



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

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Major-General Taur Matan Ruak Acknowledges that the Justice System in Timor-Leste is still Fragile

On 23 August 2011, the Judicial System Monitoring Program (JSMP) had an opportunity to meet with Major-General Taur Matan Ruak at the F-FDTL Headquarters in Tasi-Tolu. The meeting took place between 10:00-12:30. During this meeting JSMP was represented by seven individuals and the F-FDTL was represented by the Major-General himself and Captain Bersema.

The Executive Director of JSMP, Luis de Oliveira Sampaio, stated that “similar to other meetings, the purpose of this meeting was for JSMP to mobilize support from other key institutions including the F-FDTL in regards to the development of the justice sector. In addition, this meeting was an opportunity for JSMP and the F-FDLT to discuss ideas and exchange opinions, because JSMP is certain that if all parties are involved in this process then the results will be more favorable than those that can be achieved by individuals or single groups”.

Similar to previous meetings¹ JSMP used this opportunity to give Major-General Taur Matan Ruak a short introduction to the history of JSMP and why it was established², including a pledge of commitment for JSMP to improve justice for all. Also, JSMP used this opportunity to present issues and challenges that are being faced by the courts, in terms of policies relating to the justice system, human resources, language issues in court administration, as well as public perception or the legal culture of society in relation to the justice system. Also JSMP asked the Major-General to collaborate in order to contribute to the justice sector.

Furthermore, JSMP also used this opportunity to raise its concerns in relation to the problem of violence against women, including cases of domestic violence, sexual

¹ Refer also to meetings between JSMP and Mgr. Dom Alberto Ricardo, Bishop of Dili, Chairman of the Timor-Leste Islamic Community and Mgr. Dom Basilio do Nascimento that took place on different occasions, available on the JSMP website under the heading “publications”.

² JSMP was established in April 2011 with the main aim of monitoring the Ad Hoc trials in Jakarta-Indonesia and the trials of serious crimes from 1999 and the Timor-Leste Special Panels for Serious Crimes, and JSMP has continued its court monitoring activities to date.

violence and especially cases that involve victims and suspects who are closely related (incest) and well as other cases that impact on the dignity of women.

After listening to the short introduction about the establishment of JSMP and its role in the justice sector over the last nine years, as well as the challenges faced and progress achieved by JSMP to date, Major-General Taur Matan Ruak expressed his delight to meet with JSMP. The Major-General said that the meeting was really important because it was possible to use this forum to exchange opinions on what has been done to date by JSMP in the justice sector.

The Major-General said that in reality the justice sector is still in transition, and therefore further commitment was required to build this sector properly, and to respond to the needs and expectations of society. However, he also underlined that this process is not an easy one, and that it is a difficult task to build or establish a credible justice system.

Recalling the complex situation and challenges faced by the justice sector, the Major-General asked JSMP to organize a public discussion on the justice sector to mobilize public support on how to establish and develop a justice sector that reflects the real conditions faced by the people of Timor-Leste.

The Major-General also said that sometimes he held discussions with other parties to make comparisons and reflect on justice now and in the past, especially during the period of resistance. The Major-General expressed his concern and asked “why is the justice system not strong, because when they were still in the jungle there was not justice system, no jail, but they were able to organize thousands of people who shared a common desire, who were able to proceed by following some basic rules”.

In addition, the Major-General stated that the formal and traditional systems are completely different, because the justice system is always based on the facts, but the traditional system relies on the conscience of each person to admit his/her mistakes. However, the formal justice system is completely different as it requires evidence to prove that a crime has been committed.

In addition to acknowledging the differences between traditional and formal justice, the Major-General also expressed concern with certain technical problems in the realm/authority of the courts. Even though he respects the authority of the courts, the Major-General is a little concerned with the restrictive measures applied by judges against those suspected of being involved in certain crimes. He specifically mentioned the application of home detention/restriction of movement. He believes that this can kill the motivation of the police to conduct investigations and other procedures, such as arresting suspects who steal people’s belonging, or are involved in illegal drugs etc, because they are submitted to the prosecution service and then taken to court, but in the end the court only orders them to serve home detention/restriction of movement. The Major-General believes that such practices can allow perpetrators of crimes to continue to commit such acts.

Language Issue

In relation to the issue regarding the use of Portuguese language in the courts, the Major-General believes that he is a 'very pragmatic' person, and that he cannot force or try to implement something that in reality is not being well received. Therefore, he regularly speaks to the President of the Court of Appeal about the language issue in the courts. In principle, he only takes issue with three matters, firstly regarding interpreters who should possess a professional certificate, secondly the translation of documents by lawyers which are likely to be incomplete or inaccurate which disadvantages the parties involved, and thirdly the training conducted at the Judicial Training Centre which he believes is not productive because it is a repetition of the same thing as it teaches law to people who already have a law degree.

Therefore, the Major-General tends to believe that it would be better to send them to study overseas as this will resolve two problems simultaneously, because they will have a better understanding of legal issues and they will increase their ability to use the Portuguese language.

In addition, the Major-General emphasized the importance of public involvement in the process of developing the justice sector, because he believes that if the public are involved, they will feel that they have ownership or are a part of the system that is being applied to them.

Before the close of the meeting JSMP also used the opportunity to say thank you for the measures taken by F-FDTL against members involved in committing violence against women. These measures provide a good example to other institutions to fight against gender based violence in Timor-Leste.

The meeting between JSMP and the Major-General concluded with the submission of an overview of the justice sector in 2010, as well as a thematic report on the 11 February Case entitled 'More Questions than Answers' that included commentary on its potential impact on the justice system in the future.

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