



CASE SUMMARY | GENDER BASED VIOLENCE

Edition: March 2015

Introduction

In March 2015 the Women and Children's Justice Unit (WCJU) continued monitoring cases of gender based violence in the jurisdictions of the Dili District Court and the Baucau District Court.

This edition summarizes 25 cases which were tried at the Dili District Court and the Baucau District Court.

The 25 cases comprised of 16 cases of simple offences against physical integrity characterized as domestic violence, 3 cases of mistreatment of a spouse, 4 cases of sexual abuse against a minor, 1 case of rape and 1 case of infanticide.

1 case resulted in a prison sentence, 5 cases resulted in suspended sentences, 1 case resulted in a fine, 9 cases were adjourned because the parties did not respond to the summons from the court, in 2 cases the defendants were acquitted, and 7 cases are still ongoing.

JSMP respects the decision handed down in Case No. 0247/13 PDDIL, as this decision was the product of years of effort by JSMP in relation to the application of Articles 145 and 154 of the Penal Code in cases of domestic violence, which usually only result in suspended prison sentences. JSMP hopes that this decision can act as a reference point for future decision in cases of domestic violence.

JSMP believes that the public prosecutor prosecuted this case correctly, as according to

JSMP the crime of mistreatment of a spouse in Article 154 of the Penal Code does not require evidence of repeated violence. JSMP believes that the mistreatment of a spouse is an act that produces physical and psychological consequences for the victim. JSMP hopes that in the future the court can reconsider the crime of mistreatment of a spouse in similar cases.

The information below outlines the hearings conducted:

1. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0301/13.DICMR

Composition of judges : Single
Judge : Jacinta Correia da Costa
Public Prosecutor : Osorio de Deus (trainee)
Public Defender : Agustinha de Oliveira (trainee)
Conclusion : Trial adjourned

On 6 March 2015, the Dili District Court adjourned the trial in a case of domestic violence involving the defendant FAB, who allegedly committed the offence against his wife in Dili.

This trial was adjourned until 16 April 2015 at 9am, because the defendant and the victim did not appear in court after they were summoned by the court.

2. Sexual abuse of a minor - Case No. 0683/11 PDDIL

Composition of judges : Panel
Judges : Antonio Helder do Carmo
: Jumiaty Freitas
: Maria Modesta
Public Prosecutor : Remizia de Fatima
Public Defender : Abilio Perreira (trainee)
Conclusion : Ongoing

On 9 March 2015, the Dili District Court tried a case of sexual abuse of a minor, allegedly committed by the defendant SdG against HFJ, in Dili District.

This trial was closed to the public. However based on information obtained from a court

clerk, after hearing testimony from the victim and witnesses, as well as the final recommendations of the public prosecutor and public defender, the court then adjourned the trial until 23 March 2015.

The trial took place without the presence of the defendant as the summons did not reach the defendant.

3. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0556/13.DIBCR

Composition of judges	: Panel
Judges	: Maria Solania (trainee) : José Maria de Araujo
Public Prosecutors	: Ivonia Maria Guterres and Simoa da Costa (trainee)
Public Defender	: Estaque Guterres (trainee)
Conclusion	: Sentenced to 2 years in prison, suspended for 3 years

On 9 March 2015, the Dili District Court conducted a hearing in a case of domestic violence, involving the defendant FA, who allegedly committed the offence against his wife in Dili.

The public prosecutor alleged that on 23 December 2013 the defendant punched the victim once in the mouth, slapped her four times on the left and right cheeks and choked the victim. The victim tried to escape through the window, but the defendant pulled the victim back in and threw her onto the floor. These acts caused the victim to suffer an injury to her mouth, swelling to her cheeks and pain to her neck. The incident occurred because the defendant suspected the victim of having a relationship with another man.

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 of the Law Against Domestic Violence.

During the trial the defendant testified that he did not punch and choke the victim, however he only slapped her four times on the cheek. The defendant stated that he slapped the victim because the victim had a relationship with another man and they had managed to settle the problem twice, but the victim kept on committing the acts.

After the court checked with the victim, the victim maintained the charges of the public prosecutor and testified that the defendant often committed violence against the victim,

however the victim did not report it.

Before making their final recommendations, the public prosecutors requested for the court to amend the charge of simple offences against physical integrity to mistreatment of a spouse. However, the court rejected the request of the public prosecutor because the previous incidents were not reported.

