



## Case Summary

### Baucau District Court

May 2015

#### Summary of the trial process at the Baucau District Court May 2015

In May 2015 JSMP observed 41 cases that were tried at the Baucau District Court. These cases did not include those that were heard by the mobile court in Manatuto District because at the same time JSMP also organizing a national seminar on judicial independence in Dili.

These 41 cases comprised 40 criminal cases and only 1 civil case. From these 41 cases, there were 19 cases involving gender based violence and the rest involved a range of other criminal matters. There were 10 cases involving simple offences against physical integrity characterized as domestic violence, 1 case of attempted rape, 3 cases of mistreatment of a spouse, 3 cases of rape, 2 cases involving the sexual abuse of minors and kidnapping.

The other criminal cases were 3 cases of property damage, 2 cases of property damage and arson, 1 case of serious offences against physical integrity, 2 cases of attempted murder, 4 cases of simple offences against physical integrity, 1 case of unlawful entry and property damage with use of violence, 2 cases of manslaughter, 1 case of obstructing a public authority, possessing prohibited weapons, violation of the rule of law, criminal association, disobedience to an order of dispersal, abuse of public signals or uniform, and attempted murder, simple offences against physical integrity and 1 case of making threats, 1 case of falsification of documents and aggravated fraud, 1 case of negligent offences against physical integrity, 1 case of aggravated fraud and 1 case involving a land dispute.

From these 41 cases, the court imposed a prison sentence in 1 case, suspended prison sentences were imposed in 4 cases, a fine was imposed in 1 case, the defendants were acquitted in 5 cases, agreements were validated in 6 cases, 9 cases were adjourned, 14 cases are ongoing and in the case involving a land dispute the court decided that the respondents were the owners of the land in question.

The information below outlines the cases observed:

#### **1. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0080/13.PDBAU**

Composition of judges : Single

Judge : Jose Gonçalves  
Public prosecutor : Pascasio de Rosa Alves  
Public Defender : Jonas Henrique da Costa  
Conclusion : Sentenced to 3 months in prison, suspended for 1 year.

On 5 May 2015 the Baucau District Court conducted a trial in a case of simple offences against physical integrity allegedly committed by the defendant GP against his wife. This case allegedly occurred on 20 March 2013 in Viqueque District.

The public prosecutor alleged that on 20 March 2013 at 07:00am the defendant and the victim argued about a missing telephone belonging to their nephew. Suddenly the defendant became angry and struck the victim in the chest once with a piece of bamboo and kicked the victim twice in the back which caused the victim to fall to the ground.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity in conjunction with Article 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted the facts set out in the prosecutor's indictment and the court decided not to hear the testimony of the victim because the defendant admitted all of the facts that were charged.

In his final recommendations the public prosecutor requested for the court to impose an appropriate penalty because the defendant admitted all of the facts charged against him.

Meanwhile, the public defender agreed with the recommendation of the public prosecutor and requested for the court to impose an appropriate penalty against the defendant. In addition, the public defender also requested for the court to consider that this was the first time that the defendant had struck the victim, the parties have reconciled and the defendant promised not to reoffend against the victim or other person in the future.

After evaluating the facts that were established during the trial, the court concluded this case and sentenced the defendant to 3 months in prison, suspended for 1 year.

## **2. Crime of attempted rape - Case No. 0115/14.PDBAU**

Composition of judges : Panel  
Judges : Hugo da Cruz P, Afonso Carmona and Jose Q. Celestino  
Public prosecutor : Alfonso Lopez  
Public Defenders : Jonas Henrique da Costa and Jose M. Guterres  
Conclusion : Acquitted<sup>1</sup>

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<sup>1</sup> Refer to Press Release entitled "*Baucau District Court misinterprets provision on attempt and acquits defendant from case of attempted rape*", 7 May 2015, di [www.jsmp.tl](http://www.jsmp.tl)

On 5 May 2015 the Baucau District Court conducted a hearing in a case of attempted rape allegedly committed by the defendant EX against AAO. This case allegedly occurred on 23 January 2014 in Baucau District.

The public prosecutor alleged that on 23 January 2014 at 12 midday the defendant dragged the victim and threw her to the ground in Ra'ameta and sat on the victim and choked the victim. The defendant tried to remove the victim's clothing and covered her mouth so he could rape the victim but he was unable to do so because suddenly a motorcycle went past, so the defendant fled and left the victim. This case allegedly occurred when the victim left her home to go and get some clothes from her grandmother's house and on the way she met the defendant who then committed the sexual assault against the victim.

The public prosecutor charged the defendant with violating Article 172 of the Penal Code on rape and Article 23 on attempt to commit a crime.

During the trial the defendant admitted the facts alleged by the public prosecutor that he tried to remove the victim's clothing however he was unable to do so because he heard the sound of a motorcycle so he fled and left the victim.

In addition, the victim also corroborated the testimony of the defendant that the defendant did not manage to commit rape against the victim because when the defendant was approaching her the sound of a motorcycle could be heard so the defendant fled. The victim added that her clothing was not removed so she continued on to her grandmother's house. The victim also testified that after the incident they have not reconciled.

In his final recommendations the public prosecutor testified that based on the examination of evidence during the trial, the defendant committed attempted rape against the victim. Although the defendant was not able to carry out his intention because he heard the sound of a motorcycle and the defendant left the victim, however the public prosecutor requested for the court to impose a prison sentence against the defendant.

On the other hand the public defender believed that the actions of the defendant did not fulfil the crime charged by the public prosecutor. Therefore, he requested for the court to acquit the defendant from all of the charges.

After evaluating the facts that were produced during the trial, and based on the testimony of the victim during the trial, the court resolved this matter and acquitted the defendant.

### **3. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0320/11.PDBAU**

Composition of judges	: Single
Judge	: Jose Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Sidonio Maria Sarmento
Conclusion	: Sentenced to 3 months in prison, suspended for 1 year.

On 5 May 2015 the Baucau District Court conducted a hearing in a case of simple offences against physical integrity involving the defendant PXSP who allegedly committed the offence against his wife. This case allegedly occurred on 27 June 2012 in Manatuto District.

The public prosecutor alleged that on 27 June 2012 the defendant twice slapped the victim in the mouth and punched her once above the right eye causing the victim to fall to the ground. After the incident, the defendant and the victim have been living separately until now because the defendant is afraid of the victim and her father. The defendant is afraid because when they had the problem the father of the victim struck him in the head and back with a piece of wood on the main road. Therefore, the defendant took a rock and threw it at the father of the victim and struck him above the eye. This case allegedly occurred because the defendant did not want to hold his child who was crying.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of Law No. 7/2010 Against Domestic Violence.

During the trial the defendant testified that all of the charges of the public prosecutor were true and now the defendant and the victim are living separately.

Because the defendant admitted the facts set out in the indictment, the court decided not to hear the testimony of the victim and the witness and proceeded to the final recommendations.

In his final recommendations the public prosecutor requested for the court to impose an appropriate penalty in accordance with the charges because the defendant admitted his actions.

Meanwhile, the public defender agreed with the recommendations of the public prosecutor and requested for the court to impose an appropriate penalty against the defendant. However, he requested for the court to consider all factors because the defendant did not have any prior convictions and was a first time offender.

After evaluating the facts that were established during the trial, the court concluded this case and sentenced the defendant to 3 months in prison, suspended for 1 year.

#### **4. Crime of property damage - Case No. 0246/13.PDBAU**

Composition of judges	: Single
Judge	: Afonso Carmona
Public prosecutor	: Domingos Barreto
Public Defender	: Jose Maria Guterres
Conclusion	: Settlement was validated

On 5 May 2015 the Baucau District Court conducted a trial to attempt conciliation and validated a settlement in a case of property damage involving the defendants Sebastião

Lopes, Armindo Pinto Ribeiro, Alexandre Anjos Da Cruz, Anacleto Florindo Lopes, Julião de Jesus Pacheco who allegedly committed the crime against Julio da Costa Gimarais. This case allegedly occurred in Tutuwala Sub-District, Lautem District.

During this attempted conciliation the victim decided to withdraw the case because they resolved the matter in accordance with traditional customs and the defendants also apologized to the victim during the trial. The court then accepted the request and validated the agreement.

