



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁRIU

Case Summary
Baucau District Court
April 2018

Affirmation: The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

A. Summary of the trial process at the Baucau District Court

1. Total number of cases monitored by JSMP: 37

| Article | Case Type | Number of cases |
|---|--|-----------------|
| Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV) | Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence | 16 |
| Article 145 of the PC | Simple offences against physical integrity | 8 |
| Article 154 of the PC | Mistreatment of a spouse | 3 |
| Articles 172 and 173 of the Penal Code | Rape | 2 |
| Article 177 of the PC | Sexual abuse of a minor | 1 |
| Article 146 of the PC | Serious offences against physical integrity | 1 |
| Article 138 of the PC | Homicide | 1 |

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| Article 217 of the PC | Crime against flora or fauna | 1 |
| Article 207 of the PC | Driving without a licence | 1 |
| Article 139 of the PC | Aggravated homicide | 1 |
| Articles 23 & 138 of the PC | Attempted homicide | 1 |
| Article 155 of the PC | Mistreatment of a minor | 1 |
| Total | | 37 |

2. Total number of decisions monitored by JSMP: 30

| Type of desizaun | Number of cases |
|---|-----------------|
| Prison sentence (Article 66 of the PC) | 2 |
| Prison sentence (Article 66 of the PC) and acquittal | 1 |
| Suspension of execution of a prison sentence (Article 68 of the PC) | 11 |
| Fine (Article 67 of the PC) | 11 |
| Suspension of execution of a prison sentence (Article 68 of the PC) and fine (Article 67 of the PC) | 1 |
| Suspension of execution of a prison sentence (Article 68 of the PC) and civil compensation | 1 |
| Validating withdrawal of complaint | 2 |
| Acquitted | 1 |
| Total | 30 |

3. Total ongoing cases based on JSMP monitoring: 7

B. Descriptive summary of the decision handed down in cases that were monitored by JSMP:

1. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0082/17. CBCV
Composition of the Court : Single Judge
Judge : Jose Quintão
Prosecutor : Gustavo Agostu M da Silva
Public Defender : Sidonio M. Sarmento
Type of Penalty : Fine

On 2 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MMB who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 22 November 2017 at 4.30pm the defendant grabbed a branch and struck the victim twice on her elbow and once on her knee which caused the victim to suffer pain and swelling to her elbow and knee.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. The defendant also promised that in the future he would not commit any such crimes against the victim. The defendant is a small-scale trader with a monthly income of US\$115 to support his family. The victim maintained all of the facts in the indictment but stated that since the incident the defendant has not hit her.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. Therefore he requested for the court to use its conviction to impose the correct penalty.

The public defender stated that the defendant confessed, regretted his actions, was a first time offence, has reconciled with the victim, and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a lenient penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 22.50 to be paid in daily instalments of 50 cents for 45 days. The court also imposed an alternative penalty of 30 days in prison if the defendant does not pay this fine.

2. Simple offences against physical integrity characterized as domestic violence

Case No. : 0041/17. MNMNT
Composition of the Court : Single Judge
Judge : Jose Quintão
Prosecutor : Ivonia Maria Guterres
Public Defender : Sidonio M. Sarmiento
Type of Penalty : Fine

On 3 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AS who allegedly committed the offence against his wife in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 6 August 2017, at approximately 2pm, the defendant slapped the victim once on her right cheek and caused the victim to suffer pain and swelling to her cheek.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 and 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and stated that this case has been resolved in accordance with East Timorese culture and the defendant gave a *tais* (traditional cloth) to the victim and promised not to reoffend against the victim in the future. The defendant works in a shop and has a monthly income of US\$ 115. The victim confirmed all of the facts in the indictment and also stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. For this reason she requested for the court to impose a apply prison sentence of 3 months, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, reconciled with the victim, and promised that in the future he would not commit any crimes against the victim. For this reason he requested for the court to impose a penalty that does not limit the defendant's freedom.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 15.00 to be paid in daily instalments of 50 cents for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

3. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0007/17. PDBAU
Composition of the Court : Single Judge
Judge : Jose Escurial
Prosecutor : Ivonia M. Guterres
Public Defender : Jose M. Guterres
Type of Penalty : 3 months in prison, suspended for 1 year

On 4 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LM who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The prosecutor alleged that on 14 October 2017 at 10pm the defendant punched the victim once in the shoulder and once in the chest which caused the victim to suffer pain and swelling to her shoulder and chest.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions, has reconciled with the victim, and promised not to reoffend against the victim. The victim maintained all of the facts in the indictment but she also stated that the defendant has not hit her since the incident.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. To deter the defendant from committing any further crimes in the future, the public prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, reconciled with the victim, and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

4. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0067/17. BCBCV
Composition of the Court : Single Judge

Judge : Jose Escurial
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of Penalty : 3 months in prison, suspended for 1 year

On 4 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AF who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 16 October 2017 at 8am the defendant grabbed the victim by the hair and threw the victim on the ground and the victim's face struck a rock and the victim suffered an injury and bleeding to her face.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant was a first time offender, regretted his actions and has reconciled with the victim. The victim maintained the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The prosecutor believed that the defendant was guilty of committing the crime against the victim based on the defendant's confession and the confirmation of the victim. Therefore he maintained the charges against the defendant and requested for the court to use its conviction to impose the correct penalty.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender and has reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were produced during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

5. Crime of Homicide

Case No. : 0017/17. BCSIC
Composition of the Court : Panel
Judges : Hugo da Cruz Pui
: Antonio Fonseca
: Jose Quintão
Prosecutor : Gustavo Agostu M. da Silva
Public Defender : Grigorio de Lima and Jose M. Guterres
Type of Penalty : 13 years in prison for the defendant OF, 10 years in prison for the defendant AF, 9 years in prison for the defendant AF, and the the defendant JF was acquitted

