



JUDICIAL SYSTEM MONITORING PROGRAMME  
PROGRAMA MONITORIZASAUN BA SISTEMA JUDISIÁRIU

**Case Summary**  
**Suai District Court**  
**September 2016**

**A. Summary of trials at the Suai District Court**

**1. Total cases observed: 27**

Case type	Total
Article 145 of the Penal Code & Article 35 of Law Against Domestic Violence - Simple offences against physical integrity as well as Domestic Violence	6
Article 172 of the Penal Code - Rape	2
Article 177 of the Penal Code - Sexual abuse of a minor	1
Articles 177 & 182 of the Penal Code - Aggravated sexual abuse of a minor	1
Article 171 of the Penal Code - Sexual coercion	1
Articles 171 & 173 of the Penal Code - Aggravated Sexual Coercion	1
Article 225 of the Penal Code - Failure to fulfil obligation to provide alimony	2
Article 304 of the Penal Code - Aggravated forgery	1
Article 146 of the Penal Code - Serious offences against physical integrity	2
Article 145 of the Penal Code - Simple offences against physical integrity	4
Article 157 of the Penal Code - Threats	4
Article 256 of the Penal Code - Appropriation through abuse of trust	1
Article 258 of the Penal Code - Property damage	1

<b>Total</b>	<b>27</b>
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**2. Total number of decisions observed by JSMP: 11**

<b>Type of decision</b>	<b>Total</b>
Prison Sentence (Article 66) of the Penal Code and compensation	1
Suspended sentences pursuant to Article 68 of the Penal Code	2
Fine (Article 67) of the Penal Code	1
Validating withdrawal of case	5
Admonishment	1
Acquitted	1
<b>Total</b>	<b>11</b>

**Total cases adjourned based on JSMP monitoring: 6**

<b>Reason for adjournment</b>	<b>Number</b>
The defendant not summoned	3
The defendant and victim not summoned	3
<b>Total</b>	<b>6</b>

**4. Total cases that are still ongoing - based on JSMP monitoring: 10**

**B. Short description of decisions observed by JSMP:**

**1. Crime of sexual abuse of a minor \***

Case No. : 215/PEN/16/TDS

Composition of judges : Panel

Judges : Constância Basmery, Samuel da C. Pacheco, and

\* Please refer to Press Release on the JSMP website: [http://jsmp.tl/wp-content/uploads/2016/01/PRpena-prizauntinan-12\\_kazu-insestuTDSuai\\_TETUM1.pdf](http://jsmp.tl/wp-content/uploads/2016/01/PRpena-prizauntinan-12_kazu-insestuTDSuai_TETUM1.pdf)

Nasson Sarmiento

Public Prosecutor : Bartolomeu de Araujo  
Public Defender : Francisco Caetano Martins  
Type of decision : 12 years in prison & compensation of US\$ 5,000

On 20 September 2016 the Suai District Court conducted a hearing to announce its decision in a case of sexual abuse against a minor involving the defendant AD and the victim AdJ, in Covalima.

The Public Prosecutor alleged that at some time in 2002 the defendant called out to the victim (his stepdaughter) to come into a room and he used force to have sexual intercourse with the victim who was aged 13.

Then, at some time in 2010, the defendant again forced the victim to have sexual intercourse on 3 occasions and the victim gave birth to her first child. In 2013 the defendant again forced the victim to have sexual intercourse and the victim then gave birth to her second child. In 2015 the defendant again forced the victim to have sexual intercourse and she became pregnant and gave birth to her third child. On each occasion the defendant threatened the victim not to tell anyone else. For this reason the victim fled to her uncle and told him what had happened and reported the case to the police.

The Public Prosecutor charged the defendant with violating Article 172 of the Penal Code on rape and making threats, which carries a penalty of between 5-15 years as well as violating Article 35 of the Penal Code on joinder of crimes.

During the trial the defendant rejected all of the facts contained in the indictment and testified that the defendant never had sexual intercourse with the victim because he was sterile. However the victim testified that the defendant often threatened her and forced her to have sexual intercourse and she gave birth to 3 children.

