



Press Release
29 August 2019

Residents of Loidahar Village are concerned with issues relating to access to justice: suspended prison sentences, divorce, neglect, infanticide and cases involving members of the Government

On 22 August 2019 JSMP provided training to members of the village council and community members in Loidahar Village, Liquica Sub-District, Liquica Municipality. There were 30 participants in this training, comprising 21 men and 9 women, included five disabled participants. These participants included representatives from the village council, PAS, the disabled and residents of Loidahar Village.

This training was aimed at increasing the knowledge of members of the village council and community members, including the disabled, so they would have a better knowledge about democracy, the role of sovereign organs in the law making process, and the right to access formal justice in Timor-Leste.

“JSMP believes that the information provided by JSMP during this training can help enrich the knowledge of members of the village council, especially in relation to the issues of democracy, the role of sovereign organs, public participation in the law making process and the rights of the disabled, including the functioning of the formal justice system in Timor-Leste,” said the Acting Director of JSMP, Casimiro dos Santos.

The Village Chief of Loidahar, Mr. Domingos dos Santos, stated that he was very happy to have JSMP come to his village to provide important information about democracy and justice for members of the village council and community members.

This Village Chief asked the participants to fully focus on the presentations provided by JSMP, so they can know what competencies are set out in the law for village councils to resolve community problems at the sub-village and village level.

The participants conveyed their concerns about using violence to educate family members, and that perpetrators of domestic violence have appeared in court but have not been punished and have gone on to repeat their actions, as well as couples getting divorced and neglecting their children, cases of babies being disposed of, as well as members of the sovereign organs being involved in crimes but not being punished.

In response to these concerns, JSMP clarified that any act that offends against the physical or psychological health of another person (for example: punching, hitting, kicking, pinching,

scratching, threatening and or neglecting a person or child) is considered as a crime in accordance with our criminal law. Also, when these crimes are committed against a family member, they are considered public crimes. Any person who has knowledge of such crimes can make a report to the competent authorities to prosecute these cases in accordance with the formal justice system. JSMP also further explained that violence should not be used to educate someone, but rather words and other non-violent methods should be used.

In relation to perpetrators of domestic violence who have been brought to court but have not been imprisoned and have returned home, JSMP explained that the criminal law provides for four types of punishments or penalties: prison sentence, fine, community work and admonishment. In relation to prison sentences, Article 68 of the Penal Code allows for judges to suspend prison sentences that do not exceed 3 years in prison. This means that defendants do not go to prison and can return home. However, during the period of suspension, the defendant may not commit any further crimes. When a defendant commits another crime, the court will revoke the suspension and send the defendant directly to prison to serve the sentence previously applied by the court and the new crime is prosecuted and the period of suspension can be extended.

In relation to couples getting divorced, the law does not prohibit people from separating/getting divorced. However in the event of divorce, both the wife and husband have the same obligation to provide alimony to their children. When they do not provide alimony to their underage children, they will be held responsible for the crime of failure to provide food assistance pursuant to Article 225 of the Penal Code.

In addition, the issue of mothers killing their babies after giving birth but not being punished, JSMP explained that in some cases mothers do not serve a prison sentence. However, in some cases it is very difficult to capture defendants (women and/or men) because it is often difficult to locate the perpetrators. In reality community members always blame women, without considering and assessing each case in a detailed and comprehensive fashion.

In relation to the issue of members of sovereign organs having immunity when they commit a crime, JSMP explained that Article 16 of the Constitution of Timor-Leste guarantees universality and equality. This means that all people are the same before the law, irrespective of their sex, origin, marital status, social economic, political, ideological position, or religion. However, the Constitution itself guarantees immunity for members of the sovereign organs because they serve the national interest. This does not mean that they cannot be subject to proceedings, because they need to comply with all judicial proceedings against them, even if their cases are not the same as those involving ordinary members of the community.

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