On 4 April 2018 the Baucau District Court announced its decision in a case of homicide involving the defendants Olivio Freitas, Jose Freitas, Antonio Freitas and Angelo Freitas who allegedly committed the crime against the victim Martinho Soares Costa Belo in Buibau Village, Baucau Vila Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 3 April 2017 at 3pm the defendant Antonio Freitas was celebrating a cultural ceremony in his house. Therefore at 3pm the defendant asked the victim and his father to go to defendant's house to help them kill an animal and roast a goat. Later on in the evening after roasting the goat the victim was drinking alcohol with the defendants. Soon after the victim argued with the defendants Antonio Freitas and Olivio Freitas. Therefore the defendant Jose Freitas took a piece of firewood and struck the victim once above his right eye causing an injury and heavy bleeding. The victim's father (Egas Freitas) tried to break it up, but the defendant Jose Freitas chased him away. Meanwhile the defendant Angelo Freitas grabbed a knife and held it in the air and the defendant Olivio Freitas took the knife from Angelo Freitas to stab the victim in the navel and the victim's intestines spilled out. Then the defendant Jose Freitas turned off the electricity supply to the house and took a plastic chair and struck the victim twice while he was lying on the ground. Then the defendants fled the scene of the crime.

The public prosecutor alleged that the defendant violated Article 138 of the Penal Code on homicide that carries a maximum penalty of 8-20 years in prison.

Presentation of evidence

The defendant Olivio Freitas stated that during the incident he was sitting by the door observing the relatives carrying out the cultural ceremony (*sau batar*), because he had just had an operation. After eating the victim became aggressive, shouting and swearing and challenged others by saying “*stand up and face me one by one!*” However the defendant told the victim not to make a scene. Then the victim took a plastic chair and struck the defendant on the back, and the two of them fought. The defendant added that soon after some people smashed the electricity meter and the power went off. The defendant ran to his sister's house, but the victim followed him and kicked the defendant twice in the stomach, where he had just had an operation and as a result the defendant fell to the ground. The defendant tried to stand up, but the victim then kicked the defendant on the left leg. The victim ran to the main road and the defendant went and sat down at the main house, not long after the victim came back and asked about the defendant's whereabouts, so the defendant was afraid and took a vegetable knife from the table and stabbed the victim in the navel. After stabbing the victim the defendant immediately handed himself in to the Baucau Police Station.

The defendant Jose Freitas stated that he did not participate in the cultural ceremony. When the defendant heard the sound of corrugated iron being struck the defendant ran over to see what was happening. The defendant tried to separate the defendant Angelo Freitas and the victim's father (Egas Freitas) who were fighting but was not strong enough, and the victim's father chased the defendant to his house. The defendant also stated that the victim's mother also ran over to his house and said that the victim (Martinho Soares Costa Belo) had been killed.

The defendant Antonio Freitas stated that the cultural ceremony was at his house. At that time the defendant was in his sacred house and heard the victim swearing in a loud voice. The defendant came down from the sacred house and told the victim to stop swearing. The victim did not accept this and choked the defendant and threw the defendant on the ground. Then the defendant stood up and sat down under a jackfruit tree and not long after the victim's father said that the defendant Olivio Freitas had killed Martinho S. Costa Bele and therefore the defendant was afraid and ran to the police because the cultural ceremony was at his house and his son had killed the victim.

The defendant Angelo Freitas stated that Antonio Freitas invited the defendant to the ceremony. After roasting the goat the defendant was sitting under a jackfruit tree and they were drinking together in the house with Antonio Freitas, Olivio Freitas, Eugenio Freitas and the victim. Suddenly the victim ran out of the house shouting and held up a knife. Therefore the defendant stood up and took the knife from the victim's hand. Suddenly the defendant Olivio Freitas who was behind the defendant took the knife from the defendant and then the defendant returned home. When the police summoned this defendant he found out that the victim was dead.

The witness Egas Freitas, who is the victim's father, testified that on 7 April 2017 the defendant Antonio Freitas invited him and the victim to participate in a cultural ceremony at the home of Antonio Freitas and the witness and the victim started to roast a goat. After roasting the goat the witness, victim and the defendant Antonio Freitas and others were drinking alcohol inside the house and the defendant Antonio Freitas and the victim had a discussion. Suddenly the defendant Antonio Freitas took a piece of firewood and struck the victim once above the eye and caused the victim to suffer an injury above his eye and heavy bleeding and the witness was afraid and ran away. Because he heard someone shout "*kill the father and the son*" the witness was afraid and ran off to tell the police.

The witness Maria Francisca da Costa Neto, who is the mother of the victim, testified that during the incident she was at home. The witness said that she heard a commotion and people shouting at the home of the defendant Antonio Freitas, so she ran over and saw that the victim had an injury above his eye. Therefore the victim choked the defendant Antonio Freitas and then the knife that the victim had used to kill the goat fell to the ground and the defendant Angelo Freitas grabbed it. Suddenly the defendant Olivio Freitas came outside and asked for the knife from the defendant Angelo Freitas to stab the victim in the navel and the victim fell down and died at the scene. In addition, the defendant Jose Freitas took a chair and struck the victim twice on his body, and the witness fled because she was afraid.

Final recommendations

The prosecutor stated that after hearing the statement of the defendants and witnesses, the prosecutor believed that that defendants had been found guilty of committing the crime of homicide against the victim. Therefore he requested for the court impose a prison sentence against the defendant Olivio Freitas of at least 12 years and for the court to use its conviction to punish the defendants Jose Freitas, Antonio Freitas and Angelo Freitas.

The defence stated that the defendant Olivio Freitas stabbed the victim in legitimate self-defence, because the victim was choking the defendant Antonio Freitas, so the defendant Angelo Freitas

took the knife to save the victim. Based on the statements of the three defendants during this incident the defendant Jose Freitas was not at the scene and the victim had provoked the situation. Therefore he requested for the court to acquit the defendants Antonio Freitas, Angelo Freitas and Jose Freitas from the charges.

Decision

After evaluating the facts that were produced during the trial, the Court concluded the matter and imposed a prison sentence of 13 years against the defendant Olivio Freitas after finding him guilty of committing the crime of homicide, and imposed a prison sentence of 10 years against the defendant Angelo Freitas after finding him guilty of taking the knife and giving it to the defendant Olivio Freitas to stab the victim to death and imposed a prison sentence of 9 years against the defendant Antonio Freitas for striking the victim above the eye. Meanwhile the defendant Jose Freitas was acquitted by the court because he only went to the scene after the incident had occurred.