In her final recommendations the public prosecutor requested for the court to impose a fine against the defendant because he was guilty of committing violence against the victim and the defendant himself denied some of the facts during the trial.

The public defender requested that the court consider the guilty plea and partial admission of the defendant regarding the charges of the public prosecutor, and that the defendant was a first time offender and was responsible for his family. The public defender agreed with the recommendations of the public prosecutor, however he requested for a lenient fine to be imposed because the defendant has a small income.

On 19 March 2015 the court concluded this matter and found the defendant guilty of committing simple assault against the victim, based on the partial confession of the defendant and the testimony of the victim.

Based on the facts linked to this case, the court concluded the matter and sentenced the defendant to 2 years in prison, suspended for 3 years, and ordered him to pay court costs of US\$20.

4. Mistreatment of a spouse - Case No. 840/14 TDDIL

Composition of judges	: Panel
Judges	: Jacinta Correia da Costa : Antonio Helder do Carmo : Maria Solana (trainee)
Public Prosecutor	: Bemvinda da Costa do Rosario
Public Defender	: Eustaque Guterres
Conclusion	: Ongoing

On 16 March 2015, the Dili District Court tried a case of mistreatment of a spouse involving the defendant AdCF, who allegedly committed the offence against his wife in

Dili.

In addition to the crime of mistreatment of a spouse, the defendant was also charged with the crime of making threats. However, the court resolved this case and accepted the request to withdraw the complaint against the the victim. Meanwhile the trial continued in relation to the crime of mistreatment of a spouse.

The public prosecutor alleged that on 13 June 2013 the defendant slapped the victim on the back of the neck, yanked the shirt of the victim, used a piece of wood to chase the victim and threatened to kill the victim, however he was blocked by his daughter and their son in law. These acts caused the victim to suffer pain in the back of her neck.

On 14 June 2013 the defendant took a machete and chased the victim so he could slash her, however he did not succeed because the victim fled and saved herself.

On 25 November 2013 the defendant chased the victim from the home, and the victim went and stayed at a relative's house in Lahane. These actions traumatized the victim. The incident occurred because the victim suspected the defendant of having a relationship with another woman.

The public prosecutor charged the defendant for violating Article 154 of the Penal Code regarding mistreatment of a spouse.

During the trial the defendant testified that he did not punch and threaten the victim and that he only verbally abused the victim. The victim maintained the charges of the public prosecutor and testified that the defendant verbally abused her, slapped her once on the back of the neck and yanked her shirt.

In her final recommendations, the public prosecutor requested that the court sentence the defendant to 3 years, suspended for 4 years.

The public defender requested for the court to acquit the defendant from this charge because there were doubts about the existing facts.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 27 March 2015 at 3pm.

5. Crime of Rape - Case No. 1090/14 TDDIL

Composition of judges : Panel
Judge : Jose Maria de Araújo (representing a panel of judges)
Public Prosecutor : Bemvinda do Rosario
Public Defender : Sergio Paulo Dias
Conclusion : Acquitted

On 17 March 2015, the Dili District Court conducted a hearing to announce its decision, and decided to acquit the defendant ABS of the crime of rape, allegedly committed against BMA in Dili District.

The public prosecutor charged the defendant with violating Article 172 of the Penal Code regarding rape.

The court found that the sexual relations that occurred between the defendant and the victim were based on consent, based on the testimony of the defendant and the victim in the preliminary hearing, because when the incident occurred in 2010 they were boyfriend and girlfriend, and they had sexual intercourse at that time.

In 2011 the defendant and the victim had sexual intercourse and the victim became pregnant, however because the defendant refused to take responsibility, so the victim reported the defendant.

The court decided that the facts did not establish and prove that on 18 September 2011 the defendant lied to the victim and took her to the forest and forced her to have sexual intercourse.

Based on the trial and after examining all of the facts established during the trial, the court concluded the matter and decided to acquit the defendant.

6. Mistreatment of a spouse - Case No. 02 47/13.PDDIL

Composition of judges : Panel
Judges : Francisca Cabral
: Sri Buana da Costa (trainee)
: José Maria de Araujo
Public Prosecutor : Ivonia Maria Guterres
Public Defender : Umberto Alves (trainee)

Conclusion : Sentenced to 1 year in prison

On 27 March 2015, the Dili District Court conducted a hearing to announce its decision to sentence the defendant MdJ to 1 year in prison, for committing the crime of domestic violence against his wife in Aileu.