#### **5. Crime of simple offences against physical integrity - Case No. 0375/13.PDBAU**

Composition of judges : Single  
Judge : Hugo da Cruz Pui  
Public prosecutor : Luis Hernani Rangel  
Public Defender : Jonas Henrique da Costa  
Conclusion : Settlement was validated

On 5 May 2015 the Baucau District Court conducted a hearing to attempt conciliation and validated an agreement in a case of simple offences against physical integrity involving the defendant Eduardo Pinto and the victim Apolinario Henrique. This case allegedly occurred on 8 August 2013 in Viqueque District.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During the attempted conciliation the victim wanted to withdraw the case and forgave the defendant because they are related and are neighbors. Based on the request to withdraw the case the court validated this matter and the defendant apologized to the victim before the court.

#### **6. Crime of attempted murder - Case No. 2509/10.PDBAU**

Composition of judges : Panel  
Judges : Afonso Carmona, Jose Goncalves, Jose Q. Celestino  
Public prosecutor : Luis Hernani Rangel da Cruz  
Public defender : Zil Amaral (private lawyer)  
Conclusion : Ongoing

On 6 May 2015 the Baucau District Court conducted a hearing to hear the testimony from a witness in a case of attempted murder involving the defendant FCdSXS and the victim RdAG. This case allegedly occurred on 31 October 2007 in Vila Antiga, Baucau District.

The public prosecutor alleged that on 31 October 2007, at 9am, the defendant struck the victim once on the head with a piece of steel and knocked the victim to the ground. Then the defendant slashed the victim's legs repeatedly and cut the victim's left leg and the victim had to be treated at the Baucau Referral Hospital. This case allegedly occurred

because the victim returned from Bauoli to go back to his house and met the defendant in front of the bishop's residence.

The public prosecutor charged the defendant with violating Article 138 of the Penal Code on murder and Article 23 on attempt to commit a crime.

The witness DdC testified that he did not know what occurred in this case, however he testified that on 1 November 2007, when flowers are placed on graves, everyone had gone to clean up the cemetery. At that time he saw the defendant in the cemetery and he was carrying a machete and screaming "do you want me to slash your legs like Raidi's leg?" Therefore, the witness found out about it and rang the police so they could arrest the defendant.

The witness FdC testified that the defendant had struck him once when he was returning from a plantation at 4pm. This witness added that he did not know anything however suddenly the defendant struck him without saying anything.

The witness ZdCP testified that he did not know about the incident on 31 October 2007, because at that time he saw the defendant together with his friend building a house until the late afternoon and the defendant and his friends went to play ball and when they returned the defendant watched television at the home of the witness.

The witness NFO testified that he heard about the matter from the witness DdC who was his son in law and then he told the police. This testimony contradicted previous testimony that had been given to the public prosecutor. Therefore, the court reexamined the testimony that was given on 26 January 2008, because the witness had testified that the defendant slashed the victim.

The witness ZMF testified that he did not know about the incident on 31 October 2007, however the witness said that he met the defendant in the evening, at approximately 7pm when they went to watch television together at the home of the witness ZdCP until 23:00, and they returned together to their respective houses.

The witness IdSR testified that he did not know about the incident on 31 October 2007, however at that time he saw the defendant together with his children PF, L and her husband (JF) who were building a house.

After hearing testimony from witnesses, the court adjourned the trial until 18 May 2015, at 11:00am, to cross-examine the testimony of the witnesses DdC and NFO that contradicted previous statements provided to the public prosecutor. Pursuant to Article 140 of the Criminal Procedure Code, the public prosecutor requested for the court to cross-examine the two witnesses, however this was not carried out because the witnesses were not present. Therefore, the court adjourned the trial to carry out the cross-examination on 29 May 2015 at 2pm.

**7. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0019/14.PDBAU**

Composition of judges : Single  
Judge : Afonso Carmona  
Public prosecutor : Domingos Barreto  
Public Defender : Jose Maria Guterres  
Conclusion : Trial adjourned

On 6 May 2015 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendant AP who allegedly committed the offence against his wife. This case allegedly occurred on 4 April 2014 in Lautem District.

The trial was adjourned because the defendant was not present and the defendant and the victim are living separately. Therefore, the court adjourned the hearing without setting a date to continue the trial and only stated that it will summon the parties to the next hearing.

#### **8. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0835/14.PDBAU**

Composition of judges : Single  
Judge : Hugo da Cruz Pui  
Public prosecutor : Alfonso Lopez  
Public defender : Antonio Fernandes  
Conclusion : Sentenced to 9 months in prison, suspended for 1 year.

On 6 May 2015 the Baucau District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant CPdC who allegedly committed the offence against his son. This case allegedly occurred on 17 June 2014 in Baucau District.

The court found that on 17 June 2014 at 3pm the defendant struck his son once on the head with a piece of wood which caused bleeding. This case allegedly occurred because the defendant heard information from Mr. Crispin that the victim killed his fish that were in a pond.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity as well as Law No. 7/2010 Against Domestic Violence.

Based on the aforementioned facts, the court concluded the matter and sentenced the defendant to 9 years in prison, suspended for 1 year.

#### **9. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0052/14.PDBAU**

Composition of judges : Single  
Judge : José Gonçalves  
Public prosecutor : Domingos Barreto

Public Defender : José Maria Caitano  
Conclusion : Ongoing

On 6 May 2015 the Baucau District Court tried a case involving simple offences against physical integrity characterized as domestic violence involving the defendant MC who allegedly committed the offence against his wife. This case allegedly occurred on 15 January 2014 in Viqueque District.

The public prosecutor alleged that on 15 January 2014, at 4pm, the defendant struck the victim once on the back and threw a rock at the victim's head which injured the victim and verbally abused the victim. This case allegedly occurred because the defendant told the victim to scratch his back but the victim refused.

These actions caused the victim to suffer an injury and bleeding to her head and she had to be treated at the hospital and received five stitches.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of Law 7/2010 Against Domestic Violence.

During the trial the defendant confirmed all of the charges of the public prosecutor against him. The defendant also testified that they have reconciled and are living together as husband and wife.

In his final recommendations the public prosecutor requested for the court to impose an adequate penalty against the defendant to prevent the defendant from committing the same crime in the future.

The public defender agreed with the recommendations of the public prosecutor however he requested for the court to consider all of the circumstances to provide justice for the defendant because the defendant was a first time offender. The public defender emphasized that the defendant regretted his actions and so he requested for the court to consider the age of the defendant, as he is very old.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 27 May 2015, at 11am.

#### **10. Crime of property damage and arson – Case No. 0180/11.PDBAU**

Composition of judges : Single  
Judge : Afonso Carmona  
Public prosecutor : Luis Hernani Rangel  
Public Defender : Juvinal Yanes Freitas  
Conclusion : Trial adjourned



On 6 May 2015 the Baucau District Court adjourned a trial in a case of property damage and arson involving the defendant OMdS and the victim APdJ. This case allegedly occurred in November 2008 in Lospalos, Lautem District.

The trial was adjourned because the defendant and witness were not present even though they had been summoned by the court. Therefore, the court adjourned the trial until 30 June 2015, at 10.00am.

#### **11. Crime of Serious Offences against Physical Integrity - Case No. 0010/14.PDBAU**

Composition of judges	: Panel
Judges	: Afonso Carmona, Hugo da C. Pui and Jose Escurial
Public prosecutor	: Domingos Barreto
Public defender	: Antonio Fernandes
Conclusion	: Sentenced to 2 years in prison

On 7 May 2015 the Baucau District Court conducted a hearing to announce its decision in a case of serious offences against physical integrity involving the defendant PBdS who allegedly committed the offence against PMP. This case allegedly occurred on 07 September 2014 in Ossu Sub-District, Viqueque District.

The court found that on 7 September 2014 at 8pm the defendant was drunk and left a house in Buanurak with a knife and headed to the Ossu Market. When he arrived there the defendant met the victim who was waiting for a vehicle to go to Viqueque. When the victim was going to go up the steps of the vehicle the defendant suddenly stabbed the victim from behind and pierced the victim's chest and injured the victim who needed seven stitches. These actions caused the victim to receive treatment in hospital.

