



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary

Suai District Court

June 2015

Summary of the trial process at the Suai District Court - Period: June 2015

Introduction

In June 2015 JSMP observed 15 cases that were tried at the Suai District Court. In addition to these cases the Suai District Court also tried another 27 cases via the mobile court in Ainaro, however JSMP did not monitor those cases because of other activities that were taking place in Dili.

These cases included 7 cases of gender based violence and the other cases involved a range of crimes. The cases that involved gender based violence comprised 5 cases of domestic violence, 1 case of sexual abuse against a minor and 1 case of sexual coercion. The other matters comprised 1 case of homicide, 1 case of property damage and making threats, 2 cases of simple offences against physical integrity, 1 case of smuggling, 1 case of making threats and 1 case of attempted murder.

From these 15 cases, the court has resolved 12 cases and the other 3 cases are still ongoing.

The information below outlines the cases observed:

1. Crime of simple offences against physical integrity - Case No. 90/pen/2015/TDS

Composition of judges	: Single
Judge	: Argentino Luisa Nunes
Public prosecutor	: Mateus Nessi
Public Defender	: João H. de Carvalho
Conclusion	: Settlement was validated

On 9 June 2015 the Suai District Court conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendants SG, JMLDC and FCG who allegedly committed the offences against the victim RAdA. This case allegedly occurred in Debos, Covalima District.

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

During the hearing to attempt conciliation, the defendants admitted the facts listed in the indictment and apologized to the victim. The defendants promised not to reoffend in the future. Therefore, the victim forgave the defendants and withdrew the case.

Based on an agreement between the parties and the victim's request to withdraw the case, the court validated this settlement.

2. Crime of simple offences against physical integrity, characterized as domestic violence - Case No. 103/pen/2015/TDS

Composition of judges	: Single
Judge	: Samuel Pacheco
Public prosecutor	: Mateus Nessi
Public Defender	: Manuel Amaral
Conclusion	: Sentenced to 1 month in prison, suspended for 1 year.

On 9 June 2015 the Suai District Court conducted a hearing to announce its decision and sentenced the defendant to 1 month in prison, suspended for 1 year after he was found guilty of committing maltreatment against his wife on 6 October 2014 in Covalima District.

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 all of the facts set out in the charges. The defendant stated that the incident occurred because the victim admonished the defendant and told him not to drink palm wine, but the defendant did not accept this, and punched the victim.

The victim maintained the facts and testified that she forgave the defendant and they are living together as husband and wife, as per normal and have had no further problems.

In his final recommendations, the public prosecutor requested for the court to impose a punishment of 3 months in prison, suspended for 1 year, because the defendant was found guilty of committing the crime against his wife.

On the other hand, the public defender requested for the court to apply a suspended sentence against the defendant because the defendant and the victim have reconciled, are living together as husband and wife and have had no further problems until now.

Based on the testimony of the victim and the defendant, the court concluded the matter and sentenced the defendant to 1 month in prison, suspended for 1 year.

3. Crime of homicide - Case No. 134/pen/2014/TDS*

Composition of judges	: Panel
Judges	: Argentino Luisa Nunes, Costancio B. Basmery and Alvaro Maria Freitas
Public prosecutor	: Jose Elo
Public Defender	: João H. de Carvalho
Conclusion	: Sentenced to 10 years in prison

On 9 June 2015 the Suai District Court sentenced the defendant AS to 10 years in prison, after the public prosecutor had recommended 12 years, even though the defendant was acting in self-defense when the crime was committed. The court found the defendant guilty of committing the crime of homicide against the deceased VP, on 13 December 2010 in Debos Village, Covalima District.

The public prosecutor alleged that on 13 December 2010 the defendant stabbed the victim in the armpit with a kitchen knife. These actions caused the victim to suffer a serious injury and required treatment at the Suai Referral Hospital. Then the victim was taken to the Guido Valadares National Hospital, however the victim died on the way there. This case allegedly occurred because the victim and friends went to attack the home of the older brother of the defendant, however they did not find him, so the victim choked the defendant, and the defendant felt powerless and took a knife and stabbed the victim.

