



**Case Summary**  
**The Dili District Court**  
**June 2020**

**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 Dili District Court**

**1. Total number of cases monitored by JSMP: 18**

Articles	Case Type	Number of Cases
Article 145 of the Penal Code (PC) as well as Articles 2, 3 & 35(b) and 36 of the Law Against Domestic Violence (LADV)	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence.	6
Article 145 (PC), as well as Articles 2, 3, 35(b) and 36 (Law Against Domestic Violence) and Article 157 of the PC	Simple offences against physical integrity characterized as domestic violence and types of offences categorised as domestic violence and threats	1
Article 177(1) and 182 of the PC	Aggravated sexual abuse of a minor	1
Article 154 of the PC	Mistreatment of a spouse	1
Article 296 of the PC	Misappropriation of public assets	1
Article 303 of the PC	Forgery of documents or technical report	1
Articles 183 and 157 of the Penal	Public disclosure of private information	1

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Code	and threats	
Article 141 of the PC	Termination of Pregnancy	1
Article 146 of the PC	Serious offences against physical integrity	1
Article 151 of the PC	Reciprocal offences against physical integrity	1
Article 138 of the PC	Homicide	1
Article 253 of the PC	Robbery	1
Articles 145 and 258 of the Penal Code	Simple offences against physical integrity and property damage	1
<b>Total</b>		<b>18</b>

## 2. Total decisions monitored by JSMP: 11

Type of Decision	Articles	Number of Decisions
Suspension of execution of a prison sentence	Article 68 of the PC	4
Fine	Article 67 of the PC	3
Penalty of admonishment	Article 82 of the PC	2
Validating withdrawal of complaint		2
<b>Total</b>		<b>11</b>

## 3. Total number of cases adjourned based on JSMP monitoring: 0

## 4. Total ongoing cases based on JSMP monitoring: 7

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

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

Case Number : 0479/19 DICMR  
Composition of the Court : Single Judge  
Judge : Ersilia de Jesus  
Prosecutor : Gustavo A. da Silva Moreira  
Defence : José da Silva  
Decision : Fine of US\$60.00

On 5 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MdC who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 26 August 2019, at 7pm, the defendant took a piece of wood and struck the victim once on her right arm and struck the victim once on her right thigh. These acts caused swelling and redness to the victim's right arm and an injury to her thigh. Prior to this assault, the victim asked the defendant for some money to buy some vegetables, but the defendant said there was no money and therefore 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) of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant partially confessed to the facts set out in the indictment that he took a piece of wood and struck the victim once on the thigh, because the victim had thrown a helmet at the defendant and struck him on the fingers of his left hand and caused an injury. In addition, the defendant stated that he did not strike the victim on the arm but acknowledged that he struck the victim once on the thigh.

The defendant also stated that they argued about money that the defendant's older brother had sent from Korea and the money had all been distributed between the defendant's younger siblings. However, the defendant stated that he regretted his actions and promised not to reoffend in the future. The defendant added that after this incident, the victim has separated from the defendant, but the defendant still considers the victim to be his wife and he has asked the victim to come back.

Meanwhile, the victim stated that this incident occurred because the victim asked the defendant for some money to buy some vegetables but the defendant spoke harshly and swore at the victim so the victim threw a helmet at the defendant and struck him on the hand. After she threw the helmet at the defendant, he took a piece of wood with a nail in it and struck the victim once on her arm and once on her thigh which caused swelling to her hand and an injury to her thigh. The victim also stated that she did not want to live with the defendant because the defendant has assaulted her three times already.

### **Final recommendations**

Based on the partial confession of the defendant and confirmation of the victim, the public prosecutor stated that the defendant was guilty of committing the crime of simple offences against physical integrity in accordance with the indictment of the public prosecutor. The public prosecutor added that the defendant assaulted the victim three times, therefore the public prosecutor requested for the court to impose a fair penalty on the defendant based on the conviction of the court.

The public defender stated that the defendant struck her, but only once on the thigh and the defendant struck the victim because she had thrown a helmet at the defendant.

Therefore, the defendant committed the assault in self-defence. The public defender also stated that the defendant regretted his actions and considers the victim to still be his wife even though the victim does not want to be with the defendant. Therefore, the public defender requested for the court to impose a favourable and fair penalty against the defendant.