Previously, the public prosecutor charged the defendant for violating Article 146 of the Penal Code on simple offences against physical integrity.

Pursuant to these facts, the court sentenced the defendant to an effective term of 2 years in prison.

#### **12. Crime of mistreatment of a spouse - Case No. 0451/12.PDBAU**

Composition of judges	: Single
Judge	: Jose Gonçaves
Public prosecutor	: Domingos Barreto
Public Defender	: Antonio Fernandes
Conclusion	: Trial adjourned

On 7 May 2015 the Baucau District Court adjourned the trial of a case of mistreatment of a spouse involving the defendant MdC who allegedly committed the offence against his wife. This case allegedly occurred on 19 August 2012 in Venilale Sub-District, Baucau District.

The trial was adjourned because the defendant and witness were not present even though they had been summoned by the court. The court adjourned the trial without setting a date to continue the trial and the court only stated that a new summons would be issued for the parties.

### **13. Crime of simple offences against physical integrity, characterized as Domestic Violence - Case No. 0016/14.MNMNT**

Composition of judges : Single  
Judge : Hugo da Cruz Pui  
Public prosecutor : Domingos Barreto  
Public Defender : Sidonio Maria Sarmiento  
Conclusion : Ordered to pay a fine of US\$ 30.

On 07 May 2015 the Baucau District Court read out its decision in a case of ordinary maltreatment involving the defendant CS who allegedly committed the offence against his wife. This case allegedly occurred on 24 August 2014 in Manatuto District.

The court found that at 9am on 24 August 2014 the victim was angry and verbally abused the defendant because he always returned home at nighttime. Therefore, the defendant became angry and punched the victim twice in the back and once in the eye.

Previously, the public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 (b) of Law 7/2010 Against Domestic Violence. 7/2010.

Pursuant to these facts the court concluded this process and ordered the defendant to pay a fine of US\$30 in daily instalments of US\$0.50 per day for 60 days. The court also stipulated an alternative punishment of 60 days jail if the defendant does not pay the aforementioned fine.

### **14. Crime of rape - Case No. 0206/13.PDBAU**

Composition of judges : Panel  
Judges : Hugo da Cruz P, Afonso Carmona and Jose Q. Celestino  
Public prosecutor : Alfonso Lopez  
Public Defender : Wilson Cabral (private lawyer)  
Conclusion : Ongoing

On 07 May 2015 the Baucau District Court tried a case of rape involving the defendant MdCR who allegedly committed the offence against NdCX. This case allegedly occurred on 17 April 2013 in Baucau District.

The public prosecutor alleged that on 17 April 2013, at 8pm, near the Baucau Cathedral, the victim met with the defendant who was her boyfriend. After that, the defendant took the victim's phone and smashed it and slapped the victim many times on her left cheek. The defendant dragged the victim into his house, burnt her left hand with a cigarette and

threatened the victim by holding a knife against her neck. After that the defendant removed the victim's clothing and forced her to have sexual intercourse which caused the victim to suffer pain to her genitals and suffer heavy bleeding.

The public prosecutor charged the defendant for violating Article 172 of the Penal Code on rape and Article 258 of the Penal Code on property damage.

During the trial the defendant testified that on 17 April 2013 he told his younger brother to ring the victim to meet with him because they are boyfriend and girlfriend. The defendant testified that the victim met him on the main road and the defendant took her mobile phone from inside her pocket and threw it against the wall and broke her sim card. The incident occurred because the defendant suspected the victim of having a relationship with another man.

The defendant testified that he slapped the victim once on the left cheek and took the victim to his house. Upon arriving at the home of the defendant, he asked the victim "why did you have an affair behind my back?" The defendant further testified that the victim did not respond and tried to grab the defendant's cigarette and the cigarette butt touched the victim's hand. The defendant stated that he then took a knife and injured his hand and suffered heavy bleeding and the victim thought that the defendant was threatening her with a knife.

The defendant also added that the defendant pushed the victim into a sitting position in the bedroom so that the defendant was lying on the victim's thighs and suddenly the victim kissed him and the victim kissed her back and then they had sexual intercourse.

The defendant testified that they had sexual intercourse based on mutual consent. After they had sexual intercourse, they slept together until 6am.

In the morning the defendant took the victim home however they only reached the front of the Cathedral and the victim took the defendant's phone and fled to her house and the defendant went home to his house.

In addition, the defendant also testified that previously the defendant and the victim had sexual intercourse three times and that the incident (17 April 2013) was the fourth time. First they had intercourse in 2011, in Vila Nova Baucau, at the home of the victim's cousin, second they had intercourse on the veranda of the Samean Pharmacy and third they had intercourse at the home of her grandmother in Lospalos.

On the other hand, the victim testified that on 17 April 2013, at 10pm, the younger sibling of the defendant IdFS contacted her via telephone. IdFS asked her to come to the side of the Cathedral. Then the victim responded that she would go however if anything happened who would be responsible and IdFS responded that he would be responsible. When they arrived there the victim saw the defendant was also there.

The victim also corroborated the charge of the public prosecutor and testified that she wanted to go back but she could not because suddenly the defendant told IdFS to go ahead

to the house and the defendant took the victim's telephone from inside her pocket and threw it which destroyed the telephone. The defendant slapped the victim 6 times on her left cheek and dragged the victim to his house and immediately went into the bedroom.

The victim testified that at that time the defendant was smoking and burnt the victim with a cigarette and threatened the victim by placing a knife on her neck and locked the bedroom door.

After that the defendant removed the victim's clothing, and the defendant then had sexual intercourse with the victim. The victim felt pain because it was the first time she had sexual intercourse. The victim kicked the defendant in the chest and tried to run away but the door was locked. The victim was afraid and could only sit leaning against the wall of the house until 5am. When the defendant opened the door, the victim immediately went to the house and told her older sibling who contacted the police via the telephone and a preliminary investigation was carried out.

On 19 May 2015 the court heard the testimony of the witness IdFS. In his testimony IdFS testified that the defendant and the victim were boyfriend and girlfriend. The witness testified that the defendant told him to contact the victim so they could meet. When the victim arrived, the defendant slapped the victim once on her right cheek and the defendant grabbed the victim's phone, which was a Nexian, from inside her pocket and threw it and destroyed it as well as breaking the sim card.

The witness also said that the defendant forced the victim to go home and the witness returned home. After two weeks the witness met up with the victim and she gave a letter for him to pass on to the defendant. Several days later, the victim gave another letter for him to pass on to the defendant. All of the letters were given to the defendant and the witness does not know about their contents because he did not open them.

In his final recommendations the public prosecutor requested for the court to impose an appropriate penalty against the defendant because he believed that the defendant was guilty of committing rape against the victim based on the testimony of the defendant and the witness.

The public defender requested for the court to acquit the defendant because the defendant and the victim were boyfriend and girlfriend and the defendant also clearly testified that they had sexual intercourse four times however the defendant denied several circumstances that were aggravating for the defendant.

The public defender also requested for the court to consider all of the circumstances including the letter to the defendant that stated "*darling, if the three of us go to court, it will mean that our love will have no meaning anymore.*" Therefore the public defender rejected all of the charges and the recommendation of the public prosecutor that stated that the defendant committed rape against the victim. The public defender believed that the sexual intercourse between the defendant and the victim occurred because they were boyfriend and girlfriend.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 9 June 2015, at 11am.

### **15. Crime of sexual abuse of a minor and kidnapping - Case No. 0399/12.PDBAU**

Composition of judges	: Panel
Judges	: Afonso Carmona, Hugo Pui and Jose Celestino
Public prosecutor	: Alfonso Lopez
Public Defenders	: Antonio Fernandes & Sidonio M. Sarmento
Conclusion	: Ongoing

On 7 May 2015 the Baucau District Court tried a case of sexual abuse against a minor and kidnapping involving the defendant AdS and the victim LC. This case allegedly occurred on 9 August 2012 in Baucau District.

The public prosecutor alleged that on 9 August 2012, at 5pm, the defendant dragged the victim to his work location and threatened the victim with a knife, punched her once in the mouth and dragged the victim inside the bathroom, removed the victim's clothing and raped the victim. After that, the defendant locked the victim in the bathroom for three days. For three days the defendant gave food to the victim.

