



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
Baucau District Court
April 2014

Summary of the trial process at the Baucau District Court – April 2014

Introduction

In April 2014 JSMP continued its monitoring activities at the Baucau District Court. During this period JSMP monitored 13 cases from a total of 28 cases that were tried at the court.

The 13 cases consisted of 3 cases involving simple offences against physical integrity, 6 cases involving simple offences against physical integrity characterized as domestic violence, 1 case of property damage, 1 case of aggravated property damage, 1 case of arson, and 1 other case involving serious offences against physical integrity.

Of these 13 cases, 9 were decided by the court and the remaining 4 cases are still ongoing.

The information below outlines the cases observed:

1. Crime of simple offences against physical integrity, Case No.344/Crm.S/2013/TDB

Composition of judges	: Single
Judge	:Antonio Fonseca
Public Prosecutor	:DomingosBarreto
Public Defender	:Jonas Henrique da Costa
Conclusion	:Ordered to pay a fine of US\$ 112.50

On 3 April 2014 the Baucau District Court tried the defendants IDCR and ADCR for allegedly committing the crime of simple offences against the physical integrity of the victim RB on 22 August 2012 in Haekoni Village, Baguia Sub-District, Baucau District.

The public prosecutor alleged that on 22 August 2012, at approximately 6pm, the defendant IDCR with her husband and children were sitting on some rocks and the victim went past. The defendant and the victim had an argument, then the defendant approached the victim and pulled her hair, punched her in the head, the ear and once in the mouth knocking out one of the victim's teeth. In addition, the defendant, together with ADCR, also struck the victim numerous times in

the back with a rock, dragged the victim and removed the victim's clothing including the victim's underwear.

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

During the trial the defendants chose to remain silent. The witness RR testified that the victim was on the way to Sama-Isi, and the defendant IDCR asked the victim what the victim had in her stomach and the victim replied that she had meat and rice in her stomach.

After asking her this question, the defendant IDCR started pulling the victim's hair and she fell to the ground, and then punched her once in the head and the chest. Nevertheless, the witness testified that she did not see the defendant strike the victim with a stone and did not see the defendants remove her clothing.

In his final recommendations the public prosecutor requested for the court to sentence the defendant IDCR to 2 years in prison and to sentence the defendant ADCR to 1 year 6 months in prison.

The public defender stated that although the defendants had chosen to remain silent, he requested the court to apply the most appropriate penalty against his clients, recalling the mitigating circumstances established during the trial.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 11 April 2014.

On 11 April 2014 the court concluded this matter and ordered the defendant IDCR to pay a fine of US\$ 60, to be paid in daily instalments of US\$0.50 for 120 days. The court also issued an alternative punishment of 80 days imprisonment if the defendant fails to pay the fine. The defendant ADCR was ordered to pay a fine of US\$52.50 to be paid in daily instalments of US\$0.50 for 105 days. The court also issued an alternative punishment of 70 days imprisonment if the defendant fails to pay the fine.

2. Aggravated Property Damage Case No.83/Crm.C/2013/TDB

Composition of judges: Single

Judges : Jose Gonçalves, Afonso Carmona, Antonio Fonseca

Public Prosecutor : Aderito Tilman

Public Defender : Gregório de Lima

Conclusion : Ongoing

On 3 April 2014 the Baucau District Court tried a case of aggravated property damage involving the defendants AX and LdJX who allegedly committed the offence against the victim AdCX. This case allegedly occurred on 28 October 2011 in Kelikai, Baucau District.

The public prosecutor alleged that on 28 October 2011, at approximately 6.30, the two defendants verbally abused the victim at the home of the victim. In addition the two defendants

started throwing stones on the victim's kitchen roof and set fire to the kitchen. The actions of the two defendants caused the victim to suffer a financial loss of approximately US\$3,140.

In relation to these acts the public prosecutor charged the defendants for violating Article 259 of the Penal Code regarding the crime of aggravated property damage.