Previously, the public prosecutor alleged that on 30 December 2012 the defendant punched the victim four times in the head, four times on the back, kicked her twice on her side and caused the victim to fall down. After the victim fell down the defendant twice stomped on the victim's waist. These acts caused the victim to suffer swelling and pain to her head, back and waist, and the victim found it difficult to breathe normally. This case allegedly occurred because the defendant ordered the victim to grind corn however the victim refused because she wanted to go to church.

The public prosecutor charged the defendant for violating Article 154 of the Penal Code, regarding mistreatment of a spouse, and Article 35 of the Law Against Domestic Violence.

During the trial the defendant testified that he did not punch the victim, he only slapped her four times in the head and punched her once on her back. The defendant also testified that he punched the victim because the victim told the defendant "no-one can tell me what to do."

In her testimony the victim confirmed the facts in the indictment and testified that she did not recall exactly, however on different days in different months in a plantation the defendant used a crowbar to attempt to stab the victim, but the defendant's sister stopped the defendant from stabbing her.

After the incident, the victim decided to separate from the defendant and has been living with her parents. The victim also testified that on 16 November 2012, the defendant punched the victim. This case was reported to the Village Chief and resolved, however the defendant repeated his actions. The victim decided to no longer live with the defendant, because while they were living together the defendant tended to listen to his parents and often hit the victim.

Based on the facts that were established in the court on 18 March 2015, the court

amended the charge from Article 154 of the Penal Code on mistreatment of a spouse to Article 145 of the Penal Code on simple offences against physical integrity as well as the Law Against Domestic Violence.

The public prosecutor maintained the charges because the acts hurt the victim, and caused the victim to decide to live separately from the defendant. However, the court amended the article because the other acts committed by the defendant were not reported by the victim.

In his final recommendations, the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years, because he was guilty of committing violence against the victim. The public defender requested for the court to impose a lenient suspended sentence because the defendant had cooperated with the court.

The court found that on 30 December 2012 the defendant punched the victim 4 times in the head, and kicked the victim twice on her back which caused the victim to fall to the ground. The court did not find that the defendant often punched the victim or used a crowbar to stab the victim.

After hearing the final recommendations of the parties the court concluded the matter and sentenced the defendant to 1 year in prison.

The judge stated that the court imposed an effective prison sentence because the defendant denied the facts in the indictment, and has separated from the victim.

7. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0035/13. PDBAU

Composition of judges	: Single
Judge	: Afonso Carmona
Public Prosecutor	: Domingos Barreto
Public Defender	: Jose Guterres (trainee)
Conclusion	: Trial adjourned

On 23 March 2015 the Baucau District Court, via the mobile court in Lautem District, adjourned the trial of a case of domestic violence, involving the defendant JM

who allegedly committed the offence against his wife in Lautem.

The court adjourned this trial, however it did not set a date to continue the trial, as the court was unable to confirm the permanent address of the victim.

8. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0019/14.LASIC

Composition of judges : Single
Judge : Afonso Carmona
Public Prosecutor : Domingos Barreto
Public Defender : José Guterres
Conclusion : Trial adjourned

On 25 March 2015, the Baucau District Court, through the mobile court in Lautem District, adjourned the trial of a case of domestic violence involving the defendant AP, who allegedly committed the offence against his wife in Lautem.

This trial was adjourned as the victim did not respond to the summons of the court, and will continue on 6 May 2015 at 2pm.

Previously the public prosecutor requested that the court to establish a new date, and requested for the victim to be detained in order to ensure that the trial will be able to continue on the prescribed date, if within five days the victim does not provide a reason for his non-attendance in court.

9. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0047/14.PDBAU

Composition of judges : Single
Judge Afonso : Carmona
Public Prosecutor : Domingos Barreto
Public Defenders : José Guterres & Jonas H. da Costa
Conclusion : Sentenced to 6 months in prison, suspended for 1 year.

On 25 March 2015, the Baucau District Court, via the mobile court in Lautem

District, sentenced the defendant ES to 6 months in prison, suspended for 1 year, after he was found guilty of committing the crime of domestic violence against his wife in Lautem.

The public prosecutor alleged that on 25 September 2014 the defendant punched the victim once in the head, once on the shoulder, and once above the eye. These acts caused the victim to suffer pain to her head, shoulder and above her eye. This case allegedly occurred because the victim and the defendant argued about family problems.