The indictment stated that this case allegedly occurred when the victim went to the New Town Market in Baucau to buy vegetables. When she arrived at the market the defendant approached her and grabbed the arm of the victim and pulled her into his office where the defendant was working as a security guard. The defendant stated that he intended to take the victim to his family because she had been out of the house for several days and had not returned.

The public prosecutor charged the defendant for violating Article 177 of the Penal Code on the sexual abuse of a minor as well as Article 160 of the Penal Code on kidnapping.

During the trial the defendant testified that the uncle of the victim told him to find the victim and take her to her uncle's house if he found her. On 8 August 2012, at 11:00pm, the defendant found the victim at the New Town Market in Baucau.

The defendant testified that he approached the victim and grabbed her by the hand with the aim of taking her home. The defendant said he tried to contact her uncle via telephone but his phone was switched off. The defendant then called the father of the victim and her father told him to take the victim home. After that the defendant told the victim that he was going to take her to her father's house but the victim refused because she was afraid of being beaten by her father. Therefore, the defendant took the victim to his office.

The defendant added that the victim slept in the bathroom. The victim herself wanted to sleep in the bathroom. The defendant tried to call the victim to come and sleep on the bed and in the office but the victim refused. On 9 August 2012 at 07:00am the victim told the defendant that she wanted to go home, so the defendant gave her US\$1.00 to pay for transport.

The defendant testified that he never threatened the victim with a knife, or punched the victim in the mouth or had sexual intercourse with the victim.

After the court sought confirmation, the victim testified that she did could no longer recall the date, month and year, however it was approximately 5pm, and at that time she went out from the house to go to the New Town Market to buy vegetables. When she entered the market the defendant suddenly approached her and grabbed her arm and told the victim to go to the defendant's office. On the way there the defendant rang the father of the victim and her father told him to take the victim to the home of the defendant. Then the father of the victim said that he will come to the home of the defendant. However because she was afraid, the defendant asked the victim to go to the office of the defendant. After they arrived there the defendant threatened her with a knife and punched her in the mouth which caused bleeding. The defendant dragged the victim into the bathroom and had sexual intercourse with the victim.

The victim also testified that after he had sexual intercourse, the defendant locked her in the bathroom for four days, and not three days as was stated in the indictment. During that four days the defendant gave food and water to the victim. These actions caused the victim to feel ashamed, afraid and she lost her dignity.

After hearing the testimony of the defendant and the victim, the court then adjourned the trial to hear witness testimony on 2 June 2015 at 2pm.

#### **16. Crime of mistreatment of a spouse - Case No. 0116/14.PDBAU**

Composition of judges	: Panel
Judge	: José Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Juvinal Yanes
Conclusion	: Trial adjourned

On 7 May 2015 the Baucau District Court adjourned the trial of a case of mistreatment against a spouse involving the defendant MdC and his wife. This case allegedly occurred on 19 August 2012 at 9pm in Baucau District.

The trial was adjourned because the address of the defendant and the victim was unknown and they did not appear in court on the date of the trial. The defendant and the victim changed address without informing the court and until know their address is unknown. The court did not set a date for the continuation of the trial.

#### **17. Crime of homicide - Case No. 0245/2011.PDBAU**

Composition of judges	: Panel
Judges	: Jose Celestino, Afonso Carmona and Jose Gonçalves
Public prosecutor	: Alfonso Lopez
Public Defender	: Jose M. Guterres

Conclusion : Ongoing

On 7 May 2015 the Baucau District Court tried a case of murder involving the defendant CB who allegedly committed the offence against GdS. This case allegedly occurred on 20 May 2011 in Lospalos Sub-District, Lautem District.

The public prosecutor alleged that on 20 May 2011, at 12:00 midnight, the defendant was asleep in his room and the defendant heard a sound. Therefore, the defendant went out and took a machete and immediately slashed both of the victim's thighs and the victim fell to the ground. These acts severed the thighs and an artery, and the victim lost a lot of blood. Several hours later, someone saw the victim and took the victim to the hospital for treatment but the victim's life could not be saved.

During the trial the defendant was not present because he is currently in England. Nevertheless, the court tried this case pursuant to Article 257.2 of the Criminal Procedure Code that states that a public notice thus served shall be affixed no later than twenty days before the reset date for the trial. In addition the defendant shall be informed that the trial shall be held even if the defendant is not present and that he or she shall be represented by a public defender during the trial.

The witness EH who is the father of the defendant testified that he did not know about the incident. The witness testified that at 12:00 midnight, the witness was asleep and the defendant woke him up and said that he had slashed a thief because he was entering his house.

The witness AdC who is the mother of the defendant refused to testify as provided for in Article 125 of the Criminal Procedure Code.

The witness MdC who is the niece of the defendant testified that she did not know about the incident because she was asleep and in the morning she went straight to school.

After hearing the testimony of witnesses, the court adjourned the trial to hear more witness testimony on 2 June 2015 at 2.30pm.

#### **18. Crime of rape - Case No. 1407/10.PDBAU**

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public prosecutor	: Pascasio de R. Alves
Public Defender	: José Guterres
Conclusion	: Trial adjourned

On 8 May 2015 the Baucau District Court adjourned a trial of a case of sexual violence involving the defendant RP and the victim EOR. This case allegedly occurred on 2 May 2007 in Viqueque District.

The trial was adjourned because the defendant's address was unknown and the court could not find out his whereabouts.

The court adjourned the trial without setting a date to continue the trial and stated that it will wait for information from the police to issue a new summons to the parties.

#### **19. Land dispute - Case No. 0015/15. TDBCIV**

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Representative of the Plaintiff	: Mujariah
Representative of the Respondent	: Juvinal Yanes
Conclusion	: Concluded

On 12 May 2015 the Baucau District Court tried a land dispute involving Manuel da Costa and Moises da Costa as the plaintiffs against David da Costa and Carolina Correia as the respondents. This case allegedly occurred on 15 March 2013 in Bahu, Baucau District.

The court concluded the matter and considered that the respondents were entitled to the land and rejected the claim of the plaintiffs. Therefore, the court also ordered the plaintiffs to pay court costs of US\$65.

Previously the plaintiffs and respondents were living in Wailaha, Bahu Baucau. The plaintiffs and respondents were living separately in their respective houses that were made out of coconut leaves and each of them dismantled their homes so they could replace them with corrugated iron. On 15 March 2013 the plaintiffs testified that the land that the respondents were occupying belonged to the plaintiffs and they requested for the public defender to sue the respondents.

The plaintiffs also presented a witness during the trial via their public defender.

The witness AXB, aged 58, is married, and lives in Bahu, Baucau Vila, and testified that he did not know about the history of the land because he was a skilled laborer working at the home of the plaintiffs. However the witness testified that the plaintiffs and respondents have been living separately in their respective houses in Wailaha. The witness also testified that the grandfather of the respondent has been occupying that land for a long time. He added that the claim of the plaintiffs for that land was only initiated when the respondents dismantled his home to replace the roof with corrugated iron and suddenly the plaintiff's obstructed him. The witness said that he didn't know the reason for the land dispute.

The witness FdA, aged 42, married, resident of Bahu, Baucau Vila, testified that he knew that the respondents dismantled their home that was made from coconut leaves to replace it with corrugated iron and they did not move to another place. The witness stated that did not know if the plaintiffs and respondents were related or not. This is because he is from Laga and he got married in Bahu and lived close to the plaintiff and respondents. Therefore, he did not know about the land being disputed.



The respondents presented the witness JdC, aged 61, married and resident of Bahu, Baucau Vila, who testified that from a long time ago the grandfather and grandmother of the respondents were living in that location. The respondents' home had previously been made out of coconut leaves and the respondents had dismantled it and replaced it with corrugated iron and had not moved to another place. The witness said that he was born in that location and nobody else including the plaintiffs had claimed that land and this was the first time since independence.

The respondents presented the witness JdCB, aged 55, married and resident of Bahu, Baucau Vila, who gave testimony that further corroborated the testimony of the witness JDC.

