



**Case Summary
Baucau District Court
January 2022**

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 Baucau District Court

1. Total number of cases monitored by JSMP: 16

Articles	Case Type	Total Number
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 (Article 2 on the concept of domestic violence, Article 3 on family relationships, Article 35 on different types of domestic violence (DV) and Article 36 on domestic violence as a public crime)	3
Article 154 of the PC & Articles 2, 3, and 35 (a) of the Law Against Domestic Violence	Mistreatment of a spouse	3
Article 20 (1) of the Law on Bladed Weapons	Bladed weapons	1
Article 172 of the PC	Rape	1
Article 259 of the PC	Aggravated property damage	1
Article 258 of the PC	Property damage	2
Article 207 of the PC	Driving without a licence	2
Article 171 of the PC	Sexual coercion	1
Article 145 of the PC & Articles 2, 3, and 35	Simple offences against physical integrity characterized as DV and use of a bladed weapon	1

(b) of the LADV and Article 20 (1), Article 2 (2 f) of the Law on Bladed Weapons		
Article 157 of the PC	Threats	1
Total		16

2. Total decisions monitored by JSMP: 8

Type of decision	Articles	Total Number
Fine	Article 67 of the PC	4
Endorsed Agreement	Article 216 of the CPC	3
Suspension of execution of a prison sentence	Article 68 of the PC	1
Total		8

3. Total cases adjourned based on JSMP monitoring: 0

4. Total ongoing cases based on JSMP monitoring: 8

B. Short description of the trial proceedings and decisions in these cases

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

Case Number : 0009/21. BCVMS
Composition of the Court : Single Judge
Judge : José António d. Escurial
Prosecutor : João Marques
Defence : Grigório Maria Lourdes de Lima
Decision : Fine of US\$ 15.00

On 3 January 2022 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant SdS and the victim, his wife, which allegedly occurred in Baucau Municipality.

Charges of the Prosecutor

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The public prosecutor alleged that on 4 July 2021, at 3pm, the defendant was carrying a jerrycan containing 5 litres of water and threw it at the victim's back. The defendant also took a piece of dried wood and struck the victim once on her left calf. Prior to this assault, the defendant and the victim argued because the defendant closed the door on the victim and made the victim wait outside, so the victim complained to the victim and the assault occurred.

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.

Examination of evidence

During the trial, the defendant stated that at that time the victim was sitting in the doorway and the defendant couldn't go in, so the defendant shut the door, leaving the victim outside. Therefore, they argued and then the defendant committed the assault as described in the indictment. The defendant added that they started a family in 2015, and they have two children, and this was the first time that he had assaulted the victim, and after the defendant was released from police detention they reconciled, and he has not hit the victim again.

Also, the victim reinforced the facts set out in the indictment and confirmed the defendant's statement that they have reconciled and until now the defendant has not assaulted her again.

Final recommendations

The public prosecutor stated that even though they have reconciled and have continued living together as husband and wife, to prevent the defendant from being accustomed to using violence against the victim and their children in the future, the prosecutor requested for the court to order the defendant to pay a fine.

The defence stated that that the defendant confessed the facts of this crime, has reconciled, regretted his actions, and this was the first time he has assaulted the victim, therefore the defence requested for the court to impose a fair penalty against the defendant.

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Decision

After evaluating all of the facts, the court found that the defendant was carrying a jerrycan containing 5 litres of water and threw it at the victim's back. The defendant also took a piece of dried wood and struck the victim once on her left calf. Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, was a first-time offender, and has reconciled with the victim, the court concluded this matter and ordered the defendant to pay a fine of US\$15 to be paid in instalments of US 50 cents per day for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

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

Case Number : 0005/21. BCQLC
Composition of the Court : Single Judge
Judge : José António d. Escurial,
Prosecutor : João Marques
Defence : Grigório Maria Lourdes de Lima
Decision : Fine of US\$ 15.00

On 3 January 2022 the Baucau District Court read out its sentence in a case of simple offences against physical integrity characterized as domestic violence involving the defendant BCS and the victim, his wife, which allegedly occurred in Baucau Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 5 February 2021 at 8pm the defendant slapped the victim twice on her left ear and this made the victim fall to the ground. The victim stood up and took a knife, and then the defendant struck her on the hand that was holding the knife, therefore the knife struck the victim in the head and caused an injury. Prior to this assault, the victim prepared some food and went to lie down, however the defendant woke the victim up to have dinner, but the victim said that she was tired. The defendant was dissatisfied and asked what the victim did that day to make her tired. Therefore, they argued, and the assault took place.