### **Decision**

After evaluating all of the facts, the court found that victim threw a helmet at the defendant and struck his hand. Therefore, the defendant took a piece of wood and struck the victim on her right arm and right thigh. Based on the facts that were proven, and consideration of all of the circumstances, the court concluded this matter and ordered the defendant to pay a fine of US\$ 60 to be paid in daily instalments of \$1.00 for 60 days. The court also imposed an alternative penalty of 40 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	: 0211/18 DIBCR
Composition of the Court	: Single Judge
Judge	: Albertina Neves
Prosecutor	: Gustavo da Silva Moreira
Defence	: Geanini Daus (qualified person)
Decision	: Prison sentence of 1 year, suspended for 1 year

On 16 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant MSG who allegedly committed the offence against her husband in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 24 September 2018, at 7am, the defendant argued with her sister in law (the victim's younger sister). Therefore, the victim told the defendant that "*when you have a problem, just talk, don't argue*". After he said this, the victim went into the bedroom. The defendant followed the victim into the bedroom and argued with the victim. The defendant pushed the victim and took a phone charger from the top of the cupboard and struck the victim on the right side of the forehead which caused an injury. After this incident, the victim made a complaint to the police.

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 used her right to remain silent. Meanwhile, the victim confirmed the facts set out in the indictment and stated that in the bedroom, they pushed each other, but the ground was slippery, so the defendant fell over. When the defendant got up, she took a phone charger from the top of the cupboard and struck the victim on the right side of the forehead which caused an injury. In addition, the victim stated that they have reconciled.

### **Final recommendations**

The public prosecutor stated that even though the defendant used her right to remain silent, the victim confirmed the facts set out in the indictment, therefore the defendant was guilty of committing the crime of simple offences against the physical integrity of her husband. Based on these considerations, the public defender requested for the court to use its conviction in deciding this matter.

The defence stated that even though the defendant used her right to remain silent, the victim stated that they pushed each other and because the floor was slippery, she fell over. When she stood up, the defendant took a charger cable and struck the victim. Therefore, the defence requested for the court to amend the charge from simple offences against physical integrity characterized as domestic violence to the crime of reciprocal offences against physical integrity pursuant to Article 151 of the Penal Code, or any other decision of the court to uphold justice.

In relation to the request of the defence, the public prosecutor maintained the charges because the defendant did not say anything to the court about whether the defendant felt pain and was also a victim during this incident.

### **Decision**

After evaluating all of the facts, the court did not accept the request from the defence to amend the charges and maintained the charges of the public prosecutor because the defendant used her right to remain silent.

The court found that the victim took a telephone charger and struck the victim in the forehead. Based on the facts that were proven and consideration of all of the circumstances, the court concluded the matter and sentenced the defendant to 1 year in prison, suspended for 1 year.

### **3. Crime of simple offences against physical integrity characterized as domestic violence and the crime of threats**

Case Number : 0185/19 DIBCR  
Composition of the Court : Single Judge  
Judge : Ivan J. Suritay Patrocínio Antonino Goncalves  
Prosecutor : Nelson de Carvalho  
Defence : Estaque P. Guterres  
Decision : Fine of US\$30.00

On 17 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant BLS who allegedly committed the offence against his daughter in law in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 23 September 2019, at 8am, the victim was feeding her child in the bedroom and the child was crying because the child didn't want to eat. Therefore, the defendant kicked the door and kicked the victim on her right hand which caused pain. After this incident, the victim went to live with her uncle.

Then on 25 September 2020, the victim went home to get her belongings, but the defendant did not allow her and kicked the door to the cupboard and damaged it and took a screwdriver and threatened to stab the victim.

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, as well as Articles 2, 3(a), 35(b) and 36 of the Law Against Domestic Violence, as well as Article 258 of the Penal Code on property damage that carries a maximum penalty of three years in prison or a fine and Article 157 of the Penal Code on threats that carries a maximum penalty of 1 year in prison or a fine.

### **Presentation of evidence**

During the trial, the court attempted conciliation for the crimes of property damage and threats. During this attempted conciliation the victim wanted to withdraw her complaint against the defendant because they reconciled. The defendant also agreed with the request to withdraw the matter. Based on the request of the victim to withdraw the case and the amicable agreement between the parties, the Court decided to validate the request to withdraw the complaint.

Meanwhile the court continued to try the crime of simple offences against physical integrity characterized as domestic violence.

