



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

***Case Summary 2013***

**August 2013**

**Summary of the trial process at the Suai District Court during the third week of August 2013**

***Introduction***

During the third week of August 2013 JSMP observed 10 cases at the Suai District Court.

These cases comprised 2 case of aggravated property damage, 1 case of rape, 2 cases of aggravated murder, 2 cases of murder, 1 case involving an abuse of power, 1 case of aggravated fraud, and 1 case of simple offences against physical integrity.

From these 10 cases, the court has issued a decision in one case, where it handed down a 3 year prison sentence that was suspended for 4 years as well as a fine, 1 case was adjourned and the remaining 8 cases are ongoing.

The following information provides a detailed summary of each matter brought to trial:

**1. Aggravated property damage, Case No. 147/pen/2013/TDS**

Composition of judges	: Panel
Judges	: Pedro Raposo de Figueiredo, Costâncio Barros Basmery and Argentino Luisa Nunes
Public Prosecutor	: Felismino Garcia Cardoso
Public Defender	: Marcal Mascharenhas
Conclusion	: Ongoing

On 27 August 2013 the Suai District Court conducted a hearing in a case of aggravated property damage involving the defendants OM, AS, MS, JM and LP who allegedly committed the crime against JS. This case allegedly occurred on 14 February 2013 in Ainaro District.

The public prosecutor alleged that on 14 February 2013 at approximately 3pm the defendant took a piece of wood and struck the victim and used petrol to burn down the home of the victim.

In court the defendants testified that the incident occurred because the defendants accused the victim of being a wizard/using black magic.

At that time the defendants saw a lot of people gathering at the home of the victim and the defendants went inside and pulled the victim out, then with a cane/piece of wood struck the victim and broke his arm and then burned down the home of the victim.

The defendants admitted all of the facts alleged by the public prosecutor and stated that they regretted their actions and promised not to reoffend in the future.

The public prosecutor charged the defendants for violating Article 259 of the Penal Code on aggravated property damage that carries a sentence of 3 - 8 years imprisonment.

The witnesses DS, OD and CSN, who are friends of the defendants and the victim, testified that they witnessed these five defendants maltreating the victim and burning the victim's home.

In his final recommendations the public prosecutor requested for the court to order the defendants to pay a fine because the facts had been proven.

The public defender requested for the court to hand down a fair punishment against the defendants because they admitted all of the facts alleged against them.

After hearing testimony from the defendants and witnesses the court adjourned the hearing until 10 September 2013 at 14:30 to read out its final decision.

## **2. Crime of aggravated murder, Case No. 153 /pen/2013/TDS.**

Composition of judges	: Panel
Judges	: Pedro Raposo de Figueiredo, Costâncio Barros Basmerly and Argentino Luisa Nunes
Public Prosecutor	: Felismino Garçia Cardoso.
Public Defender	: Marçal Mascarenhas
Conclusion	: Ongoing

On 27 August 2013 the Suai District Court conducted a hearing in a case of aggravated murder involving the defendants CBM, GC, MT, DX, ODCS, ZS, CA, FSA, JS, PST and CA who allegedly committed the crime against the victims TMT, JT and AC. This case allegedly occurred on 11 March 2013 in Ainaro District.

The public prosecutor alleged that on 11 March 2013 at approximately 20:00, the defendants seized the victims and beat them up in a plantation which resulted in the death of the victim TMT at the scene, and the other two victims JT and AC suffered serious injuries.

This case allegedly occurred because the defendants suspected and accused the victims of using black magic to kill people.

For their actions the public prosecutor accused the defendants of violating Article 139 of the Penal Code on aggravated murder that carries a sentence of between 5 - 15 years imprisonment.

The defendants testified that they beat the victims and admitted all of the evidence charged against them.

The 8 witnesses, who are friends of the defendants and victims, testified that they witnessed the defendants beat the victims which caused the death of the victim TMT who died instantly at the scene of the crime.

In his final recommendations the public prosecutor requested for the court to sentence the defendants to 12 year's imprisonment.

