



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
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The Village Chief of Leimea Leten said that information about the role of sovereign organs and public participation in the law making process and access to justice is important and relevant to their daily work in the community

On 23 August 2018 JSMP held training about democracy, the role of sovereign organs, public participation in the law making process and access to formal justice for members of the village council and community members in Leimea Village, Atsabe Administrative Post, Ermera Municipality.

30 people participated in this training, comprising 19 men and 11 women. Most of the participants were members of the village council who were the main target of this training.

The aim of this training was firstly to increase the knowledge of members of the village council and community members who have influence in the community about democracy, the role of each sovereign body, how the public can participate in the law making process and access to formal justice. The second aim of the training was for the participants to pass on what they had learned to other members of the community who did not attend.

"In East Timor society the local authorities, especially members of the village council, conduct a very important role in the community. Therefore it is hoped that this training can further increase their basic knowledge about relevant issues so that they can perform their job better when dealing with issues or problems that emerge in their community in accordance with the law and appropriate mechanisms", said the Executive Director of JSMP, Luis de Oliveira Sampaio.

The training was split into two sessions. The first session focused on democracy, the role of sovereign organs and public participation in the law making process. The second session discussed access to formal justice.

In his opening speech, the Village Chief Mr. Jose de Araujo, stated that this training was very important for the community, especially sub-village chiefs because training like this only happens once a year or once every two years and sometimes not at all. Therefore he asked the participants to take advantage of this opportunity so they can understand how to implement this knowledge when performing their day to day duties and to pass on the knowledge to other members of the community who did not participate in this training.

During the training the participants raised issues relating to the current political situation, in particular the decision of the President to not appoint candidates for government who were involved in criminal cases, and specifically in relation to issues of constitutionality and legality.

Other issues related to charges made by the Public Prosecution Service where in some cases there was a lack of evidence but prosecutors still went ahead with charges. In addition, the participants asked about the work of JSMP to date, especially in relation to JSMP submissions or opinions and they asked if the National Parliament and Government have given consideration to these submissions and opinions.

Also the participants asked about civil cases such as the adoption of children and cases where it is not possible to identify paternity and obtain alimony, which are cases that often occur in their community.

In response to these issues, and specifically relating to the issue of appointment, JSMP explained that these issues related to the competency or interdependence between the sovereign organs because in practice there is often confusion because the Constitution does not provide an official explanation about these provisions.

There was also a discussion about the difference between “the principle of presumption of innocence” and “judicial secrecy”. The presumption of innocence applies throughout the entire process, starting from the investigative stage through to the final decision of the court that carries the full force of the law. The presumption of innocence does not impede the trial process for those that have been official charged by the Public Prosecution Service and appear before the court. Even during the appeal process the presumption of innocence continues to apply and ends when there is a final decision from the highest court, which in Timor-Leste is the Court of Appeal.

Judicial secrecy only applies during the investigative process, especially in cases that are still with the Public Prosecution Service and no official charges have been submitted to the court. When cases are being investigated this information cannot be published or divulged to the public.

Also, the Constitution does not explicitly provide competence to the President to reject candidates for Government, as it only provides the President with the competence to appoint. The President made a decision not to appoint some candidates for government in order to promote good governance based on his conscience and prudence to safeguard national interests and promote the fight against corruption. However, to end the debate on this issue JSMP urges politicians to take the matter to the Supreme Court of Justice.

In relation to the issue of indictments made by the Public Prosecution Service, JSMP responded that the Public Prosecution Service submits charges to the court because based on the conviction that there is sufficient information. This information can only be proven during a trial before the court. When the charges are not proven, the person who has been charged is freed and acquitted from the charges. However the law also allows prosecutors to archive cases where there is insufficient evidence to take the matter to court. It depends on the individual prosecutor's assessment of each case to continue with proceedings or to archive the case.

Regarding JSMP opinions, the participants were informed that even though the National Parliament and Government do not consider all opinions submitted by JSMP, some of the thoughts of JSMP have been taken in consideration by the Parliament and Government. Concrete examples are the Media Law, Law on Procedures for Granting of Pardon and Commutation of Sentences, Law on Ownership of Real Estate, etc.

JSMP explained that in relation to the civil matter of adoption, the civil code provides rules for adoption. In order to adopt the child of another person certain requirements must be met to adopt through a notary, otherwise the adoption will be deemed illegal and the adopted child will have no legal rights to inherit from the adoptive parents.

Regarding cases where paternity cannot be proven to obtain alimony, JSMP explained that when a man and woman separate and no longer wish to be together and such problems occur it is a civil matter and they are free to decide what to do. If a man and woman have a child and if one or both of them abandons the child then they have committed a crime because they have failed to fulfil their obligation to provide food and a request can be made to the Public Prosecution Service to represent the child and for the court to rule on the right to alimony. However, it is not possible to prosecute the matter when the father who has abandoned his child has not yet been identified or is unknown.

The participants, and the sub-village chief in particular, made positive comments and observations that the information they obtained can help them to deal individually with problems in their community. Without such information they can resolve problems that come before them and then later on be convicted under the law for not reporting a case that should have been processed through the formal justice system. The participants emphasised that cases such as domestic violence should be reported to the police to be dealt with through the formal justice system.

JSMP also interviewed some participants to ask them how important this training was and what they could do for other community members. The participants responded that this training is important because they can obtain a better understanding about the role of sovereign organs, so that when a problem occurs in relation to a criminal matter they don't need to take it to the National Parliament or other sovereign organs, but to the police and the courts in accordance with the existing mechanisms.

Even though this was a full day of training the participants remained interested and enthusiastic to listen, participate and learn.

During the closing session the village chief asked the participants to pass on this information to community members who have not yet had the opportunity to participate in this activity and asked the sub-village chiefs to resolve these problems through the proper channels, as explained in the materials provided by JSMP.

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