6. Crime of sexual abuse against a minor

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| Case No. | : 0043/17.BCBCV |
| Composition of the Court | : Panel |
| Judges | : Jose Quintão : Antonio Fonseca : Hugo da Cruz Pui |
| Prosecutor | : Gustavo Agostu M. da Silva |
| Defence | : Lino Lopes (Private Lawyer) |
| Type of Penalty | : 23 years in prison |

On 6 April 2018 the Baucau District Court announced its decision in a case of sexual abuse of a minor involving the defendant AVdS who allegedly committed the offence against the victim (his niece) who was aged 12 in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 5 January 2016, at 10pm, the defendant's wife told their daughter aged 10 and the victim to go and sleep with the defendant inside the kiosk and for them to sleep in one bed. At 2am the victim was fast asleep and the defendant's removed the victim's clothes and used force to sexually abuse the victim. The victim was going to scream but the defendant told the victim *“If you scream I will take a machete and slash you to death ...!”* For this reason the victim felt afraid and remained silent, as a result of the sexual intercourse the victim suffered pain to her lower stomach and heavy bleeding from her sexual organs. Previously during 2015 and 2016, the defendant regularly committed sexual abuse against the victim approximately 15 times.

The prosecutor charged the defendant for violating Article 177 (1) of the Penal Code on aggravated sexual abuse of a minor pursuant to Article 182 (1) (a) of the Penal Code as well as Articles 2, 3, 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant denied all of the facts in the indictment. The defendant stated that on 5 January 2016 he was asleep at home with his wife, and two boys were asleep in the kiosk and the defendant never told the victim to sleep in the kiosk at night time. On 10 June 2017 at 10pm the defendant went to play cards and returned home at 4.00 am. On 23 June 2017 the victim went to school and did not return. On Saturday the defendant went looking for the victim, but the victim was staying at a shelter.

The victim confirmed all of the facts in the charges and the victim also stated that the defendant committed sexual abuse against her on 15 occasions, namely 8 times inside the kiosk and 7 times inside the house.

The witness LdN (wife of the defendant) testified that the victim went to school and at night time did not return home, so they went looking for the victim and the victim was at the police station. The witness added that on that particular evening the victim slept inside the kiosk, but the witness did not know about this incident.

Final recommendations

The public prosecutor stated that the defendant was found guilty of committing the crime of sexual abuse against the victim who was a minor. Even though the defendant denied all of the facts in the indictment, the victim still confirmed the facts in the indictment and this was reinforced by the statement of the witness who said that on that particular evening the victim slept in the kiosk. For this reason the public prosecutor requested for the court to sentence the defendant to at least 12 years in prison.

The public defender requested for the court to consider the defendant's statement that he did not commit this act against the victim, and the witness knew that on that evening the victim was sleeping in the kiosk but did not know about this incident. The defence also stated that the defendant has 7 children and the defendant provides for his family. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts produced during this trial the court concluded that the defendant was guilty of committing the crime of sexual abuse against a minor who was his own niece aged 12 who was living with the defendant. The court also considered that during the examination of evidence the defendant totally denied all of the facts in the indictment even though there was strong indications that the defendant committed this crime. The court concluded that the defendant did not show regret, so the court sentenced the defendant to 23 years in prison and ordered him to pay court costs of US\$40.

7. Crime of mistreatment of a spouse

Case No. : 0007/17.MNMNT
Composition of the Court : Panel
Judges : Afonso Carmona
Antonio Fonseca
José Gonsalves

Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of Penalty : 2 years in prison, suspended for 2 years

On 6 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant JdC who allegedly committed the offence against his wife in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 29 April 2017 at 9am the defendant punched the victim once above the eye.

Previously on 15 April 2017 the defendant punched the victim twice in the head, back and kicked the victim once on the left leg and the victim fell to the ground. The defendant then punched the victim once on the left buttocks and once above the right eye and the victim suffered an injury and bleeding. While they were living together the defendant always beat the victim.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 - 6 years in prison as well as Articles 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions, has reconciled with victim, was a first time offender and promised not to commit any crimes against the victim in the future. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The prosecutor maintained the charges because the defendant was guilty of committing mistreatment against his spouse. For this reason he requested for the court to impose a prison sentence of 1 year, suspended for 2 years, against the defendant.

The public defendant stated that the defendant confessed all of the facts in the indictment, regretted his actions, has reconciled with the victim, was a first time offender and promised that he would not commit any further crimes against victim in the future. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

8. Crime against flora or fauna

Case No. : 0049/13. LASIC
Composition of the Court : Single Judge
Judge : Afonso Carmona

Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of Penalty : Acquitted

On 6 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of crime against flora and fauna involving the defendants Bernadino Pinto, Ido Hornai and Jose Jeca da Gama who allegedly committed the crime against the State of Timor-Leste, in Lospalos Sub-District, Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that 18 October 2013 forest rangers conducted a check and found that the defendants had timber in their dump truck bearing number plate 53. 677-TL, and they were carrying two cubic metres of timber from Iliomar Sub-District to Dili, but they had no letter of authorisation (licence).

The public prosecutor alleged that the defendants violated Article 217 of the Penal Code on crimes against flora and fauna that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendants stated that they were carrying 2 cubic metres of timber because they had a licence.

Final recommendations

The prosecutor stated that the defendants were guilty of committing a crime against flora and fauna. Therefore he requested for the court to order the defendants to pay a fine. The defence stated that the defendants had testified that they were carrying 2 cubic metres of timber, however they had a licence. For this reason he requested for the court to acquit the defendant from these charges.

Decision

After evaluating all of the facts produced during the trial, the court concluded that the defendants had a licence to cut and carry timber and therefore the Court acquitted the defendants from the charges.

9. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0012/17. PDBAU
Composition of the Court : Single Judge
Judge : Afonso Carmona
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of Penalty : 6 months in prison, suspended for 1 year

On 6 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RdJAB who allegedly committed the offence against his wife in Manatuto District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 7 September 2017 at 5pm the defendant kicked the victim once on her side and the victim struck her head on the ground and suffered an injury.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3, and 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions and apologised to the victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. For this reason he requested for the court to impose a prison sentence of 3 months, suspended for 1 year.

