



JUDICIAL SYSTEM MONITORING PROGRAMME
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

Case Summary
Suai District Court
July 2016

A. Summary of the trial process at the Suai District Court in July 2016

1. Total cases observed by JSMP : 26

Case Type	Total
Articles 145 & 35 of the LADV - Simple offences against physical integrity	12
Article 145 - Simple offences against physical integrity	3
Article 225 - Failure to fulfil obligation to provide alimony	1
Article 316 - Smuggling	1
Article 157 & 258 - Threats	1
Article 172 - Rape	3
Article 303 - Falsification of documents	1
Article 145 - Simple offences against physical integrity	4
Total	26

2. Total number of decisions observed by JSMP: 13

Type of decision	Total
Suspended sentence pursuant to Article 68 of the Penal Code	7
Fine pursuant to Article 67 of the Penal Code	3
Settlement was validated	2
Acquitted	1
Total	13

3. Total cases adjourned based on JSMP monitoring: 13

Reason for adjournment	Total
No summons	5
Ongoing	3
The victim and defendant were not present	5
Total	13

4. Total cases that are still ongoing - based on JSMP monitoring: 13

B. Short description of decisions in cases from July 2016

1. Crime of ordinary maltreatment characterized as domestic violence

Case No. :184/PEN/16/TDS
Composition of judges : Single
Judge : Argentino Luisa Nunes
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Angelo Barreto (private lawyer)
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 12 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant CAT who allegedly committed the offences against his wife in Covalima District.

The Public Prosecutor alleged that on 15 October 2016 the defendant kicked the victim once above the eye which caused pain and an injury.

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

During the aforementioned hearing the defendant used his right to remain silent. The victim also corroborated the charges of the Public Prosecutor and testified that she had forgiven the defendant.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year. The public prosecutor recommended this penalty to educate the defendant so he does not repeat his actions in the future. The public defender requested for the court to impose a fine against the defendant.

After evaluating the facts established during the trial, the court concluded this case and sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered him to pay court costs of US\$50.

2. Crime of ordinary maltreatment characterized as domestic violence

Case No. : 172/PEN/15/TDS
Composition of judges : Single
Judge : Argentino Luisa Nunes
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Angelo Barreto (private lawyer)
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 12 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant MAP who allegedly committed the offences against his wife in Covalima District.

The public prosecutor alleged that on 3 March 2015 the defendant punched the victim once above her right eye which caused the victim to suffer pain and swelling above her right eye.

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

During the trial, the defendant admitted all of the facts set out in the prosecutor's indictment, the defendant confessed and testified that the acts he committed against the victim were spontaneous. In addition, the victim also strengthened the charges of the Public Prosecutor and testified that she had forgiven the defendant and now they are living together as husband and wife.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year to deter the defendant from repeating his actions in the future. Meanwhile, the public defender requested for the court to impose a fair and proportional penalty against the defendant.

After evaluating the facts that were established during the trial, the court sentenced the defendant to 6 months in prison, suspended for 1 year, and ordered him to pay court costs of US \$10.

3. Crime of ordinary maltreatment characterized as domestic violence

Case No.	: 150/PEN/16/TDS
Composition of judges	: Single
Judge	: Samuel da Costa Pacheko
Public Prosecutor	: Bartolomeo de Araujo
Public Defender	: Albino de Jesus Pereira
Type of decision	: Sentenced to 6 months in prison, suspended for 1 year.

On 14 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant DO who allegedly committed the offences against his wife in Manufahi District.

The public prosecutor alleged that on 03 February 2016 the defendant struck the victim with a sickle one time which caused the victim to suffer an injury and bleeding.

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

During the trial, the defendant admitted all of the charges of the public prosecutor and testified that he did in fact strike the victim with the handle of the sickle which caused the victim to suffer an injury and bleeding. In addition, the victim also corroborated the indictment of the public prosecutor however she testified that she forgave the defendant because the defendant apologised to her and the defendant took the victim to the nearest clinic for treatment.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year. The public defender requested for the

court to issue an admonishment against the defendant because the defendant regretted his actions and apologised to the victim and took the victim to the nearest clinic for treatment.

The court decided to sentence the defendant to 6 months imprisonment, to be suspended for 1 year and ordered the defendant to pay court costs of US\$20.

