



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

**SUMMARY OF CRIMINAL CASES HEARD AT THE
BAUCAU DISTRICT COURT IN APRIL 2008**

In April 2008 JSMP conducted three days of monitoring at the Baucau District Court. During this time, seven criminal cases were scheduled to be heard.

One hearing related to a charge of property damage. The court heard testimony from six witnesses summoned by the local prosecution unit. Additionally, four cases of maltreatment were heard, though not concluded at this time. These four cases were adjourned due to the non-attendance of a victim and several witnesses for the scheduled hearings. Based on information obtained by JSMP from court actors and several witnesses at the Baucau District Court, these individuals were unable to attend because they live in remote areas and have difficulty traveling to and from the Baucau District Court. Witnesses appearing for the defence in these cases will be presented with a final summons calling them to present their testimony during the next scheduled hearing.

Hearings in two criminal cases were also postponed due to a family emergency requiring the attendance of one of the judges. The court will inform parties involved in these cases of rescheduling.

What follows is a more detailed summary of proceedings in each of the cases monitored by JSMP at Baucau District Court during this most recent monitoring period.

Case No. 115/CRM.C/2007/TDB

On 7 April, the Baucau District Court heard testimony from six witnesses in a case relating to property damage that occurred on 8 August 2007. According to the indictment, the incident took place in the context of widespread violence following the formation of the AMP government.

It was alleged that the Baucau offices of the non-government organizations CRS and SAS were burned by the defendants. The public prosecutor laid charges against the defendants under Article 406 of the Indonesian Penal Code, relating to property destruction. Testimony was heard, and the case continues.

Case No. 49/CRM.S/2006/TDB and 45/CRM.S/08/TDB

On 8 April, the Baucau District Court adjourned hearings in two cases that had been scheduled for that day. Initiating documents indicate that prosecutions were to be launched under Indonesian Penal Code provisions for physical assault. The court schedule made available to JSMP indicates a two hour period had been allocated to each for opening arguments. The court will provide written notification of subsequent hearings to each of the parties to ensure their attendance.

Case No. 99/ CRM.S/2007/TDB.

On 9 April, the Baucau District Court conducted a hearing in a case of maltreatment that allegedly took place on 2 June 2007 in the sub-village of Nakroma, Fuiloro, Lospalos. The actions of the defendant caused the female victim to suffer injury to her hand and elsewhere. The public prosecutor charged the defendant under Article 351(1) of the Indonesian Penal Code. According to the indictment, the defendant punched the victim following an argument about their child. However, in the hearing the defendant rejected the charges made against him.

In testimony, however, the defendant stated that the incident occurred because the victim accused him of being a thief, and the incident was not related to their child. In response to the provocative comments of the victim, the defendant acknowledges he slapped the victim once on the cheek, and kicked her in the vicinity of her left hip. The victim fell to the ground and injured her left hand. Police attending the scene took the victim to the Los Palos hospital for treatment.

The defendant told the court that he regretted the acts committed against the victim (his wife) and that they have now reconciled and are living together. After hearing the defendant's testimony, the public prosecutor requested that the court summon the victim to provide her testimony.

Case No. 55 / CRM.S/2007/TDB.

On 9 April, the Baucau District Court adjourned a hearing in a case of domestic violence after hearing testimony from the defendant. This hearing was adjourned pursuant to Article 267 (2) of the Criminal Procedure Code because the victim and witnesses were not present.

Case No. 11/ CRM.S/2007/TDB.

In this matter, the court heard witness testimony in a case of maltreatment. The defendant was charged under Article 351 (1) of the Indonesian Penal Code. According to the indictment, on 17 November 2007 the defendant used a knife to slash the victim's hand. A witness testified that the defendant and the victim used to live together as husband and wife but were later divorced. The defendant has now re-married. The incident is alleged to have occurred in the context of an argument between the two. The victim suffered a serious injury to her hand and lost a lot of blood. After the incident the defendant is reported to have absconded from the scene of the crime.

On that same day the Los Palos District Police pursued and arrested the defendant, who was placed in custody for 72 hours at the District Police Office. In his final statement to the court, the public prosecutor requested a sentence of eight months imprisonment to be suspended for a period of eighteen months. The prosecutor made this recommendation bearing in mind a prior conviction dating from 2004, and for which the defendant had served one year and four months imprisonment. The prosecutor also requested that the defendant pay court costs in accordance with his financial capacity. The defence did not oppose these recommendations, and the court has adjourned to consider its sentence.

Case No. 101 /CRM.C/2007/TDB

On 9 April, the court, sitting as a panel of judges comprising Ana Paula, Frederico and Edite Palmira, conducted a hearing in a case of arson. The prosecutor charged the defendant with Article 187 of the Indonesian Penal Code. The arson allegedly occurred on 1 September 2003. According to the indictment, the defendant initially burned a mattress belonging to his parents-in-law, following which the fire spread, nearly burning down the house, which was made from bamboo. The defendant is alleged to have carried out this act following a dispute over money. After the defendant realized what he had done he reported himself to the local police and confessed. One witness said that he and other neighbors had put out the fire. Another witness said that after the incident the defendant and the victims had reached an amicable agreement. Legal consideration of the case continues.

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