The public prosecutor charged the defendant with 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 admitted all of the facts in the indictment, and also testified that he regretted his actions and that the couple had reconciled after the aforementioned incident.

On the other hand, the victim testified that the defendant punched the victim in the head, on the shoulder and above her eye, which caused bleeding. The victim also testified that after the incident they reconciled.

In his final recommendations the public prosecutor requested that the court impose a prison sentence against the defendant, to prevent the same actions from occurring again in the future.

The public defender requested that the court consider the mitigating circumstances, including the fact that the defendant confessed, regretted his actions, has reconciled with the victim and is responsible for his family. He therefore requested for the court to issue a penalty against the defendant that does not limit his freedom.

After hearing the final recommendations of the parties, the court immediately concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year and ordered him to pay court costs of \$20.

10. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0113/13.PDBAU

Composition of judges : Single
Judge : Hugo da Cruz Pui

Public Prosecutor : Afonso Lopes
Public Defenders : Antonia Fernandes & Juvinal Yanes Freitas
Conclusion : Acquitted

On 25 March 2015 the Baucau District Court, via the mobile court in Lautem District, tried the defendant HGA for committing domestic violence against his wife in Lautem District.

The public prosecutor alleged that on 10 December 2013 the defendant used a piece of glass to strike the victim above her eye, causing the victim to suffer an injury above her eye. This case allegedly occurred without a clear motive.

The public prosecutor charged the defendant with 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 testified that he did not strike the victim with a piece of glass, rather they were just chasing each other around and the defendant's head struck the glass that was hanging along the wall of the house, which struck the victim above the eye causing an injury.

The victim also reinforced the testimony of the defendant that the defendant did not strike her with some glass, but they were chasing each other and the defendant's head struck the glass that was hanging on the side of the house and it fell and struck the victim above the eye, causing an injury. In addition the victim also testified that after the incident the mother of the victim returned from the plantation and saw that the victim was injured and bleeding, so the mother of the victim became angry and reported it to the police.

After hearing the testimony of the defendant and the victim, pursuant to Article 174 of the Criminal Procedure Code, the public defender requested for the court to amend the charge from Article 145 of the Penal Code to Article 148 of the Penal Code, involving the crime of negligent offences against physical integrity. This request was based on the facts that the defendant did not intend to knock down the glass that was hanging along the side of the house, but rather the injury allegedly occurred due to the negligence of the defendant.

After hearing this request, the court heard the response of the public prosecutor who agreed to the amendment, and then the court decided to amend the charge. The court then validated an amicable agreement which was previously entered into by the defendant and the victim, and then decided to acquit the defendant from this matter.

11. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0144/14PDBAU

Composition of judges : Single
Judge : Hugo da Cruz Pui
Public Prosecutor : Afonso Lopes
Public Defender : Antonia Fernandes
Conclusion : Sentenced to 3 months in prison, suspended for 1 year.

On 26 March 2015 the Baucau District Court, via the mobile court in Lautem District, sentenced the defendant RS to 3 months in prison, suspended for 1 year, for committing domestic violence against his wife in Lautem District.

Previously, the public prosecutor alleged that on 9 February 2014 the defendant punched the victim once in the nose, twice on the back and twice on her side. These acts caused the victim to suffer bleeding from her nose, and pain to her back and side.

This case allegedly occurred because the defendant was very drunk and damaged goods in the kitchen, and the victim got out of bed and admonished the defendant and said “*why are you breaking these things - they cost money.*” The defendant then became angry and repeatedly punched the victim.

The public prosecutor charged the defendant with 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 admitted all of the facts in the charges, stated that he regretted his actions, testified that the couple have reconciled and promised not to repeat his actions, against the victim or anyone else.

In addition, the victim testified that after the incident the defendant approached the victim and settled the matter in accordance with their custom.

In his final recommendations the public prosecutor requested that the court to punish the defendant with a fine, because the defendant had been proven guilty of committing the acts against the victim.

The public defender asked the court to hand down a fair punishment against the defendant because he confessed and expressed regret for his actions, was a first time offender and has reconciled with the victim.

After hearing the final recommendations of the parties, and based on the facts established during the trial, the court concluded this matter and sentenced the defendant to 3 months in prison, suspended for 1 year.

12. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0018/14.LASIC

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public Prosecutor	: Afonso Lopes
Public Defenders	: Antonia Fernandes : Juvinal Yanes Freitas
Conclusion	: Ongoing

On 26 March 2015 the Baucau District Court, via the mobile court in Lautem District, tried the defendant AP for committing domestic violence against his wife in Lautem District.

The public prosecutor alleged that on 26 March 2014 the defendant used a plastic chair to strike the right hand of the victim, and to strike her above the eye, which caused injury and bleeding to her hand and swelling above the eye. The defendant also tried to use a rice pestle to strike the victim but was obstructed by his mother. The defendant also threatened to slice up his mother's genitals.

This case allegedly occurred because the victim suspected the defendant of taking an instrument used to measure buildings and selling it.

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 testified that he didn't strike the victim, but on the contrary the victim struck the defendant with a plastic chair.

The defendant added that the victim's hand was injured because a piece of the plastic chair struck her hand whilst they were jostling over the chair, and the defendant tried to take the chair from the victim that she was using to strike him. The defendant also testified that he did not use a rice pestle to strike the victim and did not verbally abuse his mother.

On the other hand, the defendant testified that he had first taken the plastic chair to strike the victim so the victim tried to grab the chair and they were both jostling over the chair, resulting in the the chair injuring the victim's hand, and she suffered serious swelling above the eye.

The victim testified that the defendant tried to use the rice pestle to strike the victim, however he was unable to do so because the police arrived at the scene, and stated that the defendant also verbally abused his mother.

The witness ASP (mother of the defendant) testified to the court that the defendant used the chair to strike the victim, so they jostled over the chair and the chair struck the hand of the victim and above the victim's eye, which caused an injury and swelling. At that time, the defendant was also injured by a piece of the chair. She also stated that the defendant took the rice pestle and threatened to strike the victim, however he was unable to do so because the police immediately arrived at the scene.

In his final recommendations, the public prosecutor requested that the court sentence the defendant with an effective jail term, because the defendant intended to harm the victim, the defendant had a criminal conviction in a previous case and was currently serving time in temporary detention.

Pursuant to Article 274 of the Criminal Procedure Code, the public defender requested that the court to amend the charges from Article 145 of the Penal Code and Article 35 of the Law Against Domestic Violence, to Article 151 of the Penal Code on reciprocal offences against physical integrity. The public defender believed that in this case the defendant and the victim were pushing the chair at each other and it struck the victim on

the hand and above the eye and also injured the hand of the defendant.

After hearing the testimony of the parties the court adjourned the trial until 9 April 2015, at 10am, to announce its decision.

13. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0002/14 LATIL

Composition of judges	: Single
Judge	: Hugo da Cruz Pui
Public Prosecutor	: Afonso Lopes
Public Defenders	: Antonia Fernandes : Juvinal Yanes Freitas
Conclusion	: Sentenced to 6 months in prison, suspended for 1 year.

On 26 March 2015 the Baucau District Court, via the mobile court in Lautem District, tried the defendant AdC for committing domestic violence against his wife in Lautem District.

The public prosecutor alleged that on 13 October 2014, the defendant used a plate to strike the victim in the head, and kicked the victim on her side, which caused her to fall to the ground unconscious. This occurred as the defendant was angry at the victim for participating in a family ceremony even though the defendant and victim had not been invited beforehand.

During the trial the defendant chose to remain silent, while the victim maintained all of the facts in the indictment and testified that after the incident they reconciled and are now living as husband and wife.

In his final recommendations the public prosecutor stated that the defendant was guilty of committing simple assault against the victim. Even though the couple have reconciled, in order to deter the defendant from reoffending in the future he requested for the court to impose an adequate penalty.

Meanwhile the public defender requested for the court to issue an admonishment against the defendant because they have reconciled and he is responsible for his family.

After hearing the final recommendations of the parties, the court concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

14. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0079/14 PD BAU

Composition of judges : Single
Judge : Hugo Pui
Public Prosecutor : Afonso Lopes
Public Defenders : Antonia Fernandes
: Juvinal Yanes Freitas
Conclusion : Ordered to pay a fine of US \$60

On 26 March 2015 the Baucau District Court, via the mobile court in Lautem District, tried the defendant JX for committing domestic violence against his wife in Lautem District.

The public prosecutor alleged that on 22 September 2013 the defendant struck the victim in the head many times, and punched her on the hand and chest. These actions caused the victim to suffer swelling to her head and have difficulties with breathing. The defendant also threatened to kill the victim. The incident occurred because the defendant suspected the victim of having a relationship with another man.