The defence stated that the defendant confessed, regretted his actions and apologised to the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were produced during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

10. Crime of simple offences against physical integrity characterized as domestic violence

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| Case No. | : 0027/17. VQSIC |
| Composition of the Court | : Single Judge |
| Judge | : Hugo da Cruz Pui |
| Prosecutor | : Gustavo Agostu M. da Silva |
| Public Defender | : Sidonio M. Sarmiento |
| Type of Penalty | : 3 months in prison, suspended for 1 year |

On 9 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MP who allegedly committed the offence against his wife in Viqueque District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 15 July 2017, at 8pm, the defendant took a piece of bamboo and struck the victim once on the head. The defendant was going to hit the victim again in the head, but did not manage to do so because the victim put her hand up, and the bamboo struck the victim's fingers on her right hand. However the defendant managed to strike the victim again above the eye and in the mouth.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, and when he returned from the police cell he reconciled with the victim, regretted his actions, and promised not to reoffend against the victim. The victim maintained the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the confession of the defendant and the testimony of the victim. To deter the defendant from repeating such crimes in the future, the prosecutor requested for the court to use its conviction to punish the defendant.

The public defender stated that the defendant confessed the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were produced during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

11. Crime of mistreatment of a spouse

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| Case No. | : 0076/15. BCBCV |
| Composition of the Court | : Panel |
| Judge | : Jose Quintão : Hugo da Cruz Pui : Jose Escurial |
| Prosecutor | : Ivonia M. Guterres |
| Public Defender | : Sidonio M. Guterres |
| Type of Penalty | : Prison sentence of 2 years and 6 months, suspended for 2 years and 6 months |

On 10 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant CP who allegedly committed the offence against his wife in Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 5 July 2015, at 11pm the defendant threw two rocks at the victim but missed, so the defendant approached the victim and slapped her 10 times on the cheek and choked the victim and the victim suffered pain and swelling to her cheek and neck.

Previously on 8 May 2010 the defendant punched the victim when the victim was 3 months pregnant. Also on an unspecified date and month during 2010 the defendant physically assaulted the victim.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on the mistreatment of a spouse that carries a prison sentence of 2 - 6 years in prison as well as Articles 2, 3(a), 35 (b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that on 5 July 2017 at 3.00 am the victim went into the bedroom where the defendant was with his second wife and pulled back the sheet that was covering the defendant and his second wife, so the defendant was surprised and his arm struck the victim on the cheek.

On 8 July 2010 the defendant slapped the victim once on the cheek when the defendant was returning from selling produce and when she arrived home the victim suspected that the defendant was with another woman and told the neighbours that the defendant was poor. In 2010 the victim suspected that the defendant was with another woman and the defendant slapped the victim once on the cheek.

The victim stated that during the incident the victim asked the defendant for gas but the defendant's second wife swore at the victim and the defendant also took 2 rocks and threw them at the victim but missed, so the defendant choked the victim. The victim also stated that previously the defendant regularly hit the victim.

Final recommendations

The public prosecutor stated that during the examination of evidence the defendant denied some of the facts in the indictment, however the prosecutor maintained the charges and believed that the defendant was guilty of mistreating the victim. For this reason he requested for the court to impose a apply prison sentence of 2 years, suspended for 2 years and 4 months.

The public defender stated that that the defendant testified about the facts he committed and therefore he requested for the court to impose an appropriate punishment against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and found the defendant guilty of committing the crime against the victim and sentenced the defendant to 2 years and 6 months in prison, suspended for 2 years and 6 months.

12. Crime of simple offences against physical integrity characterized as domestic violence¹

¹ JSMP believes that this case did not involve simple offences against physical integrity, but rather rape within the family sphere. Please refer to JSMP Press Release entitled: [Tribunál tenke asegura provizaun ne'ebé apropiadu no kondena violasaun seksuál ne'ebé akontese iha ámbitu relasaun feen no laen-20-Abril-18](http://jsmp.naroman.tl/press-releases/) (The courts need to select the appropriate provisions of the law and charge the crime of rape between husband and wife) <http://jsmp.naroman.tl/press-releases/>

Case No. : 0049/17. LASIC
Composition of the Court : Single Judge
Judge : Jose Quintão
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Antonio Fernandes
Type of Penalty : Fine

On 10 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EM who allegedly committed the offence against his wife in Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 October 2017, at 11pm, the defendant asked the victim if he could have a mistress, but the victim said nothing, so the defendant used force to remove the victim's clothing and had sexual intercourse with the victim. After the defendant had sexual intercourse with the victim, she did not accept this behaviour and cried. The defendant told the victim to be quiet, but the victim would not be quiet, so the defendant choked her with great force and pulled her hair. These acts caused the victim to suffer pain to her neck and she had trouble breathing.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Articles 2.2 (a), Article 3 (b), and Article 35 (b) of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The victim maintained the facts set out in the indictment of the public prosecutor.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. For this reason he requested for the court to impose a apply prison sentence of 3 months, suspended for 1 year.

The public defender stated that the defendant confessed, regretted his actions and was a first time offender. The defendant wanted to reconcile with the victim, but the victim's family did not want this. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 7.50 to be paid in daily instalments of US\$ 0.50 for 15 days. The court also imposed an alternative penalty of 10 days in prison if the defendant does not pay this fine.

13. Serious offences against physical integrity

Case No. : 0041/14. BCBCV
Composition of the Court : Panel
Judges : Antonio Fonseca
: Jose Quintão
: Hugo da Cruz Pui
Prosecutor : Gustavo Augusto M. da Silva
Public Defender : Jose M. Guterres
Type of Penalty : 3 years in prison, suspended for 3 years, and civil compensation

On 12 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendant Cesario Antonio Correia and the victim Clementino Sarmiento Morreira, in Seisal Village, Baucau Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that 16 April 2014, at 3.30pm, the defendant punched the victim once on his right cheek and took a machete and slashed the victim's arm and the victim suffered heavy bleeding from his arm. The victim received treatment at the Seisal Health Centre. This incident occurred because the victim rang the defendant's younger sister.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on serious offences against physical integrity that carries a maximum penalty of 2-8 years in prison.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The victim confirmed all of the facts in the indictment but the victim also stated that he has been unable to work properly since that time.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of serious offences against physical integrity against the victim based on the partial confession of the defendant and the statement of the victim. Therefore he requested for the court to use its conviction to impose the correct penalty.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years and ordered him to pay civil compensation to the victim of US\$ 1000 and court costs of US\$ 20.