The public prosecutor charged the defendant for violating Article 138 of the Penal Code on homicide that carries a sentence of 8 - 20 years in prison.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 12 years in prison because the defendant had been proven guilty of committing the crime of murder. The public prosecutor also requested for the court not to consider the testimony of the defendant on legitimate defense because the act did not fulfil the elements of the crime as set out in Article 44 of the Timor-Leste Penal Code.

On the other hand, the public defender requested for the court to acquit the defendant from all charges because the defendant stabbed the victim because of legitimate defense.

The court concluded this case and sentenced the defendant to 10 years in prison, and the public defender will appeal the decision.

* Refer to JSMP's position in relation to this case at: www.jsmp.tl in a JSMP Press Release dated 11 June 2015: *Suai District Court ignores provisions on legitimate defense in case of homicide and sentences defendant to 10 years in prison*".

The witnesses SC and CC testified that they were respectively working as a nurse and ambulance driver. They had taken the victim from Suai to Dili but on the way between Casa and Ainaro the victim died and they could not save the victim, and the body was taken to Dili.

4. Crime of making threats – Case No. 60/pen/2015/TDS

Composition of judges : Single
Judge : Benjamin Barros
Public prosecutor : Mateus Nessi
Public Defender : Manuel Amaral
Conclusion : Settlement was validated

On 10 June 2015 the Suai District Court conducted a hearing to attempt conciliation in a case of making threats involving the defendant VG and the victim JA. This case allegedly occurred in Suai, Covalima District.

During this attempted conciliation the defendant regretted his actions and apologized to the victim and promised not to reoffend in the future. Therefore, the victim wanted to forgive him and withdrew the complaint.

Based on the agreement between the parties and the victim's request to withdraw the case, the court decided to validate this settlement.

Previously the public prosecutor charged the defendant for violating Article 157 of the Penal Code on making threats that carries a sentence of imprisonment or a fine.

5. Crime of Attempted Murder - Case No. 105/pen/2015/TDS

Composition of judges : Panel
Judges : Costancio B. Basmery, Samuel Pacheco and Benjamin Barros
Public prosecutor : Jose Elo
Public Defender : João H. de Carvalho
Conclusion : Sentenced to 5 years in prison

On 12 June 2015 the Suai District Court conducted a hearing to announce its decision in case of attempted murder involving the defendant DFdS and the victim CN. This case allegedly occurred on 1 September 2014 in Bobonaro District.

The public prosecutor alleged that on 1 September 2014 the defendant slashed the victim in the head three times with a machete and slashed the victim's hand and knee. This incident caused the victim to suffer serious injuries and receive treatment at the Maliana Referral Hospital and then be taken to the Guido Valadares National Hospital in Dili and treated for 3 weeks. This case allegedly occurred because the defendant was unhappy that the victim asked the defendant to pay US\$1,000 that the defendant had borrowed.

The public prosecutor charged the defendant for violating Article 23 of the Penal Code on attempt to commit a crime in conjunction with Article 138 of the Penal Code on homicide. During the examination of evidence the defendant admitted all of the facts charged by the public prosecutor. On the other hand, the victim testified that it was truly the defendant who had slashed the victim in the head, arm and knee with a machete.

In his final recommendations the public prosecutor requested for the court to impose a penalty in accordance with Article 23 on attempt to commit a crime in conjunction with Article 138 of the Penal Code on homicide that was previously included in the charges. Meanwhile, the public defender requested for the court to impose a fair and proportional penalty against the defendant.

After evaluating the facts established during the trial, the court settled this matter and sentenced the defendant to 5 years in prison.

6. Crime of smuggling - Case No. 14/pen/2015/TDS

Composition of judges	: Panel
Judges	: Argentino Luisa Nunes, Benjamin Barros and Alvaro M Freitas
Public prosecutor	: Mateus Nessi
Public Defender	: Manuel Amaral
Conclusion	: Ordered to pay a fine

On 16 June 2015 the Suai District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant LCA who allegedly committed the crime against the State. This case allegedly occurred on 26 February 2014 in Suai, Covalima District.

The public prosecutor alleged that on 26 February 2014 the Police in Fohorem Sub-District, Covalima District, arrested the defendant in the Wala-Border area because the defendant did not have permission to sell candlenuts at the border between Timor-Leste and Indonesia. The police confiscated 22 sacks of candlenuts weighing a total of 378 kilograms. The defendant testified that the candlenuts were to be sold for US\$100.

