



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL

JUSTICE UPDATE
Period: July 2008

Criminal Trials at the Suai District Court

In mid-July 2008 the Suai District Court conducted hearings in eight criminal matters. JSMP observed that the Suai District Court announced decisions in two cases and conducted preliminary trials and the examination of witnesses in the other six cases. The Presiding judge noted that these proceedings had been substantially hindered by insufficient resources and the non-attendance of public defenders as scheduled. The following is a summary of the hearings over this monitoring period:

Maltreatment

Case No. 34/crm.s/08/TDS

The defendants were charged under Article 351 (1) of the Indonesian Penal Code relating to minor, or 'light' maltreatment. The alleged incident occurred in January 2007, when it is claimed the three defendants assaulted the victim with a chair and a piece of wood during a party. This was reportedly related to conflict between rival martial arts groups. The defendants admitted to the court that they committed the actions against the victim. Witnesses had been formally notified by the court, but due to their non-attendance the trial had to be adjourned until 30 July 2008.

Maltreatment

Case No. 36/08/TDS

The defendant was charged with committing maltreatment against the victim, who reportedly suffered an injury and bleeding. Charges were laid under Article 351 (2) of the Indonesian Penal Code. A single judge examined the defendant; however the hearing of testimony from witnesses and the victim was not possible due to their non-attendance. The defendant admitted to some of the charges in the indictment. The prosecution requested that the hearing be adjourned until further evidence could be heard.

Maltreatment

Case No. 38//08/TDS

This case of maltreatment arose from an incident on 10 June 2006 and involved two defendants who are alleged to have committed maltreatment against two victims. During the hearing the court heard testimony from two defendants and one victim. The other victim was absent from court. The prosecutor charged the defendants under Article 351 (1) and Article 55 (1) of the Indonesian Penal Code on maltreatment and participating in the execution of a criminal act.

During the hearing, the defendants stated that the victims and their friends had, in fact, attacked them in their home and they had therefore acted in self-defense, which resulted in the victims suffering injury and bleeding. Before this case came to trial the defendants and the victims took part in a reconciliation ceremony before the local traditional elders. Due to the non-attendance of a victim the trial was adjourned until 31 July 2008.

Domestic Violence
Case No. 22//08/TDS

This case arose from an incident on 16 February 2008 in Santa Rosa, Suai, when it is alleged the defendant hit the victim (his wife) and burned her clothes. The attack reportedly took place because the victim accused the defendant of having an affair with another woman. The prosecutor charged the defendant under articles 351 (1) and 406 (1) of the Indonesian Penal Code on maltreatment and damage to property. The court examined the defendant and the victim, however no other victims were presented during the hearing.

The court provided an opportunity to the prosecutor to make his final recommendation of sentence and for the legal representative of the defendant to make his final plea.

The prosecutor stated that it had been proven that the defendant had committed maltreatment against the victim and had burnt the victim's clothing, based on the the defendant's own confession. At this late stage in proceedings, however, the prosecutor decided to alter indictment, withdrawing the charge under article 406 (1) on destruction of property, recognising that the proven actions of the defendant likely did not fulfill the elements of this crime. The prosecutor acknowledged that as the defendant and victim were husband and wife, then the clothing that was burned by the defendant was joint property according to civil law. JSMP notes that Article 406 (1) of the Indonesian Penal Code refers to destruction of property that belongs wholly or partially to another. The defence agreed with the prosecutor's argument. The trial was adjourned until 31 July 2008 for the final decision of the court.

Maltreatment

Case No. 40/08/TDS

In this hearing the court heard testimony only from the defendant because the victim failed to attend. The incident occurred on 25 August 2005 in the region of Turiscai. The defendant was charged under Article 351 (1) of the Indonesian Penal Code relating to maltreatment causing a minor injury. The defendant is claimed to have hit the victim on the head with a tree branch.

Maltreatment

Case No. 24/07/TDS

In this case the defendant was charged with committing maltreatment against the victim, punching and kicking them, causing injuries and bleeding requiring hospitalization. In addition to charging the defendant under Article 351 (1) of the Indonesian Penal Code, the prosecutor also demanded that the defendant pay the costs of treatment incurred by the victim as a result of the injuries. This incident reportedly related to a dispute over a land boundary. Even though the claim had apparently been resolved before the village authorities, the court heard the victim had never adhered to that decision.

Maltreatment

Case No. 19/2005/TDS

In this case, the court decided to acquit the defendant of charges under Article 351 (1) and Article 406 (1) of the Indonesian Penal Code. The court appeared to have taken into account that the accused had committed the acts in question while he was intoxicated and therefore was unable to control himself.

Maltreatment

Case No. 42/2008/TDS

Finalising this matter, the judge issued a guilty verdict and sentenced the defendant to six months imprisonment with a probationary period of one year in accordance with the penalty range for the criminal act of light maltreatment under Article 351 (1) of the Indonesian Penal Code.

For Further Information or Interview please contact
Roberto da Costa Paicheco
Legal Research Unit Coordinator
Email : bebeto@jsmp.minihub.org
Landline : 3323883