14. Crime of simple offences against physical integrity

Case No. : 0003/17. LALMAR
Composition of the Court : Single Judge
Judge : Jose Escurial
Prosecutor : Domingos Goveia Barreto
Public Defender : Jose M. Guterres
Type of Penalty : 3 months in prison, suspended for 1 year

On 12 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendant Julio Amaral who allegedly committed the offence against the victim Francisco da Costa, in Iliomar Sub-District, Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 October 2017, at approximately 8am, the defendant threw a stone at the victim's back and caused the victim to suffer pain and swelling to his back. This incident occurred because the defendant and the victim had an argument about the defendant's buffalo which got into the victim's plantation.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that previously the defendant wanted to reconcile with the victim, but the victim did not want to. The defendant also stated that he regretted his actions. The victim maintained all of the facts set out in the indictment.

Final recommendations

The prosecutor stated that the defendant confessed all of the facts in the indictment and these facts were confirmed by the victim. For this reason he requested for the court to impose a prison sentence of 3 months, suspended for 1 year.

The defence stated that the defendant confessed all of the facts set out in the indictment and regretted his actions. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

15. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0035/16. VQSIC
Composition of the Court : Single Judge
Judge : Afonso Carmona

Prosecutor : Ivonia M. Guterres
Public Defender : Jose M. Guterres
Type of Penalty : 6 months in prison, suspended for 1 year

On 13 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JA who allegedly committed the offence against his wife in Viqueque District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 November 2016 at 12.00 midnight the defendant grabbed the victim by the hair and threw her on the ground, punched her many times in the back, punched the victim twice in the shoulder. The defendant bit the victim's stomach and then pulled her hair and punched her many times in the back.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions, and promised not to reoffend against the victim in the future. The victim maintained all of the facts in the indictment but she also stated that she has reconciled with the defendant and since the incident the defendant has not hit her.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. To deter the defendant from committing any further crimes in the future, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 3 years.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, reconciled with the victim, and promised that in the future he would not hit the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to six months in prison, suspended for 1 year and ordered him to pay court costs of US\$ 40.

16. Simple offences against physical integrity characterized as domestic violence

Case No. : 0023/18. BCBCV
Composition of the Court : Single Judge
Judge : Afonso Carmona
Prosecutor : Ivonia M. Guterres
Public Defender : Grigorio de Lima
Type of Penalty : 6 months imprisonment, suspended for 1 year.

On 16 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EvdS who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 4 February 2017 at 9am the defendant punched the victim once in the mouth and once above her right eye. The defendant also punched the victim once in the forehead and three times in the head, choked her once and caused her to suffer pain to her mouth and bleeding.

The public prosecutor alleged that on 3 February 2017, at 7pm, the defendant slapped the victim once in the mouth, which caused pain and swelling to the victim's mouth.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions, was a first time offender, and promised not to commit any more crimes against the victim or other person in the future. The defendant stated that he is a farmer with a monthly income of US\$ 50. The victim confirmed all of the facts in the indictment, and stated that after this incident the victim went and stayed with her parents, and when the defendant came and saw her, the victim returned home.

Final recommendations

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim and the defendant has economic capacity. To deter the defendant from repeating such acts in the future, the prosecutor requested for the court to impose a fine against the defendant.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender and used his own initiative to reconcile with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered the defendant to pay court costs of US\$10.

17. Crime of simple offences against physical integrity

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| Case No. | : 0090/17. BCBCV |
| Composition of the Court | : Single Judge |
| Judge | : Afonso Carmona |
| Prosecutor | : Luis Hernanio Rangel da Cruz |
| Defence | : Americo da Costa Freitas (Private Lawyer) |
| Type of Penalty | : Fine |

On 16 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity involving the defendants Antonio Freitas and Mateus Freitas who allegedly committed the offence against the victim Virginia da Costa Neto (neighbour) in Wailili Village, Baucau Vila Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 12 December 2017 at 08.30am the victim was washing clothes at a well and the defendant Antonio Freitas told the victim she couldn't wash clothes at the well and the victim asked "Why can't I wash clothes here?" The defendant became angry and threw all of the victim's clothes in a bucket and slapped the victim once on the right cheek. The defendant Mateus Freitas slapped the victim four times on her left and right cheeks.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant Antonio Freitas stated that he threw the victim's clothes into a bucket but did not slap the victim, and previously the defendant had informed her about the rule issued by the village chief not to wash clothes at the well.

The defendant Mateus Freitas stated that during this incident he was at home and heard the victim swear at the defendant Antonio Freitas who is his father so he slapped the victim twice on the cheek and the defendants and the victim also had a problem prior to this incident. The victim maintained the facts set out in the indictment of the public prosecutor.

The witness Maria Sonia Neto, who is the younger sister of the victim, testified that during the incident the witness was standing on the veranda and heard the defendants arguing and the defendant Antonio Freitas slapped the victim once on the cheek and the defendant Mateus Freitas slapped the victim four times on the cheek and then took a stone and threw it at the victim's back.

Final recommendations

The public prosecutor stated that during the examination of evidence the defendant Antonio Freitas denied the facts and the defendant Mateus Freitas also denied some of the facts. However the victim maintained and confirmed all of the facts set out in the indictment. For this reason he requested for the court to impose a prison sentence of 3 months, suspended for 1 year.

The defence also requested for the court to give careful consideration to the facts produced during the trial because previously there was a rule about water use that specifically stated that clothes could not be washed at the well, but the victim continued to wash clothes there.

