



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

**Press Release**

Period: August 2009

Issue: August 2009

**OECUSSE DISTRICT COURT TRIES CASE OF OBSCENE BEHAVIOUR THAT  
OCCURRED IN 2001**

On 29 July 2009 the Oecusse District Court tried a case of obscene behavior that occurred on 15 July 2001. It appears that this case has experienced a number of delays over a nine year period. The trial was presided over by a panel of judges comprising Joao Felgar, Joao Ribeiro and Antonio Helder do Carmo. The public prosecution unit was represented by Hivalito Exposto and the defendant was represented by the public defender Sebastiao Amado de Almeida. The court examined testimony from the victim LK, the defendant JA and three witnesses.

During the trial the presiding judge informed the defendant of his rights, including the right to remain silent (to not provide testimony to the court) in accordance with Article 60 (c) of the Timor-Leste Criminal Procedure Code.

The judge read out the prosecutor's indictment which charged the defendant with violating Article 289 of the Indonesian Penal Code which relates to obscene behavior. The prosecution presented three witnesses during the trial to support the charges made against the defendant. One of the witnesses was the victim who was unable to provide testimony because the victim is deaf and blind.

During the trial the court used the official languages of Timor-Leste, namely Tetum and Portuguese, however some local language was used because the witness and the victim only understand the local language of Baqueno which was then translated into the official language by the court interpreter.

JSMP observed that this trial has been delayed for a very long time, and the statement made by the victim was not an identical or accurate reflection of the actual incident, because the defendant, victim and witnesses don't recall the exact chronology of events in this case. JSMP understands that this unfortunate delay is due to the limited number of court actors, however JSMP suspects that this situation was exacerbated by the fact that no court actors were permanently assigned to the Oecusse District Court. JSMP believes that this situation violates the right to a speedy trial as set out in Article 9.3, 9.4 and 9.5 of the Timor-Leste Criminal Procedure Code and the provisions of Article 14.3 (c) of the International Covenant of Political and Civil Rights in relation to the right to be tried without undue delay. Therefore, JSMP hopes that the circumstances mentioned above do

not delay a case or harm the trial process, because such delays have a detrimental effect on efforts to locate sufficient and appropriate evidence for a criminal trial.

Therefore, whilst acknowledging that only a limited number of court actors are available, JSMP emphasizes the need to uphold principles of law and recommends that cases registered at the Oecusse District Court or within the jurisdiction of other courts are processed as quickly as possible, in accordance with the principle of a fair trial that is affordable and timely (without unnecessary delay). JSMP is aware that when a case is delayed for several years the general public, and in particular victims and defendants, may feel that the formal justice system provides no benefits, as well as no justice, because the courts are unable to perform their functions effectively and optimally. This will have a major impact on the participation of the community in efforts to establish a legal system that meets the needs of the community.

The trial of this case will be continued on 10 August 2009 to hear the court's final decision.

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