When summing up the claim the public defender representing the plaintiffs requested for the court to consider the claim of the plaintiffs and the testimony of the witnesses and determine that the plaintiffs were the owners of the land in dispute.

On the other hand the public defender representing the respondents requested for the court to reject all of the claims of the plaintiffs because all of the witnesses including the plaintiffs testified that the respondents were the owners of the land. This is because since the time of their grandmother they had been living in Wailaha. Therefore, the public defender representing the respondents requested for the court to reject the claim.

After considering these facts the court decided to refuse the claim of the plaintiffs and ordered the plaintiffs to pay court costs of US\$65.

## **20. Crime of simple offences against physical integrity - Case No. 0918/10.PDBAU**

Composition of judges	: Single
Judge	: Jose Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Juvinal Yanes Freitas
Conclusion	: Settlement was validated

On 12 May 2015 the Baucau District Court conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendants João da Costa Gama, Emilio Gama, Cristovão da Costa, Domingos da Costa and the victim João Bosco Ximenes. This case allegedly occurred on 26 March 2010 in Baucau District.

The public prosecutor charged the defendants for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

During this attempted reconciliation the victims wanted to withdraw their case because they had an amicable agreement and the victim forgave the defendants because they are related. Based on this request the court validated the settlement in this case.

## **21. Crime of unlawful entry and property damage with use of violence – Case No. 0315/10. PDBAU**

Composition of judges : Panel  
Judge : Afonso Carmona  
Public prosecutor : Domingos Barreto  
Public Defender : Horta Ramos  
Conclusion : Trial adjourned

On 12 May 2015 the Baucau District Court adjourned the trial of a case of unlawful entry and property damage with use of violence involving the defendant DG who allegedly committed the offence against ABB and AbB. This case allegedly occurred on 17 October 2010 in Baucau District.

The trial was adjourned because there were not enough judges to sit as a panel. The court adjourned the trial until 14 July 2015.

## **22. Crime of simple offences against physical integrity - Case No. 0532/11.PDBAU**

Composition of judges : Single  
Judge : José Gonçalves  
Public prosecutor : Domingos Barreto  
Public Defender : Antonio Fernandes  
Conclusion : Trial adjourned

On 12 May 2015 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendants MdJG, FBC and RC who allegedly committed the offence against RdS. This case allegedly occurred on 6 November 2011 in Manatuto District.

The trial was adjourned because the defendant and witness were not present even though they had been summoned by the court. Therefore the court adjourned the trial until 18 August 2015 at 10am.

## **23. Crime of simple offences against physical integrity - Case No. 0278/10.PDBAU**

Composition of judges : Single  
Judge : José Gonçalves  
Public prosecutor : Domingos Barreto  
Public Defender : Horta Ramos  
Conclusion : Settlement was validated

On 12 May 2015 the Baucau District Court validated a case of simple offences against physical integrity involving the defendants Domingos João da Costa and Saturlino Maria da Costa who allegedly committed the offence against Mateus M. da Silva. This case allegedly occurred on 6 February 2010 in Manatuto District.

Previously, the public prosecutor charged the defendants for violating Article 145 of the Penal Code regarding simple offences against physical integrity.

In the hearing to attempt conciliation the victim testified that he had forgiven the defendants and wanted to withdraw his complaint because they are relatives. The defendant agreed with this request and apologized to the victim.

#### **24. Crime of Manslaughter - Case No. 0088/14.PDBAU**

Composition of judges : Single  
Judge : José Gonçalves  
Public prosecutor : Domingos Barreto  
Public Defender : José Maria Caitano  
Conclusion : Settlement was validated

On 13 May 2015 the Baucau District Court read out its decision in a case of manslaughter involving the defendant Hipólito Freitas and the two deceased victims Eugenio da Silva and Juliano Sarmiento. This case allegedly occurred on 28 December 2013 in Baucau District.

The court found that the motorcycle that was carrying the victims was in poor condition and this caused the victims to collide with the car that was being driven by the defendant; the victims were not wearing helmets and did not have front lights, tail lights and indicators.

The court also found that the defendants were driving in a zig-zag manner and the defendant saw the defendants from 40 meters away and stopped his car on the edge of the main road before the victims collided with his car, and he turned on the car's headlights and indicators.

A member of the traffic police testified that the victims were drunk and smelt of alcohol. Other testimony was given by the defendant and witnesses who stated that the victims were driving in a zig-zag manner and then they collided with the car of the defendant.

Based on these facts and these circumstances the court decided to acquit the defendant from the charges.

The public prosecutor had charged the defendant for violating Article 140 of the Penal Code on manslaughter.

#### **25. Crime of obstructing a public authority, possessing prohibited weapons, violation of the rule of law, criminal association, disobedience to an order of dispersal, abuse of public signals or uniform, and attempted murder – Case No. 0158/14.PDBAU**

Composition of judges : Panel  
Judges : Hugo da Crus P, Afonso Carmona and Ercilia de Jesus  
Public prosecutor : Alfonso Lopez  
Public Defenders : Grigorio de Lima, Sidonio M. Sarmiento and José Guterres  
Conclusion : Ongoing

On 14 May 2015 the Baucau District Court tried a number of crimes that included obstructing a public authority, possessing prohibited weapons, violation of the Rule of Law, criminal association, disobedience to an order of dispersal, abuse of public signals or uniform, and attempted murder involving the defendants JM, MV, MF, GF, MF and JC who allegedly committed the offences against the victims SMC (member of the Special Operations Command) and LS (Member of the Rapid Response Unit). This case allegedly occurred on 10 March 2014 in Lalulai, Sagadate Village, Laga Sub-District, Baucau District.

The public prosecutor alleged that on 10 March 2014 at 07:20am, in Sagadate-Laga Village, Baucau District, in an operation led by the Baucau District PNTL Command that comprised members of patrol units of the PNTL, the Rapid Response Unit and Special Operations Command met with the group that was being led by Paulino Gama a.k.a Mauk Moruk. The operation was being conducted pursuant to National Parliament Resolution No.5/2014 to capture Mauk Moruk and his group so they could be brought to justice. The resolution was issued because Mauk Moruk and his group were accused of obstructing a public authority and using prohibited weapons as well as establishing a criminal association and not obeying instructions from the State and misusing public symbols and uniforms and the attempted murder of State troops.

The public prosecutor alleged that the PNTL Joint Operations team arrived at the location in order to persuade Mauk Moruk and his group to voluntarily cooperate with the court, surrender themselves, hand over illegal weapons and other goods, but Domingos Gama a.k.a (Kowboy) ordered his men to attack and throw stones at the Joint Operations Command, and shot arrows, threw bombs and grenades, and used homemade guns and guns against the members of the Joint Operations Command.

In addition the Mauk Moruk group used chainsaws, trees and rocks to block the public road with the aim of obstructing the Joint Operations Command so they could not return to Laga-Baucau in the Boleha region between Soba Village – Laga and Namanei Village – Quilica.

The incident caused two members of PNTL Joint Operations Team to suffer injuries and one other member suffered a serious injury to his thigh and was evacuated to the Guido Valadares National Hospital in Dili.

The public prosecutor charged the defendant Mauk Moruk and his group for violating Article 243 (1) of the Penal Code on obstructing a public authority, Article 211 (3) of the Penal Code on possessing prohibited weapons, Article 202 (2) of the Penal Code on violation of the Rule of Law, Article 188 (1) and (2) of the Penal Code on criminal association, Article 193 of the Penal Code on disobedience to an order of dispersal, Article 194 of the Penal Code on abuse of public signals or uniform, Article 23 of the Penal Code on attempt to commit a crime and Article 138 of the Penal Code on murder.

The defendant JM, who was a member of CPD-RDTL, testified that in Lalulai all of the members of the CPD-RDTL were led by Domingos Gama a.k.a Kowboy. JM said that while they were concentrated in Lalulai they discussed their cooperative whereby

previously they had worked rice fields to produce a lot of rice in Welaluhu. Suddenly on 10 March 2014 at 6am, the defendant was surprised when the police came to arrest him and put him in handcuffs and also told him to sit next to the house. JM stated that at that time he was standing in front of the veranda of his home.

