



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Case Summary**  
**The Suai District Court**  
**March 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 Suai District Court**

**1. Total cases monitored by JSMP : 25**

Article	Case Type	Number of cases
Article 145 of the Penal Code (PC) as well as articles 2, 3, 35, 36 of the Law Against Domestic Violence	Simple offences against physical integrity characterized as domestic violence (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence and Article 36 on domestic violence as a public crime)	6
Article 177 of the PC	Sexual abuse of a minor	1
Articles 172 and 173 of the Penal Code	Aggravated rape	1
Articles 172 and 23 of the Penal Code	Attempted rape	1
Article 171 of the PC	Sexual coercion	1
Article 181 of the PC	Sexual exhibitionism	1
Article 225 of the PC	Failure to fulfill an obligation to provide food assistance	2
Article 138 of the PC	Homicide	1

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Article 267 of the PC	Aggravated fraud	1
Article 252 of the PC	Aggravated larceny	1
Article 316 of the PC	Smuggling	1
Article 145 of the PC	Simple offences against physical integrity	7
Article 157 of the PC	Threats	1
<b>Total</b>		<b>25</b>

## 2. Total cases monitored by JSMP: 11

Type of Penalty	Number of cases
Suspension of execution of a prison sentence (Article 68 of the PC)	5
Withdrawal of complaint	4
Acquitted	2
<b>Total</b>	<b>11</b>

## 3. Total cases adjourned based on JSMP monitoring: 13

Reason for adjournment	Number of cases
Parties not present in court	10
Victim was ill	2
Public defender was ill	1
<b>Total</b>	<b>13</b>

## 4. Total ongoing cases based on JSMP monitoring: 1

### B. Descriptive summary of decisions handed down in cases monitored by JSMP:

#### 1. Crime of smuggling

Case No. : 0004/17.BBBGD  
Composition of the Court : Panel  
Judges : Samuel da Costa Pacheco, Nasson Sarmiento and Benjamin Barros  
Prosecutor : Napoleão Soares  
Public Defender : Manuel Amaral  
Type of Penalty : Acquitted

On 3 May 2018 the Suai District Court announced its ruling in a case of smuggling involving the defendant Rosa Martins who allegedly committed the offence against the State of Timor-Leste, in Batugade Village, Bakibi Sub-District, Bobonaro District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 10 January 2017 the defendant rang an Indonesian to bring 4 drums of kerosene or 880 litres totalling US\$600 into Timor-Leste. The defendant took the kerosene to the border area and when the defendant was transporting the kerosene to his house the defendant was apprehended by members of the Border Patrol Unit who were patrolling the river.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant partially confessed the alleged facts against him and stated that he did not call an Indonesian to bring kerosene to the border, but rather an Indonesian bought the kerosene himself into Timor-Leste, and the defendant purchased it and was taking it to his house. The defendant added that several weeks later, when he was transporting some of the kerosene to be sold in the market he was apprehended by members of the Border Patrol Unit.

### **Final recommendations**

The prosecutor stated that the defendant was guilty of committing this crime and requested for the court to impose a prison sentence of two years, suspended for three years, and to order the defendant to pay court costs of US\$30. In relation to the kerosene that had been seized the prosecutor requested for it to be given to the State. The prosecutor emphasised that such a penalty would deter the defendant from repeating such acts in the future.

The public defender requested for the court to acquit the defendant from the charges because the defendant purchased the kerosene in Timor-Leste, not in Indonesia. Therefore the defendant's actions did not fulfil the requirements of the crime of smuggling.

### **Decision**

After evaluating the facts produced during the trial, the court acquitted the defendant from the charges of the prosecutor because the defendant had not been proven guilty of committing the crime of smuggling. In addition, the court decided to give back US\$600 of kerosene money to the defendant.

