



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

**Press Release  
The Dili District Court  
09 October 2020**

**The public prosecution service charges male defendant for instigating the crime  
of infanticide  
JSMP praises this decision as an important step forward**

JSMP praises the Public Prosecution Service for charging a man who impregnated a woman and pressured her to commit infanticide by instigating the crime of infanticide in a case that occurred on 22 January 2019, in Ermera Municipality. JSMP monitored this case through the Mobile Court in Ermera Municipality, on 21 September 2020.

JSMP believes that charges like this are an important step forward, because normally in cases of infanticide the Public Prosecution Service only charges the mother even if the circumstances show that a female defendant has suffered psychological pressure from her partner/the father of the baby or another person.

“The charges show that the courts, and the Public Prosecution Service in particular, continue to show sensitivity when charging defendants in cases of infanticide. It is hoped that in the future they will continue to investigate and also charge the father of the child or any other person who exerts pressure, makes threats, or uses force, which JSMP has been recommending,” said the Executive Director of JSMP, Ms. Ana Paula Marçal.

In December 2016 JSMP published a report on infanticide. The report was entitled **The phenomena of infanticide requires different mechanisms and collective prevention efforts.**<sup>1</sup> In this report JSMP recommended for the courts to consider that the father of the child who exerts pressure on a woman to commit infanticide should be considered as a perpetrator in accordance with Article 31 of the Penal Code on instigation. This article states that a person is punishable who, directly and maliciously, instigates another person to commit the crime, if said crime is actually committed or initiated.

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<sup>1</sup> JSMP report on infanticide is available at [https://jsmp.tl/wp-content/uploads/2012/06/JusticeUpdateKrimInvantisidio\\_Tetum.pdf](https://jsmp.tl/wp-content/uploads/2012/06/JusticeUpdateKrimInvantisidio_Tetum.pdf)

In the aforementioned case the prosecutor's indictment did not only mention the sexual relationship between the male defendant and the female defendant who were in a romantic relationship which resulted in the female defendant becoming pregnant, but it also stated that the female defendant killed her baby, because when she was two months pregnant she told the male defendant, but he threatened her not to tell her family and that she had to get rid of the foetus. He said that if she told anyone and did not get rid of the foetus, then he would kill her or beat her to death.<sup>2</sup>

In relation to this case the prosecutor charged the female defendant with Article 142 of the Penal Code on the crime of infanticide which carries a prison sentence of 3-10 years and charged the male defendant with Article 31 of the Penal Code on instigation.

During the trial the female defendant confirmed the facts set out in the indictment that she killed her baby because when she was two months pregnant she told her boyfriend and he threatened her not to tell her family about the pregnancy told her to get rid of the foetus, and if she told anyone and didn't get rid of the foetus he would find a way to kill her or beat her to death.

Also, the female defendant stated that the two of them were in a romantic relationship and had sexual intercourse many times until she became pregnant. Because of the threats, the female defendant was afraid and did not tell her family, and in the end she gave birth to the baby in the bathroom and she choked the baby twice and caused its death, and because she was afraid she put the baby in a bucket and took it with a hoe to a plantation and buried the baby.

The male defendant denied all of the facts in the indictment and stated that he knew the female defendant, because they were neighbours, although they lived in different sub-villages within the same village, and they never met up and prior to the incident the male defendant went to the home of the female defendant, because he was friends with her older brother, and he went to her home once or twice a month, but did not meet with her. The male defendant also said that he was not in a romantic relationship with the female defendant and did not have sex with her and did not threaten her.

The witness (JF), who is a neighbor, testified that he found the baby in a plantation, so he informed the police. Also, the witness stated that when the police took the baby for an autopsy, the witness did not see the male defendant. And after the autopsy when the baby's body was brought back, the witness did not see the male defendant.

After hearing testimony from the female defendant, the male defendant and witnesses, the prosecutor requested for the court to cross-examine the male defendant because he denied all of the facts in the indictment. The defence requested for the court to conduct a DNA test because the male defendant wanted to have a blood test. After considering these requests, the court granted the request of the defence. Therefore, the court requested for the Scientific and Criminal Investigations Police Unit (PSIC) to present the

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<sup>2</sup> Complete information about this case will be available in JSMP's case summary that JSMP will publish after the conclusion of the trial.

results of a DNA test on the baby and the defendant within 30 days. Meanwhile the court did not grant request of the prosecutor.

JSMP hopes that a positive outcome can be achieved in this case, in line with JSMP's concerns and recommendations to date, that will deter the crime of infanticide in the future.

The trial of this case was presided over by a Panel of Judges comprising Argentino Nunes, João Ribeiro, and Zulmira Auxiliadora Barros. The Public Prosecution Service was represented by Simeão Brites Ceixes. Meanwhile, the male defendant and female defendant were represented by Laura Valente Lay (Office of the Public Defender) and Alipio Gonçalves (Private Lawyer). This case was registered as Case No. No. 0004/19. ERRLK.

For more information, please contact:

Ana Paula Marçal

Executive Director of JSMP

Email: [ana@jsmp.tl](mailto:ana@jsmp.tl)

Telephone: 3323883 | 77040735

Website: <http://jsmp.tl>