



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

**PRESS RELEASE**

*5 July 2007*

**HUSBAND GIVEN 9 MONTH SUSPENDED SENTENCE FOR ASSAULTING HIS WIFE**

On 29 July 2007 the Baucau District Court issued a decision in a case of domestic violence which occurred in Ossu, Viqueque in 2006 involving the defendant Augusto C. Guterres. The hearing was presided over by a single Judge Dra. Edite Palmira dos Reis and the Prosecution Unit was represented by Dra. Maria Ivonia and the Defendant was represented by his lawyer Dr. Augusto Guterres from UCM Baucau.

In her decision the judge stated that in January 2007 the Defendant deliberately and unlawfully committed an act of light maltreatment against the victim Anacleta Maria Belo, who happened to be his wife. In a hearing conducted on 25 June 2007 the defendant accepted all of the charges ascribed to him in the prosecutor's indictment and admitted that he had committed light maltreatment against his wife. As a result of the maltreatment the victim was treated in hospital for 3 days.

The Baucau District Court convicted the defendant for the commission of the aforementioned act pursuant to Article 351 (1) and Article 356 (1) of the Indonesian Penal Code which relates to light treatment committed by a husband against his wife. In her decision the judge sentenced the defendant to a suspended term of 9 months and ordered him to pay court costs of US \$5. The justification for the suspended sentence was that the defendant had been polite throughout the trial, had no prior convictions, had pleaded guilty as well as evidence of an agreement/reconciliation between the defendant and victim (between the husband and wife which was signed by both of them in their capacity as defendant and victim) that had been submitted by the defence during the trial. The Judge also took into consideration the amicable agreement entered into by the victim and defendant several weeks after the incident. The judge may consider such matters pursuant to Article 2.4 of the RDTL Constitution which basically states that the State shall

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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.

After reading out the decision the judge explained that pursuant to Article 282 of the Criminal Procedure Code, 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 hearing the sentence the defendant and his counsel stated that they accepted the sentence as fair and in accordance with the applicable law. JSMP did not receive any confirmation from the victim who was not present for the announcement of the sentence. JSMP believes that the court's decision was made pursuant to principles of justice and the applicable laws in Timor Leste; both the Constitution and other organic laws. JSMP recommends for the competent agencies to immediately pass a law on domestic violence so that such cases can be dealt with specifically without having to refer to the Indonesian Penal Code which is too general.

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