## **2. Crime of aggravated rape**

Case No. : 0064/17.PDSUA

Composition of the Court : Panel  
Judges : Álvaro Maria Freitas, Argentino Luisa Nunes and Benjamin Barros  
Prosecutor : Napoleão Soares  
Public Defender : Albino de Jesus Pereira  
Type of Penalty : Acquitted

On 3 May 2018 the Suai District Court conducted a hearing to announce its decision in a case of rape involving the defendant JM who allegedly committed the offence against the victim, his neighbour, in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 15 July 2016 the victim was returning from his uncle's house after watching television. When the victim was walking past the defendant's house, the defendant called out to the victim three times from inside the kitchen. The victim walked towards the defendant and the defendant pulled the victim by the arm into the kitchen. The defendant twisted both of the victim's arms behind her back and tied them with a blue cable. The victim tried to yell but she couldn't because the defendant jammed an orange coloured shirt in the victim's mouth. The defendant groped the victim's genitals and removed her clothes to have sex. The defendant threatened that he would run the victim over with his motorcycle or would stab her to death if she told anyone.

Two days later on 17 July 2016 the victim went to pick some vegetables from the plantation and the defendant was in his plantation getting some coconuts. When the defendant saw the victim he called out to the victim and told her to get a machete from the house to split the coconuts that he had just obtained. The victim fetched the machete and gave it to the defendant in the plantation. When the victim was walking back the defendant suddenly tripped her over with his leg and she fell to the ground and the defendant had sexual intercourse with the victim. After having sexual intercourse, the defendant but the machete against the victim's throat and threatened that if the victim told the defendant's wife the defendant would kill her.

On 19 July 2016 the defendant's wife told the victim to pick some oranges from the plantation. The defendant knew that the victim was picking some oranges and the defendant went to wait for the victim in the plantation. When the victim was picking the oranges the defendant's wife went there and brought the oranges back to the house. After the defendant's wife took the oranges home and the defendant called out to the victim to grab the key to the door from out of the defendant's hand so she could give it to the defendant's daughter who was at home, but because she was traumatised by the defendant's behaviour the victim told the defendant to throw the key to the victim. The defendant did not want to and told the victim to take it from his hand. The victim went to get the key from the defendant's hand and she was going to grab it and run away

but the defendant grabbed both of her arms tightly and took a sickle and threatened the victim by saying "I will use this sickle to kill you". The defendant then had sexual intercourse with the victim. As a result of these acts the victim became pregnant.

The prosecutor accused the defendant of violating Article 172 of the PC on rape which carries a penalty of 5 to 20 years in prison and for violating Article 173 (d) of the PC on aggravation because the victim was aged less than 17.

### **Presentation of evidence**

During the trial the defendant confessed that he had sexual intercourse with the victim on three occasions but with the consent of the victim. The defendant stated that he did not threaten the victim, did not use force, did not tie the victim's arms, did not use a dangerous weapon to threaten the victim, did not choke the victim and did not cover the victim's mouth with a piece of cloth. The defendant stated that the victim liked to play cards and needed money, so before having sexual intercourse with the victim, he always gave money to the victim; on the first occasion, the defendant gave her US\$7.00, on the second occasion US\$5.00, and on the third occasion US\$3.00. The defendant stated that this case had been resolved in accordance with East Timorese custom and the defendant gave two buffaloes, cash totalling US\$2,500, five *belak* (traditional necklace), five fans, one container of alcohol, and one pig to the family of the victim.

The victim stated that they had sexual intercourse on three occasions and the first incident occurred at about 9pm or 10pm. The victim stated that she could not physically resist the defendant because she was powerless so when the defendant called out and told her to remove her clothing she just did what she was told. In addition, the victim confirmed that she did like to play cards. The victim also stated that this case had been resolved in accordance with East Timorese custom and the goods that were mentioned by the defendant had been handed over.

Before hearing the final recommendations the court conducted an inspection of the scene of the crime to examine the scene of the crime to find clues and obtain additional information in this case, in particular to see the distance between the defendant's house and the victim's house and between the defendant's house and the victim's plantation.

### **Final recommendations**

The prosecutor maintained the charges and requested for the court to impose a prison sentence of 14 years. The prosecutor stated that the defendant committed multiple rapes with violence and threatened the victim and the victim became pregnant.