During the trial the defendant totally confessed to the facts set out in the indictment and stated that he committed this crime because the victim forced his grandchild to eat. The defendant also

stated that he regretted his actions and has reconciled with the victim and now the victim goes back and forth, sometimes staying with her uncles and sometimes staying with the defendant. The defendant also stated that his son passed away, therefore prior to this problem the defendant was taking responsibility for the victim, by giving food and buying clothes for the victim and his grandchild.

The victim confirmed the facts set out in the indictment and also stated that prior to this incident, the victim was staying with the defendant and the defendant gave her food and clothing, but after this incident the victim went to live with her uncles in Tuana-laran and sometimes stayed with the defendant's wife and children.

### **Final recommendations**

The public prosecutor stated that the defendant was guilty of committing the crime of domestic violence against his daughter in law, but because the defendant confessed, regretted his actions, has reconciled with the victim and the defendant is the breadwinner of his family, therefore the public prosecutor requested for the court to issue an admonishment against the defendant.

The public defender requested for the court to impose a fair penalty against the defendant because the defendant confessed to his actions, has reconciled with the victim, and is the breadwinner of his family.

### **Decision**

After evaluating all of the facts, the court found that the defendant kicked the victim on her left arm. Based on the facts that were proven, and consideration of all of the circumstances, the court ordered the defendant to pay a fine of US\$ 30 to be paid in daily instalments of \$ 0.50 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

#### **4. Case of misappropriation of public assets**

Case Number	: 0022/19.CACTL
Composition of the Court	: Single Judge
Judge	: João Ribeiro.
Prosecutor	: Jacinto Babo
Defence	: Agustinha de Oliveira
Decision	: Penalty of admonishment

On 17 June 2020 the Dili District Court conducted a hearing to announce its sentence for the crime of misappropriation of public assets involving the defendants Jonas Sarmiento Carmona and Francisco Doutel Sarmiento who allegedly committed the offence against the State of Timor-Leste in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 22 June 2019, at approximately 5:30pm, a joint team comprising the Anti-Corruption Commission (CAC), Timor-Leste National Police (PNTL), National Directorate of Land Transport (DNLT) and the National Directorate of State Assets conducted a joint operation against State vehicles being used on a public holiday in Manleuana. During this joint operation the team managed to stop a vehicle with the number plate 05-566 G that was being driven by the defendant Jonas Sarmento who is the son of the defendant Francisco Doutel who was also in the vehicle.

The joint team searched the car and identified that the defendant Francisco Doutel and the defendant Jonas Sarmento do Carmo were using the vehicle without documents such as a written authorisation to use the car and also a written authorization from a superior that would allow the defendants to use this car on a holiday/outside of working hours. Therefore, the joint team decided to apprehend the vehicle.

The defendant Francisco said that the vehicle with number plate 05-566 G belonged to the State/Secretary of State for Veteran Affairs and was allocated to the defendant to be used during working hours.

The defendant Jonas Sarmento do Carmo who is the son of the defendant Francisco Doutel Sarmento works as a contracted public servant at the Secretary of State for Veteran Affairs as a driver to facilitate the work of the defendant Francisco Doutel Sarmento as part of the Homage Commission. The commission gave a Hilux vehicle with number plate 05-655G to the defendant Francisco Doutel Sarmento between 2015 - 2019 with a weekly fuel voucher of US\$60.00.

The public prosecutor alleged that the two defendants violated Article 296 of the Penal Code on the crime of misappropriation of public assets that carries a maximum penalty of two years in prison.

### **Presentation of evidence**

During the trial the defendants denied all of the facts in the indictment and the defendant Francisco Doutel Sarmento stated that they just got back from Suai District because of a work issue, and previously he had a written authorisation to use the car from a superior but did not receive any per diem allowance from their office.

The defendant Jonas Sarmento do Carmo stated that as the driver he didn't know about the written authorisation to use the car from their superior, as his job is to drive staff around. At that time he was instructed to go to Suai District for work.



### **Final recommendations**

The public prosecutor stated that even though the defendants denied all of the facts in the indictment, the public prosecutor maintained the facts set out in the indictment and stated that the defendants were guilty of committing the crime of misappropriation of public assets because they were using State property on a holiday without any authorisation. Therefore, the public prosecutor requested for the court to impose a suspended prison sentence against the defendants.

