



**Case Summary**  
**The Suai District Court**  
**May 2019**

**Statement:** The following case summaries set out the facts and the proceedings of cases before the court based on JSMP's independent monitoring, and the testimony given by the parties before the court. This information does not reflect the opinions of JSMP as an institution.

JSMP strongly condemns all forms of violence, especially against women and vulnerable persons. JSMP maintains that there is no justification for violence against women.

**A. Summary of the trial process at the Suai District Court**

**1. Total cases monitored by JSMP: 12**

Article	Case Type	Total
Article 145 of the Penal Code (PC) and Articles 2, 3 and 35 (b) of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence.	4
Article 154 of the PC	Mistreatment of a spouse	2
Article 316 of the PC	Smuggling	2
Article 172 of the PC	Rape	1
Article 177 of the PC	Sexual abuse of a minor	1
Article 145 of the PC	Simple offences against physical integrity	1
Articles 259 & 157 of the PC	Aggravated property damage and threats	1
<b>Total</b>		<b>12</b>

**2. Total number of decisions monitored by JSMP: 8**

Type of decision	Total
Suspension of execution of a prison sentence (Article 68 of the PC)	7

Acquittal	1
<b>Total</b>	<b>8</b>

### 3. Total cases adjourned based on JSMP monitoring: 2

Reason for adjournment	Total
Defendant and victim were notified, but did not appear	1
Prosecutor attended training in Dili	1
<b>Total</b>	<b>2</b>

### 4. Total ongoing cases based on JSMP monitoring: 2

#### B. Short description of proceedings in these cases

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

Case No. : 0039/18. CVSVL  
Composition of the Court : Single Judge  
Judge : Argentino Luisa Nunes  
Prosecutor : Ricardo Godinho Leite  
Defence : Albino de Jesus Pereira  
Decision : Acquittal

On 2 May 2019 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant DS who allegedly committed the offence against his wife MEM in Covalima District.

#### Charges of the public prosecutor

The public prosecutor alleged that on 7 July 2018, at 12:00 midday, the defendant rang the victim to ask where she was and the victim told the defendant that she was heading home. When the victim arrived home, the defendant swore at the victim, so they argued and the defendant punched the victim twice above her eye and the victim fell to the ground. The victim stood up and punched the defendant twice in the back and the defendant turned around and punched the victim on her shoulder. After this incident, the victim got her clothes and left the home to go and live with her older brother and others in Salele.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant denied some of the allegations in the indictment and stated that the defendant rang the victim to ask her if she was coming home from work or not, but the victim did not accept his phone call. When the victim arrived home, the defendant asked the victim “*Why did you not answer my phone calls all day long*”. The victim told the defendant “*When I was heading home I had to walk because there was no money to pay a motorcycle taxi*”. After the victim finished speaking the victim smashed her telephone. The defendant also denied that he struck the victim above the eye, and did not cause the victim to fall to the ground and did not swear or make any nasty comments to the victim. Rather, the victim punched the defendant twice in the back and collected her clothes so she could go and live with her older brother and others in Salele.

Meanwhile, the victim confirmed all of the facts in the indictment and stated that the defendant struck the victim twice above the eye which caused the victim to fall to the ground and when the defendant was going to strike her again the victim stood up and punched the defendant twice in the back. After this incident, the victim went to live with her older brother and others in Salele. The victim also stated that she and the defendant have separated.

After hearing the statements from the defendant and the victim, the court found that their statements were contradictory because the defendant stated that he did not assault the victim, but rather the victim punched him twice in the back. However the victim stated that the defendant had assaulted the victim so therefore the victim also struck the defendant as retaliation.

The court cross-examined the defendant and the victim, and during the cross-examination the two parties maintained their statements. The defendant said that while they were living together he never swore at the victim or hit the victim. However the victim said that because the defendant had mistreated the victim and struck the victim she felt humiliated and decided to leave the home.

The witness OG (age 14) who is the child of the defendant and the victim stated that when the incident occurred she did not witness it because at that time she was playing outside. When the witness returned home the defendant told the witness “*Your mother has run away, because she punched me twice*”.

