



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
Baucau District Court
May 2014

Summary of the trial process at the Baucau District Court May 2014

Introduction

In May 2014 JSMP continued its monitoring of trials at the Baucau District Court. During this period JSMP monitored 26 cases from a total of 38 cases that were tried in the court. These 26 cases comprised 25 criminal cases and 1 civil case.

The criminal cases comprised 1 case of aggravated murder characterized as domestic violence, 1 case of negligent offences against physical integrity, 1 case of sexual abuse of a minor, 2 cases of property damage and making threats, 2 cases of manslaughter, 1 case of mistreatment of a spouse, 6 cases of simple offences against physical integrity, 7 cases of simple offences against physical integrity characterized as domestic violence, 1 case of minor property damage, 1 case of unlawful electoral canvassing, 1 case of serious offences against physical integrity and 1 case of misuse of authority and embezzlement. The civil case related to a land dispute.

This case summary indicates that all courts continue to deal with a high number of cases involving gender based violence.

From these 26 cases, 11 were decided by the court and the remaining 15 cases are still ongoing.

From the 11 cases decided by the court, the defendant in 1 case involving the mistreatment of a spouse was sentenced to 4 years 6 months in prison and was also ordered to pay compensation of US\$300 to the victim.

JSMP really values this decision because in addition to handing down a prison sentence against the defendant, the court also ordered the defendant to pay compensation to the victim. This is another step forward in the justice system, especially regarding the application of the Law Against Domestic Violence. JSMP hopes that compensation in cases of domestic violence can be applied in all of the courts to provide restitution for the suffering and loss experienced by victims as the result of actions committed by defendants.

JSMP also observed that in the case of aggravated murder characterized as domestic violence, the defendant was sentenced to 18 years in prison. JSMP believes that this decision is proportional to the seriousness of the crime committed by the defendant.

The information below outlines the cases observed:

1. Crime of aggravated murder characterized as domestic violence – Case No.0449/13.PDBAU

Composition of judges : Panel
Judges : Antonio Fonseca, Afonso Carmona, Jose Goncalves
Public Prosecutor :Pascasio de Rosa Alves
Public Defender : Juvinal Yanes
Conclusion : Sentenced to 18 years in prison

On 5 May 2014 the Baucau District Court tried a case of aggravated murder involving the defendant MG who committed the offence against his wife. This case occurred on 21 March 2013 in Uma Ki'ik Village, Viqueque Sub-District, Viqueque District.

The public prosecutor alleged that on 21 March 2013, at approximately 7am, the defendant, the victim (his wife), their two children and the sister in law of the defendant went searching for fire wood and cut down a banana tree in a plantation. Before they went to the plantation they drank some coffee at the home of PG and then went to the plantation.

On the way back from the plantation the defendant and the victim argued about some goat meat that only the defendant had eaten. Because of the argument the defendant told his sister in law and the two children to head on home. After that, the defendant approached the victim and slashed the victim on her back and severed her neck, and the victim immediately fell down and died instantly at the scene. After the incident, the defendant left the victim and went to his house.

In relation to these acts, the public prosecutor charged the defendant for violating Article 139 of the Penal Code on aggravated murder as well as Article 35 of the Law Against Domestic Violence.

During the examination of evidence the defendant chose to remain silent. The witness RMS, the sister of the victim and sister in law of the defendant, and DS, the son of the defendant and the victim, testified that on 21 March 2013, when they came back from searching for fire wood, the victim and the defendant argued about some goat meat that only the defendant had eaten.

At that time, they went ahead because they were afraid they would be hit by the defendant. They waited for almost one hour on the road, but the victim and the defendant did not appear, so they went back and then they saw the victim dead on the ground, however the defendant was not at the scene.

The witness PG who is a neighbor testified that he heard children screaming for their mother and father. After hearing this, the witness asked the children and found out that the victim had died.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 20 years in prison. Although the defendant chose to remain silent during the trial, the testimony of the witnesses indicated that the defendant was guilty of committing the criminal act. The public defender requested the court to impose an appropriate punishment.

This case was decided on 16 May 2014 and the court sentenced the defendant to 18 years in prison. The court found the defendant guilty of committing the crime of aggravated murder against his wife in accordance with the facts that were stated in the indictment and the testimony of the witnesses.

2. Crime of negligent offences against physical integrity- Case No.234/Crm.C/2014.TDB

Composition of judges : Single
Judge : José Gonçalves
Public Prosecutor : Aderito Tilman
Public Defender : Juvinal Yanes
Conclusion : Trial adjourned

On 6 May 2014 the Baucau District Court adjourned the trial of a case of negligent offences against physical integrity involving the defendant CdCA and the victim JMM. This case allegedly occurred on 31 July 2011 in Baucau District.