The public defender requested for the court to hand down a lenient sentence against the defendants because the defendants admitted all of the evidence charged against them.

After hearing the final recommendations of the two parties, the court announced that it would read out its final decision on 9 September 2013 at 9am.

### **3. Crime of aggravated murder, Case No. 34/pen/2007/TDS.**

Composition of judges	: Panel
Judges	: Pedro Raposo de Figueiredo, Costâncio Barros Basmerly and Argentino Luisa Nunes
Public Prosecutor	: Felismino G. Cardoso
Defense	: Manuel Gonçalves (private lawyer)
Conclusion	: Ongoing

On 27 August 2013 the Suai District Court conducted a hearing in a case of aggravated murder involving the defendants CLR, JL, JJA, FJM and AA who allegedly committed the crime against the 3 victims OO, LOS and JCD. This case allegedly occurred on 19 November 2006 in Ainaro District.

The public prosecutor alleged that on 19 November 2013 at approximately 16:00 the defendants assaulted the victims when they were returning from mass.

For their actions the public prosecutor accused the defendants of violating Article 139 of the Penal Code on aggravated murder that carries a sentence of between 5 - 15 years imprisonment.

The defendants testified that they beat the victims and admitted all of the evidence charged against them.

In their testimony the witnesses EC and AOS who are related to the defendant stated that they did not see who killed the victim, and they heard from others that the defendant CLR had killed the victim.

In his final recommendations the public prosecutor requested for the court to sentence the defendants to 12 year's imprisonment, based on the evidence produced during the trial.

The public defender requested for the court to hand down a lenient sentence because the defendants admitted all of the evidence charged against them.

After hearing the final recommendations of the public prosecutor and public defender, the court adjourned the trial until 09 September 2013 at 9am to announce its final decision.

#### **4. Domestic Violence, Case No. 154/pen/2013/TDS**

Composition of judges	: Single
Judge	: Argentino Luisa Nunes
Public Prosecutor	: Felismino Garcia Cardoso.
Public Defender	: Marçal Mascarenhas
Conclusion	: Ongoing

On 29 August 2013 the Suai District Court conducted a hearing in a case of domestic violence involving the defendant FX who allegedly committed the offence against his wife. This case allegedly occurred on 08 January 2012 in Ainaro District.

The public prosecutor in his indictment stated that on 8 January 2012, at approximately 9.30pm the defendant kicked the victim in the back, and punched her twice in the stomach and cheek.

For these actions the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding ordinary offences against physical integrity characterized as domestic violence as well as Article 35 (b) of the Law Against Domestic Violence.

In court the victim testified that the defendant hit her because he suspected her of having an affair with another man.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 month's imprisonment, to be suspended for 1 year. This recommendation was based on the evidence presented that demonstrated that the defendant had clearly committed the crime as charged by the public prosecutor.

The public defender requested for the court to hand down a fair punishment because the defendant admitted all of the evidence charged against him.

After hearing the final recommendations of the two parties the court adjourned the trial until 10 September 2013, at 10am, to announce its final decision.

#### **5. Crime of abuse of power, Case No. 47/pen/2013/TDS.**

Composition of judges	: Panel
Judges	: Costâncio Barros Basmerly, Pedro Raposo de Figueiredo and Argentino Luisa Nunes
Public Prosecutor	: Felismino Garcia Cardoso
Public Defender	: Marçal Mascarenhas

Conclusion : Sentenced to 3 years imprisonment, suspended for 4 years and ordered to pay a fine of US\$ 5,000.

On 28 August 2013 the Suai District Court conducted a hearing to announce its decision in a case of abuse of power involving the defendant Joao dos Reis who allegedly committed the crime against the NGO *Moris Rasik*. This case allegedly occurred on 20 November 2012 in Ainaro District.

The public prosecutor alleged that on 20 November 2012, the defendant was working with an NGO named 'Moris Rasik' and misused funds of US\$ 5,000 that were supposed to be used to provide credit to widows. However the defendant used the money for his own purposes.