The defendant testified that he didn't know about the shooting, rock throwing, bombs and grenades. The defendant stated that at that time the police captured him without seeing who had fired shots and who shot at the members of the PNTL Joint Operation. The defendant also did not have a military uniform, guns, bombs or grenades. The defendant stated that he only had a machete and crowbar that had been used by the CPD-RDTL to prepare rice fields and plantations.

The defendant MV was a member of CPD-RDTL and testified that Kowboy was their leader in Lalulai. The defendant also saw Lemorai and Sabino Foho Leten in Lalulai and spoke with them about the results of the cooperative in Welaluhu.

The defendant testified that he felt surprised because suddenly on 10 March 2014 at 6am, the police from the Joint Operation came into their residence and arrested and handcuffed them and put them in a car. The defendant stated that at that time he was standing in front of the veranda of his residence.

The defendant also testified that he did not know about the shooting of the police, throwing of bombs and grenades towards the police because he had already been arrested and put in a car. The defendant testified that he was not wearing a military uniform, did not have guns, bombs and grenades. The defendant stated that he had a machete and crowbar that he used to work the rice fields and plantations in Welaluhu, Same.

The defendants MF, GF and MF testified that they were members of CPD-RDTL, and had joined up in 2002-2005. The defendants testified that they did not know about the incident in Lalulai. The defendants testified that on 10 March 2014 they were all at home because the Village Chief prohibited members of CPD-RDTL from visiting other villages or sub-villages and they had to report each month to the Village Chief.

The defendants testified that on 30 April 2014 the Sub-Village Chief contacted the police via telephone to take the members of CPD-RDTL to the Baucau police.

The defendants added that in their village João Black was in charge of them. The defendants stated that they did not have guns, bombs and grenades. They only had machetes and crowbars used by CPD-RDTL to work the rice fields and plantations in Welaluhu, Same. The defendants stated that all of this time they have only been living in their sub-village in Gamana, Waitame Village, Quilicai Sub-District, Baucau District and never visited other sub-villages and villages.

The defendant JC was a member of CPD-RDTL and testified that he never joined the other members of CPD-RDTL who were concentrated in Lalulai. The defendant testified that he only stayed in Suliwa, Sabere Sub-Village, Gurucha Village, Quilicai, Baucau District.

On 11 April 2014 he reported himself to the Sub-Village Chief and he was handed over to the police in Quilicai because he was afraid of the Joint Operations Command and he was a member of CPD-RDTL. On 08 May 2014 the police rearrested members of the CPD-RDTL on market day in Kulugia and he was taken to be investigated.

The defendant testified that he was not wearing a military uniform, did not have guns, bombs and grenades. The defendant stated that he only had a machete and crowbar that had been used by CPD-RDTL in the past to work rice fields and plantations.

After hearing the testimony of the defendants, the court adjourned the trial until 1 July 2015 at 2.30pm, to hear witness testimony.

## **26. Crime of simple offences against physical integrity characterized as domestic violence –Case No. 0302/13.PDBAU**

Composition of judges	: Single
Judge	: Cecilia de Jesus
Public prosecutor	: Alfonso Lopez
Public Defender	: Jose Maria Guterres
Conclusion	: Ongoing

On 14 May 2015 the Baucau District Court tried a case of simple offences against physical integrity involving the defendants RdS and JdS who allegedly committed the crime against EMdB who is the wife of the defendant RdS and the brother in law of the defendant JdS (older brother of the victim's husband). This case allegedly occurred on 25 July 2013 in Baucau District.

The court attempted conciliation in a case involving the defendant JdS and the victim EMdB because this case was a semi-public crime.

In the hearing the victims agreed to withdraw the matter from the court because they were related to the defendants and the victims testified that they have reconciled with the defendants. On the other hand, the defendants also promised not to reoffend and apologized to the victims. Therefore, the court validated the settlement of this matter.

In relation to the crime characterized as domestic violence involving the defendant RdS and EMdCB (his wife), the court proceeded to announce its decision.

In this case, the public prosecutor alleged that on 25 July 2013, at 3.00am, the defendant and the victim argued about their child. Suddenly the defendant JdS grabbed the victim's arm from behind so the defendant RdS could punch the victim in the neck and back until the victim fell to the ground.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 35 of the Law Against Domestic Violence.

During the trial the defendant corroborated the facts as charged. However the defendant testified that he has reconciled with the victim, regretted his actions, and promised not to reoffend in the future.

The victim also testified that she and her husband argued about their children, however the older sibling of the defendant JdS suddenly grabbed her arm from behind and her husband took the opportunity to strike her in the neck and back twice with a piece of wood, three times on her side and once on her legs causing her to fall to the ground.

In his final recommendations, the public prosecutor requested for the court to impose a suitable penalty against the defendant because the defendant admitted all of his actions and this was confirmed by the victim.

The public defender testified that the defendant admitted all of the facts and testified that he regretted his actions, and promised not to reoffend in the future. Therefore he requested for the court to hand down a proportional penalty against the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 12 June 2015, at 11am.

**27. Crime of making threats and simple offences against physical integrity – Case No. 0048/12.PDBAU**

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public Prosecutor	: Pascasio de Rosa Alves
Public Defender	: Sidonio M. Sarmiento
Conclusion	: Trial adjourned

On 14 May 2015 the Baucau District Court adjourned the trial of a case of simple offences against physical integrity involving the defendants DC and MdC who allegedly committed the offence against EMH. This case allegedly occurred on 17 May 2012 in Viqueque District.

This case was adjourned because the defendant and the victim were not present. Therefore the court adjourned the trial until 17 July 2015, at 9am, to be heard via the mobile court in Viqueque District.

**28. Crime of making threats –Case No. 0105/14.PDBAU**

Composition of judges	: Single
Judge	: Afonso Carmona
Public prosecutor	: Alfonso Lopez
Public Defender	: Jose M. Guterres
Conclusion	: Settlement was validated

On 14 May 2015 the Baucau District Court validated the hearing in a case of making threats that involved the defendants Jose da Silva and Daniel da Silva who allegedly committed the crime against Thomas dos Reis. This case allegedly occurred on 13 October 2014 in Buruma Village, Baucau District.

The court validated this case, because the victim requested to withdraw the complaint against the defendants because they have reconciled. This case allegedly occurred because the defendant and the victim had a dispute over land however they have settled the manner in accordance with customary law and the defendants gave the land to the victim.

As a result of this conciliation the court validated the case that had previously been charged by the public prosecutor under Article 157 of the Penal Code on making threats.

#### **29. Crime of mistreatment of a spouse - Case No. 0293/12 PDBAU**

Composition of judges	: Panel
Judge	: José Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Antonio Fernandes
Conclusion	: Sentenced to 3 years in prison, suspended for 3 years.

On 14 May 2015 the Baucau District Court conducted a hearing to announce its decision in a case of mistreatment of a spouse involving the defendant AdC who allegedly committed the offence against his wife. This case allegedly occurred on 27 July 2013 in Baucau District.

The court found that the defendant always verbally abused the victim. The court also proved that on 27 July 2013, at 4pm, the defendant struck the victim in the shoulder and wrist with a walking stick. These actions caused the victim to suffer an injury to her wrist and she bled a lot in the car. These acts only stopped when a passenger separated them.

The court received other evidence that on 22 January 2012 and in 2013 the defendant choked the victim in the former Baucau Military District Command and the defendant struck the victim many times on her body and damaged the victim's goods that were in a kiosk in the Older Town Market in Baucau.

Based on the aforementioned facts as well as additional facts relating to the circumstances during the previous years, the court handed down a sentence of 3 months imprisonment that was suspended for 3 years.

Previously the public prosecutor charged the defendant for violating Article 154 of the Penal Code regarding maltreatment against a spouse.

#### **30. Crime falsification of documents and aggravated fraud - Case No. 0367/12.PDBAU**

Composition of judges	: Panel
Judges	: Afonso Carmona, Jose Gonçalves, Ersilia de Jesus



Public prosecutor : Alfonso Lopez  
Public Defender : Juvinal Yanes  
Conclusion : Ongoing

On 14 May 2015 the Baucau District Court tried the defendant DA who allegedly committed the offences against MBSdC. This case allegedly occurred in 2013 in Manatuto District.