During the trial the defendant admitted all of the facts in the indictment, regretted his actions, and testified that after the incident the couple had reconciled. Meanwhile the public prosecutor decided not to hear the testimony of the victim.

In his final recommendations the public prosecutor considered that all of the facts had been proven based on the confession of the defendant, however he also considered that the defendant had reconciled with the victim and is responsible for his family. The public prosecutor therefore requested that the court impose a fine for the simple assault. In respect to the crime of making threats, he requested that the court acquit the defendant because the victim was willing to withdraw her complaint.

The public defender requested that the court to impose a fair penalty against the defendant, because the defendant admitted his actions, was a first time offender and has reconciled with the victim. For the crime of making threats, the public defender agreed

with the request of the public prosecutor.

After hearing the final recommendations of the parties, and based on the facts established during the trial, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60, to be paid in daily installments of 50 cents for 120 days.

In respect of the crime of making threats, based on the request of the victim, the court decided to acquit the defendant.

15. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0186/14.ERERM.

Composition of judges : Single
Judge : Antonio Helder do Carmo
Public Prosecutor : Remizia da Silva
Public Defender : Francisco do Rego (trainee public defender)
Conclusion : Ordered to pay a fine of US\$30

On 3 March 2015 the Dili District Court conducted a hearing to announce its decision, and ordered the defendant BS to pay a fine instead of a prison sentence.

The court found that on 17 September 2014 the defendant punched the victim and knocked her to the ground, and she required treatment for two days. This case allegedly occurred because the younger sibling of the victim took a flowerpot to school.

The court considered that the crime of domestic violence is prevalent in the community, and to reduce such criminality the court decided to impose a fine against the defendant.

Based on the established facts, the court ordered the defendant to pay a fine of US\$ 30, to be paid in daily installments of 50 cents for 2 months. The court also stipulated an alternative penalty of 2 months in prison if the defendant does not pay the fine.

16. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 1135/14.TDDIL.

Composition of judges : Single
Judge : Jose Maria

Public Prosecutor : Hipólito M. Santa
Public Defender : Sergio Quintas
Conclusion : Ongoing

On 12 March 2015, the Dili District Court tried the defendant MsdS for committing simple assault against his wife in Dili District.

The public prosecutor alleged that on 20 December 2012 the defendant punched the victim twice on the right shoulder, slapped the victim twice on the cheek and kicked the victim once. This case allegedly occurred because the defendant rang the victim, but she did not answer, and when the defendant arrived home the victim was playing roulette.

The public prosecutor charged the defendant with 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 admitted all of the facts in the indictment and testified that he punched the victim because the victim was playing roulette, not because she didn't answer the phone.

The victim testified that the defendant punched her twice on the shoulder, kicked her once on the thigh and once on the leg. The victim also testified that this was the first time her husband has assaulted her. The court decided not to hear the testimony of the victim because the defendant admitted his actions.

In his final recommendations the public prosecutor testified that the defendant admitted his actions and this was corroborated by the victim, so the public prosecutor maintained the charges. Meanwhile the public defender testified that the confession of the defendant was a mitigating circumstance, and therefore he requested for the court to impose a fair penalty.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 23 March 2015 at 3.30pm.

17. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 0023/14.LIMBR.

Composition : Single
Judge : Ana Paula Fonseca
Public Prosecutors : Ivonia Maria Guterres & Gustavo Moreira
Public Defender : José da Silva
Conclusion : Sentenced to 1 year 6 months in prison, suspended for 2 years.

In March 2015, the Dili District Court tried and sentenced the defendant FTU to 1 year and 6 months in prison, suspended for 2 years, after the defendant was found guilty of committing domestic violence against his wife, in Liquica District.

The public prosecutor alleged that on 27 May 2014 the defendant kicked the victim twice on her side, kicked her once on the leg and punched the victim on the shoulder. This case allegedly occurred because the victim would not carry their child and left the child crying on the ground.

The public prosecutor charged the defendant with 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 admitted all of the facts listed in the indictment and testified that his wife was stubborn and did not want to listen to other people, so that triggered the problem. The defendant testified that from the incident until now they have been living together. The defendant also regretted his actions, and promised not to have any further problems with the victim.

