



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA
JUDISIÁRIU



CASE SUMMARY | GENDER BASED VIOLENCE

November 2013

In November 2013 the Women's Justice Unit continued its monitoring of cases involving gender based violence in the district courts of Dili, Baucau and Suai.

In this edition we will summarize the trials of 21 cases, comprising 10 cases from the Dili District Court, 9 cases from the Baucau District Court and 2 cases from the Suai District Court. From a total of 21 cases, there were 16 cases involving simple offences against physical integrity, 1 case of infanticide, 1 case of rape, 1 case of joinder of crimes (attempted murder and arson) and 2 cases involving the maltreatment of a spouse.

In 4 of these cases a fine was imposed, in 8 cases a suspended jail sentence was imposed, in 2 cases prison sentences were imposed, in 1 case an admonishment was handed down, 1 case resulted in an acquittal and in 5 cases the final recommendations have been made by the public prosecutor.

The information below outlines the hearings conducted:

1. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 188/CRM.S/2013.TDB

Judge	: Hugo da Cruz Pui
Public Prosecutor	: Baltazar Ramos
Public Defender	: Grigoriu de Lima
Conclusion	: Ordered to pay a fine

On 13 November 2013 the Baucau District Court read out its decision in a case involving simple offences against physical integrity and ordered the defendant MLBS to pay a fine after he was found guilty of committing violence against his wife (FC).

The public prosecutor alleged that on 1 June 2011 the defendant and the victim had an argument about a family problem. Because they could not agree the defendant took a piece of wood and struck the victim on her hand and back. His actions caused the victim to suffer swelling and pain to her right hand and pain all over her back.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

The court considered all of the facts produced during the trial and found the defendant guilty of committing violence against the victim and causing the victim to suffer swelling and pain to her back. The court also considered the guilty plea and the regret expressed by the defendant and his determination not to reoffend in the future.

In deciding the matter the court determined that it was necessary to deter similar crimes from occurring in the future, and therefore ordered the defendant to pay a fine of \$45, in daily instalments of 50 cents for a period of 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

2. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 123/CRM.S/2013.TDB

Judge : Jose Goncalves
Public Prosecutor : Baltazar Ramós (international)
Public Defender : Jonas Henrique
Conclusion : Ordered to pay a fine

On 13 November 2013 the Baucau District Court read out its decision and ordered the defendant PG to pay a fine after he was found guilty of committing violence against his wife.

The public prosecutor alleged that the defendant struck the victim on the head and the victim fell to the ground. Before the victim got up again the defendant punched and kicked her until she started bleeding. This incident allegedly occurred because the defendant received a telephone call from a woman that said that the victim was seen travelling on the back of another man's motorcycle.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts in the indictment and the court considered the facts that had been proven during the trial including the statement of the defendant and other documents attached to the indictment.

Pursuant to these facts the court concluded the matter and ordered the defendant to pay a fine of \$45 in daily installments of 50 cents for a period of 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

3. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 110/CRM.S/2012.TDB.

Judge : Jose Gonçalves
Public Prosecutor : Baltazar Ramós (international)
Lawyer : Elvira Maria da Costa (from ALFeLa)
Conclusion : A suspended prison sentence was imposed

On 13 November 2013 the Baucau District Court read out its decision and sentenced the defendant AF to 30 days imprisonment, suspended for 1 year, after finding her guilty of committing violence against her husband. The public prosecutor alleged that on 7 December 2011 the defendant took a piece of wood and struck the victim in the head. This case allegedly occurred because the victim entered the house to get a knife to cut the grass, and in doing so he stood on their child who started crying, so the defendant became angry and struck the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

The court decided the matter based on the facts that were presented by the defendant, and the fact that they have reconciled, are living together and the defendant was a first time offender.

Pursuant to these facts and the judge's discrepancy, the court decided to sentence the defendant to 30 days imprisonment, suspended for 1 year.

4. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 130/CRM.S/2012.TDB

Judge : Hugo da Cruz Pui
Public Prosecutor : Baltazar Ramos
Public Defender : Jonas Henrique
Conclusion : Ongoing

On 13 November 2013 the Baucau District Court conducted a hearing in a case of domestic violence involving the defendant AS and the victim (MA) in Makadiki-Uatolari, Viqueque District.

The public prosecutor alleged that on 19 August 2011, at approximately 07:00 am, the defendant struck the victim twice on the left side of her head. This case occurred after the defendant asked the victim for \$ 20 to bet on a cock fight, however the victim did not give him the money.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant admitted the facts alleged by the Public Prosecutor. However, the defendant also stated that he regretted his actions and is determined not to reoffend in the future. The defendant explained that he is a farmer and has 8 children who are all dependent on him.

Because the defendant admitted all of the facts, the public prosecutor decided not to hear witness testimony.

In his final recommendations the public prosecutor took into consideration the fact that the defendant was a first time offender, and he requested for the court to sentence the defendant to 6 months imprisonment, to be suspended for 1 year.

The public defender requested for the court to consider the mitigating circumstances, such as the fact that the defendant regretted his actions, is a farmer with 8 children, and therefore he requested for the court to admonish the defendant.

The court then adjourned the trial until 27 November 2013, at 2pm to announce its decision.

5. Crime of maltreatment against a spouse, Case No. 33/CRM.C/2013.TDB

Judge	: Jose Gonçalves
Public Prosecutor	: Baltazar Ramós (international)
Public Defender	: Jonas Henrique
Conclusion	: Ordered to pay a fine

On 14 November 2013 the Baucau District Court read out its decision in a case involving the maltreatment of a spouse.

Before it read out its decision the court stated that new evidence had been discovered during the trial and requested for the public prosecutor to amend the indictment in accordance with Articles 273 and 274 of the Criminal Procedure Code.

The court reported the amended facts to the public prosecutor and public defender and asked them about their procedural position; however both parties stated that no time was needed to present new evidence.

Previously, the public prosecutor alleged that on 8 December 2010 the defendant was drunk and threw a stone at the victim, slapped and punched her with great force and punched the victim in the face causing her to suffer injuries. The public prosecutor also alleged that the defendant often committed acts like these.

The court considered the facts, namely that the defendant and the victim have been married for more than 40 years, and it was only after 10 years that the defendant started hitting the victim.

On 8 December 2010 the defendant ordered the victim to feed their pig, however the victim refused, so the defendant became angry and took a stone and threw it at the left leg of the victim which resulted in bruising and the victim required medical attention for 2 weeks. The defendant and the victim are living separately, have three children and they are farmers.

The public prosecutor charged the defendant for committing the crime of maltreatment against a spouse, however during the trial the court was of the opinion that the acts did not fulfil the elements of the criminal act regarding the maltreatment of a spouse.

The court amended the charge of the public prosecutor to the crime of simple offences against physical integrity characterized as domestic violence (Article 145 of the Penal Code). The court was of the opinion that the application of Article 154 of the Penal Code requires that the crimes or criminal acts must be committed repeatedly.

After considering all of the facts in this case, the court decided to sentence the defendant to a fine of \$ 45 to be paid in daily instalments of 50 cents for a period of 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

6. Crime of maltreatment against a spouse - Case No. 99/Crm.C/2013/TDB.

Judge : Afonso Carmona
Public Prosecutor : Baltazar Ram6s (international)
Public Defender : Jonas Henrique da Costa
Conclusion : Suspended prison sentence

On 6 November 2013 the Baucau District Court conducted a hearing to read out its decision in a case of maltreatment against a spouse involving the defendant MACX who allegedly committed the offence against his wife. The court imposed a prison sentence against the defendant, however the sentence was suspended.

The public prosecutor charged the defendant for committing the crime of maltreatment of a spouse as provided for in Article 154 of the Penal Code.

Based on the facts revealed during the trial the court found that the defendant argued with the victim about \$ 800 that went missing from the victim's bag.