4. Crime of making threats

Case No. : 130/PEN/15/TDS
Composition of judges : Single
Judge : Argentino Luisa Nunes
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Gaspar Fereira Gusmão (private lawyer)
Type of decision : Acquitted

On 19 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of threats involving the defendant BdA who allegedly committed the offences against the victim RM in Covalima District.

The Public Prosecutor alleged that on 10 August 2015 the defendant threatened the victim with a machete and the victim had taken over land that had previously been given to the victim to be turned into a plantation and had planted teak and other trees.

The Public Prosecutor alleged that the defendant violated article 157 of the Penal Code on threats, which carries a penalty of 2 years in prison or a fine.

During the trial the defendant rejected all of the charges of the Public Prosecutor, and testified that he did not threaten the victim with a machete and did not damage teak trees and other trees at that time.

The victim corroborated the indictment of the Public Prosecutor, however he emphasised that he did not witness the defendant cutting the teak tree and chopping other trees, however he only heard from another person who had told him and then he reported it to the police. The victim also testified that prior to the incident, on the morning of 10 August 2015, he saw the defendant holding a machete however he did not make threats.

In his final recommendations, the Public Prosecutor requested for the court to acquit the defendant because his crime did not fulfil the elements of the crime of making threats. Also, the public defender agreed with the charges of the Public Prosecutor and requested for the court to acquit the defendant.

After examining the facts that were proven during the trial, the court decided the matter and acquitted the defendant.

5. Crime of smuggling

Case No. :192/PEN/16/TDS

Composition of judges : Single
Judge : Samuel da Costa Pacheko
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Albino de Jesus Pereira
Type of decision : Ordered to pay a fine of US\$ 360.

On 19 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of smuggling involving the defendant JdS and Sp who allegedly committed the crime against the State of Timor-Leste in Covalima District.

The Public Prosecutor alleged that on 19 January 2016 the defendants purchased illegal goods from Indonesia such as 15 air rifles and 2 sacks of clothing (one large sack and one small sack) valued at almost US\$ 1,150.

The Public Prosecutor charged the defendants for violating Article 316 of the Penal Code on the crime of smuggling which carries a penalty of 2 - 6 years in prison or a fine.

During the trial the defendants admitted all of the facts set out in the charges of the Public Prosecutor. In addition, the defendants testified that they regretted his actions because they brought in illegal goods across the Salele border in Suai. However the defendants also testified that they are willing to pay a fine or tax to the state.

In his final recommendations the Public Prosecutor requested for the court to order the defendants to pay a fine of US\$ 50 each, whilst the public defender requested for the court to issue a fair punishment against the defendants.

After evaluating the facts during the trial, the court concluded this process and ordered the defendant to pay a fine of US\$360 each, in daily instalments of US\$2.00 for 90 days and each defendant was ordered to pay court costs of US\$20.

6. Crime of simple offences against physical integrity

Case No. : 211/PEN/16/TDS
Composition of judges : Single
Judge : Samuel da Costa Pacheko
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Manuel Goncalves
Type of decision : Sentenced to 3 months in prison, suspended for 1 year.

On 20 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant OdC who allegedly committed the offence against SGdC in Covalima District.

The Public Prosecutor alleged that on 14 March 2016 the defendant pulled the victim's hair, scratched her and choked her, and bit her right hand. These acts caused the victim to suffer an injury to her hand and, pain to her neck.

The Public Prosecutor charged the defendant with violating Article 145 of the Penal Code on simple offences against physical integrity which carries a penalty of 3 years in prison or a fine.

During the trial the defendant admitted all of the charges of the public prosecutor. In addition, the victim also corroborated the charges of the Public Prosecutor that the defendant pulled her hair, and choked her and bit her hand causing an injury and pain.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year. The public defender requested for the court to impose an admonishment against the defendant.

After evaluating the facts proven during the trial, the court agreed with the charges of the Public Prosecutor and sentenced the defendant to 3 months in prison, suspended for 1 year, and ordered him to pay court costs of \$ 10.00.

7. Crime of ordinary maltreatment characterized as domestic violence

Case No.	:144/PEN/15/TDS
Composition of judges	: Single
Judge	: Constancio Barros Basmerly
Public Prosecutor	: Bartolomeo de Araujo
Public Defender	: João Cortereal (private lawyer)
Type of decision	: Sentenced to 2 years in prison, suspended for 3 years.