The defence requested for the court to acquit the defendant from the charges because the sexual intercourse was based on the consent of the two parties, and therefore the actions of the defendant did not fulfil the requirements of the crime of rape. In addition, before having sexual

intercourse the defendant always gave money to the victim. This shows that the victim also wanted it to happen.

### **Decision**

After evaluating the facts produced during the trial the court decided that the defendant was not guilty of committing rape against the victim because the sexual intercourse between the defendant and victim was based on consent.

Based on the inspection of the scene of the crime the panel of judges found that the victim's house, the defendant's house and other neighbouring houses were close together or were adjacent to each other with a distance of 20 metres. The distance from the houses to the plantation was approximately 50 metres. Actually the victim could have called out for help because people could have heard her and helped the victim or found out what was happening.

The court also had doubts why there was such a short gap between the first and second incident. The judges said that if the victim felt afraid or traumatised because the defendant had just raped her, then the victim should have tried to say no to the order/request made by the defendant's wife to pick oranges from the plantation, and to get a machete for the defendant and to get the key from the defendant. In addition, when the victim became pregnant she did not tell her family, and when she was close to full term the families discovered that the defendant was the father and when the families could not agree they took the matter to court.

Also because the victim liked to play cards she needed money to gamble and the defendant gave her money on each occasion and the victim confirmed this fact. Based on these considerations the court acquitted the defendant from the charges of the prosecutor.

### **3. Crime of sexual exhibitionism**

Case No.	: 0029/17.CVMCT
Composition of the Court	: Single Judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Fransisco Caetano Martins
Type of Penalty	: 1 year in prison, suspended for 2 years

On 15 May 2018 the Suai District Court announced its decision for the crime of sexual exhibitionism involving the defendant MSP and the victim BPA in Covalima District.

### **Charges of the Public Prosecutor**

The prosecutor alleged that on 14 August 2017 the defendant stared at the victim and spoke loudly and asked if anyone wanted to have sexual intercourse then they should just come and do

it with a prostitute in Ogues later that night. Upon hearing this language the victim became angry and told the defendant I am here if you want to have sexual intercourse. The defendant approached the victim and he undid his zipper, took out his genitals and showed them to the victim.

The public prosecutor alleged that the defendant violated Article 181 of the Penal Code on sexual exhibitionism that carries a maximum penalty of 3 years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant denied all of the alleged facts against him and stated that his words were not directed at the victim but directed at his friend who was talking with him on the telephone. The victim stated that she did not see the defendant call another person so she maintained that the defendant directed his words at the victim. However, in relation to the allegation that he showed his genitals the victim said that the defendant did not show his genitals to the victim.

MM, who is the daughter of the victim, testified that she saw the defendant talking on the telephone. The witness said she did not see the defendant show his genitals.

### **Final recommendations**

The prosecutor requested for the court to impose a fine on the defendant because the facts had been proven. The public defender stated that the defendant's comments were not directed at the victim but at his friend. Therefore he requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating the facts the court gave more weight to the victim's statement and proof that the defendant committed the crime according to the facts set out in the indictment. Based on this evidence, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 2 years, and ordered him to pay court costs of US\$25.

## **4. Crime of simple offences against physical integrity**

Case No.	: 0092/17.CVSUI
Composition of the Court	: Single Judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Ricardo Leite Godinho
Defence	: Albano Maia (private lawyer)
Type of Penalty	: Validating withdrawal of complaint

On 15 March 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendant Agostinho Gusmão who allegedly committed the crime against the victim Aleixo de Araujo in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 31 December 2017 the defendant suspected that the victim put a curse on the defendant's family and traditional elders. Therefore, the defendant went to the victim's house and saw the victim sitting on a bamboo bench. The defendant tried to punch the victim twice in the leg but missed. So the defendant grabbed the victim's two legs and pulled him from the bamboo bench and he fell onto a rock.

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 this attempted conciliation the victim decided to withdraw his complaint against the defendant because the defendant regretted his mistake and apologised to the victim. The Defendant promised not to repeat such behaviour in the future. The defendant gave a pig and traditional cloth to the victim in front the court.