Therefore, the defendant hit her twice in the chest, choked her and threw her on the ground. This case allegedly occurred on 16 January 2013 in Baucau District.

In addition, on an unspecified date the defendant hit the victim in the head, pulled her hair and punched the wall of the house. The court also found that while they were living together as husband and wife the defendant often hit the victim.

In addition to these facts the court also took into account the mitigating circumstances such as the defendant's confession and regret and the fact that the parties have reconciled, therefore the court decided the matter and sentenced the defendant to a suspended sentence of 3 years imprisonment, and also ordered the defendant to pay court costs of \$ 20.

7. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 175/Crm.S/2013/TDB

Judge : Afonso Carmona
Public Prosecutor : Baltazar Ram6s (international)
Public Defender : Jonas Henrique da Costa

Conclusion : Ordered to pay a fine

On 6 November 2013 the Baucau District Court read out its decision and ordered the defendant AS to pay a fine for the crime he committed against his wife. The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity in conjunction with the Law Against Domestic Violence.

Based on the admission of the defendant, the court found it proven that on 22 March 2013 the defendant poured a bowl of soup on the victim's head and used a machete to slash the victim's knee. This case occurred because their child was crying.

After examining the facts produced during the trial and the circumstances surrounding this case, the court decided to order the defendant to pay a fine of \$ 45 to be paid in daily installments of 50 cents for a period of 90 days, as well as court costs of \$ 10.

The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

8. Crime of serious offences against physical integrity, characterized as Domestic Violence, Case No. 201/Crm.C/2012/TDB

Judge : António Fonseca Monteiro
Public Prosecutor : Baltazar Ramós (international)
Public Defender : Grigoriu de Lima
Conclusion : Suspended prison sentence

On 7 November 2013 the Baucau District Court conducted a hearing in a case of serious offences against physical integrity characterized as domestic violence involving the defendant MSC who allegedly committed the offence against his wife OC in Baucau District.

The public prosecutor alleged that on 2 April 2012 the defendant took a rock and threw it at the victim's back and slashed the victim's forehead with a machete. As a consequence of the assault the victim suffered swelling to her back and an injury to her forehead that required 10 stitches. The public prosecutor charged the defendant for violating Article 146 (e) of the Penal Code regarding the crime of serious maltreatment characterized as domestic violence as well as the Law Against Domestic Violence.

After evaluating all of the facts relating to this case the court then amended Article 146 (e) of the Penal Code to subsection (b) as well as the Law Against Domestic Violence.

During the trial the defendant corroborated the facts as charged. Based on the confession of the defendant, the court found the defendant guilty of committing serious maltreatment against his wife.

In addition the court also considered that the defendant and the victim have reconciled and that \$ 200 and a pig was given as compensation.

After examining these mitigating circumstances the court settled the matter and handed down a suspended sentence of 3 years imprisonment.

9. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 65/Crm.S/2013/TDB

Judge : António Fonseca Monteiro
Public Prosecutor : Baltazar Ramós (international)
Public Defender : Jonas Henrique da Costa
Conclusion : Suspended prison sentence

On 7 November 2013 the Baucau District Court continued the trial involving the defendant NCX for committing maltreatment against his wife (GC) and their son in Baucau District.

The public prosecutor alleged that on 30 April 2012, at approximately 10am the defendant pulled the victim's hair, kicked her in the back and punched her in the chest and the nose. The defendant then struck the victim in the face, however because the victim tried to get out of the way the child that the victim was holding was struck in the forehead.

The actions of the defendant caused the victim to suffer swelling and pain to her left breast, nose and back, and their baby suffered bruising to his forehead.

This case occurred because the defendant gave \$ 50 to their daughter to take to school but the victim took the money back to buy some rice.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with the Law Against Domestic Violence.

In the court the defendant admitted all of the facts set out in the indictment, expressed regret, stated that the parties have reconciled and he is determined not to reoffend in the future.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 months imprisonment, however this was amended to a fine because the defendant was found guilty of punching his wife.