The court adjourned the trial because the presiding judge was not available because a member of his family had passed away. Therefore, the court was unable to set a date to continue the trial of this case.

3. Crime of sexual abuse of a minor - Case No.0112/12.PDBAU

Composition of judges : Panel
Judges : Afonso Carmona, Antonio Fonseca, Jose Gonçalves
Public Prosecutor : Aderito Tilman
Public Defender : Juvinal Yanes
Conclusion : Trial adjourned

On 6 May 2014 the Baucau District Court adjourned the trial of case of sexual abuse of a minor involving the defendant GC who allegedly committed the offence against AS on 12 February 2012 in Baucau District.

This case was adjourned for the same reason as Case No.2 and the court was unable to determine a date to continue the trial.

4. Crime of property damage and making threats -Case No.235/Crm.S/2014.TDB

Composition of judges : Single
Judge : José Gonçalves
Public Prosecutor : Pascasio de Rosa Alves
Public Defender : Juvinal Yanes
Conclusion : Trial adjourned

In addition, on 6 May 2014 the Baucau District Court adjourned the trial of case involving property damage and making threats involving the defendant AX who allegedly committed the offence against the victim DPS. This case allegedly occurred on 5 October 2012 in Viqueque District. The trial was adjourned because the presiding judge was unavailable because a member of his family had passed away.

The court has not yet set a date to continue the trial of this case.

5. Crime of manslaughter Case No.0121/13.PDBAU

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Domingos Barreto
Public Defender : Juvinal Yanes
Conclusion : Sentenced to 2 years in prison, suspended for 3 years, and ordered to pay compensation of \$ 3,000.

On 7 May 2014 the Baucau District Court conducted a hearing in a case of manslaughter allegedly committed by the defendant JdS against the victim JX (deceased). This case allegedly occurred on 2 March 2010 in Manatuto District.

The public prosecutor alleged that on 2 March 2010 the defendant was driving a F-FDTL vehicle from Baucau to Dili. Between Laleia and Manatuto the victim JSX was riding a motorcycle in front of the defendant and the defendant signaled that he was going to overtake. At that time, the defendant was driving at high speed and suddenly a Hilux vehicle emerged from in front and the defendant was unable to pass it, so he avoided that vehicle and collided with the motorcycle that was carrying the victim and JSX.

As a result of this incident the victim JX who was sitting on the back of the motorcycle was flung off and he suffered injuries to his face, head and leg. The victim was taken to the Guido Valadares National Hospital (HNGV); however he could not be saved.

In relation to these acts the public prosecutor charged the defendant with violating Article 140 of the Penal Code on manslaughter.

During the trial the defendant testified that at approximately 08.40am he left the F-FDTL barracks in Baucau and headed to Dili because he was officially summoned by the Commander of the Baucau Battalion to go to Dili. On the road between Laleia and Manatuto the defendant saw the victim and signaled with his side indicator that he was going to overtake. While the defendant was overtaking the motorcycle carrying the victim and JSX, suddenly a Hilux vehicle emerged from in front and he looked through the front window and saw JSX lying on the road.

The defendant testified that he didn't know who actually collided with the victim, the Hilux vehicle or he himself. After that, he stopped the car and took the victim JX and JSX to the Manatuto Hospital and the motorcycle was dropped off at Manatuto District Police Station.

The witness JSX testified that at that time he signaled to the defendant to overtake but suddenly the defendant collided with his motorcycle and he saw the victim JX fall to the ground. The witness himself was not flung far from the motorcycle and he had a soft landing and did not suffer serious injuries.

The witness VF (the wife of the victim) testified that when the victim died, Tau Matan Ruak provided US\$700, 50 sacks of rice and 40 boxes of instant noodles. In addition, the family of the victim was also given a coffin from a political party that the victim had followed. The deceased left behind his four children and his wife.

In his final recommendations the public prosecutor requested the court to carefully consider the actions of the defendant in accordance with Article 140 of the Penal Code.

On the other hand, the public defender requested the court to acquit the defendant because the defendant did not know who collided with the victim.

The court concluded this matter on 22 May 2014 and sentenced the defendant to 2 years in prison, suspended for three years. The court found that the defendant lost control when he was driving and collided with the victim Jose Ximenes causing his death. In addition, the court ordered the defendant to pay compensation of US\$3,000 to the family of the victim.

6. Crime of mistreatment of a spouse - Case No.0066/13.PDBAU

Composition of judges	: Panel
Judge	: Antonio Fonseca, Jose Gonçalves, Afonso Carmona
Public Prosecutor	: Domingos Barreto
Public Defender	: Juvinal Yanes
Conclusion	: Sentenced to 4 years 6 months in prison, ordered to pay compensation of US\$300 and court costs of US\$20.

