



**JUDICIAL SYSTEM MONITORING PROGRAMME**  
**PROGRAMA MONITORIZASAUN SISTEMA JUDISIÁRIU**

*Case Summary*

*Oe-Cusse District Court*

**April 2015**

**Summary of the trial process at the Oecusse District Court**

**April 2015**

**Introduction**

In April 2015 JSMP continued to observe the trials of cases at the Oecusse District Court and monitored 17 of the 18 cases tried by the Oecusse District Court.

16 of these 17 cases involved criminal matters, namely 5 cases involving the crime of mistreatment of a spouse, 1 case of mistreatment of a minor, 1 case of attempted rape, 2 cases of driving without a license, 2 cases of sexual coercion, 1 case of aggravated property damage, 3 cases involving the sexual abuse of a minor and 1 case of abortion, and the remaining civil case involved a land dispute.

12 of these cases have been decided by the court and the remaining 5 cases are still ongoing.

The following information provides a detailed summary of the trial of each of these cases:

**1. Aggravated Property Damage - Case No. 189/kcrime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Afonso Gomes Fatima

Conclusion : Ongoing

On 15 April 2015 the Oecusse District Court tried the defendant CM for allegedly committing the crime of aggravated property damage against the NGO Triangle which is responsible for water installation. This case allegedly occurred on 24 March 2014 in Oecusse District.

The public prosecutor alleged that on 24 March 2014, at approximately 10pm, the defendant used a hoe to damage pipes or clean water pipe facilities that were located near the main road. This case allegedly occurred because the defendant was unhappy that he could not access the water.

The public prosecutor charged the defendant for violating Article 259 of the Penal Code on aggravated property damage.

During the trial the defendant admitted that all of the allegations were true, however the defendant testified that they had resolved the matter via customary law at the village level and the defendant had paid US\$130 for the damage that was caused by his actions.

The court decided not to hear the testimony of the victim and three witnesses because the defendant admitted his actions.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 1 year and 6 months in prison, to be suspended for 1 year and 6 months. The public prosecutor requested this penalty because the actions of the defendant had a negative impact on the community.

On the other hand, the public defender requested for the court to provide justice in accordance with the wrongdoing of the defendant because the defendant had paid compensation of US\$130. In addition, the defendant confessed, expressed regret and cooperated with the court.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 28 April 2015, at 10am.

## **2. Crime of abortion - Case No. 32/PCO/2010/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Jumiaty Freitas and Fransisca Cabral
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Calisto Tout
Conclusion	: Ongoing

On 16 April 2015 the Oecusse District Court conducted a hearing in a case of abortion involving the defendants ML, NC and CM who allegedly committed the act against the victim REK (deceased). This case allegedly occurred on 9 June 2009 in Oecusse District.

The public prosecutor alleged that on 9 June 2009 the victim requested the assistance of the defendants ML and NC to accompany the victim to go to the home of the defendant CM, who is a traditional midwife, to ask her to abort the baby of the victim REK. At that time, the defendant CM gave medicine for the victim to swallow and massaged REK's stomach and managed to abort the baby, however her actions caused the victim to die instantly at the scene.

During the examination of evidence, the public prosecutor requested for the court to amend Article 141.1 on abortion to Article 140.1 of the Penal Code on manslaughter.

After hearing the request of the public prosecutor, the court checked the charges and concluded that the victim had asked the defendants to go with her to the home of the defendant CM to conduct an abortion.

In the aforementioned trial, the defendant CM was not present, so the public prosecutor requested for the defendant, via the court, to justify her absence within five days. If the defendant does not do so, the defendant must pay a fine of US\$20.

The court considered the request of the public prosecutor and set a fine of US\$20 for the defendant. The court will also send a letter to the police to immediately arrest the defendant so she will attend the trial on 11 May 2015, at 11.00am.

### **3. Crime of driving without a license - Case No. 15/krm-sum/2015/TDO.OEC**

Composition of judges : Single  
Judge : Francisca Cabral  
Public Prosecutor : Jacinto Babo  
Public Defender : Calisto Tout  
Conclusion : Ordered to pay a fine of US\$ 45.