The public defender requested for the court to apply a penalty that does not restrict the freedom of the defendant because the defendant had confessed, regretted his actions, has reconciled and is responsible for his family.

The court adjourned a trial to evaluate all of the facts that were presented during the trial and then proceeded to read out its decision.

The court found that the defendant had kicked and punched the victim and their baby, however the court also took into account the circumstances surrounding this case, and the court decided to

sentence the defendant to 7 months for committing the offence against his wife and 3 months for the committing the offence against his child.

Based on the facts and the surrounding circumstances the court decided the matter and sentenced the defendant to 10 month's jail, suspended for 1 year.

**10. Crime of simple offences against physical integrity, characterized as Domestic Violence,
Case No. 295/2013/TDD**

Judge : José Maria de Araujo
Public Prosecutor : Lidia Soares (trainee)
Public Defender : Manuel Exposto
Court clerk : Gina Maria
Conclusion : Ongoing

On 14 November 2013 the Dili District Court conducted a hearing involving the defendant MGP who allegedly committed violence against his wife in Dili District.

The public prosecutor alleged that on 13 July 2013 the defendant slapped the victim in the mouth causing her to suffer an injury and bleeding. On 14 July 2013 the defendant threw a glass at the victim's back and the glass missed and hit their baby who was sleeping in the room.

The actions of the defendant caused the victim to suffer pain to her back as well as injuring the child. This case allegedly occurred because there was a disagreement between them.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

The defendant admitted all of the facts alleged by the public prosecutor, regretted his actions, and stated that they have reconciled and that he will not reoffend in the future against the victim or anyone else.

In her final recommendations the public prosecutor requested for the court to hand down a prison sentence of 6 months, to be suspended for 1 year, because the defendant had been found guilty of committing violence against the victim.

The public defender requested for the court to consider the mitigating circumstances presented during the trial, and requested for the court to hand down an appropriate punishment.

After hearing the final recommendations of the parties the court adjourned the trial until 27 November 2013, at 11:00 am to read out its decision.

**11. Crime of simple offences against physical integrity, characterized as Domestic Violence,
Case No. 309/2013/TDD**

Judge : Antonio Helder do Carmo
Public Prosecutor : Oscar Tavares (international)
Public Defender : Rui Manuel Guterres
Conclusion : Suspended prison sentence

On 18 November 2013 the Dili District Court conducted a hearing involving the defendant CC who allegedly committed violence against his wife.

The public prosecutor alleged that on the evening of 20 May 2012 the defendant left his home to go to work and when he got to the Government Palace he saw a man on a motorcycle come and take the victim to her workplace.

After he got back from work the defendant asked the victim who had taken her to her workplace and the victim said she didn't know the person. Upon hearing the victim's response the defendant became angry and hit the victim in the face, struck her on the head with a piece of wood and took a piece of steel and struck the victim on her left shoulder. These acts caused the victim to suffer an injury to her head, bruising on her face and shoulder.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity as well as Article 145 of the Law Against Domestic Violence.

During the trial the defendant admitted the facts alleged by the Public Prosecutor. The defendant stated that he regretted his actions, has reconciled with the victim and is determined not to reoffend in the future, against the victim or any other person.

In his final recommendations the public prosecutor requested for the court to hand down a prison sentence of 1 year, to be suspended for 2 years, because the defendant had been found guilty of committing violence against the victim.

In his final recommendations the public defender requested for the court to apply a suspended sentence against the defendant in order to avoid restricting the freedom of the defendant. This request was made with consideration to the mitigating circumstances such as the fact that the defendant had cooperated with the court to find the truth, regretted his actions, has reconciled with the victim and is responsible for his family.

Pursuant to the facts and the circumstances surrounding this case the court decided the matter and sentenced the defendant to 1 year's imprisonment, suspended for 2 years and ordered the defendant to pay court costs of \$ 10.