On 7 May 2014 the Baucau District Court conducted a trial in a case of mistreatment of a spouse involving the defendant MV who committed the offence against his spouse (AXC). This case occurred on 25 December 2012 in Trilolo Village, Baucau District.

The public prosecutor alleged that on 25 December 2012 at 11pm the victim received a phone call from a woman who called the defendant's phone and asked the defendant to immediately go to Dili. After receiving the call, the victim then told the defendant. When he heard the message the defendant became angry and approached the victim with a machete and struck the victim twice on her back. After that, the victim told the father of the defendant about the incident and the defendant then punched the victim multiple times on the back of her neck and above her eye until the victim became unconscious and fell to the ground. When the victim woke up, she went to buy some phone credit at the kiosk to contact her family, but the defendant followed her and punched the victim in the head.

In relation to these acts, the public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant confirmed the facts that had occurred on 24 December 2012, namely that a woman rang and the victim received it and then she had told the defendant. The defendant admitted that he was angry because at that time the victim did not answer the phone and say that she was his wife.

Then on 25 December 2012 the defendant admitted that he hit the victim with a chair because the defendant was looking for a phone charger but he couldn't find it. However, regarding the injuries suffered by the victim, the defendant testified that the victim had thrown herself on the ground and injured herself.

On the other hand, the victim testified that on 25 December 2012 a woman rang the defendant's phone and the victim received it. After receiving the call, the victim immediately told the defendant but the defendant did not accept this and the defendant took a machete and threatened to kill the victim. After being threatened the victim carried her child out to the veranda and the defendant followed her and struck her twice on the back with a plastic chair, then punched her above the eye, on the cheek and twisted the victim's neck until she lost consciousness and fell down.

When the victim fell down, the defendant took the child from the arms of the victim. When the victim regained consciousness, the victim stood up and was going to buy some phone credit but the defendant grabbed her hand and twisted it behind her back and kicked the victim twice in the back.

As a result of these actions, the victim had to be treated at the Baucau Reference Hospital and was hospitalized for 5 days. The defendant and the victim are divorced and now the defendant has married another woman. The victim also testified that previously the defendant hit her repeatedly.

The witness DXF who is the father of the victim testified that he received information from one of his daughters in Dili about this incident. Therefore, on 26 December 2012 the witness went to the victim's home and saw that the victim had swelling to her body and face. The witness went with the victim to report the matter to the Baucau Sub-District Police Station and the victim received treatment at the Baucau Reference Hospital. The victim was hospitalized and given an intravenous drip for 5 days.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 4 years and 6 months in prison.

On the other hand, the public defender requested the court to apply an appropriate penalty against the defendant because he admitted some of the facts to the court.

On 22 May 2014 the court concluded the matter and sentenced the defendant to 4 years and 6 months in prison, and ordered him to pay court costs of US\$20 including civil compensation of US\$300 to the victim.

7. Crime of simple offences against physical integrity - Case No. 0028/13.PDBAU.

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Pascasio de Rosa Alves
Public Defender	: Jonas Henrique da Costa
Conclusion	: Trial adjourned

On 8 May 2014 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendant RX and others who allegedly committed the offence against the victims JdJ and JL in Viqueque District. The hearing could not take place because the defendant was not present.

The court adjourned the trial until 19 July 2014, at 2pm.

8. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0371/12.PDBAU

Composition of judges	: Single
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Judge : Afoso Carmona
Public Prosecutor : Domingos Barreto
Public Defender : Jonas Henrique da Costa
Conclusion : Trial adjourned

On 8 May 2014 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendant AdCB who allegedly committed the offence against the victim EC (his wife). This case allegedly occurred on 24 July 2012 in Lautem District.

The trial was adjourned because the victim did not appear in court. Although the court adjourned the process, the court did not set a definitive date to continue the trial of this case.

9. Crime of Manslaughter -Case No.71/Crm.C/2013.TDB

Composition of judges : Single
Judge : Antonio Fonseca
Public Prosecutor : Pascasio de Rosa Alves
Public Defender : Jonas Henrique da Costa
Conclusion : Trial adjourned

On 8 May 2014 the Baucau District Court adjourned the trial of a case of manslaughter involving the defendant DS and others who allegedly committed the offence against the victim ES. This case allegedly occurred on 27 November 2010 in Viqueque District. This case was adjourned because the defendant was not present in court.

Therefore, the court adjourned the trial until 3 September 2014, at 10am.

10. Crime of simple offences against physical integrity characterized as domestic violence – Case No.229/Crm.S/2013.TDB

Composition of judges : Single
Judges : José Gonçalves
Public Prosecutor : Pascasio de Rosa Alves
Public Defender : Gregório de Lima
Conclusion : Trial adjourned

On 13 May 2014 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendant JS who allegedly committed the offence against the victim MMP (his wife) in Viqueque District.