Decision

The court concluded this matter and ordered each defendant to pay a fine of US\$ 45 to be paid in daily instalments of 50 cents for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendants do not pay this fine.

18. Crime of driving without a license

Case No. : 0036/16. VQSTAR
Composition of the Court : Single Judge
Judge : Afonso Carmona
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Grigorio de Lima
Type of Penalty : Fine

On 6 April 2018 the Baucau District Court announced its decision in a case of driving without a license involving the defendant Satrelvo da Costa Fernandes who allegedly committed the crime against the State of Timor-Leste in Uma wain kraik Village, Viqueque Sub-District, Viqueque District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 21 December 2016 at 3pm the defendant rode a motorcycle on a public road from near the transmitter to the intersection and collided with the motorcycle of Mateus Guterres. When police conducted a check they found that the defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, expressed remorse for his actions and was a first time offender.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime of driving without a licence and therefore he requested for the court to impose a fine in accordance with the capacity of the defendant and also to impose an additional penalty prohibiting the defendant from driving for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of 50 cents for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

19. Crime of simple offences against physical integrity

Case No. : 0011/16. BCEVN
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui

Prosecutor : Gustavo Agostu M. da Silva
Public Defender : Sidonio M. Sarmiento
Type of Penalty : The defendant FSP received a punishment of 4 months, suspended for 1 year, and the defendant AS received a fine

On 17 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendants Faustino Soares Perreira and Celestina Agrefina Soares and the victim Emerenciana Rende, which allegedly occurred in Fatulia Village, Venilale Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 23 November 2016, at 8am, the victim turned on a radio with the volume very high and imitated people talking on the radio. Therefore the defendant Faustino Soares Perreira punched the victim four times in the head, slapped the victim on the left and right cheeks, and the defendant's arm struck the victim in the mouth and caused an injury and bleeding. The defendant Celestina Agrefina Guterres threw the victim on the ground, the defendant Faustino Soares Perreira stood on the victim's stomach and bent the victim's arm backwards.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

During the trial the defendant Faustino Soares Perreira stated that previously the defendant and the victim had a dispute over land and every day the victim provoked him and swore at the defendant and his family. During the incident the victim was holding a knife and was going to stab the defendant and therefore the defendant grabbed the knife from the victim's hand. The victim bit the defendant's hand so the defendant slapped the victim twice on the cheek.

The defendant Celestina Agrefina Guterres stated that during this incident the defendant Faustino Soares Perreira and the victim fought over a knife, so the defendant grabbed the their hands to remove the knife from them. The victim maintained all of the facts set out in the indictment.

The witness Lizite Lusinda Ximenes who was a neighbour testified that she had no knowledge about this problem, because during the incident she was at school.

The witness Marito Guterres testified that during the incident he saw the defendant Faustino Soares Perreira slap the victim once on the cheek and the defendant Celestina Agrefina Guterres stood on the victim's stomach. The witness saw the victim holding a knife but did not see them fighting over the knife.

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime against the victim, even though the defendants denied some of the facts in the indictment, the victim still

confirmed these facts. Therefore he requested for the court to use its conviction to impose the correct penalty.

The public defender stated that the defendants only admitted the facts about what they had done, and regretted their actions and were first time offenders. Therefore he requested for the court to impose a fair penalty against the defendants.

Decision

The court concluded this matter and imposed a prison sentence of 4 months, suspended for 1 year, against the defendant Faustino Soares Perreira and the defendant Celestina Agrefina Guterres was ordered to pay a fine of US\$ 22.50 to be paid in daily instalments of 50 cents for 45 days. The court also imposed an alternative penalty of 30 days in prison if the defendant Celestina does not pay this fine.

20. Simple offences against physical integrity characterized as domestic violence

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| Case No. | : 0092/17. BCBCV |
| Composition of the Court | : Single Judge |
| Judge | : Jose Escurial |
| Prosecutor | : Luis H. Rangel da Cruz |
| Public Defender | : Grigorio de Lima |
| Type of Penalty | : Fine |

On 18 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RtdCM who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 24 December 2017, at 11pm, the defendant stood on the victim's right hand, slapped the victim once on her right cheek, and pulled the victim's hair dragging her from the bed on to the floor. The defendant then punched the victim once in the forehead, the victim ran outside, the defendant followed and kicked the victim once in the back and punched the victim many times in the back.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts in the indictment, the defendant also stated that he is a trader who sells clothes and has a monthly income of US\$100 - US\$300. The defendant stated that he was a first time offender, and after the incident the victim was staying at a shelter and the defendant went to the shelter to ask the victim to come home. The defendant stated that he regretted his actions and promised that in the future he would not hit the victim. The victim maintained all of the facts in the indictment and she also stated that after the incident she went to stay in a shelter and the defendant came and asked her to come home.

Final recommendations

The public prosecutor requested for the court to impose a fine against the defendant as well as court costs because he was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender, and used his own initiative to reconcile with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts produced during the trial, the court concluded this matter and sentenced the defendant to a fine of US\$ 30.00 to be paid in daily instalments of US\$ 1.00 for 30 days as well as court costs of US\$ 10. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

21. Crime of simple offences against physical integrity characterized as domestic violence

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| Case No. | : 0019/17. BCLGA |
| Composition of the Court | : Single Judge |
| Judge | : Hugo da Cruz Pui |
| Prosecutor | : Ivonia M. Guterres |
| Public Defender | : Jose M. Guterres |
| Type of Penalty | : Fine |

On 18 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JC who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 17 November 2017 at 8am the defendant punched the victim four times on the back of the neck and twice on her left and right cheeks.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. For this reason he requested for the court to impose a prison sentence of 3 months, suspended for 1 year and 6 months. The public defender stated that the defendant confessed all of the facts in the indictment

and regretted his actions and has reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 30.00 to be paid in daily instalments of 50 cents for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

22. Crime of simple offences against physical integrity

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| Case No. | : 0028/17. BCBCV |
| Composition of the Court | : Single Judge |
| Judge | : Ercilia de Jesus |
| Prosecutor | : Luis H. Rangel da Cruz |
| Public Defender | : Americo Luis Freitas Belo (Private Lawyer) |
| Type of Penalty | : Validating withdrawal of complaint |