The public prosecutor did not require the testimony of the victim and the witness because the defendant admitted all of the facts in the charges.

In his final recommendations the public prosecutor testified that the defendant admitted his actions, expressed regret and promised not to have any more problems with the victim. However, to prevent domestic violence he requested for the defendant to be sentenced to 1 year and 6 months in prison, suspended for 2 years.

The public defender testified that the defendant committed the crime because they had a misunderstanding. In addition to the defendant admitting all of the facts, they are still living together and he was a first time offender. The public defender therefore asked the

court to issue an admonishment.

After hearing the final recommendations, the court found the defendant guilty, and decided to sentence the defendant to 1 year in prison, suspended for 2 years. The court also ordered the defendant to report to the nearest police station once a month for the next 2 years.

18. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 1303/14.TDDIL

Composition of judges : Single
Judge : Francisca Cabral
Public Prosecutor : Ivonia Maria Guterres
Public Defender : Olga Barreto
Conclusion : Trial adjourned

On 25 March 2015, the Dili District Court adjourned the trial in a case of domestic violence involving the defendant DS, who allegedly committed the offence against his wife in Dili District.

The trial was adjourned because the victim was ill and had only just returned from hospital, so could not testify during the trial. Due to these obstacles the court requested that the defendant and the victim go home, and wait to be summoned by the court.

19. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 1069/14.TDDIL

Composition : Single
Judge : Ana Paula Fonseca
Public Prosecutor : Osorio de Deus
Public Defender : Agustinha de Oliveira (trainee)
Conclusion : Trial adjourned

On 6 March 2015, the Dili District Court adjourned the trial in a case of domestic violence involving the defendant FAB who allegedly committed the offence against his wife in Dili District.

The trial was adjourned until 16 April 2015 at 9:30am, because the defendant did not respond to the court summons.

20. Sexual abuse of a minor - Case No. 307/14.TDDIL

Composition : Single
Judge : Jose Maria de Araújo (representing a panel of judges)
Public Prosecutor : Lidia Soares
Public Defender : Marcia Sarmento
Conclusion : Trial adjourned

On 6 March 2015, the Dili District Court adjourned the trial in a case of sexual abuse against a minor involving the defendant MLdC, who allegedly committed the offence against his EXM in Dili District.

The trial of this case was adjourned because the defendant did not heed the court summons. The court has not yet set a new date to continue the trial.

21. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 1153/14.TDDIL

Composition : Single
Judge : Jacinta Correia da Costa
Public Prosecutor : Bemvinda do Rozario
Public Defender : Humberto Alves
Conclusion : Trial adjourned

On 27 March 2015, the Dili District Court adjourned the trial in a case of domestic violence involving the defendant NAb who allegedly committed the offence against her husband in Dili District.

The trial was adjourned because the defendant did not respond to the court summons. The trial will continue on 16 April 2015 at 9:30am.

22. Sexual abuse of a minor - Case No. 91/14.TDDIL

Composition : Panel
Judges : Ana Paula Fonseca, Sribuana da Costa, Ivan Patrisio Antoninho
Public Prosecutor : Remizia de Fatima
Public Defender : Albino Pereira

Conclusion : Trial adjourned

On 26 March 2015, the Dili District Court adjourned the trial in a case of sexual abuse against a minor involving the defendant FdCB who allegedly committed the offence against LdCS in Dili District.

The trial was adjourned until 6 May 2015 at 3pm, because the defendant did not respond to the court summons. The court stated that the defendant will be fined if he does not explain his absence within five days, and the court ordered for the defendant to be detained to ensure that the trial can take place.

23. Sexual abuse of a minor – Case No. 251/14.TDDIL

Composition : Panel
Judge : Jose Maria de Araújo (representing a panel of judges)
Public Prosecutor : Reinato Bere Nahak
Public Defender : Marcia Sarmento
Conclusion : Trial adjourned

On 26 March 2015, the Dili District Court adjourned the trial in a case of sexual abuse against a minor involving the defendant VS, who allegedly committed the offence against TS in Dili District.

The trial was adjourned until 18 June 2015 at 2pm, because the victim did not respond to the court summons.

24. Mistreatment of a spouse - Case No. 737/14.TTDIL

Composition : Panel
Judges : Ana Paula Fonseca, Ivan Patrisio Antoninho, Albertina Neves
Public Prosecutor : Nelson de Carvalho
Public Defender : Marcal Marcarinhas
Conclusion : Ongoing

On 26 March 2015, the Dili District Court conducted a hearing in a case of mistreatment

of a spouse involving the defendant FX who allegedly committed the offence against his wife in Liquica District.

