



JUDICIAL SYSTEM MONITORING PROGRAMME

PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

## *Press Release*

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### **JSMP submits proposal to National Parliament in relation to the Draft Civil Code – Book III on “Property Rights”**

On 19 August 2011 JSMP, through its LRU Unit/Parliamentary Watch Program (POP), submitted a ‘proposal’ for the second time to the National Parliament on the Draft Civil Code – Book III on ‘property rights’.

On 18 August 2011, JSMP also submitted a request to His Excellency the President of the National Parliament to meet with JSMP, if his schedule allows this. JSMP also requested for the President of the National Parliament to temporarily postpone the plenary session to grant final approval of the aforementioned draft law, and emphasized how important it is to engage in public consultation before the draft law is approved.

In accordance with the agenda of the National Parliament that was accessed by JSMP, on the 22 August 2011 the National Parliament will grant final approval to the aforementioned draft law, after discussions take place amongst the Parliamentary Committees in Maubisse and Com-Lautem. Based on the work carried out by the aforementioned committees, the National Parliament will conduct a plenary session this week to approve the draft law and send it to the President to be enacted.

This proposal<sup>1</sup> sets out the views, perspectives, concerns and practical experiences taken from Focus Group Discussions (FDG) which have been carried out by JSMP with village leaders in four (4) districts, namely (Manatutu, Liquiça, Dili and Bobonaro) with representatives from civil society, private lawyers, and academics from the Faculty of Law, University of Timor-Leste.

The Executive Director of JSMP, Luis de Oliveira Sampaio, stated that JSMP feels extremely concerned with the process of debating this Draft Civil Code, because based on JSMP’s observations, this process was not optimal or productive and did not involve open consultation to

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<sup>1</sup> For more detailed information, please refer to the JSMP website: [www.jsmp.minihub.org](http://www.jsmp.minihub.org), Parliament Watch Project, August.

hear the opinions of the community on how to manage and maintain social and cultural relations with the people of Timor-Leste in relation to the application of the Civil Code in the future.

During monitoring activities at the National Parliament, the majority of MPs encountered major difficulties in understanding<sup>2</sup> and contributing to the discussion on this draft law, because it contains thousands of articles and is only available in Portuguese.

Until now the draft law has only been available in Portuguese. When JSMP submitted this proposal to the National Parliament, several MPs informally acknowledged that they have encountered major problems in understanding the aforementioned draft law because of technical issues.

The aforementioned proposal contains JSMP's concerns regarding the time, language and concrete case studies relating to certain articles within the draft law. The cases studies relate to articles of the law, namely problems with Article 1259 (cultivation of seeds/plantations using seeds belonging to others), Article 1237 (means of obtaining property rights) Article 1238 (regarding the granting of property rights), Article 1232 (reclaiming property rights), Article 1245 (merging of property) and Article 1249 (merging/shifting of land boundaries because of natural disasters).

Based on the FGDs organized by JSMP with the local authorities, JSMP concluded that these articles could confuse the entire population because they do not reflect the actual circumstances and cultural practices in Timor-Leste, and this can lead to community conflict in the future.

Therefore, JSMP urges the National Parliament to postpone the plenary session to grant final approval to this draft law, so that a public and open consultation can take place with the involvement of relevant institutions to ensure that this law truly reflects the realities faced by the people of Timor-Leste.

JSMP urges the National Parliament to consider the need to facilitate open consultation to ensure that the social and cultural context and reality in Timor-Leste is reflected in this law. This will only happen if the National Parliament is able to translate the draft law into a language understood by the majority so they can contribute.

JSMP is aware that as a democratic nation and society, we really need the Civil Code to determine, regulate and set out individual and social interactions that take place within society, however this does not mean that the National Parliament needs to urgently and hurriedly approve this draft law even though it does not reflect the local practices and customs that make up the socio-cultural richness that is found within Timorese society, in accordance with Article 2.4 of the Timor-Leste Constitution.

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<sup>2</sup> Refer to JSMP Press Release, June 2010, edition 4 June 2010, under "Parliament Watch Project, entitled: *The Use of Portuguese makes it difficult for a number of MPs to debate the draft Civil Law*

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