On 16 April 2015 the Oecusse District Court conducted a hearing in a case of driving without a license involving the defendants Joaquim Quifi and Jose Ili that allegedly occurred on 14 April 2015 in Oecusse District.

The public prosecutor alleged that on 14 April 2015 the defendant Joaquim was riding a motorcycle and when he was heading towards Numbei Costa, the two defendants had a collision. The police arrived at the scene and found that the two defendants did not have a license.

The public prosecutor charged the defendant for violating Article 207 of the Penal Code on driving without a license.

During the trial the two defendants admitted their guilt and expressed regret for their actions.

Recalling that the two defendants admitted their actions, the court decided not to hear the testimony of witnesses and proceeded directly to hear the final recommendations.

In his final recommendations, the public prosecutor requested for the court to order the defendant to pay a fine, as well prohibiting the defendants from operating a motorcycle for six months.

The public defender requested for the court to provide justice in accordance with the guilt of each of the defendants because they had confessed and regretted their actions.

After hearing the final recommendations of the public prosecutor and public defender, the court concluded this matter and ordered the defendants to each pay a fine of US\$45. The defendants were told to pay US\$0.50 a day for 90 days.

The court also stipulated an alternative punishment of 30 days jail if the defendants do not pay the aforementioned fine.

#### **4. Civil case involving a land dispute - Case No. 01/Civil/11/2010/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Zumiatty Freitas and Francisca Cabral
Representative of the Respondents	: Afonso Gomes Fatima
Representative of the Plaintiff	: Jacinto Babo
Conclusion	: Trial adjourned

On 17 April 2015 the Oecusse District Court adjourned a trial in a land dispute involving Lucas Elu and Domingos Obe as the plaintiffs against the Oecusse District Ministry of Education as the respondent. This case allegedly occurred in 2010 in Pante-Makassar Sub-District, Oecusse District.

In their claim the plaintiffs requested for the respondent to pay compensation to them before taking over the land in question, because from Indonesian times until now the plaintiffs have been managing and looking after the land for farming purposes.

The trial was adjourned because the witness for the plaintiffs did not appear in court. Therefore the court adjourned the trial until 7 September 2015.

#### **5. Crime of sexual abuse of a minor - Case No. 16/Krime/2015/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Zumiatty Freitas and Francisca Cabral
Public Prosecutor	: Ambrosio Rangel Freitas

Public Defender : Afonso Gomes Fatima

Conclusion : Ongoing

On 20 April 2015 the Oecusse District Court conducted a hearing in a case of the sexual abuse of a minor involving the defendant AC who allegedly committed the crime against his step daughter aged 13. This case allegedly occurred in August 2013 in Oecusse District. This trial was closed to the public.

The court adjourned the trial to announce its decision on 30 April 2015, at 10am.

## **6. Crime of driving without a license - Case No. 16/kcrime-SUM/2015/TDO**

Composition of judges : Single judge

Judge : Zumiatty Freitas

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Ordered to pay a fine of US\$ 30

On 20 April 2015 the Oecusse District Court tried the defendant Antonio Obe Timo for driving without a licence on 17 April 2015 in Pante-Makassar, Oecusse.

The public prosecutor alleged that on 17 April 2015 at approximately 3pm the defendant was riding a motorcycle near the Office of Social Affairs, and lost control and collided with a person at that location. When the police arrived at the scene, the police found that the defendant did not have a license and his motorcycle did not have a number plate.

The public prosecutor charged the defendant for violating Article 207 of the Penal Code on driving without a license.

During the trial, the defendant admitted the facts alleged by the public prosecutor and expressed remorse for his actions. Therefore, the Public Prosecutor decided that it wasn't necessary to hear testimony from the victim.

In his final recommendations the public prosecutor requested for the court to order the defendant to pay a fine of US\$ 45 in daily instalments of \$1.00 for 45 days. The public prosecutor considered that this crime is prevalent in Oecusse.