The public prosecutor alleged that on 28 October 2010 a farmer with the initial T met with the victim and asked if the husband of the victim was home, and the victim answered that her husband was home. At that time the defendant was home and heard the conversation between the victim and T. The defendant came out and asked the victim about this, however the victim did not respond, so the defendant punched the victim.

On 27 November 2011 the defendant repeatedly slapped the victim on her left cheek, and punched her once in the head, kicked her twice on the back, burned the victim's hand with a cigarette butt, stabbed the victim in the head with a piece of wood and used a rice pestle to punch the victim in the back and kicked the victim in the genitals. This case allegedly occurred because the victim was having an affair with their neighbor.

The public prosecutor charged the defendant with violating Article 154 of the Penal Code regarding mistreatment of a spouse and Article 35 of the Law Against Domestic Violence.

During the trial the defendant testified that the facts in the indictment were not true because the defendant did not burn the victim's hand with a cigarette butt, and did not use a rice pestle to strike the victim and did not use a piece of wood to strike the victim. The true facts were that the defendant kicked the victim in the genitals which caused swelling, and slapped and punched her.

In his final recommendations, the public prosecutor requested that the charge to be amended, based on the testimony of the victim and the defendant, because the defendant did not strike the victim regularly. This was the first time that the defendant struck the victim.

After considering the mitigating circumstances, including the fact that the defendant cooperated with the court and that there was good communication between the victim and the defendant, even though they are still living apart he requested for the court to impose a suspended jail sentence.

The public defender agreed with the public prosecutor to amend the charge, in accordance with the statement of the victim and the defendant. The public defender

therefore requested that the court to hand down a lenient penalty against the defendant.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 8 April 2015 at 3pm.

25. Crime of infanticide - Case No. 1236/14.TDDIL

Composition of judges	: Panel
Judges	: José Maria de Araujo, Francisca Cabral, Maria Modesta
Public Prosecutor	: Vicente Brites
Public Defender	: Olga Nunes
Conclusion	: Ongoing

On 27 March 2015, the Dili District Court conducted a trial of a case of infanticide, involving the defendant AdS in Ermera.

The public prosecutor alleged that on 29 October 2013 at approximately 5am the defendant had a stomach ache so she went to the toilet to urinate, but suddenly gave birth. However because she lost a lot of blood the defendant became unconscious. After 30 minutes the defendant woke up and saw the baby moving and the umbilical cord was wrapped around the baby's neck. The defendant then unwrapped the umbilical cord, carried the baby into her room and cut the cord.

At 9am the family of the defendant took the defendant and the baby to the hospital. However at 1pm the baby passed away. The autopsy showed that the baby died because the umbilical cord was severed manually.

The public prosecutor charged the defendant for violating Article 142 of the Penal Code on infanticide.

During the trial the defendant testified that the facts in the indictment were true, because at that time she gave birth to a baby who she had been carrying in her womb for just six months. At that time the defendant wanted to urinate, however suddenly the baby was born, then the defendant took the baby to her room and cut the umbilical cord. The baby managed to survive for 8 hours, however the baby died at precisely 1pm at the hospital.

The witness JdS, who is the defendant's aunty, testified that all this time they didn't

know that the defendant was pregnant. They only found out when the baby was born.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 3 years in prison, suspended for 4 years. The medical report showed that the baby died because the umbilical cord was severed manually and the defendant could have requested the assistance of another person.

The public defender requested for the court to acquit the defendant because the indictment of the public prosecutor was only based on the autopsy, however on facts the baby was only carried in the womb for 6 months. The defendant did not have the intention of killing her baby, and the defendant also tried to breastfeed her baby however her baby was not able to drink her mother's milk. Therefore, the elements of this crime did not fulfill the requirements set out for the crime of infanticide.

After hearing the recommendation of the parties, the court adjourned the trial until 14 April 2015 at 11 am.

For more information, please contact:

Luis de Oliveira Sampaio
Executive Director JSMP
E-mail Address: luis@jsmp.minihub.org
info@jsmp.minihub.org
Telephone: 3323883 | 77295795
Website: www.jsmp.tl
Face book: www.facebook.com/timorleste.jsmp
Twitter: @JSMPTl