12. Crime of rape, Case No. 127/2008/TDS

Judge : Florença Freitas (representing a panel of judges)
Public Prosecutors : Antonio Tavarres and Felisminio Cardoso
Public Defenders : João H. d. Carvalho, Marçal Masçarenhas and Manuel Amaral
Conclusion : Prison sentence imposed

On 26 November 2013 the Suai District Court read out its decision and sentenced the defendant CM to 4 years imprisonment because he was found guilty of committing sexual violence against his adopted daughter in Maliana District.

The public prosecutor charged the defendant for committing rape as set out in Article 285 of the Indonesian Penal Code as well as Article 172 of the Timor-Leste Penal Code.

The court was convinced that on 18 and 19 April 2008 the defendant committed rape against the victim. The court was also convinced that the defendant threatened to kill the victim if the victim told anyone else about the incident.

The court also found that the defendant and the family of the victim have settled this case in accordance with local tradition with the defendant paying compensation of US\$100, 3 buffaloes and 3 “*belak*” (a traditional ornament of value).

Based on the facts presented during the trial, and with consideration to the mitigating circumstances in this case, as well as pursuant to Article 3.3 of the Penal Code regarding the applicability of the Penal Code, the court ruled that the Indonesian Penal Code was more favorable to the defendant. Therefore, the court reached its decision and sentenced the defendant to 4 years imprisonment.

13. Crime of attempted murder and arson (joinder of crimes, Case No. 217/PEN/2013/TDS.

Judges	: Costâncio Barros Basmerly, Argentinho Maria Nunes (international) and Pedro Raposo de Fiquieredo (international)
Public Prosecutors	: Antonio Tavarres, Felismino Cardoso (international)
Public Defenders	: João Henrique de Carvalho, Marçal Masçarenhas, Manuel Amaral (trainee)
Court clerk	: Trenço Amaral
Conclusion	: Ongoing

On 26 November 2013 the Suai District Court conducted a mobile court in Maliana District to try the defendant JJ for the attempted murder of his wife and for burning down their house. This case allegedly occurred di Maliana District.

The public prosecutor alleged that on 29 April 1 2013 without any clear reason the defendant splashed kerosene on the walls of their house and lit it with a match even though the victim and their children were asleep inside the house.

The victim got out from the bedroom and tried to put out the fire but the defendant used a machete to slash her neck, fingers, back and shoulder. These acts caused the victim to suffer serious injuries and she had to be treated at the Maliana hospital for 10 days.

After the defendant struck the victim with the machete, the defendant removed his four children from the house and burned it to the ground.

The prosecutor's indictment also stated that during Indonesian times the defendant killed his first wife before marrying the victim.

The public prosecutor charged the defendant for violating Article 138 of the Penal Code on murder as well as Article 23 on attempt to commit a crime and Article 263 of the Penal Code on arson.

During the trial the defendant admitted all of the facts alleged in the indictment of the public prosecutor, regretted his actions and told the court that when he committed the acts he was not aware of what he was doing.

In his testimony, the victim corroborated the allegations of the public prosecutor that the defendant had indeed committed these acts. The victim also stated that she did not die because she was saved by doctors at the Maliana hospital. The victim stated that she does not wish to live with the defendant after the defendant finishes his jail term.

In their final recommendations the public prosecutors requested for the court to sentence the defendant to 12 years imprisonment because the defendant had intended to kill the victim, burn down the house that he had built together with the victim and did not care about their children who were asleep inside the house.

In their final recommendations the public defenders requested for the court to consider the circumstances surrounding this case. The public defender requested for the court to uphold the interests of justice because the defendant had cooperated with the court to reveal the truth, regretted his actions and was the breadwinner of the family.

After hearing the final recommendations of the parties the court adjourned the trial until 4 December 2013 at 12.00pm to announce its final decision at the Suai District Court.