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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.

Examination of evidence

During the trial, the defendant stated that all of the facts alleged by the prosecutor were true. The defendant also stated that after this incident the defendant and the victim immediately reconciled, and he regretted his actions. The defendant promised not to hit the victim again in the future. The defendant added that they started living together in 2011, they don't yet have any children, this was the first time he hit the victim, and he works as a farmer to provide for his family.

Also, the victim confirmed all of the facts in the indictment and stated that after this incident, the two families sat together to resolve this problem in accordance with local culture and since then the defendant has not hit the victim.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing the crime against the victim and the assault committed by the defendant fulfilled the elements of Article 145 of the Penal Code, therefore even though they have reconciled, it is necessary to deter the defendant from reoffending against any family member or other person in the future. With consideration of these circumstances, the public prosecutor requested for the court to order the defendant to pay a fine of US\$60.00

The defence stated that the defendant confessed the acts he committed against the victim as set out in the indictment, regretted his actions, has reconciled with the victim, and was a first-time offender. Therefore, the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant slapped the victim twice on her left ear which caused the victim to fall to the ground. The court also proved that the victim stood up and took a knife, however the defendant struck her on the hand that was holding the knife, and the knife struck the victim in the head and caused an injury. Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, was a first-time offender, and has reconciled with the victim, the court concluded this matter and ordered the defendant to pay a fine of US\$15 to be paid in instalments of US 50 cents

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per day for 30 days. The court also imposed an alternative penalty of 20 days in prison if the defendant does not pay this fine.

3. Crime of simple offences against physical integrity characterized as domestic violence and crime of using a bladed weapon

Case Number : 0030/20. VQVQQ
Composition of the Court : Panel
Judges : Sribuana da Costa and Florencia Freitas and
Jumiaty Maria Freitas
Prosecutor : Julio da Silva Correia
Defence : António Fernandes
Decision : Prison sentence of 3 years, suspended for years

On 27 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, announced its decision in a case involving simple offences against physical integrity characterized as DV and use of a bladed weapon involving the defendant PSP who allegedly committed the offence against his wife, in Viqueque Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 27 November 2019, at 6pm, the defendant used a machete and slashed the victim on the back of her neck which caused a small injury. The defendant also punched the victim five times in the head, punched her twice in the back and punched the victim three times on the shoulder. Prior to this assault, the victim asked the defendant for some money to pay a debt, so they argued, and the assault occurred.

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 and Article 20.1 and Article 2.2 (f) of the Law on Bladed Weapons.

Examination of evidence

During the trial the defendant stated that at the time of this incident the defendant was asleep, and the victim came and said a lot of things which startled the defendant, and he woke up, so they started arguing about US\$60.00 to pay for three statues that they had purchased to put in the chapel. When they argued the victim went to the kitchen and the defendant followed the victim into the kitchen and took a short machete from the kitchen and held the top of the machete and struck the victim on the back of the head three times, not on the back of her neck. Also, the defendant acknowledged that he punched the victim five times in the head, punched her twice in the back and

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punched the victim three times on the shoulder. The defendant also stated that he was a first-time offender, regretted his actions, and after being released from police detention he immediately reconciled with the victim and since then he has not hit the victim.

The victim stated that during this incident the victim was facing the other way, so she did not know if the defendant used a machete to slash or hit her. Also, the victim acknowledged that the defendant punched her five times in the head, punched her twice in the back and punched her three times on the shoulder. The victim was treated in hospital and received medication and the wound in her head did not require stitches, but just some cream. After this incident the families sat together to resolve this problem and the defendant apologised to the victim.