On the other hand, the public defender considered the mitigating circumstances, namely the confession of the defendant, his regret for his actions, he is a student, he is single and is still economically dependent on his parents. In addition, the defendant is a first time offender and he

promised not to reoffend in the future, so the public defender requested for the court to impose an appropriate penalty in accordance with the wrongdoing of the defendant.

After hearing the final recommendations of the public prosecutor and the public defender, the court concluded this matter and ordered the defendant to pay a fine of US\$30 in daily instalments of U\$1.00 for 30 days.

The court also stipulated an alternative punishment of 30 days jail if the defendant does not pay the aforementioned fine, and also suspended the defendant from operating a motorcycle for six months.

## **7. Crime of mistreatment of a spouse - Case No. 15/Krime/2015/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Ongoing

On 20 June 2015 the Oecusse District Court tried the defendant AN for allegedly committing the crime of mistreatment against his wife. This case allegedly occurred in 2012 in Oecusse District.

The public prosecutor alleged that on 10 September 2014 the defendant punched the victim in the head five times, slammed the victim's head into the ground, kicked the victim once on the side and slapped the victim on the left cheek. This case allegedly occurred because the victim always asked the defendant for money.

Previously, at some time in 2012, the defendant twice slapped the right cheek of the victim for the same reason because the victim asked the defendant for money. In March 2013, for the same reason, the defendant twice slapped the left cheek of the victim. In April 2014 the defendant again slapped the defendant on the right cheek and kicked her once on the side. This case allegedly occurred because the victim was pregnant and did not want to go to the rice field with the defendant.

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

During the trial the defendant confessed and regretted his actions and testified that now they don't have any more problems.

On the other hand, the victim corroborated the indictment of the public prosecutor and testified that they have reconciled, are living together as husband and wife and have had no further problems until now.

In his final recommendations the public prosecutor stated that the facts had been proven because the defendant admitted his actions. Based on the testimony of the defendant and victim, the public prosecutor requested for the court to sentence the defendant to 3 years in prison, suspended for 4 years.

The public defender requested for the court to impose a suspended sentence against the defendant because he confessed, expressed regret for his actions, has reconciled with the victim, is responsible for his family and cooperated with the court. Also, the defendant promised not to reoffend in the future.

After hearing the final recommendations of the parties, the court adjourned the trial to announce its decision on 30 April 2015, at 9am.

## **8. Crime of sexual abuse of a minor - Case No. 36/Krime./2015/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Zumiaty Freitas and Francisca Cabral
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Acquitted

On 21 April 2015 the Oecusse District Court conducted a hearing in a case involving LF who allegedly committed the sexual abuse of the minor IC, aged 13, who is his neighbor. This case allegedly occurred on 17 August 2014 in Oecusse District.

The public prosecutor alleged that on 17 August 2014 very early in the morning PK (neighbor of the victim) caught the defendant who was trying to run away when he heard the victim screaming because the defendant went into the room of the victim and touched her head.

This case allegedly occurred when the victim and her aunty went to sleep at a traditional house belonging to the victim's grandmother. At that time, the victim's aunty saw the defendant open the door, shine a torch on the victim and when the defendant saw that the victim was asleep, the defendant approached the victim and touched her head. When she saw the defendant holding the victim's head the aunty of the victim said "who is that touching the child?" When he heard the the victim's aunty, the defendant immediately fled. At that time, the neighbor PK heard a person scream so he immediately went to the scene and managed to catch the defendant in front of the house. At that time the defendant was drunk.

The public prosecutor charged the defendant for violating Article 177 of the Penal Code on the crime of sexual abuse of a minor.

During the trial, the defendant testified that at that time he was drunk so he mistakenly went into the house belonging to the victim's grandmother which is near his house. The defendant admitted that he had shined a torch on the victim and approached her. The defendant also removed the blanket that the victim was using and touched the victim's head. The defendant added that they resolved this case at the village level and he paid US\$100 to the victim's family because he entered someone's house without permission. The defendant also testified before the court that he regretted his actions.