During the trial, the defendant AX testified that at that time he went to the market to see the victim who was building a house on some disputed land. When he saw the victim building the house the defendant requested the victim to stop building on that piece of land. When the victim heard the request of the defendant, the victim then took a machete and threatened the defendant. Because the defendant was threatened by the victim, he took a rock and threw it at the victim. Not long after, the victim went inside the kitchen and set fire to his own kitchen. The defendant LdJX chose to remain silent.

The witness MF, the wife of the victim, testified that she saw the defendant throw a rock at her husband and the witness fled out of fear. However the witness testified that she did not see who set fire to their kitchen. According to the witness, before the kitchen was set on fire, the witness was boiling water. The witness also added that 30 plastic plates, 30 spoons, 6 aluminum pots, 50 glasses, 3 plastic tubs, 4 buckets, 4 bundles of corn, 4 sacks of grain, 1 sack of rice and US\$300 were burned.

The victim testified that on 28 October 2011 he was sitting on the roof of his house and securing it, and then the defendant came and threw a stone at him, so the victim jumped down from the roof and went into the kitchen; however AX continued to throw stones at him. Therefore, the victim ran out from the kitchen and the defendant entered the kitchen, and when the victim looked back a fire was spreading from inside the kitchen. The victim also testified that previously his wife had lit a fire in the kitchen. However the victim did not know what goods were burned in the kitchen. Regarding the sum of US\$ 3,140, that was not correct, actually they had US\$ 300.

In his final recommendations the public prosecutor requested the court to acquit the defendants from the charges because the witness did not see the defendants set fire to the kitchen, and only heard the victim tell him that. The witness testified that before she fled, she had lit a fire in their kitchen to boil water. The witness also testified that they had their suspicions but did not see what happened.

On the other hand, the public defender agreed with the request of the prosecutor because there was not enough evidence to convict the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 11 April 2014, at 9am.

3. Crime of simple offences against physical integrity and property damage -Case No.168 /Crm.S/2013/TDB.

Composition of judges:Single

Judge :José Gonçalves

Public Prosecutor :AderitoTilman

Public Defender :Jonas Henrique da Costa
Conclusion : Ordered to pay a fine of \$90.

On 3 April 2014 the Baucau District Court conducted a hearing to announce its decision and ordered the defendant JMHF to pay a fine of US\$ 90 in daily instalments of US\$1.00 for 90 days including court costs of US\$10. In addition the court issued an alternative penalty of 60 days in prison if the defendant fails to pay the fine.

This decision was based on evidence that showed that the defendant had indeed committed the crime of simple offences against physical integrity and property damage against the victim AFP, on 22 March 2013, in Baucau District.

The court found that the defendant stopped the victim on the road to ask why the victim hit the defendant's younger brother and then he immediately punched the victim in the head and chest and then the victim fell off his motorcycle. The defendant then kicked the victim once on his side. These actions caused damage to the front light and clutch of the victim's motorcycle.

Based on these facts the court decided the matter and ordered the defendant to pay a fine of US\$90 in the same manner described above.

4. Crime of simple offences against physical integrity characterized as domestic violence – Case No.74/Crm.C/2013/TDB

Composition of judges:Single
Judge :José Gonçalves
Public Prosecutor :DomingosBarreto
Public Defender :Jonas Henrique da Costa
Conclusion : Ordered to pay a fine of US\$ 45.

On 3 April 2014 the Baucau District Court conducted a hearing to announce its decision in a case of simple assault involving the defendant AXP who allegedly committed the offence against his wife on 31 December 2012 in Baucau District.

The court found that at 9pm the defendant chased the victim from the house, kicked the victim once on her back, punched her once in the chest causing the victim to fall to the ground and the defendant continued to stomp on the neck of the victim. This case allegedly occurred because of an argument about the defendant always drinking alcohol and being drunk.

Based on these facts the court settled the matter and ordered the defendant to pay a fine of US\$45 in daily instalments of US\$ 0.50 per day for 90 days. The court also handed down an alternative sentence of 60 days jail if the defendant does not pay the fine ordered by the court.