The witness also testified that to date, that they have never seen the defendant punch the victim and swear or say nasty things to the victim. In relation to the victim leaving the home, the witness said that the victim herself wanted to leave the home, and not because the defendant had told her to leave.

The witness LD (age 16), who is the child of the defendant and the victim, stated that at the time of the incident the witness was in the kitchen. The witness heard the defendant and the victim arguing but did not hear the defendant swear at the victim or tell her to leave the house. The witness added that the defendant never hit the victim, but the victim always created problems with the defendant and always hit the defendant.

### **Final recommendations**

The prosecutor requested for the court to provide justice for the defendant, because even though the victim confirmed the facts set out in the indictment, the defendant denied the facts and the two witnesses also stated that they did not see the defendant hit and swear at the victim. In addition, the witnesses said that the victim always hit the defendant.

The public defender requested for the court to acquit the defendant from this crime because it was not proven that the defendant swore at or hit the victim.

### **Decision**

After the court evaluated all of the facts, the court found that the defendant rang the victim but did not swear at the victim, and also that the defendant did not hit the victim and did not tell the victim to leave the home. The facts that were proven were based on the statement of the defendant and the statement of witnesses that while the defendant and the victim were living together the defendant never hit or swore at the victim or told her to leave the home. Because the facts were not proven, the court concluded the matter and acquitted the defendant from the charges.

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

Case No.	: 0118/15. PDSUA
Composition of the Court	: Single Judge
Judge	: Florencia Freitas
Prosecutor	: Napoleão Soares da Silva
Defence	: Fernando da Costa (private lawyer)
Decision	: 8 months in prison, suspended for 1 year

On 9 May 2019 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MG who allegedly committed the offence against his wife MM in Suai District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 20 November 2015, at 12pm, the victim and her children went to watch the community participate in a tug of war to commemorate the 20<sup>th</sup> November. At that time the victim was holding their young child and she called out to the defendant who was on the side of the road for him to help her by carrying their other young child so they

could go home. The defendant who was in his parents' house, went out from the house and kicked the victim on her side and once in the stomach and twice in the back and three times in the head.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant completely confessed all of the facts set out in the indictment of the prosecutor, and the defendant also stated that he regretted his actions. In addition, the defendant stated that now they are separated but the defendant promised not to commit any further crimes against the victim or other person in the future.

The victim also confirmed all of the facts set out in the indictment of the prosecutor and stated that the defendant did assault her just because she called out to him to tell him to look after their child. In addition, the victim also confirmed the defendant's statement that they have separated.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime against the victim therefore even though the defendant regretted his actions, in order to deter the defendant from repeating his acts against the victim, the prosecutor requested for the court to impose a sentence of one year in prison, suspended for one year and six months against the defendant. The prosecutor also requested for the defendant to provide civil compensation to the victim totalling US\$ 50.

The public defender stated that the defendant confessed the facts set out in the indictment, regretted his actions and promised that in the future he would not commit any crimes against the victim, and that they are separated. For this reason the prosecutor requested for the court to impose a prison sentence of 6 months, suspended for 1 year.

### **Decision**

After evaluating all of the facts, the court found that the defendant committed the crime against the victim based on the facts set out in the indictment, namely that he kicked the victim once on her side, once in the stomach, twice in the back and three times in the head. Based on the facts that were proven, the court concluded the matter and sentenced the defendant to 8 months in prison, suspended for 1 year.

### **3. Crime of smuggling**

Case No. : 0009/18/BBGD  
Composition of the Court : Panel  
Judges : Florensia Freitas, Samuel da Costa Pacheco and Naason Mario  
Armando Marques Doutel  
Prosecutor : Ricardo Godinho Leite  
Defence : Albino de Jesus Pereira  
Decision : 2 years in prison, suspended for 2 years

On 9 May 2019 the Suai District Court conducted a hearing to announce its ruling in a crime of smuggling involving the defendant Mateus Leão dos Santos in Bobonaro District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 30 April 2018, at 5pm, Manuel Molina and a member of his team Gil Bonifacio were conducting a motorcycle patrol from Badut Mean Post to the TCL 12 area. When they arrived at the TCL 12 area, Manuel and his colleague saw the defendant carrying a white bag climbing over a fence, so Manuel and Gil stopped their motorcycle at the base of the fence. The defendant went into the plantation so Manuel yelled out to the defendant "*This is the police, stop now.*" However, the defendant kept on walking into the plantation so Manuel followed the defendant on foot for about 50 metres but the defendant climbed over another fence and the defendant left the white bag containing cigarettes and then ran away and hid. Manuel took the white bag and confiscated the cigarettes and took them to the Badut Mean Post. Two hours later the defendant came and stated that he was the owner of the cigarettes.