On the other hand, the victim testified that she did not know about the incident because at that time she was sleeping soundly. She heard information about the incident from her aunty. The victim added that the defendant gave a buffalo and US\$100 to the family's victim as a punishment that he had to serve based on a decision reached at the village level.

The witness FE who is the aunty of the victim confirmed all of the facts listed in the indictment of the public prosecutor. The witness PK who caught the defendant testified that he went straight to the house of the victim's grandmother when he heard FE screaming. The witness caught the defendant who was trying to run away.

This witness also testified that the defendant gave money to the victim's family in accordance with the decision taken at the village level.

After hearing testimony of the parties, the court amended Article 177 of the Penal Code on sexual abuse of a minor to Article 185 of the Penal Code on unlawful entry. As this crime is semi-public the victim decided to withdraw the case.

In his final recommendations, the public prosecutor requested for the court to acquit the defendant from the charges of the public prosecutor because it was not proven that he had attempted to commit sexual abuse against the victim. In addition, the defendant gave money and a buffalo to the victim. The public defender agreed with the final recommendations of the public prosecutor to acquit the defendant.

After hearing the final recommendations of the parties, the court concluded the matter and acquitted the defendant from the aforementioned criminal act.

## **9. Crime of sexual coercion - Case No. 208/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Afonso Gomes Fatima



Conclusion : Acquitted

On 21 April 2015 the Oecusse District Court conducted a hearing to announce its decision and acquitted the defendant MO who is the manager of a public boarding school because it was not proven that he committed the crime of sexual coercion against ARF who was one of his students who was staying in the aforementioned hostel. This case occurred in Oecusse District.

The public prosecutor alleged that on 9 April 2013 at 9pm, when the victim was taking food to the room of the defendant, the defendant grabbed her hand, hugged and kissed the victim. After the incident the victim told her school friends and decided not to go to that school again.

The public prosecutor charged the defendant with violating Article 171 of the penal code on sexual coercion.

During the trial, the defendant admitted some of the facts that the victim went into his room and brought him some food, however he denied that he grabbed the victim's hand, hugged and kissed the victim.

After evaluating the facts that were proven and not proven, the court concluded this matter and the court was not convinced that sexual coercion had been committed, so the defendant was acquitted from the charges.

#### **10. Crime of sexual abuse of a minor - Case No. 207/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Afonso Gomes Fatima

Conclusion : Sentenced to 3 years in prison, suspended for 5 years.

On 21 April 2015 the Oecusse District Court conducted a hearing to announce its decision and sentenced the defendant EE to 3 years in prison, suspended for 5 years because he was found to have committed the criminal act of sexual abuse against his niece who was 4 years old. This case allegedly occurred on 27 April 2014 in Oecusse District.

The public prosecutor alleged that on 27 April 2014, at approximately 10am, the father of the defendant found that the defendant had committed sexual abuse against the victim. This case allegedly occurred when the victim was helping the defendant carry some grass to feed the buffalo that was in the shed.

The public prosecutor charged the defendant for violating Article 177.1 of the Penal Code on the sexual abuse of a minor.

During the examination of evidence the court amended Article 177 (1) to Article 177.2 and 173 (a) on aggravation.

During the trial the defendant admitted that he committed the act against the victim. The defendant also added that previously he gave two buffaloes, a goat, a pig and US\$100.00 to the victim based on a decision reached at the village level.

## **11. Crime of mistreatment of a spouse - Case No. 180/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiaty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Afonso Gomes Fatima

Conclusion : Sentenced to 3 months in jail, suspended for 3 years

On 21 April 2015 the Oecusse District Court conducted a hearing to announce its decision and sentenced the defendant PO to 3 years in prison, suspended for 3 years because he was found guilty of committing mistreatment of a spouse. This case occurred in Oecusse District.

The public prosecutor alleged that on 27 May 2014, at approximately 8am, the defendant kicked the victim once in the stomach, punched the victim once in the head and once on her back.

On 29 May 2014 the defendant again slapped the victim twice on her right cheek. These actions caused the victim to suffer a swollen cheek and she felt traumatized and afraid. This case allegedly occurred because of a quarrel and a difference of opinion.

