



**Press Release**

**28 September 2018**

**National Parliament**

**Committee F of the National Parliament appreciates JSMP's findings obtained from monitoring at the National Parliament and will give consideration to certain issues that are related to the competence of the Committee**

On 27 September 2018 the JSMP had a meeting with Committee F of the National Parliament which deals with Education, Health, Social Security and Gender Equality. The aim of this meeting was to present the results and findings of monitoring conducted by JSMP over 8 years at the National Parliament.

The issues raised by JSMP in this meeting included a National Legislation Program, issue of interpreting immunity for members of Parliament and members of Government and the need to draft guidelines for interpretation, the issue of punctuality and discipline of the members of parliament, the issue of unjustified absences, the issue of draft laws that should be available in Tetum and Portuguese, the issue of pending and expired laws such as the Law Against Corruption, Law on a Bar Association and Law on Child Protection, the issue of amending existing laws such as the Law on a Monthly Lifelong Pension to address the issue of “established rights”, the issue of the Penal Code criminalising incest and the Civil Code including religious faiths other than Catholicism. In addition, JSMP also mentioned adequate space or facilities for MPs at the National Parliament.

JSMP's findings that were submitted in this meeting were appreciated by the members of parliament who stated that the issues raised by JSMP are very important for their consideration, especially those linked to their area of competence. The issues that members of Committee F were interested in taking on board included the issue of incest, Law on Child Protection, issue on marriage in the Civil Code and the issue of language and facilities for members of parliament and other issues relating to other Committees.

In relation to the Draft Law on Child Protection and amendments to the Penal Code, the President of Committee F requested for JSMP to present a submission to help members of parliament speed up the discussion process.

“JSMP has the highest appreciation for the consideration and availability of members of parliament, particularly Committee F, to attend this meeting and to give consideration to some of the issues raised. The issues JSMP raised in this meeting are part of JSMP's contribution to improving the functioning and work of the National Parliament and accelerating the legislative process for important laws and improving the existing legal framework to be able to respond and better reflect the reality and needs of the entire population,” said Acting Director of JSMP, Casimiro dos Santos.

In addition, an advisor from this Committee was able to explain the interpretation and practice of the National Parliament relating to the issue of immunity and a monthly lifelong pension. The existing interpretation and practice regarding immunity for members of Government is that they should be automatically suspended when they are accused with a crime which is punishable with more than 2 years in prison as provided for in Article 113.1 and Article 114 of the Timor-Leste Constitution as well as Article 26.1 & 2 of Law No. 7/2007 which is the same as JSMP's interpretation, however the National Parliament still has the competence to decide if it is mandatory to suspend immunity to comply with the judicial process.

However, JSMP maintains its position that the provisions in the Constitution and the law do not provide the National Parliament with competence to suspend or remove the immunity of members of Government who are accused of a crime carrying a prison sentence of more than two years. When a member of Government is accused of such a crime, the immunity will be suspended automatically in accordance with the following provision:

*“Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for more than two years, **he or she shall be suspended from his or her functions so that the proceedings can be pursued** (Article 113.1 of the Constitution and Article 26.2 of Law No. 7/2007) “(Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for more than two years, he or she shall be suspended from his or her functions so that the proceedings can be pursued).*

*“No member of the Government may be detained or imprisoned without the permission of the National Parliament, **except for a felonious crime punishable with a maximum sentence of imprisonment for more than two years and in flagrante delicto** (Article 114 of the Constitution and Article 26.1 of Law No. 7/2007)” (No member of the Government may be detained or imprisoned without the permission of the National Parliament, except for a felonious crime punishable with a maximum sentence of imprisonment for more than two years).*

Article 114 of the Constitution and Article 26.1 of Law No. 7/2007 provide further clarification on Article 113.1 of Constitution and Article 26.2 of Law No. 7/2007 that the National Parliament can only exercise its competence to decide to suspend or not suspend the immunity of a member of Government when a member of Government is accused of a crime punishable with a prison sentence of two years or less as provided for in Article 113.2 of the Timor-Leste Constitution and Article 26.3 of Law No. 7/2007 and when the maximum penalty is higher the National Parliament has not competence to decide of if the immunity should be automatically suspended or not.

*“Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for a maximum of two years, the National Parliament shall decide whether or not that member of the*

*Government shall be suspended so that the proceedings can be pursued” (Article 113.2 and Article 26.2 of Law No. 7/2007). (Where a member of the Government is charged with a criminal offence punishable with a sentence of imprisonment for a maximum of two years, the National Parliament shall decide whether or not that member of the Government shall be suspended so that the proceedings can be pursued).*

Therefore in relation to these different and ambiguous interpretations, JSMP recommends for the National Parliament to hold a seminar and workshop to develop some guidelines to provide clear interpretation on suspending the immunity of members of Government and members of Parliament.

Meanwhile regarding the issue of “established rights” which is linked to the monthly lifelong pension, the advisor said that in accordance with the Democratic Rule of Law provided for in the Constitution, these rights are irrevocable and new laws cannot be applied retroactively.

However, JSMP still believes that there is no absolute value or principle that can't be improved or changed. We make political decisions, legal frameworks, values and principles to ultimately uphold the national or State interest, or the interests of everyone in the short term and long term. When a certain political decision or legal framework or value or principle poses a massive risk to the nation or State in the future in terms of a financial burden that would cause the State to fall into the category of a failed state, then it is better to be proactive and immediately make improvements, rather than waiting for the risk to occur and then acting.

Meanwhile, on the issue of marriage documents and certificates provided for in the Civil Code, the advisor completely agreed with JSMP to amend this law because of a provision that only gives validity to documents from Catholic marriages, civil marriages and traditional marriages (*barlakeadu*), and this violates the Constitution because there is no provision on official religion. The Timor-Leste Constitution is “secular” or does not specify an official religion, and therefore needs to give consideration to other religious beliefs, as JSMP has already recommended and advocated.

At the closing of the meeting the President of Committee F, Her Excellency MP Maria Gorumali Barreto, stated that as new members of parliament they accept the recommendations presented by JSMP and will consider the issues that fall within the competency of Committee F and they requested for JSMP to continue monitoring their work to share thought on how to further improve the work of the Parliament and Committee F.

To obtain more information, please contact:

Casimiro dos Santos  
Acting Director of JSMP  
Phone: 3323883  
[www.jsmp.tl](http://www.jsmp.tl)