The prosecutor also alleged that two days prior to this incident, on 28 April 2018, at 11am, the defendant contacted Ms. Loni (a foreigner from Indonesia) to ask Ms. Loni to purchase cigarettes, so Ms. Loni brought the cigarettes to meet with the defendant at the border between Indonesia and Timor-Leste. The defendant purchased the cigarettes for US\$850. After purchasing the cigarettes, the defendant took them into Timor-Leste via an illegal pathway at Badut Mean. The defendant's actions caused the State to suffer a loss due to non-payment of taxes.

The public prosecutor alleged that the defendant violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant acknowledged that he purchased the cigarettes from Ms. Loni so he could import them illegally. The defendant also regretted his actions and promised not to reoffend in the future, because this is an illegal activity that disadvantages the State.

The Public Prosecution Service decided not to hear from witnesses because the defendant totally confessed to the facts set out in the indictment.

### **Final recommendations**

In the final recommendations the prosecutor stated that the defendant was guilty of committing the crime of smuggling based on the facts set out in the indictment of the prosecutor and the defendant also knew that importing goods via an illegal short cut is against the law. However, because the defendant expressed regret, and was a first time offender, and to deter him from committing any further crimes, the prosecutor requested for the court to impose a suspended prison sentence against the defendant. In addition, the prosecutor requested for the court to hand over the apprehended goods (cigarettes) to the State.

Meanwhile, the public defender requested for the court to impose a fair and just penalty against the defendant with consideration of the mitigating circumstances because the defendant regretted his actions and was a first time offender.

### **Decision**

The court found that the defendant imported some Marlboro stiker cigarettes via an illegal short cut and this disadvantaged the State of Timor-Leste. Based on the facts that were proven and with consideration of all of the circumstances, the court concluded this matter and sentenced the defendant to two years in prison, suspended for two years, and ordered that the goods be handed over to the State.

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

Case No.	: 0003/18.CVSLL
Composition of the Court	: Single Judge
Judge	: Argentino Luisa Nunes
Prosecutor	: Ricardo Godinho Leite
Defence	: Manuel Amaral
Decision	: 2 years in prison, suspended for 3 years

On 6 May 2019 the Suai District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant CPG who allegedly committed the offence against his wife MM in Suai District.

#### **Charges of the public prosecutor**

The public prosecutor alleged that on an unspecified date in 2017 the defendant left the home and took a mistress. On 13 February 2018 the defendant went to the victim's house and when he got there the defendant did not see the victim at the house because the victim had gone to the home of her oldest sister, so the defendant kicked the victim once in the chest, choked her, and

slapped the victim once on her right cheek and once on her left cheek. The defendant pushed the victim's hand away, because she was holding the defendant by the shirt and the victim fell to the ground. The defendant's actions caused the victim to yell out and run to a neighbour's house and the victim was traumatized.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine as well as Articles 2, 3 (a), 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant denied some of the facts in the indictment of the public prosecutor and stated that he left the home in 2017 and took a mistress. On 13 February 2017 the defendant went to the victim's house because the victim rang and told him to go to the house. When the defendant arrived at the victim's house, the victim wasn't home because she was at the home of her oldest sister and after several minutes she went to her house. The defendant became angry and told the victim "*You told me to come to the house, but you were not there.*" Then they argued and the defendant slapped the victim twice on the right cheek and once on the left cheek. The defendant also stated that victim grabbed his shirt and ran onto the road screaming, and did not go to a neighbour's house. The defendant added that he did not push the victim's arm away and cause the victim to fall to the ground, but rather the victim ran away and fell over and caused the injuries to her knees and bleeding. The defendant stated that he regretted his actions and the problem had been resolved according to East Timorese custom and the defendant was held responsible and paid US\$1,000 to the victim's family.