The public prosecutor charged the defendant for violating Article 316 of the Penal Code on smuggling. During the trial the defendant admitted all of the facts charged against him. Nevertheless the defendant testified that he sold the candlenuts illegally to provide for his family.

In his final recommendations the public prosecutor requested for the court to apply a penalty pursuant to Article 316.1 of the Penal Code. On the other hand the public defender requested for the court to apply a suspended sentence against the defendant, because he was motivated to sell candlenuts at the border because of the need to provide for his family.

The court concluded this case and ordered the defendant to pay a fine of US\$120 in daily instalments of US\$1.00 for 120 days and to pay court costs of US\$25.00. If the defendant does not pay the aforementioned fine then he will be sent to prison for 80 days.

7. Crime of sexual abuse of a minor - Case No. 222/pen/2015/TDS

Composition of judges : Panel
Judges : Argentino L. Nunes, Alvaro Freitas and Samuel Pacheco
Public prosecutor : Jose Elo
Public Defender : Manuel Amaral
Conclusion : Ongoing

On 7 May 2014 the Suai District Court conducted a hearing in a case of sexual abuse of a minor involving the defendant RDN and the victim MDC. This case allegedly occurred on 5 May 2014 in Suai, Covalima District.

The public prosecutor alleged that on 5 May 2014 the defendant dragged the victim into the victim's room and gave her US\$5.00 and committed sexual abuse against the victim. This case allegedly occurred when the defendant went to the home of the victim to ask about a motorcycle number plate and the victim was playing cards with her older sibling. When the older sibling of the victim became sleepy and went to sleep inside the house the defendant used this opportunity to commit sexual abuse against the victim.

The public prosecutor charged the defendant for violating Article 177.2 of the Penal Code on the sexual abuse of a minor.

During the trial the defendant denied the facts listed in the indictment and testified that he did not commit sexual abuse against the victim and never went to the home of the victim.

On the other hand the victim testified that it was true that at that time the defendant gave her US\$5.00 to force her to have sexual intercourse.

The witness AdC testified that the defendant went to her house and played cards and told stories until the witness became sleepy and went to sleep inside the room. The sexual abuse was only detected when the witness AC came back from the plantation and saw that there was blood on the victim's underpants. Therefore, the witness questioned the victim and the victim said that 'the defendant raped me last night'.

After hearing the testimony of the witnesses, the court adjourned the trial until 7 July 2015 to hear witness testimony from the defense.

8. Crime of simple offences against physical integrity - Case No. 99/pen/2015/TDS

Composition of judges : Single
Judge : Costancio Barros Basmery
Public prosecutor : Mateus Nessi
Public Defender : João Henrique de Carvalho
Conclusion : Trial adjourned

On 18 June 2015 the Suai District Court adjourned the trial of a case of ordinary maltreatment involving the defendant SdA and the victim FdAC. This case allegedly occurred on 23 April 2014 in Ainaro District.

This case was adjourned because the defendant and victims were not present during the trial and the court adjourned the trial until 26 June 2015 via the mobile court in Ainaro.

9. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 122/pen/2015/TDS

Composition of judges	: Single
Judge	: Costâncio Barros Basmery
Public prosecutor	: Jose Elo
Public Defender	: João H. de Carvalho
Conclusion	: Ordered to pay a fine

On 18 June 2015 the Suai District Court conducted a hearing to announce its decision in a case of ordinary maltreatment involving the defendant DV who allegedly committed the offence against his wife. This case allegedly occurred on 27 December 2014 in Bobonaro District.

The public prosecutor alleged that on 27 December 2014 the defendant punched the victim 3 times on the left side of her face which caused the victim to suffer pain and swelling to her face. This case allegedly occurred because the victim accused the defendant of taking US\$10.00 that was in her purse, so the defendant became angry and punched her.

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 the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts set out in the charges. The victim maintained the facts and testified that she has forgiven the defendant and they are living together as husband and wife, as per normal and have had no further problems.

In his final recommendations, the public prosecutor requested for the court to impose a punishment of 3 months in prison, suspended for 1 year, because the defendant was found guilty of committing the crime against his wife.