The court adjourned the trial of this case because the victim and defendant did not receive a summons. The court could not summon the two parties because they have moved, so until now the court does not have correct information about their whereabouts.

11. Crime of property damage and making threats -Case No.227/Crm.S/2012.TDB

Composition of judges : Single
Judge : José Gonçalves
Public Prosecutor : Pascasio de Rosa Alves
Public Defender : Juvinal Yanes
Conclusion : Ongoing

On 13 May 2014 the Baucau District Court tried the defendants AndC and AfdC for their suspected involvement in the crime of property damage and threats against the victim MA. This case allegedly occurred on 18 October 2012 in Uatulari Sub-District, Viqueque District.

The public prosecutor alleged that on 18 October 2012, at approximately 10.00pm, the defendants were eating dinner at the home of BdC. At that time, the victim saw the defendants stone the victim's house 6 times. After stoning the victim's home the defendants punched the victim twice on the cheek and threatened the victim.

In relation to these acts, the public prosecutor charged the defendants with violating Article 145 of the Penal Code regarding simple offences against physical integrity, Article 258 of the Penal Code for property damage and Article 157 of the Penal Code for making threats.

During the trial, the defendant AndC testified that they were having dinner at the home of BdC and heard the victim verbally abuse them and the victim clearly said that the defendant AfdC had stoned the victim's house.

The defendant AfdC testified hearing the victim loudly abusing them and kept saying that the defendant had stoned the house. So the defendant went to ask the victim why the victim keep repeating the defendant's name and then the defendant and the victim argued. In addition, AfdC testified that at that time the defendant AndC asked them to stop arguing because it was late at night.

On the other hand, the victim testified seeing the defendant AfdC stone the victim's house 6 times and verbally abuse the victim. The defendant AfdC also pointed a torch at the eyes of the victim and punched the victim's body twice. The victim also testified that the defendant AfdC made threats by saying "*Kill that old lady and rape her daughter*". The defendant AndC also punched the victim 3 times to the body.

The witness JS who was the daughter of the victim testified that she heard 6 stones hitting the roof. The witness went outside and saw the defendants arguing with the victim. The witness added that she saw the defendant AfdC hit the victim three times in the body and the defendant AndC hit the victim twice to the body.

The trial continued until 8pm and the public defender requested the court to adjourn the trial to hear testimony from another witness and for the victim to submit a medical report.

After hearing the request from the public defender, the court adjourned the trial until 2 June 2014 at 2pm.

12. Crime of simple offences against physical integrity characterized as domestic violence – Case No.0236/13.PDBAU

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Domingos Barreto
Public Defender	: Juvinal Yanes
Conclusion	: Ordered to pay a fine of US\$ 45.

On 14 May 2014 the Baucau District Court conducted a trial in a case of simple offences against physical integrity involving the defendant CX who committed the offence against his wife. This case occurred on 7 April 2012 in Venilale Sub-District, Baucau District.

The public prosecutor alleged that on 7 April 2012 at approximately 7am, the defendant kicked the victim once on her right leg, slapped her twice, and struck the victim twice on the leg with a piece of wood. The defendant committed these acts because the victim did not prepare food on time and this made the defendant angry.

In relation to these acts, the public prosecutor charged the defendant with violating Article 145 of the Penal Code for simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial, the defendant CX admitted that he did commit the crime as alleged by the public prosecutor and testified that he regretted his actions.

In his final recommendations the public prosecutor requested the court to punish the defendant with a heavy suspended sentence to educate the defendant not to commit violence against the victim in the future.

On the other hand, the public defender requested for the court to sentence the defendant with an admonishment because the defendant admitted all of the facts during the trial.

On 28 May 2014 the court concluded this matter and ordered the defendant to pay a fine of US\$45 in daily instalments of S\$0.50 for 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the fine.

13. Crime of Property Damage - Case No. 0283/13.PDBAU

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Domingos Barreto
Public Defender : Juvinal Yanes
Conclusion : Settlement was validated

On 14 May 2014 the Baucau District Court conducted a hearing to attempt conciliation with the defendants MdC, AdC and MdC for their involvement in the crime of property damage against the victims PX and AdC. This case allegedly occurred on 13 June 2013 in Manatuto District.

The public prosecutor charged the defendants with violating Article 258 of the Penal Code for property damage.

Through the attempted conciliation the victims testified that they had forgiven the defendants because they are related. The defendants were also willing to fix the damaged bicycle of the victims.

The defendants were willing to pay compensation of US\$300 to the victims to pay for the loss suffered by the victims. The defendants gave the money to the victims in the court.

After the defendants and the victims accepted the settlement and apology, the court concluded the matter and validated the settlement in this case.