On 20 April 2018 the Baucau District Court attempted conciliation in a case of simple offences against physical integrity involving the defendants Luis Antonio Correia, Luico Paul Gama, Rivaldo P. Ximenes and Lino Alberto da Costa Fraga who allegedly committed the offence against the victim Elemozio Freitas in Tirilolo Village, Baucau Vila Sub-District, Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 13 May 2017 at 8pm the victim and his friends were returning from a procession from the old village to the front of the Baucau Referral Hospital and suddenly an unknown person threw rocks at the victim and his friends. The victim and his friends were afraid and ran towards the front of a garage and saw the defendant Lucio Paul Gama standing in the middle of the road holding a wooden bow and struck the victim many times on the back causing the victim to fall to the ground. The defendant Luis Antonio Correia punched the victim once above the eye and the defendant Rivaldo P. Ximenes kicked the victim in the back and the defendant Lino Alberto da Costa Fraga kicked the victim once in the back. The incident occurred because the defendants mistook the identity of the victim.

The public prosecutor alleged that the defendants violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendants and victim.

During the attempted conciliation the defendants apologised to the victim because the defendants and the victim live in the same neighbourhood, the defendants regretted their behaviour and promised not to commit any other crimes in the future. Therefore the victim requested for the court to withdraw the complaint against the defendants.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

23. Crime of simple offences against physical integrity

Case No. : 0058/17. LSIC
Composition of the Court : Single Judge
Judge : Hugo da Cruz Pui
Public Prosecutor : Luis H. Rangel da Cruz
Public Defender : Grigorio de Lima
Type of Penalty : Validating withdrawal of complaint

On 23 April 2018 the Baucau District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Aleixo do Santos who allegedly committed the offence against his father in law (Francisco Alves), in Soru Village, Lospalos Sub-District, Lautem District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 31 December 2017, at 12.00 midday, in Chaiwaca, the victim was cleaning up his plantation and heard the defendant and the victim arguing about a child. The victim went over to talk to the defendant and his wife and asked “*Why are you two arguing about this child? Your case is with the court and you should let the court resolve it and then talk about the child.*” The defendant did not accept the victim's words and angrily approached the victim and pushed him up against a wall and the victim suffered an injury to his head and bleeding.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

Presentation of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge may seek to reach conciliation between the defendant and victim.

During the attempted conciliation, the defendant apologised to the victim because the victim is his father in law. The defendant stated that he regretted his actions and promised that in the future he would not commit any crimes against his father in law or anybody else. Therefore the victim requested for the court to withdraw the complaint against the defendants.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the settlement.

24. Mistreatment of a minor

Case No. : 0007/17. BCBMS
Composition of the Court : Panel
Judges : Jose Escurial
: Ersilia de Jesus
: José Gonsalves
Prosecutor : Luis H. Rangel da Cruz
Defence : Americo Luis Freitas Belo (Private Lawyer)
Type of Penalty : 2 years in prison, suspended for 2 years

On 24 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment against a minor involving the defendant AS who allegedly committed the offence against his daughter in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 27 August 2017, at 8am, the defendant a stick and hit the victim on the back leaving a mark on the victim's back, and then hit the victim twice on her side and the victim fell to the ground and then she got up to run away but the defendant chased her and hit her again on the back.

Previously, in 2015 the defendant used a stick to hit the victim five times in the back and caused the victim to suffer pain and swelling.

The public prosecutor alleged that the defendant violated Article 155 of the Penal Code on mistreatment of a minor as well as Articles 2, 3 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, expressed remorse for his actions and was a first time offender. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant, and the victim attends Laga Primary School and the defendant supports her.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. The public defender requested for the court to impose a prison sentence against the defendant of two years, suspended for two years. The public defender stated that the defendant confessed, regretted his

actions and is a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

25. Crime of simple offences against physical integrity characterized as domestic violence

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| Case No. | : 0093/117.BCSIC |
| Composition of the Court | : Single Judge |
| Judge | : Jose Quintão |
| Prosecutor | : Luis H. Rangel da Cruz |
| Public Defender | : Sidonio M. Sarmiento |
| Type of Penalty | : Fine |

On 24 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AdCF who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 25 December 2017 at 8am the defendant kicked the victim once on the right cheek which caused the victim to fall to the ground. The defendant then punched the victim in the mouth and caused an injury, swelling and bleeding.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that he slapped the victim once on the cheek and did not kick or punch the victim in the mouth. The defendant also declared that he has reconciled with the victim, regretted his actions and was a first time offender. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor maintained the charges, even though the defendant denied some of the facts in the indictment, but the victim confirmed the facts in the indictment. To deter the defendant from repeating such acts in the future, the public prosecutor requested for the court to impose a suspended prison sentence.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, was a first time offender, and has reconciled with the victim. Therefore he requested for the court to impose a lenient penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 22.50 to be paid in daily instalments of 50 cents for 45 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

26. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0009/18. BCBCV
Composition of the Court : Single Judge
Judge : Jose Quintão
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Antonio Fernandes
Type of Penalty : Fine

On 25 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JdC who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 10 January 2018, at 11.00am, the defendant punched the victim twice in the head, pulled the victim's hair and punched the victim twice in the mouth.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant was a first time offender and has reconciled with victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was found guilty of committing the crime against the victim. Therefore to prevent the defendant from repeating such actions in the future the public prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and was a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

The court concluded this matter and ordered the defendant to pay a fine of US\$ 22.50 to be paid in daily instalments of 50 cents for 45 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

27. Crime of simple offences against physical integrity characterized as domestic violence

Case No. : 0095/17. BCBCV
Composition of the Court : Single Judge
Judge : Jose Escurial

Prosecutor : Luis H. Rangel da Cruz
Defence : Americo Luis Freitas Belo (Private Lawyer)
Type of Penalty : Fine

On 25 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant Francisco Pinto who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 10 October 2017, at 2pm, the defendant twisted the victim's arm and caused the victim to suffer pain and swelling to her arm.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that he and the victim had an argument about sleeping at his older brother's house so the victim choked the defendant and the defendant pushed the victim's arm away and did not twist her arm. The defendant is a small-scale trader with a monthly income of US\$60. The victim confirmed all of the facts in the indictment.