5. Crime of simple offences against physical integrity characterized as domestic violence - Case No.308/Crm.S/2013/TDB

Composition of judges:Single
Judge :Afonso Carmona
Public Prosecutor :Domingos Barreto
Public Defender :Jonas Henrique da Costa
Conclusion :Ordered to pay a fine of US\$ 45

On 3 April 2014 the Baucau District Court conducted a hearing to announce its decision in a case involving simple assault characterized as domestic violence allegedly committed by the defendant AdFS against his mother on 12 July 2012 in Baucau District.

The public prosecutor alleged that on 22 July 2012 at 15.45pm the defendant struck the victim three times on her back and once in the head with a pillow and injured the victim's head because the pillow caught on a hair tie that the victim was wearing. This case allegedly occurred because the victim was angry and yelled at the defendant who was always sleeping and didn't want to work. Therefore, the defendant was surprised and angry and he reacted against 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.

During a previous hearing on 20 March 2014 the defendant confessed and expressed regret for his actions and promised not to reoffend in the future.

Pursuant to this process the court found the defendant guilty of committing the crime against the victim, who is his mother. The evidence gathered by the court was based on the testimony of the defendant and the victim.

Based on these facts the court decided the matter and ordered the defendant to pay a fine of US\$45 in daily instalments of US\$ 0.50 per day for 90 days. The court also issued an alternative punishment of 60 days imprisonment if the defendant fails to pay the aforementioned fine.

6. Crime of simple offences against physical integrity, Case No.311/Crm.S/2013/TDB

Composition of judges:Single
Judge :Afonso Carmona
Public Prosecutor :Domingos Barreto
Public Defender :Jonas Henrique da Costa
Conclusion :Settlement was validated

On 3 April 2014 the Baucau District Court attempted conciliation in a case of simple assault involving the defendant ON and the victim SD. This case allegedly occurred on 8 September 2012 in Trilolo Sub-Village, Baucau Sub-District.

During the conciliation process the victim forgave the defendant and they accepted each other like family and the defendant agreed to give US\$20 to the victim.

Based on the apology of the victim and wish to withdraw the complaint, the court concluded this matter and decided to validate the settlement.

7. Crime of simple offences against physical integrity characterized as domestic violence – Case No.269/Crm.S/2012/TDB

Composition of judges:Single

Judge :Afonso Carmona

Public Prosecutor :DomingosBarreto

Public Defender : JuvinalYahanes

Conclusion : Ordered to pay a fine of US\$ 60 and court costs of US\$10.

On 4 April 2014 the Baucau District Court, via the mobile court in Manatuto District, read out its decision against the defendant SSE who committed the crime of simple assault against his wife. This case allegedly occurred on 22 December 2012 in Aiteas Village, Manatuto District.

The court found that the defendant and the victim argued about a game of cards. At that time the victim did not want the defendant to take his position in the game of cards. Therefore the defendant punched the victim once in the head causing an injury and hit the victim once in the neck. Nevertheless, the court also considered the mitigating circumstances such as the defendant being a first time offender and the fact that they have reconciled. Currently the defendant works at the Guarda Mor Company and is responsible for 7 children and is the head of the household.

Based on the mitigating circumstances, the court concluded this process and sentenced the defendant to a fine of US\$ 60 to be paid in instalments of US\$0.50 per day for 120 days and ordered him to pay court costs of US\$10. The court also handed down an alternative punishment of 80 days in prison if the defendant does not pay the fine.

8. Crime of simple offences against physical integrity, characterized as Domestic Violence - Case No.124/Crm.S/2012/TDB

Composition of judges:Single

Judge :José Gonçalves

Public Prosecutor :AderitoTilman

Public Defender :Jonas Henrique da Costa

Conclusion :Ongoing

On 8 April 2014 the Baucau District Court tried the defendant GdC for allegedly committing the crime of simple assault against her husband on 25 February 2010, in Laklo, Manatuto District.

The public prosecutor alleged that on 25 February 2010, at approximately 7pm, the victim was together with a woman in a hut. The defendant became angry and immediately slashed the finger of the victim with a machete and caused an injury.

In relation to these acts, the public prosecutor charged the defendant for violating Article 145 of the Penal Code as well as Article 35 of the Law Against Domestic Violence.

During the trial, the defendant admitted that on that night she went to slash the victim with a machete because the victim was sitting with another woman at nighttime.