Meanwhile, the public defender requested for the court to impose a fair and proportional penalty against the defendant. The public defender also requested for the court to consider all of the factors because the defendant and the victim have reconciled and are still living together as husband and wife and have had no further problems until now.

After hearing the recommendations of the parties the court concluded the matter and ordered the defendant to pay a fine of US\$135.00; to be paid in daily instalments of US\$1.50 for 90 days. The court also ordered the defendant to pay court costs of \$US 25.00 and if the defendant does not pay this fine then the defendant would have to serve 60 days in prison.

10. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 64/pen/2015/TDS

Composition of judges : Single
Judge : Costâncio Barros Basmery
Public prosecutor : Jose Elo
Public Defender : João Henrique de Carvalho
Conclusion : Sentenced to 6 months in prison, suspended for 1 year.

On 18 June 2015 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant SG who allegedly committed the offence against his wife. This case allegedly occurred on 08 October 2014 in Casa, Ainaro District.

The public prosecutor alleged that on 8 October 2014 the defendant punched and kicked the victim many times on her back and body and punched the victim in the head and forehead. These actions caused the victim to suffer pain, swelling and bleeding and the victim had to receive treatment in hospital. The incident occurred because the defendant suspected the victim of accepting a phone call and talking to another man.

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 the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts charged against him. The victim maintained the facts, however she testified that she had already forgiven the defendant. The victim also stated that they have been living together as husband and wife and have had no further problems until now.

In his final recommendations, the public prosecutor requested for the court to impose a punishment of 6 months in prison, suspended for 1 year, because the defendant was found guilty of committing the crime against his wife.

On the other hand, the public defender requested for the court to issue a fair and proportional punishment against the defendant because the victim has reconciled with him and they are still living together as husband and wife and have not had any further problems.

Based on the aforementioned evidence the court concluded this case and sentenced the defendant to 6 months in prison, suspended for 1 year and he was ordered to pay court costs of \$ 20.

11. Crime of simple offences against physical integrity characterized as domestic violence – Case No. 124/pen/2015/TDS

Composition of judges : Single
Judge : Costâncio Barros Basmery

Public prosecutor : Jose Elo
Public Defender : João H. de Carvalho
Conclusion : Sentenced to 3 months in prison, suspended for 1 year.

On 18 June 2015 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant AVdJ who allegedly committed the offence against his wife. This case allegedly occurred on 30 September 2014 in Bobonaro District.

The public prosecutor alleged that on 30 September 2014 the defendant kicked the victim once on her left arm which caused the victim to suffer pain and swelling to her hand and a dislocated finger. The incident occurred because the defendant did not want the victim to go and visit her family home in Bobonaro.

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 the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts set out in the charges. In addition, the victim also corroborated the facts charged by the public prosecutor against the defendant. Nevertheless, the victim also testified that she had forgiven the defendant and they are still living together as husband and wife and have had no further problems.

In his final recommendations the public prosecutor requested for the court to apply a sentence of 6 months in prison, suspended for 1 year, because the defendant was found guilty of committing the crime of maltreatment against his wife and had prohibited his wife from visiting her family.

The public defender requested for the court to issue a fair and proportional punishment against the defendant because the defendant regretted his actions and has reconciled with his wife and they have had no further problems.

After hearing and evaluating the recommendations of the parties, the court concluded the case 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. 113/pen/2015/TDS

Composition of judges : Single
Judge : Costâncio Barros Basmery
Public prosecutor : Jose Elo
Public Defender : João H. de Carvalho
Conclusion : Sentenced to 6 months in prison, suspended for 1 year.

On 18 June 2015 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant FdC who allegedly

committed the offence against his wife. This case allegedly occurred on 11 February 2014 in Same, Manufahi District.

The public prosecutor alleged that on 11 February 2014, the defendant twice punched the victim above the eye which caused the victim to suffer pain and swelling above her eye. The incident occurred because the defendant did not want the victim to tell him to go and look for a goat which had broken free from its rope.

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 the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts charged against him. The victim corroborated the facts. Nevertheless, the victim also testified that she had already forgiven the defendant and they have been living together as husband and wife and have had no further problems.

In his final recommendations the public prosecutor requested for the court to apply an appropriate penalty in accordance with 145 of the Penal Code on serious offences against physical integrity.