For his actions the public prosecutor charged the defendant for violating Article 256 of the Penal Code on abuse of power that carries a penalty of between 2 - 8 years imprisonment.

In court the defendant admitted that he had used the money belonging to the NGO *Moris Rasik* for his own purposes, however the defendant also testified that he was willing to pay the money back within one year.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 3 year's imprisonment, to be suspended for 5 years and ordered him to pay back the money to the NGO *Moris Rasik*.

The public defender also agreed with the final recommendations of the public prosecutor based on the evidence presented during the trial.

After hearing the final recommendations of the parties, the court settled the matter and sentenced the defendant to 3 years imprisonment to be suspended for 4 years and ordered him to pay a fine of US\$ 5,000.

#### **6. Aggravated fraud, Case No. 156/pen/2013/TDS.**

Composition of judges : Panel  
Judges : Costâncio Barros Basmery, Pedro Raposo de Figueiredo and Argentino Luisa Nunes  
Public Prosecutor : Felismino Garcia Cardoso  
Public Defender : Rui Antônio Mendonça (private lawyer)  
Conclusion : Ongoing

On 28 August 2013 the Suai District Court conducted a hearing in a case of aggravated fraud involving the defendant AX who allegedly committed the crime against the victims JC, JJ, SDS, MM, FB, VPJ and SJA on 13 January 2013 in Covalima District.

The public prosecutor alleged that on 13 January 2013 the defendant took money totaling US\$ 9,000 from the victims to purchase rice. However the defendant never provided the rice that he had promised to purchase.

The public prosecutor charged the defendant for violating Article 267 of the Penal Code on aggravated fraud that carries a sentence of between 3 - 10 years imprisonment.

In court the defendant testified that he has already repaid the money that he misused back to the victims. The defendant also testified that he did not lose the money, but TSX committed fraud with the money.

The witnesses MCV, RP and JS testified that the defendant has paid back the money to the victims that he had used for himself.

In his final recommendations the public prosecutor requested for the court to hand down a suspended sentence and order the defendant to pay a fine.

The public defender requested for the court to acquit the defendant because the defendant did not commit the crime charged because this case is a civil case and is dealt with under civil procedure. The public defender believed that the agreement was made pursuant to Article 340 of the Civil Code as well as Articles 376 – 377 on “promised contract of sale”.

After hearing the final recommendations of the two parties the court adjourned the trial until 10 September 2013, at 15:30, to announce its final decision.

## **7. Crime of Rape, Case No. 48/pen/2013/TDS**

Composition of judges	: Panel
Judges	: Pedro Raposo de Figueiredo, Constâncio B. Basmery and Argentino Luisa Nunes
Public Prosecutor	: Felismino Garcia Cardoso
Public Defender	: Marcal Mascrenhas
Conclusion	: Ongoing

On 28 August 2013 the Suai District Court conducted a hearing in a case of rape involving the defendant PA. This case allegedly occurred on 7 June 2012 in Ainaro District.

The public prosecutor alleged that on 7 June 2012 at approximately 16:00 the defendant called the victim into his room and laid the victim down and used force to remove her clothes and raped the victim. As a result of these actions the victim suffered pain from the rape that was committed.

The public prosecutor charged the defendant for violating Articles 172 and 173 of the Penal Code on rape which carries a penalty of 5 - 15 years imprisonment.

During the trial the defendant testified that he had sexual intercourse with the victim, however he did not call out to the victim, but rather the victim used her own initiative to come into his room.

However, the victim testified that she did not enter the room of the defendant to have sexual intercourse, but the defendant had called her to go into his room.

The witness IMA testified that he witnessed the victim enter the defendant's room and saw the defendant having sexual intercourse with the victim.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to between 1 - 10 year's imprisonment.

The public defender requested for the court to hand down a fair punishment because the defendant admitted all of the evidence charged against him.

After hearing the final recommendations of the two parties the court adjourned the trial until 10 September 2013 at 3pm to announce its final decision.