### **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.

## **5. Crime of simple offences against physical integrity**

Case No.	: 0024/17.CVMCT
Composition of the Court	: Single Judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Fransisco Caetano Martins
Type of Penalty	: Validating withdrawal of complaint



On 16 May 2018 the Suai District Court presided over a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendant Armandina Cardoso, the defendant Maria Cardoso, the defendant Aleixo do Carmo and the victim Carlota Cardoso who was their older sister and the sister in law of the defendant Armando, which allegedly occurred in Maukatar Sub-District, Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 16 July 2017 the defendant Armandina Cardoso swore at the victim at her home because of a land dispute. Therefore the victim's husband slapped the defendant Armandina once on the right cheek. Not long after, the defendants Maria and Aleixo went back to the victim's house and together with the defendant Armandina beat the victim. The two defendants pulled the victim's hair until the victim fell to the ground. The defendants punched and kicked the victim many times on the back, left cheek and chest. The defendant Aleixo smashed the victim's four plastic chairs. These acts caused the victim to suffer pain to her body, and swelling to her back.

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 as well as Article 258 of the Penal Code on property damage 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 two parties.

During this attempted conciliation the defendants apologised to the victim and gave \$50 to the victim and paid back the four chairs that were broken. The victim decided to withdraw her complaint because the defendants apologised and regretted their behaviour and they are related. The defendants promised not to repeat their acts in the future and agreed with the request to withdraw the complaint against the victim.

### **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.

## **6. Crime of simple offences against physical integrity characterized as domestic violence**

Case No. : 0071/17.CVSUI  
Composition of the Court : Single Judge  
Judge : Alvaro Maria Freitas  
Prosecutor : Ricardo Leite Godinho  
Public Defender : Manuel Amaral  
Type of penalty : 6 months in prison, suspended for 1 year

On 17 May 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LPA who allegedly committed the offence against his wife in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 26 September 2017, without the knowledge of the defendant, the victim went to cook at her uncle's house. The defendant suspected the victim of having a romantic relationship with her uncle, therefore the defendant punched the victim once on the back, slapped her five times on the left cheek, choked the victim and took a helmet and tried to strike the victim in the head but missed because the victim resisted with her hand. This act caused the victim to suffer pain to her cheek and swelling to her 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 Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial, the defendant confessed all of the facts and stated that he regretted his behaviour and has reconciled with the victim. The defendant also promised not to repeat his behaviour against his relatives in the future. In addition, the victim reinforced the facts set out in the indictment and confirmed the defendant's statement that she has reconciled with the defendant and until now the defendant has not beaten her again.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim. Although the defendant regretted his actions, has reconciled with victim, and was a first time offender, the prosecutor requested for the court to impose a prison sentence of six months suspended for one year against the defendant to prevent the defendant from repeating his actions in the future.

The public defender requested for the court to impose a fine against the defendant with consideration for the mitigating circumstances, namely 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.

### **Decision**

After evaluating all of the facts the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

### **7. Crime of simple offences against physical integrity characterized as domestic violence**

Case No. : 0043/16.CVSUI  
Composition of the Court : Single Judge  
Judge : Alvaro Maria Freitas  
Prosecutor : Ricardo Leite Godinho  
Public Defender : Manuel Amaral  
Type of penalty : 1 month in prison, suspended for 1 year

On 17 May 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant JdS who allegedly committed the offence against his wife in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor stated that the defendant owed US\$150 to the victim's brother. So on 21 August 2017 the victim was angry at the defendant and said things that made the defendant feel embarrassed and hurt and the defendant slapped the victim once on the back of the neck.

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 (a), 35 (b) 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 also promised not to repeat his behaviour against the victim or other relatives in the future. In addition, the victim maintained the facts set out in the indictment and stated that they have reconciled.

### **Final recommendations**

The public prosecutor maintained the charges and requested for the court to sentence the defendant to 1 year in prison suspended for 1 year to prevent the defendant from repeating his actions in the future.

The public defender requested for the court to impose a fine on the defendant considering the mitigating circumstances such as the defendant confessed, regretted his actions, and was a first time offender and promised not to reoffend in the future.