On the other hand, the public defender requested for the court to issue a suspended sentence against the defendant because the defendant and the victim have reconciled and they are still living together as husband and wife and have not had any further problems.

After completing proceedings in this case, the court concluded this matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

13. Crime of property damage and making threats - Case No. 116/pen/2015/TDS

Composition of judges	: Single
Judge	: Costâncio Barros Basmery
Public prosecutor	: Jose Elo
Public Defender	: João H. de Carvalho
Conclusion	: Settlement was validated

On 18 June 2015 the Suai District Court conducted a hearing to attempt conciliation in a case of property damage and making threats involving the defendant IA and the victim PS. This case allegedly occurred in Suai, Covalima District.

Before the court the defendant apologized to the victim and promised not to reoffend in the future. The victim also considered the apology of the defendant and wanted to forgive the defendant and decided to withdraw the case.

Based on the agreement and request of the parties to withdraw the case, the court settled this case and validated the agreement.

14. Crime of simple offences against physical integrity - Case No. 138/pen/2015/TDS

Composition of judges : Single
Judge : Costâncio Barros Basmery
Public prosecutor : Jose Elo
Public Defender : Manuel Amaral
Conclusion : Settlement was validated

On 30 June 2015 the Suai District Court conducted a hearing to attempt conciliation in a case of maltreatment involving the defendant AB and the victim MAM. This case allegedly occurred in Covalima 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 defendant confirmed the facts mentioned in the indictment and apologized to the victim and promised not to reoffend in the future. Therefore, the victim forgave the defendant and requested to the court to withdraw the case.

Based on the agreement and request of the parties to withdraw the case, the court validated the process and acquitted the defendant from this case.

15. Crime of sexual coercion - Case No. 95/pen/2015/TDS

Composition of judges : Panel
Judges : Costancio B. Basmery, Alvaro M. Freitas, Argentino Luisa Nunes
Public prosecutor : Mateus Nessi
Public Defender : Manuel Amaral
Conclusion : Ongoing

On 30 June 2015 the Suai District Court conducted a hearing in a case of sexual coercion involving the defendant JLML who allegedly committed the offence against PFS. This case allegedly occurred on 11 August 2014 in Bobonaro District.

The public prosecutor alleged that on 11 August 2014 the defendant called out to the victim and took her into the bedroom and shut the door and threatened her and kissed her four times on the cheek and nose and groped the breasts of the victim. The defendant also threatened to kill the victim if she went home and told her parents and her family. This case allegedly occurred when the victim returned from the Maliana Hospital to have a doctor examine her for an illness.

On 26 October 2014 the defendant again committed the same act at the home of the victim. At that time, the victim was with her two young siblings. The defendant ordered the sibling of the victim to take the youngest sibling of the victim outside. After that the defendant shut the door and dragged the victim and removed her pants and other clothing and groped the breasts of the victim and took off his pants and had sexual intercourse with the victim.

On 16 November 2014 the defendant again tried to commit sexual coercion against the victim however he was unable to do so because the victim ran away from the house and slept at the home of her mother's older sister. This case allegedly occurred when the defendant was watching TV in their house. At that time the defendant entered in from the back door to have sexual intercourse, but he was unable to because the victim ran away.

During the trial the defendant admitted all of the alleged facts and regretted his actions. In addition the victim also maintained the facts during the trial.

The witness testified that on 26 October 2014 he saw the defendant go to their house and the defendant told him to carry the youngest sibling outside, however the witness said that he did not see the defendant commit sexual coercion against the victim.

The second witness AFS testified that he did not have knowledge and did not see the incident. The witness stated that he only heard about the incident from the victim. The witness testified that the victim told him after making a complaint to the police.

On the other hand, the public defender did not present any witnesses and stated that he would only present the documents related to this case.

In his final recommendations the public prosecutor requested for the court to apply a penalty pursuant to Article 171 of the Penal Code on sexual coercion and Article 173 on aggravation.

Meanwhile, the public defender requested for the court to fully acquit the defendant from the charges because the evidence provided by the defendant did not fulfill the elements of sexual coercion.

After hearing the recommendations of the public prosecutor and public defender, the court adjourned the trial to announce its decision on 15 July 2015 at 10.00 am.

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