Final recommendations

The public prosecutor stated that the defendant was guilty of committing these crimes concurrently because to defendant took a machete to commit the crime of using a bladed weapon and assaulted the victim. Therefore, even though they have reconciled, to deter the defendant from reoffending in the future, the prosecutor requested for the court to impose a single penalty against the defendant of two years in prison, suspended for three years.

Meanwhile, the defence stated that the victim stood up and turned away, so she did not see the defendant slash her in the head with a machete. The defendant believed that the defendant was holding a machete and the base of the machete struck the victim in the head, because the doctor's did not stitch up the victim's head because it was a small injury and swelling, because the defendant did not slash her with the machete, as it was only the base of the machete that struck the victim. Also, the defendant regretted his behaviour, has reconciled with the victim and was a first-time offender, so the defence requested for the court to impose a fair penalty against the defendant.

Decision

After evaluating all of the facts, the court found that the defendant took a machete and slashed the victim on the back of her neck, and punched the victim five times in the head, punched the victim twice in the back and punched the victim three times in the shoulder. Based on the facts that were proven and consideration of the mitigating circumstances, namely that the defendant confessed, regretted his actions, was a first-time offender, and has reconciled with the victim, the court concluded this case and for the crime of simple offences against physical integrity sentenced the defendant to six months in prison, and for the crime of using a bladed weapon sentence the defendant to three years in prison. The court combined these penalties and sentenced the defendant to a single penalty of 3 years in prison, suspended for 3 years.

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4. Crime of property damage

Case Number : 0033/17. VQVQQ
Composition of the Court : Single Judge
Judge : Sribuana da Costa
Prosecutor : Ambrósio Rangel Freitas
Defence : Sidonio Maria Sarmento
Decision : Withdrawal of complaint

On 24 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, conducted a hearing to attempt conciliation in a case of property damage involving the defendants Joanino S Pinto, Zacarias Sarmento, Cipriano Pinto, Januario S. Pinto, Atoy da Silva, Inocensio Ramos H, Marcelino Carlos P. F. Sarmento and Paulsencio Sarmento and the victims Afonso Pinto, Manuel Soares and Agostu Pinto, which allegedly occurred in Viqueque Vila Administrative Post, Viqueque Municipality.

Charges of the Prosecutor

The prosecutor alleged that on 2 November 2017, at 9pm, the defendants went to the home of the victim Agostu and damaged 20 planks of wood, 10 palm leaf stalks forming the walls of a kiosk, one window, one sheet of corrugated iron and one motorcycle. After damaging the goods belonging to Agostu, the defendants threw stones at his house and damaged four windows and a sheet of corrugated iron and also threw stones and damaged nine sheets of corrugated iron belonging to the victim Manuel. As a consequence of the actions of the defendants, the victims suffered damage totalling US\$1,000. The incident occurred because previously they had a dispute over land.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage with that carries a maximum penalty of 3 years in prison or a fine.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendants and victims.

During this attempted conciliation, the victims wished to withdraw their complaint against the defendants, because the defendants had given US\$500.00 to the victim Agostu to pay for the goods they had damaged. Regarding the victims Afonso and Manuel, the defendants gave US\$50.00 to each of them to pay for the goods damaged by the defendants. Also, the defendants expressed regret for their actions and promised not to repeat such acts in the future.

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Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the amicable agreement between the two parties and the request of the victims to withdraw the complaint, the Court decided to validate the settlement.