On 20 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant BFB who allegedly committed the offences his wife in Bobonaro District.

The Public Prosecutor alleged that on 10 February 2016 the defendant struck the victim many times on the head, kicked her twice on the back and once above the eye. The defendant also struck the victim in the shoulder 4 times with a broom. These acts caused the victim to suffer pain and swelling to her back.

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

During the trial, the defendant admitted all of the charges of the Public Prosecutor that he did hit the victim many times, kicked her once on the back and chest and struck her on the shoulder with a broom. In addition, the victim also corroborated the charges of the Public Prosecutor, however she testified that she had forgiven the defendant.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 2 years in prison, suspended for 3 years. The Public Prosecutor requested this sentence to deter the defendant so he does not repeat such actions in the future. Meanwhile, the public defender requested for the court to impose a fair and lenient penalty against the defendant.

After evaluating the facts that were established during the trial, the court concluded this case and sentenced the defendant to 3 years in prison, suspended for 3 years, and ordered him to pay court costs of US\$ 30.

8. Crime of simple offences against physical integrity

Case No. : 169/PEN/16/TDS
Composition of judges : Single
Judge : Samuel da Costa Pacheko
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Manuel Amaral
Type of decision : Validating Withdrawal of case

On 20 July 2016 the Suai District Court attempted conciliation in a case of ordinary maltreatment against physical integrity, allegedly committed by the defendant JC against EM, in Covalima District.

During the conciliation process the victim wanted to withdraw her case against the defendant because the defendant regretted his actions and apologized to the victim and the victim had forgiven the defendant.

The Public Prosecutor alleged that on 29 March 2015 the defendant struck the victim 4 times on her back and 3 times on the lower part of her ear and caused the victim to suffer pain and swelling to her ear.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a penalty of up to three years in prison or a fine.

Based on a request from the victim to withdraw the case and the agreement between the parties, in their final recommendations the Public Prosecutor and the public defender requested for the court to validate this process.

After evaluating the agreement of the two parties and the victim's request to withdraw the case, the court concluded this process and validated the request to withdraw the case.

9. Crime of simple offences against physical integrity, characterized as Domestic Violence.

Case No. : 190/PEN/15/TDS
Composition of judges : Single
Judge : Samuel da Costa Pacheko
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Albino de Jesus Pereira
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 21 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant JP who allegedly committed the offences against his child (AdR) in Covalima District.

The Public Prosecutor alleged that on 16 December 2015 the defendant struck the victim once on the head and once on the knee with the handle of a hammer and caused the victim to suffer pain and swelling to the head and knee.

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

During the trial, the defendant admitted all of the charges of the Public Prosecutor and testified that he struck the victim with the handle of a hammer, firstly to the head and secondly to the knee. The defendant testified that he regretted his actions and apologized to the victim. In addition, the victim also corroborated the charges of the Public Prosecutor, however he testified that he has forgiven the defendant.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 6 months in prison, suspended for 1 year, because the defendant promised not to repeat his actions in the future.

Meanwhile, the Public Defender requested for the court to apply a community service order against the defendant however if the court decides otherwise, then he requested for the court to impose a fair and proportional penalty against the defendant.

After evaluating the facts that were established during the trial, the court concluded this case and sentenced the defendant to 6 months in prison, suspended for 1 year.

10. Crime of ordinary maltreatment characterized as domestic violence

Case No.	: 148/PEN/16/TDS
Composition of judges	: Single
Judge	: Samuel da Costa
Public Prosecutor	: Matias Soares
Public Defender	: Gaspar Ferreira Gusmão (private lawyer)
Type of decision	: Sentenced to 6 months in prison, suspended for 1 year.

On 21 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant YK who allegedly committed the offences his wife in Bobonaro District.

The Public Prosecutor alleged that on 09 February 2016 the defendant twice struck the victim on the hand, once on the lower part of the year and slapped her 4 times on the right cheek. These actions caused the victim to suffer pain to the stomach, cheek and right cheek.

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

During the trial the defendant confessed all of the facts laid out in the indictment and stated that he committed the crime against his wife. However, the defendant testified that he regretted his actions and apologized to the victim. In addition, the victim also strengthened the charges of the Public Prosecutor and testified that he had forgiven the defendant.

