



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Press Release**  
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**JSMP disseminates information about the formal justice process and facilitates dialogue between village authorities and community members from Ogues Village with judicial actors**

On 11 and 12 May 2023 JSMP disseminated information about the formal justice process and also facilitated dialogue between judicial actors and local authorities and community members from Ogues Village, Maukatar Administrative Post, Covalima Municipality. This activity was attended by village authorities, customary elders from the village, sub-villages and sacred houses, male and female representatives, women with potential, members of the LGBTI community, persons with disabilities and community members.

On the first day JSMP disseminated specific information about the definitions of law and crimes, the nature of crimes and how to take cases to the formal justice process and also types of sentences. There were 47 participants in this activity, comprising 14 women and 30 men, including one member of the LGBTI community and 2 disabled persons. On the second day the dialogue between village authorities, community members and judicial actors was attended by 40 participants, comprising 11 women and 29 men.

“JSMP really appreciates the support from the judicial authorities in Covalima Municipality, namely from the courts, the Public Prosecution Service and the Office of the Public Defender, because they can contribute to this process to help JSMP increase the knowledge of village authorities about the formal justice process with the aim of ensuring that when they resolve disputes amongst community members through community justice they will not violate the national laws,” said Ms. Ana Paula Marçal, Executive Director of JSMP.

During the first session, after hearing JSMP’s explanation about the processes of formal justice and the dissemination of information by JSMP, some participants asked why it would be considered a crime if a husband and wife have sexual intercourse with the use of force, but in the end they said that these things are normal within a family and a wife is obliged to always attend to her husband’s needs. In response JSMP explained that Law No. 07/2010 Against Domestic Violence states that if a husband or a wife is forced to have sexual intercourse then this is a crime of rape categorised as domestic violence with the consideration that all people have the right to give consent to having sexual intercourse, even between a wife and a husband.

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The participants also asked about what happens if a young man commits sexual coercion against a woman, but they then decide to resolve it in accordance with community justice and the man declares that he wants to marry the woman to resolve this process. Does the law allow for this? In response to this question, JSMP explained that pursuant to Article 171 of the Penal Code (PC) on the crime of sexual coercion, the village authorities are not allowed to resolve cases like these, and such cases must be taken to the formal justice system, even if the two parties agree to resolve a matter via community justice.

During the dialogue between the judicial actors and village authorities and community members, a representative of the Executive Director of JSMP, Mr. Jose Moniz in his speech expressed gratitude to the judicial authorities because they gave their time to participate in this dialogue to hear the concerns or doubts from the village authorities and community members from Ogues Village about the formal justice process, based on their experiences to date.

Also the Ogues Village Chief, Mr. Faustino de Araújo, in his speech said that he felt really happy because JSMP together with the Asia Foundation could carry out this important event to allow the village authorities and community members to meet with the main actors from the court to help them get a better understanding of formal justice processes so that they don't do the wrong thing when resolving disputes in the community.

The Honourable Judge Administrator of the Suai Court of First Instance, Jose Maria de Araujo, stated that he appreciated the initiative of JSMP to hold this dialogue because the formal justice process does not just judge a person at the court, however it is important to raise the knowledge of community members about this process so that they can avoid crimes and it can help the village authorities to resolve disputes using customary measures that do not contradict the law.

A representative of the Chief Prosecutor of Suai District, His Excellency Prosecutor Rafael Jeronimo Gusmão, in his speech said that actually the public prosecution service also has a role in these sessions to disseminate information, however they have a lack of resources, therefore they appreciate JSMP and TAF for facilitating these sessions to help community members gain a better understanding of formal justice processes.

The TAF representative for the Community Security Support Program (PASK) program, Ms. Hilde Gardis Wondeng, said that this dialogue is a program that is included in memorandum of understanding between JSMP and Ogues Village to help the village authorities to resolve disputes without contradicting the formal law. This support will continue in the future with other programs on capacity building and assistance with dispute resolution processes.

During this dialogue, the Honourable Judge Jose Maria said that the village authorities and the community members were concerned about certain crimes characterized as

domestic violence, whereby the parties demand for a matter to be resolved after they have reached an amicable agreement through community justice. However, the Law Against Domestic Violence does not allow this to happen. Therefore he asked the participants to be careful, because amicable settlements through community justice can be aimed at mitigating the actions of the defendant through the formal justice process. The Honourable Judge also responded to concerns about cases of divorce whereby children have been neglected, and the law prohibits a person from neglecting a child, therefore the community justice process must ensure that children are given food assistance from their parents, based on their capacity.

In relation to the process of compensation in cases of divorce and also crimes characterized as assault and or sexual violence, this judge urged the village authorities and customary elders to ensure that compensation needs to be given to victims because they are the ones who suffer from these acts, because if compensation is given to the family, and the case is taken to the formal justice system, the court will order a defendant to provide separate compensation to the victim and will not calculate the compensation that has already been paid through community justice. Finally, in response to concerns raised by the parties about some families who have tried to separate their children from their family (separate a wife from her husband) after violence has occurred, the Honourable Judge explained that this is prohibited by the law because a man and woman decide to be together based on their own free will when they have reached the age of consent.

Meanwhile, His Excellency Rafael Jeronimo Gusmão spoke about cases where a man has denied paternity regarding an unborn child. He said that such cases can be taken to the Public Prosecution Service to investigate paternity through a DNA test which is now possible through collaboration with the Scientific and Criminal Investigations Police Unit (PSIC), to prove if a man is the father of a baby, which will start with the regulation of paternity.

In relation to cases involving land disputes, the Honourable Prosecutor said that if a solution cannot be obtained through community justice, the village authorities can take the case to the Office of the Public Defender or to lawyers to conduct mediation and or bring the matter to court via the civil law process.

This dissemination of information is part of a Memorandum of Understanding between Ogues Village and JSMP as part of the support program for community justice.

The Community Security Support Program (PASK) is a joint effort between JSMP and The Asia Foundation (TAF) which is financed by the New Zealand Embassy to conduct research on the effect of community justice to resolve disputes in the community.

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