5. Crime of property damage

Case Number : 0055/20. VQWTL
Composition of the Court : Single Judge
Judge : Sribuana da Costa
Prosecutor : Ambrósio Rangel Freitas
Defence : Antonio Fernandes
Decision : Withdrawal of complaint

On 24 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, conducted a hearing to attempt conciliation in a case of property damage involving the defendants Feliciano Freitas, Pedro Soares, Mateus Pinto, Celestino Aparicio, Fonciano Madeira and Marcos Amaral and the victim Luis Gusmao, which allegedly occurred in Uatulari Administrative Post, Viqueque Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 15 October 2020 the defendant Feliciano Soares set up a noose to catch a cow in his plantation, because every night a cow entered into the defendant's plantation and ate cassava and other crops. At that time a cow belonging to the victim got caught in the defendant's noose, so the defendant threw a spear at the cow and struck it on the back, then the cow ran away and the rope snapped so the defendant did not manage to kill the cow. Therefore, the defendant summoned the other defendants Pedro Soares, Celestino Aparicio, Marcos Amaral, Mateus Pinto and Fonciano Madeira, to bring dogs and they chased the cow to Uatulari. The defendants saw that the cow couldn't run any further and was lying on the ground, so the defendant cut up the cow and shared the meat, and then the victim arrived at the location. The defendants caused the victim to suffer a loss of US\$700.00.

The public prosecutor alleged that the defendants violated Article 258 of the Penal Code on property damage with that carries a maximum penalty of 3 years in prison or a fine.

Examination of evidence

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Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendants and the victim.

During this attempted conciliation, the victim wished to withdraw the complaint against the defendants, because the defendants used their own initiative to pay for the victim's cow, totalling US\$500.00, therefore the victim accepted this offer and received the money.

Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the amicable agreement between the two parties and the victim's request to withdraw the complaint, the court concluded the matter and endorsed the agreement.

6. Crime of driving without a license

Case Number : 0002/20. VQSTR
Composition of the Court : Single Judge
Judge : Florencia Freitas
Prosecutor : Julio da Silva Correia
Defence : Antonio Fernandes
Decision : Fine of US\$ 45.00

On 24 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, conducted a trial for the crime of driving without a licence involving the defendants Carlos Rangel and Cesario Ximenes, who allegedly committed the offence against the State of Timor-Leste, in Viqueque Vila Administrative Post, Viqueque Municipality.

Charges of the Prosecutor

The prosecutor alleged that on 21 February 2020, at 3pm, the defendant Carlos Rangel was riding a motorcycle with the number plate G.2392 from Bahalarawain heading towards Viqueque Vila. At the same time, the defendant Cesario Ximenes was also riding a motorcycle with the number plate J.8081 TIs and that motorcycle did not have any lights. Therefore, when they arrived at Derok-oan, the defendant Cesario moved into the path of the defendant Carlos and the handlebars of his motorcycle got caught up in the motorcycle of the defendant Carlos and they collided. Both of these defendants did not have a driving licence.

The public prosecutor alleged that the defendants violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Examination of evidence

During the trial the defendants Carlos Rangel and Cesario Ximenes confessed all of the facts set out in the indictment and stated that they regretted their actions. The defendants also stated that previously in 2009 the defendants organised a driving licence and paid the bank, however they have not yet picked up their driving licences. The defendants added that when they received a notification from the court regarding this case, they picked up their driving licences and they now have a driving licence.

Final recommendations

The public prosecutor stated that the defendants were guilty of committing the crime of driving without a licence based on the confession, so the prosecutor requested for the court to sentence the defendants to 1 year in prison, suspended for 1 year.

The defence stated that the defendant confessed, regretted their actions and now have a driving licence, therefore the defence requested for the court to impose a fine on the defendants.

Decision

After evaluating all of the facts, the court found that the defendant Carlos Rangel was riding a motorcycle with the number plate G.2392 from Bahalarawain heading towards Viqueque Vila and at the same time the defendant Cesario Ximenes was riding a motorcycle with the number plate J.8081 TIs which did not have any lights. The court also found that when they arrived at Derok-oan, the defendant Cesario moved into the path of the defendant Carlos and the handlebars of his motorcycle got caught up in the motorcycle of the defendant Carlos and they collided.