14. Crime of simple offences against physical integrity characterized as domestic violence – Case No.0346/13.PDBAU

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Aderito Tilman
Public Defender : Americo Luis Freitas Belo (trainee)
Conclusion : Ordered to pay a fine of US\$45

On 14 May 2014 the Baucau District Court tried the defendant AdA for allegedly committing the crime of simple offences against the physical integrity of the victim EdC (his wife). This case occurred on 29 July 2013 in Lospalos Sub-District, Lautem District.

The public prosecutor alleged that on 29 July 2013 the defendant punched the victim twice in the mouth and kicked her once in the back. This case occurred because the victim gave some pig food to another person, so they argued and this caused the defendant to punch the victim.

In relation to these acts, the public prosecutor charged the defendant with violating Article 145 of the Penal Code in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial, the defendant provided confirmation, admitted his actions and testified that he regretted his actions.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 3 months in prison, to be suspended for 5 months.

On the other hand, the public defender in his final recommendations agreed with the recommendation of the public prosecutor because the defendant admitted his actions before the court.

On 28 May 2014 the court concluded this matter and ordered the defendant to pay a fine of US\$45 in daily instalments of \$0.50 for 90 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the fine.

15. Crime of simple offences against physical integrity characterized as domestic violence – Case No.0154/13.PDBAU

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Aderito Tilman
Public Defender	: Americo Luis Freitas Belo (trainee)
Conclusion	: Ordered to pay a fine of US\$60.

On 15 May 2014 the Baucau District Court tried the defendant AT for allegedly committing the crime of simple offences against the physical integrity of the victim FFdC (his wife). This case occurred on 13 February in Venilale Sub-District, Baucau District.

The public prosecutor alleged that on 13 February 2013 the defendant punched the victim once and then on 14 February 2013 the defendant tried to hit the victim with a piece of wood at their neighbor's house however he was unable, so the defendant verbally abused the victim and said that the victim was a whore.

In relation to these acts, the public prosecutor charged the defendant with violating Article 145 of the Penal Code in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial the defendant admitted his actions. The defendant also testified that he regretted his actions.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 3 months in prison, to be suspended for 5 months.

On the other hand, the public defender requested the court to sentence the defendant with an admonishment because the defendant admitted all of the facts during the trial.

On 28 May 2014 the court concluded this matter and ordered the defendant to pay a fine of US\$60 in daily instalments of S\$0.50 for 120 days. The court also issued an alternative punishment of 80 days imprisonment if the defendant fails to pay the fine.

16. Crime of unlawful electoral canvassing- Case No.140/Crm.S/2013.TDB

Composition of judges : Single
Judge : Antonio Fonseca
Public Prosecutor : Pascasio de Rosa Alves
Public Defender : Casilda Sebastiana Ximenes
Conclusion : Trial adjourned

On 5 May 2014 the Baucau District Court adjourned the trial in a case involving the crime of unlawful electoral canvassing allegedly committed by the defendant MFP on 16 March 2012 in Viqueque District.

The trial was adjourned because the defendant was not present even though he had been summoned. In relation to the defendant's failure to heed the summons, the court ordered the defendant to pay a fine of US\$20 for his non-appearance in court.

After adjourning the trial, the court scheduled a new date to try this case on 29 July 2014 at 2pm.

17. Land dispute, Case No.20/Civ.2008.TDB

Composition of judges : Panel
Judge : Jose Gonçalves, Antonio Fonseca, Afonso Carmona
Lawyer for the plaintiff : Mujariah Amaral
Lawyers for the respondent : Grigorio de Lima and Juvinal Yanes
Conclusion : Ongoing

On 15 May 2014 the Baucau District Court conducted a hearing to examine the testimony of the respondent. This case involved the plaintiff Francisco de Oliveira and the respondent Aderito de Carvalho. The land in dispute is located in Uatukarbau Sub-District, Viqueque District.

The witnesses Sebastião Pinto, aged 70, and Bernardo da Costa, aged 92, testified that their father and the plaintiff have been managing the rice field on the land in dispute and the father of the plaintiff has been using the rice field since Indonesian times. The two witnesses added that ever since the plaintiff has been occupying the land no one has claimed to be the owner of the land. The witness heard that in 1999 the respondent stopped the plaintiff from using the land. The witnesses did not know when the Department of Land measured the land because the two witnesses were not there. The witness Sebastião Pinto was traveling (back to his village) and the witness Bernardo da Costa was in Dili.

After hearing testimony from the two witnesses, the court scheduled a date to continue the trial on 22 May 2014 to hear testimony from the respondent.

