



**JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA DE MONITORIZAÇÃO DO SISTEMA JUDICIAL**

Press Conference

27 March 2007

**ALFREDO GONÇALVES, THE PERPETRATOR OF A MURDER AGAINST
THE VICTIM JOÃO PINTO, HAS BEEN SENTENCED TO FIVE YEARS
IMPRISONMENT**

On 19 March 2007 the Baucau District Court handed down a decision in a murder case that occurred in 2006 in the village of Baduro, District of Lautem. The perpetrator in the aforementioned murder case was Alfredo Gonçalves. The criminal act committed by the defendant took the life of the victim João Pinto. The trial was conducted before a panel of judges led by Presiding Judge Telma A. Figueira who was assisted by Judge Edite Palmira dos Reis and Judge Anapaula Fonseca. The prosecution was represented by Flavio Lorza. The defendant was represented by Cancio Xavier from the Public Defender's Office.

In its decision the panel stated that in 2006 the defendant deliberately murdered or took the life of another person which was in violation of the applicable law in Timor Leste. During the investigative process the defendant admitted all of his actions and stated that he had murdered the victim João Pinto, who was in fact his cousin. According to the contents of the prosecutor's indictment the defendant claimed that the incident occurred when the victim initiated an attack on the defendant who attempted to defend himself and consequently killed the victim. However the excuse put forward by the defendant was rejected by the panel because no evidence or witnesses were presented to support his claim.

The Baucau District Court convicted the defendant for the commission of the aforementioned criminal act, pursuant to Article 338 of the Indonesian Penal

Code which states “any person who deliberately takes the life of another will be convicted of manslaughter which carries a maximum sentence of fifteen (15) years”.

In its decision the panel sentenced the defendant to 5 years imprisonment, to be reduced by 6 months in accordance with time already spent in temporary detention. The decision to sentence the defendant to five years imprisonment took into consideration the defendant’s cooperative attitude during the trial, the fact he had no previous convictions and that he had paid compensation to the victim’s family.

During the trial the panel also considered the agreement made between the victim’s family and the defendant’s family for the defendant to pay compensation in line with customary law. The panel considered Article 2.4 of the RDTL Constitution: “the State shall recognize and value the norms and customs of East Timor that are not contrary to the Constitution and to any legislation dealing specifically with customary law”. The panel read out its decision and referred to Article 282 of the Criminal Procedure Code which states that “the court shall, in a convicting sentence, specify the grounds on which the choice and extent of the penalty applied are based, indicating, where applicable, when and how the sentence is going to be served, other duties imposed upon the convict and the duration thereof, as well as the status of the convict in regards to any restrictive measures.

After the court’s decision was read out by the presiding judge the defendant and his defence counsel stated that they accepted the decision. They believed that the decision of the court was fair and made pursuant to the applicable law.

JSMP believes that the court’s decision was made pursuant to principles of justice and legal philosophy set out in the constitution of Timor Leste and other organic laws. In addition, the court did not only refer to the applicable positive law, but also took into consideration the values of customary law that are applicable in the community in accordance with the provisions of the

RDTL Constitution. Pursuant to the positive law (Indonesian Penal Code), any person who takes the life of another person can be sentenced to a maximum 15 years imprisonment. However in this case the court only sentenced the defendant to five years imprisonment after taking into consideration attempts that had been made to reach an amicable settlement between the family of the defendant and the family of the victim, namely the payment of compensation by the defendant to the family of the deceased in accordance with customary law.

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