The public defender requested for the court to issue an admonishment against the defendants.

### **Decision**

After evaluating all of the facts, the court found the defendants guilty of committing the crime of misappropriation of public assets in accordance with the charge of the public prosecutor because the defendants were using a State vehicle on a Sunday without authorization from a superior.

Based on the facts that were proven, the court concluded this matter and issued an admonishment against the defendants and ordered the defendant Fransisco Doutel Sarmiento to pay civil compensation of US\$200.00 and court costs of US\$100.00. Meanwhile the defendant Jonas Sarmiento do Carmo was ordered to pay civil compensation of US\$50.00.

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

Case Number	: 0033/20 DICMR
Composition of the Court	: Single Judge
Judge	: Argentino Nunes
Prosecutor	: Nelson de Carvalho
Defence	: Nelson Borges
Decision	: Withdrawal of complaint

On 1 June 2020 the Dili District Court attempted conciliation in a case of reciprocal offences against physical integrity involving the defendant FCB and his wife, which occurred in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 12 January 2020, at approximately 10pm, the victim saw a message on the defendant's telephone from the defendant's female colleague who works with the defendant and the victim asked the defendant about this message. Therefore, the defendant and the victim argued and the victim slapped the defendant once on the cheek. The defendant twisted the victim's arm behind her back and threw the victim on the ground. Then the defendant chased the victim and threw the victim's clothes outside. The defendant's actions caused the victim to suffer pain to her shoulder.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that prior to the incident they had resolved the issue about him receiving a message from his work colleague. The incident occurred because the victim saw that the defendant had kept the phone number of his female colleague on his phone. Therefore, the victim asked the defendant “*do you send messages to each other?*” and the defendant said that he no longer did.

After the defendant responded, the defendant went to the front room to lay down a mattress to sit on and watch television. The victim followed the defendant and continued to question him, but the defendant did not respond. The victim became angry and slapped the defendant once on his left cheek and choked the defendant, held the defendant against the wall and he could not breathe properly. Therefore, the defendant grabbed the victim by the arms and held her tightly and pushed the victim onto the mattress. Then the defendant told victim “*better we separate so there will be no more problems*”. The defendant denied that he threw out the victim’s belongings. After this incident, the defendant apologised to the victim and the victim also forgave the defendant. The defendant also stated that he was a first time offender.

The victim confirmed the facts set out in the indictment and confirmed also the defendant’s statement that the victim saw that the defendant kept his female work colleague’s phone number on his telephone, the defendant apologised to the victim, the victim forgave the defendant and the defendant and victim started living together again in May 2020.

After the presentation of evidence, new facts emerged that the victim had first committed acts against the defendant. Based on these new facts, the public prosecutor requested for the court to amend the charges from Article 145 of the Penal Code characterized as domestic violence to Article 151 of the Penal Code on reciprocal offences against physical integrity which carries a sentence of 2 years in prison or a fine. Reciprocal offences against physical integrity are not included in the Law Against Domestic Violence and are a semi-public crime, therefore the public prosecutor requested for the court to attempt conciliation pursuant to Article 262 of the Criminal Procedure Code. In addition, the public defender also agreed with this request from the prosecutor.

During this attempted conciliation, the victim wanted to withdraw her complaint against the defendant, and the defendant also agreed with the request of the victim to withdraw the

complaint. Therefore, the court asked the defendant and victim to apologise to each other. The defendant and victim apologised to each other.

### **Final recommendations**

The public prosecutor stated that victim wanted to withdraw her complaint and the defendant also agree with this request. Also, the defendant and the victim apologised to each other, therefore the public prosecutor requested for the court to endorse the request to withdraw the complaint. In addition, the defence also requested for the court to endorse this request.

### **Decision**

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

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

Case Number	: 0220/19 DICMR
Composition of the Court	: Single Judge
Judge	: Ersilia de Jesus
Prosecutor	: Nelson de Carvalho
Defence	: José da Silva
Decision	: Penalty of admonishment

On 9 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant EdJ (mother in law) and the defendant JdJ (husband) who allegedly committed the offence against the wife of the defendant JdJ in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on an unspecified date in February 2019, at approximately 3pm, the victim's child was crying. Therefore, the defendant EdJ took a small piece of wood and struck the victim many times on her back, right calf and right thigh.