Previously in 2009 the defendant twice slapped the victim on her right cheek and once on her left cheek. In 2013 the defendant tried to punch the victim but the victim avoided it and ran away. The two incidents were without a clear motive.

On 5 April 2014 the defendant punched the victim three times on the cheek and twice on the back because the defendant wanted the victim to go and stay a long time at her parent's house, but the victim came back too quickly. The defendant wanted the victim to go and live with her parents because every day the victim complained too much.

On 20 April 2014 at approximately 9am the defendant choked the victim because their child was crying, but the victim did not attend to him quick enough.

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

During the trial the defendant admitted all of the charges, expressed regret for his actions, stated that he has three children and earns U\$25.00 - 30.00 a month. He has reconciled with the victim and they are living together and have had no further problems in the home.

Therefore the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

## **12. Crime of maltreatment against a minor - Case No. 168/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Sentenced to 3 years in prison, suspended for 3 years.

On 22 April 2015 the Oecusse District Court conducted a retrial in a case of maltreatment against a minor involving the defendant MC who allegedly committed the offence against his 11 year child. This case allegedly occurred on 30 April 2014 in Passabe Sub-District, Oecusse District.

The public prosecutor charged the defendant for committing the crime of simple offences against physical integrity, however during the examination of evidence the public prosecutor requested for the court to amend Article 155 of the Penal Code mistreatment of a minor because these incidents occurred twice in succession. However, the court did not accept this request. In the end the Court of Appeal decided to accept the amendment proposed by the public prosecutor.

The public prosecutor alleged that on 30 April 2014, at approximately 5pm, the victim and one of her female friends went to pick some peanuts in the plantation and the victim collected two sacks of peanuts. However the victim gave one sack to her friend. Therefore, the defendant became angry and slapped her right cheek. Then on 1 May 2014 the defendant again took a piece of wood and twice struck the victim on the back and twice on the chest. These acts caused the victim to suffer pain and swelling to her chest, back and right cheek.

The public prosecutor alleged that the defendant violated Article 155 of the Penal Code on mistreatment of a minor in conjunction with the Law Against Domestic Violence.

During the trial the defendant testified that he had struck the victim as stated in the prosecutor's indictment. However, the defendant testified that he regretted his actions, earns U\$5.00 per month and has 6 children, they have reconciled, and are living together like normal. On the other hand, the victim maintained the facts set out in the indictment of the public prosecutor.

In his final recommendations, the public prosecutor stated that the defendant was the parent of the victim and should have protected the victim. Therefore, based on the mitigating and

aggravating circumstances the public prosecutor requested for the court to sentence the defendant to 2 years and 6 months in prison, suspended for 2 years and 6 months.

On the other hand the public defender requested for the court to consider the mitigating circumstances, namely the victim confessed, expressed regret, has reconciled with the victim, has 6 children, cooperated with the court, and is a first time offender. Therefore he requested for the court to impose an appropriate penalty in accordance with the wrongdoing of the defendant.

After hearing the final recommendations of the parties, the court concluded this matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

### **13. Crime of mistreatment of a spouse - Case No. 225/Krime/2014/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Zumiatty Freitas and Francisca Cabral
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Sentenced to 2 years and 6 months in prison, suspended for 3 years.

On 27 April 2015 the Oecusse District Court conducted a hearing to announce its decision and sentenced the defendant FT to 2 years and 6 months in prison, because he was found guilty of committing mistreatment of a spouse. This case allegedly occurred on 22 June 2014 in Oecusse District.

The court found that the defendant threw a rock at the victim however it did not hit the victim and then on 23 April 2014 the defendant slapped the victim twice on her left cheek, punched the victim twice in the head, twice on her left eye and twice kicked her left thigh. This case allegedly occurred because the victim ordered the defendant to hold their child but the defendant refused.

Based on the aforementioned facts, the court concluded the matter and sentenced the defendant to 2 years and 6 months in prison, suspended for 3 years.