### **8. Murder, Case No. 99/pen/2013TDS**

Composition of judges	: Panel
Judges	: Pedro Raposo de Figueiredo, Costâncio Barros Basmery, dan Argentino Luisa Nunes
Public Prosecutor	: Felismino Garcia Cardoso
Public defender	: Marçal Mascarenhas
Conclusion	: Ongoing

On 29 August 2013 the Suai District Court conducted a hearing in a case of murder involving the defendant ASM who allegedly committed the crime against CA. This case allegedly occurred on 27 February 2013 in Same District.

The public prosecutor alleged that on 27 February 2013 at approximately 16:30 the defendant hit the victim twice in the face and kicked the victim once in the back causing the victim to fall down.

Several hours after the incident, at approximately 2am, the victim passed away.

For his actions the public prosecutor charged the defendant for violating Article 138 of the Penal Code on murder. However the public prosecutor amended the charge to Article 146 of the Penal Code on serious offences against physical integrity resulting in death that carries a sentence of between 2 - 8 years imprisonment.

The defendant testified that the defendant hit the victim during the incident; however the defendant did not have intent to kill the victim.

The witness MGC testified that he did not witness or have knowledge about the death of the victim; however on the following day he heard that the victim had passed away.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 5 year's imprisonment, because he was guilty of committing the crime.

The trial of this case was adjourned until 10 September 2013, at 4pm, to announce the final decision.

## **9. Murder, Case No. 49/pen/2013TDS.**

Composition of judges : Panel  
Judges : Pedro Raposo de Figueiredo, Costâncio Barros Basmery and  
Argentino Luisa Nunes  
Public Prosecutor : Felismino Garçia Cardoso.  
Public Defender : Marçal Mascarenhas  
Conclusion : Ongoing

On 29 August 2013 the Suai District Court conducted a hearing in a case of murder involving the defendants LF and LCCM who allegedly committed the crime against JCL. This case allegedly occurred on 25 November 2009 in Ainaro District.

The public prosecutor alleged that on 28 November 2005 at approximately 17:30 the defendant LF argued with the victim, then the defendant used a black cable to choke the victim.

The victim fought back and punched the defendant and the defendant immediately released the cable that he was using to choke the victim. At that time, the defendant shouted out for help and suddenly the defendant LCCM emerged with a piece of wood and hit the victim on the forehead. This incident caused the victim to fall down and the victim immediately passed away at the scene.

The public prosecutor charged the defendant for violating Article 139 of the Penal Code on aggravated murder. However, the public prosecutor amended the charge to Article 138 of the Penal Code on murder that carries a penalty of between 8 - 20 years imprisonment.

This amendment was made pursuant to the evidence presented that there were no criminal elements indicating that this was a premeditated murder.

The defendant testified that he had no intention to punch the victim and cause his death, and the defendant also testified that he deeply regretted the incident and what happened to the victim.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 8 year's imprisonment because the defendant had been proven guilty of committing the crime of murder.

The public defender requested for the court to hand down a fair punishment because the defendants admitted all of the evidence charged against them.

After hearing the final recommendation of the parties the court adjourned the trial until 10 September 2013 at 17:00 to announce its decision.

## **10. Aggravated Property Damage - Case No. 159/pen/2013/TDS**

Composition of judges : Panel

Judges : Pedro Raposo de Figueiredo, Costâncio Barros Basmerly and  
Argentino Luisa Nunes  
Public Prosecutor : Felismino Garcia Cardoso  
Public Defender : Marçal Mascarenhas  
Conclusion : Ongoing

On 29 August 2013 the Suai District Court conducted a hearing in a case of aggravated property damage involving 35 defendants who allegedly committed the crime against the State. This case allegedly occurred on 10 March 2013 in Ainaro District.

Several of the defendants did not appear at the Suai District Court even though they had been properly summoned. Therefore, the court decided to adjourn this hearing until 29 October 2013.

For more information, please contact:

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