The public prosecutor alleged that in 2003 the defendant DA who was the nephew of the victim falsified documents in the name of the deceased Jaõa Bere Halic who was a veteran of the national struggle for independence in the office of Veteran Affairs in Laklubar, Manatuto, for his own profit.

The public prosecutor alleged that the defendant committed the falsification by organizing the documents in 2003. The defendant testified that he was a relative of the deceased and that the Commission had validated the documents. In 2010 the Commission ordered the defendant to open up BNU Bank account No. 499850810002 in the name of the defendant.

On 29 October 2010 the defendant started receiving money from the BNU totaling US\$ 6000. On 6 January 2011 the defendant started receiving a monthly salary of US\$230 until 29 November 2011. On 22 December 2011, the government added US\$460 and on 1 March 2012 the amount was reduced to US\$ US\$220. After that, the defendant did not receive any more money because the victim found out about the actions of the defendant and told the police to cancel the payments to the defendant.

In relation to these acts the public prosecutor charged the defendant for violating Article 267 of the Penal Code on aggravated fraud as well as Article 303 of the Penal Code on falsification of documents or technical reports.

During the trial the defendant admitted his guilt because he falsified the documents of the deceased Jaõa Bere Halic to receive financial benefits from the State. The defendant testified that he started organizing and falsifying documents in 2002 and not 2003. The defendant testified that he did not have any rights and was not related to the deceased, because he was only a brother in law. The defendant also testified that previously he gave US\$4,140 in front of a police officer who was a witness. The defendant told the court that he was willing to return the money that he received from the State.

After hearing from the defendant, the court adjourned the trial until 11 June 2015, at 2pm to hear testimony from the victim.

### **31. Crime of negligent offences against physical integrity – Case No. 0086/14.PDBAU**

Composition of judges : Single  
Judge : José Gonçalves  
Public prosecutor : Luis Hernani Rangel da Cruz  
Public Defender : Antonio Fernandes  
Conclusion : Acquitted

On 15 May 2015 the Baucau District Court announced its decision in a case of negligent offences against physical integrity involving the defendant January Magalhães and the victim Abilio de Oliveira. This case allegedly occurred on 26 November 2013 in Fatumaka, Baucau District.

The court found that on 26 November 2013, at 2.30pm, the defendant was traveling from Viqueque towards Dili. The defendant was driving at high speed and was using his emergency lights because he was given an order from the organizing committee of the Ministry for State Administration and Territorial Planning. The organizing committee ordered the defendant to take a national flag in Dili to be flown in Kraras, Viqueque to celebrate 28 November 2013. In Fatumaka the defendant had an accident and fell into a hole because he was unable to brake because it was raining and slippery and the defendant collided with the car that the victim was traveling in and the victim suffered a broken arm.

Based on these facts and the court decided to acquit the defendant from the charges.

Previously, the public prosecutor charged the defendant for violating Article 148 of the Penal Code on negligent offences against physical integrity.

**32. Crime of simple offences against physical integrity, characterized as Domestic Violence - 0207/12.PDBAU.**

Composition of judges	: Single
Judge	: Jose Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Sidonio Maria Sarmiento
Conclusion	: Ongoing

On 19 May 2015 the Baucau District Court conducted a trial in a case of ordinary maltreatment involving the defendant AdC who allegedly committed the offence against his wife. This case allegedly occurred on 26 March 2012 in Manatuto District.

The public prosecutor alleged that on 26 March 2012, at 8pm the defendant suddenly became angry and punched the victim once in the head, once in the back and slapped the victim once in the mouth and once on the nose. These acts caused the victim to suffer a bloody nose and the victim had to be treated at the hospital. This case allegedly occurred because the victim did not like being ordered by the defendant to feed their children and the victim was suspicious of the defendant because he always wanted to sleep in the plantation. Therefore, the defendant became angry and committed maltreatment against the victim.

During the trial the defendant corroborated the facts as charged. The defendant expressed remorse for his actions and promised not to repeat his actions in the future.

On the other hand the victim also corroborated the facts in the indictment but emphasized that she and the defendant have reconciled and the defendant has not hit her again.

In his final recommendations the public prosecutor requested for the court to hand down an appropriate penalty against the defendant. The public prosecutor requested an appropriate penalty with the aim of preventing domestic violence from occurring, as there is an increase in the number of such cases before the courts.

The public defender agreed with the recommendation of the public prosecutor and requested for the court to impose a suitable punishment because the defendant admitted all of the facts charged against him. Nevertheless, the public defender requested for the court to consider all of the circumstances and also the regret of the defendant and his promise not to reoffend in the future.

After hearing the final recommendations of the parties the court adjourned the trial until 4 June 2015, at 10am to announce its final decision.

### **33. Crime of property damage - Case No. 0461/11.PDBAU**

Composition of judges	: Single
Judge	: José Gonçalves
Public prosecutor	: Alfonso Lopez
Public Defender	: Juvinal Yanes Freitas
Conclusion	: Settlement was validated

On 19 May 2015 the Baucau District Court validated a case of property damage involving the defendants Moises Guterres, Augusto Guterres, Avelino Freitas, Felisberto Guterres and the victim João Gusmão. This case allegedly occurred on 23 September 2011 in Venilale, Baucau District.

The public prosecutor charged the defendants for violating Article 258 of the Penal Code on property damage.

During the trial the defendants and the victim testified that they entered into an agreement with the victim and the victim testified that he forgave the defendants because they were related. At the same time the defendants apologized to the victim during the trial and the victim requested to withdraw the case from the court. Based on this request to withdraw the case the court then validated the agreement.

### **34. Crime of minor theft - Case No. 0011/12 PDBAU**

Composition of judges	: Single
Judge	: José Gonçalves
Public prosecutor	: Pascasio de Rosa Alves
Public Defender	: Antonio Fernandes
Conclusion	: Ongoing

On 19 May 2015 the Baucau District Court continued its trial of a case of theft and heard witness testimony in the case involving the defendant LCM and HP who allegedly

committed the offence against AC. This case allegedly occurred on 04 February 2012 in Uatulari, Viqueque District.

The public prosecutor alleged that on 04 February 2012, at midnight, the defendants secretly sold a buffalo belonging to JS in Afaloikai, Uatulari, Viqueque District. The buffalo was sold for US\$350.

The buffalo could be identified because its feet, legs and thighs were marked in white. After the buffalo was sold they took it in an Andi Makmur truck to Baucau.

The public prosecutor charged the defendant for violating Article 251 of the Penal Code on theft.

The witness AS who was the driver of the Andi Makmur truck testified that at that time he and the defendant were drinking palm wine at the home of the defendant HP. When he and his assistant wanted to leave, the defendant HP followed them in a car and overtook them. When they arrived in Webileki suddenly the witness saw the defendants LCM and HP who stopped them and asked the witness and his assistant if they wanted to buy a buffalo.

The witness also said that the defendant LCM told them that he wanted to sell his buffalo for US\$ 400. However the witness JA was suspicious and asked them if the buffalo actually belonged to them or had been stolen. However the defendant LCM stated that the buffalo was his. LCM stated that he wanted to sell it because he needed money to build a house. The witness JA tried to reduce the price to US\$ 350 and the defendant agreed, and JA then gave the money to the defendant LCM. They then put the buffalo in the vehicle.

In his final recommendations the public prosecutor requested for the court to impose an appropriate penalty against the defendants because they were guilty of committing theft. During the trial the defendants denied all of the facts and stated that on 4 February 2012 they did not secretly sell the victim's buffalo to the witnesses AS and JA.

The public defender agreed with the final recommendations of the public prosecutor and requested for the court to impose an appropriate penalty against the defendant LCM but he also requested for the court to consider all of the circumstances, even though the defendant denied the facts. In relation to the defendant HP, the public defender requested for the court to acquit the defendant because he only played a small part in the incident and was not directly involved.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 5 June 2015, at 10am.