Previously, the public prosecutor alleged that on 22 June 2014, the defendant twice slapped her on the back of the neck and threw a rock at the victim however it missed. On the morning of 23 June 2014 the defendant twice hit the victim on the back and once on the cheek. The defendant hit the victim four times on the head until the victim became unconscious. After the victim regained consciousness, the defendant told the victim that the victim could report it to the police and that he was not afraid.

In addition, the defendant also verbally abused the victim and said that the victim was a prostitute and expelled her from the house. The incident occurred twice without a clear motive.

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

During the trial, the defendant only admitted several facts and denied some of the other facts. According to the defendant, on 22 April 2014 he threw a rock at the victim but it missed. Also, on 23 April 2014 the defendant admitted that he slapped the victim once on the mouth and struck the victim above the eye. The defendant denied the other allegations and said he did not punch the victim on the back, and did not hit the victim four times on the head and did not verbally abuse the victim. The defendant added that since this problem occurred, they have been living separately until now.

This case allegedly occurred because the victim verbally abused the defendant about bride price in front of many other people and this embarrassed the defendant.

On the other hand, the victim testified that on 22 April the defendant threw a stone at the victim however it missed. In relation to the physical assault, the victim testified that it only occurred on 23 April 2014. At that time, the defendant twice slapped her left cheek, punched her twice in the head, twice above the left eye and kicked her left thigh twice.

The victim also admitted that in the past the defendant always hit her but she never reported it. The defendant also never paid attention to his children.

The witness MTN, a neighbor, testified that at that time he was asleep and heard a commotion and woke up and went outside and saw the defendant hit the victim twice and threw one stone at her.

In his final recommendations, the public prosecutor requested for the court to sentence the defendant to 3 years in prison suspended for 3 years because the defendant only admitted some of the facts and did not provide alimony to his children, which are aggravating circumstances.

On the other hand, the public defender requested for the court to uphold the interests of justice for the defendant because he only hit the victim once.

Based on the facts that were established during the trial, the court concluded the matter and sentenced the defendant to 2 years and 6 months in prison, suspended for 3 years.

#### **14. Attempted rape - Case No. 233/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Sentenced to 3 years in prison, suspended for 3 years.

On 27 April 2015 the Oecusse District Court conducted a hearing to announce its decision and sentenced the defendant EE to 3 years in prison, suspended for 3 years because he was found guilty of committing attempted rape against FT. This case allegedly occurred on 15 June 2014 in Oecusse District.

The court found that the defendant opened the door and entered the room and removed the victim's pants, however he did not manage to carry out the act because the victim screamed.

Previously, during the trial the defendant admitted all of the facts and testified that they have resolved the matter and he gave US\$100 to the victim restore the reputation.

On the other hand, the victim confirmed the facts listed in the indictment and testified that they have resolved the matter and the defendant gave US\$100 to the victim.

Based on the aforementioned facts, the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

The public prosecutor charged the defendant for violating Article 172 of the Penal Code on rape and Article 24 of the Penal Code on attempt to commit a crime. The testimony of three witnesses was not heard because the court considered that there was enough evidence.

In his final recommendations the public prosecutor requested for the court to impose a penalty of four years in prison against the defendant. On the other hand, the public defender requested an appropriate penalty because the defendant regretted his actions, is still single and gave money to the victim.

Based on the aforementioned evidence, the court concluded the matter and sentenced the defendant to 3 years in prison, suspended for 3 years.

#### **15. Crime of mistreatment of a spouse - Case No. 179/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Sentenced to 2 years in prison, suspended for 2 years.

On 27 April 2015 the Oecusse District Court tried and sentenced the defendant JAP to 2 years in jail, suspended for 2 years after he was found guilty of committing the crime of mistreatment of a spouse. This case allegedly occurred on 19 April 2014 in Oecusse District.

The court found that on 19 April 2014 the defendant found an SMS from another man with the message “mummy why didn’t you answer the phone” and the defendant punched the victim in her right eye and threw a piece of steel at the victim’s left leg. These actions caused the victim to suffer a black eye and swelling to her leg. In addition, on 20 April 2014 the defendant again kicked the victim once on her left thigh and threatened that he would kill the victim if he found out that the victim had a relationship with another man.

