



Press Release
11 June 2024

The Usapibela Sub-Village Chief in Oecusse acknowledges that community members lack information on access to formal justice and therefore they often don't make a complaint

On 23 May 2024 JSMP disseminated information about the formal justice process to local authorities and also community members in Usapibela Sub-Village, Lalisuk Village, Pante-makasar Sub-Region, Special Administrative Region of Oecusse-Ambeno.

The aim of providing this information was to increase the knowledge of the sub-village administrative structure and community members about how to access formal justice and to ensure that disputes and other cases in the sub-village and at the grass-roots level are resolved based on the formal laws that are applicable.

This dissemination of information covered issues such as the definitions of the law and crimes, type and nature of crimes, as well as sentences and also procedures in criminal and civil cases through the formal justice process. Also an explanation was provided about the role of the administrative structure in the Sub-Villages when disputes occur in the Sub-Villages. The JSMP team also disseminated information about the work of the referral network regarding the provision of legal aid to female and minor victims.

“JSMP disseminates information about access to formal justice at the sub-village level because often information only reaches the village level. Therefore through this activity JSMP hopes that local authorities and communities in Usapibela Sub-Village, Oecusse can gain knowledge about the formal justice process and can manage their cases according to the law,” said Ms. Ana Paula Marçal, Executive Director of JSMP.

The Usapibela Sub-Village Chief, Mr. Jacob Cusi, in his opening speech thanked JSMP and stated that often information is provided, however it always takes place at the village level and does not reach the sub-villages, so community members at the sub-village lack knowledge about the formal justice process. The Sub-Village Chief also stated that the information provided by JSMP is very important for community members in Usapibela Sub-Village because they live a long distance from the village community centre, and therefore they are never involved in activities like this and when they have problems the community members always stay silent and don't convey any information or complaints to the competent authorities because they don't have any awareness.

At the same time the Noapai Sub-Village Chief from Cunha Village participated in this training and recommended for JSMP to continue sharing information to Sub-Villages and other neighbourhoods that have been identified as being located a long distance from the

JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

village, so that these communities can have knowledge and can deal with their cases in accordance with the formal justice system.

The participants who participated in this dissemination of information were really active in conveying their concerns in relation to the issue of what happens when a farmer kills an animal belonging to someone else that has entered their plantation, and how do some community members who are afraid to make a complaint differentiate between public crimes and semi-public crimes, and the formal justice process takes a long time, and can community members ask for their money back from a lawyer if the case being handled by the lawyer is unsuccessful at court.

In response to these concerns, JSMP explained that if an animal enters a plantation and damages the crops of another person and the owner of the plantation finds the animal there, then he needs to inform the owner of the animal to pay for the crops damaged by the animal. It is important not to kill this animal. If the owner of the plantation kills this animal, he will be punished with prison or a fine and will have to pay for the animal that he has killed, and the owner of the animal will have to pay for the crops damaged in accordance with the civil law.

Regarding the issue of feeling afraid and making a complaint in cases of DV, JSMP responded that any crimes involving a wife and a husband, a former wife and a former husband, or other people who are living together in a household with economic dependence on each other, are considered as DV crimes and these are public crimes, and therefore any person who finds out or has knowledge can make a complaint to the police or the Public Prosecution Service. Meanwhile, if a police officer, public servant or public authority witnesses or knows about a DV crime, they have the obligation to report the matter, however if they don't do so, they will be charged with a crime known as failure to report pursuant to Article 286 of the Penal Code and they can be punished.

Regarding the issue of criminal procedures for public crimes and semi-public crimes, JSMP responded that the procedures for public crimes are that any person can make a complaint, and this complaint cannot be withdrawn when the matter has been registered with the police or prosecutor. The matter can be resolved between the families or in accordance with cultural practices if the parties agree, however the case still needs to be processed by the court because only the court can decide the matter.

Meanwhile semi-public crimes depend on a complaint from the victim, and the deadline for making a complaint is six (6) months. The case can be withdrawn from the formal justice process if the victim wishes to do so and the local authorities or the family can settle the matter.

Regarding the issue that this process takes a long time, JSMP responded that considering the extremely limited human resources allocated to the Oecusse Court of First Instance,

JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

and that sometimes certain criminal cases need to be adjourned two or three times before a trial takes place, and because court actors sometimes have other issues to deal with (personal issues and also a clash of priorities) and sometimes the parties are also unavailable, this process takes a long time.

In relation to the issue of getting money back from a lawyer if the lawyer does not win the case in court, JSMP responded that if the defendant has the economic capacity then he needs to select a legal representative from amongst private lawyers or he himself may wish to use a private lawyer, so automatically he needs to pay because the private lawyer does not receive money/salary from the State and if in the end the case is unsuccessful the money paid is not returned, but it also depends on the contract. If the contract states that if the case is unsuccessful the money has to be given back, then the lawyer has the obligation to give back the money to the client. Also, JSMP explained the difference between public defenders and private lawyers.

There were 53 participants, comprising 22 women, and 31 men. The participants included two (2) persons with disabilities and one (1) member of the LGBTIQ+ community. The participants included the Usapibela Sub-Village Chief, the Lalisuk Village Police Officer, a catechist, and community members from Usapibela Sub-Village.

This training activity was conducted by JSMP through the Community Security Support Program (PASK), through collaboration with The Asia Foundation (TAF) and financed by the Embassy of New Zealand.

For more information, please contact:

Ana Paula Marçal
Executive Director of JSMP
Email: ana@jsmp.tl
Telephone: (+670) 33238883 | 77040735
Website: <https://jsmp.tl>
info@jsmp.tl