



## Judicial **System** Monitoring Programme Programa Monitorizasaun **Sistema** Judisiáriu

**Press Release**  
**Oecusse District Court**  
**14 December 2017**

### **JSMP requests for prosecutors to be proactive in assessing facts during the examination of evidence and guarantee protection for the interests of justice**

On 10 October 2017 the Oecusse District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant RL who allegedly committed the offence against her husband. During the trial the court acquitted the defendant after finding that the defendant's actions were legitimate self-defence.

The acquittal was based on the statement of the defendant, which was confirmed by the victim, that when the incident occurred the victim had choked the defendant and pushed her down on the bed when the defendant was asleep. Therefore, the defendant bit the victim on the left side of his stomach in self-defence, but the victim did not release the defendant. The defendant tried to defend herself and was reaching around for a piece of wood but she could not find one and instead she found a machete. The defendant tried to slash the victim's earlobe with the machete so that he would let go of her hand and finally the victim let go of her throat.

“In cases like this the prosecutor needs to be proactive in assessing the facts produced during the trial and ensure that perpetrators of crime need to be investigated and held responsible for the crime they have committed”, said the Executive Director of JSMP, Luis de Oliveira Sampaio.

JSMP found that the prosecutor failed to establish the facts to show that the defendant was in fact the victim in this case. Actually the prosecutor should have analysed how the victim's actions could endanger the life of the defendant. The facts were further confirmed during the examination of evidence that the victim acknowledged that he had first choked the defendant.

We can imagine that at that moment if the defendant did not find the machete that she used to defend herself then she could have died or suffered other serious consequences, because the victim's assault threatened the life of the defendant.

In such circumstances the prosecutor or the court needed to consider investigating the victim for the crime he committed against the defendant. The victim could have been charged with attempted homicide because the victim choked the defendant and held the defendant down on the bed which could have potentially endangered the life of the defendant. This was a serious assault and could have taken the life of the defendant if she had not managed to defend herself at that moment.

However, JSMP congratulates the court for considering legitimate self-defence in its decision. Based on JSMP's observations, there have been some cases involving female defendants where legitimate self-defence has been considered by the courts when making a decision.

JSMP was really concerned with this situation, and therefore in February 2017 JSMP produced a report entitled "Women who have experienced domestic violence and self-defence in Timor-Leste".\*

In this report JSMP recommended for public defenders to properly consider the evidence in each case and present all evidence that will help their client. Especially, if women commit homicide, or try to kill their intimate partner in self-defence, then public defenders need to present all relevant evidence to support the statements of their clients, including incidents of domestic violence in the past where their clients were victimised.

In this case the public defender argued that the defendant committed the crime against the victim in legitimate self-defence. If the defendant did not do anything, she could die because the victim was choking her.

JSMP hopes that in future cases all of the courts will consider legitimate self-defence as an important factor in their decision making.

For more information, please contact:

Luis de Oliveira Sampaio  
Executive Director of JSMP  
Email address: [luís@jsmp.tl](mailto:luís@jsmp.tl)

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\* [http://jsmp.tl/wp-content/uploads/2012/05/Battered-women\\_JSMP-report-2017\\_TETUM.pdf](http://jsmp.tl/wp-content/uploads/2012/05/Battered-women_JSMP-report-2017_TETUM.pdf)