



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

**Summary**

Period: 05-09 May 2008

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**Summary of Criminal Trials at the Suai District Court in May 2008**

Despite the many obstacles encountered by the Suai District Court, the court actors posted to this court have displayed enthusiasm and sincere determination to develop the nation of Timor Leste, and have been fully committed to regularly conducting trials in outstanding cases and well as organizing hearings for new cases.

Based on monitoring conducted by JSMP, seven criminal cases (maltreatment) were listed for trial between 5-9 May at the Suai district court. Of the aforementioned seven cases, hearings were held in four cases of maltreatment and the remaining three cases were adjourned. Those three cases were:

- Case No. 48/Pen/07/TDS
- Case No. 15/Pen/07/TDS
- Case No. 31/Pen/07/TDS

These cases were adjourned due to the non-attendance of defendants at the scheduled time and also due to a lack of transportation for the parties to attend the hearings.

The hearings that took place are summarized below.

**SUAI, 6/5/08**

**Case No. 48/PEN/07/TDS**

On Tuesday (6/5) the Suai District Court adjourned the announcement of its decision in a case involving the defendants AL, FM and AB who were charged with obstructing a public official in the discharge of his duties (crime against public authority). The hearing was adjourned because the public prosecutor and the public defender were absent. The two aforementioned court actors were absent because they reside in Dili and were only able to travel to Suai on the following day. An official from the Suai District Court informed JSMP that the

hearing scheduled for the announcement of the decision in Case No. **48/PEN/07/TDS** had to be adjourned because the public prosecutor and public defender handling this case were absent. Therefore the court will issue its final decision against the defendants on 8/5.

JSMP noted that the Suai District Court often encounters such obstacles because no suitable accommodation is available for judges, prosecutors and public defenders which would enable them to stay permanently in Suai and perform their duties. If these obstacles are not addressed immediately the court actors and officials will not be able to perform their work efficiently and effectively which will result in a further backlog of cases.

#### **Case No. 15//PEN/07/TDS**

On Wednesday 7/5 the Suai District Court adjourned the hearing of Case No. **15//PEN/07/TDS** relating to theft, which was previously scheduled for 10am, but was cancelled due to the absence of the defendant. The hearing is yet to be rescheduled because the defendant has committed another crime and is being pursued by the Ainaro District Police. At the time of writing this report the whereabouts of the defendant are still unknown.

Based on information provided to JSMP by an official from the Suai District Court, a hearing will only take place if the defendant is arrested by the police and taken to court. Therefore the court has not yet set a date to continue the trial of this matter.

#### **Case No. 60/PEN/07/TDS**

A hearing into a case of maltreatment involving defendants **FR** and **EB** was held in accordance with the schedule set by the court. Based on the indictment, at approximately 8am on 22/10/07 in Manapa sub-district, Cailaco, Maliana, the two defendants committed maltreatment against the victim LBB. The defendant FR allegedly punched the victim once in the stomach, and the defendant EB allegedly punched the victim three times in the jaw causing him to bleed from the mouth. The victim was physically hurt by the actions of the defendants.

Based on the existing facts and statements, the public prosecutor charged the two defendants with Article 351 (1) of the Indonesian Penal Code. The facts were read out to the defendants and they agreed that the indictment was accurate. The defendants did not dispute the contents of the indictment and expressed regret for their actions and promised not to repeat such actions in the future. The two defendants also said that after the incident they had tried to reach an amicable

settlement with the victim but the victim rejected their attempts and preferred to seek legal redress.

The witness **LB** testified before the court that he was punched ten times in the stomach by the defendant **FR** and was punched in the jaw three times by **EB** which caused some of his teeth to come loose. This incident occurred because the victim used the term "**GARI**" which means outsiders.

After hearing testimony from the defendants and the victim, the court gave an opportunity to the prosecutor to present his recommendation of sentence and for the defence to make a final plea. The prosecutor claimed that the facts showed that the defendants had committed a criminal act of their own free will and had violated Article 351 (1) of the Indonesia Penal Code, as set out in the indictment. Therefore the court was asked to decide the matter in the interests of justice.

In his final plea, the lawyer representing the defendants (Sebastiao Amado de Almeida) said that the incident occurred because the victim referred to the defendants as "**GARI**" which upset the defendants who acted spontaneously and emotionally. The court was asked to consider the fact that the defendants had admitted their actions and had tried to reach an amicable settlement with the victim, and also that the defendant **FR** is a teacher. Based on the aforementioned facts, the defence fully entrusted the matter for the court's consideration and requested the court to decide the matter in the interests of justice.

#### **Case No. 04/PEN/07/TDS**

According to the contents of the indictment, the defendant **MA** committed a criminal act by punching the victim **R** four times in the head. As a result the victim was injured and required hospitalization for two days during which time the victim was unable to perform his normal activities. The incident allegedly took place at approximately 1.30pm at the SMAN I (Senior High School) in Suai.

After hearing the charges outlined in the indictment, the defendant stated that he rejected some of the contents of the indictment. The defendant testified that he punched the victim because at that time he heard a commotion coming from the victim's classroom and he went to find out who was causing the commotion. However, when he arrived there the victim laughed at him in a sarcastic manner. The defendant was offended by the attitude of the victim and punched the victim on the back of the head. After punching the victim, the defendant immediately left the class room and went to the teachers' office and therefore he did not know if the victim was injured or unconscious.

The victim provided testimony that contradicted the claims of the defendant. The victim R said that he was struck unconscious. He only regained consciousness several minutes later when a class mate woke him up. The victim said that he had been traumatized by the actions of the defendant and no longer wanted to attend the aforementioned school. He has chosen to transfer to another school at the start of the next semester. The victim is not attending school for the time being.

A witness testified that he did not know for sure how many times the victim was punched, however he stated that he saw the defendant punch the victim twice on the back of his head and jabbed the victim once in the ribs with a piece of wood. The witness said that the victim was taken to hospital and received treatment for two days and then the victim was transferred to the Dili hospital.

After hearing testimony from the defendant, victim and witness the court provided an opportunity to the prosecutor to present his recommendation of sentence and for the defence to make a final plea. The prosecutor said that the facts showed that the defendant had punched the victim on the back of the head and that the victim was injured and taken to hospital as a result of the defendant's actions. In accordance with these facts, the prosecutor requested for the court to decide the matter in the interests of justice.

In his final plea the lawyer representing the defendant stated that the defendant had no prior convictions and committed the act because he had lost control. Also, the defendant was a teacher and should be given an opportunity to teach again. The defence asked the court to consider issuing a suspended sentence if the court decided to sentence the defendant to a term of imprisonment.

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