14. Crime of infanticide, Case No. 517/2011/TDD

Judge	: Jose Maria de Araújo (representing a panel of judges)
Public Prosecutor	: Gloria da Silva (international)
Public Defender	: Cândio Xavier
Conclusion	: Acquitted

On 26 November 2013 the Dili District Court conducted a hearing to read out its decision in a case of infanticide involving the defendant FS who allegedly committed the offence against her own baby in Dili District.

The public prosecutor alleged that on the evening of 10 February 2004 the defendant had a stomach ache and went to the bathroom and gave birth to a baby boy.

After giving birth the defendant allowed the baby to die. After her baby passed away the defendant wrapped the body of her baby in a cloth and put it in a plastic bag and tied the bag firmly.

On 11 February 2004 at approximately 09:00 am the defendant threw the body of the baby in the rubbish. The incident occurred because the defendant felt embarrassed towards her family and neighbors.

The public prosecutor charged the defendant for violating Article 142 of the Penal Code on infanticide that carries a sentence of 3 - 10 years imprisonment.

During the trial the defendant stated that the facts contained in the public prosecutor's indictment were all true.

The witness who conducted the autopsy testified that based on the results of the autopsy there were no signs of strangulation or the use of a sharp object to injure the baby. The witness stated that the victim died because the defendant placed the baby into a plastic bag.

Another witness, who was the boyfriend of the defendant, stated that he did not know when the defendant committed the act, because they were living separately. However the witness admitted that he had previously had sexual intercourse with the defendant.

Based on the circumstances and facts that were established during the trial, the public prosecutor requested for the court to sentence the defendant to 1 year's imprisonment, to be suspended for 2 years. The public defender believed that the defendant was a first time offender, and therefore requested for the court to acquit the defendant. And if the court rules otherwise, then he requests a prison sentence of 6 months, suspended for 1 year.

Based on the facts that were examined during the trial the court decided to acquit the defendant.

15. Maltreatment of a spouse, Case No. 25/2013/TDD

Judge	: Zulmira da Silva (representing a panel of judges)
Public Prosecutor	: Jacinto Babo
Public Defender	: Amado de Almeida
Conclusion	: Prison sentence

On 27 November 2013 the Dili District Court read out its decision in a case of maltreatment of a spouse and decided to sentence the defendant JS to 2 years and 6 months imprisonment.

The public prosecutor alleged that in 2001 the defendant beat the victim. The defendant committed the same acts in 2007 and 2008. Then on 31 December 2009 the defendant grabbed the victim by the throat and threw her on the ground. Then on 15 April 2010, at approximately 10.00 am the defendant committed similar acts.

Then on 4 May 2010 the defendant punched the victim on her left cheek and threatened to kill her with a knife.

Then on 14 and 23 February 2012 the defendant threatened to kill the victim, verbally abused the victim by calling her a witch, and a prostitute and said she had no shame and ordered the victim to leave his house.

Then on 11 and 21 March 2012 the defendant repeated the same acts against the victim, and the victim could not take it anymore and left to go and live with her family. On 16 July 2012 at 07:00 am the defendant went to the home of the victim's parents and abused and insulted the victim. In addition, on 17 August 2012, at 9.00am the defendant hit the victim twice on the head and verbally abused the victim again.

These acts caused the victim to suffer pain over her entire body and she was treated in hospital. In addition, the victim was traumatized because she was terrorized and the defendant threatened to kill her.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the maltreatment of a spouse and Article 157 on making threats in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant admitted and confirmed all of the facts set out in the charges. Then the victim and the witness testified that the defendant had committed all of these crimes against the victim.

Based on the facts established during the trial, the court settled the matter and sentenced the defendant to 2 years 6 months imprisonment.

16. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 347/2013/TDD

Judge	: José Maria de Araujo
Public Prosecutor	: Lidia Soares (trainee)
Public Defender	: Jose da Silva
Court clerk	: Gina Maria Soares
Conclusion	: Ongoing

On 13 November 2013 the Dili District Court continued a trial of a case of domestic violence involving the defendant DdS who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 19 November 2012 the defendant took a broom and hit the victim on her back numerous times until he broke the broom. Then he dragged the victim into the house and took a piece of rope and tied the victim's hands and arms for two hours and then released her. These acts caused the victim to suffer swelling to her back, hands and feet.