In his final recommendations the public prosecutor requested for the court to hand down a sentence of 2 months imprisonment, to be suspended for 5 months, because the defendant admitted her actions.

The public defender requested the court to apply an appropriate penalty against the defendant with consideration to the mitigating circumstances such as the defendant expressing regret for her actions.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 23 April 2014 at 10am.

9. Crime of Serious Offences against Physical Integrity -Case No.246/Crm.C/2013/TDB

Composition of judges: Panel

Judges : Afonso Carmona, Jose Gonçalves, Antonio Fonseca

Public Prosecutor : Domingos Barreto

Public Defender :Jonas Henrique da Costa

Conclusion :Ongoing

On 8 April 2014 the Baucau District Court tried the defendant VdJX for allegedly committing the crime of serious assault against the victim AdCB on 1 January 2011 in Vemase Village, Baucau District.

The public prosecutor alleged that on 1 January 2011 the victim went to a burial ceremony for his friend. While he was at the burial ceremony, suddenly without a reason the defendant took a machete, approached the victim and slashed the victim's fingers. The victim ran away however the defendant chased him and slashed him on his back. These acts caused the victim to suffer injuries to three of his fingers, one finger was severed, and an injury to his back.

The public prosecutor charged the defendant with violating Article 146 of the Penal Code for serious assault.

During the trial, the defendant confessed and admitted that he committed the acts as charged in the indictment of the public prosecutor, namely that at that time the defendant was drinking rice wine and suddenly he received a phone call from an unknown person, and he then went and slashed the victim without a reason.

The defendant testified that they have reconciled and he has paid compensation of US\$20, one buffalo and 8 goats to the victim for his injuries. Also, the defendant testified that he regretted his actions and promised not to reoffend in the future.

The victim corroborated the facts set out in the indictment of the public prosecutor as well as the testimony given by the defendant during the trial, as well as the traditional settlement reached by the parties.

In his final recommendations the public prosecutor requested the court to sentence the defendant to 5 years in prison because the victim lost his finger as the result of the defendant's actions.

The public defender requested for the court to impose a penalty of 2 years in prison to be suspended for 3 years because the victim and the defendant have reconciled and the defendant regretted his actions.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its final decision on 30 April 2014 at 2pm.

10. Crime of simple offences against physical integrity, characterized as Domestic Violence - Case No.162/Crm.S/2013/TDB

Composition of judges : Single

Judge : José Gonçalves

Public Prosecutor : Pascasio de Rosa Alves

Public Defender : Americo Luis Freitas Belo (trainee)

Conclusion :Ongoing

On 8 April 2014 the Baucau District Court tried a case of simple assault involving the defendant MdS who allegedly committed the offence against his wife LF on 22 March 2013 in Ossu, Viqueque District.

The public prosecutor alleged that on 22 March 2013 the defendant verbally abused the victim and then the victim felt embarrassed so the victim knocked down the wall of the house. The defendant became angry and threw a stone at the victim striking her above her right eye and causing an injury. This case allegedly occurred because the victim came home late from a wake.

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

During the trial, the defendant confessed and expressed regret for his actions and promised not to reoffend in the future.

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

The public defender also requested for the court to impose a fine because the defendant regretted his actions.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its final decision on 24 April 2014 at 9am.

11. Crime of simple offences against physical integrity characterized as domestic violence – 13/Crm.S/2013/TDB

Composition of judges:Single

Judge : Antonio Fonseca
Public Prosecutor : Domingos Barreto
Public Defender : Jonas Henrique da Costa
Conclusion : Sentenced to 10 months in jail, suspended for 1 year and ordered to pay court costs of US\$ 20.

On 9 April 2014 the Baucau District Court conducted a hearing to announce its decision in a case of simple assault characterized as domestic violence involving the defendant CF who allegedly committed the offence against his wife on 2 October 2012 in Vemase Village, Baucau District.

The court sentenced the defendant to 10 month's jail, suspended for one year because the court found the defendant guilty of committing the crime for which he was charged.

Previously the public prosecutor alleged that at 5pm the victim left Dili and headed to her house in Vemasse, and she caught the defendant sleeping with a woman in the bedroom. When she saw this, the victim was shocked and asked why he had bought a woman to sleep in their bedroom.