Then on 19 April 2019, at approximately 10am, the female defendant took a branch and struck the victim many times on the left and right side of her stomach. The female defendant then used this branch to strike the victim on the back, left and right arms. Prior to these incidents, the female defendant heard from a neighbor that the victim had borrowed rice, cooking oil and money from a neighbor. The defendant JdJ pulled the victim's hair and threw her on the ground and then punched the victim once on the left side of her back. These acts caused the victim to suffer pain to the places on her body where she was hit.

The public prosecutor alleged that the two defendants 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(a), 3 (c), 35 (b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial, the defendant EdJ denied some of the facts and stated that she only used a stick to strike the victim three times on the thigh because the victim's child was crying. She also used a cane to strike the victim three times on the thigh but the defendant did not remember if it was the left or right thigh. The defendant added that she struck the victim to teach her a lesson. The female defendant also stated that she was a first time offender.

The defendant JdJ also denied some of the facts and stated that he only slapped the victim on her left shoulder and pulled the victim's hair because the victim argued with the female defendant. However, he did not throw the victim on the ground. The male defendant stated that one week after this incident he took the victim back to his house because after this incident the victim went to stay with her family. Now the male defendant and the victim have reconciled. The defendant also said he regretted his actions, promised not to commit any more crimes against the victim in the future, and was a first time offender.

The victim stated that the female defendant had used a small piece of wood to strike the victim many times on her back, right calf and right thigh. Regarding the second incident, the female defendant used a cane to strike the victim many times on the back. Also, the victim stated that one week after this incident, they reconciled and the male defendant and female defendant have not committed any similar acts against the victim.

Also, regarding the assault committed by the male defendant, the victim stated that the defendant struck her many times on the back but did not pull her hair or throw her on the ground.

### **Final recommendations**

The prosecutor stated that even though the female defendant partially confessed to the facts in the indictment, the victim confirmed some of the facts set out in the indictment. Therefore, the public prosecutor requested for the court to admonish the female defendant and the male defendant.

The public defender stated that that female defendant and the male defendant partially confessed to the facts, namely that they acknowledged some of the assaults they committed against the victim, and with consideration also of the mitigating circumstances, namely that the two defendants were first time offenders, collaborated and regretted their actions, the public defender agreed with the recommendation of the public prosecutor so issue an admonishment against the two defendants.

## **Decision**

Therefore, after evaluating all of the facts, the court found that the defendant EdJ took a small piece of wood and struck the victim many times on her back, right calf and right thigh. The court also found that the female defendant took a cane and struck the victim many times on her back. The court found that the defendant JdJ struck the victim many times on the left side of her back.

Based on the facts that were proven, and after considering all of the circumstances, the court concluded the matter and issued an admonishment against the two defendants. Also, the court advised the female defendant that in the future when the victim makes a mistake, to talk nicely to her and to avoid violence. The court advised the male defendant to use his words when interacting with the victim, rather than using violence, because hitting someone is a crime.

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

Case Number	: 0053/18 ALSIC
Composition of the Court	: Single Judge
Judge	: Ersilia de Jesus
Prosecutor	: Ricardo Godinho
Defence	: Agostinha de Oliveira
Decision	: Fine of US\$ 45.00

On 10 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the female defendant ES who allegedly committed the offence against the victim CSN, her younger sister, in Aileu District.

#### **Charges of the Prosecutor**

The public prosecutor alleged that on 25 November 2019, at approximately 12 midday, the defendant slapped the victim once on the cheek and she fell to the ground. As a consequence of the defendant's actions, the victim felt pain to her cheek and the victim received treatment at the Aileu Health Centre, but a medical report was not attached to the indictment.

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

#### **Presentation of evidence**

During the trial, the defendant confessed to all of the facts in the indictment and stated that she assaulted the victim because the defendant was going to grab a machete from inside the home to collect some wood but the victim locked the door and the victim was not looking after the

victim's child. The defendant stated that the defendant's parents in law contacted the police and the police came and picked up the defendant and the victim. The defendant also stated that even though the defendant and the victim have reconciled, the defendant took the victim and her child to a hostel because there was nobody to look after the victim's child. The defendant added that she regretted her actions, promised not to commit any assaults in the future, the defendant was a first time offender, works as cleaner at the national hospital with a monthly salary of US\$150.00.