In his final recommendations the public prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 1 year and six months. Meanwhile, the public defender requested for the court to apply a suspended sentence against the defendant because he confessed and regretted his actions and has forgiven the victim.

After hearing all of the parties and examining the facts related to the trial, the court decided to sentence the defendant to 6 months in prison, suspended for 1 year.

11. Crime of ordinary maltreatment characterized as domestic violence

Case No.	: 75/PEN/16/TDS
Composition of judges	: Single
Judge	: Nasson Sarmiento
Public Prosecutor	: Bartolomeo de Araujo
Public Defender	: Gaspar Ferreira Gusmão (private lawyer)
Type of decision	: Ordered to pay a fine of US\$ 240.

On 21 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant FML who allegedly committed the offences against his wife in Bobonaro District.

The public prosecutor alleged that on 28 November 2016 the defendant punched the victim twice above her right eye and mouth which caused the victim to suffer pain and swelling above her right eye and mouth.

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

During the trial the defendant admitted all of the facts set out in the indictment and admitted his guilt and testified that he spontaneously committed violence against the victim. In addition, the victim also strengthened the charges of the Public Prosecutor and testified that she had forgiven the defendant.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 1 year in prison. Nevertheless, the Public Defender requested for the court to apply a suspended sentence against the defendant because he confessed and regretted his actions.

After evaluating all of these facts, the court concluded this matter and ordered the defendant to pay a fine of US\$ 240 in daily instalments of US\$ 2.00 per day for 120 days. If the defendant does not comply with the sentence the defendant will be sentenced to 40 days in prison, including paying court costs of US\$ 25.00.

12. Crime of simple offences against physical integrity

Case No. : 119/PEN/16/TDS
Composition of judges : Single
Judge : Benjamin Barros
Public Prosecutor : Bartolomeo de Araujo
Public Defender : Gaspar Fereira Gusmão (private lawyer)
Type of decision : Fine of US\$ 60.00.

On 22 July 2016 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity involving the defendant SM who allegedly committed the offence against JML, in Covalima District.

The Public Prosecutor alleged that on 09 August 2015 the defendant verbally abused the victim by calling him a 'dickhead' and grabbed the victim on the back of the neck with his left hand and struck the victim once with a piece of bamboo. These actions caused the victim to suffer pain and swelling to the back of the neck.

The public prosecutor charged the defendant for violating Article 145 of the Penal Code regarding simple offences against physical integrity that carries a penalty of up to three years in prison or a fine.

During the trial the defendant admitted all of the facts set out in the indictment, and regretted his actions and he apologized to the victim. In addition, the victim also strengthened the charges of the Public Prosecutor and testified that she had forgiven the defendant.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 3 months in prison, suspended for 1 year. The public defender requested for the court to impose a fair and lenient penalty against the defendant because the defendant admitted the facts and regretted his actions and apologised to the victim and the victim has forgiven the defendant.

After evaluating the facts the court concluded the matter and ordered the defendant to pay a fine of US\$60.00 in daily instalments of US\$1. The defendant will be sentenced to 40 days in prison if he does not comply.

13. Crime of failure to fulfil obligation to provide alimony

Case No. : 240/PEN/16/TDS
Composition of judges : Single
Judge : Benjamin Barros
Public Prosecutor : Bartolomeo de Araujo

Public Defender : Gaspar Fereira Gusmão (private lawyer)
Type of decision : Validating withdrawal of case

On 22 July 2016 the Suai District Court tried conciliation in a case of failure to provide alimony involving the defendant JdRA and the victim LcL, in Bobonaro District.

During the conciliation process, the victim requested to withdraw the case because the defendant was willing to pay US\$40 each month to his his former wife through an account that can be used to support his children. Therefore, the victim agreed and forgave the defendant.

Previously, the Public Prosecutor alleged that on 24 December 2015 the defendant and the victim argued because the defendant was suspected of having a relationship with another woman. After that, the defendant left home for 6 months, and failed to fulfil his obligation to provide alimony to his wife and a child who is still under 1 year of age.

The public prosecutor charged the defendant for violating Article 225 of the Penal Code on the crime of failure to provide alimony. In the final recommendations of the Public Prosecutor and Public Defender requesting for the court to dismiss the case.

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

For more information please contact:

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