The witness, who is the mother of the victim, testified that she knew that the victim was pregnant but did not know that the defendant had impregnated the victim. The witness then stated that the victim never told her or anyone else who committed the aforementioned acts or impregnated her because the defendant threatened the victim not to tell anyone. The witness only found out about this case during the trial and the victim stated that the defendant committed the aforementioned acts.

In his final recommendations the Public Prosecutor requested for the Court to amend Article 172 of the Penal Code and replace it with Article 177 (a) and Article 41 of the Penal Code on continuous crime because the victim was underage and there were multiple incidents. After requesting the amendment, the Public Prosecutor requested for the court to sentence the

defendant to 10 years in prison. Meanwhile, the Public Defender requested for the court to carefully consider all of the facts and to impose a fair and adequate penalty against the defendant.

After the hearing to examine the evidence, the court modified the charge from Article 172 of the Penal Code to Article 177 (1) of the Penal Code on the sexual abuse of a minor because the victim was aged 13, and this crime carries a sentence of 5-20 years in prison and Article 41 on continuous crime as well as Article 35 (b) of the Law Against Domestic Violence because the victim was his step-daughter.

After evaluating all of the facts, the Court found the defendant guilty of committing the acts as charged in the prosecutor's indictment. The Court made this decision based on the testimony of the victim and the witness, who is the mother of the victim, and the report from the Suai Hospital that shows that the defendant's reproductive health is fine and he is not sterile.

Based on the aforementioned facts the Court decided the matter and sentenced the defendant to 12 years in prison and ordered him to pay compensation of US\$ 5,000. The court also ordered the defendant to pay court costs of US\$ 50.

## **2. Crime of simple offences against physical integrity**

Case No. : 64/PEN/16/TDS  
Composition of judges : Single  
Judge : Constancio Barros Basmery  
Public Prosecutor : Bartolomeu de Araujo  
Public Defender : Angelo Barreto  
Type of decision : Validating withdrawal of case

On 21 September 2016 the Suai District Court read out its decision in a case of simple offences against physical integrity involving the defendant YM who allegedly committed the offence against JMA, in Covalima District.

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 process to attempt conciliation the victim testified that because the Defendant had apologised to the victim and regretted his actions, so the victim wanted to withdraw the complaint against the defendant.

In their final recommendations, the Public Prosecutor and Public Defender agreed with the amicable settlement between the two parties and requested for the court to validate this settlement.

Based on the request to withdraw the complaint from the victim and the agreement reached by the parties, the court concluded the matter and validated the victim's request to withdraw the complaint.

### **3. Crime of making threats**

Case No. : 218/PEN/15/TDS  
Composition of judges : Single  
Judge : Nasson Sarmiento  
Public Prosecutor : Bartolomeu de Araujo  
Public Defender : Gaspar Ferreira Gusmão  
Type of decision : Acquitted

On 22 September 2016 the Suai District Court read out its decision in a case of making threats involving the defendant PM who allegedly committed the offence against ADR, in Covalima District.

The Public Prosecutor alleged that at some time on the morning of 13 December 2015 the defendant came home after gambling and saw that his wife and four children were not at home. The defendant rang the victim and threatened to kill her if she did not bring the children home.

The Public Prosecutor charged the defendant for violating Article 157 of the Penal Code on making threats that carries a penalty of up to 2 years in prison or a fine.

During the trial the defendant denied all of the facts set out in the indictment of the Public Prosecutor. On the other hand, the victim corroborated the charges of the Public Prosecutor and testified that she no longer feels afraid because the defendant spoke nicely before the police when the victim wanted to report the case to the police.

The witness AM, who is a police officer, testified that the victim reported her case to the police and the defendant was also there and spoke nicely to the victim.

In his final recommendations the Public Prosecutor requested for the court to acquit the defendant because his crime did not fulfill the elements of the crime of making threats. In addition the Public Defender also agreed to the final recommendations of the Public Prosecutor.

After evaluating all of the facts established during the trial, the Court concluded the matter and decided to acquit the defendant because the act did not fulfill the elements of the crime of making threats.

