



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

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National Parliament

JSMP praises Committee F for including the fundamental rights of children in the initial assessment report on the Draft Law for the Protection of At-Risk Children and Adolescents

Committee F of the National Parliament on 7 September 2021 presented its initial assessment report on Draft Law No. 29/V(3^a) for the Protection of At-Risk Children and Adolescents in an extraordinary plenary meeting.

In its opinion, Committee F also included the fundamental rights of the child in the new structure of this law. Also, it included definitions of age as well as the need to establish separate rooms for victims and suspects to avoid direct contact between victims and suspects during judicial proceedings as well as prevention work regarding children. This will further enrich the materials to be discussed by members of Committee F during the specific discussion.

“JSMP praises the National Parliament, particularly the work of Committee F, for including the fundamental rights of children in the initial assessment report on the Draft Law for the Protection of Children and Adolescents. JSMP considers this law to be a key element towards ensuring that children and adolescents can exercise their right to fundamental freedoms including the right for at-risk children to have their rights protected against any violations”, said the Executive Director of JSMP, Ana Paula Marçal.

In its opinion* which was presented to Committee F regarding the Draft Law for the Protection of At-Risk Children and Adolescents, JSMP also requested for this law to reflect the idea or spirit enshrined in the provisions of Article 18 of the Timor-Leste Constitution and the International Convention on the Rights of the Child (ICRC). The provisions of this article enshrine two main principles:

- a. How children can enjoy all of the fundamental rights of human beings that are universally recognised. These rights are enshrined in the Timor-Leste Constitution and International human rights conventions ratified by the State of Timor-Leste, particularly the ICRC.
- b. How children can obtain protection, both special protection and social protection.

* JSMP's complete opinion can be viewed at: https://jsmp.tl/wp-content/uploads/Paraser-Lei-Protesaun-ba-Labarik-husi-JSMP-Jullu-2021_TETUM.pdf

The idea or point of subsection a) is that the Timor-Leste Constitution and the ICRC oblige the State to create legislative or administrative measures or other relevant measures to promote the fundamental rights and freedoms of children by creating the conditions, opportunities and facilities that will enable children to develop in all areas, namely physical, mental, moral, spiritual and social, freely and with full dignity.

All children shall enjoy these conditions, opportunities and facilities, without discrimination regarding if they were born inside or outside of wedlock, or based on their family situation, gender, age, race, ethnicity, colour, physical condition, belief, education level, economic condition, living conditions and social environment.

The idea or point of subsection b) is that the Timor-Leste Constitution and the ICRC obliges all parties, including the family, the community and the State to control their respective areas and have the capacity to protect children against the violation of their fundamental rights through specific and appropriate mechanisms, particularly against neglect, discrimination, violence, oppression, sexual abuse and exploitation. In relation to these mechanisms for protection, the ICRC also sets out some mechanisms that State Parties can adopt based on their respective familial, social and national conditions.

Therefore, JSMP believes that this legislative measure initiated by the National Parliament should not deviate from the idea or spirit enshrined in the Timor-Leste Constitution and the ICRC. Therefore, when this law comes into force and is implemented, it could effectively provide solutions or resolve issues relating to children, and it will not be necessary to create any other legislative measures to deal with the same issues. Also, the National Parliament itself will not use time and resources to create other legislative measures for the same issues.

This draft law has been the focus of long term advocacy by JSMP with findings based on court monitoring presented by JSMP in its annual overview of the judicial sector, so that the Government and the National Parliament can further guarantee the rights of the children and adolescents.

The entities that participated in the discussion of this draft law from Civil Society included ALFeLa, the Timor-Leste Association for the Disabled (ADTL), NGO ba Futuru, Child Fund, National Commission on the Rights of the Child, National Commission Against Child Labour, Fokupers, FONGTIL, Aloa Foundation, JSMP, the International Labour Organisation, Plan International, the Youth Parliament and UNICEF.

Meanwhile public institutions of the State included the Ministry of Justice, Ministry of Health, Ministry of Social Solidarity and Inclusion, Ministry of Education, Youth and

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Sport, Ministry of the Interior, the Public Prosecution Service, Office of the Public Defender, Ombudsman for Human Rights and Justice and Commission on the Rights of the Child as well as local authorities and religious leaders from Baucau and Bobonaro municipalities.

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