



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA **SISTEMA** JUDISIÁRIU

Press release
Regional Seminar
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JSMP presented its findings on the development of the legislative and justice sector in a regional seminar in Suai on the role of the National Parliament and the formal justice system

JSMP presented its findings on the development of the legislative and justice sector in a regional seminar in Suai on the role of the National Parliament and the formal justice system that took place on 23 May 2018 in Covalima Municipality.

This seminar was aimed at facilitating contact and direct interaction between members of the village councils and members of the Lesbian, Gay, Bisexual & Transgender (LGBT) community with judicial actors to increase their knowledge about issues that members of this community have faced, as compiled through training previously provided by JSMP.

"This seminar was really important for members of the village councils and members of the LGBT community because they can increase their knowledge about democracy, the role of sovereign bodies, the role of judicial actors and how to bring cases to the courts, because they were given an opportunity to interact and convey their concerns directly to judicial authorities", said the Executive Director of JSMP, Luis de Oliveira Sampaio.

This seminar started with a JSMP presentation about facts and findings that JSMP has compiled to date at the National Parliament, the district courts and the Court of Appeal. This included underlining the issue of often failing to establish a quorum in the plenary or Committees because of problems with the punctuality of members of parliament, as they are absent without justification, moving around or holding their own discussions during plenary meetings as well as the productivity of the legislative process. In addition JSMP also assessed changes that occurred in 2017 in regards to the high productivity of the National Parliament and also the implications of the political impasse on the functioning of the National Parliament.

Also, in relation to the justice sector, JSMP continues to highlight issues on the inconsistent application of penalties in cases of domestic violence and sexual violence, the need to apply rules

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of conduct in cases of gender based violence, cases involving minors, problems with the application of the Law on Witness Protection in complex cases, access to trials at the Court of Appeal whereby the court often only engages in deliberation and does not hold hearings/trials open to the public, and political intervention in the judicial sector affecting the principles of judicial independence and separation of powers provided for in the RDTL Constitution.

Meanwhile, issues raised by participants related to procedures for divorce, moving another person's boundary and animals entering another person's plantation and cutting down/destroying another person's plants/crops, use of social media that can harm minors through Facebook, stealing another person's animal, as well as the application of Law on Witness Protection that does not give citizens confidence in appearing as a witness because they can end up being a suspect in a case.

Participants also questioned a rape case at the Suai District Court where a decision was handed down one year ago but until now the defendant has not yet complied with the decision (the defendant is still at liberty).

The Judge Administrator of the Suai District Court, Alvaro Maria Freitas, explained that these issues discovered by JSMP have been considered by the courts and the courts have requested for JSMP to continue monitoring to provide information to court actors so they can improve the quality of work performed at the courts in the future. Mr. Freitas said that JSMP is an independent and credible institution and provides criticism based on the real circumstances in the courts. He also further emphasised that to improve the work of the courts it is necessary to have monitoring by independent institutions such as JSMP so that court actors can work better in the future.

Also in relation to the issue of divorce he stated that divorce can occur when there is no other option to maintain a relationship. An issue that the courts face is how to ensure that property is divided equally between the parties as well as parental responsibility for children. Cases involving the crime of theft or larceny need to be based on strong evidence to prove and convince the court that a buffalo or animal belongs to a particular person, or otherwise the court will acquit. Also, damaging a person's plants/crops is a crime of complaint and the local authorities can resolve these matters at the community level, however it is important not to undermine anybody's rights. Meanwhile in relation to the rape case where the penalty has not yet been executed the judge requested for the parties to review the appeal process taking place in Dili.

The Chief Prosecutor of Suai District, Matias Soares, responded that in relation to the Law on Witness Protection, pursuant to Article 119 of the Criminal Procedure Code, a witness is enquired about the facts of which he or she may be directly aware and constitutes elements of proof. He emphasised that subsection 4 of Article 120 will not be applied, namely the deposition by a person who refuses or is not in a position to indicate the person or the source whereby he or she has become acquainted with the facts shall not serve as evidence. He emphasised that a person should not be afraid of appearing as a witness to facilitate proceedings because prior to making a statement the person takes an oath to ensure that the information provided is based on facts that the witness may be directly aware of.

Regarding the issue of criminal matters being dealt with swiftly but civil cases taking a long time, Manuel Amaral, who is the Coordinator of the Suai District Office of the Public Defender, said that criminal proceedings are swift because criminal cases normally have a direct link to the public interest and need to be dealt with urgently, for example a person who is in pre-trial detention must be given priority. Meanwhile civil cases have a different nature and scope and are considered as individual disputes and involve personal relations between the parties and for this reason civil cases take a long time.

The participants also recommended for JSMP to continue providing advocacy on the crime of incest so that the competent organs can produce legal provisions through the National Parliament to criminalise this act because there continues to be a high number of cases involving incest registered at the courts.

The speakers at this seminar included JSMP staff and representatives from relevant institutions in the justice sector such as the courts, the Public Prosecution Service, and the Office of the Public Defender. The courts were represented by Judge Alvaro M. Freitas who spoke about the role of the courts in the formal justice system, the Public Prosecution Service was represented by Matias Soares who spoke about the role of the Public Prosecution Service and challenges, and also the Office of the Public Defender was represented by Manuel Amaral who spoke about the role of the public defenders in providing legal aid as well as challenges.

Participants included village chiefs, sub-village chiefs, members of village councils, community members; including from Cassa Village, Ainaro Administrative Post, Ainaro Municipality and Carabau Village, Bobonaro Administrative Post, Bobonaro Municipality and members of the LGBT community in Covalima Municipality.

There were 36 participants comprising 1 village chief, 5 sub-village chiefs, 3 representatives of women's groups, 4 members of the LGBT community, 11 community members, 4 officers from

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the Covalima Municipal Administration, 3 trainee private lawyers, 1 staff member from the NGO Fokupers.

This seminar was closed by the Covalima Municipality Administrator, Mr. Afonso Nugeira Nahak, who expressed his deep appreciation for this activity and thanked JSMP for holding this seminar for these communities. He also requested for those who participated in the seminar to consider the information provided by the speakers and pass it on to community members in each of their villages or sub-villages to ask them to avoid committing criminal acts.

This activity was made possible due to the support of the Australian Government through the Australian Embassy in Timor-Leste.

For more information, please contact:

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