Based on the facts that were proven, and consideration of the mitigating circumstances, namely the defendants confessed, and regretted their actions, the court concluded this matter and ordered the defendants to pay a fine of US\$45 to be paid in instalments of US\$0.50 cents per day for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendants do not pay the fine.

7. Crime of driving without a license

Case Number : 0015/20. VQSTR
Composition of the Court : Single Judge
Judge : Florencia Freitas

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Prosecutor : Julio da Silva Correia
Defence : Antonio Fernandes
Decision : Fine of US\$ 45.00

On 28 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, conducted a trial for the crime of driving without a licence involving the defendant Matias E. Xavier, who allegedly committed the offence against the State of Timor-Leste, in Viqueque Vila Administrative Post, Viqueque Municipality.

Charges of the Prosecutor

The public prosecutor alleged that on 19 September 2020, at 2:00am, Megalino Gomes was riding a Yamaha Jupiter MX motorcycle with the number plate E.2568 TIs, from Wetalitula to return to his home. When he arrived in Kawa Uma he encountered the defendant who was riding a Honda motorcycle with the number plate N.9945 TIs and the defendant rode into the path of Megalino. Therefore, the defendant collided with the front part of Megalino's motorcycle. The defendant did not have a driving licence.

The public prosecutor alleged that the defendant violated Article 207 of the Penal Code on driving without a licence that carries a maximum penalty of two years in prison or a fine.

Examination of evidence

During the trial the defendant confessed to all of the facts in the indictment and stated that at that time he was intoxicated and lost control of the motorcycle that he was using, and this motorcycle did not belong to him. The defendant added that the defendant does not yet have a driving licence because he does not have a motorcycle. The defendant also stated that he regretted his actions and was a first-time offender.

Final recommendations

The prosecutor stated that the defendant was guilty of committing the crime of driving without a licence, and therefore requested for the court to impose a fine of US\$50.00 against the defendant.

The defence requested for the court to impose a fair penalty against the defendant because the defendant confessed, regretted his actions and is a first-time offender.

Decision

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After evaluating all of the facts, the court found that the defendant was riding a motorcycle without a driving licence. Based on the facts that were proven, and with consideration of the mitigating circumstances, namely the defendant confessed, regretted his actions, and was a first-time offender, the court concluded this matter and ordered the defendant to pay a fine of US\$45 to be paid in instalments of US 50 cents per day for 90 days. The court also imposed an alternative penalty of 60 days in prison if the defendant does not pay this fine.

8. Crime of making threats

Case Number : 0055/20. VQVQQ
Composition of the Court : Single Judge
Judge : Sribuana da Costa
Prosecutor : Julio da Silva Correia
Defence : Antonio Fernandes
Decision : Withdrawal of complaint

On 28 January 2021 the Baucau District Court, through the mobile court in Viqueque Municipality, conducted a hearing to attempt conciliation for the crime of threats involving the defendant EA who allegedly committed the offence against his wife in Viqueque Municipality.

Charges of the Prosecutor

The prosecutor alleged that on 25 October 2020, at 1.00pm, the victim told the defendant to find work to provide for the household, but the defendant did not want to. Therefore, they argued and the defendant told the victim to get a machete so he could chop up the victim's mouth. When she heard this threat, the victim felt afraid and fled to the home of her parents.

The public prosecutor alleged that the defendant violated Article 157 of the Penal Code on making threats with that carries a maximum penalty of 1 year in prison or a fine.

Examination of evidence

Before progressing to the presentation of evidence, pursuant to Article 262 of the Criminal Procedure Code on attempted conciliation, the judge requested an attempt to reach conciliation between the defendant and victim.

During this attempted conciliation the victim wanted to withdraw the complaint against the defendant because they have reconciled and asked the defendant not to repeat such behaviour in the future. The defendant agreed with victim's request and also stated that he regretted his actions.

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Final recommendations

The prosecution and defence accepted the amicable agreement between the two parties and requested for the court to settle this process.

Decision

Based on the amicable agreement between the two parties and the request of the victim to withdraw the complaint, the Court decided to validate the settlement.

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