The victim confirmed all of the facts set out in the indictment of the prosecutor and stated that she rang the defendant to ask him to come to the house and get some corrugated iron, timber, nails and steel to build a house. When the defendant arrived there the victim went to get some vegetables from the home of her oldest sister. When the victim came back from the home of her oldest sister, the defendant committed the assault against the victim as described in the indictment. The victim also confirmed the statement of the defendant that they resolved this problem by laying out a mat (customary procedure) and it was decided that the defendant had to give US\$2,500, but the defendant reduced it to US\$1,000. However, until now the defendant has not yet given the money to the victim.

### **Final recommendations**

The public prosecutor stated that the defendant denied some of the facts in the indictment. The defendant said that he slapped the victim once on her right cheek and once on her left cheek, but the defendant denied the accusations about kicking the victim in the chest, choking her and causing the victim to fall to the ground and suffering injuries to her knees. The defendant also stated that this problem had been resolved and the defendant was held responsible and had to



give US\$1,000, but the victim said the defendant has not yet provided the money. Previously, the defendant was fined for committing the crime of simple offences against physical integrity against the victim.

In relation to this new crime, the defendant did not regret his actions and continued to assault the victim. Based on these considerations, the prosecutor requested for the court to impose a suspended prison sentence against the defendant for a long period of time.

Meanwhile, the defence requested for the court to consider the mitigating circumstances, namely that the defendant regretted his actions, this problem was resolved in accordance with East Timorese custom and the defendant was found responsible and had to give the victim's family US\$1,000. Even though the defendant had not yet given the money to the victim's family, he promised to give the money when he has some. In addition, the defendant and the victim have separated, but the victim continued to receive the defendant's veteran pension. Because the defendant was fined in the previous case, therefore the defence requested for the court to impose a prison sentence against the defendant to be suspended for a short period of time.

### **Decision**

The court found that the defendant committed the crime based on the facts set out in the indictment of the prosecutor, namely that the defendant kicked the victim once in the chest, choked her, the defendant slapped the victim on her right cheek and once on her left cheek. The defendant pushed the victim's hand away, when she was holding the defendant by the shirt and the victim fell to the ground. The defendant's actions caused the victim to yell out and run to a neighbour's house and the victim was traumatized. Based on the facts that were proven during the trial, and after considering all of the circumstances surrounding this crime, the court concluded the matter and sentenced the defendants to 2 years in prison, suspended for 3 years.

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

Case No.	: 0012/16. PDSUA
Composition of the Court	: Single Judge
Judge	: Florencia Freitas
Prosecutor	: Ricardo Godinho Leite
Defence	: Albino de Jesus Pereira
Decision	: 3 months in prison, suspended for 1 year

On 10 May 2019 the Suai District Court conducted a hearing to announce its decision in a case of simple offences against physical integrity, involving the defendant Helio de Deus and the victim Neo Bocage that allegedly occurred in Bobonaro District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 31 December 2016, at 12 midnight, on the main road near the front of the Maliana Referral Hospital, members of PNTL from Maliana were stopping vehicles at a check point. This check point was directed at public and private vehicles, such as motorbikes and cars, and especially those using motorcycles and cars while under the influence of alcohol, with the aim of preventing accidents.

At that time the victim, who is a doctor, was on night duty at the Maliana Referral Hospital. At 12 midnight the victim came out of the building with the aim of celebrating and welcoming in the new year of 2016. When the victim came outside near the hospital gate he saw PNTL officers assaulting motorists, and when he saw this the victim called out to the PNTL officers and said *“What are you thinking by hitting those people.”*

Then a police officer from the Public Order Battalion (BOP) whose identity was unknown approached the victim and said *“If you want to say something, come and talk to us in our office.”* Not long after the defendant Helio de Deus, who is a member of the BOP, walked towards the victim and kicked the victim once in his stomach and arm. When the defendant was going to kick him again the victim moved away and the defendant fell on the ground because it was slippery.