This case occurred because the victim told the defendant to go and work at a ceremony to end a mourning period; however the defendant refused to go. The victim stated that if the defendant didn't want to go then the victim would complain to her parents.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts alleged by the Public Prosecutor. The defendant regretted his actions and promised not to reoffend in the future.

During the trial the court decided that it was not necessary to hear the testimony of the victim because the defendant had admitted his actions.

In the indictment the public prosecutor requested for the court to hand down a prison sentence of 6 months, to be suspended for 1 year. The public defender requested for the court to admonish the defendant.

The court then adjourned the trial until 29 November 2013, at 11:00am to announce its decision.

17. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 449/2013/TDD

Judge : Jacinta Correia da Costa
Public Prosecutor : Jacinto Babo
Public Defender : Rui Manuel Guterres
Conclusion : Suspended prison sentence.

On 27 November 2013 the Dili District Court announced its decision in a case of domestic violence involving the defendant JdC who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 08 June 2013 at approximately 07:00pm the defendant slapped the victim twice on her left cheek then pulled her hair and threw her into a cupboard. These acts caused the victim to suffer bleeding from above her eye. This incident occurred because the victim received an invitation to go and cook at a party and the defendant became angry and went and drank palm wine, and then he returned and hit the victim.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Articles 2 (a), 3 (d) and 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts described in the indictment of the public prosecutor. The court sought confirmation with the victim, and the victim maintained that the defendant had indeed committed the acts against the victim. Based on the facts that were examined during the trial, the court decided to sentence the defendant to 6 months imprisonment, suspended for 1 year and 6 months.

18. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 404/2012/TDD.

Judge : Jacinta Correia da Costa
Public Prosecutor : Jacinto Babo
Public Defender : Amado da Almeida
Conclusion : Suspended prison sentence.

On 27 November 2013 the Dili District Court read out its decision in a case of domestic violence involving the defendant CdS who allegedly committed the crime against his wife (TdS) and his child LdS. This case allegedly occurred on 7 October 2011 in Liquica District.

The public prosecutor alleged that on 07 October 2011 the defendant hit the victim LdS once on his back and struck him in the eye with a crowbar causing him to suffer bleeding from the eye and swelling and he required hospital treatment for one day. This case allegedly occurred because the victim did not work and did not go and look after the buffaloes.

When the defendant was harassing LdS, the wife of the defendant who was also a victim in this case, asked the defendant why he was beating LdS, and the defendant answered that when he says something no one can interfere. Therefore, the defendant became angry and struck the victim TdS.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts set out in the charges of the public prosecutor. The defendant also regretted his actions and promised not to reoffend in the future.

The victim (TdS) also testified to the court that the defendant committed the aforementioned acts against the victim and his child. However they have reconciled, and the matter was settled in accordance with local custom, whereby the defendant gave compensation in the form of a pig and a traditional cloth (*tais*) to the victim, then the victim reciprocated by giving the defendant a pair of trousers and a jumper.

The court considered all of the facts presented by the defendant and the victim, and the court decided not to hear testimony from the other victim, who was the child of the defendant.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to a fine.

The public defender requested for the court to impose a suspended sentence against the defendant. However if the court rules otherwise, he requested a fair punishment.

Based on the facts examined during the trial the court found the defendant guilty of committing two crimes. For the crimes against his wife he was sentenced to 4 months imprisonment, and for the crimes against his son he was sentenced to 10 month's jail.

However after considering the mitigating circumstances the court decided to sentence the defendant to 1 years imprisonment, suspended for 2 years with the condition that the convicted person must report to the authorities every Monday for 2 years.