### **4. Crime of making threats**

Case No. : 236/Pen/16/TDS  
Composition of judges : Single

Judge : Florencia Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Validating withdrawal of case

On 28 September 2016 the Suai District Court, through the mobile court in Bobonaro District, held a hearing to attempt conciliation in a case of making threats involving the defendant AP and the victim RUM, in Bobonaro District.

The Public Prosecutor charged the defendant for violating Article 157 of the Penal Code on making threats that carries a penalty of up to 2 years or a fine.

During the process to attempt conciliation the victim wanted to withdraw the complaint because the defendant regretted his actions and apologised to the victim.

In their final recommendations, the Public Prosecutor and Public Defender agreed with the amicable settlement between the two parties and requested for the court to validate this settlement.

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

## **5. Crime of making threats**

Case No. : 288/PEN/16/TDS  
Composition of judges : Single  
Judge : Florencia Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Validated request to withdraw complaint

On 28 September 2016 the Suai District Court, through the mobile court in Bobonaro District, held a hearing to attempt conciliation in a case of making threats involving the defendant BPA against his former wife, in Bobonaro District.

The Public Prosecutor charged the defendant for violating Article 157 of the Penal Code on making threats that carries a penalty of up to 2 years or a fine.

During the hearing to attempt conciliation the victim testified that he wanted to withdraw the complaint however she requested to the defendant to give her US\$200 for their children because it had been a long time since the defendant had paid any attention to them. The defendant agreed with the request and was willing to give the money requested by the victim.

In their final recommendations, the Public Prosecutor and Public Defender agreed with the amicable settlement between the two parties and requested for the Court to validate this settlement.

Based on the agreement and request of the victim to withdraw the case, the Court settled this case and validated the request to withdraw the complaint.

#### **6. Crime of simple offences against physical integrity characterized as Domestic Violence**

Case No. : 262/PEN/16/TDS  
Composition of judges : Single  
Judge : Florencia Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 29 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant AdC who allegedly committed the offence against his wife in Bobonaro.

The Public Prosecutor alleged that on 31 July 2015 at 20:30 the defendant returned home intoxicated and choked the victim, threw the victim on the ground and stomped on the victim's fingers on her left hand. These actions caused the victim to suffer pain all over her body, to her neck and fingers of her left hand.

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 as well as Article 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant fully admitted all of the facts in the indictment and testified that at that time he was drunk and he could not control himself. In addition, the victim maintained the charges of the Public Prosecutor.

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 produced during the trial, the Court found the defendant guilty as set out in the Prosecutor's indictment. Based on this evidence, the Court sentenced the defendant to 6 months in prison, suspended for 1 year.

## **7. Crime of simple offences against physical integrity characterized as Domestic Violence**

Case No. : 77/Pen/16/TDS  
Composition of judges : Single  
Judge : Florencia Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Sentenced to 6 months in prison, suspended for 1 year.

On 29 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant MdS who allegedly committed the offence against his wife in Bobonaro District.

The Public Prosecutor alleged that on 7 December 2015 at 19:00 the defendant and the victim argued and the defendant took an empty bottle of water and threw it at the victim's back, and then hit the victim once and choked her. These acts caused the victim to suffer pain to her waist and 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 as well as Article 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts in the indictment of the Prosecutor and stated that he regretted his actions and promised not to reoffend in the future. Meanwhile, the victim corroborated the charges of the Public Prosecutor.

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.

The Court found that the defendant committed the crime as set out in the Prosecutor's indictment. Based on the aforementioned facts, the Court concluded the matter and sentenced the defendant to 6 months in prison, suspended for 1 year.

## **8. Crime of simple offences against physical integrity characterized as Domestic Violence**

Case No. : 267/PEN/15/TDS  
Composition of judges : Single  
Judge : Alvaro Maria Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Fine of US\$ 500.



On 29 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant SdS who allegedly committed the offence against his wife in Bobonaro District.