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

During the trial the defendant admitted his actions and testified that he became angry because he found an SMS message from another man. The defendant added that the SMS made him lose his dignity and he became angry and struck the victim. The defendant added that they have reconciled.

The court did not hear the testimony of the victim and the two witnesses because the confession of the defendant was sufficient for the court to make a decision.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 2 years and 6 months in prison, suspended for 3 years. On the other hand, the public defender asked the court to hand down a punishment in accordance with the wrongdoing of the defendant.

After evaluating and considering the entire process, the court concluded this matter and sentenced the defendant to 2 years in jail, suspended for 2 years.

#### **16. Crime of mistreatment of a spouse - Case No. 01/Krime/2015/TDO**

Composition of judges	: Panel
Judges	: João Ribeiro, Zumiatty Freitas and Francisca Cabral
Public Prosecutor	: Ambrosio Rangel Freitas
Public Defender	: Afonso Gomes Fatima
Conclusion	: Sentenced to 2 years and 6 months in prison, suspended for 3 years.

On 27 April 2015 the Oecusse District Court tried and sentenced the defendant FMC to 2 years and 6 months in jail, suspended for 3 years after he was found guilty of committing the crime of mistreatment of a spouse. This case allegedly occurred in December 2014, May 2014 and November 2014 in Oecusse District.

The court found that in December 2014 the defendant slapped the victim once on the cheek because of a misunderstanding when they had an argument. In May 2014 the defendant slapped

the victim once on the cheek when they argued about money. On 1 November 2014 because there was a misunderstanding the defendant slapped the victim twice on the left cheek, pushed her to the ground and twice stomped on the victim's thumb.

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

During the trial the defendant confirmed all of the facts listed in the indictment and stated that he felt regret for his actions and promised not to reoffend in the future.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 2 years and 6 months, suspended for 3 years because of the high prevalence of such crimes in Timor-Leste and this decision should deter the defendant and others from committing such crimes in the future. On the other hand, the public defender requested for the court to uphold justice for the defendant in proportion to the mitigating and aggravating circumstances.

Based on the evaluation of these aforementioned facts and arguments, the court concluded the matter and sentenced the defendant to 2 years and 6 months in prison, suspended for 3 years.

#### **17. Crime of sexual coercion - Case No. 196/Krime/2014/TDO**

Composition of judges : Panel

Judges : João Ribeiro, Zumiatty Freitas and Francisca Cabral

Public Prosecutor : Ambrosio Rangel Freitas

Public Defender : Calisto Tout

Conclusion : Acquitted

On 28 April 2015 the Oecusse District Court conducted a hearing to announce its decision and acquitted the defendant AM because it was not proven that he committed the crime of sexual coercion against NM. This case allegedly occurred on 10 July 2014 in Oecusse District.

The court found that the defendant and the victim had a relationship based on mutual consent and before this case could be heard they already reconciled.

Nevertheless, the public prosecutor did not agree with the decision and will appeal the decision of the court.

Previously, the public prosecutor alleged that on 10 July 2014, at approximately 9pm, the defendant was walking behind the victim and grabbed the right breast of the victim. Previously, the defendant told the victim that 'if you want to, go and wait for me under the bridge or in the pig pen to have sexual intercourse'.



The public prosecutor charged the defendant with violating Article 171 of the penal code on sexual coercion.

In his final recommendations, the public prosecutor requested for the court to impose a sentence of 3 years in prison in accordance with the applicable penalty set out in the aforementioned article.

On the other hand, the public defender requested for the court to apply an appropriate penalty against the defendant because they have reconciled, the defendant confessed and cooperated with the court.

This case summary is made possible by the generous support of the American people through the United State Agency for International Development (USAID) under the terms of its Cooperative Agreement Number AID-486-A-13-00007 for the Ba Distrito program in Timor- Leste, implemented by the Lead Agency Counterpart International and its partners. The contents and opinions expressed herein are the responsibility of JSMP and do not necessarily reflect the views of USAID or the United States Government.”

For more information, please contact:

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