The witness Jeremias Quintão, aged 68, and the witness Agapito Pinto testified that they knew the respondent's father and in Portuguese times the respondent's father had managed the rice field on the land in dispute and channeled water into the rice field. The witnesses added that they helped to channel the water. At that time the witness Agapito was assigned to look after the buffalo belonging to the father of the respondent. At that time they managed the rice field with the use of the buffaloes. In 1983 the respondent and his brother were still young so the plaintiff took the opportunity to manage the rice field belonging to the respondent until 1999. On the last occasion the witnesses heard from the respondent himself that he had been managing the rice field until now.

After hearing testimony from the two witnesses summoned by the respondent, the court adjourned the trial to 5 June 2014 at 10am to hear further testimony from the plaintiff and respondent.

18. Crime of simple offences against physical integrity - Case No.363/Crm.S/2013.TDB

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Aderito Tilman
Public Defender	: Juvinal Yanes
Conclusion	: Ongoing

On 15 May 2014 the Baucau District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant AAC and the victim AjdC. This case occurred on 30 May 2013 in Bahu Village, Baucau District.

The public prosecutor alleged that on 30 May 2013, at approximately 10am, the defendant and the victim were arguing about land borders. Therefore, the defendant took a machete and slashed the elbow of the victim and the victim fell to the ground.

In relation to these acts, the public prosecutor charged the defendant with violating Article 145 of the Penal Code for simple offences against physical integrity.

During the trial the defendant admitted that at that time he was in the plantation and received information from SdC that the victim argued with his mother. The defendant came to the location and heard the victim verbally accusing his mother of being a witch and not owning the land. The defendant also testified that he did not slash the victim but the victim fell over when he was moving backwards.

On the other hand the victim testified that he was at his house in a place called Nagarjo, and was inside the fence and preparing himself to go to Dili, and suddenly the mother of the defendant came to his house and asked for the disputed land to be divided but the victim stated that the land belonged to Nagarjo. The victim added that the defendant forced his way inside the fence of the victim with a machete, and the victim felt afraid and was backing away and then fell to the ground, however he was not slashed.

The witness EPdC testified that he saw the defendant carrying the machete and slash the hand of the victim and because he was afraid the victim fell to the ground.

The witnesses SdC and RdC testified that they did not see the defendant carrying the machete and did not see the defendant slash the victim, however they saw the victim moving backwards and fall to the ground.

In his final recommendations the public prosecutor requested the court to hand down a penalty proportionate to the actions of the defendant because the defendant was carrying a machete to slash the victim, however the victim defended himself with his hand, and as a result the victim fell to the ground and this caused him to injure his hand.

The public defender requested the court to acquit the defendant from the charges because the defendant did not intend to slash the victim. The defendant always carried the machete because he is a farmer.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 5 June 2014 at 2.30pm.

19. Crime of Serious Offences against Physical Integrity - Case No.0080/13.PDBAU

Composition of judges	: Panel
Judge	: Afonso Carmona, Antonio Fonseca, Jose Gonçalves
Public Prosecutor	: Pascasio de Rosa Alves
Public Defender	: Cipriano Alves (lawyer from <i>Fundasaun Lialos</i>)
Conclusion	: Ongoing

On 21 May 2014 the Baucau District Court conducted a hearing in a case of simple offences against physical integrity involving the defendants JdS, VdS, FA, OdS, NdS, CDS who allegedly committed the offence against the victims MdA and MA. This case allegedly occurred on 31 January 2013 in Ossu Desima Village, Ossu Sub-District, Viqueque District.

The public prosecutor alleged that on 31 January 2013, at 9am, the defendants went to the home of AF (former husband of the defendant VdS) to take the clothes of VdS and her children. Upon arrival, VdS argued with MdA who was her former son in law. Therefore, AF contacted the police, however the defendant OdS (younger sibling of VdS) kicked the mobile phone causing it to fall to the ground. At the same time the defendant JdS (another younger sibling of VdS) took a machete and approached the victim MdA and the defendant slashed the right ear of the victim.

In relation to these acts, the public prosecutor charged the defendant JdS with violating Article 146 of the Penal Code for simple offences against physical integrity.

During the trial, the defendant VdS testified that the defendant JdS did not intend to slash the victim MA, but the machete suddenly made contact with the right hand of the victim MA when the defendant was looking back. The defendant added that at that time MA opened the door and saw the victim carrying the machete and a steel pipe, and so the defendant JdS went and got a machete.

On the other hand, the defendant FA who took part in this group testified that he did not see who slashed the two victims however he saw blood coming out of the head of MdS and heard the victim MA yell "*I have been injured*". The defendant also testified that previously he saw the blood and he also saw the victim MdS arguing with the defendant VdS.

However the victim MdA testified that he did argue with the defendant VdS and suddenly the defendant JdS kicked him to the ground and then slashed his the right ear.

