs of sovereignty with competencies to administer justice in the name of the people. Also Article 132 of the Constitution, that deals with the role of the Public Prosecution Service, states that Public Prosecutors have the responsibility for representing the State, prosecuting, ensuring the defence of the underaged, absentees and the disabled, defending the democratic legality, and promoting the enforcement of the law. However, in practice the judges function as guarantors of justice and the public prosecutors who represent the State are not treated properly. This is very risky for their security and their lives.
2. JSMP notes that none of the jurisdictions have CCTV facilities to control the safety of the courts and the Public Prosecution Service, especially relating to the safety of judges and prosecutors during proceedings and the protection of important documents against theft or sabotage that relate to ongoing cases.
3. JSMP also notes that judges and public prosecutors have to queue up at public banks to receive their salary, and this is very dangerous for their safety and their security.
4. In addition, court clerks who execute court decisions face threats to their safety and security because there is no proper coordination and protection for them to perform their duties in the field.

- **Issue of remuneration**

1. The courts are organs of sovereignty as set out in Article 118 of the RDTL Constitution, however they are treated very differently in comparison with other organs of sovereignty, for example the President, the National Parliament and the Government/the Executive. These differences include wages/salaries, safety and the provision of drivers etc.
2. Public prosecutors also are not treated properly in regards to receiving salaries that befit the volume of work they are entrusted with and the potential threats that they face. This issue also confronts public defenders.
3. There is no difference between the salaries/wages given to experienced judicial actors or to those who are just starting their careers. These circumstances do not motivate them to work hard with full responsibility and dedication.

4. Judges, public prosecutors and public defenders have already submitted draft amendments to the Law that regulates these professions; however until now they have not received a response from the Council of Ministers via the Minister of Justice.

Recommendations

Based on the aforementioned circumstances, JSMP submits the following observations as recommendations to be considered and included in the draft State Budget for 2014 and subsequent years:

1. We request for the Minister of Justice to review the recruitment mechanism used by the Judicial Training Centre to enable more law graduates to participate in training in order to respond to the limited amount of human resources available, and to reduce the back log of cases and reduce the work load of the judicial actors.
2. Increase the capacity and expertise of judicial actors in the areas of corruption, money laundering, drugs etc so that they can investigate, prepare indictments, prosecute and make good decisions in these large and complex cases.
3. Overhaul the individual capacity of court clerks by reforming their standard work arrangements to encourage them to increase their productivity;
4. Request the provision of transport to judges to be given proper consideration in order to facilitate their work in the field and in remote areas, because current arrangements do not benefit the existing circumstances and infrastructure in Timor-Leste.
5. Provide transport for public defenders or at least provide operational transport to facilitate their work and protect them from danger and threats or inappropriate treatment that can threaten their safety or lives.
6. Provide security to judges and prosecutors so they can carry out their role freely and safely without fear and anxiety regarding threats or psychological pressure as a result of carrying out their work and duties to ensure that justice is provided to all.
7. Establish a security control system such as CCTV to oversee security in the courts in the form of facilities or infrastructure in the courts to protect the safety of judicial actors.
8. Increase the knowledge of police officers so that they accompany court clerks when they are executing court decisions and develop a strategy for how they are to execute these decisions.
9. Make improvements to the policy regarding remuneration for judicial actors to ensure there is a balance between their work load and the salary they receive.

10. Review the law on salaries/wages for judges, prosecutors and public defenders to ensure that they are treated properly with regard to those who are experienced and those who have just started their careers as judges, prosecutors and public defenders.