The victim went inside the hospital and not long after other unknown defendants went into the hospital and attacked the victim. They kicked and punched the victim all over his body and caused him to suffer pain to his body and damaged medical equipment such as a stethoscope and an oximeter. These pieces of equipment could not be used to assist members of the public at the Maliana Referral Hospital. In addition, the value of the equipment was unknown.

The public prosecutor alleged that the defendant violated Article 145 of the Penal Code on simple offences against physical integrity that carries a maximum penalty of three years in prison or a fine.

### **Presentation of evidence**

During the trial the defendant denied the facts in the indictment and stated that he kicked the victim only once on the arm and did not kick the victim in the stomach and did not threaten the victim. In relation to the hospital equipment that was damaged, the defendant stated that he did not know about that, and did not see it. Also the defendant did not see who punched and kicked the victim all over his body. The defendant stated that he wanted to resolve this problem in accordance with East Timorese culture but the victim did not want to. The defendant regretted his actions because he understood that his behaviour was wrong and promised not to commit any further actions against the victim or other person in the future.

Meanwhile the victim confirmed all of the facts in the indictment and stated that at that time he saw a member of the BOP kicking many people near the hospital gate, so the victim went out

to say something. The defendant saw the victim come over to say something, so he approached the victim and kicked the victim in the arm, stomach and damaged the hospital equipment. This incident made the victim feel afraid, traumatised and he did not work for a week.

In addition, the witnesses Martinha Oliveira and Amelia Conceição who are midwives, as well as the witness Vicente Moniz, who is a security guard, gave statements that at that time they went outside to shake hands but they heard people yelling because the BOP police were beating some youths. So, the victim went over to a BOP officer and said “*What are you thinking by hitting those people.*” Suddenly the defendant assaulted the victim and damaged the hospital equipment. As a result of the defendant's actions the victim did not go to work for a week.

### **Final recommendations**

The defendant committed the crime against the victim by kicking him in the stomach and arm, although during the trial the defendant denied that he kicked the victim in the stomach and arm, however the witnesses confirmed all of the facts in the indictment, namely that the defendant kicked him in the stomach and arm and damaged equipment at the Maliana Referral Hospital. For this reason, the prosecutor requested for the court to impose a prison sentence of one year, suspended for 1 year and six months.

The public defender requested for the court to impose a suspended prison sentence more lenient than the one requested by the public prosecutor because the defendant was a first time offender, regretted his actions and the defendant also tried to locate the victim to resolve the issue but the victim didn't want to.

### **Decision**

After evaluating all of the facts, the court found that the defendant committed the assault, namely by kicking him in the stomach and arm and damaging equipment at Maliana Referral Hospital. Meanwhile the court did not prove that the victim felt threatened and could not work. Based on the facts that were proven, the court sentenced the defendant to 3 months in prison suspended for 1 year and ordered him to pay court costs of US\$ 20.

## **6. Crime of aggravated property damage and threats**

Case No.	: 0053/14. ANANV
Composition of the Court	: Panel
Judges	: Alvaro Maria Freitas, Argentino Luisa Nunes and Benjamin Barros
Prosecutor	: Napoleão Soares da Silva
Defence	: Albino de Jesus Pereira
Decision	: 3 years in prison, suspended for 5 years

On 14 May 2019 the Suai District Court announced its decision in a case of aggravated property damage and threats involving the defendant Vivaldo Caisar Carles and the victim Celeste Sarmiento dos Reis, who is the mother of the defendant, that allegedly occurred in Ainaro District.

### **Charges of the public prosecutor**

The public prosecutor alleged that on 26 October 2015, at 11:30am, the defendant returned home drunk and threatened to kill the victim. The defendant also took a machete and smashed a television, a computer, a fridge, a mio motorcycle, 20 plastic chairs and goods in the kitchen. As a consequence of the defendant's actions, the victim felt afraid, sad and the victim suffered an unspecified loss.

The prosecutor alleged that the defendant committed the crime of aggravated property damage provided for in Article 259 of the Penal Code which carries a sentence of two to eight years in prison or a fine and Article 157 of the Penal Code on threats which carries a sentence of up to one year or a fine.