### **35. Crime of attempted murder - 0116/14.PDBAU.<sup>2</sup>**

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<sup>2</sup> Refer to testimony from the defendants and victim on JSMP's website [www.jsmp.tl](http://www.jsmp.tl) under publications, Case Summary – April 2015, Baucau District Court

Composition of judges : Panel  
Judges : Jose Gonçalves, Afonso Carmona and Jose Escurial  
Public prosecutor : Alfonso Lopez  
Public Defender : Juvinal Yanes Freitas  
Conclusion : Ongoing

On 19 May 2015 the Baucau District Court continued the trial of a case of attempted murder to hear witness testimony. This case involved the defendants MdJ and OdJ and the victim ZdC, and the incident allegedly occurred on 14 December 2014, in Lautem District.

The public prosecutor alleged that on 14 December 2014, at 5pm, the defendant OdJ together with the victim ZdC argued and suddenly the defendant OdJ kicked the victim in the chest. The mother of the defendant OdJ saw this and tried to separate the two of them however, because the mother of the defendant had previously had an operation on her stomach, she suffered bleeding from this operation. Therefore, MdJ who was the husband of the defendant's mother became angry and slashed the victim in the forehead with a machete and also once on his arm.

The witness MdS who is the mother in law of the victim testified that at that time the defendant OdJ was drinking palm wine with the victim, then they argued. Because of the argument he saw the defendant OdJ first knock on the door and then kick the victim once in the chest.

The witness said that at that time the witness saw the defendant MdJ go inside the house and fetch a machete, and then chase the victim. The witness stated that he did not know because he did not witness the attack with the machete that was committed by the defendant against the victim.

The witness MdJ who is the wife of the victim chose to remain silent and did not testify because the defendant MdJ is her father.

In his final recommendations the public prosecutor requested for the court to impose a prison sentence against the defendants because they had been found guilty in accordance with the examination of evidence during the trial.

The public defender requested for the court to amend Article 138 of the Penal Code on murder and Article 23 the Penal Code on attempt to commit a crime to Article 146 of the Penal Code on serious offences against physical integrity. The public defender also requested for the court to impose a penalty of 2 years in prison, suspended for 3 years, against the defendant MdJ and decided to acquit the defendant OdJ from this case.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision in June 2015, at 2pm.

### **36. Rape - Case No. 0585/12.PDBAU**

Composition of judges : Single

Judge : José Escurial  
Public prosecutor : Alfonso Lopez  
Public Defender : Gregório de Lima  
Conclusion : Acquitted<sup>3</sup>

On 19 May 2015 the Baucau District Court read out its decision in a case of rape allegedly committed by the defendant JD against MC. This case allegedly occurred on 11 August 2012 in Baucau District.

The court stated in its final decision that on 11 August 2012, at 8pm, the defendant was sleeping in his room and the victim entered his room. The court did not prove that the defendant tried to remove the clothing of the victim and have sexual intercourse the victim.

Based on the facts established during the trial the court acquitted the defendant from the charges because his actions did not fulfil the elements of the crime of rape.

The public prosecutor charged the defendant for violating Article 172 of the Penal Code on rape.

**37. Crime of simple offences against physical integrity characterized as domestic violence –Case No. 0002/14.BCPVN**

Composition of judges : Single  
Judge : José Escurial  
Public prosecutor : Luis Hernani Rangel da Cruz  
Public Defender : Gregório de Lima  
Conclusion : Ongoing

On 21 May 2015 the Baucau District Court tried a case of ordinary maltreatment involving the defendant SF who allegedly committed the offence against his wife. This case allegedly occurred on 13 May 2014 in Baucau District.

The public prosecutor alleged that on 13 May 2014, at 3pm, the defendant twice kicked the victim on her side and the victim cried and ran out of the house. The defendant then became angry and followed the victim and punched her once on the forehead, and the right arm of the victim and struck the victim's body with a machete.

This case allegedly occurred because after they all had lunch, the victim was washing dishes and the victim blocked the defendant's legs so he could not pass. The defendant asked permission to pass but the victim did not want to move, so this made the defendant angry and he committed violence against the victim.

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<sup>3</sup> JSMP was unable to fully document the facts that were revealed during the trial in this case because it only observed the hearing to announce the decision.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Article 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted that the facts listed in the indictment were all true, and expressed regret and promised not to repeat such acts in the future.

The victim testified that the defendant twice kicked her on her side, which caused the victim to cry and run out of the house. After that, the defendant followed her and struck her once above the eye with a machete.

In his final recommendations the public prosecutor considered all of the facts based on the confession of the defendant and the testimony of the victim. In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 years in prison, suspended for 1 year.

Meanwhile, based on the examination of evidence during the trial, the public defender requested for the court to impose an appropriate penalty against the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial until 2 June 2015 at 10am.

### **38. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 0580/13.PDBAU**

Composition of judges	: Single
Judge	: José Gonçalves
Public prosecutor	: Domingos Barreto
Public Defender	: Jonas Henrique da Costa
Conclusion	: Ongoing

On 21 May 2015 the Baucau District Court tried a case of simple offences against physical integrity involving the defendant MG who allegedly committed the offence against his wife. This case allegedly occurred on 28 October 2013 in Viqueque.

The public prosecutor alleged that on 28 October 2013 at 6am the defendant argued with his neighbors and verbally abused them. Therefore, the victim told him not to verbally abuse others because people will talk about it. Suddenly the defendant became angry and punched the victim above the eye which caused the victim to suffer an injury and bleeding.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity, as well as Articles 2, 3 and 35 (b) of the Law Against Domestic Violence.

In court the defendant admitted that all of the facts contained in the indictment were true and expressed regret for his actions and promised not to reoffend in the future. On the other

hand, the victim maintained the facts in the indictment and explained that as a consequence of the defendant's actions the victim had to be treated at the hospital.

In his final recommendations the public prosecutor requested for the court to impose an appropriate penalty on the defendant because the facts revealed during the trial had been proven.

The public defender requested for the court to impose a penalty that does not limit the freedom of the defendant based on the evidence proven during the trial.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 29 May 2015, at 10am.

### **39. Crime of misuse of authority - Case No. 0981/10 PDBAU**

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public prosecutor	: Alfonso Lopez
Public Defender	: Jose Maria Guterres
Conclusion	: Trial adjourned

O 21 May 2015 the Baucau District Court adjourned the trial of a case of misuse of authority involving the defendant GRdS who allegedly committed the offence against the Ministry of Agriculture & Forestry in Baucau. This case allegedly occurred on 10 June 2009 in Vemase, Baucau District.

The trial was adjourned because the court could not issue a summons to the witnesses who had moved address without telling the court. Therefore, the court adjourned the trial until 3 September 2015, at 2pm.

### **40. Crime of Manslaughter - Case No. 0151/11. PDBAU**

Composition of judges	: Single
Judge	: Antonio Fonseca
Public prosecutor	: Luis Hernanio R. da Cruz
Public Defender	: Sidonio M. Sarmiento
Conclusion	: Acquitted

On 22 May 2015 the Baucau District Court read out its decision in a case of manslaughter involving the defendant Çesaltino L.P. Estanislau who allegedly committed the crime against the deceased Mario da Conçicão. This case allegedly occurred on 30 March 2011 in Bukoli, Baucau District.

The court did not find evidence that the defendant had struck and killed the victim with a big truck bearing the number plate 03.071.G whilst traveling from Bukoli, Baucau towards Dili. The court considered that the evidence established during the trial was insufficient because the family of the victim had not agreed for an autopsy on the body of the victim.



The court did not find that there were eyewitnesses who saw the defendant strike and kill the victim. Therefore the court acquitted the defendant from the charges.

Previously the public prosecutor had charged the defendant for violating Article 140 of the Penal Code on manslaughter.

#### **41. Crime of sexual abuse of a minor - Case No. 0020/14. PDBAU**

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public prosecutor	: Luis Hernanio R. da Cruz
Public Defender	: Jonas H.da Costa
Conclusion	: Trial adjourned

On 22 May 2015 the Baucau District Court adjourned the trial of a case of sexual abuse involving involving the defendant LLdC. This case allegedly occurred on 30 April 2014 in Manatuto District.

The trial was adjourned because the defendant was not present even though he had been summoned by the court. Due to the defendant's failure to heed the summons, the court will issue a warrant of arrest against the defendant to continue the trial on 8 September 2015 at 2pm.

For more information please contact:

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