### **Decision**

After evaluating all of the facts the court found the defendant guilty of committing the crime against the victim based on the facts set out in the indictment. Based on this evidence the court sentenced the defendant to 1 month in prison suspended for 1 year and ordered him to pay court costs of US\$ 25.00.

### **8. Crime of simple offences against physical integrity characterized as domestic violence**

Case No. : 0080/17.CVSUI  
Composition of the Court : Single Judge  
Judge : Alvaro Maria Freitas  
Prosecutor : Ricardo Leite Godinho  
Public Defender : Manuel Amaral  
Type of penalty : 1 year in prison, suspended for 1 year

On 17 May 2018 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant LdS who allegedly committed the offence against his daughter (ASG) and wife (AS) in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on the evening of 23 November 2017 the defendant saw his daughter (ASG) being romantic with a man in a field so the defendant slapped the victim ASG across the face causing heavy bleeding from her nose. When the victim and her friend returned home the defendant was waiting for the victim ASG in front of the house and the defendant again slapped the victim ASG on the head. After he slapped the victim ASG, the defendant went to sleep at his parent's house.

On the next day (24 November 2017) the victim AS went to the house of defendant's parents and asked why he had hit their daughter and caused her to suffer a bloody nose. The victim AS and the defendant argued and the defendant punched the victim once in the left cheek which caused swelling.

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 (a, c) and 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant completely confessed to the facts set out in the indictment of the prosecution and stated he did regretted his actions. The defendant also promised not to repeat his behaviour against the victim in the future. 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 confessed all of the facts in the indictment, regretted his actions and was a first time offender, however to deter the defendant from repeating his behaviour in the future the prosecutor requested for the court to sentence the defendant to one year in prison, suspended for one year.

The public defender requested for the court to impose a fine on the defendant because he confessed, regretted his actions, was a first time offender and promised not to reoffend against the victim in the future.

### **Decision**

After evaluating the facts that were proven during the trial, the court concluded the matter and sentenced the defendant to 1 year and six months in prison, suspended for 1 year and ordered him to pay court costs of US\$ 25.

### **9. Crime of simple offences against physical integrity**

Case No.	: 0001/16.CVMCT
Composition of the Court	: Single Judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Ricardo Leite Godinho
Public Defender	: Fransisco Caetano Martins
Type of Penalty	: Validating withdrawal of complaint

On 17 May 2018 the Suai District Court attempted conciliation in a case of simple offences against physical integrity involving the defendants Castro Almeida, Antonio Gusmão and Augustinho Gusmão Barros who allegedly committed the offence against the victim Januario Maia in Maukatar Sub-District, Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 1 January 2016 the victim was using his motorcycle as a taxi to pick up his aunt and visit family in Holpilat Village. When he arrived in Nadak Sub-Village the defendants put rocks on the road to stop the victim from passing but the victim continued anyway. The defendants Augustinho Gusmão Barros and Antonio Gusmão chased the victim on a motorcycle and threatened the victim but the victim continued his journey. So the

defendants returned. When the victim was returning and reached Nadak Sub-Village the victim saw the defendant Castro Almeida. The victim stopped his motorcycle and asked this defendant why he had made a fist as this had scared him. The defendant Castro Almeida and the other defendants told the victim “we are not God, so why are you afraid of us”.

After responding the defendant Castro Almeida tried to kick the victim but missed because the victim grabbed the defendant's leg. The defendant Antonio Gusmão punched the victim once in the head from behind and punched the victim once in the back. In addition, the defendant Antonio Gusmão took a long piece of bamboo and struck the victim. These acts caused the victim to suffer pain to his head and 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.

### **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 the victim.

During this attempted conciliation the victim wanted to withdraw his complaint against the defendants because they apologised, regretted their behaviour and promised not to repeat such behaviour against the victim or other person in the future. In addition, the defendants gave US\$100 to the victim to redress his suffering (the defendants gave this money to the victim before the court). The defendants also agreed with the victim's request to withdraw the matter.