Before moving to the production of evidence, the court attempted conciliation for the crime of threats and the victim wanted to withdraw the complaint. Based on the victim's request, the court endorsed the request to withdraw the complaint and continued to try the crime of aggravated property damage.

### **Presentation of evidence**

During the trial the defendant acknowledged that he smashed the goods as mentioned in the indictment of the prosecutor but did not use a machete to smash these goods but took an axe to smash them. The defendant stated that he returned home drunk and the victim asked him "*Why are you drunk every day and night?*" Therefore, the defendant become angry and took an axe and smashed 20 plastic chairs, a mio motorcycle and a fridge. The defendant grabbed an akira television and a computer and threw them on the ground.

The defendant acknowledged that his actions were bad, regretted his actions and at that time the defendant immediately apologised to the victim and promised not to drink alcohol in the future.

The victim confirmed the facts set out in the indictment of the prosecutor and stated that the defendant returned home and smashed all of the goods as described in the indictment. The victim also said the defendant replaced all of the damaged goods and the defendant fixed the motorcycle. The defendant also stated that since this incident he has not drunk any alcohol.

## **Final recommendations**

The prosecutor argued that the defendant did not behave properly as a son, but rather damaged goods belonging to his parents. The defendant always came home drunk and threatened his own mother (the victim). Regarding the crime of making threats, the victim withdrew the complaint and the prosecutor considered all of the circumstances including deterring the defendant from committing any crimes in the future, and requested for the court to impose a prison sentence of five years against the defendant.

The public defender requested for the court to provide justice for the defendant because the defendant confessed, apologised to his mother and promised not to commit such acts in the future.

## **Decision**

After evaluating the facts that were produced during the trial, the court found that the defendant committed the crime of aggravated property damage for damaging goods such as 20 plastic chairs, a mio motorcycle, a fridge, an akira TV and a computer. Based on all of the facts that were proven, the court sentenced the defendant to 3 years, suspended for 5 years.

## **7. Crime of smuggling**

Case No.	: 0089/18.CVSUI
Composition of the Court	: Panel
Judges	: Nasson Mario Armindo Marques Doutel, Florensia Freitas, Samuel da Costa Pacheco
Prosecutor	: Ricardo Godinho Leite
Defence	: Fernando da Costa (private lawyer)
Decision	: 2 years in prison, suspended for 3 years

On 16 May 2019 the Suai District Court announced its decision in a case of smuggling involving the defendants Hendrikus Ximenes, Arcansio de Oliveira and Cornelio Sarmiento, that allegedly occurred in Suai District.

## **Charges of the public prosecutor**

The public prosecutor alleged that on 6 July 2018, at 5:30pm, Izac, who is a member of the Timor-Leste National Police (PNTL) was driving a vehicle and picked up Simão who is a member of the Border Patrol Unit (UPF) and they also picked up two members of F-FDTL to travel to Tilomar. When they arrived at the Koitau intersection, they met the three defendants who were on motorcycles carrying kerosene and petrol. Each defendant was riding a motorcycle loaded with three jerry cans travelling from the Tilomar area to sell their goods in Salele when they were seen by the members of PNTL and F-FDTL. The PNTL and F-FDTL members stopped the three defendants and Simão asked them “*Where did you get the kerosene?*” and the

defendants said “*We got the kerosene from Tilomar.*” Simão also said “*There is nobody selling kerosene in Tilomar, therefore it must have been obtained via illegal channels.*” Therefore the members of PNTL and F-FDTL immediately arrested the three defendants.

The defendants were engaged in illegal commerce, and had a contract with Indonesians to import 9 jerry cans of kerosene and petrol totalling 315 litres valued at US\$242.00. The defendants imported the fuel without permission from Timor-Leste Customs. The defendants' actions disadvantaged the State of Timor-Leste, because they did not pay tax to the State of Timor-Leste.

The public prosecutor alleged that the defendants violated Article 316 of the Penal Code on smuggling that carries a maximum penalty of 2 - 6 years in prison or a fine.