MA, who is the neighbor of the victim, who also injured his hand testified that he saw the defendant JdS push the victim MdA over, however he did not see JdS slash MdA. Nevertheless, MA testified that the defendant JdS slashed one of the fingers of MA from behind. However, MA testified that the defendant JdS slashed his fingers from behind.

On the other hand, the witness EPdC testified that he saw the defendant JdS slash two of the victims. The other two witnesses SdC and RDC testified that at that time they did not see the defendant holding a machete and did not see the defendant slash the two victims.

In his final recommendations the public prosecutor requested the court to apply a suitable penalty because in court the defendant previously confessed that he had slashed the head of the victim MdA and the hand of the victim MA.

The public defender requested the court to acquit the defendants because they did not intend to commit the crime against the victim.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 18 June 2014 at 10am.

20. Crime of simple offences against physical integrity - Case No.325/Crm.S/2013.TDB

Composition of judges	: Single
Judge	: Antonio Fonseca
Public Prosecutor	: Pascasio de Rosa Alves
Public Defender	: Casilda Sebastiana Ximenes
Conclusion	: Trial adjourned

On 22 May 2014 the Baucau District Court adjourned a hearing in a case involving simple offences against physical integrity allegedly involving the defendant EMCA and the victim JM. This case allegedly occurred on 26 November 2010 in Baucau District.

The trial was adjourned because the defendant did not appear in court although he had been summoned. The court did not set a new date for the trial.

21. Crime of simple offences against physical integrity -Case No. Case No. 0986/13.PDBAU

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Aderito Tilman
Public Defender	: Juvinal Yanes
Conclusion	: Settlement was validated

On 23 May 2014 the Baucau District Court via the mobile court in Manatuto District validated a settlement in a case of simple offences against physical integrity involving the defendants MA and AA against the victims MM and JS. This case occurred on 21 October 2009 in Manatuto District.

The public prosecutor charged the defendants with violating Article 145 of the Penal Code regarding simple offences against physical integrity.

The court validated the settlement of this case based on an agreement between the victims and the defendants to reconcile. Before the trial, they had signed a letter of reconciliation.

22. Crime of simple offences against physical integrity -Case No.O173/13.PDBAU

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Aderito Tilman
Public Defender	: Juvinal Yanes
Conclusion	: Ongoing

On 23 May 2014 the Baucau District Court via the mobile court in Manatuto District conducted a trial in a case of simple offences against physical integrity involving the defendants DX and SdSS against the victim TJC on 4 May 2013 in Aiteas Village, Manatutu District.

The public prosecutor alleged that on 4 May 2013, at approximately 10am, during a break, the victim who was a student took the opportunity to return home by motorcycle. During the journey, the defendants ordered the victim to stop and the defendant DX started punching and kicking the victim in the back. In addition, the defendant SdSS also attacked the victim and kicked him in the back and head.

In relation to these acts, the public prosecutor charged the defendants DX and SdSS with violating Article 145 of the Penal Code for simple offences against physical integrity.

During the trial, the defendants admitted that they punched the victim because they heard from someone else that the victim had thrown stones at the defendants at a party. Nevertheless, the defendants did not see the incident.

The victim corroborated the facts contained in the indictment and testified that he was treated in hospital for one day.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 3 months in prison, suspended for 5 months, because the defendants had been proven guilty of committing the crime.

On the other hand, public defender requested the court to issue an admonishment after considering the mitigating circumstances such as the fact that the defendants admitted their

actions before the court, were first time offenders, and previously the defendants had tried to settle the case but the victims had refused.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 5 June 2014 at 10am.

23. Crime of misuse of authority and embezzlement – Case No.0485/12.PDBAU

Composition of judges	: Panel
Judge	: Afonso Carmona, Antonio Fonseca, Jose Gonçalves
Public Prosecutor	: Domingos Barreto
Public Defender	: Pedro Aparicio (private lawyer)
Conclusion	: Ongoing

On 27 May 2014 the Baucau District Court conducted a hearing in a case of misuse of authority and embezzlement involving the defendant PAGP who allegedly committed the offence against the State of RDTL. This case allegedly occurred on 20 October 2009 in Baucau District.

The public prosecutor alleged that on 20 October 2009, the defendant who was the Chief of the Baucau Region Public Works Department, requested A1 Services to buy some car tyres belonging to a 2 wheel loader, and 2 gas containers valued at US\$ 4,220. On 17 September 2010 the defendant allowed the witness NXF who was a driver to take the goods on a truck to be sold by the Express Distribution Service Ltd (EDS), in Comoro, Dili at US\$3,000. From this money, the defendant gave US\$1,500 to the witness AdGF as the Administrative and Finance Assistant for the Baucau Region Public Works Department to buy HVS paper, petrol, oil, food, drinks and for local trips.