Because the victim finds it hard to speak (has a speech impediment) and the defendant also confessed all of the facts, therefore the court decided to not to hear testimony from the victim and witness.

### **Final recommendations**

The public prosecutor stated that during the trial the defendant confessed to all of the facts in the indictment, therefore the public prosecutor stated that the defendant was guilty of committing the crime of simple offences against physical integrity against the victim, therefore the public prosecutor requested for the court to issue a fine against the defendant.

The public defender requested for the court to issue an admonishment, because the defendant confessed all of the facts in the indictment, was a first time offender, and the victim is economically dependent on the defendant.

### **Decision**

After assessing the facts produced during trial the court found that the defendant slapped the victim once on the cheek. The victim suffers a mental health problem and also has difficulty speaking. Based on the facts that were proven, and consideration of all of the circumstances, the court concluded this matter and ordered the defendant to pay a fine of US\$ 45 to be paid in daily instalments of \$ 0.75 for 60 days. The court also imposed an alternative penalty of 40 days in prison if the defendant does not pay this fine.

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

Case Number	: 0019/19 ALSIC
Composition of the Court	: Single Judge
Judge	: Argentino Nunes
Prosecutor	: Gustavo Augusto da Silva Moreira
Defence	: Jonas Henrique
Decision	: 3 months in prison, suspended for 1 year

On 12 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity characterised as domestic violence involving the defendant FS who allegedly committed the offence against his wife, in Aileu District.

### **Charges of the Prosecutor**

The prosecutor alleged that on 23 March 2019, at approximately 10am, the defendant choked the victim and took a sickle and slashed the victim's throat which caused an injury and bleeding. After committing these acts, the defendant ran away and left the victim. Prior to this assault the victim said to the defendant "*why are you always staying in the hut in the plantation and don't come to look after the sick children?*" When he heard the victim say this, the defendant immediately assaulted the victim. The victim received treatment at the Aileu Health Centre.

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(d), 35(b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant stated that he did not choke the victim or slash the victim's throat but used the back of the sickle to hit the victim in the forehead which caused an injury and bleeding. After the incident, the defendant went to the plantation and in the morning the defendant returned home to take their two sick children to the Maubisse Health Centre where they were admitted.

The defendant stated that the defendant and the victim have reconciled, the defendant apologised to the victim, the defendant regretted his actions, the defendant promised not to commit any crimes in the future and the defendant is the breadwinner of his family.

The victim confirmed the statement of the defendant that he did not choke the victim or slash the victim's throat but used the back of the sickle to hit the victim in the forehead which caused an injury and bleeding. After this incident, the defendant went to the plantation and the victim's sister in law took the victim for treatment at the Aileu Health Centre. The victim stated that they have reconciled, resolved their problem within the family, and since the incident the defendant has not hit the victim again.

### **Final recommendations**

The public prosecutor stated that the defendant stated during the trial that he did not choke the victim or use a sickle to slash the victim's throat, but he used the back of a machete to strike the victim in the forehead. However, the public prosecutor maintained the charges and stated that the defendant was guilty of committing the crime against the victim. Therefore, the prosecutor requested for the court to impose a suspended prison sentence against the defendant.

The public defender stated that the defendant admitted his actions, and this was confirmed by the victim. The defendant apologized to the victim, regretted his behaviour and was a first time offender, therefore the public defender requested for the court to impose a fair penalty against the defendant.

### **Decision**

After evaluating all of the facts produced during the trial, the court found that the defendant took the back of a sickle and struck the victim once in the forehead which caused an injury and bleeding. Based on the facts that were proven and consideration of all of the circumstances, the court concluded this matter and imposed a prison sentence of three months against the defendant, suspended for one year.

### **9. Crime of Robbery**

Case Number	: 0207/ 17 DICMR
Composition of the Court	: Panel
Judges	: João Ribeiro, Ana Paula Fonseca, Argentino Nunes
Prosecutor	: Domingos Barreto
Defence	: Laura Valente Lay
Decision	: Prison sentence of 3 years, suspended for 3 years

On 15 June 2020 the Dili District Court conducted a hearing to announce its decision in a case of robbery involving the defendant Deonísio Cairo and the victim Claudia Patricia Fernandes Medina, in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 28 April 2017, at approximately 01:36am, the victim was sound asleep in the bedroom of her apartment situated in Fatuhada. The defendant jumped the wall and entered the house via the back door. The defendant opened the bedroom door and the victim was asleep. He turned on the light and was holding a knife. He said *“Don’t scream. If you scream, I will stab you to death with this knife”*.

