



Summary of cases involving gender based violence

November 2012

In November 2012, the Women's Justice Unit (WJU) observed 4 cases involving gender based violence that were processed at the Dili District Court.

This summary only focuses on cases of gender based violence, as the WJU works in the area of gender issues and conducts efforts to promote women's access to the formal justice system. This summary has been made possible through financial support from the Norwegian Embassy in Jakarta.

The following information provides a summary of cases tried:

1. Assault against physical integrity, Case No. 405/2012/TDD

Dili District Court

Court actors:

Single Judge: Antonio Helder do Carmo

Public prosecutor: Remizia de Fatima Silva

Public Defender: Cândia Xavier

Conclusion: The complaint was withdrawn and the court verified an amicable settlement

On 6 November 2012 the Dili District Court tried this case. The public prosecutor stated that on 11 February 2012 the defendant choked the victim and used his nails to scratch her on the back. His actions caused the victim to suffer injuries on her back. This incident allegedly occurred at the Casaminha Disco in Dili.

The public prosecutor stated in his indictment that the defendant had violated Article 145 of the Penal Code as well as violating the Law Against Domestic Violence.

During the trial the defendant stated that he is still single/not married. The victim also stated that she is still single. However, they explained that they had lived together in Australia and English but they were no longer living as husband and wife.

After hearing testimony from the defendant and the victim, the lawyer for the defendant requested for the court not to consider this case as a crime of domestic violence, because there was no family relationship as provided for in Article 3.

The court accepted the request of the lawyer and considered this matter to be a crime of

simple assault against physical integrity and then the court attempted to reach an amicable settlement.

The public prosecutor stated that the amicable settlement must be initiated by the victim. Then the court explained to the victim about withdrawing a complaint and reaching an amicable settlement as provided for in Articles 216 and 262 of the Criminal Procedure Code.

The public prosecutor provided an explanation to the victim and the defendant and then the court decided to close the case and validate the withdrawal of the complaint.

2. Crime of assault against physical integrity categorized as domestic violence – Case No. 0386/2011/PDD

Court actors:

Single Judge: Edite Palmira

Public prosecutor: Angelina Joaninha Saldanha

Public Defender: Manuel Exposto

Conclusion: The hearing to announce the decision was held on 23 November 2012 at 4:30pm.

On 8 November 2012 the Dili District Court tried this case.

The public prosecutor stated that on 31 January 2011 at 2am the defendant hit the victim on the forehead, eye and nose and kicked the victim in the back. His actions caused the victim to suffer pain and the victim was given traditional medical treatment in the home.

The public prosecutor stated in his indictment that the defendant had violated Article 145 of the Penal Code as well as violating Article 35 of the Law Against Domestic Violence.

During the trial the defendant chose to remain silent because the two parties had attempted to reach an amicable settlement with each other and their families.

The public prosecutor requested for the court to hand down a prison sentence of 6 months imprisonment, to be suspended for 3 years. The lawyer for the defendant requested for the court to issue an admonishment against the defendant.

3. Crime of assault against physical integrity categorized as domestic violence – Case No. 0213/2012/PDD

Court actors:

Single Judge: Edite Palmira

Public prosecutor: Nelson Carvalho

Public Defender: Manuel Exposto

Conclusion: The trial was adjourned until 11 December 2012 at 11am.

On 22 November 2012 the Dili District Court tried this case.

The public prosecutor stated in his indictment that on 29 January 2012 the defendant entered a room and saw money scattered on the floor and the defendant thought that the victim had done it. The defendant became angry and slapped the victim causing her to suffer a bloody nose. As a consequence the victim was treated at a clinic for two days because the victim suffered a lot of bleeding and severe headaches.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Article 35 of the Law Against Domestic Violence.

The defendant admitted all of the facts before the court. During the trial the victim and the defendant did not have good knowledge about their own identities. The victim is 16 and the defendant is 17. They did not know their date of birth or the year in which they were born. They are currently living together as husband and wife and have a child aged four months old.

As the defendant had admitted all of the charges against him the public prosecutor requested for the court to provide him with a warning. The lawyer for the defendant also agreed to the request of the public prosecutor.

4. Serious assault against a spouse – Case No. 481/2010/TDD

Court actors:

Panel of Judges; Antonino Goncalves, Antonio Gomes and Antonio Helder Carmo

Public prosecutor: Angelinha Saldanha

Public Defender: Marcia M. F. Sarmiento

Conclusion: The trial was adjourned until 12 December 2012 at 5pm to read out the decision.

On 26 November 2012 the Dili District Court tried this case. The public prosecutor in his indictment stated that on 19 September 2010 the defendant FP headed out to deliver some tofu to their customers. At that time the defendant asked for US\$ 2 in order to buy some fuel or in case the motorcycle suffered a flat tyre. However the victim became angry and did not give any money.

Then the defendant left their house in Terra Santa without any money. On the way to Comoro the motorcycle ran out of fuel. The defendant pushed the motorcycle back home and the victim asked the defendant what had happened. The defendant angrily slapped the victim twice on the cheek and punched her twice in the head and then damaged some goods in their house and kiosk. This incident allegedly occurred in their house in Terra Santa.

Initially the public prosecutor charged the defendant for committing serious assault against a spouse as set out in Article 154 of the Penal Code as well as Article 35 of the Law Against Domestic Violence. However, then the public prosecutor requested for the court to change the charges to simple assault against physical integrity as provided for in Article 145 of the Penal Code because the actions of the defendant did not fulfill the elements of Article 154 of

the Penal Code.

During the trial the defendant admitted the charges against him. His statement was corroborated by the victim, and the court found that the defendant guilty. In response to his confession the public prosecutor requested for the court to hand down a punishment of 6 months imprisonment against the defendant, to be suspended.

The lawyer for the defendant thanked the public prosecutor for changing the charge from Article 154 to Article 145 of the Penal Code. The lawyer for the defendant also requested for the court to apply a suspended sentence against the defendant.

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