On 23 September 2010 the defendant used the remaining US\$1,500 to buy a HP Pavilion TX2000 laptop at the “Zeon International” shop located in Mouzinho de Albuquerque Street, No.09, Colmera, Dili. Apart from this, there were other goods such as 1 wheel loader, 1 gas container, 1 wheel for an excavator that the defendant sold for US\$ 3,185, and the defendant used this money for himself. These actions caused the State to suffer losses of US\$ 4,685.

Previously the public prosecutor charged the defendant with violating Article 295 of the Penal Code on embezzlement and Article 297 of the Penal Code on abuse of power.

The defendant testified that he did not know what happened on 20 October 2009. The defendant only knew about what happened on 17 September because he coordinated with the witnesses AdGF and NXF to sell the equipment because they were covered in rust and the office was in very difficult financial circumstances. The defendant added that the equipment was sold for US\$3,000, and US\$ 1,500 was given to the witness AdGF to be used for office needs and the

remaining US\$1,500 was used by the defendant to buy a laptop to support his work. The defendant did not know about the other equipment that was sold for US\$3,185.

After hearing testimony from the defendant, the court adjourned the trial to hear the final recommendations on 10 July 2014 at 10am.

24. Crime of simple offences against physical integrity characterized as domestic violence – Case No.291/Crm.S/2013/TDB

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Luis Hernani da Cruz
Public Defender : Americo Luis Freitas Belo (trainee)
Conclusion : Ordered to pay a fine of US\$ 45.

On 28 May 2014 the Baucau District Court conducted a hearing in a case of simple offences against physical integrity committed by the defendant LF against his wife. This case occurred on 24 February 2013 in Baucau District.

The public prosecutor alleged that on 24 February 2013, at approximately 10pm, without a clear reason the defendant kicked the victim once in the back, slapped the victim on the back with a rock and shocked her with an electronic mosquito swatter.

In relation to these acts, the public prosecutor charged the defendant with violating Article 145 of the Penal Code for simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

In relation to the charges against the defendant, the defendant testified and admitted in court that all of the facts were true.

In his final recommendations the public prosecutor requested the court to issue a fine because the defendant had been proven guilty of committing the crime against the victim.

The public defender requested the court to issue an admonishment because the defendant admitted his actions, the parties had reconciled, and the defendant was a first time offender and regretted his actions.

On 28 May 2014 the court concluded this matter and ordered the defendant to pay a fine of US\$45 in daily instalments of S\$0.50 for 90 days. The court also issued an alternative punishment of 60 days imprisonment if the defendant fails to pay the fine.

25. Crime of simple offences against physical integrity - Case No. 0283/13.PDBAU

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Luis Hernani Rangel da Cruz
Public Defender : Casilda Sebastiana Xomenes (trainee lawyer)
Conclusion : Settlement was validated

On 28 May 2014 the Baucau District Court attempted conciliation and managed to reach an agreement between the defendant Cormelia Laranginha who allegedly committed the crime of ordinary maltreatment against Brigida Ximenes and Arsenia dos Santos on 17 April 2013, in Lore I, Lospalos Sub-District, Lautem District.

During the trial the parties accepted the agreement and forgave each other because they are related. Based on their own initiative the parties said that they wanted to reconcile, therefore the court validated the settlement of this case.

26. Crime of simple offences against physical integrity characterized as domestic violence – Case No.294 /Crm.S/2013.TDB.

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Luis Hernani Rangel da Cruz
Public Defender : Americo Luis Freitas Belo (trainee)
Conclusion : Sentenced to 6 months in prison, suspended for 1 year.

On 29 May 2014 the Baucau District Court tried the defendant AdCS for committing the crime of simple offences against the physical integrity of his wife. This case occurred on 5 September 2013 in Bagueia Sub-District, Baucau District.

The public prosecutor alleged that on 5 September 2013, at 6pm, the defendant saw the victim verbally abuse their children who were crying. Therefore, the defendant became angry and pushed the victim's neck against the wall, slapped the victim once across the face and kicked the victim many times in the back.

In relation to these acts, the public prosecutor charged the defendant AdCS with violating Article 145 of the Penal Code for simple offences against physical integrity in conjunction with Article 35 of the Law Against Domestic Violence.

During the trial to examine evidence the defendant AdCS admitted all of the facts set out in the charges of the public prosecutor.

In his final recommendations the public prosecutor requested the court to hand down a sentence of 6 months imprisonment, to be suspended for 1 month, because the defendant admitted all of the facts and regretted his actions.

The public defender requested the court to issue an admonishment because of the mitigating circumstances, namely that the defendant admitted his actions, the parties had reconciled, and the defendant was a first time offender and regretted his actions.

After hearing the final recommendations of the parties the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

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