Final recommendations

The public prosecutor maintained the charges, and even though the defendant denied some of the facts, the victim confirmed the facts in the indictment. Therefore he requested for the court to impose a fine against the defendant.

The public defender stated that that the defendant testified about the facts he committed and therefore he requested for the court to issue an admonishment against the defendant.

Decision

The court concluded the matter and ordered the defendant to pay a fine of US\$30 at a rate of US\$ 1 per day for 30 days, and also to pay judicial costs. The court also imposed an alternative punishment of 20 days in prison if the defendant does not pay the fine.

28. Simple offences against physical integrity characterized as domestic violence

Case No. : 0001/17. BCQCL
Composition of the Court : Single Judge
Judge : Jose Escurial
Prosecutor : Gustavo Agostu M da Silva
Public Defender : Cristovao Nuno Ximenes
Type of Penalty : Fine

On 25 April 2018 the Baucau District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant AX who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 7 January 2017, at 7pm, the defendant threw a stone at the victim's head which caused an injury and bleeding to the victim's head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Article 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. Therefore he requested for the court to use its conviction to impose the correct penalty. The defence stated that the defendant confessed all of the facts set out in the indictment, regretted his actions and has reconciled with the victim. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

29. Crime of Rape

| | |
|--------------------------|--|
| Case No. | : 0001/16. VQSIC |
| Composition of the Court | : Panel |
| Judges | : Afonso Carmona : José Gonsalves : Hugo da Cruz Pui |
| Prosecutor | : Domingos Goveia Barreto |
| Public Defender | : Grigorio de Lima |
| Type of Penalty | : 20 years in prison |

On 25 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of rape involving the defendant MdAPK who allegedly committed the offence against his daughter in Viqueque District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 6 January 2016, at 1pm, the victim was getting ready to go to his foster mother's house, and suddenly the defendant shut the front door, grabbed the victim from behind and carried her into the bedroom and used force to remove the victim's clothing and had sexual intercourse with the victim. When the defendant had sexual intercourse with the

victim the defendant always put a martial arts (*kerasakti*) necklace on the victim, to make the victim quiet.

On 25 December 2015 at 10pm, when the victim was asleep in the bedroom the defendant was naked and went to the victim and used force to have sexual intercourse with the victim.

Previously on the morning of 23 December 2015 the defendant rang the victim's foster mother who is the victim's teacher² to ask her to send the victim to the defendant's house to help plant corn. In the evening the defendant put a martial arts (*kerasakti*) necklace around the victim's neck. The victim went inside and laid down, the defendant entered the victim's room, grabbed the victim's arms and used force to remove the victim's pants and locked his legs around the victim's knees and had sexual intercourse with the victim.

The public prosecutor charged the defendant for violating Article 172 of the Penal Code on rape as well as Article 173 (1) of the Penal Code on aggravation well as Articles 2, 3, 35 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant stated that on 22 and 23 December 2015 the defendant rang the victim's foster mother to tell the victim to come and plant corn. On 23 December 2015 the victim went to the defendant's home and went to plant corn and returned home at 11pm. The defendant added that the victim had a heart problem so the defendant put a martial arts (*kerasakti*) necklace around the victim's neck to cure the heart problem. The defendant also stated that he had sexual intercourse with the victim, but with the victim's consent, and after having sexual relations the defendant always gave money to the victim. On 15 January 2015 the victim met the defendant in Beloi and the victim asked the defendant for money, but the defendant did not give her any money, so the victim made a complaint.

The victim confirmed and maintained all of the facts in the indictment and stated that the defendant did not give her money to pay for her uniform.

Final recommendations

The public prosecutor stated that the defendant had been proven guilty of committing the crime against the victim based the partial confession of the defendant and the confirmation provided by the victim. The public prosecutor also stated that actually the defendant should protect the victim against such acts, however on the contrary the defendant raped the victim. Therefore he requested for the court to impose a prison sentence of 20 years against the defendant.

The public defender stated that the defendant committed the crime of rape against his own daughter. Therefore he requested for the court to use its conviction to impose the correct penalty.

Decision

² The victim lives with her foster mother because the defendant and the victim's mother have separated. The victim's mother lives far away from the town and the victim and her foster mother live in the town and the foster mother is the victim's teacher.

After evaluating the facts that were proven during the trial, the court found the defendant guilty of committing the crime of rape against his own daughter, and the court concluded this matter and sentenced the defendant to 20 years in prison.

30. Crime of mistreatment of a spouse

Case No. : 0004/15.BCLLB
Composition of the Court : Panel
Judges : Hugo da Cruz Pui
: Antonio Fonseca
: Jose Quintão
Prosecutor : Luis H. Rangel da Cruz
Public Defender : Jose M. Guterres
Type of Penalty : 2 years in prison, suspended for 2 years

On 26 April 2018 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant JM who allegedly committed the offence against his wife in Baucau District.

Charges of the Public Prosecutor

The public prosecutor alleged that on 20 October 2015 at 4.30pm the defendant slapped the victim twice on the right cheek, punched the victim once on her right shoulder and kicked the victim once in on her right shoulder.

Previously in 2014, at 8pm, the defendant punched the victim 3 times on the back and punched the victim once in the head and pulled the victim's hair.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse as well as Articles 2, 3, 35 and 36 of the Law Against Domestic Violence.

Presentation of evidence

During the trial the defendant confessed all of the facts set out in the indictment, the defendant also stated that he regretted his actions. The defendant added that when the victim returned home from the village chief the defendant reconciled with the victim, and was a first time offender. The victim maintained all of the facts in the indictment and stated that she has reconciled with the defendant.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim based on the confession of the defendant and the statement of the victim. For this reason he requested for the court to impose a prison sentence of 2 years, suspended for 2 years.

The public defender stated that the defendant confessed all of the facts set out in the indictment, regretted his actions, has reconciled with the victim, and was a first time offender. Therefore he requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 2 years.

For more information please contact:

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