The Public Prosecutor alleged that on 6 September 2015 at 08:30 the defendant and the victim argued and then the defendant punched the victim once above the eye on her chest. The defendant also slapped and scratched the victim on her left cheek. These acts caused the victim to suffer bruising around her eye, and injuries to her cheek and chest.

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 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 in the indictment of the prosecutor and stated that he regretted his actions and promised not to reoffend in the future. The victim corroborated the facts set out in the indictment of the Public Prosecutor.

In his final recommendations the Public Prosecutor requested for the court to sentence the defendant to 1 year in prison, suspended for 2 years, 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 all of the facts, the Court found the defendant guilty of committing the acts as charged in the prosecutor's indictment. The Court ordered the defendant to pay a fine of US\$500. The court imposed the fine because it believed that the defendant had the financial capacity to pay it. After the hearing, the defendant immediately paid the money to the court. The Court also ordered the defendant to pay court costs of US\$ 35.

#### **9. Crime of simple offences against physical integrity characterized as domestic violence**

Case No.	: 143/PEN/16/TDS
Composition of judges	: Single
Judge	: Alvaro Maria Freitas
Public Prosecutor	: João Martins
Public Defender	: Angelo Barreto
Type of decision	: Admonishment

On 29 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to announce its decision in a case of simple offences against physical integrity characterized as domestic violence involving the defendant RLM who allegedly committed the offence against his wife in Bobonaro District.

The Public Prosecutor alleged that on 3 December 2015 at 10:00am the victim and the defendant argued, so the defendant took a stone and struck the victim in the back, and took some buffalo manure and twice threw it at the victim's back. These acts caused the victim to suffer an injury.

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 as well as Article 2, 3 and 35 (b) of the Law Against Domestic Violence.

During the trial the defendant admitted all of the facts in the indictment of the prosecutor and stated that he regretted his actions and promised not to reoffend in the future. The victim corroborated the facts set out in the indictment of the Public Prosecutor.

In his final recommendations the Public Prosecutor requested for the Court to sentence the defendant to 3 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 all of the facts produced during the trial, the Court found the defendant guilty and issued an admonishment.

#### **10. Crime of property damage**

Case No.	: 86/PEN/16/TDS
Composition of judges	: Single
Judge	: Alvaro Maria Freitas
Public Prosecutor	: João Martins
Public Defender	: Angelo Barreto
Type of decision	: Validated request to withdraw complaint

On 29 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to attempt conciliation in a case of property damage involving the defendant TdR who allegedly committed the offence against AS in Bobonaro District.

The Public Prosecutor charged the defendant for violating Article 258 of the Penal Code on making threats that carries a penalty of up to 3 years or a fine.

During the attempted conciliation the victim wanted to withdraw the complaint. However, he requested for the defendant to give him US\$100 because he had spent this amount of money fixing his motorcycle that had been damaged by the defendant. The defendant agreed with the request of the victim and was willing to provide the amount requested by the victim.

In their final recommendations, the Public Prosecutor and Public Defender agreed with the amicable settlement between the two parties and requested for the court to validate this settlement.

Based on the request to withdraw the complaint from the victim and the agreement reached by the parties, the Court concluded the matter and validated the victim's request to withdraw the complaint.

### **11. Crime of simple offences against physical integrity**

Case No. : 64/PEN/16/TDS  
Composition of judges : Single  
Judge : Florencia Freitas  
Public Prosecutor : João Martins  
Public Defender : Angelo Barreto  
Type of decision : Validating withdrawal of case

On 30 September 2016 the Suai District Court, via the mobile court in Bobonaro District, conducted a hearing to attempt conciliation in a case of simple offences against physical integrity involving the defendant MB who allegedly committed the offence against QLB in Bobonaro District.

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 attempted conciliation, the victim testified that he wanted to withdraw the complaint however the defendant had to give him one goat. The defendant agreed with the request.

In their final recommendations, the Public Prosecutor and Public Defender agreed with the settlement between the two parties and requested for the Court to validate the request to withdraw the complaint.

Based on the request to withdraw the complaint from the victim and the agreement reached by the parties, the Court concluded the matter and validated the victim's request to withdraw the complaint.

For more information please contact:

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