



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Press Release
Regional Seminar
Baucau Municipality
14 December 2018

JSMP held a Regional Seminar on Democracy, the Role of Sovereign Bodies and Access to Formal Justice for members of Village Administration and the LGBT community in the Jurisdiction of the Baucau District Court

JSMP held a regional seminar on democracy, role of the sovereign organs, public participation in the law making process and access to formal justice in Baucau Municipality on 12 December 2018.

This seminar complemented training activities that were previously held at the village level. The aim was to organise and facilitate contact and direct interaction between members of the village councils and members of the LGBT community who had previously received training from JSMP with members of parliament and judicial actors to increase their knowledge about certain issues.

This regional seminar was opened by a representative of the Baucau Municipality Authority President, Mr. Simão dos Santos Marques, Director of Oversight of the Baucau Municipality Authority. During his opening speech the representative of the Municipality Authority President expressed his deep gratitude for this activity and thanked JSMP for providing these seminars to communities. He asked the participants at this seminar to carefully listen to the materials provided by the speakers to gain an understanding and then pass on information to other communities and the participants were also asked to convey their concerns and doubts directly to the speakers.

The participants included village chiefs, sub-village chiefs, delegates and community members from Caicua Village, Vemase Administrative Post, Baucau Municipality, Dilor Village, Lakluta Administrative Post, Viqueque Municipality and members of the LGBT community from Manatuto Municipality. Also, the seminar was attended by some veterans and judicial officers from the Baucau District Court.

The speakers comprised a representative from the National Parliament, former MP Flaviano Maria Guterres da Silva, the Judge Administrator of the Baucau District Court, Afonso Carmona and Public Defender Maria Guterres.

"This seminar is important for members of the village councils and members of the LGBT community because they can gain a better understanding about the role of the National Parliament and judicial actors and they can also convey their concerns, doubts and raise relevant issues or problems that they have encountered in their community", said the Executive Director of JSMP, Luis de Oliveira Sampaio.

During his presentation, Mr. Flávio Maria Guterres da Silva spoke about the role of the National Parliament and challenges, and the Honorable Afonso Carmona spoke about the role of the court and challenges, and Public Defender Jose Maria Guterres spoke about the role of the Office of the Public Defender in guaranteeing everybody's right to access formal justice.

Mr. Flávio in his presentation also explained about the role of the National Parliament in relation to its legislative, supervisory and political decision making power as provided for in Article 92 of the Constitution, and he also mentioned some important points relating to the rights and obligations of all community members and that everyone has the right to information as well as rights and obligations relating to development to ensure that the public receives information, such as JSMP and other members of civil society. To conduct these duties properly the parliament needs the participation of the public, especially the local authorities. The public needs to participate in the law making process through consultations and public hearings. The public, especially local leaders, need to participate in oversight because members of parliament don't have full access and cannot cover everything. Mr. Flavio also highlighted that this policy is important in the context of state building and the intention is not for MPs to just to exercise political power and forget about the State, but rather policies are made to build the State and strengthen the State.

Regarding the justice sector, the Honourable Judge Carmona explained about the role and independence of the courts according to the Constitution to ensure that all people can have access to fair and credible justice. The judge also explained about the composition of the courts during trials, as well as decisions made by the courts presided over by a single judge or panel of judges. Trials are presided over by a single judge for crimes carrying a maximum penalty of five years and also for civil cases of up to US\$2500. Trials are presided over by a panel of three judges for crimes carrying a penalty of five years and above and civil cases of US\$5000 and above. However civil cases between US\$2500-5000 can be presided over by a single judge or a panel of judges depending on the request of the parties.

Also, the judge explained how to judges can be impartial when dealing with cases when an impediment exists that prevents a judge from handling a case because they are related to the parties, or if a judge has a close relationship with the parties then the judge can decide not to handle the case because the parties might suspect that the judge will not be able to make a fair decision in the matter and therefore it will be given to another judge.

The judge said that so far they have encountered challenges such as a lack of collaboration provided by the parties and also court buildings have not been suitable to facilitate and enable the work of the courts.

In his presentation public defender Jose Guterres spoke about the role of the Office of the Public Defender in guaranteeing justice for the vulnerable in accordance with the Constitution and the law. The Office of the Public Defender provides free legal assistance to those who don't have the financial capacity to access justice. Citizens who need legal assistance can go to the Office of the Public Defender or can go to the courts and a judge will appoint a public defender to provide assistance.

During the discussion session the participants raised the issue about the work of members of parliament at the National Parliament in relation to the current political situation, the issue of members of parliament never visiting communities to have contact with their electorate, the issue of community members who encounter problems not making a complaint to the local authorities but rather to the police and taking their issues to the courts and the issue of criminal records, especially relating to those who have committed a crime, gone to prison and been released, and the question was do they continue to have a criminal record or is it removed when they have served their penalty?

In response to these issues relating to the National Parliament, Mr. Flaviona said that members of parliament are representatives of the people, and they need to make decisions that reflect the people's desire to uphold the interests of the people. However, they often make policies and decisions that are not based on the desire of the people. The actions of members of parliament will be subject to a popularity contest each five years that is decided by the people. After five years the people will consider and decide which party or coalition they trust to represent the people and sit in the parliament and run the government.

The issue of contact with the electorate is important, so that the people and representatives can have ongoing communication and members of parliament can know what the people want, so they can carry out their legislative, supervisory and political decision making powers even better.

Regarding the issue of community members not conveying their complaints through the local authorities, the judge said that this depends on each case. When a case or problem is categorised as a public crime, whether people like it or not, it must be processed or taken to court. If the local authorities resolve the case or decide to do something then this will be only be considered as a mitigating circumstance to reduce the severity of the penalty. When a case is categorised as a semi-public crime, the local authorities can resolve the matter if this is what the victim wants and when the matter goes to court the victim can also decide to withdraw the complaint or close the case.

In relation to the issue of criminal records, the judge said that when a person is tried and found guilty of committing a crime and goes to prison, even if the person has served the penalty, the criminal record remains. This criminal record can only be removed when the person is acquitted or found not guilty of committing the crime.

Before the seminar ended the speakers stated that they considered this activity to be very important, because it can enable them to have direct contact with village chiefs and members of village councils. They will continue to make themselves available when JSMP holds these activities in another location.

During his closing speech the Executive Director of JSMP thanked the speakers for presenting the materials to the participants and asked the participants to pass on the information provided by the speakers to other community members.

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For more information, please contact:

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