The victim, who was pregnant, felt afraid and told the defendant *“Just take whatever you want, but don’t do anything to me”*. Then the defendant asked for money but the victim responded, *“I don’t keep money at home, if you want I will get some money from the ATM and give it to you”*. However, the defendant did not want this, and he opened up the cupboard and only saw the victim’s clothes and shoes. The defendant forced the victim to open the drawer that was locked and in the end the defendant took a yellow Macbook laptop valued at US\$2,000. The defendant took a black bag with a silver HP laptop valued at US\$300 and took a silver Iphone that the victim had left on a table valued at US\$800.



After taking the aforementioned goods the defendant told the victim to close the back door and accompany the defendant to the front of the house and the defendant ran away. Several minutes later the victim yelled out for help from the neighbours, but the defendant had left the location and the victim immediately made a complaint to the Comoro Police Station.

Then the victim contacted her husband (CV) in Oecusse to find the defendant and the stolen goods using the GPS system in the victim's Iphone and the defendant's home was located in Tasi-Tolu, Dili, but this was unsuccessful because the defendant deactivated the telephone.

Three days later the victim's husband detected the defendant's whereabouts using the GPS system, and found the defendant in Liquica Municipality, so the victim and her husband went to Liquica and asked assistance from the police to arrest the defendant and they managed to get the two laptops and a mobile phone back. The police managed to obtain the victim's belongings that had been stolen by the defendant and gave them back to the victim.

The prosecutor alleged that the defendant violated Article 253.1 of the Penal Code on robbery which carries a sentence of 3 - 10 years in prison.

### **Presentation of evidence**

During the trial the defendant confessed all of the facts set out in the indictment and stated that he regretted his actions and the stolen goods had been given back to the victim.

The court could not hear testimony from the victim because she was a foreigner and after the incident she returned to her country.

The witness Manuel da Silva, a member of Liquica Municipality PNTL, testified that at that time the victim and her husband went to Liquica and requested assistance from Liquica Municipality PNTL, so the Liquica Municipality PNTL accompanied the victim and her husband to look for the victim's goods. At that time the victim used a GPS system and managed to find her mobile phone and the victim recognised the defendant so the police took the defendant to meet their commander then they handed him over to the Ai-Mutin Police Station.

### **Final recommendations**

The public prosecutor stated that during the trial the defendant confessed that the charges were true. However, the defendant regretted his actions and the belongings had been given back to their owner. However, the defendant committed the crime against a pregnant person, and the defendant's actions fulfilled the requirements of the crime of robbery. Therefore, the public

prosecutor requested for the court to impose a prison sentence of 8 years in prison against the defendant.

The public defender stated that that at first the defendant did not want to speak, but after hearing the witness, the defendant wanted to speak and confessed to the facts in the indictment and even though the defendant committed the crime, consideration should be given to the mitigating circumstances, namely that he collaborated with the court, the goods had been returned and the defendant confessed and regretted his actions. Also, the defendant is the breadwinner of his family. For this reason, the public defender requested for the court to impose a suspended prison sentence.

### **Decision**

After evaluating all of the facts, the court found that the defendant took a yellow Macbook valued at US\$2,000, a silver HP laptop valued at US\$300 and a silver Iphone that the victim had left on a table valued at US\$800, but the defendant gave back these goods to the victim. Based on the facts and consideration of all of the circumstances, the court concluded this matter and sentenced the defendant to 3 years in prison, suspended for 3 years, and ordered the defendant to pay court costs of US \$20.

### **10. Crime of simple offences against physical integrity and property damage**

Case Number	: 0352/17.DICMR
Composition of the Court	: Single Judge
Judge	: Ana Paula Fonseca
Prosecutor	: Ricardo Leite
Defence	: Humberto Alves
Decision	: Acquitted

On 16 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendants Fortonato Soares and Marcos Fatima da Cruz who allegedly committed the offence against the victim Nogueira Pinto da Costa in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 1 July 2017, at approximately 04:30am, the two defendants used a piece of wood to strike the victim on his left and right shoulders. The victim ran away and left his motorcycle, so the two defendants smashed two of the mirrors and motorcycle was damaged. Previously, the victim received a phone call from his younger brother saying that a person was hitting him. When he heard this, the victim rode his white vixon motorcycle to the location. When the victim got there and stopped his motorcycle, the defendants assaulted the victim.