### **Presentation of evidence**

During the trial the defendants confessed all of the facts set out in the indictment and stated that they regretted their actions. The defendants also stated that they purchased the kerosene and petrol via an illegal channel to be sold at Salele. The defendants also acknowledged that the kerosene and petrol did not go via Customs and no tax was paid to the State of Timor-Leste. The public prosecutor did not require testimony from witnesses because the defendants confessed all of the facts set out in the indictment.

### **Final recommendations**

The public prosecutor stated that the defendants were guilty of committing the crime of smuggling based on the facts set out in the indictment of the public prosecutor. The public prosecutor stated that the allegations were proven based on the full confession of the defendants. However, considering the regret expressed by the defendants after the incident, and also considering that they did not purchase any more kerosene and petrol via illegal channels, the public prosecutor requested for the court to impose a suspended sentence against the defendants.

Meanwhile, the defence requested for the court to impose a lenient penalty against the defendants because they confessed all of the facts and collaborated with the court.

### **Decision**

After evaluating the facts, the court found that the defendants had purchased kerosene and petrol according to the allegations set out in the indictment via an illegal channel and this disadvantaged the State of Timor-Leste because no tax was paid. Based on the facts that were proven, and after considering all of the circumstances surrounding this crime, the court concluded the matter and sentenced the defendants to 2 years in prison, suspended for 3 years.

## **8. Crime of mistreatment of a spouse**

Case No. : 0029/18. DBMLY

Composition of the Court : Panel

Judges : Naason Mario Armindo Marques Doutel, Florencia

Freitas and Samuel da Costa Pacheco

Prosecutor : Ricardo Godinho Leite  
Defence : Albino de Jesus Pereira  
Decision : 2 years in prison, suspended for 3 years

On 29 May 2019 the Suai District Court conducted a hearing to announce its decision in a case of maltreatment against a spouse involving the defendant CM who allegedly committed the offence against his wife FdJ in Bobonaro District.

### **Charges of the public prosecutor**

The prosecutor alleged that on an unspecified date in January 2018 the defendant returned from work and the victim said to the defendant "*You have money to buy food from food stalls all the time, but I don't have any money to buy anything at all, and I have to eat at home*". After hearing the victim's comments, the defendant struck the victim three times on her right ear, took a mosquito wand and struck the victim three times on the back. These actions caused the defendant to suffer swelling, redness and pain to her ear and back.

On 22 March 2018, at 8:00am, the defendant and the victim argued because many family members were at their house. The defendant struck the victim three times in the ear which caused the victim to fall to the ground and she suffered swelling and pain to her ear. The victim received treatment at the Maliana Health Centre. The prosecutor also alleged that while they were living together the defendant constantly beat the victim but the victim never made a complaint.

The public prosecutor alleged that the defendant violated Article 154 of the Penal Code on mistreatment of a spouse that carries a maximum penalty of 2-6 years in prison.

### **Presentation of evidence**

During the trial the defendant totally confessed to the allegations set out in the indictment of the prosecutor and stated that he struck the victim on 22 March and he immediately took the victim to the Maliana Health Centre for treatment, and the defendant stated that he regretted his actions and promised not to commit such acts in the future.

The victim confirmed the facts set out in the indictment of the prosecutor and also confirmed the statement of the defendant that he took the victim to the Maliana Health Centre for treatment. The victim also stated that since the incident on 22 March the defendant has not hit the victim.

### **Final recommendations**

The public prosecutor requested for the court to impose a suspended prison sentence against the defendant to deter such crimes in the future because the defendant was guilty of committing the

crime of maltreatment against the victim based on the full confession of the defendant and the confirmation of the victim.

The public defender requested for the court to consider the mitigating circumstances because the defendant confessed, regretted his actions, and despite having some problems the defendant and victim are still living together and the defendant has not hit the victim since this incident. For this reason the public defender requested for the court to impose a lenient suspended sentence.

### **Decision**

The court found that the defendant committed the crime of maltreatment against the victim based on the full confession of the defendant and the confirmation of the victim. After considering all of the circumstances surrounding this crime, the court concluded the matter and sentenced the defendants to 2 years in prison, suspended for 3 years. The court also ordered the defendant to pay court costs of US\$20.

For more information, please contact:

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