When the defendant heard the victim's question, the defendant was angry and dragged the victim outside, punched her once above the eye, once on the back of her head, held the victim by the throat up against the wall, kicked her in the back and stomach and threw a telephone at the victim's eye.

In relation to these acts, the public prosecutor charged the defendant with violating 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 hearing that was held on 26 March 2014, the defendant denied nearly all of the facts listed in the indictment of the public prosecutor.

In addition, the witnesses CFS and LF, who are the siblings of the defendant and the victim, as well as the Village Head, all testified that they did not know about the incident, but after the incident they saw the victim with bruising above her eye and swelling to her body.

Although the facts were contradictory, the public prosecutor requested the court to convict the defendant for violating Article 145 of the Penal Code.

The public defender requested the court to acquit the defendant because the defendant did not punch the victim, but rather the phone had struck the victim in the eye and caused bruising to the victim's eye.

Based on the evidence, the court concluded this case and sentenced the defendant to 10 months imprisonment, suspended for 1 year, and ordered him to pay court costs of \$ 20.

12. Crime of arson -Case No.187/Crm.S/2013/TDB

Composition of judges: Single
Judge :José Gonçalves
Public Prosecutor :DomingosBarreto

Public Defender :Jonas Henrique da Costa
Conclusion : Ordered to pay a fine of \$ 45.

On 9 April 2014 the Baucau District Court conducted a hearing to announce its decision in a case of arson involving the defendant AH who allegedly committed the offence against AC, on 2 November 2012 in Luro Sub-District, Lautem District.

The court found that at 11.00 am, the defendant set fire to his plantation and the fire spread to the victim's plantation and the fire engulfed the victim's hut. The defendant saved the victim's belongings that were in the hut. However, because the wall was covered with banana leaves, the defendant could not save the hut.

Previously, the public prosecutor alleged that the actions of the defendant burned the victim's hut which was 4x4 in size, and the fire burned corn, rice wine and other goods that were stored in the hut. As a result of the defendant's negligence, the victim suffered a loss of US\$ 300.

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

13. Crimes of Simple and Serious Offences against Physical Integrity -Case No.0015/14.PDB/Crm.S/2013/TDB

Composition of judges:Single

Judge :José Gonçalves

Public Prosecutor :DomingosBarreto

Public Defender :Jonas Henrique da Costa

Conclusion : The court decided to apply Proof of Identity and Residence measures

On 16 April 2014 the Baucau District Court, via the mobile court, conducted a hearing in a case involving simple and serious assault allegedly committed by the defendant TdCG against the victims LdC and ATCS, on 14 April 2014, in Aites Village, Viqueque District.

During the examination of evidence the court decided to apply Proof of Identity and Residence measures against the defendant for allegedly committing the crime of serious assault against the victim ATCS on 14 April 2014. In this case, the public prosecutor alleged that the defendant took a machete and twice slashed the fingers of the victim ATCS causing him to suffer serious injuries to his fingers. On the same day, the defendant punched the other victim LdC on the right side of his mouth and threw a knife at the victim, but missed.

During the hearing the defendant testified that they were all drunk before they went to kill a buffalo. At that time, the two victims with another two friends went to kill the buffalo. Then the defendant followed them and when they arrived at the location where the buffalo was killed, LdC greeted the defendant with verbal abuse because the defendant arrived after they (the victims) had already killed the buffalo.

The defendant then became angry after hearing this, so he punched the victim LdC once in the mouth. Consequently, the victim ATCS, the older brother of the victim LdC, became angry and kicked the defendant once on the left side of his back and punched him once on the left side of his chin.

In response to this, the defendant took a knife and stabbed the hand of the victim ATCS. The defendant then threw the knife at the victim LdC, however he missed.

Based on the testimony of the defendant, the public prosecutor requested for the court to apply temporary detention. The public defender requested for the court to apply Proof of Identity and Residence measures.

The court concluded the examination of evidence, applied restrictive measures against the defendant and required him to report to the Manatuto District Police Station twice a month whilst awaiting continuation of the trial process.

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