### **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.

## **10. Crime of failure to fulfil an obligation to provide food assistance**

Case No.	: 0018/17.PDSUA
Composition of the Court	: Single Judge
Judge	: Alvaro Maria Freitas
Prosecutor	: Matias Soares
Public Defender	: Fransisco Caetano Martins

Type of Penalty : Withdrawal of complaint

On 22 May 2018 the Suai District Court announced its ruling in a case of failure to fulfil an obligation to provide food assistance involving the defendant MG who allegedly committed the offence against his wife and child in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on the morning of 20 November 2015, the defendant and the victim had an argument and the defendant left home. From the time the defendant left home he never gave alimony for his two children who are still minors.

The public prosecutor alleged that the defendant violated Article 225 of the Penal Code on failure to provide food assistance that carries a maximum penalty of 3 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 victims.

During this attempted conciliation the victim decided to withdraw the complaint against the defendant on the condition that the defendant must provide alimony for their children. The defendant was willing to give US\$50 every month for his two children. The victim agreed with this amount and wanted to withdraw her complaint against the defendant.

### **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 agreement made by the parties and the victim's request to withdraw the complaint the court validated the settlement on the condition that the defendant must keep his promise in accordance with the agreement made by the two parties before the court.

## **11. Crime of attempted rape**

Case No. : 0032/17.PDSUA

Composition of the Court : Panel

Judges : Samuel da Costa Pacheco, Florensia Freitas and  
Nasson Sarmento

Prosecutor : Matias Soares

Public Defender : Albino de Jesus Pereira

Type of Penalty : 3 years in prison, suspended for 5 years

On 29 May 2018 the Suai District Court conducted a hearing to announce its decision in a case of rape involving the defendant AG who allegedly committed the offence against the victim MCA, his neighbour, in Covalima District.

### **Charges of the Public Prosecutor**

The public prosecutor alleged that on 10 September 2017 at approximately 8pm the victim went to the toilet behind her house which was located approximately five metres from the victim's house. After going to the toilet the victim went back to her house. Suddenly the defendant called out to the victim using the word "hoi" and the victim felt afraid and continued on. The defendant came from behind and used one hand to cover the victim's mouth and nose and in his other hand he was holding a machete and put it on the victim's throat and threatened that he would kill her if she screamed. The victim tried to scream but couldn't because the defendant was covering her mouth and nose. The defendant promised to give US\$50 to the victim.

The prosecutor also alleged that the defendant turned the victim's face to the left to kiss her but the victim resisted. The victim used all of her force to remove the defendant's hand from her mouth and nose and the machete fell from his hand. The victim tried to run away but the defendant grabbed the victim's sarong and yanked the victim to the ground. The defendant sat on the victim. The victim pushed the defendant the chest and when the defendant moved back the victim kicked him in the thigh and the defendant fell backwards. The victim stood up and took the defendant's machete and shouted out towards her house and the defendant also ran to his house.

The public prosecutor alleged that the defendant violated Article 172 of the Penal Code on the crime of rape that carries a prison sentence of 5 to 15 years in prison and Article 23 and 24 of the Penal Code on attempt and punishability of attempt.

### **Presentation of evidence**

During the trial the defendant admitted that he called out to the victim and covered the victim's mouth and nose but didn't know if it was a woman or man. He defendant denied or rejected that he kissed or had sexual intercourse with the victim. The defendant also stated that he heard a dog bark and he went outside to check because the defendant had lost animals on many occasions. The victim maintained the facts set out in the indictment of the public prosecutor.

### **Final recommendations**

The prosecutor requested for the court to sentence the defendant to seven years in prison because the defendant's actions fulfilled the crime of attempted rape.



The public defender requested for the court to acquit the defendant from the charges because the alleged crime did not fulfil the elements of the crime of rape because the defendant did not have sexual intercourse with the victim.

### **Decision**

After evaluating the facts produced during the trial, the court found the defendant guilty of committing the crime based on the facts set out in the indictment. Based on the evidence the court concluded this matter and sentenced the defendant to three years in prison, suspended for five years, and also ordered the defendant to pay court costs of US\$25.00.

For more information, please contact:

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