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

### **Presentation of evidence**

During the trial, the two defendants chose to remain silent. Meanwhile the victim was absent and the court tried to notify him three times via the police and the village chief but could not locate his address.

### **Final recommendations**

The public prosecutor stated that even though the defendants chose to remain silent and the victim was absent, he requested for the court to consider the statements of the defendants and the victim that were previously made at the Public Prosecution Service. Therefore, the public prosecutor requested for the court to use its discretion to convict the defendant.

Also, the defence stated that during the trial the two defendants chose to remain silent and the victim was absent, so the defence requested for the court to acquit the defendants from these two crimes.

### **Decision**

The court considered that the defendants chose to remain silent and the victim was absent, and because there was no evidence to convince the court, therefore the court acquitted the two defendants from these two crimes.

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

Case Number	: 0160/19 DIBCR
Composition of the Court	: Single Judge
Judge	: Ersilia de Jesus
Prosecutor	: Gostavo da Silva
Defence	: Henrique Marís
Decision	: Fine of US\$225.00

On 26 June 2020 the Dili District Court announced its decision in a case of simple offences against physical integrity involving the defendant HdC who allegedly committed the offence against his wife in Dili District.

### **Charges of the Prosecutor**

The public prosecutor alleged that on 30 August 2019, at approximately 7pm, the defendant slapped the victim once on her left cheek, grabbed the victim by the arm and threw her on the ground. The defendant also used a piece of steel that looks like a buffalo horn and struck the victim once on the backside and squeezed her mouth which caused an injury. Previously, the defendant asked the victim for some money to buy some vegetables, but the victim said “*I have kept the money in the house*”. The defendant went and took the money and also asked the victim to give him some coins but the victim said “*maybe the children took the coins*”. Therefore, they argued and the defendant committed the assault against the victim. These acts caused the victim to suffer pain to her cheek, throat, backside and also an injury to her mouth.

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(a), 3(a), 35(b) and 36 of the Law Against Domestic Violence.

### **Presentation of evidence**

During the trial the defendant totally confessed to all of the facts in the indictment and stated that he apologised to the victim and the victim forgave the defendant. The defendant stated that he regretted his actions and they resolved this problem in accordance with Timorese tradition, whereby the defendant gave some gold to the victim and gave some money to the victim’s family. The defendant promised not to assault the victim or other person in the future, the defendant was a first time offender and the defendant is the breadwinner of his family.

Also, the victim reinforced all of the facts set out in the indictment and confirmed the defendant's statement that after the incident they reconciled, and the defendant apologized to the victim and the victim forgave him. Also, the victim said they resolved this problem in accordance with Timorese tradition, whereby the defendant gave some gold to the victim and gave some money to the victim’s family.

### **Final recommendations**

The public prosecutor stated that during the trial the defendant totally confessed to all the facts in the indictment and the problem was resolved in accordance with Timorese tradition, however, the public prosecutor emphasized deterrence for the defendant and the community in general because the community needs to know that the State is focusing on reducing the high incidence of crimes of domestic violence through the courts. Therefore, the public prosecutor requested for the court to use its discretion to convict the defendant.

The public defender stated that the defendant totally confessed to the facts that the defendant committed the assault and after the incident the defendant felt that his assault was wrong. The defendant regretted his actions and the defendant apologised and gave some gold to the victim

and gave some money to the victim's family, and the defendant was a first time offender. Therefore the public defender requested for the court to admonish the defendant.

### **Decision**

After evaluating all of the facts presented during the trial, the court found that the defendant slapped the victim once on her left cheek, grabbed the victim by the arm and threw her on the ground. The court also proved that the defendant used a piece of steel that looks like a buffalo horn to strike the victim once on the backside and squeezed her mouth which caused an injury.

Based on the facts that were proven, and consideration of all of the circumstances, the court concluded the matter and ordered the defendant to pay a fine of US\$ 225.00 to be paid in daily instalments of US 50 cents for 150 days. The court also imposed an alternative penalty of 100 days in prison if the defendant does not pay this fine. Also, the court endorsed the compensation given by the defendant to the victim and her family.

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