**19. Crime of simple offences against physical integrity, characterized as Domestic Violence,
Case No. 0668/2012/PDDIL.**

Judge : Jose Maria Araujo
Public Prosecutor : Hernani Ranger (trainee)
Public Defender : Sergio Dias Quintas
Conclusion : Ongoing

On 05 November 2013 the Dili District Court tried a case of domestic violence involving the defendant AdR who allegedly committed the offence against his wife in Dili District.

The public prosecutor alleged that on 12 April 2012 the defendant grabbed the victim and threw her on the floor and slammed her on top of the television. In addition, the defendant punched and kicked the victim numerous times in the stomach and head and caused her to suffer bruising and swelling to her body.

This case allegedly occurred because the defendant did not go and pick up the victim from where she was attending a course. When they got home the victim asked about the whereabouts of their car and motorcycle and why she had not been picked up. In response to this question the defendant stated that his belongings were not for the purpose of transporting/picking up the victim. Then the defendant committed the aforementioned assault.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts alleged by the Public Prosecutor. However, to ensure the accuracy of these facts the court sought confirmation with the victim and the victim corroborated that all of these facts were true.

In his final recommendations, the public prosecutor requested for the court to admonish the defendant to deter him from reoffending in the future.

The public defender requested for the court to impose a suspended sentence against the defendant because the parties have reconciled.

After hearing the final recommendations of the parties the court adjourned the trial until 07 November 2013 at 11am to read out its decision.

**20. Crime of simple offences against physical integrity, characterized as Domestic Violence,
-Case No. 373/2013/TDD**

Judge : Antoninho Helder
Public Prosecutor : Nelson de Carvalho
Public Defender : Manuel Lito Exposto
Conclusion : Court issued an admonishment

On 22 November 2013 the Dili District Court read out its decision in a case of domestic violence involving the defendant AdS who allegedly committed the offence against his wife in Ermera District.

The public prosecutor alleged that on 1 November 2012 the victim returned from the market and she heard the phone ring, and so she asked the defendant to attend to the call from their daughter who was studying in Indonesia. When the defendant refused to answer the phone the victim threw the phone on the ground and the defendant became angry and used an iron to burn the victim's hand, slapped and pushed the victim. The defendant also struck the victim in the head with a hammer.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Articles 2, 3 and 35 of the Law Against Domestic Violence.

During the trial the victim stated that the defendant slapped her, burned her hand with a hot iron and pushed her onto the ground. The defendant also struck the victim in the head with a hammer.

The defendant confirmed that he hit the victim in the head with a hammer, slapped her across the cheek and pushed her, but rejected the allegation that he burned her hand with a hot iron.

Due to inconsistencies between the testimony given by the defendant and the victim, the public defender requested for the court to cross examine the evidence, but because the defendant was ill the request could not be accommodated.

Based on the facts that were established in the trial the court then admonished the defendant.

21. Crime of simple offences against physical integrity, characterized as Domestic Violence, Case No. 336/2013/TDD

Judge	: Julio Gantes (international)
Public Prosecutor	: Gloria da Silva (international)
Public Defender	: Rui Guterres
Conclusion	: Sentenced to 3 months imprisonment, suspended for 2 years

On 22 November 2013 the Dili District Court read out its decision in a case of domestic violence involving the defendant DdM who allegedly committed the offence against his wife in Ermera District.

The public prosecutor alleged that on 17 October 2012, the defendant requested for the victim to make him fried rice however the victim did not fulfil his request because she had to attend to their child who was crying. Therefore, the defendant became angry, opened the door and then used a crowbar to strike the victim in the head which caused the victim to suffer bleeding and then struck the victim on both of her shoulders and caused bruising.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Articles 2, 3 and 35 of the Law Against Domestic Violence.

In court the defendant admitted all of the facts described in the indictment of the public prosecutor. However the defendant stated he regretted his actions, and promised to not reoffend in the future.

After examining the facts and considering the admission of the defendant, the court decided not to hear the testimony from the victim and the witness.

After evaluating all of the evidence presented in the trial the court decided the matter and sentenced the defendant to 3 months imprisonment, suspended for 2 years.

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